



Speech by

**Mr L. SPRINGBORG**

**MEMBER FOR WARWICK**

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Hansard 25 November 1999

### STATE PENALTIES ENFORCEMENT BILL

**Mr SPRINGBORG** (Warwick—NPA) (Deputy Leader of the Opposition) (10.21 p.m.): I will quote from a publication issued in April 1999 by the Government Statistician's Office entitled Prisoners in Queensland. Under the heading "Fine defaulters" it states—

"On 30 June 1997 there were 102 fine defaulters in Queensland prisons, representing 2.7% of all prisoners, compared with the Australian average of 1.5%. (Queensland data revised— provided by Queensland Corrective Services Commission).

Between 1983 and 1997 the largest number of fine defaulters (as at 30 June) was 175 in 1996, representing 5.0% of prisoners. This was also the largest proportion of fine defaulters to total prisoners over this period."

The Criminal Justice Commission's Criminal Justice System Monitor Series, Volume 4, released in February 1999, states under the heading "Major findings"—

"Magistrates Court appearances have declined slightly since 1994-95, but there has been a marked increase in SETONS Court matters. This has contributed to a large increase in fine option orders requiring supervision by community corrections officers."

Further it states—

"As at 30 June 1998, Queensland had the highest adult imprisonment rate of any Australian State—more than 40 per cent above the national rate."

It states also—

"Over a quarter of all people admitted to prison during 1997-98 were fine defaulters, almost a third of whom were of Aboriginal or Torres Strait Islander descent."

I am on record expressing my concern about what I believe is a major policy and social problem in this State—that is, quite clearly, the amount of fine defaulters in this State who have been clogging up our prisons and who, quite frankly, should not be there, rubbing shoulders with hardened criminals, probably learning some of the tricks of the trade. These people should not be in jail because they are not of the same ilk as other prisoners. That is not the right way to be dealing with that particular problem.

On a number of occasions I have expressed my concern about the almost 3,000 people each year who have been going to jail in Queensland for fine defaulting. That has been costing the State somewhere in the vicinity of \$23m. Quite frankly, that is something that we have tolerated for too long in this State. After the passage of this legislation and the implementation of the State Penalties Enforcement Registry, that number should decline to almost nil.

The coalition will be supporting this legislation before the Parliament, because it is largely our model. However, there are some changes which I will speak about. I think some of those changes are sensible and contemporary. Others, I think as a consequence of social policy, have probably watered down an effective model which may have been brought before the Parliament. Nevertheless, what we have before us tonight is infinitely better than what has been on offer in this State since we have been sending fine defaulters to jail.

I take this opportunity to question the Attorney-General's lethargy in this matter. When the member was appointed Attorney-General last year, he had before him the Fines Bill, which was introduced into this Parliament in April 1998 by former Attorney-General Mr Denver Beanland. I have been very concerned about this for a long time and, I suppose, have been trying to exert what pressure I can on the Attorney-General not only to talk about this issue but also to bring legislation into the Parliament. As a consequence, we have probably prodded him into a situation in which he has acted more quickly than he may have otherwise done.

I know that the Attorney-General had some philosophical issues to address with regard to our Fines Bill and I know that he had to update certain things, but I would like to know whether it takes 12 or 13 months to do something like that when the work has largely been done. I know that the Attorney-General had some problem with regard to the automatic suspension of driver's licences. I think he was probably jumping at shadows a little bit.

**Mr Foley:** They don't think so in Western Australia.

**Mr SPRINGBORG:** I will come to that issue in a moment. I will address some of those concerns. I would like to hear what the Minister has to say about that when he replies to the second-reading debate.

I was also in Government when the Fines Bill was sanctioned to come before this Parliament. I was aware that there was some issue in Western Australia. That was brought to our attention by the then Attorney-General and the then Transport Minister. However, we felt that we were able to overcome that problem.

Each month that goes by without legislation such as this costs the State something like \$2m. I am not being churlish when I say that I am very pleased that the Attorney-General has brought legislation before the Parliament. I have a relevant private member's Bill on the Notice Paper which I imagine I will be withdrawing next time we debate private members' motions as a result of the passage of this particular piece of legislation.

**Mr Foley** interjected.

**Mr SPRINGBORG:** I suspect that mine might be slightly better. However, this is not too bad.

I turn to the situation in New South Wales. A year or so ago I read a statement by the New South Wales Police Minister that there was one month in which only one fine defaulter was sent to jail in New South Wales. I think at that time there were over 200 fine defaulters in Queensland jails. The figures I quoted earlier from the Government Statistician's Office related to 1997 and before. I think there have been periods since then when we have actually had more than 200 fine defaulters in our jails at any one time. That is how we end up getting to the sum total of about 2,700 each year.

The other thing that the people of this State are very interested in is the fact that it costs about \$8,000 to keep each one of those people in jail, which is absolutely ridiculous. To use a most quotable quote from the honourable member for Rockhampton when he was a member of this place between 1989 and 1992, most of these people are so harmless that they couldn't knock a sick chook off a fence in a cyclone.

We bring these people forward and we say, "It is all too difficult," and we throw them in our jails. These people are rubbing shoulders with hardened criminals and they could even be learning the tricks of the trade. Quite frankly, for some people it is a way out. I am aware of circumstances where some people have amassed fines of \$5,000, \$6,000, \$7,000 or \$8,000 and they have gone before a magistrate, they have refused to pay and the magistrate has sent them off to jail. They say, "Oh, that's good. I'll have a bit of a break. I'll serve some time in the watch-house." That sort of thing does happen.

It is ridiculous that we are enabling these people to abrogate a rather significant responsibility. In most cases, at the very worst, these people are just cheeky. They are people who refuse to fulfil a basic responsibility. They have infringed the law in some way and they are expected to pay a fine. We are allowing these people to reach a situation where they have outstanding warrants and outstanding fines to the extent, as I say, of perhaps \$10,000. This is an absolutely ridiculous situation.

A lot of roadside checks are occurring in my electorate, particularly on the State border. The police are pulling people over and they are recovering many tens of thousands of dollars in outstanding fines in one weekend. They are also apprehending people on warrants. In some ways we are advancing in the right direction, but without legislation such as this, which gives effect to more innovative ways of dealing with the problem, it will be impossible to retrieve an estimated \$60m in outstanding fines in this State.

When the system was introduced in New South Wales, it was estimated that almost \$100m was outstanding. I think in the first year some \$50m or \$60m was recovered. One would hope that the Queensland Government would be able to retrieve the lion's share of these outstanding fines in the first year when we move from the SETONS model to the SPER model.

No doubt when the Attorney-General replies, he will bring up the issue that this measure has not been budgeted. I do not concur with that. I believe that we provided for this to be implemented in 1998-99. When we were going through the parliamentary Estimates process, I remember someone in my department saying, "When this accrual accounting comes in, Minister, it is going to be a whole heap easier for us to confuse Ministers and members of Parliament." I can tell honourable members that when I read the ministerial portfolio statements for the Department of Justice and Attorney-General, it is fair to say that I was confused because we had figures for the establishment of the State Penalties Enforcement Register ranging from about \$6m to \$30m. When I questioned the Attorney-General on this matter, I was told that it was a mixture of cash accounting and accrual accounting. That may well be the case, but in this transitional year it makes it very difficult to put a finger on the actual cost. This just underlines some of my continuing concerns about what I personally believe is this nonsense of accrual accounting. Most people operate on a cash accounting basis and can understand what is going on.

As I indicated earlier, there are some differences in this legislation. The Attorney-General has spoken about his pro-active call centre. He also mentioned this matter during the Estimates process. This is an important measure. I think the Minister said something along the lines that the call centre will virtually hound these people into insanity to make sure that they pay their fines in an endeavour to avoid some of the other circumstances.

Drivers' licences can still be suspended under the model which has been put before the Parliament by the Attorney-General, but the Attorney-General makes the point that this can be done only as a last resort. I can understand what he is driving at, but he is being somewhat uncharitable to the coalition model which had the automatic suspension of a driver's licence after 56 days. This was an incentive for people to pay their fines. There may be a lot of people who snub their noses at the law and do not want to pay their \$120, \$180, \$250 or \$560 fine. If those people are told that they are going to lose their driver's licence, they will tear the door from the courthouse in their rush to get in and pay the fine. It is not as if those people were not going to be given a significant amount of notice.

Under this legislation, we still have fine options. As I understand it, this is something like community service. This will apply in relation to stages 2, 3 and 4. The coalition's legislation provided for this to occur in stages 1 and 2. The Attorney-General's argument is that we should not be allowing people off so lightly, so early. I can understand that argument. However, I think the coalition's action might have acted as some sort of incentive.

This legislation allows the courts to express an interest in property and, most notably, an interest in a person's land. This compares with the provisions in the coalition's Fines Bill which was put before the Parliament in April 1998.

The legislation contains a range of other provisions, including garnishees and being able to express an interest in a person's motor vehicle or shares. Another difference between the coalition's Fines Bill which was introduced by the former Attorney-General, Denver Beanland, in 1998, and this legislation, is that this legislation contains an interest rate of 10%. The Attorney-General justifies that by saying that it is an amount which is recognised by the Supreme Court as something important. Perhaps there is a good policy reason for having an interest rate of 10%. A lot of people would like to be able to get that rate from their trading banks. The Taxation Department charges interest rates along those lines, so why cannot SPER?

As I said, when the coalition was in Government in 1998, the former Attorney-General, Denver Beanland, introduced the Fines Bill. Denver Beanland was a very pro-active Attorney-General. In my dealings with him, I found that he was able to address both major and minor issues, including—

**Mr Foley** interjected.

**Mr SPRINGBORG:** I find that very interesting. We have over here an Attorney-General who expresses a great belief in the rule of law, natural justice and all those sorts of things. However, this Attorney-General sits mute and dumb when one raises the issue of Cedric's secret legal advice sitting securely in a CJC safe on Coronation Drive. This raises some very significant legal issues with regard to the conduct of that organisation.

The CJC had legal advice which said that there was no case to answer, but that organisation hid it in a safe on Coronation Drive. It was never exposed until the CJC was forced to expose it. That action forced the State of Queensland into an unnecessary inquiry which cost some \$3m or \$4m. This raises some very serious questions. This Attorney-General was dumb, mute and ignorant in regard to that matter. He failed to address those sorts of fundamental issues of natural justice.

**Mr Foley:** Carruthers, Connolly/Ryan.

**Mr SPRINGBORG:** I am very happy for the Attorney-General to raise his concerns about the Connolly/Ryan inquiry and all that sort of thing. The public will debate those issues. I am not going to engage in that debate. People will make up their own minds. I understand where the Attorney-General is coming from, but my concern is that very base issue of the necessity for the Carruthers inquiry. An

organisation which is supposed to uphold the dignity of public office in this State, and which is supposed to appropriately oversee and inquire into matters without bias, secretly held in its safe absolutely crucial legal advice which, if it had been honest, would have meant that the Carruthers inquiry should not have gone ahead.

There is much that we can be very pleased about with regard to the former Attorney-General, Mr Beanland, including opening courthouses around this State. Members opposite gutted and slashed about 26 of them when they were in Government under the Goss regime. The courthouse in Inglewood, which was reopened when the honourable member for Indooroopilly was Attorney-General, is very much appreciated by the local community. The local magistrate has a very significant list of up to 40 individuals who appear before him when he visits that town. The community really appreciates that. Closing those courthouses might be something that the Attorney-General regrets having done. And I suppose that, in the fullness of time, there are always things that we will regret. But those sorts of things were significant. I commend the former Attorney-General, Denver Beanland, for introducing the fines legislation into the Parliament last year. He deserves a great deal of commendation for that.

There are a couple of other issues that I want to raise with the Attorney-General, and I would be very interested to hear his response. Firstly, the issue of garnishees is raised with me from time to time. I believe that garnishees are an excellent way of making people fulfil their obligations. However, there is one particular issue that I would like to raise. And while I concede that this does not come within the Attorney-General's jurisdiction, it is a matter that does arise from time to time. I refer to the garnisheeing of people's social security entitlements. While there might be all sorts of reasons for garnisheeing someone's wages, I think it is also fair to say that there is a range of workers whose pay packets are garnisheed and who are taking home or grossing less than someone with, say, two kids who is receiving social security. A wage earner who is struggling as a labourer could be taking home or grossing less than someone on social security.

I believe that this is an equity issue, and I realise that the Attorney-General cannot do anything about it himself. But I believe that there is probably an opportunity for the Attorney-General to raise this issue with the likes of Senator Jocelyn Newman. There are parallels between low income earners whose wages are going to be garnisheed for \$10 a week and somebody who might be relying on social security payments, which might be \$50 or \$100 a week more than that particular low-wage earner. There is an opportunity for us to consider that.

The enforcement officer network looks pretty good. I ask the Attorney-General to comment on how he envisages that the network will be regionalised around the State. He indicated in his second-reading speech, as I read it, that there will be an enforcement network around the State. Whether those people will operate from Brisbane and go to the south-west, the central-west or the north-west, I am not sure. I would be very interested in how the Attorney-General envisages that that is going to work.

There is one other issue that has come to my attention as I have been reading through the Attorney-General's second-reading speech and considering this issue. It might have been addressed in New South Wales, because I think that they have something similar there. I refer to the issue of the enforcement officers and their interaction with fine defaulters. Notwithstanding what I said before about most fine defaulters probably being fairly harmless and a bit cheeky, obviously when an officer lobs up to somebody's door, that creates an opportunity for that person to be a bit aggressive, particularly when the officer turns up to interview somebody and spell out what their likely obligations are. Sometimes they want to enhance their database of information on what property that person may have in order to assist them to register an interest in that particular property. Does the Attorney-General envisage any issue with regard to the safety of those officers? I might be overreacting, because bailiffs do those sorts of things all the time, as do many other people. But I think that we do need to discuss this issue.

The driver licensing issue was raised earlier. The Attorney-General's model before the Parliament takes away a driver licence only as a last resort. I want to put on the public record what our particular proposal was all about because, unfortunately, I think that it has been demonised. We proposed that, when a person received their infringement notice, they had 28 days within which to decide to pay their fine outright, to opt to pay it in instalments, to apply for a fine options order, or to apply to have the matter heard before a magistrate. In the event that people did not elect to do any of those things within the 28 days, it was indicated to them that the next stage would lead to their losing their driver licence after 56 days. So at the end of those 28 days, and before the next 28 days came along—a total of 56 days—that person had to make up their mind whether they were going to do that—if they were going to fulfil their particular obligations using one of those options available to them. And only after that would they have lost their driver licence—56 days. There is a notion of self-responsibility in all of this, as well. It is not as though this is something new to them. They know what their options and obligations are, and they have almost two months within which to make up their minds. I would have thought that that was fairly reasonable.

The Attorney-General is seeking to include some checks and balances. I will accept them, and we will see how it all works. There might be a further opportunity to debate this issue in the future and to rekindle this issue insofar as considering more automatic suspension of driver licences if what the Attorney-General is proposing before the Parliament does not work as well as he believes it is going to work.

I am disappointed that it has taken so long for this legislation to come before the Parliament. However, it is here now. It is probably 80% very good; as for the other 20%—it is a wait-and-see exercise. I suppose that any legislation is like that. The principles are always good and the aspirations are always good and, hopefully, it can be administered in the way that is envisaged by those people who put in place the drafting instructions, those who drafted the legislation and those who were hoping to administer it. We will no doubt hear a lot more debate on this in the future.

In his reply, I would like to hear from the Attorney-General as to when he envisages that this legislation will be operating in its entirety. Perhaps he could take the Parliament through that particular time frame. I think that many people would be interested in that, not only in here but also out in the community, because I really do believe that this is a matter of good public policy. This is something significant that we can achieve, and I think that we can achieve it largely in a bipartisan manner, notwithstanding the argy-bargy about the length of time that it has taken to get it into this place.

This is good public policy. It is going to address an outstanding issue, namely, the appalling situation of almost 3,000 fine defaulters going to jail in this State each year, costing us \$23m plus \$60m or \$70m in outstanding fines and clogging up our jails, which basically are there—in the minds of the community—for people who are going to be a threat to them, not a poor old harmless fine defaulter.

That is not to say that there is not an option to send these people to jail. If at the end of the day we cannot encourage them to pay their fines by instalments or to pay their fines up front, or by expressing an interest in their property, or by threatening to take away their driver's licence, jail is still an option. Hopefully, we will end up like New South Wales and have only one or two people in jail each month, not 150 people, 200 people, 300 people, or whatever the case may be. With those few words, the Opposition broadly supports this legislation and looks forward to the implementation of the State Penalties Enforcement Registry.

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