Speech by

Mr L. SPRINGBORG

MEMBER FOR WARWICK

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CORRECTIVE SERVICES AND PENALTIES AND SENTENCES AMENDMENT BILL

Mr SPRINGBORG (Warwick—NPA) (Deputy Leader of the Opposition) (8.30 p.m.), in reply: At the outset, I would like to thank all honourable members for their contributions to the Corrective Services and Penalties and Sentences Amendment Bill. I think we have had a very good debate over the last couple of nights when this matter has been before the Parliament. It has provided members on both sides of the Parliament with an opportunity to express views on behalf of their electorates. It is also fair to say that it has probably exposed a significant division between the Government and the Opposition on certain matters dealing with law and order and essential justice policy. That is unfortunate but it is something which exists.

This legislation grew out of the coalition's concern that serious violent offenders were not going to jail for as long as they should. The community has a very serious concern that there is a range of offenders in our jails, namely the most heinous and the most vicious, who should stay in jail for a very long period of time. The coalition decided that it would respond to this concern and that is why I introduced the Corrective Services and Penalties and Sentences Amendment Bill.

In thanking all honourable members for their contributions I would particularly like to thank members on this side of the House, who clearly understood what was intended by the legislation and sought to discount some of the more emotive misunderstandings which were coming from those opposite. Tonight it is my intention to go through a range of issues—particularly those raised by members of the Government, Independent members and One Nation members.

I think it is fair to say that the Attorney-General was as florid as he was uninformative. The Attorney-General failed to understand the fundamental motivation for this legislation. He failed to understand the very great community concern which gave rise to the legislation which I brought before the Parliament. The Attorney-General talked a lot but probably did not inform us very much. I do not think he advanced a very supportive argument as to why Parliament should vote against this legislation.

The Attorney-General mentioned the issue of consultation. I would say that the greatest community consultation one could have is to raise the issue in the electorate and listen to what the electorate at large is saying on the issue of truth in sentencing and sentencing policy in general.

The legislation which is currently before the Parliament and which will be voted on tonight is a valid approach. During their contributions honourable members opposite have sought to say that that is not the case. The coalition makes absolutely no apology for the fact that we are prepared to be tough on certain types of criminals. We are prepared to cooperate with the Government in working towards addressing the causes of crime. I will say something more on that later.

This legislation is balanced because it responds to community expectations by focusing on those people who cause the greatest concern in the community. It focuses on the 5% to 7% of the prison population who have committed the most heinous and violent crimes by ensuring that, if those people are sentenced by a judge to more than 10 years' imprisonment as a serious violent offender, they will serve 100% of their sentence in jail before being released back into the community for a period of supervision.

If an offender is sentenced to between five and 10 years' imprisonment, the judge has a discretion to decide whether that offender should be declared a serious violent offender. The very clear

indication to the judge from this legislation is that it is his call; he has the discretion in sentencing the particular offender but, in doing so, the judge must realise that if he sentences him or her as a serious violent offender, that person will serve their full sentence. The community expects no more and no less.

I think the community at large also has a balanced understanding. The community believes that there is a range of offenders who should have an opportunity for parole or rehabilitation, particularly if they have been of good behaviour whilst in prison. The community is particularly concerned about the category of heinous offenders. When we were in Government——

Mr Barton interjected.

Mr SPRINGBORG: I will come to the contribution of the Honourable Minister for Police and Corrective Services a little bit later. When we were in Government between 1996 and 1998 we introduced into this Parliament our own truth in sentencing legislation. That legislation was passed by the Parliament and was subsequently enacted. That legislation provided that people who were sentenced as serious violent offenders served 80% of their time in jail before being released on parole. That legislation was welcomed by the community. The legislation was introduced in response to community concern. The then Premier, Mr Borbidge, made it clear subsequently that the coalition would go one step further and that we would have 100% truth in sentencing for those particular offenders.

I would like to mention the issue of prevention of crime, because I believe that there is very little dividing the Opposition and the Government on this matter. I have agreed with a couple of things that the Minister for Police has announced since Labor has been in Government. I have said that some of those things are a jolly good idea. The Minister was speaking about removing certain low-level, non-violent offenders into community out-stations. I said that that was a good idea. However, we are still divided on some issues.

I note that the Government has brought up the matter of drug courts in its prevention of crime document. It has been mentioned in two words on the last page of the document, but nevertheless it is there. This is a matter that I researched after it was brought to my attention. I was told that such courts exist in the United States and I felt that they were a good idea. I believe that this Government will ultimately trial such a court in Queensland— the sooner the better.

Among the other extremely positive things that have been raised by the Government are urban renewal, early intervention, positive parenting and making young people aware of the very great grip that drugs can take over their lives. I think that the goals and objectives which the Minister outlined in his crime discussion paper are very noble. They are things that most Governments try to achieve. The Minister has spelt out those matters in a formal document for community consideration.

Those opposite may accuse us of trying to clog up the jails but, as I said earlier, we make no apology for wanting to ensure that certain types of offenders are in jail for a very long time. Since taking on my job as shadow Attorney-General and shadow Minister for Justice in July last year I have been proactive in advocating the removal of fine defaulters from jail. When the coalition was in Government we moved to bring legislation before the Parliament. I believe that this Government will probably introduce such legislation—although I would prefer it to be my legislation—by the end of this year. It is a sensible law reform measure. There is no sense in having those people clogging up the jails and taking up necessary resources. Such people are no threat to anyone.

The Honourable the Attorney-General also went on about what happens if a person breaches community supervision. Under the legislation that I have before the Parliament, a breach of community supervision is basically treated as a crime. If a person breaches that community supervision, there is a potential head sentence of six months or 100 penalty units. However, it depends very much on how that person breaches the conditions that are laid down when he or she is released back into the community after serving the full sentence—conditions that are laid down by a judge of a court equivalent to the court that sentenced that person originally.

The Attorney-General also referred to the comments of former Mr Justice Carter. I would like to make it very clear that when former Mr Justice Carter wrote an article in the Courier-Mail, quite clearly he did not understand—and quite clearly he was very poorly briefed—the intent of what I was introducing into Parliament. In his article, he made it very clear that parole should exist for people in jails. I do not disagree with that; that is why we have left that option available for more than 90% of the people who go to our jails. However, former Mr Justice Carter indicated that we were going to apply it to all of the people in our jails.

Mr Sullivan: He didn't say that.

Mr SPRINGBORG: He did not draw any distinction at all. The honourable member for Chermside should read the article again. Former Mr Justice Carter drew absolutely no distinction at all. He made an all-embracing comment that gave a very, very misleading impression to people in the community. He indicated that it was something that applied generally to all people who were in jail.

Mr Sullivan: Rubbish!

Mr SPRINGBORG: The member should read the article again. I read it very, very carefully and that is why I was forced to respond to it.

The other issue that was raised in this debate was the impact of this legislation on the resources of the judiciary. When the coalition was in Government previously, we appointed additional Supreme Court judges, additional District Court judges and additional magistrates. It was also the coalition's very clear intention, as enunciated in the policy that we took to the people at the last State election, that upon returning to Government we would be appointing an additional two District Court judges, one to be based in Toowoomba and one to take up a position wherever there was a need in the State.

I ask the Government: what is it doing about the appointment of additional magistrates, District Court judges or Supreme Court judges? It does not have any plans. Last year in the Estimates committee process, I asked the Honourable the Attorney-General what his forward plans were. I know that it takes a while to actually put the structures in place—to get the resources so that the Government can appoint these additional people; there is no doubt about that—but there certainly is a need for more magistrates and District Court judges, which are the jurisdictions in which the bulk of the trial work is done.

Mr Barton: There have been heaps appointed. You've been down there criticising every appointment he makes.

Mr SPRINGBORG: No, there have not been extra magistrates and judges appointed over and above the ones whom the previous Government appointed between 1996 and 1998. The Government has not made any appointments that were not in the pipeline or were not made when we were in Government. There have been no new, additional appointments.

Last year in the Estimates process, I asked the Attorney-General to please outline plans for additional appointments. I said that I understood that the Attorney-General might not have any plans this year, but I asked about future years. He said zip, nothing—there was not anything planned for the future. I certainly hope that that is going to change this year.

The impact of this Bill on prison resources is a valid issue that was raised by members, the Attorney-General and also the Honourable Minister for Police and Corrective Services. Effectively, this legislation would not start to impact on the prison population until about five years down the track when the trigger mechanism comes into place. It may have an impact in five years, but at least we are suggesting some positive ideas, which is more than the members opposite have done since they have been sitting on the Government benches. We have suggested that the Government has five years to plan for those prison resources. That is a fairly significant period for forward planning for any Government. If a whole raft of other initiatives are put in place, such as getting fine defaulters out of jail and identifying the particular resources that are required, that is ample time to make arrangements.

I wish to touch on another issue that divides the Government and the Opposition. When the coalition was in Government, it amended the Penalties and Sentences Act to make it very, very clear that the protection of the community was of paramount importance when a judge sentenced an offender. When Labor was in Government previously, its penalties and sentences legislation indicated that a non-custodial sentence should be the first consideration of a sentencing judge. That is another issue, another great demarcation, that divides the Government and the Opposition. As I indicated earlier, this legislation targets the nasties—the worst types of offenders in our community.

I turn now to the comments of the honourable member for Archerfield. I believe that she made a very sincere contribution. She outlined three scenarios, which I would like to refer to. The first one was that of John, who was a model citizen, who had no previous criminal record, but who assaulted his wife. The honourable member for Archerfield said that he would go to jail and he would stay in jail for the full term of his sentence. In that case, it is the judge's call: the judge has the discretion in sentencing that particular offender if he is found guilty. It may very well be that the judge does not declare that offender to be a serious violent offender. If the judge sentences him to a period of up to 10 years, it is completely and absolutely the judge's call. However, if the judge sentences that offender to a term beyond 10 years, then that discretion is removed and the judge would know very well that John would have to serve his full time in jail before being released under community supervision. The judge would be able to consider the individual circumstances. I say again that this Bill does not remove the judicial discretion.

The second scenario that the member outlined was that of Don, who was a keen National Party member of many years and who fell on hard times, got caught in his neighbour's place and shot his neighbour dead. It depends very much on whether Don was found guilty and sentenced for the crime of murder. If he was, the situation does not change because in Queensland the penalty for murder is life in jail, and life effectively means that such an offender is unable to apply for parole in any way inside 15 years. If Don was sentenced after being convicted on a charge of manslaughter, it is very difficult to say, because we have to look at the circumstances. If Don is sentenced as a serious violent offender

and for a term of more than 10 years, then he would serve his full time. If the term is less than that, then it would be the judge's call.

The third scenario outlined was that of Jenny, the heroin addict. Once again, it depends upon what she is charged with. If she is going to be charged with murder, then the same situation that applied in Don's case would apply. However, if Jenny was charged with dangerous driving causing death, then obviously she could be sentenced to less than 10 years and, once again, the judge continues to have the discretion.

The member also raised the very valid issue of what incentives there were for good behaviour under the amendments that I have brought before the Parliament. The incentive is the good behaviour of the offenders whilst they are in jail. If they behave themselves, then they are going to be reclassified in the prison system. That would provide them with the opportunity to maybe go from a special management unit—or a maximum security unit, or whatever—down to a high security unit, a medium security unit, and then maybe a little bit lower. Once the offenders have gone through those stages, they pick up more privileges. The other incentive is that, if the offenders have been good and undergone genuine rehabilitation whilst being inside, they have a reduced community supervision period when they are released.

The honourable member for Kurwongbah raised a number of issues as well. She mentioned counselling services. I could not agree with her more. I think that they are extremely important, because they probably help to steer people away from things that can be life destroying or things that can lead to crime, such as drug addiction. However, my challenge to her is for her to speak to the Police Minister and ask him why Corrective Services has slashed $55,000 in funding from Mirikai, a counselling/rehabilitation service on the Gold Coast.

Mr Barton: That happened while Russell Cooper was there.

Mr SPRINGBORG: The Minister should reinstate the funding. It was removed under this Government, and he should reinstate it. Counselling is an important issue, and it is something on which all members on both sides of this Parliament agree.

Generally, the community is intolerant of and concerned about nasty and serious offenders. That is a point that was raised by a number of members in this Parliament from both sides as they made their comments.

The honourable member for Clayfield referred to prisoners and prison policy. The grave concern that I have—and a number of members picked this up—related to the comments that, if we get particularly hard on prisoners, they are not going to like it and they are going to play up. The honourable member for Clayfield made the point—with which I agree—that if we follow that particular line of thinking and say that, as a consequence of the reaction of prisoners being sentenced to longer periods in jail we are going to have a more lenient prison or incarceration policy, we are letting those offenders dictate our prison policy or our parole policy. I do not think that that is right.

The contribution of the member for Greenslopes was disappointing and it probably did not enlighten anyone too much. However, he did make the very valuable point that under the legislation that I have proposed before the Parliament there continues to be a sentencing discretion for the sentencing judge.

The honourable member for Sandgate made a genuinely sincere contribution. I say in response to him that political parties and the Parliament must change in line with community expectations. That is why we have brought this legislation before the Parliament. He made a number of good points and a number of points that were worthy of consideration. However, obviously there were points that we disagree on. He is right that there must be a balance and I believe that the legislation provides a balance between targeting those people who cause the most concern—as I said before, the real nasties—and the other people who get caught up in serious or unfortunate circumstances and go to jail. On that particular point, I must say that some people who end up in our jails are victims of circumstance and others have chosen to do what they did; they have committed a particularly bad crime in an extremely calculating and vicious way. Not everyone who ends up in our jails is an outcast of society or was not looked after as a young person, although the history of some of those people very much indicates that.

Penalties are but one part of the solution to the problem of crime deterrence and they are one part of the solution to the problem of ensuring that the community is safer. As I indicated earlier in my contribution, a range of other things such as urban renewal, which we very much support, early intervention programs, and so on, are very relevant to this issue. The member for Sandgate also made a point that I would like to reinforce, which is that judicial discretion must be preserved, and this legislation does in fact preserve it.

I do not think that the honourable member for Ashgrove did justice to the victims of crime and genuine community concerns surrounding this issue. He waxed lyrical about the unfortunate circumstances of criminals rather than the unfortunate circumstances of the victims of the most vicious

criminal activities. I say to the honourable member for Ashgrove that not all murders are crimes of passion.

Many murderers in our jails have committed crimes of passion. They might have had a fight with their wife, picked up a knife or a gun, somebody was killed and they were sent to jail. If they are charged and convicted of murder, they are sentenced as such and they are jailed for at least 15 years. However, it is unfortunate that a myth surrounds people who have been sentenced for the serious crime of murder. In actual fact, in the history of the State very few murderers have reoffended. There have been no more than a handful—probably only two or three. The people who tend to reoffend are those in other categories. Many murders are crimes of passion, although some people who commit murder do so in a very cool and calculating way.

The really dangerous criminals are the ones who rape, torture and become serial offenders, and judges have the discretion to sentence such people to an indeterminate sentence, which means that they are never, ever released from jail. In the case of murder, the mandatory sentence is life and a convicted murderer is not eligible to apply for parole or release in under 15 years. If that application is successful, the criminal will live with strict parole conditions for the rest of their lives. There is a 30% to 40% recidivism rate in our jails. This legislation protects the community by making sure that repeat offenders are locked away for longer periods.

The honourable member for Ashgrove mentioned former Justice Carter. I responded to former Justice Carter. Overcrowding was an issue. I am very disappointed that the honourable member for Ashgrove did not have the courage of his convictions to support my private member's motion of a couple of weeks ago, which called for the establishment of drugs courts through the savings made by getting fine defaulters out of our jails. He should be pushing the Government on that issue.

The member for Crows Nest made a very good contribution. He has a proud history in the law and order area, and his contribution was very balanced. He made the point that community protection is paramount.

The honourable member for Lockyer mentioned drugs as a mitigating factor. I am genuinely concerned about that. I want to try to reduce drug use as a defence, as it has been overused. The honourable member asked what happens to criminals after their 15–year sentence has expired, and I explained that earlier on. Murderers, for example, must be jailed for life and cannot apply for parole inside of 15 years. However, that does not mean that they automatically get it.

The honourable member for Caboolture talked about a proper balance, which this Bill provides. He also mentioned the real nasties. Those people can be locked away for good through indefinite sentencing.

The honourable member for Ipswich West spoke about the basic justice of truth in sentencing, which is the reason for introducing this legislation into the Parliament. I understand that the honourable member presented a petition to the Parliament that was signed by more than 6,000 people and that called for legislation such as this to be introduced, considered and supported by the Parliament.

The honourable member for Gladstone made a very in-touch contribution. I endorse the point that she made that this legislation is not retrospective. It would apply only to those crimes committed after the date that the legislation is actually assented to by the Governor. I do not think that that will happen, although it would be very good if members of Parliament voted for it tonight.

The honourable member for Barron River made a very sincere contribution. We know that there are no simple solutions, but I believe that this Bill is a part of the solution. Increased time carries a significant community protection element, which is something that cannot be underestimated. There must be punishment and there must be rehabilitation, but the important aspect is community protection. That can be achieved by making sure that these people go to jail and stay there for their full sentence, with an additional period of community supervision based on rehabilitation and good behaviour whilst inside. Rehabilitation is important, but it is not always possible for some very serious offenders.

The honourable member for Tablelands once again addressed the essential issue of justice for victims, which is what the legislation is all about. He raised the zero tolerance issue. I must admit that I still have to be sold on the issue of zero tolerance. It certainly has some attractions, but there are other issues such as where those people go when they are moved from one area to another. That is something that we have to consider. The honourable member said that the Bill is properly targeted. I agree, and we certainly must respond to public concern.

The honourable member for Bundaberg asked what happens if a person cannot be paroled. She asked whether they would be released straight back into the community. I have answered that in relation to my process of community supervision and reintegration. Like the member for Clayfield, I believe that we should not let the actions of prisoners dictate our incarceration policy. Inconsistency is a problem in sentencing and that is why we need sentencing guidelines, which is something that the Court of Appeal can assist with. The honourable member went on to say that some people should not

be released and I agree. She also said that some people should serve longer sentences in jail, which is what we are doing here tonight. My challenge to the honourable member for Bundaberg is to support this legislation, because I think that her contribution was very supportive of the principles that we have introduced in the Bill.

Once again, the member for Burdekin talked about justice for victims. As I said, we are addressing that issue in this legislation.

The member for Thuringowa made a very sincere contribution. He touched on a number of issues that are covered by the legislation.

The honourable member for Barambah said that it is important that parliamentarians be accountable to their electorates, which is what this legislation is all about. It is about us, as elected members of Parliament, being accountable to the community and addressing the concerns of the community. That is why it is very fair that we introduce this legislation and have a good, proper and sincere debate before voting on it, as we will later in the night. That shows that we are connected with the community and that we are prepared to address its concerns.

The member for Caloundra spoke passionately about the impact of serious crime on women. She outlined how this Bill protects women most significantly. She should be commended for that, because a lot of serious crimes affect women.

The member for Waterford went through a lot of the issues that were raised earlier on. He talked about the incentive for people to rehabilitate, and I have said that that is the length of time of the community supervision period. He mentioned resourcing and, once again, that involves forward planning for five years. The parole system still applies to the majority of people who are in our jails. He also mentioned the issue of victims. We do have to address that issue. I believe this Bill is also about protecting victims. We also have to do more in terms of resourcing to address the fundamental needs of victims. That is a matter for debate, and many issues along those lines will be raised well into the future. This Bill attacks the causes of crime through crime prevention strategies. There is no doubt that in some cases a stronger sentencing policy is a deterrent. We should not let prisoners dictate sentencing policy. In relation to what additional resources might be required, based on my discussions with a number of people, I believe we are probably dealing with about 300 to 400 beds.

The honourable member for Chermside raised the issue of publicity in respect of who supported this legislation; that it would be basically wrong for the electorate to know who did and did not support it. I must admit that I do not have a problem with the electorate knowing how I vote on issues. No honourable members on the other side of the House should have a problem with their electorate knowing whether they voted for or against this Bill. In relation to the issue of the courts circumventing the intentions of Parliament by not carrying through the head sentence——

Time expired.

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