Speech by

Mr S. SANTORO

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CORRECTIVE SERVICES AND PENALTIES AND SENTENCES AMENDMENT BILL

Mr SANTORO (Clayfield—LP) (9.31 p.m.): I have great pleasure in rising to speak in favour of the Corrective Services and Penalties and Sentences Amendment Bill which, if enacted, will go a long way towards restoring some faith by the public in the criminal justice system of this State. The objective of the Bill is very short in compass. It is simply to ensure that those offenders who are convicted of serious violent offences serve 100% of the sentence that is handed down.

It should be emphasised that this is not a Bill aimed at all criminal offences. It is not even aimed at every offence where violence is an element. Certainly it is not aimed at offences purely of a property nature. Rather, it is aimed at those crimes and those criminals who pose a severe risk to the community. It is aimed at those criminals whose actions cause severe violence to others or through whose actions the basic social fabric of our society is weakened.

The Bill reflects the views and the wishes of not only the majority of the people of Queensland but the almost unanimous view of every hardworking and honest man and woman in this State. It is not a party political issue at all. It is, however, a measure which reflects the strongly held and broad consensus of opinion which joins together people in all regions, of all politics and of all ages. As I said, the basic proposition is simple. Violent criminals should serve all of their sentences in custody and not out on the streets.

I will deal with the various issues shortly, but this basic and fundamental proposition should never be lost sight of: you do the crime, you do the time. And the time is the time that the judge in question hands down.

The public want and demand two simple things as a matter of course. Firstly, they want the sentence to fit the crime. Secondly, they want the criminal to serve the time he or she was given by the judge. This Bill is aimed at the second of those goals, and I believe it is rightly aimed at that class of dangerous criminal who should not obtain the benefit of parole or remissions or the like. Discretionary administrative mechanisms to limit the period of incarceration have their place in the armoury of our criminal justice system. But they should not apply necessarily to all classes of criminals and they are, necessarily, a means to an end and not an end in themselves. The end that all of these measures serve is a safer society.

When the coalition amended the Penalties and Sentences Act in 1997 it ensured that one of the purposes of the legislation was to ensure that protection of the Queensland community is a paramount consideration in sentencing, rather than merely a consideration to be balanced against considerations of the appropriate punishment and the rehabilitation of offenders, as it was under Labor. After listening to honourable members opposite this evening it appears it is still their major objective. The protection of the community is to be paramount in "appropriate circumstances". The coalition was mindful of the sentencing of serious violent offenders, as well as that other class of offender who poses a particular threat to society, such as serious drug traffickers.

The 1997 amendments were complex but entirely consistent. The effect of the amendments was to put in place a regime which, from the viewpoint of sentencing policy as well as incarceration policy, introduced some truth in sentencing and sent a loud and clear message to violent criminals about the consequences of their actions. It is clear that the community supported that raft of policy reforms but still wants, in appropriate cases, felons who commit crimes which outrage society to remain behind bars for the whole of their sentences.

One argument that I have heard against this Bill is that it attacks judicial discretion; that it is a

case of mandatory sentencing and that the fettering of the judiciary is a reason to oppose legislation. People who raise this argument obviously do not know what they are talking about. Neither the 1997 Act nor this Bill alter the maximum head sentences that are imposed. Neither that Act nor this Bill require the judiciary to impose a particular penalty.

What the 1997 Act and this Bill do is require prisoners convicted of serious violent offences to remain in prison for a certain percentage of the tariff sentence. Judges are at liberty to sentence a convicted felon to whatever term the law allows. All this Bill does is actually enforce what the judge has ordered.

The proposition that certain prisoners should serve their full sentences and that parole should not apply is not a novel or particularly harsh proposition. In fact, the view that prisoners should automatically get parole and remissions is of rather recent origin. It is of interest that parole was first argued for on the basis that it was desirable that certain dangerous offenders should be subject to an extended period of conditional release subject to supervision on parole. People suggested that the protection of the community warranted this, especially for those offenders convicted of very serious crimes, recidivists, and those who had served long jail terms and who would have difficulties coping with a changed social environment.

Yet, as time went on and parole became more and more generous, disquiet began to mount. Firstly, a number of very serious offences were committed by persons on parole, and some argued that automatic parole for violent criminals needlessly exposed the public to harm. Secondly, lawyers became worried that the use of parole and remissions was increasingly usurping the court's sentencing authority and lessened the effectiveness of the sentence.

Then a number of reports came out recommending that parole be abolished. For example, in 1987 the Canadian Sentencing Commission recommended the abolition of parole, suggesting that it conflicted with the principle of proportionality in sentencing and undermined the role of the sentencing judge. The Australian Law Reform Commission, in its interim reporting on sentencing of Federal offenders in 1979, also recommended the abolition of parole for Federal offenders. In the United States—a country which has been often quoted here this evening by members opposite—many States have responded by introducing truth in sentencing statutes that require convicted felons to serve a certain proportion or all of their sentences. Just this year a number of States passed such laws into effect.

There is also a third reason behind the move for the abolition of parole for certain offenders, and that is the fact that discretionary parole is premised on the faulty notion that it actually promotes rehabilitation. Many would suggest that Parole Board members are just as incapable as most others of being able to accurately predict human behaviour and of whether, when or in what way a person may reoffend. In other words, parole boards take a calculated gamble in letting loose on society dangerous criminals before their time is up.

The argument I have heard against this Bill is that, if an offender is not given parole, when he or she is released the community will be at risk. As my friend the honourable member for Warwick has highlighted with this Bill, there will be no extra risk. In fact, there will be far less risk. That is so for two simple reasons. Firstly, under this Bill the prisoner will be behind bars for the full term of the sentence. He or she will pose no risk at all under these circumstances to the community. He or she will be receiving the benefits of the rehabilitation measures that our corrective services people and others so often laud. Rather than being on the streets within perfect supervision, they will be in a secure environment under 24-hour supervision and with no gamble being taken with the lives and property of the community.

Secondly, under this Bill there is mandatory post sentence community supervision—the same type of supervision as would exist under parole. The big difference is that this supervision is after the prisoner has served the full time. There is a clear message in this provision within the Bill. Even after a violent criminal has served his or her time the community will be watching and guiding those persons to ensure that further offences are not committed. So the argument that the community is put at greater risk by this measure is totally misconceived. In fact, the community is at less risk as a result of the measures being put forward by the Deputy Leader of the Opposition.

Finally, what of the argument that there is no incentive to rehabilitate while in jail? Let me say quite clearly that it is a nonsense to argue in the first place that the authorities somehow have to almost bribe prisoners to be good. However, let me deal with this argument on its own terms. The incentive is plain. If a prisoner misbehaves, he or she will receive an extra sentence for that misbehaviour. If they obey the rules, they will be out at the end of their sentence. If they break the rules, they will stay in longer. It is as simple as that.

The new truth in sentencing provisions will apply only to those criminals serving terms of imprisonment on conviction of serious violent offences committed after the commencement of this Bill. There is no element of retrospectivity in this proposal, and it will apply only to future criminal conduct. Not only would it be unfair to apply these provisions to criminals already serving time; it would not achieve one of the fundamental objectives of this proposal. One of the objects of this Bill is to deter people from committing crimes,

and that is not achieved by penalising those who are already in jail.

This Bill is intended to send a clear message to potential law-breakers. That message is both simple and very clear. It is that society is sick and tired of seeing criminals walk out of jail before they serve their sentence. People are sick and tired of listening to frightened victims on the television and radio venting their frustration at a criminal justice system that fails to protect them adequately.

Mr Foley: Do you remember when the Liberal Party stood for liberal values?

Mr SANTORO: I take the interjection from the honourable member for Yeronga, the Attorney-General—the amateur Thespian. What the Liberal Party stands for first and foremost is the protection of citizens and their property. What this Bill aims to do is precisely that.

People are sick and tired of seeing violent offenders released into society and then reoffending. In short, they are sick and tired of seeing respect for our criminal justice system break down because it fails to punish criminals adequately. This Bill does not increase penalties for crimes. It does not take away any discretion from the judiciary. It does not make it any easier for the police or the Crown to secure convictions. It does not raise any barriers to people who have been charged with a crime defending themselves. All this Bill does is back up the judiciary and take away discretions from parole boards or the like.

I wish to discuss in a little more detail the system of community supervision outlined in this Bill. All serious violent offenders will be subject to an automatic six-month period of community supervision and reintegration into the community. In addition, the Queensland Corrective Services Commission, or whatever may replace it in the future, can apply to a judge of the court which originally sentenced the prisoner, between three and six months prior to his or her release day, to determine whether or not an order imposing community supervision for a further period of up to four years and six months should be made.

I will read directly from clause 196B, which outlines very succinctly the purpose of these orders. The objects are—

"(i) helps those offenders successfully reintegrate into the community after serving their full terms of imprisonment; and

(ii) serves to assure the community that individuals who commit serious violent offences are appropriately supervised after their discharge from prison and given support in their efforts to reintegrate into the community."

The Bill also sets out what a person on whom a community supervision order is imposed must do. I wish also to draw those to the attention of honourable members, as they highlight the extent to which this Bill has been crafted to protect the community.

Such a person must—

"(a) be under the supervision of a community correctional officer; and

(b) abstain from violation of the law; and

(c) carry out the lawful instructions of the community correctional officer; and

(d) report and receive visits as directed by the community correctional officer; and

(e) notify the community correctional officer within 48 hours of any change of address or change of employment; and

(f) not leave the State without the written consent of the commission."

Any person who suggests that, by ensuring that a violent criminal has to serve all of his or her sentence they will be a greater risk to society once they are released because they are not under supervision, has only to peruse this Bill to see that those fears are without foundation. It would seem to me from listening to those members opposite who have already spoken that they have not even perused the Bill, let alone read it, and that what they are engaging in when they are suggesting otherwise is pure scaremongering.

I read the comments of the Scrutiny of Legislation Committee on this Bill in Alert Digest No. 7 of 1998. For the most part the committee noted that the Bill raises important policy issues that it is up to this House to determine. However, one paragraph in the report did catch my eye, and I shall quote it in full. It stated—

> "It is of course, a fundamental aspect of our system of criminal justice that a prisoner who has served his or her full term of imprisonment has acquitted his or her debt to society, and is entitled to leave the place of detention and re-enter the community. The subsequent conduct and activities of such a person are not subject to any ongoing restrictions and the person is effectively restored to the position of an ordinary citizen."

I and all other right-thinking people would have no arguments with the basic thrust of that statement. This Bill, in fact, is in conformity with these sentiments. Under this proposal, a prisoner will be released from prison at the end of their term and will be given all proper encouragement to effectively re-enter society. The object of the community supervision order is to keep the released violent offender on the straight and narrow. It is intended to ensure that the released violent offender does not re-offend.

I make absolutely no apologies for saying that, when it comes to an issue of either wanting to protect the innocent and law-abiding citizens

on the one hand or restricting the civil liberties of violent criminals on the other, I will always favour the innocent and the law abiding. To further prolong my response to the earlier interjection by the Attorney-General, I point out that that is what the Liberal Party stands for and believes in.

When a person commits a violent crime and has served their time, that person remains a potential risk to society. It is foolish and an abdication of responsibility to assume that as soon as that person leaves prison society can assume that there is no need for further work. Parole was especially fashioned with that aim in mind. Whenever a person leaves jail they need assistance in some cases, or strict supervision in others, to make sure that they do not stray back into a life of crime. As I said, it is a mistake to confuse community supervision with punishment. It is not punishment. It is supervision to help former prisoners and protect society. Sure, the former violent offenders' civil rights are restricted, but that is a very—I repeat: a very—small price to pay for both helping the former prisoners and protecting innocent, law-abiding Queenslanders.

The violent offender has extinguished his debt to society by serving his time, but that violent offender must be kept for a short period under supervision so that he or she does not hurt anybody else at any time. I would say to the Parliament that it also a fundamental, if not the fundamental, aspect of our criminal justice system that the innocent are protected and the guilty punished. That is another principle for which the Liberal Party stands. This Bill has both principles in focus—both to properly punish violent offenders and to give real and ongoing protection to the innocent. All too often when people talk about the rights and liberties of individuals they focus on the rights and liberties of those who break the law. We need to balance their rights and liberties with those of us who pay our taxes, raise our families, obey the law and keep our society functioning.

I suggest that this Bill is a proportionate response to the threat posed by violent criminals and necessary if public faith in our criminal justice system is to be maintained. This Bill is aimed at the very worst of criminal behaviour and criminals. It will apply only prospectively. It has a range of sensible protections and is aimed at making Queensland a better and safer place in which to live. It is a Bill that has been welcomed by the vast majority of Queenslanders and I submit that it deserves the wholehearted support of the House.