



Speech by

**Mr L. SPRINGBORG**

**MEMBER FOR WARWICK**

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Hansard 10 November 2000

**JUSTICE AND OTHER LEGISLATION (MISCELLANEOUS PROVISIONS) BILL**

**Mr SPRINGBORG** (Warwick—NPA) (Deputy Leader of the Opposition) (3.07 p.m.): The Opposition has very little problem with this piece of legislation before the Parliament. There is, however, one issue of contention and I will raise that later on.

Generally, this Bill takes the form of machinery updates, including various provisions to various pieces of legislation. Certainly in so far as that is concerned, it is unspectacular when compared with other pieces of miscellaneous legislation that come before the Parliament from time to time.

What the Parliament needs to be very careful about is the capacity for some legislative measures to end up in these miscellaneous Bills that perhaps should rightly be in more substantive Bills. I consulted with a range of people during the course of gathering information on which to form my views on this legislation. By and large there has been very little of concern that has come back.

There was one concern raised by Mr Raoul Giudes, who at that stage was the president elect of the Queensland Law Society, and who said that the only amendment that caused some concern is the amendment to the Justices Act 1886 to allow an enforcement notice to be sent by ordinary post. While it is the case that certified mail no longer exists, registered mail is available, which provides some assurance that the offender actually receives the enforcement notice. Significant consequences can follow if an enforcement notice is ignored. With the population becoming more transient and people tending to change address more frequently, sending an enforcement by ordinary post provides no certainty that the intended recipient will receive the correspondence. I was wondering whether the Attorney-General might like to respond to that.

The provision of this Bill that we do have some concern with—and we will be opposing that clause—is the clause that relates to section 432 of the Criminal Code. This amendment seeks to repeal section 432 of the Criminal Code. As such, it is not a machinery amendment; rather, it is a policy amendment. Its inclusion in a miscellaneous provisions Bill is therefore open to question, as policy matters are normally not included in such Bills. Section 432 of the Code provides—

"Any person who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from the person's skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found, is guilty of a misdemeanour, and is liable to imprisonment for 1 year."

The reason advanced for this amendment in the second-reading speech is that the provision is the relic of a more superstitious age and is archaic and outmoded. The Attorney-General suggests that the conduct targeted is fraud, which is sufficiently covered by other provisions of the Code.

Unfortunately, fraud—that is, the gaining of property illegally—is not always the objective of the use of witchcraft and the occult. Often such practices are used by people to dominate other people intellectually or emotionally. This form of exploitation can result in sexual exploitation, which may result in the possibility of criminal charges. But this can be difficult to prove if the occult enables the suggestion to be raised that the behaviour was voluntary because of such belief. In my view, the possibility of domination of one person by another by the exploitation of a weakness or susceptibility is not one that should be encouraged. The abolition of the provision also arguably suggests that the

occult, witchcraft and so on are acceptable social practices, perhaps on a par with religions. I do not believe that the majority of organised religions, let alone the general community, would accept that they are to be regarded as on par with witchcraft, but that is a consequence of such an approach.

The Bill also has the effect of abolishing the term "stipendiary magistrate" and replacing it with the term "magistrate". "Stipendiary magistrate" was used as a term to distinguish magistrates who were employed by the State on a salary from the old English practice of magistrates who were justices of the peace who were not paid by the State. The Commonwealth Government has now created a group who are titled "Federal magistrates" and who use the appellation "FM" after their name. I ask the Attorney-General: what will Queensland magistrates now use? Will they use "M" only, or are we going to see them use the term "QM" for "Queensland magistrate". I think that is worthy of consideration. We have all come to know the term "stipendiary magistrate" over the years.

**Mr Foley:** They're just going to use the term "magistrate".

**Mr SPRINGBORG:** It will just be "magistrate"? It will not be "QM", just "magistrate"? I accept the use of that term. At the end of the day it is probably a little sad in a way to see a term disappear with which many of us are so familiar. Only recently we had a bit of a discussion in this Chamber to substantiate an action of a committee of this Parliament some years ago when it decided to call us MPs and not MLAs. We know that sometimes we are creatures reluctant to change and continue to use the same sorts of terms. The term "magistrate" is probably reasonably acceptable.

I do not wish to hold up the Parliament unduly or unnecessarily. I just want to say that in general we do not have a problem with any of the machinery recommendations of this legislation. We will be happy to support them. However, we do have some concerns about doing away with section 432, which particularly relates to the issue of witchcraft and fortune telling. Whilst a lot of people may consider that we are prudish in that area, I do not necessarily consider myself to be a prude. However, I do believe there are some issues there that we should look at.

In the recent decade in Queensland two women who practised witchcraft were convicted of a crime. They killed a man. That is something that concerns us. I have seen what it is like for people who have been caught up in this sort of thing. They are very gullible. It is very hard for a lot of us to see how people become involved in cults, how people have their mind controlled by certain individuals—and they do. They do some bizarre things, and they will accept some bizarre things on the basis that that which has been put forward to them is an acceptable part of the cult they are involved in. We have seen that people in other countries who joined cults—I am not talking about the occult here—have committed mass suicide as well. That is the extent to which some people are prepared to believe in these sorts of things.

I just say to honourable members that we should be very careful when we are doing away with such provisions of the law on the basis that they are old, superstitious and prudish when there are some legitimate reasons for containing these issues in legislation. Of course we are not advocating such things as the Salem witch-hunt, the Joan of Arc experience or anything like that. We are saying that some people are extremely vulnerable to being told to make decisions. For example, fortune telling is based on tarot cards. Sometimes people suffer as a consequence. I believe there is a legitimate and valid concern for us to oppose that clause of the Bill which seeks to remove section 432 of the Criminal Code.

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