



Speech by

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MEMBER FOR CALLIDE

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CORRECTIVE SERVICES AMENDMENT BILL

Mr SEENEY (Callide—NPA) (11.29 a.m.): The National Party opposition intends to support the broad objectives of this bill as they were outlined by the minister in his second reading speech. Our support, however, is conditional on the minister not following the example that has been set by his colleagues in the past couple of days of introducing a large number of amendments at a very late stage in the debate. It happened last night to my colleague the shadow minister for primary industries when he was responding in the second reading debate. He had a whole stack of amendments slid under the speaking dais. Each time one of the attendants enters the House, I am somewhat nervous that perhaps the same thing may be occurring again. It is becoming something of a characteristic of this government.

However, the opposition will be supporting the objectives of the bill as they were outlined by the minister in his second reading speech. We support the stated aims of the bill to achieve a balance in the practice of strip searching in the state's correctional service institutions. That balance must be achieved to prevent the unlawful entry of drugs or weapons into those institutions while at the same time ensuring the protection of the individual prisoner's dignity. At times, they are conflicting needs, but we believe that this legislation has struck the right balance.

In his second reading speech the minister said that under the Corrective Services Act 1988 strip searching practices have developed in accordance with operational requirements. Under those operational requirements, there is a requirement to ensure that the state's statutory and common law responsibilities are met as well as the security of the facility, the prisoners, the correctional facility staff and the wider community.

Strip searching by necessity is a common practice applied to correctional environments Australiawide. There are some opportunities for other less intrusive forms of detection of drugs and other forms of contraband to be used. These include the use of trained dogs and drug detection devices. However, the ability to ensure the high level of security needed is achieved most effectively by the current process. In fact, in some instances at least, strip searching is the only method that will provide that high level of security. Therefore, strip searching remains the best method for preventing entry into facilities of illegal contraband that may lead to a wider threat to the prison community through an internal incident or an escape.

However, as the minister suggested in his second reading speech, the bill does not herald an expansion of strip searching beyond current practices. The Scrutiny of Legislation Committee identified the issue of due regard to the rights of prisoners in its report on this bill in *Alert Digest* No. 1 of 2001. There is no doubt that strip searching is an invasive procedure—one that every person would consider an invasion of their privacy and an infringement of their rights no matter how it was carried out or where such a search was carried out. In the case of prisoners in a correctional facility, we all must acknowledge that while some of a convicted prisoner's rights have been lost with imprisonment, they are entitled to a basic level of human dignity within our correctional facilities.

The management of our institutions and the legislation that controls them, such as this bill, must incorporate adequate safeguards to ensure that that basic level of human dignity is protected, and I think that we would all agree with that. When introducing this bill, the minister outlined these safeguard principles and it is important to note again the requirements bestowed upon a corrective services officer

when carrying out a search. They include a requirement to ensure that the way in which the prisoner is searched causes minimal embarrassment to the prisoner; a requirement to take reasonable care to protect the prisoner's dignity; a requirement to carry out the search as quickly as is reasonably practicable; and a requirement to allow the prisoner to dress as soon as the search is finished.

These requirements are to protect the prisoner's rights during a procedure that is essential to protect security in the correctional facility and to guard the wellbeing of the correctional facility staff and other inmates. At times, these two needs can be seen to be in conflict. However, a balance between the two has to be found. This bill appears to strike that balance.

The issue of strip searching of prisoners has been a controversial one. On more than one occasion it has been the subject of public attention in the previous Beattie government under the current Minister for State Development when he was the Minister for Police. At that time, the level of public concern was such that the CJC investigated the practice and produced a report last year titled *Police Strip Searches in Queensland*. This CJC report defended the use of police strip search powers but made specific recommendations aimed at ending routine strip searches. There were numerous public complaints and concerns expressed to the CJC researchers. In some ways that could be considered to be predictable; there are always going to be complaints by people who are subjected to these types of searches, however necessary they may be.

In February 2000, the report noted very appropriately that there were no consistent standards for strip searching. The opposition certainly concurs that there should be such consistent standards and in that respect the amendments provided in this bill are more than overdue.

This bill will also amend section 14 of the act and require that a prisoner comply with orders given or applying to the prisoner even though the order may not directly name the prisoner. The example provided by the minister was self-explanatory to the type of situation that this would apply to.

The change in wording to section 25 by replacing 'believes' with 'suspects' is of some significance when referring to the threshold level for the requirement of a strip search.

Mr Mickel: Don't read it.

Mr SEENEY: There is no doubt that this change in wording lowers the threshold at which any such search may be conducted. On balance, we accept that this lowering of the threshold is in the best interests of good order and the safe management of our correctional facilities.

It is something of a novelty for me to read a speech, unlike some of the members who interject. It is the exception rather than the rule. However, as I was saying, this lowering of the threshold for the ordering of a strip search increases the responsibility we have to ensure that the strip search powers are not misused. This bill provides for a discretion to be exercised by the person in charge of a secure facility. Clause 5, which amends section 26, to quote the minister—

Will now provide that the person in charge of a secure facility may give an order for the personal searching of prisoners whenever they leave a part of the facility stated in the order, where prisoners have access to concealable prohibited things.

It would appear that that clause allows for strip searches of a prisoner almost on a mandatory basis whenever they have received either a visit from family or friends or are returning from medical attention. After each such visit or contact, the person in charge of the correctional facility has the discretion to order a strip search of the prisoner. We support this discretionary power so long as, as with all discretionary powers, it is used sensibly and not taken to extreme lengths.

Section 26A(3) provides that a person in charge will have the discretion to excuse a prisoner from such a search on such an occasion. It would be unacceptable to fair-minded people if strip searches were to be enforced every time a prisoner receives outside contact or returns from another part of the facility. It would also be equally unacceptable to fair-minded people if there was not a provision to require a strip search of prisoners in any circumstance where it can reasonably be suspected that a prisoner may be concealing contraband. It would be unacceptable if there were not the provision to allow or to order such a strip search if it were reasonably suspected that a prisoner may be concealing those types of objects.

The only resolution to this issue is the discretionary powers contained in this legislation, and that is the reason that we will be supporting it. The success or otherwise of this legislation will depend to a very real degree on how those discretionary powers are to be used.

We share the concerns of many people in the general public about the misuse of strip search powers during the term of the first Beattie government. We hope that this legislation will give the public confidence that those alleged misuses that occurred in the past will not be repeated. We hope that this legislation will achieve a balance in safeguarding prisoner dignity and safeguarding prisoners' basic human rights while at the same time protecting staff and the general prison community from any risks posed by the entry of drugs or prohibited substances into our correctional facilities.

With this in mind, the opposition supports the bill and its intention to amend the relevant sections of the Corrective Services Act 2000.