Speech by

Mr L. SPRINGBORG

MEMBER FOR SOUTHERN DOWNS

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DANGEROUS PRISONERS (SEXUAL OFFENDERS) BILL

Mr SPRINGBORG (Southern Downs—NPA) (Leader of the Opposition) (2.42 p.m.): In rising to speak to the Dangerous Prisoners (Sexual Offenders) Bill, the only positive thing I can say about the government introducing this bill to parliament is that it is better late than never. During the course of my contribution, I will explore the government's dereliction on this issue. However, I am pleased that the government has bothered to finally deliver to this parliament law reform that may protect our most vulnerable citizens, particularly women and children, from the clutches of these sexual predators, albeit that there may be only a few of them in our prisons.

For the information of those newer members who sit opposite and who will no doubt get up and wax lyrical about what a wonderful piece of law reform this bill is and pat themselves, this Attorney-General and the government on the back for it, I will go through the history of this legislation and what happened a few years ago when I tried to get the government to do exactly this. I will tell them about the way in which I was smeared and attacked by the former Attorney-General, Matt Foley, who has left a legacy in this state that will take years and years and years to repair.

Mr Lawlor: You were in government five years ago. Why didn't you do it?

Mr SPRINGBORG: What is the member's excuse for waiting five years? I was not the Attorney-General three years or four years ago, but I can tell the honourable member for Southport that I have pushed and pursued the Beattie government on a whole range of issues. That has embarrassed the government, so it has introduced bills to address those issues. One of those bills was the fine defaulters bill. Another one was the drug courts bill.

I refer to an article in the *Courier-Mail* of 2 September 2000, which states—

Opposition justice spokesman Lawrence Springborg said the Coalition was considering amending the Criminal Code to keep offenders locked up until deemed safe for release. However, a spokesman for Attorney-General Matt Foley said indefinite imprisonments had been possible in Queensland since 1945.

So the former Attorney-General stood up and said that it was not necessary and that everything was hunky-dory. He missed the point completely about why the indefinite sentencing regime that existed at that time was not about addressing the problem that I identified but was about making excuses. In that article, former Attorney-General Matt Foley went on to state—

Queensland's courts are currently empowered to make orders against child sex offenders at the time of sentencing, forcing them to keep police aware of their whereabouts after being released.

All of those points are true. But that was not what I was driving at. The then Attorney-General was out there obfuscating and muddying the waters rather than doing something.

It was also that government of which the former Attorney-General was a part which refused to enact section 19—the naming orders—that had been in place since 1989. It was only when Attorney-General Beanland in the Borbidge government enacted it that we saw 18 offenders named under that section.

The point was that there was quite a demonstrable deficiency in the Queensland law that needed to be addressed. Certainly, in this modern context, the deficiency needed to be addressed when one considers that offenders had been released whom the authorities were concerned had a very real capacity to reoffend. I would be concerned about naming those offenders in this place because of

matters that may be before the courts. However, if the authorities had concerns about them, if Corrective Services had concerns about them and they had been given definite sentences, then it made sense that we should have a provision in our law that allowed us to revisit those offenders' records as their release date became closer.

I think that having the former Attorney-General, Matt Foley, running around making excuses about why something that existed which was not quite good enough should stay in place without amendment did this state a great disserve and put people at risk. I was particularly keen to seek to address this issue because, as every member of this parliament knows, our courts have to make value judgments based on the evidence put before them. They have to make judgments that are based on the precedents that have been set by sentencing judges in the past and also on decisions of the Court of Appeal.

Quite clearly, there are some really dreadful, stinking predators in our jails who are not given indefinite sentences. They are given definite sentences—some of them quite harsh sentences. They may be 12 years, 13 years, 14 years, 17 years or 20 years long, but they are definite sentences. Under the existing law in Queensland, once an offender has been given a definite sentence, there is no capacity whatsoever to revisit that sentence if it is considered that that offender has not been properly rehabilitated.

That is what the opposition's suggestion on 2 September 2000 was about, yet it was quite unbelievably and immorally howled down by the former Attorney-General in a personal smear. It was not about engaging in decent public policy debate in this state; it was about smearing what was a good idea. The former Attorney-General has not been able to intellectually undermine the depth of the argument that the opposition put forward, and which has now been proven correct, because it is exactly what this Attorney-General is seeking to do today.

In indicating that we had indefinite sentences already, the Attorney-General of the day, Matt Foley, also failed to outline that generally the people who are given those indefinite sentences had usually offended on numerous occasions, had been sentenced on numerous occasions, and the magnitude of their crimes had worsened at each of their court appearances. The crimes of those offenders ranged from offending against kids to offending against women.

The nature of the crimes of these offenders worsens as they go along. It includes all the worst types of sexual depravity that one could ever imagine, and they will get to the stage where they will kill somebody. Almost all of these offenders who have been indefinitely sentenced in Queensland have worsened as they have gone through their criminal career until the stage has been reached where there has been no choice for the Attorney but to make a submission for an indefinite sentence. The legislation that we were calling for was about putting in place a provision whereby those people who had been definitely sentenced but were considered to be a predatory risk to the community would be able to be further incarcerated.

I return to the fact that the government had not enacted the naming orders section. I note the presence in the public gallery today of a great campaigner in this area, Hetty Johnson. I remember when we had a discussion on the radio about this option of naming, she made what I thought was a very, very valid point. Her point was that if these characters are deemed at risk of reoffending by the sentencing judge at the time of offending, it really begs the question why they should be released to start with. I agree with that. If they are not going to be indefinitely sentenced, then we do need a situation where there is a chance for a court to revisit that at some future time.

After three years of campaigning and after three years of lampooning and smearing from the former Attorney-General, we are finally getting to the stage at which something is actually happening here in Queensland. I said in the 2001 election campaign, when I reannounced this policy, that this is something that we will definitely be doing. The members opposite can stand up and say, 'Why was this not done? Why was that not done?' During the time that I have been shadow Attorney-General or when I held a ministerial position, whenever I have become aware of an issue like this I have always taken up the cudgels, and I make absolutely no apologies for it.

Quite frankly, someone has to be prepared to stand up and admit that there are issues, which I was prepared to do, but what happened? This government—including those backbenchers opposite—was not even prepared to stand up and say that this needed to be fixed. In fact, as I will show in a moment, some of them were complicit in their inaction on this particular issue.

Mr Lawlor: You were in government five years ago; why didn't you do something?

Mr SPRINGBORG: Talking about the honourable member, he is one of the people known as the 'silent seven' on the Gold Coast.

On 7 February 2001 I again announced that this was something that we would be doing if elected to government. That was five or six months after I originally announced that it was something we wanted to do, and I called on the government to do it.

This government expects opposition members to stand in this place and be prepared to support its good ideas. I do give some credit to this Attorney, because he has been prepared to address a number of outstanding issues of law reform—including some issues that were ignored by his predecessor. I do at least give him some acknowledgment for bringing this bill into the parliament. As I have said to this Attorney in the past, he has brought some reasonably good law reform into this place, and I have no hesitation in supporting today something which we have been calling for for quite a period of time.

It is true that it is not only the government that can have good ideas; the opposition can also have good ideas. It is not fair that, on the one hand, the government expects the opposition to support everything it brings before the parliament—and I have supported all bar one piece of legislation that this Attorney has brought into parliament—yet, on the other hand, the government votes against our proposals. The members of the government go out there and say 'no' to our proposals and then they come back into this place, sometimes within a few months, and introduce the basic principles of what we had suggested, or the entirety of it, and call it their own. Nevertheless, we are pleased that the government has finally decided to do something about this issue.

On 3 September 2000 I again talked about the importance of this issue and the way that we would be pushing this forward as a sensible law reform in Queensland. We also expressed some real concern about the then Attorney's lack of understanding and lack of commitment to the very law reform which we are seeing in this parliament today. He was complicit in not advancing the interests of children in particular in this state.

On 7 September 2000 the member for Mount Ommaney, Mrs Attwood, rose in this place and asked the then Attorney-General and Minister for the Arts whether he was prepared to inform the House of any proposals from the member for Warwick, as I was at that stage, for the introduction of indefinite sentences in Queensland. The then Attorney, Matt Foley, stood up in this place and said—

I thank the honourable member for the question. I am aware of the honourable member for Warwick's call for indefinite jail for sex criminals. In the Courier-Mail of Saturday, the honourable member indicated that the coalition was considering amending the Criminal Code to keep offenders locked up until deemed safe for release. No doubt the honourable member wanted to advance himself and the coalition as being at the very cutting edge of law reform. There is only one problem: it has been the law of Queensland since 1945.

This is what this former Attorney-General, who held himself up as a great barrister in this state, said—

What is more, during the term of the Goss Government, the whole area of indefinite sentences was made the subject of amendments to the criminal law introduced by the former Attorney-General, the Honourable Dean Wells, to make it accurate, up to date and in accord with the needs of modern sentencing practices.

He further went on to say—

What we have is a shadow Attorney-General who wants to go out there and be at the very cutting edge of law reform to introduce something that has been the law since 1945! It is not the first time that he has got it wrong.

Once again the smear from the former Attorney—

He is a recidivist at getting it wrong! For somebody who aspires to the position of the first law officer of this State, he has still not withdrawn and apologised for getting it wrong in his statement to ABC Radio news on 31 July, when he said that 'it is legal for paedophiles to exchange child pornography free of charge'. Wrong, wrong; disgracefully, unforgivably wrong. I table the transcript of ABC Radio news.

I digress for one moment. I made those particular statements with regard to the exchange of pornography from paedophiles, saying the law was insufficient. People were slipping through the loops. Once again I was smeared by the member for Yeronga, the former Attorney-General. Do members know what he did? He said that I was wrong, and two months later he sneaked into this parliament criminal law amendments in this area which were the same as those that I was calling for to ensure that these people could not exchange that information. That is how much the former Attorney-General knew about the law in this state. He went on to say—

What we have is a shadow Attorney-General who simply does not know the law, but Mr Springborg's ignorance of the law is no excuse. The people of Queensland are entitled to expect ...

Mrs Attwood, the member for Mount Ommaney, a person for whom I have enormous respect, was tossed up a dorothy dixer by the former Attorney which was embarrassing, quite frankly, because it has made the government backbench complicit in the action, or the lack of action, on the part of this government in not fixing this area of law reform.

All they had to do was to look at this properly, look at it openly and look at it in a non-political way. The simple reality is that there was no way that we could hold offenders who were not indefinitely sentenced. The type of people we are dealing with have not been indefinitely sentenced. They are the ones who slip through the loops. They are the ones who are deemed very serious offenders at the time of sentencing. They are the ones who are given demonstrably long, definite sentences because of the legal precedent of the day, but with no effective way to revisit their sentencing option. They are the ones who, in a number of cases in Queensland, have been released from jail and gone on to commit even worse crimes, and then at some future time they have come back before the courts and been

given an indefinite sentence. That was not good enough. We needed the capacity to be able to do it then, and we need the capacity to be able to do it in the future. That Attorney should have been applying his expertise in the law to actually address this problem instead of just making excuses as to why it was wrong.

Last month I put a question on notice to the Minister for Police asking how many offenders had been released from jail within a certain period of time without undertaking a sexual offenders rehabilitation course in our prisons. It is interesting to note that the Minister for Police went one day over answering that question and also reflected in the answer when it came in—on the very day that the government announced it was going to do this—that the government would soon be introducing legislation into parliament to put an indefinite sentencing regime in place for prisoners and these sexual offenders who have been definitely sentenced. He went against the standing orders of this parliament so the government could play games.

Mr Shine: What was the answer?

Mr SPRINGBORG: He went through and answered the question, which was that there were this number of offenders in a certain period of time who had not completed a sexual offenders rehabilitation course. That is fair enough.

Mr Shine interjected.

Mr SPRINGBORG: I have the answer here. It was updating a question which I had previously asked, which was how many people in the previous four years had not completed a sexual offenders rehabilitation course.

The issue I have in regard to this is that we had a question held back, not answered in this place, because it could have been potentially embarrassing for this government, in order to give it time to introduce legislation which potentially took away some heat. This is not about whose fault it is that people were released or whose fault it was that people were not released. When an idea was put forward three years ago, it was knocked over, ridiculed and lampooned by the Attorney-General of the day.

Even last week when I made a statement in this parliament about our policy of indefinite sentencing for these characters or a regime for it and I reflected upon the former Attorney-General's statement in the year 2000 that the law was not necessary because we already had it, he interjected saying, 'That's right.' Within a week we have legislation in this parliament, because the current Attorney-General knew that what I was saying was right but he refused to admit that we had this ongoing problem in Queensland which needed to be addressed. After this legislation is passed through the House today, I hope this will put us at the cutting edge of laws in this area across Australia. I would be pleased to know what the Attorney-General has to say about that in reply, because it is not before its time.

To pick up on the issue of sexual offenders in general, I note a column in the paper today by Matthew Franklin in which he talks about the need to rehabilitate offenders. That is true. We need primarily to try to rehabilitate offenders. There is no doubt about that. That is one of the role of our jails, but there is also a role for our jails of community protection. There is also a role for our jails in ensuring an appropriate level of punitive redress for the offences which people have committed. That ensures closure for the victims of crime and that of their families. Our jails are about rehabilitation. Our jails are about protection. Our jails are also about providing some degree of redress for the crimes that people have committed.

That is not to say that everyone can be rehabilitated. Some people cannot be rehabilitated; we all know that. Seventy per cent of people released from jail never reoffend. I understand they are the figures. Many people would be surprised to know that. That means that 30 per cent of people—they are the best figures that I have; the Attorney-General may have better figures—do reoffend. Sex offenders, particularly those who offend against children, have a much higher degree of recidivism—that is, reoffence rate—and they need to be dealt with differently, particularly those who are serious sex offenders. That is what we are talking about here.

I understand what Terry O'Gorman is on about, but I disagree with him. One thing I would have to say in acknowledgment of Terry O'Gorman's position is that the Queensland Council of Civil Liberties is extremely consistent in its approach, regardless of whom it is advocating on behalf of. Certainly we need the view that the Queensland Council of Civil Liberties advocates from time to time. It is very important because sometimes the body politic, as reflected in this place by members on both sides who are trying to deal with the concerns of the community at large, will not reflect the particular viewpoint that may be sympathetic to the offender. I make no apologies for not being sympathetic to the offender on this occasion, but we should not start any debate in this place with the premise that all people can be rehabilitated, because some people are basically bad. They are never, ever going to be anything else. Most people are basically good, but it makes no sense to have a regime which allows us to

release people back into the community without the right sorts of checks and balances on those people who are basically bad and who commit the worst types of heinous crimes in our community.

The other thing we have to face up to is how we deal with these sexual offenders in general. Whilst many of these serious sexual offenders will not go on to reoffend, many of them will. Some figures which I received from the Police Commissioner a few months ago indicated that 468 serious sexual offenders had been released from our jails without doing a sexual offenders rehabilitation course. He said that the trend was basically the same in previous times. I acknowledge that.

The issue here is a recognition that there is a problem. I am prepared to acknowledge that. The issue is then what we do about it. The issue is how much we make available that particular course or those programs to sexual offenders. It would stand to reason to me that all these serious sexual offenders must face their guilt. They must admit that they have done wrong.

Ms Boyle: That is so easy to say. They do not feel any guilt, some of them.

Mr SPRINGBORG: I will come to that point because I think it is a valid point which the honourable member for Cairns raises. That comes back to what I have just said, and that is that some people are basically bad.

Ms Boyle: Unchangeable.

Mr SPRINGBORG: Well, unchangeable; they are bad. They are recidivists. That is why they are indeterminate prisoners, I believe. They are basically bad.

Even if we made a sexual offenders rehabilitation course compulsory, whilst some prisoners might change their ways and come to grips with the magnitude of the crime that they have committed and the impact that has had on their victims and their victims' families, for some people it will make no difference because they have no compassion and no basic human feelings. They do not care. People, women and children are just play things for them—and sometimes men and young men as well. We will never change those people. Notwithstanding that, I think we should seek to make these particular courses a condition of those prisoners' release. Then, if they have not successfully undertaken the course and if they are deemed to continue to be a risk, obviously the regime which we are bringing in here today will also move to protect the community.

It is very hard to say how many offenders we may be dealing with. We do not know whether it will be one a year, two a year or three a year or two or three every couple of years. We just do not know that yet. That is something that no doubt we will find out as time goes by. But it is interesting to note that, in the discussions I have had with Corrective Services'officers in the time that I have been shadow Attorney-General and involved in this area, the people they have warned the authorities about have been the ones who have gone on to be convicted of committing further crimes and some of these people have been sentenced indefinitely. So there is a lot of corporate knowledge and basic gut instinct that goes with being a Corrective Services officer. To hear some of the concerns that they have publicly expressed and addressed about the capacity of some of these people to reoffend has been rather disturbing. I think we have to take that on board.

I note that in the test the Attorney has set here—I think it is a community protection test or something along those lines—the application, which must be accompanied by a couple of psychologist or psychiatrist reports, will be made to the court and the court will make a determination based on that. We also need to very clearly establish that there are people who deal with these characters—these predators—in jail every day of the week, and they have a very good practical idea of what they are on about and what they are capable of, because they can read people. Our Corrective Services officers are pretty good at doing that. I note that the Attorney smiled at that comment. I know from my discussions with Corrective Services officers that most of them start from the premise that people can be rehabilitated, and the concerns they generally express have proven to be warranted.

As I understand it, the legislation before the parliament will apply only to serious sexual offenders. I have no problem with that. In his column in the *Courier-Mail* today Matthew Franklin asked why it did not apply to other offenders. Maybe that is an issue we will advance at some future time. However, what we are principally dealing with here are those people who are the greatest threat to our society—serious sexual offenders. In that article I read today we got caught up in the issue of murderers. Murderers are given a life term. Quite frankly, in relation to anyone who is given a life term it is not a problem, because the authorities can keep them for as long as they want. Maybe it is for all of their life, but that may not necessarily be so because it is another form of indefinite sentencing.

We are dealing here with people who are likely to be the greatest threat to our society, and they are the serious sexual offenders. As I understand it, when a person is indefinitely sentenced under the current indefinite sentencing regime the court will look at that every couple of years. There is a review of that situation—the possibility of release—every couple of years. I would like some further clarification of that point by the Attorney to see if my understanding is correct.

Mr Welford: Every year.

Mr SPRINGBORG: Is it every year or every couple of years? Under this legislation it is every year. I am asking about prisoners who are currently indefinitely sentenced.

Mr Welford: Two years.

Mr SPRINGBORG: Two years. That is what I was saying. Whilst some people might say that it should be longer, I think that is fair. The important thing is that an application will be able to be made to the courts to hold indefinitely a person who has completed or will be soon completing a definite sentence and who is considered to be a significant risk to the community. That currently does not exist under Queensland law. Some of these characters—once again, I am not sure whether it will be one, two or three a year or more; the honourable member for Cairns indicated this before—cannot be rehabilitated. No doubt their application for release will continue to be rejected. This is going to call for a great degree of diligence and consideration on the part of our courts and also those people who will be providing an assessment to the courts, principally the psychiatrists and the psychologists.

I have met a number of people in prisons in my time. I went out to Borallon once with the lifers association. That was a really interesting experience. Members would be fascinated by how much these people know about them. It is almost as if they profile people. It can be quite concerning. I was speaking to one there who knew exactly how many kids I had and knew exactly where I lived. This is the sort of thing that goes on. They read *Hansard*; they know what is being said in this place.

Mr Lawlor: Some form of torture?

Mr SPRINGBORG: Maybe because there is little else to do in prisons. Of course, many of them contribute by doing certain things, but I am saying that the range of activities is certainly more limited than outside prisons. The rest of us might read it because we are insomniacs, but I do not know why they read it.

We cannot underestimate their depth of knowledge of laws which are passed which affect them insofar as remand, release and those sorts of issues are concerned. When talking to some of these people who have committed some fairly horrific crimes, we have to strip all of that away because some of them can be extremely convincing and very articulate; they choose their words very carefully.

I just say to our authorities as they are considering this particular law that they need to be aware that sometimes people are very effective at putting something across. It reminds me a bit of the *Shawshank Redemption*, a movie in which a bloke walked in and basically told the prison authorities what he thought they wanted to hear. That is why I suppose people are psychiatrists and psychologists; they have to go a bit deeper than that.

No doubt when this legislation passes through the parliament and these characters are facing this new legislative regime under which they may be held indefinitely, we will have to be very careful that they do not seek to give the impression that they are reformed when they are not necessarily so. In the past some of these predatory sex offenders have made statements, knowing that they could not be held, and have gone out and boasted about what they may have been able to do. Those incidents have, by and large, led to the introduction of this legislation. There is going to be more limited opportunity to detect those people, what they are capable of, their state of rehabilitation and potentially what may exist today. We need to be aware that some of them are fairly shrewd in the way they do things.

We have no problem with the legislation before the parliament. We would have preferred it to be introduced earlier. But, as I said, it is better late than never. We will be looking with great interest to see how this legislation is brought into effect. We believe that, if it is implemented in the spirit in which I believe the Attorney has brought it to the parliament, it will provide a greater degree of protection for our most vulnerable citizens, particularly those who have fallen victim to definitely sentenced offenders who have offended once they have been released from prison.