



Speech by

## John-Paul Langbroek

MEMBER FOR SURFERS PARADISE

Hansard Thursday, 29 September 2005

---

### **PENALTIES AND SENTENCES (SENTENCING ADVISORY COUNCIL) AMENDMENT BILL**

**Mr LANGBROEK** (Surfers Paradise—Lib) (7.54 pm): I am very happy to rise to speak on this very important bill. I certainly hope that members opposite can find it in their political souls to do something that is important for the state of Queensland. This bill does a very good job of treading the fine line between maintaining the legitimacy of the judiciary and not encroaching on its role as the independent arbiter of matters.

The courts are set up under the Constitution or other pieces of legislation and in the end, at a more abstract level, one could wonder how the courts somehow maintain their power when all they represent is an instrument of statute. The answer is that they maintain their legitimacy by being relevant and handing down judgments that, in the end, reflect the views of the community. This is represented in the intention behind the Penalties and Sentences Act and other acts of this nature.

Moreover, this is the role that the judiciary has in the separation of powers. We are here in this House and the executive and their role in this place is to be voted in by the public. In the end, aside from all the politics and everything else, it is our job to gauge public opinion and do what they wish. It is the job of the judiciary to be aside from all of that and to make decisions that are in line with public opinion by making incremental changes to the law based on what they feel is appropriate at the time.

I do not understand any objection to this bill. This bill simply galvanises that outline of the judiciary that has been set out in centuries of tradition in our form of government. The bill does not take the discretion away from the judiciary to take into account the wide range of circumstances that must be taken into account in sentencing. There is no provision in here that sets out minimum sentence and there is no provision that says that certain things should be overlooked in favour of an arbitrary sentence. Rather, this bill puts together a solid mixture of 10 people as representatives of the community with varying experiences to advise the courts as to what sentences should be. These groups would provide a yardstick for the courts to go by for certain crimes. Any objection to this bill only hinders the judiciary's ability to do their job to the best of their ability.

In recent times there have been a number of cases where the courts have come under attack for being too soft and for handing out sentences that do not befit the crime. From time to time this could be because the reporting of these incidents is not accurate and all of the factors that come about in the mitigation of the sentence are not reported, resulting in the sentence being shorter than the average person would have suggested or expected. An element of community consultation adds legitimacy to these sentences and, at the same time, educates the community about all that goes into a sentence and how the process is not as mechanical as one may think it is; there is no join-the-dots program for taking away someone's liberty for wrong they have done in the community. As I have said in this place before, justice must not only be done but also be seen to be done. Here is an opportunity to help the courts be confident in their decisions and for justice to quite clearly be seen to be done. I commend the bill to the House.