Speech by

Hon. Kerry Shine

MEMBER FOR TOOWOOMBA NORTH

Hansard Thursday, 23 August 2007

JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

Hon. KG SHINE (Toowoomba North—ALP) (Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland) (11.35 am), continuing in reply: Might I at the outset today refer to some of the contributions made by honourable members, particularly from the government side. I appreciate the contributions made by them. The member for Waterford's contribution was particularly valuable in relation to his reference to matters raised in the Scrutiny of Legislation Committee report. His attitude and comments with respect to the judicial review aspect made a lot of common sense, as did his contribution with respect to JPs. His great knowledge of trade union affairs was illustrated in his contribution concerning the anti-discrimination amendments contained in the bill.

The honourable member for Southport made a valuable contribution to the debate, particularly indicating his concern in relation to the drug scourge in this state, and his comments with respect to the drug courts were again invaluable. Likewise, the honourable member for Fitzroy made a most helpful contribution with respect to the births, deaths and marriages aspect of the bill before the House and gave an instance of a male constituent who is having considerable difficulties in that regard. I am aware of course of that circumstance, he having made representations to me.

With respect to the contributions by members opposite, the member for Caloundra being the shadow minister of course made the bulk of those contributions. Other members repeated many of the member's comments. The member for Caloundra, however, bases the opposition's decision to oppose this bill on the basis that it contains too many significant legislative amendments. This is a clear example of opposition for opposition's sake. In my portfolio I have responsibility for more than 120 pieces of legislation. The omnibus bill is necessary for a large number of amendments to be regularly made to various legislative provisions to ensure that the statutes continue to operate in the manner intended. The approach of using one, usually annual, bill ensures that much-needed statutory reform is not delayed and that the time of the parliament is not wasted on dealing with a raft of separate small bills. I remind honourable members that this particular bill has been on the table of the parliament for four months. This legislation has not been rushed. The legislation is not being rammed through the parliament.

I invite the member for Caloundra to look at previous omnibus legislation bills that have been put before the parliament in recent years. I particularly draw his attention to the Justice and Other Legislation (Miscellaneous Provisions) Bill No. 2 1997—a bill introduced by the then Liberal Attorney-General, Denver Beanland. That bill sought to amend some 47 statutes. The bill that this parliament is currently considering amends 32 statutes. When introducing that bill Attorney-General Beanland explained—

Generally these types of Bills include provisions of a technical, discrete and minor nature. However, departures from this convention may be justified under appropriate circumstances.

Under the reasoning of the member for Caloundra for blocking this bill, he would have opposed Attorney-General Beanland's bill and he would have had to have called it 'juvenile' and 'poor drafting'.

Mr Lawlor: Just as most of the House opposed him, too, by the way.

Mr SHINE: I take that interjection. They opposed him on a daily basis for a year or two. The alternative would be for the parliament to spend its time debating bills that make single-clause amendments to acts. The member for Caloundra has committed the opposition to a blanket opposition of all the measures provided for in this bill. For instance, the opposition is now objecting to the pilot program trialling judicial registrars in Magistrates Courts in the busy court centres of Southport, Beenleigh, and Brisbane. I note that the member for Surfers Paradise is in the chamber at the moment. The government has committed $2.4 million for the trial to go ahead. That means that the Liberal members on the Gold Coast, including the member for Surfers Paradise, and in Brisbane, including the current Liberal leader, will be voting against the measure to assist their local Magistrates Courts address their busy workloads.

Mr Lawlor: Shame!

Mr SHINE: It is a shame and I take that interjection from my friend the member for Southport. The truth is that this government has invested, particularly in the last budget, considerable funds into this portfolio. I was pleased that in the last budget $66.1 million was provided to progress courthouse projects in the state's south-east, Mareeba and Maryborough. In south-east Queensland the government has allocated $40.4 million for the new courthouse and watch-house in Ipswich, $11 million for the design of a new Supreme and District court complex in Brisbane, $7.6 million for the construction of a new courthouse at Pine Rivers and $1.8 million for the construction of the new courthouse at Sandgate. In addition, $3.8 million is provided for the completion of a new courthouse at Mareeba and $1.5 million in 2007-08 has been allocated for the upgrade of prisoner security facilities at Maryborough Court House. I have also announced the government's approval of $2.2 million for stage 1 of the upgrade of the Toowoomba Court House. The courthouse capital works program supports the state's criminal justice system, particularly to provide facilities for vulnerable people, such as child witnesses and victims of domestic violence. The member for Caloundra referred to capital expenditure of $119.1 million in 2003-04. This was a record year, principally because of the $90 million spent on the new Brisbane Magistrates Court. Because of the high cost of some of these projects and the long lead time for the completion of large building projects, expenditure may vary from year to year.

With respect to other matters raised, the member for Gladstone referred to the amendments to the Anti-Discrimination Act and how they might affect employees' rights to take part in union activity. Of course, the answer is no. Members of the opposition have used this amendment to attack unions and union members, particularly the member for Maroochydore. Last week, the Prime Minister unveiled legislation to interfere with the very necessary local government reforms being implemented by this government. Mr Howard's legislation, the Commonwealth Electoral Amendment (Democratic Plebiscites) Bill 2007, relies on Article 19 and Article 25(a) of the International Covenant on Civil and Political Rights. Mr Howard's legislation commits coalition members to the International Covenant on Civil and Political Rights, and I welcome that. I urge all coalition members in Canberra and in this parliament to celebrate article 22 of that treaty. Article 22 says—

Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.

The member for Caloundra raised issues concerning the guardianship and the reduction of the maximum interim order length from six to three months. In raising that matter, he referred to the Queensland Law Reform Commission's recommendations that the maximum period for an interim order of the Guardianship and Administration Tribunal be 10 days. Currently, the government's proposal is to reduce the maximum period from six months to three months. A period of 10 days would not allow sufficient time for active parties and others to prepare for the hearing or to make arrangements to attend a hearing.

The member raised questions about the interaction between this bill and the Land Court and Other Legislation Amendment Bill. He questioned how the Land and Resources Tribunal Act amendments can be reconciled with the Land Court and Other Legislation Amendment Bill, which is before the House. Clause 105 amends section 116 of the LRT Act and is consequential on the amendment made in clause 91. Although the Land Court and Other Legislation Amendment Bill repeals section 11, until that happens this consequential amendment needs to be made. Clause 106 amends the eligibility requirements for appointments as registrar of the tribunal. There continues to be a registrar of the tribunal as the tribunal's jurisdiction with respect to alternative state provisions is preserved by the Land Court and Other Legislation Amendment Bill.

In relation to what was said by me previously about the capital expenditure, this morning the honourable member for Caloundra raised issues of expenditure in question time. For his information, I can confirm that there was a meeting of QPSU officials and departmental staff in Cairns in July. I am advised that at that meeting court staff and union representatives were told that there were no budget cuts in terms of the Cairns Magistrates Court. In fact, the budget allocation has been increased by 13.3 per cent. I am further advised that this increased funding includes salary increases for funding for additional AO4 and AO2 staff pending the appointment of a new magistrate in Cairns. I am pleased to say that the new magistrate was sworn in last week and I wish Magistrate Joe Pinder well in his new position.

The member for Caloundra, the member for Toowoomba South and the member for Tablelands raised the concern that there may be a lowering of standards by allowing bail to be applied by phone. I think also the member for Gregory may have had concerns in that regard as well. The Bail Act amendments do not change the law on the circumstances in which bail may be granted. Let me make that very clear. The law as to when bail should or should not be granted has not been changed. The factors that a magistrate must take into account when considering a bail application have not been changed. Likewise, the video link amendments to the Justices Act do not change any legal aspect of the proceedings.

The point that these members were trying to make suggests that our magistrates would fail to fulfil the obligations of their office because of the use of technology. The government rejects that suggestion completely. Let me be very clear: there is no lowering of standards by these amendments. The amendments reflect the realities of what technology is available in the 21st century and the preparedness of the government to utilise such technology to aid the delivery of accessible and affordable justice to all Queenslanders. We certainly will not discriminate against those Queenslanders who live in rural and remote parts of the state, and this amendment seeks to assist such Queenslanders.

The member for Caloundra raised the issue of the Dispute Resolution Centres Act. The amendment to the Dispute Resolution Centres Act 1990 is inconsequential. This is, therefore, a tidy-up amendment to remove a reference to a section that no longer exists. There is no change in who is covered by the secrecy provisions. The status quo is maintained.

The member for Clayfield referred to the Bail Act and queried the removal of the 25-kilometre requirement in the bail conditions. In some circumstances it is truly impractical for persons to fulfil the current obligations. For example, a defendant committed by the Magistrates Court in Ayr or Ingham to a Townsville District Court will reside more than 25 kilometres from Townsville. If the person has legal representation the solicitor may also not have offices in Townsville as an address for service. I do not have information on how justices of the peace are dealing with this issue when confronted with a decision on whether to release a defendant who cannot comply with these requirements.

The member for Clayfield also referred to the Corrective Services Act and claims of a contradiction. He sought clarification about the proposed amendments to the Corrective Services Act 2006, given what he says seems to be an inherent inconsistency in my second reading speech. By way of background, the Drug Court Act 2000 provides a sentencing option called an intensive drug rehabilitation order to divert drug addicted defendants from a period of imprisonment on the condition that they undergo an intensive treatment and rehabilitation program, which is usually about 12 or 18 months in length. The second reading speech is not inconsistent, as the member suggested. A person is ineligible for an intensive drug rehabilitation order if that person is on parole at the time when the court is considering making the order. If they are on parole at the time they are ineligible. However, if they have completed their parole at the time they appear before a Drug Court they will be eligible for an intensive drug rehabilitation order.

Currently under section 209 of the Corrective Services Act 2006 a person's parole is automatically cancelled if the person is sentenced to another period of imprisonment for an offence committed during the period of the parole order. This provision applies whether or not the person has completed their parole and the parole order has expired. This has the effect of an intensive drug rehabilitation order being inoperative. The amendments to the Corrective Services Act 2006 in this bill will rectify this anomaly and ensure that where a person is sentenced for an offence committed during the period of the parole order to a wholly suspended period of imprisonment in an intensive drug rehabilitation order under the Drug Court Act 2000, the person's parole order is not cancelled and the offender is not returned to prison. The amendment is consistent with the current exemptions from automatic cancellation of parole where the period of imprisonment for the offence committed during the parole order is a wholly suspended sentence under the Penalties and Sentences Act 1992 or an intensive correction order.

The member for Tablelands raised the issue, with respect to births, deaths and marriages, of the evidence required by the Registrar-General to satisfy himself that he should register a birth application signed by one parent. The act is presently silent as to what evidence the Registrar-General requires for accepting a birth application signed by one parent. The bill does not change this. It is therefore within the Registrar-General's discretion as to how he so satisfies himself. As a matter of practice, the Registrar-General presently requires the applicant parent to sign a statutory declaration as the grounds for their sole application.

The member for Tablelands touched on the issue of binding directions and retrospective consultation with respect to the activities of the Guardianship and Administration Tribunal. She raised the issue that a former guardian or administrator may be required by the tribunal to provide information or documents long after they are no longer in that position. The tribunal will make a binding direction on a former guardian or administrator that it considers is necessary in the circumstances of the matter before it and to protect the rights and interests of the adult who has been taken advantage of. The binding direction on a former guardian or administrator is justified on this basis.

The member for Tablelands also referred to consultation on this amendment. The draft amendments to the Guardianship and Administration Act were sent to all members of the reference group through the Queensland Law Reform Commission's guardianship review which included advocacy and support groups representing families and people with a disability.

The member for Burnett raised a number of issues which included online marriage and death information to the Births, Deaths and Marriage Registry—that is, the conveyance of information from persons to the registry in terms of details of births, deaths and marriages. Questions were raised about what protections have been put in place to check that the information provided is correct and the person is genuine. A technical design for the electronic lodgement of marriages and deaths will be developed for these amendments. The department already has a number of reliable services for remote access and authentication with security of a very high standard. Authorised people are issued with a user name, a password and a digital key which displays a unique six-digit number that changes every 60 seconds. They must be able to enter all of these correctly before access to the system is allowed. I again thank honourable members for their contributions and I commend the bill to the House.