Speech by

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STATE PENALTIES ENFORCEMENT AND OTHER LEGISLATION AMENDMENT BILL

Mr SPRINGBORG (Southern Downs—LNP) (Deputy Leader of the Opposition) (8.31 pm): The State Penalties Enforcement and Other Legislation Amendment Bill 2009 was introduced by the Attorney-General on 16 September, with the principal purpose to strengthen the compliance and enforcement capabilities of the State Penalties Enforcement Registry. This bill is an admission of failure on behalf of this Labor government to adequately manage unpaid fines collected in Queensland.

We are told that SPER has been highly successful in recovering and enforcing unpaid infringement notices and court ordered fines and penalties since the year 2000. Given that roughly 50 per cent of fines have been recovered, I find it a bit of a stretch to say that it is highly successful, particularly when now, after nine years and $250 million in outstanding fines is needing action, the government has moved to extend the powers of SPER.

The Attorney-General in his new role acknowledges that tougher enforcement measures are needed to deal with the many people who thumb their nose at fines. When the original bill was introduced in 1999 we were promised that the new system would make it more difficult for offenders to avoid their fines through the new range of enforcement tools at SPER's disposal. What we have seen is that despite existing powers to use enforcement warrants for seizure and sale of property, it has not had the resources or system in place to do so. In effect, we had spin and legislation but no effective government to actually implement the laws it introduced. What do we have now? A crackdown that is nothing more than a mad cash scramble. The government has had the tools in its kit to address these unpaid fines for the last 10 years. Instead it has let them build up and now that it is broke it is scrambling for cash wherever it can grab it.

The proposed changes regarding cancelling of licences for non-traffic related fines have been described by the RACQ's external relations manager, Gary Fites, as 'inequitable'. Mr Fites said—

Where is the equity in that for people who don't hold a licence or own a motor car? What do they do with those people?

Terry O'Gorman from the Queensland Council for Civil Liberties has also been critical, saying it was a harsh and disproportionate punishment.

Mr Dick: This will be a first: quoting the Queensland Council for Civil Liberties.

Mr SPRINGBORG: We had an extraordinary civil libertarian argument last Thursday two weeks ago in the Labor Party caucus between the honourable member for Toowoomba North and his colleague with regard to the organised crime bill.

Mr DEPUTY SPEAKER (Mr Pitt): Member for Southern Downs, you have the call but I ask you to refer to the terms of the bill.

Mr SPRINGBORG: It is very interesting that we have honourable members opposite spurning the whole notion that a civil libertarian may be wrong in their assertion on one hand yet we know that they are wracked with all sorts of internal strife when it comes to other civil liberties issues.

Government members interjected.

Mr SPRINGBORG: The more they squeal the more they admit that particular fact. What we have opposite is the Steven Bradbury of the Labor Party, the person making that particular dash for the Labor Party's No. 1 position, getting more and more and more cocky. The member for Greenslopes is getting more and more cocky as he goes along.

Mr DICK: I got there the first time. It didn't take me three times.

Mr SPRINGBORG: Elected? Who knows what happened to his predecessor. That will probably never come out, will it, given some of the things that are floating around. Every court when considering whether to impose a fine should be required to consider any SPER debt and the offender's capacity to pay and whether the imposition of yet another fine provides any deterrent to the offender.

Clearly when an offender has thousands of dollars in SPER fines owing there is no deterrent in the imposition of further fines on an offender appearing before the court. Furthermore, it is vital that Queensland has an effective community services program as an alternative to fines whereby offenders can repay their debt through meaningful community work that gives back to the community.

The bill outlines 10 objectives either to extend the intent of existing legislation as in the case of SPER or to correct drafting and other measures identified through the implementation of such legislation as the Queensland Civil and Administrative Tribunal. The amendments in relation to unpaid fines under the State Penalties Enforcement Act 1999, whilst designed to enhance existing fine recovery methods, are an admission that certain elements of the existing fine recovery model were inadequate and failed to effectively recover unpaid fines. Many elements, such as the power to seize property, were in the existing legislation but either not used or did not extend enough to operate in practice. The amendments will allow vehicles to have their wheels clamped where debtors owe in excess of $5,000. It is said to be a last resort option. The proof as to whether this approach will actually be used remains to be seen. This government in the past has been more interested in the headline for such an initiative than actually implementing what it says.

Further amendments will strengthen powers of seizure and sale of property for debtors who owe more than $1,000. The final amendments to the State Penalties Enforcement Act will allow the registry to use SMS technology to notify debtors prior to the suspension of their licence. This amendment is technical in nature and cannot be used as evidence of notification later should the debtor drive unlicensed whilst suspended by SPER.

The bill amends the Industrial Relations Act and the State Penalties Enforcement Act to establish a referral to SPER for the recovery of unpaid wages. The normal civil processes will still be available to victims. This practice has already been occurring in some circumstances and this amendment formalises that process and recognises existing claims. This has a retrospective element and highlights that whilst in practice it was occurring, the legislation did not allow it and that it also may have been unlawful. Questions should be raised as to whether the retrospective nature is necessary and if it is more about the government trying to cover itself for acting unlawfully up until now on this particular matter.

The national exchange of criminal history information for people working with children is also covered in this bill. These amendments, whilst welcomed, are concerning in that they reveal a loophole in the current system that means some blue card holders may have attained approval when certain interstate information, if known at the time, would have excluded them. It is not clear if every single current blue card holder will be reassessed based on the new scheme or not and, if not, why not.

There are a number of amendments in the bill in relation to QCAT that amend the enabling legislation. I indicated when we put the QCAT legislation through this parliament only a few months ago that, given the extensive nature of it, it would not be very long before we would be back before this place to make some amendments on issues that have arisen and that is certainly what is facilitated here.

The amendments will also confirm that judicial registrars can act as adjudicators under QCAT. Further amendments include conferring jurisdiction to QCAT from other bodies that were overlooked in the initial draft legislation. Further amendments to the judicial registrar program include extending the program from two to three years in Townsville and Southport, and also extending the powers of judicial registrars to hear certain matters. Registrars should not be substitutes for magistrates, but if this government continues to extend and expand its function, it could create a second class of judicial officer within the Magistrates Court. The answer to the current backlog is to appoint, on a merit basis, effective magistrates who are not

factionally aligned to the Labor Party and who can perform the role efficiently to reduce the existing delays in the busiest court system in the state.

The bill amends the Classification of Films Act in relation to the classification of film inspectors. With a machinery of government change, the Office of Fair Trading was moved from the justice department to the portfolio of the Minister for Tourism. The amendments will allow the appointment of qualified public servants to perform the role of inspectors under those acts and to facilitate the continuing use of Office of Fair Trading inspectors.

There are amendments to the Guardianship and Administration Act 2000. This amendment will allow persons to apply to the tribunal to review the appointment of an administrator. The bill also amends the Right to Information Act. These amendments clarify decisions that are able to be reviewed. This means that decisions to neither confirm nor deny are reviewable. The amendments will also mean that the information commissioner is not prevented from giving certain documents to parties to an external review. Recent RTI applications have proven that nothing has changed within the government. Instead of actioning an RTI application, the government—Premier and cabinet—has pushed back assessing it until January 2010.

There is an amendment to the Disability Services Act. The amendment to this section extends the transition period regarding restrictive practices for an extra nine months. Prior to the legislation allowing certain restrictive practices for people with disabilities, there was no legislative framework. By extending the transition period, this will allow service providers to meet those standards.

There are amendments to the Superannuation (State Public Sector) Act. Amendments will confirm that the QSuper board of trustees is within the regulatory reach of APRA and ASIC. Why is it only now that this is being done? What has occurred for this amendment to be needed? It seems ASIC has raised these concerns. The amendments state that QSuper does not have the immunities of the state. The second amendment to this section allows for the standing appointment of a deputy chairperson.

Indeed, the State Penalties Enforcement Act and the registry that it establishes has a long and drawn-out history in the state of Queensland. Indeed, in 1999 this government's predecessor, the first Beattie government, was dragged kicking and screaming to the alternative of a state penalties enforcement registry and the act that enabled it because of the number of fine defaulters in jails in Queensland. It was quite anachronistic that at any given time in Queensland there were up to 240 fine defaulters in jail. Those people were clogging up our jails and using up scarce resources. One could generally argue that the great majority of those people should not have been rubbing shoulders with hardened criminals. Indeed, when one looked at the cost of keeping those people in jail, albeit for a short period, it was obvious that the system was absolutely irrational. Making them pay their dues to society in that way was not necessarily acceptable in a modern society.

The Attorney-General at the time, Matt Foley, only introduced the legislation in response to a private member's bill that had been prepared by myself as shadow Attorney-General. At that time the current Attorney-General was plying his trade somewhere in the South Sea islands. If he reads *Hansard* from that time, he will learn of the lengthy debates about the need for the government to bring in an alternative mechanism. It was not until that happened that the government reflected on the laws that had been prepared by the then coalition and presented its legislation to this parliament.

As I pointed out earlier in my contribution, it is also fair to say that in Queensland the State Penalties Enforcement Act had very wide-reaching powers that enabled the government to do what it should have been doing, which was to make fine defaulters pay their dues to society. In recent times we have seen the ridiculous situation—and this has been alluded to even by the Police Service—where fine defaulters have gone through the court process and, in fining them, the magistrates or judges simply say, 'We will add this fine onto your accumulating list of fines.' You really have to ask the question: what has been done by the government to exact the opportunities that were available to it to make those people pay their dues to society? How much proper enforcement and pursuit was being undertaken in relation to the garnisheeing of wages in Queensland? How much was being done to have a seizure-and-sale order on the property? I suspect not very much at all.

This year on the eve of the estimates committee process, the Attorney-General did what the government always does at estimates time. He came up with a grand headline that made the government look hairy chested, as though it was going to do something. He announced the notion of wheel clamping as a way of enforcing the payment of fines. There are certain outs for people in certain circumstances. My argument is that, all the way along, if the government had properly used the enforcement mechanisms in the existing legislation rather than being asleep at the wheel, this would not have been necessary. It will be interesting to see if this will work. The government tells us that this is based on the Victorian experience. It tells us that since it has been introduced in Victoria, they have had some success in getting people who have a significant number of outstanding fines to pay them under threat of having the wheels of their

vehicle clamped. Under this legislation that will happen in circumstances where an offender owes more than $5,000 in fines.

The other issue—and I will go back to this—is that there needs to be some recognition of the inequity in the new amendments when it comes to non-traffic related fines and the capacity to suspend the offender's driver's licence. A whole range of fine defaulters are not drivers. Therefore, we have two classes of citizens and one will be treated far more harshly than the other. That has to be considered. Those issues have been raised very succinctly by bodies and organisations external to this parliament.

I also understand, and I would like the Attorney-General to put this on the record, that in Queensland there are several hundred thousand outstanding individual fines. I understand that almost half a million Queenslanders have outstanding fines. One has to ask the question: with a population of 4.4 million, how can almost half a million people in this state have outstanding fines? I concede that some of those defaulters will be from interstate, but basically one in nine have an outstanding fine. I understand that some of those people will be from interstate, but that puts it in proportion.

If we had a system that was working, if we had appropriate enforcement, then there is no way that this should have got out of hand. Surely the alarm bells should not have started to ring—surely the penny should not have started to drop—just in recent weeks and months. The reality is that this problem of hundreds of millions of dollars in outstanding fines has been alluded to by the recent release of information, either through questions on notice pursued by the opposition in this place or through the media in recent years, and the government basically ignored them because it did not care. It did not care about the enforcement. It did not need the cash at that stage; there were rivers of gold. Now the government has gone broke—it has $85 billion worth of public debt, heading towards $100 billion—and we have a mad cash scramble. The government is rushing in to amend legislation to rake this money in when it has not properly enforced the other provisions of this legislation.

The opposition will reluctantly not oppose what is being put forward here today. It is yet to be seen whether it is going to be effective. Obviously we are going to keep a watching brief on this. Our concern relates to a number of factors (a) if these extensions are necessary, which is yet to be seen, and (b) if much of what is being said can be achieved by these new amendments could not have been achieved previously if the government had just done its job and used its existing enforcement mechanisms and options available to it under the State Penalties Enforcement Act.