



Speech by

Robert Messenger

MEMBER FOR BURNETT

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STATE PENALTIES ENFORCEMENT AND OTHER LEGISLATION AMENDMENT BILL

Mr MESSENGER (Burnett—LNP) (12.25 pm): I rise to contribute to the debate on the State Penalties Enforcement and Other Legislation Amendment Bill. This bill is an admission that this government's management of fines has been very poor. The shadow minister made that point in his speech during the second reading debate, and I want to reinforce that point during my speech. It is an admission that the government is going broke, because this government desperately needs the money. We are \$100 billion in debt, and it is forecast over the next few budgets that that debt is going to rise. It will rise to more than \$100 billion, and that is without the added cost of Rudd's ETS. We are searching for money because of this government's poor management of our public finances because it has lost control of them.

The SPER scheme was formed and began operation in November 2000 in an attempt to overcome problems that were caused by unpaid fines under the former self-enforcing ticketable offence notice systems. It is said to be a fair system for people with genuine cases of financial hardships or other difficulties but, as we will see, it has been rorted. It is a central agency used to collect unpaid fines for about 34,000 different offences on behalf of the courts, police, Queensland Transport, the Electoral Commission and other departments by offering various reasonable and flexible payment options to assist those who owe money in terms of outstanding fines without facing enforcement actions such as jail time. We would all like to keep those people who probably do not deserve to be in jail out of jail and mixing with the harder criminal element.

SPER powers at present include enforcement warrants which allow the registration of interest in the debtor's property and seizure and sale of property; suspension of the debtor's driver's licence for fines which relate to vehicle offences; and fine collection notices to employers to order deductions be made from the debtor's wage and sent to SPER or issued to banks or other financial institutions to order the transfer of moneys from the account to SPER or issued to other third parties to pay the debt on behalf of the debtor. The last resort equals warrants for arrest and imprisonment. The amendments to the State Penalties Enforcement Act 1999, which are designed to increase the existing fine recovery methods, show that the current fine recovery model has been inadequate and is failing to effectively recover unpaid fines. In fact, many of the powers introduced in this amendment bill already exist in their current legislation but were not actually used and did not extend far enough to operate in practice.

A *Sunday Mail* investigation proves that the current model is failing to efficiently recover unpaid fines. An article by Edmund Burke on 13 January 2008 revealed that the *Sunday Mail's* investigation found that SPER was overwhelmed with over 1.9 million unpaid fines to the value of \$462 million. Further, the investigation by the *Sunday Mail* uncovered that Queensland's debt via SPER has more than doubled in just 3½ years. In July 2004 Queenslanders owed approximately \$200 million in unpaid fines. The newspaper's investigation found that SPER has negotiated repayment plans to recover just \$152 million of the outstanding fines, leaving over \$300 million unaccounted for. Amendments to the SPEA will allow

vehicles to have their wheels clamped where debtors who are the sole registered operator of the motor vehicle owe in excess of \$5,000, supposedly as a last resort option.

The LNP will be watching closely to see whether this approach will be implemented. As we all know, the government can say one thing in this place and then, when it comes to practical, on-the-ground action, we do not get it.

The explanatory notes of the bill clarify that the wheel-clamping process will ensure that ample opportunity is provided to the debtors to pay the debt or to enter into compliance prior to the vehicle being clamped, seized or sold. Additional amendments include strengthening the powers of seizure and sale of the property of debtors owing over \$1,000. The amendments will also see the use of SMS technology to advise debtors prior to the suspension of their licences, but it cannot be used as evidence of notification later should the debtor be caught driving unlicensed while suspended by SPER.

It is said that these new provisions will assist in the prompt compliance by debtors and a higher rate of payment, particularly for those debtors under the age of 34 years, who are estimated to make up 60 per cent of debtors. The bill also makes amendments to the Industrial Relations Act and SPEA to establish a referral to SPER for the recovery of unpaid wages. In some circumstances, this practice has already been occurring despite this legislation not permitting it.

The LNP will oppose further amendments to the judicial registrar program, which includes expanding the program from two to three years in Townsville and Southport and extending the powers of judicial registrars to hear certain matters. The LNP holds serious concerns that, if supported, these amendments will undermine the role of the magistrate. Registrars should not be substitutes for magistrates. This government, by continuing to extend and expand the functions of registrars, is creating a second class of judicial officer within the Magistrates Court.

Many members of parliament have been approached by their constituents regarding issues with SPER. I have received an email from one of my constituents, who I will de-identify as I read it, which explains the problems that she has experienced with SPER. This lady states—

... I have exhausted all my efforts in trying to resolve my particular situation at hand.

This lady has asked for my assistance. I have sent this lady's communication through to the government and I have asked for an investigation. The lady's email states further—

In August of last year (2008) my husband and I sold our car to my step father who was in fact buying it to help out his own daughter with transportation.

With my step father being a qualified mechanic the car was given and cash received knowing he would carry out the safety certificate and organise the transfer of registration.

The car was handed over to my step sister (whom I did not know) and it still remained in my name for quite some time. October last year several toll offences (approximately 28) were violated in this car still being in my name.

I received every offence and fine. The first and crucial mistake I made was my poor judge in character and decided to believe my step sister in that she had assured me that the offences were in fact mistakes and the e-toll did not scan her sticker properly and she would have it all fixed up in a jiffy.

I believe approximately 22 of the offences were fixed up or paid in full by my step sister. Unfortunately by the time the remaining 6 fines were resent to me it was already too late to declare that I was not indeed the driver at the time of the offences.

At this stage I then contacted Queensland Motorways and SPER in order to negotiate and find out what my options were. The 6 remaining fines totalled \$108 payable to Queensland Motorways.

I was told by my step sister to ring Queensland Motorways and speak to a lady ... that the fines had been paid and to ask her why I had still been receiving the fines in the mail.

The fines were not paid and my step sister had in fact lied to me. I had continuous contact—

with the Queensland Motorways lady—

over the following 3 months via phone and email as it was said to me that they were taking action to retrieve the money owed from my step sister.

I do believe several attempts were made to retrieve the outstanding amount and unfortunately my step sister decided that she was not going to do such thing and refused to answer phone calls or reply to any mail requests for the monies owed.

In this time the outstanding fines had been passed on to SPER and a final amount of \$930 was being asked to pay the fines in full. I was told throughout that my step sister must pay the \$108 to Queensland Motorways for the fines to be resolved. In April of this year (2009) I made the assumption that she was indeed not going to pay them so to save having my license revoked I paid the fine myself of \$108 to Queensland Motorways. I was given a reference number and account details by—

that Queensland Motorways person—

to pay the \$108 by direct transfer. I did so immediately and was assured that SPER would be notified to the fines being paid in full and for all concerned the matter of the 6 outstanding fines was resolved.

I had learnt my lesson about not declaring to begin with and my mistake had cost my family \$108.

August this year ... my family and I relocated to the Bundaberg area and I checked the mail last Friday (23 October) only to find an outstanding fine slip from SPER to recover the \$930 for the 6 toll offences from last October.

Monday morning (26 October) I contacted SPER whom stated to me that as far as they were concerned the fines are outstanding and I am liable for \$930 to avoid license suspension or even jail time.

I then contacted Queensland Motorways whom then told me that as far as they are concerned that was not their problem because the fines had been passed onto SPER at the start of this year... I was then told that I should not have been able to pay the fines in April to Queensland Motorways as they had already been transferred to SPER. The lady I spoke to this Monday morning told me that ... was not available and that the matter will have to be investigated.

I asked her if I would receive a phone call today as I work for the rest of the week and am only available after hours but was told it will take some time. In the mean time Queensland Motorways was not at all concerned about SPER revoking my license for the outstanding fines. Being a working mother of 3 I cannot afford the fines and nor can I afford to have my license revoked or suspended. I appreciate you taking the time to read my dilemma and hope that you can help even just a little.

I have passed this email on to the relevant minister. I hope he will investigate. Obviously, there has been a communication breakdown between Queensland Motorways and the SPER authorities, but I ask for a compassionate and understanding hearing from all the government organisations.

Some of the people who will be most affected by the legislation will be our truck drivers and also our police. I remember having a conversation with one of the local police officers in which he recommended to me that we go back to the old system where it was a case of, 'Give me the money or I'll take the body.' He said that it was amazing how quickly the money was produced when a jail sentence was going to be imposed. The majority of truck drivers are hardworking Australians who want to keep our highways safe, but I think it was the member for Gregory who told some stories about truck drivers being idiots, and dangerous idiots, on our highways. I have had my fair share of run-ins with truckies on the roads over the years. The most recent one occurred not too long ago. I was driving along with my family and a truck came roaring up behind us flashing its headlights and indicated that it wanted to go around. We just continued on but it overtook us. We were doing the speed limit of 100 kilometres an hour and it just overtook us. Then he pulled in and tried to cut us off. I reported the incident to the police. I had wonderful service and a wonderful reaction from the police. I commend them for their actions. They pulled over the truckie. This incident occurred in North Queensland. The police indicated that they would have liked to test the truck driver for drugs, but the drug-testing unit was not available. I think the police minister should look at that issue and make drug testing for our truckies and our motorists more available.

In closing, I would like to say that quite a lot of money is owed. I think the money collected from SPER should be going straight back into our roads, especially into our regional roads. Once again, I would like to compliment the truck drivers who have to contend with not only difficult conditions but also deteriorating road conditions. In particular, I would like to thank the semitrailer drivers who have to radio each other to coordinate their arrival at the Isis River Bridge in my electorate of Burnett. The bridge is so narrow that two semitrailers travelling in opposite directions should never meet on that bridge. With those comments, I commend the bill.