Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Thursday, 2 September 2010

DANGEROUS PRISONERS (SEXUAL OFFENDERS) AND OTHER LEGISLATION AMENDMENT BILL

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (7.35 pm), in reply: At the outset I want to thank all honourable members for their contributions on this important bill, the Dangerous Prisoners (Sexual Offenders) and Other Legislation Amendment Bill. I thank my colleagues on the government benches for their support. This bill is the outcome of a thorough review of Queensland's public protection legislation involving the indefinite sentencing regime within the Penalties and Sentences Act, and the Dangerous Prisoners (Sexual Offenders) Act. These two regimes are a vital part of the suite of Queensland legislation aimed at protecting the community from dangerous sexual and violent offenders. The bill amends the Penalties and Sentences Act and the Dangerous Prisoners (Sexual Offenders) Act to further enhance the effectiveness of these regimes. The Penalties and Sentences Act is amended to greatly expand the range of offences for which an indefinite jail sentence can be imposed by Queensland courts. The amendments enable judges to impose indefinite sentences for many more crimes, including torture, incest, maintaining a sexual relationship with a child and indecent treatment of a child under 16 years of age.

Currently, indefinite sentences can only be imposed for certain violent and sex offences that carry a maximum penalty of life imprisonment. Not one member of the opposition spoke on the expansion of the protective regime.

Further, the amendments ensure that where an offender has the indefinite sentence converted to a finite sentence by the court at the mandatory review, such an offender will be under the authority of the Queensland Parole Board and the supervision of an authorised corrective services officer for at least five years upon their release from prison, even when released at the end of their sentence expiry date.

The Dangerous Prisoners (Sexual Offenders) Act is significantly amended to require the court, when considering whether to impose a supervision order, to consider not only the need to ensure the adequate protection of the community but also whether the adequate protection of the community can be reasonably and practicably managed by a supervision order, and whether any appropriate conditions of the supervision order can be reasonably and practicably managed by corrective services officers.

The bill also provides corrective services officers with the power to issue binding directions to released prisoners in relation to where they are to live, the requirement to engage in treatment and restrictions in relation to alcohol and other substance abuse. This enhances the ability of Corrective Services to supervise released prisoners without necessitating a return to court for an application to amend the conditions of a released prisoner's supervision order.

Having circulated a number of proposed amendments, members would be aware of my intention to move a number of amendments to the bill during its consideration in detail. Most of these amendments are drafting amendments that are aimed at ensuring that all provisions of the bill are free from ambiguity. However, I will be moving an amendment to the Dangerous Prisoners (Sexual Offenders) Act to recognise

that the first five years of a prisoner's release from detention is the highest risk period in terms of re-offending. I will speak to the evidence in support of that later in my address to the parliament.

I propose to omit the provision in the bill which imposes a five-year cap on supervision orders and in lieu insert a provision which imposes a minimum mandatory period of five years for supervision orders. The rationale behind the five-year cap is that the absence of a limit on the length of supervision orders may encourage the release of high-risk sex offenders on the basis that they will be monitored for very lengthy periods. The amendment to limit the length of a supervision order to five years was intended to signal to the judiciary that where a five-year supervision order is not sufficient to address the risk proposed by an offender, a detention order should be considered as the preferred option. Research suggests that the first five years of a prisoner's release from prison is the highest risk period. However, a review of supervision orders imposed over the last 12 months since the introduction of the bill reveals that the court is not imposing the very lengthy periods that were imposed in the early years of the operation of the act and are generally imposed for a period of 10 years. However, I am still concerned to ensure that the community is protected from dangerous sex offenders, something that has been a hallmark of Labor governments, particularly in the first five years of an offender's release. Therefore, I will move an amendment to the bill to omit the clause which caps supervision at five years and in its place provide a mandatory minimum period of five years.

Consequential to this I will also move an amendment to the provisions in the bill that provide for the making of further supervision orders so that a released prisoner is liable to only one further supervision order in relation to a current supervision order. This is again an expansion of the regime that currently exists in Queensland. The amendments that I shall move in consideration in detail ensure that further supervision can be applied for in the circumstances where a released prisoner is nearing the expiry of their supervision order and still poses a serious danger to the community. The court is unfettered in setting the period of any such order.

I now turn to issues raised during the course of the debate. The member for Southern Downs indulged himself in an unsurprisingly confused dissertation that only occasionally addressed either history, reality or the bill itself. Among the most amazing sentiments expressed by the honourable member was his dismissal of the Penalties and Sentences Act 1992, blaming it for any and all issues he perceives as being wrong in the criminal justice system. He ignored, of course, that this was an act that he and the rest of the Nationals and Liberals supported in 1992. But the courts, the legal profession and the Queensland public should now be on notice that the LNP have it on the reassessment list. It is another thing they will be 'reassessing'.

What is their form? They talk long and hard about law and order. We have heard the Minister for Police, Corrective Services and Emergency Services skewer those opposite in relation to their hypocrisy. We know that five years after the introduction of that bill, they sat on the government benches, and did nothing of any substance to reform the Penalties and Sentences Act. Nor did they do anything to protect the community against dangerous and recidivist sexual offenders. Their history speaks loud and large about what they would do if they were ever returned to government.

The member for Southern Downs expressed his disdain for the established principles of sentencing, in detail. Then he raised the bar a further notch, with the member saying that he would put offenders in prison and 'throw away the key'. This is the challenge I make today. They speak long and hard in relation to criminal punishment as distinct from a protective regime that exists under the Dangerous Prisoners (Sexual Offenders) Act. In relation to criminal punishment, I ask them firstly: what constitutional advice do they have from a Queen's Counsel or a Senior Counsel anywhere in this nation that says such a sentencing principle is valid under the Constitution? Have they sought legal advice? The sound from the opposition benches is deafening. I challenge them to table the legal advice they have that says indefinite sentencing is lawful in this state and lawful in this nation in relation to criminal punishment. I challenge them to come into this parliament and table the constitutional advice they have. They purport to be an alternative government. They have to act within the laws of this nation.

We know historically that the Constitution of the Commonwealth, the High Court of Australia, the Queensland Supreme Court and other judicial bodies have meant very little to the National Party. We know that. But we ask them to come into this place and explain their public policy which is, in the words of the member for Gregory, that people are to be thrown into the bowels of jails and kept there and, in the words of the member for Southern Downs, they are to be put in jail and the key thrown away. I want to know, as do all members on this side of the House and all right-thinking Queenslanders, what is the basis for their public policy at law? He is the shadow Attorney-General of this state. It is incumbent upon him to demonstrate the lawfulness of their policy.

For a man who asserts to be the alternative Attorney-General of Queensland, this is an extraordinary statement, to say that people should be sent to prison and 'the key thrown away'. I can

appreciate statements made in the heat of the moment but, as the Attorney-General of Queensland, I would suggest that there are principles of justice and principles of law that need to be adhered to. The DPSOA legislation operates at the limits of constitutionality. We know that. It has been tried and tested before the highest court of this nation, the High Court of Australia. It offers the community the highest level of protection possible within the scope of constitutional and legislative boundaries available in this nation. But the LNP would throw that all out and throw it all away. As I have said, the Constitution of the Commonwealth, the High Court of Australia, the Queensland Supreme Court and other judicial bodies have historically meant very little to the National Party.

Mr Springborg: Who abolished the District Court in 1922?

Mr Shine: What's that got to do with it?

Mr DICK: I take the interjection. What has that got to do with anything in relation to the protection of Queenslanders? We know that when they were last in power in the mid-1990s they let dangerous sexual predators roam the streets free in our state. They did nothing to protect the community, and they come into this House and presume to lecture us, presume to lecture the government, about how our system has failed to protect Queenslanders. Under the Liberal National Party these laws would be destroyed. They would be destroyed by the Liberal National Party in their craven pursuit of populist measures.

The honourable member for Southern Downs was not finished. He did not stop there. He kept going. He then attempted to verbal the Labor government and suggested that we do not trust the courts and that is why we needed the dangerous prisoners legislation. The breadth of his hypocrisy in saying that we do not trust the courts is frankly disgraceful. These are statements from the LNP, a party that would excise the jurisdiction of the courts from the criminal justice system. This from a member and a side of politics that never had the courage, the integrity nor the policy rigor to address serious sexual offending during their time government. They support the legislation on the one hand when they are out in public or when they need something to fall back on and then carp and complain that we spend too much time paying attention to it, amending it and making sure that it is strong and protecting Queenslanders.

The audacity of the member for Southern Downs, the member for Burnett and others in suggesting that the amendments that have been made to this legislation over time are somehow representative of it being deficient is simply ridiculous and breathtaking. The member for Kawana, applying his limitless reserve of misunderstanding, joined the chorus in complaining that amendment to the law is somehow illustrative of bad law. The complaint is, frankly, completely and utterly absurd.

Law reform is the business of this House. Legislative change is the nature of this chamber. Let us look at the Criminal Code of Queensland. It has been amended and reprinted more than 60 times since 1993. Is this evidence of the collapse of criminal law in Queensland? Is this evidence of the failure of the Criminal Code in Queensland? Of course it is not. It is evidence of a responsive government, refining and reforming the law, ensuring the law remains modern, dynamic and in touch with the community.

The Bligh government makes no apologies for seeking to amend the law as and when appropriate. This government makes no apologies for seeking to make this legislation the toughest and most effective legislation of its kind in the nation, operating at the limits of constitutionality. We make no apologies for doing all of these things because at the heart of this legislation, at the heart of the amendments and at the heart of the Bligh government's approach to law and order is a commitment to community safety.

The member for Southern Downs, the member for Buderim and others opposite all criticised the fact that this bill has been on the *Notice Paper* for a year—a year in which the LNP has proposed not a single policy on dangerous sexual offenders legislation; a year in which the LNP voted with bikies, voted with organised criminal gangs, to try to defeat the Criminal Organisation Bill when it came into this House—

Mr Shine: We know who their friends are.

Mr DICK: Exactly. I take the interjection from the member for Toowoomba North. We know who the friends of the opposition are. A year after which the LNP now refuses to support amendments to strengthen the dangerous prisoners legislation in Queensland. In short, it has been a typical year under the LNP. What we have said with our Criminal Organisation Act is that bikies and organised criminals are not welcome in this state. We do not put out the welcome mat to them. That legislative measure is a very strong measure to send the signal to organised crime and to bikies that they are not welcome in Queensland. What did we hear from the member for Gaven last night in his speech supporting mandatory sentencing in Queensland? He talked at length about the number of bikies and organised criminal bikie gangs in his electorate. Yet he voted against the Criminal Organisation Act. So in 24 hours their position changes—typical of the LNP.

The member for Mudgeeraba sought to continue the LNP misapprehension that Labor governments are somehow soft on crime, despite the glaring evidence to the contrary. For the assistance of the

honourable member and all members opposite, I will provide her and other members with some information on law and order under the Bligh government.

Police to population numbers are now above the national average and crime rates have dropped significantly in the past 10 years. The Queensland ratio is one police officer for every 430 people. The national average is one police officer for 440 people. So Queensland is better than the national average. In the past 10 years under Labor, the crime rate has dropped by 21.5 per cent, property offences are down by 42.5 per cent, and offences against the person are down by 18.7 per cent.

When the LNP was last in power, the number of police in Queensland was 6,833. Under Labor today, we have 10,400 serving police officers in our state and rising—another 200 or more were allocated in budgetary funding this year. The Labor government is tough on crime and tough on the causes of crime. That is why we seek to attack the most closed, dangerous criminal organisations in Queensland including outlaw bikie gangs.

Queensland courts handle more criminal cases than any other jurisdiction in the country. We also send people to prison at a higher rate than the national average and higher than the world average, but these facts are never mentioned by the LNP members because it does not fit the myth they wish to perpetuate in the community that Labor is soft on crime.

Let us look at one fact. Victoria has about one million more people living in it than Queensland, yet we have more people in Queensland jails. We have the third highest rate of imprisonment for serious crime in the nation behind New South Wales and the Northern Territory, but will we hear that from LNP members? No, they would rather continue the misperception about crime and frighten and disturb Queenslanders because that fits into their modus operandi. That is how they wish to sneak back into the government, and we know that is their target. We know that is what they want to do—sneak back into government.

We are going to hold them to the light. We are going to let Queenslanders know where they stand on law and order and community safety. I ask honourable members this question: are all of these studies and all of this information, data and research wrong, or is it that the member for Mudgeeraba and all the other members of the LNP are simply trying to perpetuate a plain and simple untruth? I think the answer is clear. That is precisely what they are trying to do.

In his contribution, the member for Kawana once again stood resolute as an example of the inability of the LNP to maintain a principled position for more than 24 hours. Only last night, the LNP attempted to fetter judicial discretion and introduce a mandatory sentencing regime, but is that his attitude today? No, of course it is not. We have a different bill, a different debate, a different belief, a different position. It only took 24 hours for him to change. Today, the member for Kawana has done an LNP backflip of extraordinary proportions and stated 24 hours after supporting mandatory sentencing that 'each offender is different to the next' and that 'judicial discretion is paramount'. What a display.

The member for Mudgeeraba was not satisfied with that view of the judiciary either and on behalf of the LNP proceeded to assault the judiciary as being comprised of judges who are political appointments and soft on crime. That is what the member for Mudgeeraba did today when she came into the parliament and spoke on this bill. Does the LNP have an example of those judges? That is what I want to know. It is easy to come into this place and cast aspersions on people who do not serve in this parliament, on people outside in the community. It is easy to say one thing but it is very difficult to follow it up. I want to know whether the LNP members will publicly state which judges they believe are soft on crime. Will they have the strength of their convictions to follow up on that slur on the judiciary in Queensland? Will they do that? They do not have the courage of their convictions. They will not have the courage to do that. I challenge the LNP members to stand by their views as stated by the member for Mudgeeraba and name which judges they believe are not serving the public, which judges they disagree with and what they are going to do about it.

This was a shameful attack upon the judiciary. It is entirely typical of the desire of LNP members to remove judges from the decision-making process, as demonstrated last night by their bill to introduce mandatory sentencing in Queensland.

I would like to place on the record my support for the hardworking judicial officers who serve our state each and every day in courts sitting in many and varied places around our state. These are men and women who hear difficult cases and make difficult decisions. There are decisions from time to time with which I disagree, but those cases are for the appeals process to determine and not for politicians to use the comfort of this chamber to make unsubstantiated and unfounded remarks upon.

The member for Southern Downs raised concerns about the number of breaches of supervision. I can inform the House that since the introduction of the Dangerous Prisoners (Sexual Offenders) Act 2003 a total of 44 offenders have been returned to the Supreme Court for formal contravention proceedings. As a result of Queensland Corrective Services returning an offender to the Supreme Court for contravening their order conditions, the supervision orders have been cancelled with the offenders held in custody on continuing detention orders or supervision orders have been strengthened with additional tough

conditions. We heard the member for Redlands talking about that. We heard the member for Redlands talking about breaches, but he did not talk about the nature of breaches, he did not talk about the consequence of breaches, he did not talk about what occurred after the breaches. Again, this was another distortion of the facts.

It should be noted that, while no contravention is dismissed, the most common types of contravention committed while under a supervision order, in order of frequency, are drug and alcohol use or related breaches—so if there is a breach of the order, they are back before the Supreme Court, back in the system—followed by tampering with electronic monitoring and curfew breaches. These are strict supervision orders and the community expects those individuals under supervision to comply with them.

But it is not as though these individuals are carrying out criminal acts while on supervision. We know the most likely reason for breaches are: firstly, drug and alcohol use, which for many is a trigger for criminal behaviour; secondly, tampering with electronic monitoring; and, thirdly, not obeying a curfew. This is a system that is working. When people are breaching these supervision orders, they are being caught and they are being brought back into the system and put before the court again. Since 2003, six offenders have been charged with further sexual offences, one offender was acquitted and the remaining five offenders are still detained in custody. But we did not hear that from the LNP.

The member for Buderim said that he was 'disappointed' with the bill and said that we could do better, but of course he had no policy suggestions, no ideas and nothing of substance to contribute to improve the system of protecting Queenslanders.

I want to thank the member for Gladstone for her thoughtful contribution on the bill. The member for Gladstone questioned why there was a limit of five years on a supervision order. This will not be the case when the amendments are moved when we are in consideration in detail. The amendments to the bill clearly state that the court must in fact impose a minimum order of five years supervision, and there is no limit on the length of time this order can be made for. There is a further ability to renew the order if, at the expiration of the order, the person requires further supervision. The member for Gladstone further asked why the review period was changed from one year to two years. I can inform the honourable member that this change only applies to prisoners on continuing detention orders and not to supervision order prisoners. Prisoners on continuing detention are in custody and their first review will be after two years, with all subsequent reviews to be on an annual basis.

The member for Aspley sought to use the statistics reported by the Victorian Sentencing Advisory Council in its 2007 research paper into recidivism. While statistics are useful, it is more useful to read them correctly and report them in context. I know this is difficult for the LNP. At page 28 of the paper, there is a report into sexual recidivism rates across time—namely five, 10 and 15 years. The aggregate average recidivism rates reported are 14 per cent, 20 per cent and 24 per cent respectively. The member for Aspley seemed to seek to use these figures to demonstrate that a minimum of five years was too low and that the high risk period was in fact at 15 years, where a higher proportion of offenders had reoffended. Such a submission to the parliament, such a contention, misrepresents the data in the report. The figures are cumulative, and thus the data shows that within the first five years an average of 14 per cent of offenders studied reoffended. In the next five years, a further six per cent reoffended, while in the next five years only a further four per cent reoffended.

For the assistance of the member, I can inform the House that the validation study for what is regarded as being the best sexual reoffending risk assessment tool—known as the Static-99—showed that on average, for all sexual offenders, most sexual reoffending occurred in the first five years, with 18 per cent of offenders sexually reoffending in that period. An additional four per cent of offenders—making a total of 22 per cent—reoffended in the next five years. By 15 years, a further four per cent of offenders had sexually reoffended. So the reality is that it is the first five years where the rate of sexual reoffending is most likely to occur. That is why this government is moving through the parliament a minimum period of five years for a supervision order. That is very important to ensure we protect the community. As I said, the period in which the highest level of reoffending takes place is within the first five years, and that is the period that requires the highest level of supervision.

In some ways, the debate tonight was not particularly edifying, regrettably. The opposition did not engage with the substance of the bill. This is a strong measure to continue our reform of the law to protect the Queensland community. This is legislation that has been upheld by the High Court. It is a Labor initiative. It is a strong legislative measure that the Labor government has moved and continues to amend to ensure that it remains the strongest and most effective protection regime in the nation.

In conclusion, I would like to thank the hardworking staff of the Department of Justice and Attorney-General for their diligence in seeing this project through to completion. I would like to thank Louise Shepherd, one of the excellent policy officers who we have working in the Department of Justice and Attorney-General and who does terrific work in the area of criminal law reform, and Jo Hughes. I would also like to thank Amanda Dulvarie and Chris Roney, formerly of the Department of Corrective Services,

who provided a wealth of information on the management of sexual offenders. I also thank Kathryn Allan from the Department of Premier and Cabinet for her work. Workers in the Office of the Queensland Parliamentary Counsel have done an excellent job drafting the bill. I thank them also. I commend the bill to the parliament.