



Speech by

Annastacia Palaszczuk

MEMBER FOR INALA

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PENALTIES AND SENTENCES AND OTHER LEGISLATION AMENDMENT BILL



Ms PALASZCZUK (Inala—ALP) (Leader of the Opposition) (4.19 pm): Mr Deputy Speaker—

Mr Hopper: Mr Deputy Speaker—

Mr DEPUTY SPEAKER: Leader of the Opposition.

Ms PALASZCZUK: No, it is my turn.

Mr DEPUTY SPEAKER: Leader of the Opposition.

Ms PALASZCZUK: The member has been around long enough to know the procedures of the House.

Government members interjected.

Mr Bleijie: You shouldn't have taken so long to stand up.

Ms PALASZCZUK: Mr Deputy Speaker, I rise to contribute to the debate on the Penalties and Sentences and Other Legislation Amendment Bill 2012. From the outset, I would like to advise the House that the opposition will not be opposing the bill in its entirety, but there are some aspects of the bill that we will oppose. I would also like to foreshadow that I will be moving an amendment during consideration in detail.

The first issue I would raise is the lack of adequate consultation. The submissions received by the committee have virtually all mentioned the inadequacy of consultation. I raised this issue during the debate on the Criminal Law (Two Strike Child Sex Offenders) Amendment Bill 2012. During that debate, I said—

Whilst I am again extremely impressed by the generosity of the stakeholders who made such thoughtful and highly considered submissions to the committee, I cannot help thinking they would have preferred more time to consider the implications of the bill before responding. In fact, the limited consultation period was raised in quite a number of submissions. I ask the Attorney-General in future consideration of bills that he might be mindful of the real purpose of the committee system, which is to give thoughtful scrutiny to pieces of legislation in order to improve their effectiveness in achieving policy outcomes. To this end, time frames that better allow this to occur would be appreciated by everyone concerned.

Once again, I ask that the Attorney-General be more mindful when he brings forward future bills. The subject matter of this bill has a significant impact on a great number of people. They deserve the best that this parliament can do in terms of the consideration we give to this bill.

Another matter relating to consultation raised in submissions was that of the Auditor-General. He was concerned the explanatory notes state that consultation was conducted with the Audit Office but that not all aspects of the bill were consulted on. He was also concerned that including such statements about consultation with his office could be interpreted as his office having supported the policy objectives of the bill. This would be highly improper and contrary to the purpose of the Audit Office. So great was his

concern that he has asked there be no further mention of consultation with his office in future explanatory notes. I hope that all ministers take account of this request.

I will now turn to the substantive elements of the bill. Part 2 amends the Childrens Court Act to provide continuity of the rules made under that act. Part 9 of the bill is related in that it has similar provisions in respect of the Land Court. There was some doubt as to whether the rules of those courts have expired, so these amendments clarify the position and provide certainty. This seems to be the best way to deal with the uncertainty and I certainly support these amendments.

Similarly, part 3 amends the Civil Proceedings Act 2011 to include registered relationships in the definition of 'relationships' as it relates to claims by a spouse of a deceased person in dependency claims. It provides that if the spouse enters into a subsequent relationship the financial benefits received by the spouse from that relationship are to be taken into account when assessing the spouse's claim for damages. This was an amendment that was perhaps overlooked as the Civil Proceedings Bill 2011 and Civil Partnerships Bill 2011 were introduced and debated so closely together. We will be supporting this amendment.

Part 4 amends the Commissions of Inquiry Act 1950. There are some potential witnesses to inquiries—and the Carmody inquiry is a good example—who may have sworn an oath or affirmation relating to confidentiality in respect of information they gain in the course of their employment or there may be some legislative confidentiality requirement. In such cases, to enable the inquiry to have the fullest evidence before it for consideration, these amendments will allow the commissioner to make a 'writing' which will have the effect of making the witness competent and compellable to give that evidence that would otherwise not have been admissible.

I understand that Child Safety staff have been advised of this change. Due to the time period covered by this inquiry, there will undoubtedly be quite a number of ex-staff of the department called to give evidence. I have every confidence the commissioner will make them aware of this change. These appear to be amendments that make a lot of sense and will assist the inquiry to elicit important evidence, and we will also be supporting these amendments.

The Queensland Law Society has also recommended an amendment to be made to schedule 1 of the Industrial Relations Act 1999 which defines 'industrial matter'. Parties to a dispute involving an industrial matter can have access to the conciliation and arbitration provisions of the act. The QLS has submitted that 'deductions to be made or proposed to be made from wages' should be included in the definition of 'industrial matter' to allow access to those provisions. The Queensland Law Society has raised a very important point here and I hope that the Attorney-General has given due consideration to this request.

The next set of amendments in the bill relate to the introduction of the offender levy. The LNP released this policy before the last election in its costings and savings strategy. The strategy states, 'This proposed model draws on New Zealand's policy for making criminals pay for costs of court services applying to them.' It then states that the funds will be 'directed towards funding our massive front line police boost as well as supporting more services for victims of serious crime'. 'Draws on' the New Zealand policy might be putting it a little high. In New Zealand the levy is, in fact, \$50 irrespective of which court the matter is heard in and it does go—all of it—to services for victims of crime. In the bill the preamble is amended to insert a new clause 4—

Society is entitled to recover from offenders funds to help pay for the cost of law enforcement and administration.

The bill also inserts a purpose of the new part—

The purpose of this part is to provide for a levy imposed on an offender on sentence to help pay generally for the cost of law enforcement and administration.

However, nothing in the bill directs that the money be spent that way. I foreshadow that I will be moving an amendment to the regulation during consideration in detail providing that the offender levy be \$50, the same as the levy in New Zealand. As the New Zealand Ministry of Justice website states—

A flat \$50 offender levy, regardless of the crime committed, was decided upon by Parliament as the best option to ensure as many offenders as possible pay it.

There were quite a few submissions which raised concerns about the offender levy. As Queensland Advocacy Inc. said in its submission—

... charging fees to convicted offenders may only serve to exacerbate the very problems that led to the offending behaviour. It is well established that many petty offences are crimes of poverty, and exacting fees for offences of poverty such as shop stealing, begging, minor theft and public space offences only serves to perpetuate a cycle of disadvantage.

Oh, it is music to my ears. Its submission continues—

People who spend much of their time in public spaces, such as homeless people, including many Aboriginal and Torres Strait Islander people, and many of whom have intellectual disabilities or suffer from various forms of mental illness or addiction, are precisely the sort of people who will be most affected by this sort of fee.

It is of considerable concern that people who are at the margins of our society should be able when being sentenced by a court to have all of their circumstances taken into account. The Queensland Bar Association also raised a concern that the restriction on the court's power to take account of the offender levy when sentencing an offender and in considering their financial circumstances deprives the court of the power to consider all relevant circumstances and is likely to result in injustice.

I note that recommendation 5 contained in the committee's report recommends that the bill be amended to allow the Special Circumstances Court to retain discretion in imposing the offender levy. Whilst this is a plausible recommendation and will target the most marginalised people who do appear in the court, I also note the sorry story that appeared in the *Brisbane Times* earlier this month that funding will cease to the Special Circumstances Court at the end of the year.

Mr Bleijie: That was speculation.

Ms PALASZCZUK: Well, I ask the Attorney-General, and he can state quite categorically—

Mr Bleijie: The funding ceases because that's all the Labor Party funded it for.

Ms PALASZCZUK: Are you going to continue the Special Circumstances Court? The Special Circumstances Court enables people with a disability to be able to have their cases heard in a situation which is very different to a proper Magistrates Court. A lot of good work has been carried out in the Special Circumstances Court. I ask the Attorney-General to take the time, if he can, to visit the Special Circumstances Court and just see firsthand the good work that does happen there. That is all that I ask.

Mr Bleijie: Why didn't you fund it permanently if it was so good?

Ms PALASZCZUK: Because it was a trial initially. I would hope that he would give due consideration. If the government cuts the Special Circumstances Court, they are once again cutting something that has actually helped people with a disability. I ask that he just goes down there and has a look at it—take the time, meet with the staff down there, sit for half a day or just a couple of hours, knowing his very busy schedule. No doubt the Attorney-General will be at the opening of the new Supreme Court building there on Friday—

Mr Bleijie: And I offered you an invitation to that.

Ms PALASZCZUK: Thank you very much for the invitation. Yes, it was very, very nice to get an invite—paid for by the former Labor government.

Mr Bleijie: And opened by the LNP government.

Ms PALASZCZUK: Paid for and initiated by the former Labor government. I would like to thank the Attorney-General for the invite because this is the first time we have actually been invited to something that was commissioned under the former Labor government.

Mr Crisafulli interjected.

Ms PALASZCZUK: It was not paid for by the LNP government. You do not know the true facts at all. All you do is cut the ribbon—you cut the ribbon on the Northern Busway, and you are going to cut the ribbon on the Supreme Court building.

Mr Crisafulli interjected.

Ms PALASZCZUK: Well, don't go and open it. If you are so opposed to it, don't go there, don't cut it, boycott it. That is open to you. I ask the Attorney-General to please inform the House whether he is prepared to guarantee the funding for the Special Circumstances Court into the future. Section 704 of the Criminal Code Act 1899 provides—

No fees can be taken in any court of criminal jurisdiction or before any justice from any person who is charged with an indictable offence for any proceeding had or taken in the court or before the justice with respect to the charge.

The fact that clause 17 of this bill amends this section to state that the offender levy is not a fee does not actually mean that the levy is not a fee. The Attorney-General can put a clause in an act stating that black is not black or white is not white, but we all still know what the situation really is. The Department of Justice and Attorney-General has advised that it is expected that more than \$12 million in revenue will be collected by the offender levy.

The Chief Justice of the Supreme Court has again unusually taken the step of making a submission to the committee on behalf of the Supreme Court. His concern is in relation to the increased cost and resource implications for the registries. I would ask the Attorney to please provide some cost estimates of the increased costs to the courts of imposing this levy and the increased costs to other agencies—for example, SPER, DPP, Legal Aid and the community legal centres. The committee made a recommendation to this effect and it seems a very sensible option to me.

The other amendment to the Penalties and Sentences Act 1999 is in relation to the increase in the penalty unit. This is not indexed and there has been no increase in the penalty unit since 2008 so the opposition will support these amendments. However, I would like to point out the sheer hypocrisy of the members opposite. When the Labor government increased the penalty unit in 2008, it had not been increased for nine years, yet the then opposition opposed the bill. The member for Toowoomba South and

the then shadow Attorney-General said during the debate on the Penalties and Sentences and Other Acts Amendment Bill 2008—

If ever we have seen a grab for money it is the bill before the parliament today.

The member for Kawana said—

This bill represents another desperate attempt by the Bligh government to use taxpayers to solve its financial problems.

The member for Burdekin contributed to the debate by saying—

... I fail to see how this adjustment can be any more than a money-grabbing exercise.

And the member for Clayfield, who is now the Treasurer of this state, made the following breathtaking statement—

I do want to speak about the hypocrisy of this government in terms of this legislation before the House and which we are debating today. There is a widespread view that fines can act as a deterrent to stop people breaking the law, but that is not what this bill is about. This bill is simply a desperate grab for cash to solve this government's financial woes. Quite simply, this is just another gouge out of Queenslanders' pockets and out of their hard-earned income.

Fines and penalties have to keep up with CPI. This increase is in keeping with those increases.

Mr Cripps interjected.

Ms PALASZCZUK: Mr Deputy Speaker, if the member for Hinchinbrook wishes to speak, I am quite sure he can put his name down on the speaking list. Fines and penalties also have to remain comparable to other jurisdictions. Members will not see the same kind of hypocrisy from the opposition. We supported the increase then and we will support it now. Our position has not changed.

I also reiterate my earlier comments about proper consultation. I have previously asked the Attorney-General to allow people adequate time to make submissions on his bills. I have asked him to allow the committee to do its proper job of scrutinising the legislation. Let us hope that the next bill he introduces is given the proper consideration by the committee and is able to benefit from real and insightful scrutiny by the stakeholders.