




Speech by
Ian Berry

MEMBER FOR IPSWICH

Hansard Wednesday, 1 August 2012

PENALTIES AND SENTENCES AND OTHER LEGISLATION AMENDMENT BILL

 **Mr BERRY** (Ipswich—LNP) (3.56 pm): It is certainly an honour for me to be able to rise in support of the passage of the Penalties and Sentences and Other Legislation Amendment Bill 2012. I will explain my reasons why I adopt that stance and perhaps some of the reasons why I believe some of the criticism is unfounded. It has been an accepted principle for legislators for quite some time that when imposing legislation involving something like an offence levy a user-pays basis is a measured approach. It is measured when you take into account things such as what you are attempting to fulfil and who is to pay. It is of even greater weight when the offence levy is promulgated in policies before 24 March 2012, when it was clearly part of LNP policy that it was going to be introduced.

The principle of user pays is soundly based, and it is not only Queensland that has used that principle. Many other economies use the model, and I think the Leader of the Opposition indicated this in her speech. She indicated that the model used in New Zealand is a measured approach and that the only difference there seems to be that \$50 is a fairer amount. When we are talking principles, it seems that the offence levy is accepted and we are only arguing about the quantum of it. New Zealand and Queensland are different economies and as a result you really cannot compare an apple with an orange. An offence levy of \$100 and \$300 for a superior court is not out of the woods as being unreasonable, particularly when one considers what ordinary Queenslanders are required to pay. Courts are an expensive part of our democracy. The reality of life is that we have Supreme and District court judges, we have magistrates—because we are the most decentralised state of all Australian states—and we have court officers, bailiffs, staff who do transcription, juries and a number of other players. This clearly indicates that this is a very labour-intensive area. We are in difficult circumstances. We have an annual deficit. We have a \$65 billion debt. We are in unusual circumstances and as a result we need to take unusual measures.

However, there is evidence to suggest that the measures we have taken are responsible and fair; they are not only measured, as I indicated before. I remember that before the election the Labor government introduced a hearing levy, a hearing administration fee—call it what you will. Effectively, it said to a certain part of the litigation community that plaintiffs will have to pay \$1,000-odd to get a hearing. No SPER, no pay, no show. Litigants—and most litigants or plaintiffs are people of little means—have to pay that fee. When one considers that we are asking offenders to pay \$100 or \$300, it absolutely pales into comparison with those administration fees that were imposed by the previous government. It is difficult for anybody of reasonable means not only to pay barristers and solicitors but also to come up with an upfront fee to get on to civil litigation. That example simply puts into view that \$100 and \$300 is reasonable, responsible and fair. It has been conceded that the penalty unit increase from \$100 to \$110 is measured, fair and responsible. There is some criticism by the Leader of the Opposition to the effect that perhaps it could have been a little more measured, but by and large Labor has accepted the fee increase. Why is it not so? Because it is measured, fair and responsible for the reason that effectively it is in accordance with CPI.

The matter that I wish to talk about in addition to the levy is the state of the economy. The reality of life is that, when one looks at legislation, as we have considered, of course we consider the special interest groups, of course we consider the stakeholders. The only criticism seemingly seems to be that we have not given enough notice. With the greatest of respect, the Law Society is armed with people to make submissions on short notice, and they have done so. That is their job. That is what they do. They bring a measured approach from one perspective as indeed other stakeholders bring another approach from their perspectives. It is not unusual for that to happen. Does the Law Society get upset if their comments are not adhered to? Of course not! Their job is to put forward a view. Time is not a consideration. They did the job, they put forward the view and it was then for government to consider all the views because it is government and only government who knows the true position from all perspectives, not particular perspectives, not interest groups and not stakeholders. All those have to be considered at government level and it has to be decided as to what is the appropriate course. Of course, we have this overlay in this state where with a \$65 billion deficit and increasing—we are not paying as we go—there has to be a measured approach. One way is to impose not only the penalty levy but also the offence levy. It is measured, I would respectfully submit.

It has been said that there is no transparency. Again, the Supreme Court is able to have a view. I think the Attorney mentioned something about the separation of powers. However, I take a very holistic view. It is for an interest group to indicate a view. There is nothing wrong with that. In some circumstances it may be appropriate for courts to give that view—and I am not commenting whether it is appropriate in this arena or not. The submission has been made, but ultimately it is for this government to make the decision. Life is never about making a decision in isolation; it is always a dilemma. There are always two solutions to a problem. One solution is always the better of the two. Both may not be great solutions, but we have to choose one. What do we do? Do we tell the people of Queensland, 'Look, I'm sorry, we have this court system and it is going all right. But if it takes two or three years to get your trial, I'm sorry, we can't really do much about it', or do we tell Queenslanders who are on waiting lists for waiting lists that they cannot have operations because we simply do not have any money? Government needs that holistic view to take into account exactly what needs to happen.

This legislation is no more than what government is required to do—what Queenslanders decided on 24 March 2012 when they elected us in overwhelming numbers. The mandate is very clear: they wanted a government to make decisions to get this state back on track, and that is what we are doing.