Speech By

Curtis Pitt

MEMBER FOR MULGRAVE

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PENALTIES AND SENTENCES (INDEXATION) AMENDMENT BILL

Mr PITT (Mulgrave—ALP) (8.54 pm): I rise to make a contribution to the debate on the Penalties and Sentences (Indexation) Amendment Bill 2013. At the outset I advise that the opposition will not be opposing the bill, but I foreshadow that I will be moving some amendments during consideration in detail. At first glance this appears to be a rather innocuous bill. It purports to provide for the rather innocent annual indexation of the penalty unit. When the penalty unit was originally introduced in 1992, it was set at $60 and there was no method provided in the legislation for its increase. The government of the time determined that a regular review of the penalty unit could provide for increases, where necessary, to ensure that penalties were keeping pace with other changes in fees and expenses so that the deterrent effect of various penalties was not being eroded.

It was first increased from 1 January 2000, when it increased to $75. A further change to increase the penalty unit to $100 was made to take effect from 1 January 2009. At that time, the increase of $25 was denounced by the then Liberal National Party opposition. They opposed the bill in the House. Even though the increase was less than the CPI increase for the relevant period, members opposite had all sorts of criticisms to make. As the shadow Attorney-General at the time, the then member for Toowoomba South opened the debate by saying—

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

He then asked—

Why is it doing it? Why is this money grab being foisted on people right across-the-board? It is because this government is in a financial mess.

We also have the contribution by the then member for Kawana, now the member for Buderim and Minister for National Parks, Recreation, Sport and Racing. He said—

The maths is really simple; that is a 33 per cent increase. Just remember it: 33 per cent. That is what this government believes in. CPI is a thing of the past ...

The now Minister for Police, the member for Bundaberg, also made an interesting contribution to the debate in 2008. In criticising the increase, he said—

This overwhelming increase dramatically above CPI is a very advantageous move by this government.

Unfortunately, the honourable member should have done his homework. The increase in the penalty unit at that time was 33⅓ per cent. According to the Reserve Bank of Australia, the consumer price index increase over that same period was in the order of 36.7 per cent. Had the penalty unit been increased by the prevailing CPI, it would have been $105 rather than $100. During the debate, the then Attorney-General told the House that the Premier had announced that the government would be looking at more regular reviews of the penalty unit amount—say, every three years—so that it did keep pace with the consumer price index and an increase of this proportion would not be necessary in the future.

In 2012, three years after the last increase, the Newman government introduced a 10 per cent increase to the penalty unit. Unlike the previous opposition, the Labor opposition did not oppose that increase. We recognised that it was roughly in line with the CPI and therefore appropriate. However, what we did object to was the imposition of the offender levy in the manner in which it was done. We were not alone, of course. The Chief Justice of Queensland, the Bar Association and the Law Society all expressed their concerns. The offender levy of $100 for the Magistrates Court and $300 for the District and Supreme courts was part of the LNP policy released before the last election in its costings and savings strategy. The strategy stated—

This proposed model draws on New Zealand's policy for making criminals pay for costs of court services applying to them.

It then went on to say that the funds would be 'directed towards funding our massive front-line police boost as well as supporting more services for victims of serious crime'. In actual fact, the New Zealand offender levy is $50, irrespective of which court the matter is heard in, and it does go—all of it—to services for victims of crime.

Members of this House will recall that the opposition moved an amendment to restrict the offender levy to $50, because the offender levy was, in fact, a huge cash cow. It was reported in the *Courier-Mail* that from its introduction on 21 August 2012 to 31 May 2013—a period of just over nine months—the levy had raised $12.0376 million from 115,118 fines. The amount budgeted for in the budget papers for 2012-13—that is, until 30 June 2013—was in fact $10.001 million. That is a significant windfall.

There was no requirement in the bill for the money to be spent in the manner that the Attorney-General had stated it would be, and I invite the Attorney-General to update the House during his speech in reply on those matters. What are the latest figures for the value to government coffers of the offender levy and how much of that has been spent on police and victims of crime?

What I find so interesting about the contribution of the member for Bundaberg in the 2008 debate is not only his inability to do the sums but his assertion that an increase 'dramatically above CPI' is a very advantageous move by a government. Let us have a closer look at the proposal contained in this bill that we are debating this evening. It provides for an increase in the penalty unit. The explanatory notes give a very good summary of the effect of the proposed changes. It says—

Under the Bill new section 5A(2) of the PSA allows the Treasurer to determine the percentage change by which the penalty unit value will be increased and to gazette the percentage change by 31 March. If no percentage change is gazetted the Bill provides the percentage change is 3.5% per cent.

However, the bill does not include any criteria to which the Treasurer must have regard when determining the percentage change by which the penalty unit may be increased.

Despite the lack of criteria, the Bill does provide that if the percentage change is to be an amount other than 3.5% then the Treasurer is to publish the percentage change in the gazette.

This bill provides a mechanism whereby the Treasurer determines what the increase of the penalty unit should be, and there are no criteria set out for how he makes that decision. There is no reference to the CPI. There is no reference to other fees and charges. The Treasurer just gazettes a figure and that is the increase that applies, and it can be every year.

Different approaches to increasing the penalty unit have been adopted by different legislatures around the country. South Australia and Western Australia do not have a standard penalty unit regime that applies across-the-board, although there is some system in place. Victoria, Tasmania and the Northern Territory have an annual mechanism for putting up the rate. Tasmania and the Northern Territory have adopted an increase based on the CPI. Victoria's is quite similar to the one proposed in this bill. It is the only other jurisdiction where there is no real mechanism for determining the increase, and it is totally at the discretion of the Treasurer.

So, to illustrate how a Liberal government increases the penalty unit when it thinks it needs to increase revenue, let me give the example of how the penalty unit was increased in the 2012-13 financial year in Victoria. The 2011-12 penalty unit was $122.14. The Treasurer gazetted an increase to $125.19 in *General Gazette* 13 on 29 March 2012 to take effect from 1 July 2012. However, in the meantime, the parliament passed an amendment to the Monetary Units Act 2004 to increase the penalty unit to $140.84. That is a 15.3 per cent increase in one year. That is exactly why the Treasurer should not be determining the increase in the penalty unit unless strict criteria are applied. It may be appropriate for the Treasurer to have a role in determining the increase if it were a mere administrative function relating to an act administered by the Treasurer. As is the case in Tasmania and the Northern Territory, where the increase is restricted to the CPI, it is the Treasurer's role to gazette what the CPI for the previous 12 months was, according to the Australian Bureau of Statistics. No discretion should be allowed on the part of the Treasurer in making the determination. The

maximum amount that the increase can be in any financial year is equivalent to the CPI. However, in Queensland the Attorney-General administers the relevant piece of legislation. So that is the appropriate person to gazette the increase. I will be moving amendments during consideration in detail to give effect to this method of determining the increase in the penalty unit. I will also be moving to remove the default rate of increase of 3.5 per cent.

This bill provides that, where the Treasurer does not gazette an increase in the penalty unit by 31 March in any year, an increase of 3.5 per cent will automatically apply. I am not sure where the Attorney-General plucked the figure of 3.5 per cent from, and maybe he could answer that. I know it is the amount by which the CBRC determined that all government fees and charges should increase. However, the CPI for the past financial year, according to the Australian Bureau of Statistics, was 2.7 per cent. That gives us a default increase of 3.5 per cent, which is an increase of 29.2 per cent above the CPI. I guess the member for Buderim was correct in 2008; CPI is definitely a thing of the past under the LNP. This is a government that is prone to hypocrisy, hyperbole and mendacity. The carry-on and histrionics that was displayed during debate of the 2008 amendments was pure theatre to watch. Some of the performances would have surely been worthy of an Oscar, and that was when the increase was even less than the CPI. The Best Actor award would have gone to the Treasurer for his portrayal of the money-grubbing 'wolf of George Street'.

One of the first things the LNP did when they got into government was to increase the penalty unit. It was introduced on 11 July 2012, the fifth sitting week of the 54th Parliament, and was brought on for debate two sitting days later. It was declared urgent and did not even go to the committee for its consideration. Then again in 2013, a further bill was introduced to allow an annual increase to the penalty unit of whatever the Treasurer wants.

The opposition, when in government, had proposed a regular review of the penalty unit, and this is what occurred in 2012. My amendments propose that a review take place every three years to ensure the annual increase has kept the penalty unit at an appropriate level. But, if anything, what has been proposed can only be described as a revenue grab. It is an increase at the discretion of the Treasurer without any criteria for determining the increase and no connection whatsoever with the CPI. The opposition does not support such a grab for cash by the Treasurer, who has proven time and again that he cannot be trusted with his hand in the wallets of Queenslanders. Case in point: he increased taxes, fees and charges by more than $1,000 for the average Queensland family. Another case in point: he increased insurance duty from 7.5 per cent to nine per cent, what he called when in opposition a windfall on misery, at a time when people, particularly in areas prone to natural disasters, were already being belted by insurance premiums that in some cases had gone up by more than a thousand per cent. We have no objection to the penalty unit being increased by the CPI each year. If that is what the government proposes to do, why not enshrine it in legislation? We challenge the government to show Queenslanders once and for all that they have no intention of increasing the penalty unit by more than the CPI by accepting the opposition's amendments.