Speech By

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JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

Mr JANETZKI (Toowoomba South—LNP) (2.05 pm): I rise to make a contribution to the Justice and Other Legislation Amendment Bill before the House. The bill is an omnibus bill, as the Acting Attorney-General has said, and it amends 37 acts and regulatory instruments within the Justice portfolio both on criminal and civil matters. It is intended to provide legislative clarity and operational efficiency in court and government processes. The majority of the amendments are administrative in nature and uncontroversial. However, there are some changes worthy of attention that I will make reference to during my contribution. I confirm that the opposition will not be opposing the bill.

On 21 February 2020 the Legal Affairs and Community Safety Committee recommended that the bill be passed. Opposition members lodged a statement of reservation which drew attention to one key matter relating to the summary disposition of indictable offences in relation to property offences. I will come to that shortly. After 14½ minutes I heard the Acting Attorney-General just quickly slip that in there and say that that was related to feedback that had been received from stakeholders about the impact on the Magistrates Court. I would submit that the withdrawal of that particular provision relates more to the dawning on this Labor government that again its soft-on-crime approach would have seen significant offences heard in a jurisdiction where serious penalties could not be applied, but I will revert to that in due course.

I think it is appropriate to acknowledge the statement of reservation that was lodged by opposition members which drew attention to this particular problem and this particular concern. With your indulgence, Mr Deputy Speaker Stewart, I want to acknowledge the deputy chair who has been performing extraordinarily well in discharging his duties over the last couple of years. I also want to acknowledge the new addition to the opposition composition on that committee being the new member for Currumbin, who will be an outstanding addition to that committee. Yesterday we saw a most beautiful and compelling first speech from the member for Currumbin. She is going to be an outstanding contributor to this House and I look forward to what lies ahead of her in the years to come and I look forward to her contribution on that committee. As a former Crown Prosecutor, I think she will be of great value to that committee in its deliberations.

For 16 years the Coroners Court has operated under different legislative schemes depending on when a particular death was reported. The bill proposes amendments to the current Coroners Act 2003 to allow for new or reopened inquests of deaths to be held under the act for precommencement deaths. Specifically, the bill provides a discretionary power for a coroner to stop an inquest that is currently being heard under the repealed Coroners Act 1958 without concluding that inquest or making any findings and to reopen the inquest under the current act. Unlike the repealed act, the current act includes a power to compel a witness at an inquest to give self-incriminating evidence. These amendments have been adopted because of District Judge O'Connell's recommendations in the case of Bryan Hodgkinson in December 2018 that the current act be amended to ensure that all inquests, including inquests part

heard or inquests to be reopened, no matter when the death occurred, now come within the ambit of the current act. Judge O'Connell went on to say—

I trust this issue is addressed very promptly for the sake of the families and the public still seeking answers from pre-2003 act 'reportable deaths'.

The opposition supports these measures. However, I do seek to raise a case that is unlikely to benefit from the amendments—that is, there is a family that will not likely benefit from the amendments that give the coroner the discretionary power to stop an inquest currently being heard under the repealed 1958 Coroners Act without concluding that inquest or making any findings and to reopen the inquest under the current act. I am talking about the case of Anthony John Jones who tragically disappeared on about 3 November 1982. His body has never been found. He was presumably murdered and allegedly disposed of in a Hughenden slaughter yard. It is a murder mystery that has plagued Queensland police for 38 years.

The initial 2002 coronial inquest ruled Tony had been murdered. A second inquest was opened in 2016 under the 1958 Coroners Act and remains ongoing as State Coroner Ryan has not yet handed down his findings. This matter has been reported on by the ABC as well. The family are in limbo and desperately pleading for the inquest to be heard under the new act. This is a very complicated matter. However, it is unlikely to be achieved and the Attorney-General ought to be aware of this family's plight and their efforts. I implore her to consider their calls for justice and to do anything possible in her power to help them.

The explanatory notes to this bill assert that the amendments to the Coroners Act improve the administrative and operational efficiency of the coronial system, including in response to the coronial findings following the inquest into the death of Bryan Hodgkinson and issues identified in the Queensland Auditor-General's report No. 6 of 2018-19, *Delivering coronial services*. Again this is a report that has gone unspoken about by the Acting Attorney-General. I understand there have been some technical amendments made arising from findings from that report. Those changes have been made to this bill. That report is a damning indictment on the operation of the coronial system in Queensland. There is more to be gained from that report than simply a number of technical matters that are being fixed up in this bill.

The audit that the Auditor-General undertook revealed a shocking systemic problem. We have the headline statistics of cases aged over two years continuing to increase. Since the election of the Palaszczuk government, cases aged over two years have gone from 11.9 per cent to most recently 17.58 per cent. That means nearly one in five coronial cases are sitting on the shelf for two years or more. Cases over the last 12 months that are aged between 12 months and 24 months have increased by 40 per cent, from 411 in 2017-18 to 572 in 2018-19.

Turning to the audit that the Auditor-General undertook that was reported in 2018-19, one sees systemic problems that the Auditor-General has clearly laid out. It said it lacks cohesion, there is no clear line of leadership, of accountability and there are clear problems between the delivery of coronial services in regional Queensland to those in urban Queensland. These are problems that will not simply be solved by a number of minor technical amendments as we see in this bill or, indeed, the additional funding that has been allocated, which I will concede, by the government to the coronial system. These challenges are vastly greater than just more funding or the technical amendments in this bill. It does require a systemic overhaul to make sure that we are delivering the highest quality coronial services for families who have lost loved ones and are seeking answers.

What we see in the coronial system, from the audit undertaken by the Auditor-General, are clearly structural problems and there must be changes. I recall that while that review was being undertaken by the Auditor-General there were reports by consultants that had been heavily redacted. Workplace Edge had gone into the coronial system and undertaken a review of the operation of that system. In a 76-page report 54 pages were redacted. We are seeing significant problems in the coronial system. Those pages were redacted on the grounds of staff welfare.

We are not truly getting to the bottom of the systemic problems in the coronial system with this bill. We know coroners are under pressure. We know staff are under pressure. We know there are structural problems. I call on the government to continue to do more, because although they have quoted that this report has led to some aspects of this bill, it is not nearly enough when we have lives and families destroyed by accident or foul play and when people need answers and a highly functioning and well-resourced coronial system to give them those answers.

There are a range of amendments to the Criminal Code and the Penalties and Sentences Act in this bill. The bill amends section 359 of the Criminal Code to clarify that the circumstance of aggravation applies to unlawful stalking directed at a law enforcement officer when or because the officer is investigating the activities of a criminal organisation. The bill also amends section 463 which relates to setting fire to crops and growing plants to include a new provision heading and expand its application.

Turning again to the point of contention that I alluded to earlier that was raised by opposition members in the statement of reservation, I will give the technical approach to it just for a moment. Clause 51 of the bill as it currently stands—and I acknowledge the Acting Attorney-General has foreshadowed that that provision will be omitted—expands the summary disposition of indictable offences relating to property by increasing the amount under the definition of 'prescribed value' from $30,000 to $80,000. The offences include stealing, unlawful use of a motor vehicle, fraud, unlawful entry of a vehicle for committing an indictable offence, computer hacking, burglary and wilful damage. Any of those offences involving property worth less than $80,000—instead of $30,000—were to be heard summarily. Of greatest concern is that under section 552H of the Code, magistrates only have jurisdiction to impose a maximum penalty of three years imprisonment or 100 penalty units.

In practical terms, an offender could plead guilty to the offence of stealing a motor vehicle valued at $79,000 in the Magistrates Court to avoid the maximum penalty of 14 years imprisonment and instead be liable to a maximum of three years. The Queensland Law Society and the Bar Association also submitted that this amendment would prevent defendants from accessing legal assistance funding and defendants who rely on legal aid will most likely not be represented by counsel because it is virtually impossible for a defendant to obtain aid to be represented by counsel in the Magistrates Court. I acknowledge the Acting Attorney-General has argued that that is the reason for the omission of that particular clause.

If one cuts away all the technicalities, what this clause relates to is that offences of theft where the value of the property is less than $30,000 are currently being dealt with by the Magistrates Court, which can only sentence offenders to up to three years imprisonment. Offences involving the theft of property valued at over $30,000 could be determined by the District Court, which can impose far longer sentences and more severe penalties. Labor's proposal had been to lift that prescribed amount from $30,000 to $80,000 which, in the current climate of people deeply concerned about levels of crime across Queensland, was very confusing. In places like Townsville where we have seen robbery up 137 per cent and the unlawful use of a motor vehicle up by 74 per cent, why would the government be making punishments lighter? It was sending a very unusual message, taking a light-on-crime approach, and I do not know where it came from.

Overnight we again saw the government, within an hour, overturn what I would presume to be a cabinet process. Presumably the bill to be debated later today and tomorrow had gone through a cabinet process, but overnight that amendment disappeared. We have seen that time and time again over the past term of this government. Last year the debate on the blue card bill was adjourned so that the Attorney-General could go away and adopt the amendments that we had foreshadowed. We saw the Local Government Act 'go away' when compulsory preferential voting was going to be introduced. The minister had to fly to Cairns and ditch it after being rolled in cabinet.

We have seen the complete line of confusion through the youth justice bill that put 17-year-olds into the youth justice system with no plan and no idea for the future, resulting in overcrowding in watch houses. After the minister gave an interview on *Four Corners* and $500 million later, they came out the other side. Their approach was to solve the problem with amendments to the Youth Justice Act, section 48, which turned the presumption in favour of bail. Then we saw the minister in Townsville blaming the lawyers and the magistrates for simply applying the law that this government had passed. Following that, in March we saw the child safety minister come into the House to say that the Youth Justice Act would be amended to repeal that particular provision. They are up and down.

This government has no idea what it is doing from one day to the next and so it is with this provision. Time and time again, either because of a lack of process at the cabinet level or of proper disclosure and discussion around these important issues, we have seen the government change their minds once they come into this House or once they detect some political headwinds. Are they simply making errors as they go through the process? Who is reading the bills before they come to this place? They have plenty of spin doctors and policy advisers, yet time and time again we see bills changed on the floor of the parliament and debates adjourned so that they can adopt our amendments. There are changes of heart and changes of policy on the fly, and here we see another example. They have realised that the proposed amendment would have meant that people who had committed quite serious property offences would not be subject to the full force of the law. Obviously the opposition is pleased that the statement of reservation submitted by the opposition members of the committee had some impact and that those provisions were removed from the bill.

There are a number of changes to acts involving the administration of the court system, including, among others, the Civil Proceedings Act, the Judges (Pensions and Long Leave) Act and the Land Court Act. The District Court of Queensland Act is to be amended to add two Criminal Code offences

in connection with involving a child in making child exploitation material and the making of child exploitation material to the list of exceptions to the general jurisdictional restrictions placed on the District Court.

The bill changes the Queensland Civil and Administrative Tribunal Act 2009 by omitting section 183(3) so that the Attorney-General no longer needs to advertise for applications from appropriately qualified persons to be considered for senior member and ordinary member positions. This gives the Attorney-General the power to appoint a senior member or ordinary member after consultation with the president, without even advertising for the position. This process gives the Attorney-General the power to make political appointments and it completely overrides a fair recruitment and selection process. I do not think we have ever seen a more efficiently ruthless government at appointing political mates. You have names such as Battams, Bredhauer, Fraser, Hamill, Lucas, Mulherin, Mickel, Mooney, Roberts, Robertson, Soorley and Quinn. If you were to list all the names, that would be just the tip of the iceberg.

What is most galling about those opposite is that the Labor government stands on the principle of transparency and merit based appointments. They create judicial protocols that they squeeze at the edges. They pretend that there are open and transparent appointment processes, but in this bill we see that they are going to remove it all. They are going to make it an appointment of the Attorney-General. It is the high-mindedness of those opposite that actually displays their hypocrisy. They pretend to have a transparent and merit based recruitment process, but at the heart of it they will ignore that and appoint their mates. We have seen that time and time again. Now it is actually going to be written into the law that the Attorney-General can make appointments without advertising the positions. That makes a mockery of everything that those on the other side talk about in terms of merit based appointments.

Turning to the administration of justice, the bill includes minor amendments to, among other things, the Anti-Discrimination Act, the Evidence Act and the Drugs Misuse Act. The bill amends the Dangerous Prisoners (Sexual Offenders) Act to correct an anomaly in its operation with respect to prisoners returned to custody on parole suspensions and to clarify the application of the DP(SO) Act to those serving periods of detention while being held in custody in a Corrective Services facility. The Bar Association and the Queensland Law Society expressed concern at the proposed extension of the operation of the DP(SO) Act to persons who commit serious sexual offences as children and whose sentences of detention extend into adulthood so that they are transferred to the adult prison system.

Minor changes to the Legal Profession Act also clarify that the power for the QLS to conduct a trust account investigation of the affairs of a law practice may be exercised routinely and not just in relation to a particular allegation or suspension. As a former in-house lawyer, it is pleasing to see the clarification for government legal officers, in-house counsel and volunteer lawyers to move admissions to the legal profession that are without conditions.

Finally, there are a number of minor amendments to succession and property related law legislation, including the Commercial Arbitration Act 2013, which corrects a minor technical drafting error identified in the Supreme Court decision of Wilmar Sugar Pty Ltd v Burdekin District Cane Growers Ltd, and the Property Law Act 1974, which clarifies that a mortgagee may exercise a power of sale following the disclaimer of freehold land by a trustee in bankruptcy or liquidator without the need to apply for court orders under the Bankruptcy Act or the Corporations Act. In both instances, the QLS submitted that the drafting ought to be simplified and cleaner.

I finish by saying that the opposition will not oppose the bill. I reiterate that it is pleasing to see the government forced into another humiliating backdown on a provision. They had misunderstood the will of the Queensland people. They had misread the mood. Again it proves that they are completely out of touch with community expectations when it comes to crime. Time and time again, they are letting down the community with the lawmaking in this decision. We need only look at section 48 of the Youth Justice Act, this bill here and even events from overnight to again highlight that they are out of touch with community sentiment when it comes to crime and Queenslanders deserve so much better.