

**CRIMINAL LAW (SENTENCING) (DANGEROUS OFFENDERS)**

**AMENDMENT BILL**

**29 March 2007**

Second reading debate resumed.

**The Hon. D.G.E. HOOD:** In my research for this bill, I met with someone (and I do not want to be too specific in identifying this individual) who is a very senior member of the South Australian legal fraternity—if I can put it that way.

*An honourable member interjecting:*

**The Hon. D.G.E. HOOD:** I would say perhaps even slightly more senior than the Hon. Robert Lawson, believe it or not! In my discussions with this gentleman I put the bill to him and asked for his comments and feedback on it. He, to my surprise, was actually wholeheartedly in support of the bill. I had expected that he would not be because, generally speaking, I find that people in the legal profession lean to the left, if I can put it that way; not always, but often.

*An honourable member interjecting:*

**The Hon. D.G.E. HOOD:** Quite shocking—a shocking revelations! This gentleman said a few things which I think some members may take issue with, but these are his words. He said (in his own words) that this justice system is slanted heavily towards the defendant; that in cases in which he has been directly involved there have been significant numbers of what he believed were guilty offenders who walked free because of imperfections in the justice system. In his own words, the level of sentencing in this state is pitiful—that was the word he used, 'pitiful'. I will be careful not to identify the gentleman.

When I asked how much it impacted on him when a particular sentence was given that was not at the level that he believed it should be, he said that judges

often gave sentences that were on the lenient side because of the high likelihood and the fear they held that they would be overturned either in higher courts or by the full bench, in some cases. So, even amongst the most senior legal professionals in our state, certainly in this individual's case, there is in their minds reason for change. We have heard arguments to the contrary tonight, and we have heard from the Law Society on this bill. Frankly, I cannot be more blunt than to say that I am not surprised that the Law Society is opposed to the bill. What a surprise! It seems to constantly oppose any tightening of sentences or anything.

But let us be clear about this: this bill is for serious offenders, for people who make people's lives a misery. We have heard about the principle of making the punishment fit the crime, but what punishment is appropriate for someone who murders someone? What punishment is appropriate for someone who ruins a family's life forever by killing a husband or wife, a mother, a sister, a daughter or a brother, whoever it may be? What punishment is appropriate? Very, very severe punishment. For that reason, Family First will support this legislation and we commend the government on it. We think it is good legislation. I would like to highlight a couple of other things that this senior member of the legal fraternity said. I will not detain the council very long, but it is important for these comments to be noted.

He also said that the proliferation of the legal aid system, not only in South Australia but across Australia, has resulted in more and more pleas of not guilty, in his view, even though many of them would still be guilty, and he would have good access to information on both sides of the argument. He believes that the proliferation of the legal aid system has resulted in more and more pleas of not guilty and it has just clogged up the court system, so that not only is justice more difficult but it takes considerably longer. To summarise his comments, his view was that this bill is a very good measure indeed. Probably members in this chamber will not be surprised to hear that Family First wholeheartedly supports that view. I want to comment on a few of the specific clauses and put a few reflections on the record.

The first is clause 5, which really talks about the concept of protecting the community, something that the government spoke about during the election campaign. To some extent, this represents a fulfilment of one of the promises made during the campaign. This is the fundamental heart of this bill, and again Family First wholeheartedly supports this. There is no excuse for some of the actions that require very severe penalties. There is no excuse for someone showing extreme levels of violence. Some may argue that, if you put them behind bars for an extended period, it does not stop other people doing that. Fair enough: I accept that; but it stops them doing it. Why? Because they cannot. They do not have access to the general community. For that reason, we support the thrust of this bill.

Clause 8 talks about minimum sentences for murder and sets at least a 20-year non-parole period. Again, we support that. Twenty years sounds harsh, but the impact of a lost family member through violence—which has happened in my extended family, not my direct family—is devastating to those family members and can never be repaid. It is appropriate to have very severe penalties in that case. Family First would like to see the concept of minimum sentencing extended. For example, I commented in the media recently about a drug dealer, dealing in significant indictable quantities of drugs, who was given a slap on the wrist \$500 penalty despite it being their fourth offence of selling drugs of indictable quantities.

This person's life was making a living out of other people's misery and on their fourth offence they got a \$500 fine. It is an absolute disgrace and that is why we need measures such as these, because the judges, frankly, do not do it. If it is not legislated at a level that is appropriate, the judges simply do not do it, and for that reason the parliament has to act.

Clause 8 also talks about minimum non-parole periods, and we certainly support that. In fact, the council would be aware that I recently introduced a bill that looked at a parole period of a minimum of 75 per cent of the head sentence for drug dealers. I note that in this particular bill the non-parole period is four-fifths of the head sentence, which, again, we support.

Clause 9 gives the Attorney-General power to apply to the Full Court to negate non-parole periods for dangerous prisoners. We support that clause also. It is appropriate for the senior legal person in the state to have that sort of discretionary power. It needs to be used reservedly, but it is appropriate that he have those powers where, frankly, the system just does not work. With those few words, suffice to say that Family First supports this bill.