

ARSON

27 September 2007

The Hon. D.G.E. HOOD: On page 13 of yesterday's *Advertiser*, police reporter Sam Riches wrote that, during the last fire danger season, there were some 1 374 arson-related reports and 431 reported fires that were either deliberately lit or the cause could not be determined, with 82 people actually apprehended for arson and 30 people reported for breaching the Fire and Emergency Services Act. Despite all this excellent activity by the police, just one convicted arsonist received a gaol sentence from all those arrests and prosecutions.

The Advertiser report indicates that, despite a maximum gaol term of 20 years for arson, the average sentence being handed down is just 11 months—in the very few cases where a sentence is handed down at all. Mr Damon Muller from the Australian Institute of Criminology is quoted in the article as follows:

Courts are not using the full extent of gaol terms... we are seeing low penalties for what is perceived to be quite serious crime.

On 3 November 2002 by media release entitled '20 years jail—new bushfire arson laws now in force', the Premier said that the increased penalties made our arson laws 'the toughest in mainland Australia'. The Premier said:

We want to hit these arsonists hard. The new penalties will bring home the extreme gravity of the offender's crime, highlighting the harm done both to the individuals and to the community.

The *Advertiser* on Boxing Day 2002—1½ months after the media release—said:

Potential bushfire arsonists have been warned that authorities will name and shame them if caught and will apply the full force of state government's new arson laws. Premier Mike Rann said bushfire remained his major concern over the festive season. 'It's zero tolerance in terms of bushfire arsonists' he said. 'We now have 20 years imprisonment penalties for people lighting bushfires.'

Despite this very strong stance taken by the Premier, and equally strong stance taken by the parliament in supporting this legislation, actual sentences imposed on arsonists are very lenient indeed. My questions to the minister are:

1. Are the penalties actually imposed by the courts so lenient because our judges are simply too soft and unwilling to impose appropriate penalties in line with the parliament's will?

2. Does the minister agree that South Australian judges are failing the South Australian community in handing out grossly inadequate sentences for very serious crimes?

3. What steps will the government take to ensure that penalties actually imposed are in line with public expectations and not the whims of out-of-touch judges?

The Hon. P. HOLLOWAY (Minister for Police): As the honourable member indicated, this parliament some time back enacted new legislation in relation to bushfires that brought in maximum penalties of up to 20 years imprisonment. The government has also taken a number of other steps.

Members interjecting:

The Hon. P. HOLLOWAY: It was significantly less than that. There is now a 20-year maximum penalty for arson. Like the honourable member, I was certainly disturbed to read that article the other day which, on the surface, would suggest that the will of this parliament has not been upheld. In answer to those specific questions asked by the honourable member, I am aware that we have a separation of powers under our constitution and the courts—

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: We do have a separation of powers: the Hon. Rob Lucas may not like it, and perhaps under a Liberal government they may try to interfere with the judiciary.

Members interjecting:

The Hon. P. HOLLOWAY: Well, he made the comment and, judging by his sneer, only one interpretation can be put on it: that he does not think we do or should have a separation of powers.

Members interjecting:

The Hon. P. HOLLOWAY: If this government did interfere, we would probably be getting better outcomes from the courts. But this government is not doing it.

Members interjecting:

The Hon. P. HOLLOWAY: We have just seen what a total rabble members opposite are. They do not know where they are at. They are sitting here, out of touch and irrelevant, and all they can do is knock, sneer and whinge. What do they really believe in? Like their federal colleagues, they believe in anything and everything that might get them into power, but they have no principles and no belief in anything.

This government has introduced legislation to deal with the crime of arson, in particular that of lighting bushfires. In addition, as my colleague the Minister for Emergency Services has pointed out, we have doubled the bushfire arson reward from \$25 000 to \$50 000. The Insurance Council of Australia and the South Australia Police administer the arson reward scheme, with individual rewards of up to \$25 000. Rewards of up to \$100 000 could be paid in extremely serious circumstances, which is appropriate.

The articles in the press in recent days indicate that, according to climate change experts, the risk from bushfire is likely to grow dramatically. They are classing the situation as catastrophic in future. One would hope that, given this parliament set the lead in terms of increasing penalties, and given the warning of those involved in climate change, the risk from bushfires could be much greater. We are likely to have a longer bushfire season and more serious bushfires: they are the predictions from experts. Clearly, then, there is an obligation on those administering the law to ensure that that message is given out to people who light bushfires.

Again, I can only repeat the comment I have made in answer to other questions the honourable member has asked. We do have a separation of powers. It is very unfair to criticise individual decisions that a court might make. It is probably against standing orders as well, but it is unfair to criticise individual decisions, because there will always be mitigating circumstances, and the reason we have

an independent judiciary is so they can take into account the individual circumstances of the case. However, I think that what the honourable member and the article in *The Advertiser* have drawn attention to here is that there does appear to be a pattern of behaviour where the penalties appear to be less severe than both this parliament and the community would expect.

I do know that the judiciary responds to public expectations and, given the information that has come to light recently about the greater risk we could all face from bushfires because of climate change, one would hope that that would be reflected in the decisions that the judiciary imposes in future cases. As with the other questions the honourable member has asked in relation to penalties for other crimes, I will refer this to the Attorney for his consideration to see whether there is anything further the government can do.

The Hon. R.D. LAWSON: As Minister for Police, will the minister advise what additional police resources will be devoted to this problem of bushfires in this current season; and what steps as Minister for Police has he taken to ensure that additional resources are made available?

The Hon. P. HOLLOWAY: We are leading up to the bushfire season now, and obviously the police will be preparing their programs in conjunction with the CFS.

The Hon. Carmel Zollo: Operation Nomad.

The Hon. P. HOLLOWAY: As my colleague says, they have Operation Nomad, which deals with this issue. What has happened in previous bushfire seasons is that the police have had a program of targeting known arsonists. They make sure that those people are aware of the police presence and that the police will be keeping a close watch on those activities. Obviously, the police response is an operational matter for the Commissioner, but the police do respond to the risk. I know that over the bushfire season they have regular meetings with the CFS and other agencies to ensure maximum coordination. So, obviously, the police response will vary according to the risk, although it is

still early days. One can only hope, not just for the sake of reducing the risk of bushfire but also for the chance of salvaging the incomes of farmers and also, for that matter, the economy of this state, which will be dramatically affected if we do not get rain soon. We can only hope that we have ongoing spring rains that will both reduce that risk and help the economy of this state, because we will need it.