

## **SERIOUS AND ORGANISED CRIME (CONTROL) BILL**

**6 March 2008**

**The Hon. D.G.E. HOOD:** I rise to support the second reading of this bill. It is a very important bill and deserves careful consideration. The target of this bill, despite its generic name, is clearly to outlaw particular motorcycle gangs. It has been put to me in a briefing that bikies are the principal target of this bill, and the reason they are described generally as a declared organisation and not specifically named by club name or generic description is to ensure that bikies do not try to change their spots to get around the law.

From the outset, I think this answers the calls that some people from other groups have made that they might be targeted by this legislation. We are talking about the approximately eight outlaw motorcycle clubs with 13 chapters, that have grown to that number since being six clubs with nine chapters back in 2001. To my mind, the Triads, or similar gangs, would be next on the list, but then for groups beyond that I understand the government would use other criminal laws, including the public order offences bill (coming to us soon), to deal with less serious behaviour.

If a terrorist cell were operating here in South Australia that matter would be referred to the federal police and if a paedophile ring was operational then that too might be a federal matter. Otherwise, I understand that existing laws would be used, such as child pornography possession and abduction laws, to stop their activities. In short, we are assured that, despite the relatively generic terms used in this bill, the bill's target is outlaw motorcycle gangs and other serious organised crime gangs, and that is all.

The reason that we are reforming the present criminal laws is that SA Police have been unable to secure convictions against the major operators in the bikie world or criminal underworld. I think it is unfair to say that it is a failure on the part

of the police; rather, it is a failure on the part of this parliament and the justice system in general to be flexible and responsive enough to modern-day policing needs and the demands of dealing with organised crime.

I think it quite fair to say that the courts, be it the judiciary or the lawyers, are stacked with civil libertarians. Indeed, some members of the judiciary have represented—

*The Hon. Sandra Kanck interjecting:*

**The Hon. D.G.E. HOOD:** Well, they can be abused, is the point. The civil libertarian bent of the judiciary is obviously not only demonstrated by the way that police have been frustrated by court rulings concerning organised crime, but also the weak sentences imposed upon those who perpetrate serious crimes. Organised crime is not just a state issue, or even a national issue; it is an international issue. Being, as it is, submerged in the underworld, it is hard to get a good grasp on organised crime from the international to the local level. However, I understand that not only are international organised crime gangs directly or indirectly operating in South Australia but also in cooperation with gangs in South Australia to achieve their criminal aims.

One of the major sources of trade amongst organised crime syndicates is illicit drugs, and certainly there have been suggestions in the past that South Australia's cottage industry of growing cannabis, supported as it is by weak criminal laws and weak sentencing, filters through the bikie gangs into other networks interstate and, indeed, overseas.

One of the best ways to deal with organised crime is to have harmonised national and international laws to attack organised crime. It is admirable that this government has not been paralysed by the inertia that strikes the Council of Australian Governments and the like and stuck with what it believes to be good

reforms in this area. Certainly, I hope these reforms not only work but might become model laws nationwide, because I think a potential weakness in the implementation of these laws is the interstate jurisdictional issue.

Without equivalent laws interstate, we might see organised crime simply move its brains trust interstate and potentially conduct raids in South Australia. That might be far-fetched but, if it did occur, it might make bikies wonder what was the point of bothering with South Australia any more, not that that would necessarily be a bad outcome. Indeed, that might be good for us, but it certainly would not solve the problem.

I do not agree with the Wild West approach of 'Get out of my town'. We need a uniform approach but, failing action by the other states, it is appropriate that we introduce such reforms on our own. On that note, I add that we were told at the briefing that our Commissioner Hyde is at the forefront of a national committee setting up a national approach to this issue. So, we will see the developments on that front.

In this bill, essentially two things will occur: a control order and the offence of criminal association. These are the two most powerful tools this reform will give the South Australia Police, and both hang upon the Attorney-General's declaration, upon advice, that a group is a declared organisation. It will then become an offence to associate with a person whom you know is a member, or are reckless about not knowing whether they are a member, of a declared organisation. More often than not, we are talking about people who proudly wear the club colours or who wear tattoos or other distinctive markings. Exemptions apply, and I will touch on those in a moment.

The control order aspect allows South Australia Police to apply to the court to bar specific individuals from associating with other members of declared organisations, restrict their entry to certain premises (such as clubrooms and the

like) and, indeed, apply other restraints. These applications are made ex parte and are therefore served upon the defendant, having immediate legal effect.

Before the civil libertarians protest about that, let them note that this is precisely what we have done federally concerning terrorism suspects and precisely what is the case for (usually) men who are accused of perpetrating domestic violence. So, the parliaments of this nation have previously seen fit to allow ex parte restraint in merited circumstances. Against this background, I think that ex parte restraint for bikies has merit.

I have received expressions of concern from groups that one could call bikers, or legal motorcycle groups. They are concerned that they will be unfairly targeted by these laws. I have considered this carefully and have decided that I am satisfied that they have no genuine reason for concern. I note, for instance, that in the last sitting week the Attorney-General put on the record in the other place that he is not chasing the Longriders, so called. The target of this legislation will be groups that 'meet to organise and conduct serious crime'—and that is the key term.

Some summary offences might be added to the list and, whilst the government is considering whether some summary explosives offences might become part of that list, I strongly suggest that offences concerning running a brothel could be considered as well. However, Christian motorcycle clubs or general motorcycle club enthusiasts, such as the Ulysses Club, do not run brothels, they do not grow cannabis, and they do not get in involved in gun fights with one another on beaches or in restaurants. Therefore, clearly these clubs have nothing to fear from these laws.

Moving along, I will not retrace similar laws in other jurisdictions, which the shadow attorney-general did a good job of doing in the other place. It is worth highlighting some of the recent issues raised in the media concerning outlaw motorcycle groups, as it demonstrates for the record some of the issues weighing

on the parliament at this time. I will start with the recent story concerning Mr Karim Awad which I recall appeared on the front page of the *Sunday Mail* last weekend—and thank goodness for a good news story on the front page of a newspaper for once.

Mr Awad, a former chief of the Rebels motorcycle group, thanks to the love and need of an autistic girl and also due in no small part to the work of one of the Christian churches, has turned his back on being a bikie. As an aside, I think this is a point to be borne in mind when we are considering what might be lawful encounters between bikies and counsellors and the like.

A prison chaplain, for instance, might be a person who is called upon to counsel a person in gaol who is a known member of an outlaw motorcycle group. We think there ought to be a clear exemption for chaplains and other counsellors of that nature—indeed, some of them might be part of the Longriders motorcycle club—otherwise how will bikies be reformed? How will we be able to convince them, as in the case of Mr Awad, to leave their life of crime?

Therefore, Family First calls upon the Attorney-General to ensure appropriate protection for the good work of churches and other community groups who try to reform hardened criminals through frequent meetings, counselling and the like.

I note that recently that the media described the New South Wales police operation 'Operation Ranmore' as having laid 111 charges against members of outlaw motorcycle gangs since May 2007, thanks to the new, tough anti-bikie legislation there.

Furthermore, they have made some 390 arrests. This is a very good outcome, and I contrast that with what might be possible after this bill becomes law. I was told in a briefing that there are 250 full members of outlaw motorcycle gangs in South Australia who are primary targets for SAPOL once the bill is proclaimed,

and perhaps another 250 nominees or prospects who also might be targeted by these reforms. SAPOL also advises that each of these people might have up to say 10 people associated with them who might be under consideration. If Operation Ranmore, using New South Wales tough new anti-bikie laws, could see 111 charges laid in nine months, we should see some significant results early in the life span of this new act.

Family First calls upon the Minister for Police in this place to ensure that there are adequate resources to make use of this legislation to its full effect. In a briefing it was put to us that SAPOL has received a significant increase in funding for the crime gang task force to the tune of some \$15 million over five years, as well as some additional 22 officers beyond that funding increase. This is a welcome move, but I also hope that the clearing of logjams caused by outdated criminal laws assist the existing task force and Operation Avatar to achieve major results quickly.

A particular resourcing issue that I want to put on the record is my concern that the government adequately resources SAPOL for surveillance and to use the latest technology to monitor internet activity. It seems that almost every month new technologies emerge that enable people to communicate with each other in a different way and, if bikies can afford Queen's Counsel to get around the criminal law, surely they can afford the latest technology to get around such investigations. I call on the government to adequately resource SAPOL to respond to the technology countermeasures that bikies might use in order to get around this legislation.

I have in my notes a list of incidents that demonstrate how active and violent bikies have become across Australia. I note, too, that these groups have interstate and international connections so events interstate are relevant to our considerations. I could list a lot of incidents but I will focus on the most recent incidents, and I will explain their relevance to this debate. *The Advertiser*

reported on 20 February this year that youth street gangs are being ordered by bikies to commit increasingly violent crimes in metropolitan Adelaide, with special SAPOL police operations targeting three gangs called Team Revolution, Middle East Boys and Rule the Streets.

This recruiting of youths and youth gangs is a major reason why Family First is sympathetic to this bill. While the young adult children of our families are getting locked up in gaol, the bikies and their presidents and enforcers, and the like, are staying out of gaol and just using their criminal network to recruit more teenagers and young adults to do their dirty work. We need laws such as this to target the big criminals, not the petty criminals; and I think most people would agree with that.

On 24 February in *The Advertiser* there was a report on the alleged facial knife attack in the Adelaide Remand Centre upon the man accused of the suspicious death of 3 year old David Mamo. It is alleged that the boy is a descendant of a Finks motorcycle gang member. Of course, this matter is before the courts but, if proven, let the record show it demonstrates how brazen such acts can be.

On 29 February 2008 shots were fired at the home of a Finks associate on the Gold Coast. The *Gold Coast Bulletin* reported a bikie source saying, tellingly for South Australians, that 'it is Finks in the news again' and that 'it is not going to impress Finks bosses in Adelaide because they have recently told the Gold Coast chapter to cool things down and stay out of pubs and clubs and, most importantly, to stay out of the news.' Indeed, on the same day the *Bulletin* reported that a Finks associate had been found in a Gold Coast house with '5,000 ecstasy tablets downstairs'. This demonstrates the importance of this law working across borders to the full extent of the law, and I urge the government to bring the bill back again if jurisdictional issues are holding up the implementation of these laws. Clearly, relevant criminal associations exist interstate, and it would

be awful if this bill was frustrated because of interstate and jurisdictional problems.

Further, on 2 March this year, the *Sydney Morning Herald* told the story of a woman who tried to open her own tattoo parlour. It was firebombed three times in the first three months by bikie groups trying to protect their monopoly on the tattoo industry. Overnight, on 2 and 3 March 2008, we heard of shootings at Kings Cross that are now being investigated by Operation Ranmore. There is some suggestion of a link between current and former Australian Rugby League players with these incidents; that remains to be seen, of course.

Another persuasive matter reported in the media was that the Director of Public Prosecutions called for laws of this nature on 19 February on ABC News. He said:

‘I think that the terrorism issue, the guns issue and the bikies issues are the sorts of issues that are important enough for us to have a radical look at the way we frame criminal laws. We shouldn't have to wait for people to be caught in the act of committing offences and then charge them or arrest.’ He continues:

‘If it is the association itself that is the cause or at least the source of the criminal conduct, then the association itself ought to be unlawful.’

In closing, I address the combined effect of this mechanism to declare organisations and the appropriate clauses. We must make a stand against activist judges who misunderstand whose job it is to make these laws and whose job it is to pass sentence. When judges seek to interpret the law to meet their own biases and points of view about such things as organised crime or the effectiveness of the prison system, they overstep their mandate and, indeed, overstep the role for which they have been appointed.

When declaring an organisation to be a declared organisation, the Attorney-General is not required to disclose all matters he was aware of when making the declaration. As he points out, that position has been held as a valid law by a High Court decision last month concerning a fortification removal order against the Gypsy Jokers in Western Australia.

In short, this bill will no doubt cause heated debate in the chamber. At the end of the day, such is the risk to the community that, as the DPP has said, serious and quite radical laws are required. Family First is favourable to these laws and looks forward to the committee stage.