

STATUTES AMENDMENT (PUBLIC ORDER OFFENCES) BILL

1 April 2007

The Hon. D.G.E. HOOD: I rise to support the second reading of this bill on behalf of Family First. The bill seeks to amend the Summary Offences Act and the Criminal Law Consolidation Act to introduce new offences of riot, affray and violent disorder.

Some of these offences are not so new and are rather back to the future in some respects. The concept of affray has its origins in British law in the late middle ages and was codified in the English criminal code in the 19th century, which also saw it carried into South Australian law in 1859 and codified, for instance, in the Queensland criminal code in 1899. Whilst Queensland codified its criminal laws out of common law, South Australia did so shortly afterwards and codified or consolidated criminal laws in 1935.

Then, in 1992, clause 1 of schedule 11 was inserted to abolish the common law offences of riot and affray, among others, such as interference with witnesses, bribery of judges and the like. Whilst some of those offences concerning public or judicial office were updated, riot and affray dropped away from the statute book. The debate in 1992 was more about the abuse and threats to public office rather than the offences that are the subject of this bill. When these particular offences were abolished in 1992, it seems the only public excitement was, indeed, not about the public and judicial office offences but about protecting the conduct of religious services, which thankfully was retained in the criminal law.

To explain a little further in respect of what was said in parliament in 1992 about these offences, when introducing the Statutes Amendment and Repeal (Public Offences) Amendment Bill in this very place on 26 November 1991, the Hon. Chris Sumner MLC, the then attorney-general for the then Labor government, said when addressing the provisions to be abolished from the original Criminal

Law Consolidation Act 1859: 'With a few exceptions most of these provisions are anachronistic, inappropriate or ignored in practice.'

The government's stated point of view was that section 29 of the Criminal Law Consolidation Act—that is, acts endangering life or creating serious risk of harm—added some coverage to the area of affray and public disorder, and otherwise the provisions of the Riot Act 1714 were said to be anachronistic provisions repealed because the government felt that police powers to disperse, integrated with loitering provisions, would suffice to prevent riots.

To be even-handed in this, the then shadow attorney-general, the Hon. Trevor Griffin MLC, spoke at length about the offences relating to public or judicial office but said nothing about the abolition of these laws, saying that they were not a 'major matter' to which he wanted to give attention.

Other states have, nonetheless, retained some of these offences. For instance, New South Wales has an affray offence in section 93C of its Crimes Act. Indeed, a recent stabbing, which some members may have heard about via the media, featuring school girls congregating after a school day in western Sydney, has seen one 19 year old woman and a 16 year old girl both to be charged, among other offences, with affray, actually today in the Liverpool Local Court and Campbelltown Children's Court.

This incident also demonstrates the case in point, as the Attorney-General suggested in his second reading, where these laws might be used against people other than the outlaw motorcycle gangs against whom these laws are principally aimed.

I have given a brief historical review of when we lost these laws from our statute book, and I think that despite the passage of some 15 years this bill is not so much adding new laws; instead, I think that South Australian families expect that

South Australian police already have the power to charge people with this kind of violent behaviour, and in many cases they do under other provisions.

Family First is taking a stand for victims of crime in South Australia, and these offences certainly improve things for victims. As the Attorney-General pointed out in his second reading contribution in the other place, victims can be intimidated into refraining from giving evidence against those involved in an affray.

I am also aware of criminal matters where offenders or victims were visiting an area and got involved in a riot, affray or violent disorder and then returned to their normal place of residence. Having to call witnesses from far flung parts of the state, or interstate, is a further obstacle to prosecution which can be ridiculous when one might have sufficient evidence from staff at a venue or closed circuit television footage, for example, to make an offence of riot, affray or violent disorder. These offences will certainly ease the burden on victims whilst also imposing tough penalties for this unacceptable antisocial behaviour.

Family First questions whether these laws ever really deserved to be removed from the South Australian criminal law but, to be fair, I suppose that one can always look back with 100 per cent wisdom in hindsight.

We support strengthening the criminal law to stamp out dangerous and violent behaviour that creates fear and intimidation in the lives of ordinary South Australians. For that reason, we look favourably upon this bill and support the second reading.