

## **FIREARMS (FIREARMS PROHIBITION ORDERS) AMENDMENT BILL 2008**

**2 April 2008**

**The Hon. D.G.E. HOOD:** I rise to indicate that we have a number of questions, as does the Hon. Mr Ridgeway, with respect to this bill. In fact, the Hon. Mr Ridgeway pre-empted a lot of what I am about to say. We have similar questions and concerns that we would like to have addressed by the minister in the summing-up stage, but I will proceed with some of the specifics.

The bill introduces firearms prohibition orders into South Australia, giving police the power to ban certain persons, and their associates, from possessing or accessing firearms. Family First will wholly support any efforts made to combat outlaw bikie club-related crime, but legislation must be written in such a way that legitimate users of firearms (such as sporting shooters and farmers) are not unfairly treated.

Unfortunately, this bill makes several sweeping generalisations in its changes to current law, with legitimate users of firearms lumped in with those who use firearms for criminal purposes. That should not be the case, and for that reason there are aspects which Family First, at this stage, will oppose in the committee stage unless amendments are presented to alter the bill as it stands.

The plain fact is that outlaw bikie gangs operate (as the term suggests) outside of the law, and the firearms that they possess are often illegal firearms. Further regulation on the activity of owning a firearm will therefore disproportionately impact the law-abiding members of the community who operate within the law. The problem is that, if the law is introduced to regulate the use of firearms, the only people who will obey that law are people who are law-abiding citizens. Ironically, they are not those to whom such laws are directed.

Recent Australian Institute of Criminology data, in a report entitled 'Firearms Theft in Australia 2005-06', notes that 198 guns were stolen in South Australia in the 12 months to June 2006: approximately 100 rifles, about 65 shot guns and 15 hand guns. Police recovered only 3 per cent of those weapons. These weapons cannot be regulated. These are the weapons that are winding up in the hands of outlaw bikie gangs and other criminal elements. They are not ending up in the hands of sporting shooters, legitimate farmers or others who have legitimate reasons to hold a firearm.

If we examine the New South Wales situation, they made a very heavy-handed response to the 1984 Bandidos clash with the Comancheros, the so-called Milperra bikie massacre, which of course was a tragic and horrendous event occurring on the outskirts of Sydney. The clash at the Viking Tavern in Milperra is said by some to have started the recent history of bikie violence in Australia.

This first clash occurred at a swap meet at the British Motorcycle Club, which was also attended by members of the public. One of the groups was ambushed, with their leaders targeted. A rifle, a shot gun and a semi-automatic rifle were used in the skirmish, along with knives, bats, chains, machetes and other weapons.

Sadly, seven people were killed and 15 were hospitalised, including many innocent members of the public. Most tragically, an innocent 15 year old girl was caught in the crossfire. As a consequence, the Labor government of the day outlawed completely the possession of certain firearms. Subsequently, the New South Wales Labor Party suffered its worst electoral loss in 50 years. When its leader, Barrie Unsworth, resigned, he said: I must accept the major proportion of the blame for the defeat, particularly in terms of my decision on the gun issue. Certainly, in Barry Unsworth's view, it was a significant reason for his government's demise.

The incoming premier, Nick Greiner, revoked the ban. He noted that the ban 'was clearly unenforceable and made criminals of decent law-abiding citizens'. That sort of explains some of our concerns with this bill.

Indeed, I wonder whether this bill will do exactly the same thing. I wonder whether bikie groups will continue to operate outside of the law and these laws will impact only those honest and decent members of the community who try their best to comply with the increasing number of rules and regulations that continually seem to impact on their law-abiding practices.

Since Milperra, we have had the McDonald's and Hoddle Street massacres in 1987. The same year saw the Queen Street shootings on 20 August, with Hungerford a week later. The year 1991 saw the Strathfield Plaza shootings, and we had the 1994 Nuriootpa siege and the Dublana Primary School massacre in March 1996. On 28 April 1996, tragically, 35 people were killed and 25 people were injured in the horrific Port Arthur incident. (As an aside, I was actually at that site the day after that incident and witnessed the scene very shortly after the incident happened, and I can assure members that it was horrific.)

Since then we have had the Victor Chang shooting in 1991, the tragic Columbine massacre in 1999, the Monash shootings in 2002, as well as bikie shootings on the Gold Coast, Football Park, Wright Street and recently the Tonic Nightclub. That has been capped off in very recent times by the Virginia Tech massacre, the worst in US history, with 30 dead.

The point I am making here is that, if my information is correct (and I believe it is correct), the only one of those Australian incidents that involved a registered gun owner and gun club member was Huan Ziang, who was responsible for the Monash shootings—and, by the way, he also had mental illness problems. I note that the current bill will allow medical and mental health checks on gun owners

about whom police have concerns. That is completely appropriate and a measure that Family First would definitely support.

The point I am making here is that all of those tragic events I have just listed were initiated and perpetrated by people acting outside of the law. By and large (and when I say 'by and large' I mean almost completely) those operating within the law are not responsible for such events.

The main cause of bikie violence is drugs and the underworld system that revolves around their sale. South Australia still has lax drug laws, despite the laws which were passed today and which we commend. I again refer the chamber's attention to the low penalties imposed for the cultivation of cannabis in this state. It is no wonder that South Australia has been named by some as the cannabis capital of Australia. Our penalties are completely out of step with those imposed interstate in this regard. It is no wonder that bikie groups continue to cultivate cannabis in South Australia, knowing that in many cases, if caught they will only receive a maximum fine of \$500 if they claim personal use which, of course, many of them do.

Any efforts to combat bikie-related crime, such as this bill, must focus on drug penalties and their activities. I quote from a press release in the name of the Premier dated 12 March 2006, shortly before the last election. It states: If re-elected, Labor will also:

- create a specific offence of cultivating cannabis hydroponically;
- make the possession of firearms in conjunction with drug offences an aggravating feature of the drug offence, attracting higher penalties.

'I'm fed up with the mass production of high-strength cannabis that damages too many South Australian lives,' says Premier Rann. 'Drug use is central to crime, and it needs to be nipped in the bud, literally.'

I prepared this speech just this morning, and yesterday I was going to raise this matter as a negative. The proposed legislation announced by the Attorney-General today will go part way to meeting those election commitments, and I congratulate the government on that announcement and assure it of Family First's support subject to the details of the legislation once we see it.

I believe that strong drug laws such as the ones announced today will be most effective in attacking the income source of bkie groups. They will hurt these outlaws much more than the laws before us today, which most significantly impact sporting shooters, farmers and other people who have a legitimate need to use firearms.

The aim of this legislation before us today—and I thank Chief Inspector Les Buckley for his briefing and his assurances—is to, first, focus on the person's behaviour as opposed to the firearm; secondly, focus on criminals or people who are of risk to the community versus legitimate firearm owners; and, finally, to institute preventative and disruption powers.

I have little doubt about the chief inspector's capabilities and his assurances that he does not intend to target legitimate gun owners. In fact, I found him to be a very useful contact, and certainly a very competent individual. However, the government's difficulty is that legitimate owners are not convinced about the merits of this bill. Indeed, the Combined Shooters and Firearms Council complained that they were to be consulted on the proposed amendments but that the true consultation never took place, in their words. That is indeed quite concerning as this is a body that promotes shooting sports, collecting and responsible firearms use, and represents the interests of member firearm clubs and associations throughout South Australia. I have met representatives from the group and, in a recent letter from them, they note:

'SAPOL have previously and continuously stated that they will not target lawful firearms owners but are after the bikies and the criminal element. Such assurances have proven worthless. SAPOL have not honoured their verbal undertakings. Firearms owners generally have no confidence or faith in the SAPOL firearms branch assurances.'

This is a very concerning statement indeed. They have a number of legitimate concerns which are shared by Family First, and some of their concerns are similar to those outlined by the Hon. Mr Ridgway.

The first concern is that the registrar is given too much power. A great deal of power rests with one individual with respect to the fact that he or she—currently it is a he—can make the ultimate decision as to who is a fit and proper person. Secondly, the definition of 'fit and proper', based on a person's reputation, is too broad and subjective. Again, as I mentioned, it comes down to the registrar's interpretation of that matter. Thirdly, rewriting the law to target those who may have been found guilty without conviction for a very minor offence is unfair.

I think the point raised by the shooting lobby group to Family First is very valid; that is, previous to this bill, it has been the case that, whilst people have been found guilty of very minor offences, no conviction has been recorded. This bill will change that and make it that a conviction will automatically be recorded. Fourthly, the review committee, as the consultative committee, loses far too much power to the registrar—again, going back to the first point I made: the registrar becomes very important, and it is quite subjective. Finally, there are also concerns regarding the review of cancellation of licences and time required for the commencement of proceedings.

In my discussions with Rob Lowe, I understand that several of their previous concerns regarding the manufacturing of firearms have now been addressed. Industry representatives have been concerned that people who legitimately

modify a firearm—again, as mentioned by the Hon. Mr Ridgway—may be caught by that provision. In particular, firearms used for competition and field use are regularly rebuilt by their owners to give better performance. I understand that the rewritten section 27(3) satisfies many of those concerns. As the Hon. Mr Ridgway mentioned, sights sometimes need to be adjusted because of the wind and what not. So, those sorts of minor modifications surely should not suggest a breach of the legislation. Again, as the Hon. Mr Ridgway said—which is the example I was going to use as well—when somebody saws off a shot gun, that is a major modification which cannot easily be reversed, and that is something that I think the legislation should legitimately address.

Last year, I wrote to the Minister for Police regarding a number of concerns that Family First had with this measure, and I thank the minister for addressing some of those concerns in the final version of this bill. However, Family First still has a number of concerns, there are the concerns that have been raised by the combined shooters, and we will certainly raise those matters during the committee stage.