

SERIOUS AND ORGANISED CRIME (CONTROL) BILL – Feb 13, 2008

Adjourned debate on second reading (resumed on motion).

Mr PEDERICK (Hammond) (20:23): The vast majority of South Australian citizens are decent law-abiding people who observe the laws of the land and respect others as individuals with a right to freedom of action and opinion. That vast majority of South Australian citizens abhor the activities of lawless gangs who trample on the rights and freedom of others, seemingly without challenge.

We all expect our laws to be rigorous enough to demand reasonable standards of public behaviour in the community and law enforcement agencies to be able to maintain those standards. I applaud the government's intent to give police more power to deal with the criminal elements in our community, but these changes throw the weight of responsibility for identification and judgment of others onto the general public who will be in fear of losing their own freedom if they get it wrong.

In its attempt to beef up existing laws, it has the potential to further divide our communities and cause innocent, well-meaning people to be tarred with the misguided sweep of a very broad brush. There are many clubs, not necessarily motorcycle clubs, whose mission it is to reach out to others in the community who are considering changing their ways, people who perhaps fell into a life of crime and now wish to climb out of it. Are these people to be damned for their efforts and found guilty by association? Keep in mind that police will not need to prove that there was any illegal or dishonest intent in that association no matter what form it took. Half a dozen telephone accounts prove association and will suffice to issue an order.

We have condemned the old French system of justice for years—guilty until proven innocent—but at least it provided the opportunity to prove innocence. In this bill there is no recourse and no right of appeal; the mud will stick. Members of legitimate motorcycle clubs statewide have indicated to me their unhappiness and concern with this change. One senior motorcycle rider made the point that not all coloured bike riders—that is, members of identifiable bikie groups—are bad guys. Many of them, for their own reasons, seek to contribute to the honest endeavours of other groups and to assist the less fortunate in our community. Participation in events such as the annual toy run and the ANZAC Day ride offer opportunities for exchange of ideas and values.

There are members of clubs who already have a criminal record and who seek to assist others to reform their criminal ways. Are they to be denied membership and their honest endeavours lost to the community? Anonymous tip-offs, though well intended, can cause upset to the activities of law-abiding citizens. One motorcycle club member described to me the time a club run into the Adelaide Hills was challenged by the sudden appearance of the Crime Gangs Investigation Unit asking for a 'please explain'. This was in response to a call from a member of the public who had rung the police to report bikies in the streets. Police advised the ride captain to give them prior notice of a club run. As he said, it is not always possible for this to happen as many rides or destinations are spontaneous.

Motorcycle riders I have contacted express concern that these laws infringe their rights to freedom of movement and freedom of association. I believe that the judiciary is also unhappy with the apparent lack of normal legal processes to ensure fairness and accountability in the system. Yes, we need to do something about the lawlessness and harm caused to everyday life by the uncontrolled activities of gangs: no fair-minded person would disagree with that. But let us target the illegal activities and those who perform them. Let us identify the symptoms and infrastructure of their activities and look to break down their culture through sensible laws that protect the rights of the broader community, rather than deprive the community of the very liberties we seek to defend.

I wish to share the example of a friend of mine who owns a Harley-Davidson Soft Tail. He works on the oilfields in New Guinea and rides around on this Harley with a couple of friends when he comes back to Adelaide on leave. What is going to happen to him? He is a harmless person just going on a weekend ride when he is back here in Adelaide.

The legislation is on the right track but it will have to be carefully enacted to make sure that law-abiding citizens are not caught up in it, because many people could unknowingly associate with a member or members of a declared organisation.