



MOTORCYCLE RIDERS ASSOCIATION OF QUEENSLAND

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Serious and Organised Crime Legislation Amendment Bill 2016
Inquiry Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4001

Dear Committee Members

The Motorcycle Riders Association of Queensland Inc.(MRAQ) wishes to make submission on the review of the Serious and Organised Crime Legislation Amendment Bill 2016, and matters that have resulted from previous legislation aimed at the control of serious and organised crime.

Position Clarification

The association wishes it to be known that it views the control and or elimination of serious and organised crime as a worthy and justifiable goal for all levels of Government, Law Enforcement and the Judicial system, however, it considers the means of achieving this goal is one that needs to be extremely carefully considered and implemented so as to maintain the rights and liberties that are held to be a cornerstone of the Australian legal system.

The association's interest in these matters has been generated by events arising out of previous legislation that has had unjustified adverse effect on members of the public and, or, the association that was and is not in keeping with the principles of "equality before the law" and "innocent until proven guilty," as well as other commonly held beliefs and understandings of how a fair and unbiased legal system should work.

Previous Legislation and Resultant Events

Two pieces of previous legislation have been enacted in the recent past and still stand as current legislation. In 2009 the government of the time enacted legislation that sort to add extra strength to the fight against organised crime, however, this legislation centred mainly on an attempt to control only one small easily identifiable group, based on their mode of powered transport without any real approach to the whole issue of organised crime. The legislation did at least contain the need for any classifying of any particular group to be overseen by judicial input, although containing elements that allowed evidence to be introduced during the process that offended the principle of being allowed to respond to an accuser.

The 2009 legislation was later overridden in 2013 by a new government with even more oppressive legislation which not only allowed the use of untested evidence,

but sort by executive order to classify persons or groups of persons, as having less rights than the general population, and to be subject to additional penalty for just being identified as part of, or associated with, any of the executively ordered groups. Additionally, the later legislative changes contained provisions for the removal of a person's means of earning a lawful income by authorities other than by judicial review and by reliance on untested secret evidence.

On the day that news broke that the latter legislation was to be introduced the MRAQ was contacted by the then Attorney General to assure the association that they would not have any effect on its members or on anyone that was not solely the target of the proposed law changes.

This assurance proved to be wholly untrue and unsustainable with the Attorney General and others involved with the enforcement of the laws having to admit that others could or would be affected with this being the result.

Under the 2013 legislation and by events resulting from its implementation persons have been extremely adversely effected by having unstainable charges brought against them with the result of either or both unjustified financial or freedom penalties being resultant from misinterpretation or misuse of the laws.

From the evidence that has resulted from the implementation of the 2013 laws, the MRAQ holds that laws that are critically flawed by the potential to be misunderstood or misused, and that they remove the commonly believed human rights that should be maintained under law, and hence must be removed and any laws with similar faults should not be legislated or implemented.

Implied rights

Without any defined bill of rights the people of Queensland must rely on the clear understanding as inferred by common law that certain rights are given and are the cornerstone of how any legislation should and will be drafted. The evidence for such belief is clearly defined in the *Queensland Government Legislative Handbook* amongst numerous other texts on the matter and particularly in section 7.0 *Fundamental Legislative Principles*, and more succinctly, 7.2 *The Rights and Liberties of Individuals*. Although ways of avoiding the recommendations are suggested in this document the principles as stated should be the prime basis for drafting legislation and ways of avoiding the intent must be resisted.

The principles of “innocent until proven guilty”, “all equal before the law”, “the right to test evidence” and “the right to have use of one's property” seem to be continually being either eroded or blatantly ignored in recent pieces of legislation, all of which brings into severe focus the moral and ethical responsibilities of those that seek to do so.

To not equally apply all of the principles is bound to result in a less than equitable and fair end with a high chance that at some time innocent persons will be adversely affected.

The fight for the moral high ground

The drafting of laws that effect the rights and liberties of individuals should not be allowed to become a political battle for the preserved moral high ground, with the resultant ignoring of those fundamental rights for the vision of being seen to be tougher on an issue that the other side of the political game.

When the clear focus of an issue is clouded by actions that could be viewed as attempts at political gain there should be major concern that the result may not correctly reflect the original intent.

The way forward

The MRAQ makes request of the committee to fully consider the items in the proposed Bill and to test them against the rights and liberties of individuals, and if they do not clearly uphold the principles or can offend the principles, then a recommendation for the removal or alteration of such section must be made.

More precisely, the Association request that the committee consider references in the proposed legislation(s) that can be associated with the following as offending the principles of natural justice and requests that they should be revised and or removed as they may have adverse effects on innocent parties.

- The use of untested/secret evidence
- The reversal of onus of proof
- The right to use personal property
- The right to not self-incriminate
- The right to go about one's legal business without interference.

The MRAQ trusts that this submission will assist the committee in coming to a fair and just position and make recommendations that correctly represent the rule of law.

Signed for the Motorcycle Riders Association of Queensland Inc. by

Christopher Mearns
President