



Speech by

Robert Messenger

MEMBER FOR BURNETT

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CRIMINAL CODE (ORGANISED CRIMINAL GROUPS) AMENDMENT BILL

Mr MESSENGER (Burnett—NPA) (8.24 pm), in reply: At the outset might I say how disappointed I am that the minister for police and corrective services, my opposite number, has decided not to speak to this legislation. I also note that only two members of the government chose to speak to this very important legislation. I would like to speak firstly on the issue of organised crime and its impact on Queensland which gave rise to the introduction of this bill, the Criminal Code (Organised Criminal Groups) Amendment Bill 2007. We have been out there. We have been listening. It would be a positive step forward for Queensland tonight if we pass this bill.

This bill is unapologetically tough on gang crime whether by unruly mobs or by organised criminals. Before this debate concludes I will address some of the comments made by honourable members. The bill does not propose to make membership of a gang a criminal offence. Quite simply, the bill is all about checks and balances. It is not about identifying who is a card-carrying member of a gang and proving beyond reasonable doubt that the offender is a gang member. Rather, the bill is about identifying organised and ongoing criminal activity in the name of a gang and punishing people accordingly.

The organised crime market in Queensland, according to the Crime and Misconduct Commission in its crime bulletin dated September 2004, has grown substantially since 1999. Not only have organised crime groups become more networked, participating in an increased number of crime markets, but alarmingly the network boundaries are blurring, with organised crime networks having a hand in a large number of networks of crime. The CMC makes the very clear point that organised criminal bikie gangs continue to have significant involvement in organised crime in Queensland. The CMC makes the point that outlaw motorcycle gangs are becoming more sophisticated.

The bill is about providing law-abiding citizens of Queensland the best and most extensive protection against organised crime groups and gangs. Every week we hear about organised crime groups and their insidious involvement in the illegal drug trade across Queensland—the same illegal drugs that are killing our state's young people. It appears that many people on the other side of the House do not really care about that. This bill attacks the root of organised crime in Queensland by smashing the groups' membership. That lays a simple message out there and that is, if you participate in an organised criminal group knowing that your participation in some way contributes to the criminal activities of the group regardless of whether you actually commit an offence, then you will go down with the rest of your criminal gang mates. Anyone who stands in this House and fails to support this bill is putting a big smile on the face of organised criminal gangs and their members. Those members should hang their heads in shame. This law is yet another tool in the police arsenal to tackle organised crime and is very much about getting to the root of the disease—that is, organised crime—and its deadly results in the Queensland landscape.

I want to move on briefly to examine where similar laws to what have been proposed and debated here today exist in other jurisdictions. The New Zealand Labour Party introduced a very similar law into the New Zealand parliament in 2002. Those laws received bipartisan support. In 2006 the New South Wales Labor Party introduced a very similar law in direct response to gang violence during the Cronulla riots.

The South Australian Labor government is also developing a similar law with both the Premier and the Attorney-General calling for such a law. The federal justice minister has also called for an antigang organised crime law. These new criminal organisation offences are aimed at people who are active participants in groups whose primary activities and objectives are serious criminal activity. Just because they also engage in non-criminal activities as well, such as surfing or riding motorbikes, does not absolve them from being organised criminal groups. I want to quote the New South Wales Assistant Commissioner of Police, Nick Kaldas, former commander of the Gang Squad. He makes the very pertinent point that just because bikies deliver teddy bears to children's hospitals once a year does not mean that they are not criminals the other 364 days.

In responding to the Scrutiny of Legislation Committee's response to the organised criminal groups private member's bill, I would like to say that I am very deeply disappointed in the committee and this Labor government for not seeking formal input about the bill from the Queensland Police Service—the people who know about organised crime and how to fight it—and also the Crime and Misconduct Commission. This deliberate ignoring of two major stakeholders in the fight against organised crime shows the total arrogance and lack of forward thinking. 'Participation' has been left to the general definition and understanding so as to capture any form of participation, the key element being that the participation must contribute to the occurrence of any criminal activity. Participation alone is not an offence and I would like members opposite to note 545A 1(b). It is participation that in some way contributes to criminal activity. In the explanatory notes examples of participation are given from direct involvement through the operation of a business front through to passive participation being the presence of a person whilst an offence is being committed by another group member.

The reference by the committee to the tired old example of the charity bike runs is precisely why such criminal groups have to be able to be infiltrated and their operations in Queensland grounded. The fact remains that those members who participate in charity bike runs who have no knowledge of or do not have some form of contributing participation in criminal activity have nothing to worry about and are not guilty of an offence against this section. It would be for the prosecution to prove that a person was a member of a group, that they knew it was an organised criminal group that has as one of its objectives criminal activity and that their participation in the broad sense contributes to that criminal activity. In short, if one is joining a group make sure that it is not an organised criminal group.

At point 16 the point is made that the definition of organised crime used by the Crime and Misconduct Act and the Police Powers and Responsibilities Act varies from that used by the bill. The changes proposed were because it was felt that the use of the indictable seven-year offences was limiting and it was found that organised criminal groups have been involved in stealing and related crimes that would not have been captured under the existing definitions. Most recent examples include reports of organised criminal shoplifting gangs. Once again the general meaning of 'material benefit' was to ensure as broad a scope as possible as to what could be gained through material benefit. The very purpose of this bill is to ensure that persons such as group leaders and persons who have been able to avoid prosecution under current legislation yet have enjoyed the material benefit of an organised criminal group's criminal activity will be guilty of an offence against this new section. The committee refers to the broad sense of the meaning as negative, but this is very much a positive for law enforcement and also a positive for the good citizens of Queensland. This bill is not criminal friendly. The way it has been drafted is deliberate in that purpose. To imply otherwise would be a submission to criminal groups and an acceptance of their heinous activities.

In responding to point 22, the example provided in point 21 is false and misleading. Once again the committee has missed the key element of the offence and that is the person's participation must contribute to the occurrence of any criminal activity. Once again, if a person is not committing a crime or not contributing to anyone committing a crime, then they have nothing to worry about. For example, person A would not be guilty of an offence because his participation in no way contributed to the criminal activity. In adding to the example used, yes, persons C and D would be guilty. Their presence would render them guilty and again this bill makes no apologies. The intent of this bill is to suppress organised criminal groups and any person who participates and contributes to the criminal activities of such a group.

In responding to point 27, it is noted that the committee response is poorly written and itself does not make any sense—

The committee notes that the proposed offence provision references in the definition of organised criminal group to terms of imprisonment for particular offences is not 'creates' and the references do not appear to be offences in the Queensland Criminal Code.

This statement uses poor pronunciation and the second and third line do not make any sense. It would be impossible to respond to this disjointed statement.

In responding to point 32, the drafting of this section took into account a number of factors and it was felt that the definition of 'serious violent offence' under the Penalties and Sentences Act was limited and was specifically for a sentencing purpose. The definition of 'serious violent offender' for the purposes of

criminal activity defined under the proposed section 545A is applicable to this offence. There is nowhere in legislative drafting that requires an exact alignment with any other legislation.

In responding to point 36, I draw to the attention of the committee and the House the fact that organised crime is a global phenomenon. It is suggested that the committee consult the CMC and numerous other submissions to the Australian Joint Parliamentary Committee on Organised Crime. Numerous law enforcement agencies point to the global effect of organised crime and how members can contribute to crime from any place in the world, as pointed out through the committee's examples.

This new offence means that persons operating as part of an organised crime group in Queensland could actively participate in the group and contribute to criminal activities in other states which would render them guilty. This is the very purpose of the bill given that organised crime knows no borders.

I thank the members who did contribute to the debate. The Attorney-General said that the bill was ill-conceived and unnecessary and that there was a risk that the law would drive organised crime underground. As the member for Moggill pointed out, and I will have to point out as well, it is organised crime and it is already underground. In relation to the speech writer who came up with that startling point, the wheel is spinning but the hamster is dead.

The member for Moggill, the Leader of the Liberals and Deputy Leader of the Coalition, made the point that Queensland law enforcement agencies operate with their hands tied behind their back. He said that this bill was a common-sense measure to combat organised crime. He also made the very telling point that we must take a hard line or innocent people will suffer. We should pass this legislation which protects ordinary Queenslanders.

The member for Surfers Paradise gave an historical context to the debate and noted that Sir Samuel Griffith wrote the Criminal Code in 1899 when there were 72 members of parliament. He talked about how Brisbane has more crime gangs than Chicago. He also noted that chapters of all major bikie gangs are on the Gold Coast. He drew the attention of the House to the ballroom blitz on the Gold Coast where bikie gang members conducted shoot-outs. He also made the point that this legislation in no way impacts on the freedom of association.

The member for Surfers Paradise also said that there are high levels of collusion between outlaw motorcycle gangs and that that fact is becoming more and more apparent in Queensland. He also made a point about the Australian Crime Commission and said that organised gangs were trying to legitimise their illegal activities. He said it was necessary for us to take a tough stand.

The member for Southport just got it wrong. He talked about removing tattoos. He does not know how the police would prove criminal activities. There are such things as surveillance tapes and police surveillance, with both covert and overt operations. There are things called tape recorders and video cameras. He could not understand why I wanted this legislation about organised criminal activity. I say to the member for Southport: the lights are flashing, the boom gates are down but the train ain't coming.

The member for Gregory indicated that we must deter organised crime. He said that if we had this law earlier it may have stopped the tragedy of the Bali Nine. He indicated that the laws also worked in the USA and he offered the government a bipartisan solution to cleaning up the undesirables in the community—the pimps and the bikies. He pointed out that if members opposite voted for the legislation it would help stop organised crime in the electorates of members.

The member for Caloundra made a very impassioned speech. He recognised the difficulty of defining organised crime. He also mentioned the point that organised criminals were focused solely on profit for themselves at the expense of everyone else. He drew our attention to the fact that there was a convention against organised crime in the UN in 2000. He mentioned that RICO legislation was installed in the States targeted at the Mafia, and that Hong Kong and Taiwan had similar legislation which targeted the Triad's activities. He said that New South Wales had taken the step to legislate against organised crime, and that was a very telling point. If the Labor Party in New South Wales has got it right, why don't members of the Labor Party here in Queensland get on the phone and talk to their comrades in New South Wales? This is important legislation that is right now in force in New South Wales.

The member for Caloundra also picked up on the fact that many members opposite think organised crime does not exist. By the apathy expressed here tonight by members opposite, I would have to agree with him on that point. He said there was a changing and evolving nature of organised crime and it is incredible that we have not adopted telephone-tapping powers. That is a very telling point. The CMC has been calling for telephone-tapping powers and the Queensland police has been calling for telephone-tapping powers for over a decade. We do not have them. He indicated that we must show resolve or we will open the doors to more organised crimes. He said that we must take a stand for the future. He made the very telling point as well that the government, by not supporting this bill and in its general workings, is weak on law and order. This is a positive, firm step for this state.

In conclusion, I want to thank all members of the House who will support this bill. I thank them for their support in the fight against organised crime. I think those in the House who have failed to support this bill have put a smile on the face of the Mr Bigs of organised crime. They have no regard to the law-abiding people of Queensland who are victims of organised crime every day. This bill is not going to be the magic bullet and answer to organised crime. It will be yet another tool in the arsenal of the law enforcement officers.

While I am on my feet, I would like to congratulate the Queensland law enforcement officers—the police officers and members of the CMC—for doing a sterling job. Members of the Queensland police force do a magnificent effort protecting property, life and limb.

Mr Lawlor interjected.

Mr MESSENGER: I hear the member for Southport questioning why I should be actually praising Queensland police officers in this House. I find it very disappointing that he would begrudge Queensland police officers receiving praise in this House. They put their lives on the line every day they go to work. Their families are under incredible stress.

In order to effectively fight organised crime, we have got to get it right in this chamber. As a legislator, we must define the very real problem and significant threat facing our community. We have unprecedented levels of ice, methamphetamine and illicit drugs. In Queensland, we have become the ice capital of Australia. The former Premier acknowledged that fact. The statistics from the Australian crime study acknowledged that fact. Over 40 per cent of all the drug labs found are in Queensland, and 44 per cent of all the arrests for methamphetamine happen in Queensland. We know that the ice methamphetamine racket is controlled largely by organised criminals and interconnecting groups of organised criminals.

We must as a legislator define the very real problem and the significant threat facing our community, then we must pose a legislative solution which addresses the basic characteristics of the problem. This tonight is a legislative solution, it is a step towards solving those problems.

When it comes to organised crime, Paul Lunde in his book *Organized Crime* successfully outlined the common characteristics of one of the world's most successful industries. According to Mr Lunde, organised crime has about eight characteristics: its durability over time, the diversified interests, the hierarchical structure, the capital accumulation, the reinvestment of that capital, the use of violence to protect organised criminal interests, the solidarity or loyalty of gang members and the access to political protection.

In closing, I draw the House's attention to the last point—the access to political protection. The inescapable fact is that one of the reasons organised crime is able to take place more easily in Queensland when compared with every other state in Australia is that our law enforcement bodies have been denied access to strong telephone-intercepting powers for more than a decade by a political party. A casual observer must surely ask the question: does organised crime in Queensland have access to political protection? A vote in favour of this legislation by the Queensland Labor Party will go a long way to saying no. A vote against this bill means that the legislative evidence is pointing increasingly towards the sad fact that organised crime in Queensland does have access to political protection and that we have not got it right in this chamber tonight. I support the bill.