Speech by

Steve Wettenhall

MEMBER FOR BARRON RIVER

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CRIMINAL ORGANISATION BILL

Mr WETTENHALL (Barron River—ALP) (5.08 pm): I rise to speak to the Criminal Organisation Bill 2009. I want to begin by talking about the purposes of the bill and reflecting on some of the observations and comments that have been made, particularly by members opposite.

The objects of the bill that appear in clause 3 are—

... to disrupt and restrict the activities of—

(a) organisations involved in serious criminal activity; and

(b) the members and associates of the organisations.

It goes on to say—

(2) It is not the Parliament's intention that powers under this Act be exercised in a way that diminishes the freedom of persons in the State to participate in advocacy, protest, dissent or industrial action.

After listening to some of the contributions made by members opposite during the course of this debate, one could be forgiven for thinking that the object of the bill was to target the Country Women's Association and the vast range of organisations and associations of people in Queensland who go about lawful and legitimate activities. Of course, the bill is not about that. The bill specifically targets organisations that are engaged in serious criminal activity and the associations surrounding that activity which have proven particularly difficult for our law enforcement agencies to crack and restrict because of the codes, rules and the secret way in which those organisations operate, their tools of trade being threats, extortion, intimidation and violence.

It is important to remember the objects of the bill in the course of this debate. This bill, unlike other legislation that has been debated in this parliament and which has come into law in the past sponsored by previous National Party governments, is not targeted at legitimate activity. Is it not strange that we have amongst the members opposite this new-found sense of being the champions of civil liberties in this state. What short memories they must have! Perhaps more accurately, how grossly hypocritical it is for members to wax lyrical about the Magna Carta and civil liberties in this state when those opposite have the reputation and form for using this parliament to pass laws restricting and criminalising the legitimate activities of trade unionists and legitimate environmental protest groups causing people to be charged and imprisoned as they go about their legitimate, lawful activities. That could be no more different than the objects of this particular bill which are targeted at illegitimate, serious criminal activity.

We are advised by all of the people who are involved in law enforcement in this state and elsewhere that they need extra tools in order to crack those organised criminal gangs. That is what this legislation is about. It is not about restricting the legitimate activities of people who are going about their lawful business. People who are involved in associations and organisations whose objects are not serious criminal activity and who do not engage in serious criminal activity have, of course, nothing to fear from this legislation whatsoever.

I find it extraordinary that members opposite, with the history of their political philosophy as exercised in this state passing draconian legislation, have chosen not to support this bill today. We have heard during the course of this debate, as we have heard so often this week in debate about the Integrity Bill and in the motion that was debated in the House last night, yet more attacks on the judiciary in this state. The member for Noosa referred to members of our judiciary as a bunch of lefties, or something like that. That is denigrating the members of our judiciary in an appalling way, designed and calculated to undermine public confidence in our system of justice in this state. Those are appalling and cowardly attacks, especially when one considers that this legislation, unlike other legislation in other jurisdictions, puts our judiciary at the heart of the matters that will be considered. It puts the judiciary in control of whether or not orders are made with respect to associations or individuals. It puts the judiciary at the heart of this act. Attacks on our judiciary, that we have come to expect from members opposite, are calculated to undermine public confidence in our system of law and justice in this state and have nothing whatsoever to do with a proper and considered debate about the features of this bill. But we have come to expect it. We have heard it all week.

The structure and methods of organised crime pose challenges to the traditional process of criminal justice which has in the past been designed to punish proven criminal activity committed by individuals. The long-term disruption of ongoing criminal enterprises may require more than isolated prosecutions of individual members. What we know is that successful prosecutions of members of organised criminal groups have previously been hindered by intimidation and violence towards witnesses and investigators. In my practice as a solicitor prior to coming to this place I saw witnesses who were terrified of giving evidence in court. I met people who had connections, whether voluntary or not, with people involved in organised criminal gangs. It is those people that this bill seeks to add protection to and to make safe.

We know that all sorts of people are attracted to becoming members of associations and organisations whose main purpose, if not their only purpose, is to pursue serious criminal activity. People get drawn into that net, many of them because they are vulnerable. It is precisely for that reason that one aspect of this bill seeks to make it an offence to recruit people into organisations and associations whose main purpose is to pursue serious criminal activity through their tools of trade which are threats, extortion and violence.

The bill will provide a mechanism for Queensland law enforcement authorities to dismantle organised criminal groups that are responsible for some of the worst serious criminal activity in Queensland. It is important that Queensland does have legislation of this type. New South Wales and the Northern Territory have already introduced their own legislation. We have heard a lot about the South Australian legislation, which is very different in character to this bill before the House. What we do know is that, with those jurisdictions introducing those laws, without similar laws in Queensland this state would become a haven for those groups wishing to escape the regimes in other jurisdictions. This government wants none of that. Those people are not welcome in Queensland.

The basis of our scheme is the ability of the Police Commissioner to apply to the Supreme Court for a group to be declared a criminal organisation. Such a declaration will only be made where it is established that the members of the organisation associate for the purpose of engaging in, or conspiring to engage in, serious criminal activity and that the organisation is an unacceptable risk to the safety, welfare or order of the community. That is a very, very high test.

Much has been said in debate and in the media about this legislation. But it contains a number of protections and safeguards that will prevent misuse of the powers contained in the bill to combat organised crime in Queensland. They are considerable powers. Of course we would expect and have welcomed the considerable debate that is centred around the development of this legislation.

One of the features of the bill is the use of criminal intelligence in the applications. The Police Commissioner can apply for certain evidence to be declared criminal intelligence with the result that this evidence will not be available to the defendant in the application. However, the Criminal Organisation Public Interest Monitor will attend all hearings where criminal intelligence is to be considered and used and will make representations in the public interest on the nature of this evidence. That is a very, very important safeguard, and it is a proven model in Queensland—having a Public Interest Monitor to safeguard those public interest considerations.

An informant or operative cannot be called to give evidence in an application. This is to protect the identity of the person and to ensure that they continue to provide the necessary criminal intelligence and information. However, it does restrict the ability of the respondent to test them as a witness. But there is no other way to protect the safety of those persons than by applying that provision, because we know that people who provide that type of information to our law enforcement authorities become targets of the thugs and the gangs who will stop at nothing to stop them giving information to our law enforcement authorities in order that the criminals, the thugs and the gangs can meet justice. They will stop at nothing, including taking life by the most vile and deplorable and violent means.

Before the commissioner may rely on an informant's evidence, however, an affidavit must be provided that contains details of the full criminal history, including any charges pending of the informant or the operative; details of any allegations of professional misconduct made against the informant or the operative; details of any inducement or reward that has been offered or provided to the informant or the operative in return for their assistance; and the grounds for the police officer's honest and reasonable belief that the information provided by the informant or the operative is reliable. The Queensland Police Service has developed a classification system for criminal intelligence which classifies the evidence in accordance with the reliability of the informant and the reliability of the information and whether or not it is corroborated. The commissioner must provide the court with the classification assigned to any criminal intelligence sought to be relied upon.

The police officer who swears the affidavit must be available to the court to give evidence or be cross-examined, if required. The declaration of a group as a criminal organisation is made by the Supreme Court with the assistance of the Criminal Organisation Public Interest Monitor. The declared criminal organisation has a right of appeal to the Court of Appeal. In addition, if the organisation changes the nature of its activity and is no longer engaged in serious criminal activity, it can apply to have the order revoked. A control order can be made against a member of a declared organisation or a person who associates with a member of a declared organisation who engages in, or has engaged in, serious criminal activity and who is associating with another person for the purpose of engaging in, or conspiring to engage in, serious criminal activity. Innocent associations cannot become the subject of action under this bill. Innocent, legitimate lawful activity will never be caught by this bill.

The presence of the COPIM—the Criminal Organisation Public Interest Monitor—in these applications provides assistance to the court as an independent tribunal. Applications for public safety orders are similarly assisted by the COPIM, and anyone against whom such an order is made has a right of appeal to the Court of Appeal.

One of the effects of a control order is that a controlled person is prohibited from possessing certain objects including weapons or other items. The bill requires a person to deliver to the commissioner's custody any item that they are prohibited from possessing within 24 hours of the order being made. There is power in the bill for police officers to enter without a warrant premises occupied by such a person to search for and seize items prohibited by the order. That power itself is subject to scrutiny by the Supreme Court and can only be used once to enter premises of a controlled person. Police cannot keep returning to the premises to search it without a warrant.

This is a very important and significant piece of legislation. It provides police and law enforcement authorities with additional tools to combat organised criminal activity. It prevents members of declared organisations from associating with each other for the purposes and only for the purposes of serious criminal activity. It prohibits members of organised criminal organisations from recruiting new members to the organisation. However, in doing so, it also affords a number of safeguards and protections to ensure that what are necessary and strong powers cannot be used inappropriately against Queenslanders. This legislation seeks to balance the needs of law enforcement agencies with the rights of citizens and, in my view, strikes a proper balance.