




Speech By
Mark Furner

MEMBER FOR FERNY GROVE

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SERIOUS AND ORGANISED CRIME LEGISLATION AMENDMENT BILL

 **Mr FURNER** (Ferry Grove—ALP) (4.02 pm): I rise to commend the Serious and Organised Crime Legislation Amendment Bill 2016 to the House. Firstly, can I say that hindsight is a wonderful thing, and I refer to the chair's foreword in the committee's report. As the chair of the committee I became privy to information that I was unaware of prior to writing the foreword, and I place on record that I regret any inference taken from the comments made relating to Councillor Taylor in the foreword and I regret those comments.

I begin by indicating that there is not enough time to go through this bill in detail. I think the Attorney-General quite competently went through the bill's format and covered every aspect before the chamber. Firstly, I would like to thank all the committee members for the work they did on this hearing. They are excellent committee members; I always enjoy their contributions and their deliberations. I also commend the secretariat, who were so helpful in putting this report together, and the other staff involved in making that happen. In addition I would like to thank all of the witnesses who appeared before the committee at its hearings and the submitters who supplied submissions to the committee.

This bill will deliver a new and comprehensive organised crime regime to tackle organised crime in all its forms. This bill draws on initiatives under the COA and makes crucial enhancements to ensure operational speed and simplicity. It reworks part of the 2013 laws or removes the parts which were excessive, disproportionate or unnecessary and addresses constitutional risks.

This bill essentially fixes the fundamental problems created by the LNP. This bill captures all types of serious and organised crime by casting the net broadly to capture all offenders; conversely, the LNP laws were narrow and captured only three offenders, none of which were outlaw motorcycle club gang members. The LNP laws were as useful as an ashtray on a motorbike. This bill will focus on achieving a legally robust and operationally strong approach to tackling all forms of organised crime.

The changes under this bill are that a person's criminality will be determined by their actual conduct, which is an approach that pursues groups of individual criminals instead of the failed approach of the LNP by going after the organisation itself. The new consorting offence and the new package of measures under the public safety protection order scheme are the centrepiece and will replace the 2013 anti-association offence—section 60A of the Criminal Code—and the clubhouse offence—section 60B of the Criminal Code. The new consorting offence is stronger than recommended by the task force and is modelled on the New South Wales laws, which are constitutionally valid and have been successful in securing 46 actual charges. The consorting offence will only have application to adults and specifically takes into account Aboriginal and Torres Strait Islander norms of kinship.

Unlike the previous LNP government, the Palaszczuk government has put its serious organised crime bill forward for scrutiny through the normal parliamentary process. The committee conducted three hearings: two in Brisbane and one on the Gold Coast. The committee received an oral briefing from the Queensland Police Service and the department on 26 September 2016 with a further QPS oral

briefing provided on the Gold Coast on 4 October 2016. Furthermore, the Palaszczuk government established a commission headed by Mr Michael Byrne QC to inquire into key organised crime threats in Queensland including the illicit drug market and online child sex offending, including the child exploitation material market, and sophisticated financial crimes such as cold-call or boiler room investment frauds.

Our government also committed to review the suite of 2013 legislation which was introduced by the LNP government. The task force was chaired by the Hon. Alan Wilson QC, and its membership consisted of senior representatives from the Queensland Police Service, the Queensland Police Union, the Queensland Police Commissioned Officers' Union of Employees, the Queensland Law Society, the Bar Association of Queensland, the Public Interest Monitor, the Department of Justice and Attorney-General and the Department of the Premier and Cabinet—a broad range of experienced stakeholders who provided this government with preliminary guidance in developing these laws. The Crime and Corruption Commission and the Director of Public Prosecutions were consulted on an overview of the policy proposals under the bill and were provided with extracts of a draft bill.

In relation to consultation on the bill itself, in response to a question from a committee member in a public briefing Commissioner Stewart said—

I have been involved right through, as the head of the organisation, in the consultation that has developed this suite of legislation. The Queensland Police Service was very grateful that we were consulted to the level that we were.

Mr Schmidt, the representative from the Queensland Police Union of Employees, said—

... the union was a member of the task force which reviewed the existing laws and was informed in formulating the report which underlies the current bill. In addition to being on the task force, the union has actively been involved in consultation with the Premier, the Deputy Premier, the police minister and the Attorney over the last six or so months in relation to the present bill.

In response to a question on notice, Ian Leavers, the general president and CEO of the Queensland Police Union of Employees—a highly respected union—responded to this question. The question was—

Whether QPUE agrees the [new] provisions [in the bill before the house] will allow the 26 currently prescribed OMGC club houses to re-open.

It goes to the threshold issue that the member for Mansfield claimed their laws were ironclad with respect to clubhouses reopening. He stated—

The question is flawed ... any of the OMCGs whose clubhouses are presently prescribed places can currently re-open 'new' clubhouses at any time ...

He went on to say—

The existing legislation means that currently OMCGs can keep moving the location of their clubhouse in order to stay ahead ...

He went on further to say—

The new ... proposed laws ... alter this cumbersome process as under the proposed legislation a different, faster, more effective and more dynamic approach is taken in the new introduced bill.

The proposed legislation in the new bill provides police with *additional* statutory tools they do not currently possess under the existing legislation ... officers will be able to instantly respond to emerging trends, including attempts to establish new clubhouses in real time, when they currently cannot.

They went on to say in respect of orders—

... orders will equip officers with the powers necessary to disrupt criminal activity in any 'new' clubhouse, including powers of entry and search without warrant.

...

Additionally, the reintroduction of anti-consorting laws means police will be able to prevent known and suspected members of criminal organisations, not just OMCGs, from contacting or interacting with each other.

The proposed amendments in the new bill will allow police to prevent crimes occurring by disrupting criminal organisations and preventing criminals from engaging in organised illegal endeavours.

It is the QPUE's position the proposed laws will allow for a rapid policing response to any new clubhouses, or any other gathering of people engaging in organised criminal activities, whether or not they are associated with OMCGs ...

This is a vast improvement on the current laws which require an amending regulation to be drafted and proclaimed.

I table that letter from the Queensland Police Union of Employees.

Tabled paper: Letter, dated 1 November 2016, from the General President and CEO, Queensland Police Union of Employees, Mr Ian Leavers, to the Chair of the Legal Affairs and Community Safety Committee, Mr Mark Furner MP, regarding a response to a question taken on notice at the committee's public hearing on the Serious and Organised Crime Legislation Amendment Bill [2052].

The committee also heard from Mr Steele of the Queensland Hotels Association, who said in response to a question from the deputy chair in regard to consultation on the 2013 LNP laws—

... we were heavily involved through consultation in the development of that legislation ...

The committee asked Mr Dunn of the Queensland Law Society whether the previous government had consulted on their laws. He responded—

Certainly there was engagement with the office of the Attorney-General at the particular time but there was not consultation on the package in any way.

The member for Mansfield referred to consultation and spoke about the United Motorcycle Council Queensland. In November 2009, in the second reading debate of the Criminal Organisation Bill Mr Springborg said—

In reaching the decision to oppose this bill, the LNP has consulted with the Queensland Council for Civil Liberties, the Queensland Law Society, the Queensland Bar Association and the Queensland Police Union. We also had a meeting with members of the United Motorcycle Council of Queensland.

I wonder whether he met with Michael Kosenko, the president of the Rebels Motorcycle Club of Queensland, as the committee did at its hearing on the Gold Coast.

I now turn to the banning of colours. The bill does provide for the banning of the visible wearing of OMCG colours beyond the current Liquor Act offences prohibiting the wearing or carrying of defined prohibited items, known as colours, associated with identified OMCGs anywhere in public. During the hearing we heard from Inspector Carroll, who explained in answer to a question from the committee—

A public place under the Summary Offences Act would cover premises like cafes, licensed restaurants as well as public spaces like parks ...

In response to a question from Ms Pease, the commissioner indicated—

I am very grateful that we have in this suite of new legislation a specific piece of law that says that OMCG members cannot wear colours in public ...

With respect to colours, Mr Steele from the QHA indicated—

They have an image which is an image of violence and intimidation ... images of holding guns and knives and things like that, it is quite a reasonable, common-sense approach that there is intimidation of members of the public ...

The banning of colours was also supported by the Gold Coast Mayor, Councillor Tate. Councillor Taylor tabled a letter on his behalf at the hearing. It states—

I know some people have real concerns about the social justice aspect of banning people from wearing certain clothes. But the prominent display of their colours is integral to the gang menace. There is a psychology behind it and it works.

Assistant Commissioner Carless indicated at the hearing on the Gold Coast—

One of the things unique to OMCGs is that they advertise the fact that they are an organised crime group through wearing particular colours.

The bill provides new offences and increased penalties arising from the recommendations of the commission of inquiry into organised crime. Firstly turning to child exploitation material offences, the bill makes amendments to the Criminal Code in response to the proliferation of child exploitation material over the internet and the increased use of technology to promote and distribute child exploitation material as well as to conceal offending, and to address legislative gaps and limitations—for example, the creation of a new offences, each with a maximum penalty of 14 years imprisonment, that will target persons who administer websites used to distribute child exploitation material; encourage the use of, promote or advertise websites used to distribute child exploitation material; and distribute information about how to avoid detection of, or prosecution for, an offence involving child exploitation material.

In respect of drug trafficking, on 30 August 2016 the Premier stated that the maximum penalty for trafficking dangerous drugs will increase from 20 years to 25 years imprisonment. The bill delivers this commitment by increasing the maximum penalty for trafficking in dangerous drugs listed in schedule 2 of the Drugs Misuse Regulation 1987. This means the same penalty will apply for trafficking in all dangerous drugs, given the introduction of a maximum penalty of 25 years imprisonment for trafficking in all dangerous drugs. As can be seen, this bill provides a suite of initiatives and casts the net very broadly to capture all sorts of serious organised crime.

I refer to the question of whether OMCGs are really still around. There has been a lot said about whether the LNP's laws actually worked and about where the bikies had gone. I will relate some of the evidence given to us on the Gold Coast. Assistant Commissioner Codd said—

In talking to members of the community as I do on the Gold Coast, there have been views expressed to me of substantial relief not to be seeing outlaw motorcycle gang members present, and very overtly present, around their suburbs and business premises, particularly in numbers.

He went on to say—

I continue to be concerned by the activities of organised crime groups here on the Gold Coast, including outlaw motorcycle gangs, and I certainly do not think for one moment they have gone away.

This was backed up by evidence from Councillor Taylor. I asked—

Given that you are focusing purely on outlaw motorcycle clubs, do you know how many outlaw motorcycle club members have been convicted under the current laws?

He responded—

No, I do not.

I said—

Zero.

He said—

Okay, zero, but whether they have been convicted or not they are not in town—they do not seem to be in town anyway.

Obviously there is a difference in opinion between the police and professional people like Councillor Taylor, who came along to give evidence at the hearing.

At the public hearing in Brisbane, Associate Professor Lauchs identified that, although all 26 declared organisations have been focused on by the current legislation, it does not prevent new criminal organisations from being established in Queensland. He went to say—

... I was Skyping with the Dutch police last night and they were astounded that Satudarah are allowed to be in Queensland ... and Mongrel Mob are here from New Zealand. Were they to be examined in the same manner as any of the other clubs that are on the list—the other 26—they would actually exceed the criminality of probably at least a third of those 26 clubs.

The current VLAD laws are not working. There are criminal organisations on the Gold Coast still that have not been captured by the failed legislation of the LNP. This demonstrates that the current legislation has not prevented new bikie gangs from entering Queensland communities.

On the question of whether OMCs commit much crime, Associate Professor Lauchs also gave some very interesting expert evidence. He indicated—

If we look at the arrests under Taskforce Maxima, over 90 per cent of the people arrested under Maxima were not participants or members of outlaw motorcycle gangs. The idea that Taskforce Maxima was concentrating exclusively on bikies is untrue. However, if we look at the proportion of the population who are motorcycle club members who have been arrested for serious crime, that would show that the rate that they offend is potentially between 10 per cent to 50 per cent—depending on how you want to calculate the figures—higher than the average person in the community and double the average convicted criminal's rate of serious offending.

I have already touched on consorting, so I now want to reflect on some comments made by those opposite during the second reading debate of the Criminal Organisation Bill in November 2009, in particular the member for Mudgeeraba's contribution which flies in the face of the evidence that Mr Walker provided here today on the effects of the VLAD laws. The member for Mudgeeraba indicated—

If implemented—

that is, the then Labor government laws—

these proposed laws could also apply to churches, sporting clubs and trade unions ...

This is an example of the disingenuousness of those opposite who consistently stand up and attack trade unions, yet in 2009 they were concerned about the effect of those laws on trade unions. Furthermore, the member for Kawana in his contribution indicated—

While the objective clause of this bill states that it is not 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, this bill may just do that.

Once again those opposite come in here talking about unions taking industrial action, but in the *Hansard* in 2009 they were concerned about the rights of people taking industrial action—quite disingenuous. How can they be trusted in formulating and putting laws together with respect to protecting our communities and our vulnerable people when it comes to being tough on crime? Clearly our laws demonstrate that.

In conclusion, I want to make some comments about media reports. There was a lot said during the hearings, both by certain people and particular papers on the Gold Coast. Councillor Taylor had some concerns with respect to the evidence he presented on the Gold Coast. He said this in response to a question from the deputy chair—

I was absolutely disgusted that was even put on the front of the *Gold Coast Bulletin* for a start. Why should it be put on the front of the *Gold Coast Bulletin*? Again, it sent a message not only to Gold Coasters but to the rest of Australia: 'Don't come to the Gold Coast. We are just a pack of criminals up here.' It was the press that did that.

I think the headline in the *Gold Coast Bulletin* was that these bikies run the Gold Coast, but I do not believe that for one moment. The Gold Coast is run by the good men and women of the Queensland Police Service. They protect our society; they look after us. In finalising this point about the media, I was mentioned in a couple of articles and, from memory, the *Gold Coast Bulletin* indicated that this bill will pass through this House with the assistance of the Greens. It is about time those opposite who are

members of the Greens owned up, because there are certainly no Greens on this side! In conclusion, this government has the political will and makes the tough decisions when it comes to crime which demonstrates our commitment to making sure our communities are safe—

(Time expired)