Speech by

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MEMBER FOR SOUTHERN DOWNS

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CRIMINAL ORGANISATION BILL

Mr SPRINGBORG (Southern Downs—LNP) (Deputy Leader of the Opposition) (4.22 pm): I am sorry, the honourable member for Cook was saying something?

Mr O'Brien: I said 'the bikies' friend'.

Mr SPRINGBORG: I would love for the honourable member to point out where the bikies are actually mentioned one single time in the bill that we are debating here today. The Criminal Organisation Bill is not an anti outlaw bikie bill. This bill is not an anti criminal organisation bill. This bill is fundamentally an anti freedom bill. This bill tears apart the foundation of the rule of law, which has guided us and protected the basic rights and liberties—

Government members interjected.

Mr DEPUTY SPEAKER: Order! The member for Southern Downs has the call. I ask members to be quiet so I can hear what he says.

Mr SPRINGBORG: Thank you very much, Mr Deputy Speaker. I look forward to honourable members opposite atoning for the desertion of their fundamental ideology and civil libertarian principles as we go through this debate over the next day or so. This bill tears apart the foundation of the rule of law, which has guided us and protected the basic rights and liberties of citizens since King John was forced to cede the absolute power of the crown some 800 years ago.

It is unfathomable and beyond comprehension that we are in parliament today debating a bill which gives absolute power to the state to limit the rights of association of its citizens through a closed court process—a process where the accused and their legal counsel has a limited right to test the evidence against them, let alone see the evidence against them. Yet based on this secret, untested, undisclosed evidence, they will live in a state controlled cocoon of restriction akin to walking around in a personal veil of razor wire. Based on evidence given in secret, an organisation can be declared criminal and a person can be subject to a control or anti-association order for a period of up to two years. This bill is a repugnant attack on the rights and liberties of individuals and will not be supported by the LNP. It should not be supported by the Labor caucus either. How this bill ever got into the parliament, given the plethora of pronounced civil libertarians in the Labor caucus, is quite staggering.

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. What is apparent to us as a consequence of these meetings is that the Bligh government has not even listened to, let alone heard, the concerns of these various organisations. The Bar Association, the Law Society and the Council for Civil Liberties have justifiable and fundamental objections to this bill, including its attack on the freedom of association and the application of a civil standard of proof in what is otherwise a criminal proceeding, and they do not support the low standard of proof required for an organisation to be declared criminal and for control and anti-association orders to be applied to individuals. Surely, if this parliament moves to restrict the liberties of individuals and declares an organisation as criminal, this should only happen in the most open way, with the highest standards of proof being fundamentally enshrined.

The Queensland Police Union is supportive of some aspects of the legislation, such as its antifortification provisions. The LNP is also very supportive of antifortification laws. Antifortification laws should not, however, be part of a bill such as this which is so contaminated by fundamental abuses of natural justice as to make it absolutely unsupportable. The Queensland Police Union is also supportive of provisions that allow for the identification of criminal organisations. However, it expressed less enthusiasm for control orders, as it knows that monitoring of such individuals is very challenging, requiring significant resources and oversight. The inevitable failure of control orders can be evidenced by the failure of this government to ensure the reporting provisions applied to the state's increasing number of declared paedophiles. Even the Bligh government is now proposing to reduce the reporting requirements for these paedophiles because the government cannot properly watch them. But that is the subject of an upcoming debate in this House.

In the course of my discussions with the Bar Association, the Law Society and the Queensland Police Union, there seemed to be a unanimous view that tracking the money trail and confiscating the proceeds of crime is the most effective way to deal with organised crime. These laws, generally known as RICO laws, had their genesis in the USA and have proved most effective at getting at the source of the illegal money which drove, in particular, the Mafia. They have also been very effective in Australia, particularly in Western Australia and the Northern Territory.

Only this morning, I launched a draft exposure bill that will do just that. Under the LNP's proposed laws, declared drug traffickers will automatically have their assets confiscated. Elsewhere, a reverse onus of proof would be placed on individuals to prove unexplained wealth, and if they cannot it will be confiscated by the state. These people would be subject to the oversight and support of the Public Interest Monitor—something this government is not prepared to do in a proper way with this repugnant piece of legislation before the parliament today. Later I will outline in more detail the importance of identifying and confiscating the proceeds of crime as the best way of tackling organised crime. If the Bligh government were serious about combating organised crime, it would use the plethora of current laws in Queensland that could ensure the identification and prosecution of organised criminals, but the Bligh government has pressure sores from sitting on its hands for so long.

Other than identifying the money trail, the next most effective way to attack organised crime is criminal intelligence and, in particular, telephone interception powers. The tools to do the job are there, but they are locked away in the toolbox. It is like fighting with one hand tied behind your back. After 11 years of denial and arguing against telephone interception powers, the Bligh government has only just been dragged to supporting them. However, in the ultimate act of spite, this government has strangled them at birth by not properly resourcing them. Neither the CMC nor the Queensland Police Service has been given independent resources to properly set up a functioning telephone interception regime. Subsequently, the Premier is still the pin-up girl of Queensland's organised criminal groups because her laws are no effective threat to them.

Queensland's law enforcement authorities also have the power to gather effective criminal intelligence by planting listening devices under the watch of the Public Interest Monitor. Task Force Hydra, the anti-outlaw motorcycle gang arm of the Queensland Police Service, has been starved of resources by the Bligh government and exists in little more than name only. The absorption of the Queensland Crime Commission into the then CJC watered down the organised crime-fighting capacity of the combined entity that we now know as the CMC. One has to wonder as to the motivation of the former Beattie government when it killed off the Crime Commission under the guidance of Tim Carmody. The Crime Commission had proven itself very effective as a stand-alone organised crime-fighting body, and its abolition was a dark day for effective organised crime fighting in Queensland.

I repeat: this bill subjugates established, centuries-old principles of natural justice to a closed-door court process in which accused people have little, if any, right to defend themselves against spurious and anonymous allegations. Let us look at some recent examples of where the government and the system have got it horribly wrong. We all remember the case of Dr Mohamed Haneef, who had terrorism allegations made against him leading to the cancellation of his visa and detention without charge. Following intensive pursuit of documents and their discovery by his legal representative, it was found that there were serious errors in fact in the Australian Federal Police case. Haneef was later cleared and his visa reinstated, but it was all far too late and his life was torn asunder.

In the last month we have also witnessed the overturning of the conviction against an Australian pilot for raping a child in Papua New Guinea. In that case the accused person had been prevented from gathering evidence which he could use in his defence to categorically prove his innocence. As a result of this collusion and departure from natural justice and the rule of law by the Australian Federal Police and the Commonwealth Director of Public Prosecutions, this person was convicted in the absence of all of the facts and spent more than two years of a 5½ year prison term in jail. Expect to see a lot more of these miscarriages of justice if the Bligh-Dick anti-freedom of association bill passes through this parliament.

Indeed, I remind honourable members opposite that only a few years ago at the height of the concern after September 11, this parliament debated tough new anti-terrorism mechanisms which would

have seen people identified and held without charge for a particular period. I stood in this place and I expressed very serious concerns about departure from natural justice and about whether those particular laws were actually needed as opposed to wanted. Sometimes we can want something but not necessarily need it and in getting it we can abrogate the fundamental rights and liberties of our citizens. Those people who doubt what I am saying can go back and read the transcript of the debate in this place. This is a position on which I have been very consistent over a number of years in this place.

I have a view that an accused person deserves every reasonable right to defend themselves in a court process. If a person is accused and then charged and convicted of particular crimes, I really do not have much time for them and the consequences thereof. If the crimes are of a heinous nature and they are then locked up, they should be locked up for a long period. If the government is going to seek to subjugate or extinguish the fundamental base rights and liberties and the natural justice rights which have been built up over decades, generations and centuries allowing people to see the evidence against them and to be able to defend themselves, that is a fundamental potential miscarriage of justice. We have to make sure that people have every right to properly defend themselves. If they get through to the other end of the system and their liberties are constrained and they have not had the chance to properly defend themselves, we should not be able to live with ourselves because of that miscarriage of justice. It has to be front-ended very much in favour of natural justice.

Mr Finn: Front-ended?

Mr SPRINGBORG: This bill will not tackle organised crime because this government has had 11 years to do something about organised crime and has done absolutely nothing. I note that the member for Yeerongpilly was a part of that government that sat mute and impotent for years and did absolutely nothing in response to the concerns of the Queensland Crime Commission and the Queensland Police Service and what they put forward, in particular, in Project Krystal—and I will come to that in a little while.

Recently the Australian Parliamentary Joint Committee on the Australian Crime Commission looked into legislative arrangements to outlaw serious and organised crime groups. Its report said—

Although this inquiry initially focussed on the effectiveness of association-type offences to prevent organised crime groups from committing criminal offences, the committee heard repeatedly, from almost every law enforcement agency with which it met, that one of the most effective ways of preventing organised crime is by 'following the money trail'.

Australian Crime Commission representative, Mr Kitson, said to the committee—

... organised crime is for the most part about profit. They are not generally about a better quality of firearm or a better quality of drug. Perhaps there is something of that in there but by and large it is about the balance sheet for them. Our focus then is not necessarily about the predicate activities or even some of the individuals involved in it, but recognising that, wherever the criminal activity takes place and whatever crimes are involved in it, if we can take away the profit benefit then we are having more impact than we would through any number of—and I hesitate to use this term—minor charges. If we drive at what is the profit motive here, I think we will be more successful in unpicking and deterring—and perhaps even in the crime prevention area.

Does this bill before the House deal in any way with strengthening the ability of our law enforcement organisations to get to the money or assets of major criminals and organised crime groups? The answer is no, it does not. The purpose of the legislation before the House today has the government claiming that it tackles organised crime by giving the court the power to declare an organisation as criminal and allowing a court to make a control order on certain members of the group. The bill also allows for the making of public safety orders, banning certain members of a criminal organisation from public events as well as making any fortification orders. The bill is divided into 12 distinct parts that deal with different elements of the overall objectives of the bill to combat organised criminal activity.

No public exposure draft was ever put out for community consultation and there was strong opposition from within the Labor Party, indeed, in its own caucus. As I understand it, only recently there was a knock-down, drag-out brawl in the caucus when this bill only narrowly passed with the Premier having to invoke absolute quasi cabinet solidarity utilising the numbers of the parliamentary secretaries. A number of people there, particularly those who have a civil libertarian bent such as the member for Murrumba and the member for Toowoomba North, rallied most extensively against this legislation but to no avail as this Labor Party sold out its principles.

It seems that the Attorney is all too happy to have draft exposure bills for everything about the place with the exception of this bill now before the House. These laws are Labor's last ditch attempt to look tough on crime when it has failed for the last 11 years. What our police and the CMC need are resources to combat organised crime. We need to improve funding and staffing to Task Force Hydra as well as the crimes confiscation unit within the CMC so as to properly tackle organised crime.

I turn specifically to certain aspects of the bill. The cornerstone of the bill is the ability of the Supreme Court to make a declaration that an organisation is a criminal organisation. For such an order to be made, the court must be satisfied that the organisation associates for the purpose of engaging in serious criminal activity and that the organisation is an unacceptable risk to the safety, welfare or order of the community. Once the declaration is made, the court can impose a control order against a person. This can have the effect of restricting certain activities. An order remains in force until it is revoked. A controlled person may

appeal the decision of a court in relation to the granting of a control order, but they can only do this once. A controlled person may apply to have the order revoked after two years.

Control orders fit better with dictatorial regimes in Eastern Europe, South America or even the less democratic nations of South-East Asia. They have little place in a modern democracy like Queensland. The South Australian Supreme Court recently declared that state's so-called anti bikie laws as invalid. In the early 1950s during the anti-Communist sentiment of the day, the Menzies government attempted to ban the Communist Party of Australia. The High Court declared those laws unconstitutional. Under those laws, a member of the Communist Party could repudiate his membership and no longer be subject to the privations of that act. A Communist Party or a former Communist Party member had far more rights under those unconstitutional laws than a person has under the laws we are debating here today.

Under Attorney-General Dick's attack on Queenslanders' right of free association, even if a person has been expelled from an organisation for their criminal behaviour, that person's behaviour and past membership is still considered when an application is made to declare that organisation a criminal organisation. If a person has renounced his membership of a criminal organisation, then that person can still be subject to a control order and of a control order. One of the world's greatest statesmen and practitioners of reconciliation, Nelson Mandela, was offered release from prison if he renounced the ANC's armed struggle against Apartheid. He refused.

Under the Bligh government's laws, active repudiation and renunciation of one's past associations and beliefs do not quarantine an individual from the application of a control order based on those prior associations and/or beliefs. Even the rehabilitation of offenders act, a great and far-sighted legislative initiative of the Bjelke-Petersen government, allowed a person to walk away from their criminal past after the expiry of a period of time, and again this is a piece of legislation which has been watered down, set aside and subjugated more and more year after year after year. Earlier we saw a bill introduced into this place which will again attempt to set aside the provisions of a person to be able to walk away from their criminal past. Under the draconian Dick laws, a person's past will always haunt them even if they have well and truly moved on.

The next part of the bill deals with public safety orders. The Supreme Court may make a public safety order when it is satisfied that the presence of the respondent at particular places poses a serious risk to public safety or security and making such an order would be appropriate in the circumstances.

Mr Watt interjected.

Mr SPRINGBORG: A further addition to the bill is the inclusion of a fortification removal order which the Supreme Court may make upon application. I note that the member for Everton is smirking and giggling. He thinks that it is a wonderful thing and believes that it is fine to have privation in Queensland and does not believe that that is an issue. He is certainly smirking and giggling now about this bill, which fundamentally subjugates and tears apart the rights of natural justice of people who are going to have to try to defend themselves in a court process. That is what it is about.

A government member interjected.

Mr SPRINGBORG: We have the Premier's shoulder parrot over there rabbiting on again. Everything in Queensland is all right according to him. We have the Attorney-General over there who picked up his insight into law and natural justice in Tuvalu. He obviously did not pick it up here in Australia; he did not pick it up here in Queensland. He is happy to throw away the foundations of legal precedent and of natural justice. He is not even prepared to properly take on board the concerns of the likes of the Council for Civil Liberties, the Bar Association, the Law Society and a whole range of people who have raised serious concerns about this. Even former commissioners of the CJC in Queensland have actually described these laws as draconian as well and certainly not a part of the grab bag that many of them want to fight organised criminal activity with in Queensland.

As I was saying, a further addition to the bill is the inclusion of fortification removal orders which the Supreme Court may make upon application when it is satisfied excessive fortification exists at a premises used in connection with serious criminal activity or premises owned or habitually occupied or used by a criminal organisation or a member or associate of a criminal organisation. The court must fix the time or the period within which the fortification must be removed or modified. The bill establishes an enforcement regime for the various orders: one, contravention of a control order or registered corresponding control order, with a maximum penalty of three years for the first offence and five years maximum for latter offences; two, contravention of a public safety order, with a maximum penalty of one year; three, hindering removal of modification or a fortification, with a maximum penalty of five years imprisonment; four, unlawful disclosure of criminal intelligence or information in an informant affidavit, with a maximum penalty of one year's imprisonment; five, two new offences of obtaining or disclosure of secret information about the identity of an informant, both of which are in the Criminal Code and both of which carry a 10-year maximum penalty; six, various changes involving insertion of a circumstance of aggravation, intimidation and violence against potential witnesses and law enforcement investigators.

The major legislative issue arises with the use of what is termed 'secret criminal intelligence evidence'. The bill provides for the use of criminal intelligence in civil proceedings which involve the

withholding of admitted evidence from another party, which raises serious issues about natural justice. The view of the government is that the withholding of criminal intelligence is necessary on the basis that disclosure of such information could reasonably be expected to prejudice a criminal investigation, lead to the identity of a confidential informant or covert police officer, or endanger a person's life or physical safety. This provision is opposed by all legal stakeholders.

The government claims that the bill inserts particular safeguards that are designed to address the significant abrogation of natural justice such as the following: the Supreme Court determines whether certain information should be treated as criminal intelligence and is afforded full discretion in making such a determination. In the event the court declares information criminal intelligence, it is a matter for the courts as to how much weight is placed on such evidence. The bill establishes a Criminal Organisation Public Interest Monitor, otherwise known as a COPIM, who will be present at all hearings under the bill and will have access to all information before the court with the exception of identifying information of informants. The COPIM role will be independent and assist the court in decision making as an impartial participant.

Under the provisions of the bill, an informant will not be called to give evidence at a proceeding. The respondent in each matter will also be denied access to criminal intelligence. The major issue with this part is that the court or the COPIM cannot call an informant or operative for the purpose of testing the veracity of the informant's evidence. Indeed, this COPIM is much weaker than the Public Interest Monitor which was put in place by Russell Cooper in the Borbidge-Sheldon government in consultation with the Council of Civil Liberties, which sought to ensure access to all identifying information when it came to planting of listening devices. Given the serious breach of natural justice and procedural fairness, the bill requires that, where the Commissioner of Police seeks to rely on information provided by an informant or operative as part of the criminal intelligence, an affidavit from the police officer who handles the information from the operative must be filed with the court.

When filing an affidavit, it must contain details of the full criminal history, including charges pending of the informant/operative; details of any allegations of professional misconduct against the informant/operative; details of any inducement or reward that has been offered or provided to the informant/operative in return for their assistance; and the grounds on which a police officer's honest and reasonable belief that the information provided by the informant/operative is reliable. The police officer who swears the affidavit must be available for examination and cross-examination. These provisions are similar to the provisions for a drugs search warrant, where the officer must make such a declaration based on informant information and it is them and not the informant who is answerable to the information provided. The bill makes it clear that the court retains the full discretion to determine what weight to give to any such evidence before it, including informant evidence.

The bill also establishes new provisions within the Bail Act 1980 for the displacement of presumption to bail. A breach of a control order is a serious matter which, according to the bill, warrants requiring the individual to show cause why bail is justified. A breach of a public safety order will require the respondent to show cause as to why bail is justified. Under section 359 of the Criminal Code titled 'Threats', where there is an offence with a circumstance of aggravation that the defendant has threatened a law officer or person helping an enforcement officer, when or because the officer is investigating the activities of a criminal organisation, the defendant will also have to show cause as to why bail is justified.

Let us look at what the former Attorney-General and member for Toowoomba North said on 31 October 2007 about a private member's bill that set out to prosecute people based on their potential association with or knowledge of organised criminal activity, even though those laws proposed a criminal standard of proof and sought to prosecute people in accordance with established rules of natural justice. This is what the member said—

The government opposes this bill as it is ill conceived, unnecessary and aims to extend the basic principles of criminal liability to guilt by association. The fundamental right of freedom of association is potentially eroded by this bill because even innocent participation in an organised criminal group as defined may, in some way, contribute to the occurrence of criminal activity by the group. No specific act or omission by the accused is necessary and no specific criminal act or activity need be contemplated by the accused for the offence to be committed.

The bill will not assist in the investigation of organised criminals who operate in secret with a high degree of technological sophistication. In fact, there is a real risk that such a law would be counterproductive by driving gangs and similar organisations further underground. The only effect of that will be to reduce the flow of information about crime to the police, making it extremely difficult for the police to bring offenders to justice.

...

A one-size-fits-all response is therefore not the answer to this complex problem. In any event, such an approach is unlikely to be effective in targeting organised criminal groups which may operate under the cover of legitimate business enterprises and with a high degree of sophistication. For those reasons, the government will oppose this bill.

And how things change. Two years further on, we have a bill that goes further than that bill even envisaged to a situation where now a civil standard of proof is applied in a court with an alleged criminal activity and a person has little right to be able to fully discover the evidence or information being used against them, a situation where a person can have a control order placed on them, a situation where a person can have an anti-association order placed on them and a situation where an organisation can be directly declared a criminal organisation based on alleged or potential activities—something which that

particular private member's bill could not even envisage with regard to the extent of the abrogation of natural justice and guilt by association and criminalising people's freedom of association.

The Council for Civil Liberties stated its total rejection of this repugnant bill. This is what it said, and it is extensive—

One looks in vain for any research based evidence justifying the concepts underlying this Bill let alone any research based evidence demonstrating that existing Queensland criminal laws and police powers are inadequate to deal with any organised criminal activities of so-called Criminal Organisations generally, or so-called outlaw motorcycle gangs in particular.

It is to be noted that the violent brawling between rival groups of bikies at Sydney Airport which resulted in the death of one man did not come about because of the inadequacy of existing criminal laws in that state. That incident was purely a failure in policing and, more particularly, a failure by the AFP and the New South Wales Police Service to be sufficiently organised and proactive to deal with a situation which, according to flight attendants on the relevant flight from which at least one of the bikie groups was leaving, was already brewing before one of the bikie groups disembarked from the plane.

We see this legislation as being rooted in sheer political opportunism.

The proposed legislation is so radical and far reaching that it should have been subject to the stringent Law Reform Commission's process of an Issues Paper, a Discussion Paper, and then a Final Report.

There is no urgency that justifies the incredibly radical proposals as are contained in this Bill being rushed through parliament without the public policy benefit of the concept being the subject of a rigorous Queensland Law Reform Commission examination.

We make the further introductory point that we are making a submission in respect of this Bill in the hope of ameliorating some of its worst provisions.

Did the government listen to the Council for Civil Liberties? No, it did not. The Council for Civil Liberties went on to state—

It should not be considered that our participation in the consultation draft signifies this Council's agreement with the philosophy behind the Bill.

As ought to be obvious, we are totally opposed to the Bill. It is a Bill of which the former Premier Sir Joh Bjelke-Petersen would have been proud introducing as it does concepts of terrorism law controls in the general criminal law, reviving the much discredited law of consorting and introducing the thoroughly obnoxious concept of secret evidence which effectively cannot be challenged in court.

...

The concept of a serious criminal offence is said to be an indictable offence punishable by at least 7 years imprisonment or an offence against the section of the Criminal Code mentioned in Schedule 1.

As is increasingly the case, the definition of serious criminal activity in the Act is a prostitution of the popular meaning of the word 'serious'. Some of the offences described as serious criminal offences include operating a place for unlawful gaming, possession of a thing used to play an unlawful game, stalking, obtaining goods or credit by false pretence, cheating and impersonation.

These excerpts from the Bill show that yet again in Queensland legislation the term 'serious criminal activity' is so defined downwards in terms of what the public would regard as serious as to result in a complete mangling of the concept.

Most of the offences in the Criminal Code carry a maximum sentence of at least 7 years and accordingly most criminal offences in Queensland are covered in the definition of 'serious criminal offences' in this Bill.

The Council for Civil Liberties states further that the bill—

... provides that a court may make a declaration that a group is a criminal organisation if members of the organisation associate for the purpose of engaging in or conspiring to engage in serious criminal activity and the organisation is an unacceptable risk to the safety, welfare or order of the community.

It follows that, since only one of these descriptive categories has to be met for the organisation to be declared a criminal organisation, an organisation can be so declared if a court finds it is an unacceptable risk to the 'welfare' or 'order' of the community. In this regard it is noted that neither 'order' nor 'welfare' is defined in the act.

Further, contrary to the public imagery the Premier and the Police Minister have engaged in concerning the legislation it is to be noted that for an 'organisation' to be declared a criminal organisation the Act defines 'organisation' to be a group of three or more persons! Part 2 of the Act dealing with criminal organisations provides that a court in deciding whether to label a group of three or more people a criminal organisation must have regard to information 'suggesting' even former members of the group of three or more have been involved in serious criminal activity (defined to include gaming) whether or not this involvement resulted in convictions.

The council says in relation to control orders—

To lift a concept such as a control order from terrorist legislation and insert the concept into the general criminal law of Queensland is obnoxious and objectionable.

When the concept of control orders were introduced into the federal terrorism law post 2001 Australians were given solemn assurances that such a concept would be restricted to terrorism only.

Only a small number of years after the concept of Control Orders was introduced into Australian terrorism related criminal law we now see it lifted from terrorism law where we were promised it would be quarantined and it will be part of the Criminal Organisation Act.

Part 3 provides that a court may make a Control Order in the following circumstances:

- if the court is satisfied (on the balance of probabilities) that the Respondent is, or has been, a member of a criminal organisation.

...

It is ludicrous to pretend that the COPIM is able to play a meaningful role in identifying and bringing to the court's attention excesses or even downright lies of an informant if a COPIM cannot inspect any part of the documents that could (not would) lead to the disclosure of an informant.

One can readily predict that the COPIM will regularly be restricted from inspecting documents on the untested say so of a police officer who is either bringing a criminal intelligence application or a substantive application on the supposed basis that inspecting a particular document merely could lead to the disclosure of an informant.

If the objectionable part 6 division 2 is to proceed at least section 67(4) should be amended to delete the word 'could' and insert the word 'would'.

The Council for Civil Liberties also states that the bill—

... contains a curious and in our view unjustified provision that if a court on a criminal intelligence application is not satisfied information is criminal intelligence, the court must give the commissioner an opportunity to withdraw the application. What the COPIM does in relation to this act is attempt to respectableise a regime of secret evidence and unaccountable informants by involving a new structure called COPIM.

Having COPIM perform this role is a quantum leap from the role which the PIM has heretofore performed in relation to listening device applications or the more recent telephone tap legislation.

We have made our objections to the entire act clear...

Mr Johnson: Where is the JP? Where is the clause for that?

Mr SPRINGBORG: Exactly as the honourable member for Gregory said, and as I indicated earlier on. Telephone interception powers that were introduced grudgingly by this government after 11 years of fighting against them, remonstrating against them, were strangled at birth because of the lack of funding. Again, to quote the Council for Civil Liberties—

We have made our objections to the entire act abundantly clear in this submission and we again assert that the bill should not be introduced into parliament.

There is no demonstrated deficiency in the existing criminal law which justifies the introduction of the act.

The act has been introduced for base reasons of law and order populism as a reaction against the fight between two groups of bikies at Sydney Airport in March of 2009 which was a fundamental failure of policing as opposed to inadequacies in the criminal law.

What did the Scrutiny of Legislation Committee conclude about these laws? The committee was highly critical of this bill. It raised serious issues about almost every element of it. The explanatory notes provide little or no insight into the implications of how these laws will work or why they are being proposed—in particular, the ridiculous bans on post employment. The committee states—

Matters relating to employment have the potential to affect rights and liberties of individuals in the practice of their professions as lawyers, legal representatives and security providers. Clause 90 would prohibit the COPIM (including a past COPIM) from acting as a lawyer for certain organisations or individuals. A failure by a lawyer to comply with these restrictions would be capable of constituting unsatisfactory professional conduct or professional misconduct under the Legal Profession Act 2007.

The bill would prohibit a person who had been a police officer from acting as a legal representative for certain organisations or individuals. A failure by a lawyer to comply with these restrictions would be capable of constituting unsatisfactory professional conduct or professional misconduct under the Legal Profession Act 2007. A failure by a legal representative, other than a lawyer, to comply with these restrictions would be a suitability matter for section 9 of the Legal Profession Act 2007.

The committee also states—

This bill would prohibit a person who was a police officer (including a former police officer) from acting as a security provider under the Security Providers Act 1993 for certain organisations or individuals. A failure by a person to comply with these restrictions would be capable of constituting evidence that the person was not an appropriate person to hold a licence under the Security Providers Act 1993.

It also states that the explanatory notes provide little justification for the restrictions imposed by these clauses, as I indicated. I want to now read into the record the view of two prominent academic criminologists. The first is an article in which Professor Paul Wilson, a criminologist at Bond University, warns the Queensland government against introducing and imposing tough new laws on biker groups in Queensland. The warning follows the Queensland cabinet's decision to approve the preparation of laws based on South Australia and New South Wales antibiker legislation. Again, despite this government trumpeting much about this being anti organised criminal bikie gang laws, not once does it mention in the legislation that it is about them. It is about being anti association. Any organisation, if it triggers a particular set of qualification criteria, can be declared such an organisation. Professor Wilson states—

Alarmingly, as in South Australia and New South Wales, these laws might also lower the criminal burden of proof on bikie gang related crimes from 'beyond a reasonable doubt' to 'on the balance of probabilities'.

The introduction of draconian laws governing demographic groups is a breach of civil liberties and an infringement on the right of all Queenslanders to live in a democratic society.

The Queensland government's proposal to impose tough legislation on bikies sets a dangerous precedent. It opens up the potential for government to arbitrarily apply these criminal association laws to any political opponents or religious groups to whom it takes a dislike.

In a submission given today to the Queensland government, Professor Wilson draws relevant comparisons to Canada, Scandinavia and the United States where laws targeting groups rather than individuals have failed to significantly reduce crime rates, particularly in outlaw motorcycle groups. Professor Wilson warned—

International evidence indicates that laws which criminalise groups as a whole, such as bikies, increase the probability of more public violence from these groups.

...

In Canada, laws that ban outlaw motorcycle gangs and clubs led to the institution of the state coming under attack in 1997 and again in 1998. During a series of riots in Quebec, two prison officers and an innocent bystander were killed, two persons who were believed to be prison officers were seriously injured by automatic pistol fire, and seven bombs were placed under police stations.

...

According to Quebec's Minister for Public Works and Government Services, there have been 85 murders and 92 attempted murders related to Quebec's biker laws since 1992, together with 129 arson attacks and 82 bombings.

According to Professor Wilson, these figures indicate the effectiveness of legislative measures to control outlaw motorcycle gang related crime which, by the admission of the Royal Canadian Police, indicate no change in crime rates post implementation of related legislation. The Hells Angels Quebec, and similar groups in other provinces, were later jailed in 1998 and yet they remained 'Organised Crime—Enemy Number 1' throughout Canada through to March of 2009. Professor Wilson further states—

There is no domestic or international evidence that indicates that the relevant Canadian legislation the Queensland government may model itself on, such as the C95 bill passed in 1997 and more recently the C25 bill passed in 2006, will diminish violent gang related activity or organised crime.

In Australia recent figures issued by the Law Enforcement Assistance Program reveal that gang related violence, including violence generated by street, ethnic and biker groups, represent just 0.6 per cent of all crime with biker gang related violence only amounting to 0.3 per cent of crime in total. Professor Wilson continued—

In deciding how to deal with any type of organised crime, including biker crime, modern democratic governments should not be persuaded by political propaganda or lobbying by interest groups, but rather, by evidence-based research and best practice.

Rigorous investigation of individual offenders and effective crime-prevention schemes should be encouraged.

There is no evidence that supports the effectiveness of tougher laws targeting groups rather than individual criminals.

Dr Andreas Schloenhardt, Associate Professor of the University of Queensland's TC Beirne School of Law, criminologist and researcher, said that the anti-organised crime law proposed by Queensland's Premier and Attorney-General is counterproductive and may make the suppression and prevention of organised crime more difficult. He said that the proposed law attempted to prevent and suppress organised crime, simply by banning unwanted organisations. He stated—

This system is designed to outlaw groups and individuals that are seen as dangerous, violent, or as otherwise constituting a risk to public safety.

He said—

This approach of simply labelling certain groups shares similarities with laws dealing with terrorist organisations in that it creates lists of proscribed organisations and criminalises support of, or other associations, with them.

Dr Schloenhardt said he had concerns about the elements, indicia, standard of proof and other methods proposed to outlaw organisations. He said—

The labelling of an organisation as criminal effectively prohibits the very existence of a group on the basis of conduct in which that group may engage in the future.

He said—

The administrative processes proposed in Queensland lack clarity, consistency, and safeguards, and create a risk of collusion between different branches of government and the judiciary.

There is also concern over the use of classified information in the labelling process which prevents groups from knowing the reasons why they have been banned.

Dr Schloenhardt said that while this approach may be helpful in identifying and labelling some criminal organisations, it was of no use against flexible criminal networks that did not carry a particular name and had no formal organisational structure. He said—

It also creates the risk that outlawed groups will consolidate, move further underground, and engage in more clandestine, more dangerous, and more violent operations.

He said—

This has clearly been the experience in Japan, which has taken a similar approach to Queensland.

Furthermore, other groups may simply resurface under a different name, thus circumventing the legislation altogether.

If we look at the evidence behind these laws that have been tried in other jurisdictions around the world, most notably, as I pointed out, in Canada, they have been an abject failure. The more they have sought to criminalise particular organisations, the more they have strengthened those organisations, the more militant they have made those organisations and the more murder, death and mayhem have been created in those societies.

Let us go back to June 1999, 10½ years ago, when the Queensland Crime Commission and the Queensland Police Service—and I am sure the honourable Minister for Climate Change will remember reading this because it is salient reading that is very relevant today—released *Project Krystal: a strategic assessment of organised crime in Queensland*. That report made certain suggestions about the organised activities of certain groups in Queensland, such as South-East Asian organised crime groups and what they were involved in. At that time they were involved in a range of criminal activities including drug trafficking, illegal gambling, prostitution, extortion, credit card and social security fraud, property offences and money laundering. The report looked at Romanian organised crime groups and identified that they were involved predominantly in drug trafficking, particularly involving heroin but also amphetamines and cannabis, and had associates in Sydney and Melbourne.

The report made some reference to Italian organised crime groups which operated in a most sophisticated way and were involved in activities such as money laundering practices, including the extensive use of cash for purposes such as airfares, motel bookings, hire cars and the purchase of new vehicles, and there was some indication of involvement in cannabis production and distribution. The report went on to talk about Russian organised crime groups and indicated that that was an emerging trend that needed to be dealt with. The report commented on the Columbian cocaine syndicates and how certain South American and United States nationals were involved in the cocaine market in Australia and said that something needed to be done about that. The report made reference to Lebanese and Arabic organised crime groups and the range of criminal activities they were involved in, including drug trafficking, evasion of tobacco excise and money laundering.

The report commented on so-called outlaw motorcycle gangs or OMCGs. These are very important points. The report states—

With few exceptions, a review of significant national and state assessments of the alleged criminal activities of OMCGs indicates that what has, in fact, been brought to light are the criminal activities of individual members of OMCGs rather than the activities of the group as a whole. In other words, the assessments suggest that OMCG memberships include individual criminals and not that OMCGs commit offences as a criminal group.

It indicates that some of those groups do benefit from the involvement, fortuitously or otherwise, of individuals but that that is the case with regard to any particular groups. The report goes on to talk about the limitations of the ethnic/ethos based assessment. It states—

The ethnic/ethos based assessment of organised crime in Australia has led to the association of particular types of criminality with specific identities and/or groups. This has included associating cannabis production with persons of Italian origin, amphetamine production and distribution with persons associated with or members of OMCGs, and heroin distribution with persons of Vietnamese or Romanian origin.

Of course, that is not necessarily exclusive.

Page 66 of the report says it all. That page contains much of what this government has rallied against. If some 10 or 11 years ago this government had followed the recommendations outlined on this page we would have seen effective crackdowns on organised criminal activity in Queensland, the confiscation of a greater amount of proceeds of crime and, indeed, more of these villains in jail. Four recommendations were made. Recommendation 3 states—

That law enforcement agencies seek legislative changes—particularly in the areas of telecommunications interception, civil based recovery of proceeds of crime, and covert operations/witness anonymity—and appropriate resources to support them.

How much of that has this government provided to crime-fighting organisations? Very little! Nowhere did they actually ask for laws that would seek to declare a particular organisation a criminal organisation based on spurious grounds and little intelligence. Nowhere did they suggest the subjugation of natural justice or the abrogation of centuries of the rule of law that an accused individual has the right to be proved to a criminal standard if accused of a criminal offence. They talked about an enhancement of civil confiscation of the proceeds of crime, they talked about telecommunications interception powers, they talked about covert operations and witness anonymity and they talked about appropriate resources to support all of those things. While we have some of those thing, obviously we have very little of what is truly needed.

Also, we need to look at what the Premier said in her maiden speech in this place some 14 years ago. The Premier said—

... politicians must also bear the responsibility that we, as community leaders, have to conduct debates about law and order in a manner which is not calculated to maximise political point scoring. This approach is irresponsible and serves only to maximise community fears. During my time in this House, I will not be indulging in sensational and histrionic debates on law and order which ultimately serve only one purpose—to limit unnecessarily the freedom and opportunities of many vulnerable people in our community.

I would have thought that that was the fundamental basis of our objection today. Oh how the Premier has thrown away those particular views over the last few years!

In conclusion, it is clear that there is no evidence that the laws being put forward by the government will in any way stop organised and serious crime in Queensland. There is no support from the Queensland Law Society, the Queensland Bar Association or the Queensland Council for Civil Liberties and at best

there is limited support from the police. The government has not allowed for any public consultation on this bill. Members of this Labor government do not support this bill. The former Attorney-General, the member for Toowoomba North, does not support this bill. I look forward to him and the member for Murrumba crossing the floor on this bill because I know that they could not possibly support any such legislation and betray their legal profession and core ideology.

This legislation fails in every way to tackle the scourge of organised crime. It does nothing of the sort. It will not stop the flow of money from serious crime into crime groups—the real area that governments should be focused on. It is for these reasons that the LNP could not support such flawed, ineffective legislative spin. This is nothing more than another desperate Labor government, much like the Rees Labor government in New South Wales, scrambling for a headline. The laws were thrown out in South Australia, they have never been used in New South Wales and they should be thrown out here. The LNP has a real plan. Through strong, tough criminal proceeds confiscation laws we will attack crooks where it hurts them most—their pockets. Unlike this government, we have listened to key stakeholders.

Members of the LNP will sleep better tonight knowing that we have fought against this government's draconian laws—laws which extinguish centuries of established natural justice rights which have guaranteed an accused person access to the evidence against them. We will also sleep secure in the knowledge that we fought to maintain the fundamental right of free association. Labor members by contrast should be haunted by the spectre of their bans on free association. Labor members should be condemned to the eternal nightmare which follows their trampling of centuries of established legal rights of every Queensland citizen into the dirt as they are doing today.