

Press Release

No bicycle helmet, no car licence - only in Australia

Lawyer Sue Abbott from Scone in NSW has accused the state government of hypocrisy and victimisation after legislating against the payment of compensation for victims of minor offences but then ordering the suspension of her driver's license for riding a bicycle.

The license suspension, which could threaten Ms Abbott's lifestyle and income, was despite the NSW District Court and the Local Court dismissing her infringements and not convicting her for riding a bicycle without a helmet.

Under the new *Courts and Other Legislation Further Amendment Bill 2011* (NSW) introduced into the NSW Parliament by the government during September, at a date to be proclaimed, a conviction will not include an order made under section 10(1)(a) of the *Crimes (Sentencing Procedure) Act 1999* (NSW) in relation to an offence that is not punishable by imprisonment.

In March 2010, the NSW District Court quashed Ms Abbott's 2009 conviction for cycling without a helmet, finding she had "an honestly held and not unreasonable belief as to the danger associated with the use of a helmet by cyclists".

In July 2011, the Scone & Muswellbrook Local Courts issued a second section 10 (1)(a) dismissal for Ms Abbott's offence of riding a bicycle without a helmet.

Despite this, she soon thereafter received a bill for \$67 to be paid to the Victims Compensation Levy.

As she was simply riding a bicycle, Ms Abbott questions who exactly was the victim in this alleged offence. Appalled by the arbitrary tax nature of the levy, she commenced an active letter writing campaign with Attorney General Greg Smith, did not pay the impost and has subsequently had her driver's license suspended.

The Attorney General has acknowledged in correspondence that "Parliament recently decided that the levy should not apply to charges that are dismissed under s10(1)(a)", yet advised that Ms Abbott would still be required to pay the increased levy as it is "imposed automatically under the law and as such is a debt owed to the Crown".

Ms Abbott received the "Suspension of Driver's Licence Notice" effective from 15 November, 2011 last week, and she believes it says a lot about Australia's definition of justice that the first tactic used to force the hand of the accused is to threaten the removal of car privileges, even when dealing with a bicycle user.

"In reality, they're the ones who are going to miss out on considerable revenue because I probably won't ever renew my licence again, and therefore won't need insurance, petrol, oil, tyres, cars or any other motoring liability that incurs a tax.

"More importantly, the courts have ruled against a conviction for riding a bicycle without a helmet and the government agrees that in those circumstances it is unjust to demand compensation for a victimless crime not punishable by imprisonment.

"Despite this, it still demands payment to the Victims Compensation Levy and suspends what is often an essential driver's license in lieu of payment, thus ensuring the person against whom a conviction has been dismissed under section 10 (1)(a) becomes a victim of injustice."

Ms Abbott has accepted that without her driver's license she will have to travel exclusively by bicycle without a helmet, and she has posted her licence to the Attorney General along with a letter of complaint about the injustice of her punishment under a law repealed by the NSW parliament.

Last week the NSW government had a chance to bill Ms Abbott's daughter, Philippa, for the Victims Compensation after she too received a section 10 dismissal for riding a bicycle without a helmet. But this time there was no Victims Compensation Levy listed in the court penalty notice when it subsequently arrived after completion of Philippa's case.

Victimised and puzzled, Ms Abbott wonders why her matter has been so doggedly pursued by the Attorney General's department - in fact why she was ever billed at all and for the random sum of \$67 when the former amended legislation only ever declared the Victims Compensation Levy to be for the amount of \$64:

"Revenue raising, 'every which way but loose!'" she sighed.

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(Further contact: Sue - +61 418 27 021)