



Legislative Assembly

Young Offenders Amendment Bill

17/08/2000

Hansard

Extract

Second Reading

Mr TINK (Epping) [10.27 a.m.]: I move:

That this bill be now read a second time.

The Young Offenders Amendment Bill will simply reduce the quantity of drugs young offenders can possess in order to be dealt with by a caution under the Young Offenders Act. At the Drug Summit an anomaly was pointed out in terms of when certain drug offences are not able to be dealt with under young offenders legislation and when a caution is not available. The Opposition accepted then, and accepts now, that there is a place for cautioning juveniles when they have a small quantity of drugs in their possession. On reflection, the Opposition does not accept that the Government got it right in terms of the quantity of drugs a young person can possess when the cautioning scheme comes into effect. The Government, or those advising the Government, took the small quantities outlined in the Drug Misuse and Trafficking Act and simply brought those small quantities across to the Young Offenders Act to provide for cautioning when young persons possess that quantity of drugs.

It seems that the Government and its advisers did not get beyond the words "small quantity" in the Drug Misuse and Trafficking Act and simply assumed, without looking at it, that "small quantity" as defined was appropriate to provide for the cautioning of juveniles. The more than 200 drugs listed in the Drug Misuse and Trafficking Act are defined as "small quantity", "trafficable quantity" and "other quantities". A juvenile in possession of a small quantity of drugs, as defined in the Act, is not cautioned. In fact, the quantity of drugs being used by juveniles is enormous. In the *Police Service Weekly* of 21 February, new instructions to police set out the quantities applicable to cautioning as follows, "Heroin, one gram; cannabis leaf, 30 grams; cannabis oil, two grams; cannabis plant, five grams; cannabis resin, five grams; THC, one gram; cocaine, one gram; amphetamine, one gram; LSD, .0008 grams; and MDMA/MDA, .25 grams."

To demonstrate the problem, 30 grams of cannabis leaf provides enough leaf for a high-quality joint for every member of a school class. In practical terms, it is a dealable quantity. The Government has used the definition "small quantity" as the amount a young person can be in possession of and for which he or she can be cautioned. If a student or other person is found outside a school in this State with 30 grams of cannabis leaf, enough for a joint for every student in a class, under the present legislation the police give a caution. Many police are alarmed by the amendments to the legislation. They share the view held by all honourable members on this side of the House—that, in some circumstances, a one-off caution for a first offence by a young person who is in possession of a small quantity of drugs, not as defined in the Drug Act but as commonsense would dictate, is not unreasonable. We are appalled that a person can be given a caution for possession of 30 grams of cannabis leaf, which is enough to supply a classroom of students.

One gram of heroin is worth about \$300, one gram of amphetamine \$100 and one gram of cocaine \$120. The intention of the legislation—and I am sure the intention of the Drug Summit—was to introduce a cautioning system for young people who were found to be in possession of a small personal quantity of drugs. However, current legislation provides, in effect, a cautioning system for juvenile drug dealers. This bill rolls back the quantities so we end up with what was always intended: a quantity of drugs defined for personal use in the possession of a first-time young offender who, given an appropriate ticking off, will not offend again.

This bill is an important one. I ask the Minister and the Government to accept that, although the principle was accepted at the Drug Summit and by virtually every member of this House, we got it wrong on the quantity. We did not intend it to be legislation for juvenile drug dealers; we intended it to apply to one-off young offenders who are in possession of prohibited drugs only for personal use. This amending bill will right the wrong and include a caution for first-time personal use. Juvenile drug dealers have been given a green light as a result of a government mistake. The Government simply imported the definition "small quantity" into the bill without giving it due consideration. The Opposition has rethought the matter and I suggest that the Government should rethink it too.