



Legislative Assembly

Bail Amendment (Confiscation Of Passports) Bill Hansard

Extract

10/08/2000

Second Reading

Mr TINK (Epping) [10.24 a.m.]: I move:

That this bill be now read a second time.

The object of this bill is to amend the Bail Act 1978 so as to require bail granted to persons accused of offences occasioning death to be made subject, except in special circumstances, to conditions requiring the giving up of passports held by them. The particular issue that has given rise to this bill and highlighted the ongoing need for legislation of this type is the case of truck driver Moslek Hanna Mekhael who was involved in a fatal motor vehicle collision in Brookvale several weeks ago in which baby Scott Steele was incinerated in tragic circumstances. I understand that Mr Mekhael was charged with negligent driving occasioning death, which is a very serious charge under our criminal law inasmuch as it carries a maximum 18-month gaol penalty. According to subsequent media reports, more serious matters have come to light in the context of the alleged culpability of this person, and more charges are pending as a result.

The initial charge of negligent driving occasioning death is itself a grave charge. The failure of Mr Mekhael to attend court when required and his presumed absence overseas—I believe he was last heard of in Canada—call for urgent steps to be taken to amend the bail legislation. I commend particularly the honourable member for Wakehurst who was concerned about this issue from day one. He raised the matter with me and the Minister for Police extremely robustly in an effort to ensure that something constructive eventuated from this tragedy in terms of reforming the law. I am happy to propose this amending bill at the suggestion of the honourable member for Wakehurst, who offers his full support and guidance.

The bill proposes to put the onus on any person who appears before the court and is charged with any criminal act occasioning death—including a negligent criminal act, of which there are many—to show why his or her passport should not be confiscated in the event that bail is granted. This legislation is not about removing people's liberty or refusing to grant bail. It seeks to address the fundamental issue of granting bail on the condition that a person's passport is confiscated. Passports are people's tickets out of a jurisdiction. My point, and that of the honourable member for Wakehurst, relates to every person—whether an Australian citizen or a foreign national. I hope that this issue will not become relevant in the coming weeks, but I believe we must put this urgent matter beyond doubt. Any person in this country who commits a crime occasioning death should have to make a case why he or she should retain his or her ticket out of the country. Everyone—Australian citizens and foreign nationals—requires a passport to leave this country legally and in all cases people should have to demonstrate to the court why they are a reasonable risk regarding bail.

That is not to say that all passports will be confiscated: the provision is not mandatory. However, this legislation puts the onus on the accused to demonstrate that he or she is not a flight risk. Many matters, such as a person's reputation here or elsewhere, a person's assets, ties or criminal record both in this country and overseas, must be weighed in the balance. It is for the accused to demonstrate to the court why he or she should be allowed to retain his or her passport. It throws up the retention of a passport—a person's ticket in and out of this country—as a central issue that the court must consider.

The Toula Soravia matter would be relevant in this context, as well as many others. Parliament needs to address this issue and clean it up. I commend the honourable member for Wakehurst for his concern and for his extremely constructive proposal for legislative change—and Parliament has that power—so that something constructive comes from this tragedy in Brookvale. I commend the bill to the House and I commend the honourable member for Wakehurst for suggesting it.