



Legislative Assembly

Crimes (Sentencing Procedure) Amendment (General Sentencing Principles) Bill Hansard

Extract

14/03/2002

Second Reading

Mr TORBAY (Northern Tablelands) [10.02 a.m.]: I move:

That this bill be now read a second time.

There are all sorts of arguments about what is, or seems to be, obscenity and the issue arouses considerable heat and emotion. However, there is a form of obscenity that is much worse than X-rated movies or the use of explicit language in films and television, repellent as those things might be. One of the worst obscenities is a television news picture or newspaper picture of a very old person in a state of shock—blackened eyes, broken nose, pulped mouth, fractured bones and covered in bruises—who has been the helpless victim of a savage and unprovoked attack. Unhappily, this sort of abhorrent crime is on the rise.

An element within the criminal community views old people as fair game. They callously figure out that some old people are feeble, slow moving, confused and frightened, and will offer no resistance to an attacker. They decide, cold-bloodedly and with cruel deliberation, that these people can be attacked and robbed of their possessions and savings, without the slightest risk that the attacker will be injured or fought off in any way. Old bones are brittle and old muscles are weak and injure and bruise easily, which adds to the attraction of this crime for a certain type of gutless creature. Some of the pictures we have seen of seriously injured elderly people suggest, to me at least, that their very helplessness arouses some sort of savage bloodlust in their attackers, who often indulge in a ferocity and duration of attack driven by those feelings.

This type of crime is on the increase. Serious and violent assault against the elderly is common. Whether it is a handbag snatch, a home invasion or a knock down, grab-and-run attack in a shopping centre, often the consequences for the elderly victim are devastating. Apart from any physical injury they may suffer, the loss of a sense of security and confidence, dignity and personal safety is immeasurable. They might have been outgoing, confident, independent members of society before the attack but afterwards they are seldom ever the same. Some might say that in terms of numbers this is not a huge crime. It is not a big statistic in comparison with gun crime, knife crime, general assault, murder or rape. But the incidence of this crime is increasing and its effects are getting worse.

Figures from the New South Wales Bureau of Crime Statistics and Research show that between 1995 and 1999 the incidence of attacks on elderly people almost doubled. For example, in 1995 there were 794 offences, that is, attacks against people aged 65 and over. In 1999 that figure rose to 1,502—almost double. Every day in New South Wales, on average, four elderly people are attacked, bashed, robbed and subjected to hurt and fright from which they never recover. The number of deaths of elderly people resulting from these attacks rose from 15 in 1995 to 20 in 1999. Some may say the numbers are not big in the overall picture of crime and murder. But it is a big increase in incidence, which we must address by increasing penalties that show the community's abhorrence of crime of this type. The genesis of the bill lies in the facts and figures I have presented to the House. The Hon. John Tingle introduced the bill in the Legislative Council. I have pleasure in introducing the bill in this House. It will address an important social and judicial problem, especially in its amended form in which it comes to us from the other place.

Originally this bill proposed a graduated series of penalties rising by a fixed percentage in line with the age of the victim. But in negotiations with the Government it became apparent that it would be possible to apply the bill to crime not just against the elderly but also against the very young, children and babies, those with disabilities and others who are vulnerable to attack and more defenceless against it. By adopting the principles of the Commonwealth sentencing guidelines in an amendment to the bill in the other place, the bill has made exactly that provision. Schedule 1 of the proposed section 21A provides that the severity of the sentence imposed by the court takes into account factors that, amongst other things, include the personal circumstances of the victim, the age of the victim, particularly if very old or very young; any physical or mental disability of the victim; and any vulnerability of the victim arising from the nature of the victim's occupation.

These provisions will make it clear that where a would-be offender deliberately chooses a victim who is vulnerable and defenceless, the court will take that fact into consideration and adjust the sentence upwards accordingly. Surely the very vulnerability of the victims pleads the case for special consideration and a specific approach to deter these crimes. It would be wonderful if we could create some ring of protection around the old, the young and the vulnerable in our midst, and make them safe from attack, but we cannot. I proffer this bill as one small step to deter the potential attacker, to make attacks on vulnerable people less attractive by attaching

seriously increased penalties and spelling out the message loud and clear that we, as a community, do not take these crimes lightly. We want them punished adequately.

It has been suggested in discussions about the bill that an offender cannot necessarily be expected to inquire about the age of potential victims or assess their apparent vulnerability before attacking. The bill will provide some deterrent to any attack on any obviously vulnerable person. I stress that the bill does not introduce mandatory sentencing. It does not take away the other discretion of the court in regard to the final head sentence, nor does it set down sentences in terms of the specific periods of years, months or weeks. As I said, the bill is not complex. But I hope it results in courts taking this type of offence very seriously and, by imposing heavier sentences, at least trying to make these assaults less attractive.

Bleeding hearts who think we ought to be kind to criminals, particularly repeat offenders, will oppose the bill as unnecessary because not many of these types of crimes are committed. However, the majority of the community is not concerned with the welfare of gutless criminals. The bill seeks to protect the vulnerable, the weak and the frightened. That is where our emphasis must remain. The bill is simple, caring and necessary. It is worth a try. The communities in and around the Northern Tablelands have provided enormous feedback that assisted in the development of the bill. I place on record my thanks to the Hon. John Tingle for his leadership in this regard and for the opportunity not only for me but for other members, including the honourable member for Dubbo through his crime prevention committee, to have input into the bill. I commend the bill to the House.