



NSW Legislative Assembly Hansard

Crimes Legislation Amendment (Gangs) Bill

Extract from NSW Legislative Assembly Hansard and Papers Wednesday 30 August 2006.

Second Reading

Mr TONY STEWART (Bankstown—Parliamentary Secretary) [11.38 a.m.], on behalf of Mr Bob Debus: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes Legislation Amendment (Gangs) Bill. Put simply, this bill introduces a raft of reforms to the Crimes Act and other legislation to criminalise gang participation and gang-related activity. The Government has prepared this bill because the citizens of New South Wales deserve the best possible protection against gang violence, thuggery and organised criminal activity. In December last year, Sydneysiders fell victim to unruly, riotous behaviour during the weekend of public disorder in Cronulla and subsequent revenge attacks. Earlier that year, residents and police were attacked during mob violence at Macquarie Fields perpetrated by a brutish few. No-one can forget the horrific shoot-out between rival bikie gangs, the Bandidos and Comancheros, at Milperra on Father's Day in 1984 that left seven dead, one of whom was a 15-year-old girl. These different acts of violence are deplorable. Whether committed by an organised criminal enterprise or an impromptu mob, they should be dealt with swiftly and effectively.

The bill attacks both mobs and organised crime gangs. Its provisions will undermine the very foundations of crime gangs and will further empower police in situations where people form a gang or mob on an ad hoc basis. Before providing the House with details of the bill, I would like to paint a picture of the types of organisations and activities we are trying to prevent. Fortunately, New South Wales cities are not plagued by violent street gangs such as those found in the United States of America. However, criminal organisations do exist. At the highest level, there are well-developed and hierarchical criminal networks such as the Russian mafia and other ethnically based organised crime groups and outlaw motorcycle gangs, known colloquially as bikies. Those organisations terrorise individuals and businesses, run sophisticated drug and firearm trafficking operations, cover their tracks through veiled money laundering operations and make innocent bystanders and businesses their victims.

In recent years, there have also emerged significant crime gangs based on common ethnicity. They include Vietnamese and Chinese gangs with a strong involvement in the drug trade, Pacific Islander groups who are specialists in armed robberies, and criminals of Middle Eastern origin who engage in firearms crime, drug trafficking and car rebirthing. I scarcely need remind the House that the majority of the members of those communities either have no connection at all with such crime groups, or, regrettably, are their victims. Many gangs have nothing to do with ethnicity. They are formed rather on the basis of common interests, for example motor bikes, geographical proximity, or, sadly, social contacts made in the prison system. One thing that links those people together is that they are criminals.

Sydney residents were reminded of the presence of crime gangs during the tit-for-tat shootings over past years. Those cowardly and murderous attacks saw pockets of south-western Sydney suburbs terrorised night after night. Unfortunately, my electorate of Bankstown was focused on significantly during that period. Hence, the changes in the bill are very important to my constituents. The Cronulla riots and revenge attacks also showed that violent gangs can be formed quickly and on an ad hoc basis. The vile behaviour of those gangs made headlines throughout the world as violence, racial abuse, bullying and assaults found their way into peoples' front yards, shops and cars.

The bill recognises that crimes committed by gangs, whether they be crimes of violence, revenge attacks, systematic property damage, organised motor vehicle theft, protection rackets, armed robberies or the drug and gun trade, are a far greater threat to the safety and wellbeing of the community than most crimes committed by individuals acting alone. The bill attacks the foundations of two very different types of gangs. It deals with both organised criminal groups and impromptu groups of violent individuals or mobs. The two types of gangs are dealt with separately in the bill.

Schedule 1 to the bill amends the Crimes Act 1900. Item [1] inserts a definition of "public disorder" to mean a riot or other civil disturbance that gives rise to serious risk to public safety, whether at a single location or resulting from a series of incidents in the same or different locations. Items [3] and [7] make it clear that offences involving assault against police and other law enforcement officers include throwing missiles at them. Items [5] and [6] increase the penalties by two years for assaulting a police officer, assaulting a police officer occasioning actual bodily harm and maliciously wounding a police officer. Items [8] and [9] increase from two years to five years the maximum penalty for offences involving obtaining personal information about law enforcement officers or members of their families.

Item [10] increases the penalty by two years for firing at a house or building. Item [11] creates new offences relating to participation in criminal groups and recruiting persons to assist in criminal activity. Items [12], [13], [14] and [15] create new aggravated offences in relation to various crimes involving assault or damage to property where the assault or damage occurred during a public disorder, with a two-year increase in maximum penalties. Item [18] extends the limitation period for bringing proceedings for the offence of consorting from six months to 12 months.

Schedule 2 to the bill amends the Law Enforcement (Powers and Responsibilities) Act. Item [1] gives police further powers with respect to entry and search of crime premises by removing alarms, surveillance devices and the like, as well as blocking drains and pacifying guard dogs. Item [3] gives police further powers to disperse groups during public disorders. Item [5] gives police the power to obtain a court order to remove unnecessary fortifications to crime gang premises. Schedule 3 to the bill makes consequential amendments to other Acts, including the Crimes (Sentencing Procedure) Act 1999, the Criminal Procedure Act 1986 and the Local Courts Act 1984.

The organised crime offences relate to active participation in an ongoing criminal enterprise. The mob offences relate to crimes taking place during a public disorder involving assaults on law enforcement officers or attacks on property. First, let me explain how the bill tackles organised criminal groups. The bill creates a new offence of participating in or assisting in a criminal organisation. The bill defines a criminal group as being a group of three or more people who seek to gain material benefit from serious criminal offences which attract penalties of five years imprisonment or more, or who commit serious violence offences that are punishable by life imprisonment or 10 years or more. These conditions apply also to those who engage in conduct of that nature outside of New South Wales.

As can be seen, the threshold used to define an organised criminal group is quite high. This means that three kids spraying graffiti on a billboard could not be classified as an organised criminal group, but a 10-person car rebirthing operation would be. The proposed legislation does not make membership of a criminal organisation an offence per se, nor does it make every transaction with a criminal organisation an offence. A person can be a member of a gang and not a criminal participant. Similarly, a person can be a participant without being a member. For example, someone may be a member of Hell's Angels but may be largely removed from any criminal activity performed by that organisation. In the same way, a garage mechanic specialising in motorcycle maintenance ought not to be penalised for fixing Comancheros' bikes.

However, persons who participate in a criminal group knowing that it is a criminal group and knowing or reckless to the fact that their actions contribute to criminal activity, may face five years imprisonment. That offence targets a range of activities and people who work with criminal organisations, and obviously some of them will be members. They will wear the colours and have the tattoos. Others will wear tailored suits and appear to be the pinnacle of respectability. The offence targets those hiding in the background of a criminal enterprise and those who facilitate organised criminal activity. They may be accountants, bookkeepers, executives, or even lawyers who fudge records, launder money, construct sham corporate structures and hide assets. It also targets the front men.

These are the so-called cleanskins, people with no criminal record who give criminals a legal front behind which to commit their crimes and minimise the risk of detection by law enforcement. They may be licensed hoteliers, real estate agents, smash repairers, pharmacists or public officials, who, in various ways, aid and abet ongoing criminal activity. And, of course, the bill targets the heavies—the people who actively commit ongoing criminal acts: the drug runners, the gun traffickers, the car rebirthers, the armed robbers and the standover men. Beatings, stabbings, shooting of rivals or witnesses who stand in their way, and destruction of property—these are the stock in trade of organised criminal groups.

If crimes of violence towards people or property, actual or threatened, are committed on behalf of a criminal organisation, then the penalty is doubled to 10 years. I stress that the assault or property damage must be committed as a way of furthering the gang's criminal activities. So a gang member who thumps his mate in a pub over a personal disagreement would probably not commit the offence, but if he hits a barman who threatened to report the gang's drug dealing, then he would be part of that organised gang activity. If an organised crime gang member assaults a law enforcement officer to further the gang's criminal activity, he or she faces up to 14 years imprisonment. The bill also introduces a new offence, with a maximum penalty of seven years imprisonment, of recruiting another person—not a child—to commit a crime. While it is already an offence to incite a person to commit a crime, recruiting someone into crime is a different activity. It is less about the crime itself than about corrupting a potential member and drawing him or her into a criminal gang.

New provisions in the Law Enforcement (Powers and Responsibilities) Act 2002 will allow the Commissioner of Police to apply to the Local Court to have an order granted that directs the removal or modification of fortifications at named premises. This will mean that fortified gang headquarters set up, for example, by outlaw motorcycle gangs will no longer be out of range from police. With these new powers police will be able to break down criminal strongholds. These are premises designed to hide the manufacture of illicit drugs, stolen goods,

equipment used in identity theft, or guns and other weapons. Sometimes they are even used to dispense brutal rough justice on gang members who have transgressed the gang's rules. New search warrant powers for criminal gang premises enhance existing police powers. Police will now be able to disable alarms, cameras or surveillance devices, pacify guard dogs and prevent criminals from destroying evidence by blocking drains or the like. These powers will only be needed to execute search warrants on well-protected crime gang premises. They will not become a routine procedure for police.

The bill also targets persons involved in less organised gang activities, such as the rioters at Cronulla and those who took part in revenge attacks. I note that the honourable member for Cronulla is in the House. A new section of the Law Enforcement (Powers and Responsibilities) Act 2002 will give police the power to order people to disperse from a nominated area. Failure to comply will incur a penalty of up to \$5,500. This provision is designed to diffuse volatile situations in circumstances of public disorder. This power only becomes available if a lockdown has been declared. A dispersal order can only apply to locations within the area where the lockdown is in place. For example, people congregating on a beachfront or in a town square may be directed to leave those areas.

We ask a lot of our police. We ask them to put themselves potentially in harm's way every day they go to work to protect the public, but that does not give angry mobs a licence to attack them. This bill protects police and other law enforcement officials from becoming victims of gang brutality. Police and other law enforcement officers deserve the full support of the Government in the difficult task of ridding our streets of these low lives. Of course, police officers expect to take knocks in the course of their duties. But we should draw the line at an organised crime gang member assaulting a law enforcement officer to benefit gang criminal activity, and we will not tolerate mobs attacking police during a public disorder. It is totally unacceptable for mafia-type heavies to scrounge together personal information about law enforcement officers and their families to harm and intimidate them. Our police and other law enforcement officers commit their working lives to protect citizens of this State and this House should back any law that offers further protection to police.

The bill increases to seven years the penalty for anyone who, during public disorder assaults, throws missiles at, stalks, harasses, or intimidates a police officer in the execution of his or her duty. If the police officer suffers actual bodily harm, the penalty increases to nine years and if, heaven forbid, a police officer is maliciously wounded or suffers grievous bodily harm during public disorder, the offender faces 14 years in prison. We are also increasing to five years the penalty for snooping on the private affairs of law enforcement officers and their families with the intention of causing them harm. I am sure all members of the House share my disgust at the systematic destruction carried out by the revenge attackers in the wake of the Cronulla riot. Perhaps even worse are the incidents of rival gangs of thugs attacking each other's houses and those of their families and even engaging in drive-by shootings.

The bill increases the maximum penalty for a variety of offences involving damage and destruction of property during public disorder. These range from seven years for malicious damage to 16 years for firing at dwelling house or other buildings. Setting fire to premises with the intention to injure will now earn up to 16 years in gaol. We have ramped up the penalties for gang crimes, we have given police tough new powers, we have introduced Australia's first criminal organisation offences and we have given police and their families the protection they deserve. Crime gangs are on notice. Whether you are a violent mob or an ongoing criminal enterprise, the police are coming after you. I commend the bill to the House.