

LW  
KG  
310

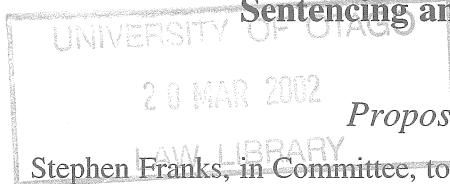
No 253

# House of Representatives

## Supplementary Order Paper

Tuesday, 19 March 2002

### Sentencing and Parole Reform Bill



#### *Proposed amendments*

Stephen Franks, in Committee, to move the following amendments:

#### *Clause 8*

To insert, after paragraph (i), the following paragraph:

- (j) must take into account the requirement to deter other people from offending, and, in particular,—
  - (i) offences intended to incite or facilitate other offences; and
  - (ii) offences intended to intimidate or unlawfully coerce people other than the immediate victim.

#### *Clause 9*

To omit paragraph (ga) from subclause (1).

### Explanatory note

ACT considers that the Labour/Alliance/Green hate crime provision as proposed is unprincipled. It breaches our constitutional assurance of equality before the law, by establishing certain privileged classes of New Zealander. It could require, for example, that the law value an innocent woman murdered for her purse, less than it does a gang member, murdered in a fight between rival race supremacist gangs.

ACT's amendment focuses instead on what should have been the true concern of the law, namely using victims as examples, or hostages, or objects on which to vent hatred actually directed at any group or class. It should cover bullying at one end of the scale, through to terrorism at the other. Courts must be empowered to stamp hard on group violence, with a signal that it will not be tolerated. The Bill does not otherwise include deterrence of others as a sentencing principle.

Non-violent expression of political or religious or racial or sex animosities must remain lawful in a free society, but the law should not foster consciousness of such differences. Instead the current hate crime provision in clause 9 could aggravate identity consciousness. It gives the bodies of some people more sanctity, a higher price than others. That is a consequence both of its placement in clause 9 (which requires a focus on the particular offender and particular victim) and of the drafting of the clause. It is the wrong provision in the wrong place.

The amendment remedies the lack of express power for a judge to sentence with a view to deterring others, supplementing the principles in clause 8 presently confined to the needs of the individual offender, the risks of reoffending, and the assessment of the case relative to others.

Accordingly the proposed new clause 8(j) allows the courts to hand down example deterrent sentences. No aggressor should feel that a lack of deterrent sentencing power represents tacit support from the State for unlawful acts of hostility toward minority groups.

---