SENTENCE INDICATION — PILOT SCHEME

Since January 1993 a pilot "Sentence Indication" scheme has been in operation at the Parramatta District Court; it has also been conducted at the District Court at the Downing Centre in Sydney since June 1993.

Although similar schemes operate in some Canadian and American jurisdictions it is essentially unique and has no counterpart in other Australian States or Territories.

Persons committed for trial to the New South Wales District Court are required to appear for arraignment shortly after their committal by the Magistrate. The objective of this appearance is to inform the court of the accused's intentions; whether a plea of guilty or not guilty is proposed; in the event of a trial, its expected length, the availability of witnesses and the like. It is at or about the time of arraignment that it is appropriate for an accused to apply for a sentence indication; the accused seeks to know, in the event of a plea of guilty being entered, what sentence would be imposed.

The sentence indication hearing is in open court, although the court may order that there be no publication tending to identify the accused. The Crown tenders a summary of the facts, details of the accused's criminal history, if any, and any other matters relevant to sentence. In the case of an indictment containing multiple charges, the Crown states which pleas it would accept to discharge the indictment. The accused may call or tender any evidence in mitigation; in some cases the accused may himself give evidence.

The court, in the light of all the evidence, then indicates a specific penalty which it would impose in the event of a plea of guilty. The accused then has the opportunity of accepting or rejecting the indication; if accepted the accused then pleads guilty and the Crown and the accused may call further evidence if they wish. In some cases the court may reduce the indicated penalty in the light of further evidence called by the accused, after plea. On the other hand the court may conclude on the full hearing after plea that the indicated sentence was too light and a more severe one appropriate; in this event the accused may withdraw the plea.

If the accused rejects the indication or withdraws the plea any further proceedings must come before another judge who is not apprised of the request for an indictment or the sentence offered. The accused may, of course, enter a plea of guilty before another judge in the ordinary way.

The experience at Parramatta has been that approximately one third of accuseds arraigned during the trial period have sought an indication of sentence and a substantial number of these have accepted the offer.

The scheme has substantial advantages for the efficient administration of justice by encouraging early pleas, thus avoiding the expense and time spent in mounting a trial. The accused has the advantage by an early plea of a maximum discount on sentence, short of that appropriate to a plea entered before the magistrate.

It is impossible to analyse the class of persons seeking a sentence indication. It is appropriate of course to those who are and recognise themselves to be guilty of the

offence charged. In that class, some prefer to take their chance that a "not guilty" verdict will be returned; others are content to put off the evil day. The scheme, on the other hand, has attractions for those anxious to know their ultimate fate.

As outlined some accused elect to themselves give evidence on a sentence indication hearing. In this event their privilege against self incrimination continues in the event of cross examination by counsel for the Crown.

The scheme is an important innovation in the criminal justice system as administered in the District Court of New South Wales.

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