Speech by

Grace Grace

MEMBER FOR BRISBANE CENTRAL

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CRIMINAL CODE (SERIOUS ASSAULTS ON POLICE AND PARTICULAR OTHER PERSONS) AMENDMENT BILL

Ms GRACE (Brisbane Central—ALP) (8.36 pm): I rise to speak on the Criminal Code (Serious Assaults on Police and Particular Other Persons) Amendment Bill 2010, which was introduced into the House by the member for Southern Downs and Deputy Leader of the Opposition, shadow Attorney-General, shadow minister for trade and shadow minister for industrial relations.

This bill purports to introduce a mandatory minimum three-month period of imprisonment for anyone convicted of serious assaults against police or public officers—who are ambulance officers, fire and rescue officers or rural fire officers—where the assault involves biting, spitting or throwing bodily fluid or faeces at an officer or actual bodily harm to the officer.

I would like to say at the outset that I will be opposing the bill. I agree with the member for Springwood. In opposing the bill, I would like to indicate that I have the utmost respect for the work carried out by our hardworking police officers and other public servants who come into regular contact with the public. I believe that all workers should be treated with respect and should not be subjected to serious assaults whilst carrying out their duties. In fact, I have spent most of my working life fighting for the rights of these officers and improving their health and safety at work.

While complete removal of these hazards from such work undertaken by police officers or paramedics cannot be achieved, I believe that a combination of proper training and penalties for such offences must be in place, as they currently do exist in Queensland. To hear those opposite, one would think that there is absolutely no penalty for people who assault police officers. This government has made a commitment to the safety of its front-line officers that is unparalleled by that of any previous government.

In 2006 we amended the Criminal Code to clarify that section 340 of the code, which related to serious assaults, applied in circumstances where the assault was committed by a person biting, spitting or throwing bodily fluid or faeces at a police officer. So they already exist. Then in 2008 we further amended the section to provide that it applied to all front-line public officers—all of them—including fire and ambulance officers, child safety workers, who would be neglected under the proposed bill; teachers who work in state government schools or others, who would be neglected under this bill; and doctors and nurses who work in our public hospitals. We cover the whole gamut. This means that people convicted of this offence are liable to a maximum penalty of seven years imprisonment compared with three years for common assault. If that does not send a clear message, I do not know what does. It really is quite ridiculous for those opposite to suggest that a penalty like that does not send a clear message to the community.

This is the way that this government signals to the judiciary that the expectation is that persons convicted of this offence should receive a harsher penalty than those convicted of just common assault. This is the proper way to do things—not the way of the opposition. But instead of adopting the normal processes accepted within the criminal justice system, the opposition decides to introduce a bill that takes

away the discretion of the sentencing judge or magistrate and instead imposes a mandatory minimum term of imprisonment.

However, as pointed out in the Robertson O'Gorman submission to the Scrutiny of Legislation Committee, of which I am a member, a simple Google search would have revealed that in Western Australia—a lot of members opposite have raised the issue of Western Australia—where a similar minimum sentence regime was introduced, the first person to be charged under that regime for spitting at a police officer was a mentally disordered person. Do we really want to have legislation that imprisons someone who has a mental disability? It is not the serious assault that the member for Toowoomba South was talking about. Those opposite are talking about somebody with a mental disability being imprisoned for three months. Lord help us if one of those persons happened to be a child or a relative of ours. Let me tell members, I would not want them to go to jail for three months because a judge who sentenced them had no option but to do it. It is ridiculous and those opposite know it. It makes no sense whatsoever.

The member for Hinchinbrook came in here espousing all these cases but he did not say what the sentence was for those who perpetrated the crime. Not for one second did he tell us what happened to the perpetrators. Do members know why he did not say that? Because it did not suit his argument. That is why he did not say it.

The member for Aspley talked about thugs who assault police and get away with it. No such cases have existed. Those opposite come in here with fabricated evidence. They have absolutely no evidence whatsoever. They make these blanket statements and do not back them up at any point whatsoever.

Much has been written by noted jurists and academics about the merits or otherwise of mandatory sentencing. Mandatory sentences remove the ability of the sentencing judge to give proper consideration to all the relevant facts of any given case. I agree with the member for Springwood that all relevant cases should be considered. It is absolutely imperative that we do that; otherwise, what we end up with is somebody who could be slightly intoxicated, have a mental disability or have a personality disorder being put into jail for a minimal action that may not have been typical of that person in society. What we do is throw them in jail for three months. It could have been the only thing they have ever done in their lives. This is ridiculous and those opposite know it.

I recall last year when this House debated the Criminal Organisation Bill. In the chase for votes—oh, my goodness—those opposite supported everything. Members opposite suddenly declared themselves to be civil libertarians. The member for Southern Downs in his speech on that bill quoted the Queensland Council for Civil Liberties on at least 10 occasions. The member for Buderim lamented that the bill curtailed the individual rights and civil liberties of members of organisations caught by the bill. The member for Indooroopilly was concerned about the bill dangerously infringing civil liberties. The member for Glass House and the member for Gaven also quoted the president of the Queensland Council for Civil Liberties.

I was intrigued to note that they did not quote well-known civil libertarian Terry O'Gorman during the course of tonight's debate. Mr O'Gorman made a submission to the Scrutiny of Legislation Committee on this bill. I wonder which members opposite quoted his observation in that submission. None of them did. He stated—

This particular Bill neatly reflects criticism of the mindlessness of politicians in exploiting law and order issues for electoral gain.

That is what those opposite are doing. In his submission he also states—

There is no attempt in the explanatory memorandum to analyse the extent to which there have been appeals against perceived inadequate sentences for serious assault against police officers. The failure to produce such materials reflects what is known to be the reality by practising criminal lawyers namely that spitting on Police Officers almost inevitably brings a jail sentence.

That is why the member for Hinchinbrook did not say what happened to people in the case he quoted. He did not want to do it because it did not suit him. In fact, the Court of Appeal in R v King established a sentencing principle that most people who spit on police officers should expect to serve a term of actual imprisonment. It is already there. Those opposite are wasting this parliament's time with their grandstanding and pretence of being tough on crime.

The bill that the opposition has brought before the House is fundamentally flawed. It purports to solve a problem that evidence suggests does not exist—namely, lenient sentences for persons who seriously assault police and other emergency services officers. What we see again is another bill that does not achieve what the explanatory notes indicate is the intention of the bill.

It is fundamentally flawed. We have the member for Burnett saying that this bill is going to solve all problems—murders and assaults. There is no evidence whatsoever to substantiate that. But they say that that is what it is going to do. It would also result in the courts and prosecuting authorities reducing charges in an attempt to mitigate harsh and unintended consequences of the bill. I believe that could definitely be a consequence if this bill were passed. For all these reasons and many more, which have been enunciated by my learned colleagues, including the learned Attorney-General, this bill strikes at the very heart of a democratic society and should be relegated to the scrap heap of history where it belongs. I have great pleasure in opposing this bill.