CRIMINAL CODE AMENDMENT BILL (NO. 2) 2013

First Reading

Bill read a first time, on motion by **Ms A.R. Mitchell (Parliamentary Secretary)**.

Explanatory memorandum presented by the parliamentary secretary.

Second Reading

MS A.R. MITCHELL (Kingsley — Parliamentary Secretary) [4.08 pm]: I move —

> That the bill be now read a second time.

In 2009 this government enacted the Criminal Code Amendment Act 2009 to introduce mandatory sentences of imprisonment or detention for persons convicted of serious violent offences contained in sections 297 and 318 of the Criminal Code when the victim was amongst certain classes of public officer. The government's position during development of the original amending act was that mandatory sentencing is a tool of criminal law that should be used very cautiously. It was decided early on in preparation of the original amending act that the extension of mandatory sentencing to include all persons who fall within the definition of "public officer" contained in section 1 of the Criminal Code could result in mandatory minimum sentences being imposed for an assault on a great number of civil servants, including members of Parliament—a position that was considered undesirable. Accordingly, it was decided to restrict the application of the mandatory provisions to a more limited prescribed class of public officers. During debates on the original amending bill, the former Attorney General described the policy behind this decision as follows —

> … I would also say that when we tried to draw this line, as I have stated previously, we looked at uniformed officers and people who find that it is an intrinsic, and not ancillary, part of their public duties to face violent conduct on a daily basis, and those people who the statistics showed had the greatest need because of existing violent offences and sentencing practices.

This effectively sets three criteria that can be used to determine whether a particular class of public officer should be prescribed for the purposes of the mandatory sentencing provisions: firstly, the officer is a uniformed public officer; secondly, the officer faces violence as an everyday intrinsic part of their public duties; and, thirdly, statistics show that this type of officer has the greatest need because of the number of existing violent offences committed against them, and sentencing practices.

The amendments introduced by the Criminal Code Amendment Act 2009 did not include youth custodial officers amongst the prescribed classes. The decision not to include youth custodial officers was based on information at the time that indicated that prison officers were second to police officers in terms of frequency of assault, whereas for youth custodial officers, recorded assaults were relatively rare. In hindsight, it could be argued that the decision to exclude youth custodial officers placed too much emphasis on the third criterion at the expense of the first and second. Similar to prison officers, youth custodial officers perform crucial and challenging roles. These officers work in close contact with serious offenders under demanding conditions. However, they are not afforded the same legislative protection as prison officers under the Criminal Code. The violent nature of assaults and the prevalence of assaults on youth custodial officers is a matter of concern. Assaults of this nature have detrimental effects on officers and their families and corrective services staff as a whole. This bill will extend the application of the mandatory sentencing provisions contained in sections 297 and 318 of the Criminal Code to include assault and grievous bodily harm offences committed against youth custodial officers. This recognises the contribution of youth custodial officers by offering them the same legislative protections that apply to prison officers under the provisions of the Criminal Code.

I commend the bill to the house.

Debate adjourned, on motion by **Ms S.F. McGurk**.