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Summary Offences Amendment (Full-face Coverings Prohibition) Bill 2010

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SUMMARY OFFENCES AMENDMENT (FULL-FACE COVERINGS PROHIBITION) BILL 2010

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Bill introduced, and read a first time and ordered to be printed on motion by Reverend the Hon. Fred Nile.

Second Reading

Reverend the Hon. FRED NILE [8.46 p.m.]: I move:

That this bill be read a second time.

I thank members for allowing me to give my second reading speech on this bill. I understand the conventions of the upper House to be that after a second reading speech is given other members will reserve their right to speak for or against the bill and on any possible amendments. After I finish my second reading speech, I propose that this bill be adjourned to 23 September 2010 to allow time for consideration of it. For the information of some of the members who have spoken, even though a copy was given to all members, the bill does not mention the terms "burqa" or "Muslim".

The Hon. Lee Rhiannon was very critical of my quoting various United Nations declarations. I was reading from a resolution before the National Assembly of the French Parliament. On 11 May 2010 the French Parliament unanimously passed a resolution to prohibit any face coverings that concealed a person's identity. That resolution included quotes, which I referred to earlier, from the Universal Declaration of Human Rights, the Convention on the Protection of Human Rights and Fundamental Freedoms, the Convention on the Elimination of all Forms of Discrimination Against Women, the Charter of Fundamental Rights of the European Union and others. I seek leave to table the resolution passed by the French Parliament on 11 May 2010, in the interests of all members, particularly the Greens.

Leave not granted.

They are frightened of evidence. I also refer to a bill unanimously passed by the Belgium Parliament. Because of the various languages represented in Belgium, the bill is written in different languages. I have an English version of the document amending the criminal code on the introduction of a ban on the wearing of face veils and robes in public spaces and public places. I seek leave to table the bill passed by the House of Representatives, Belgium Parliament, on 9 April 2010.

Leave granted.

Document tabled.

I thank the members of the House for allowing this bill to be finally introduced without any member being committed to vote for or against it. The purpose of the Summary Offences Amendment (Full-face Coverings Prohibition) Bill 2010 is relatively straightforward. It is based on the Belgium bill. This bill is to prohibit the concealing of a personal identity whilst in public without a reasonable excuse to do so. As I have already stated, nowhere does the bill mention "burqa" or "Muslim". While this legislation has become known as the burqa bill, the scope of the bill is much broader than just that one item of clothing. This is spelt out in schedule 1, part 2, new division 2C, new section 11 I. New subsection (1) creates an offence for a person without reasonable excuse to wear a face covering while in a public place. The penalty on conviction is five penalty points, which translates to a \$550 fine. New subsection (2) defines face covering as any item of clothing or personal wear, such as helmets, which conceals a person's identity. This is the case in all such circumstances where identity is concealed, even if as stated in new subsection (5) part of the face is still visible.

However, contrary to misinformation and criticism in the community, the bill does not seek to automatically criminalise anyone found in identity-concealing attire. The practical defence of reasonable excuse protects citizens from inadvertently committing an offence. If one takes part in a parade, or Sydney is suddenly hit by a blizzard and ski masks are the latest fashion, there is a reasonable excuse in evidence. New subsection (3) provides further clarification by explicitly stating certain circumstances that qualify as a reasonable excuse: the lawful pursuit of the person's occupation; participation in a lawful entertainment, recreation or sport; and legal regulatory requirements. In relation to the defence of reasonable excuse the onus of proof lies with the defendant, as specified in new subsection (6).

In many cases, that defence will prove untenable. Throughout the history of human civilisation those seeking to circumvent the law of the land have taken steps to conceal personal identity to avoid being caught either prior to or post the commission of an offence. For this reason, banks and other institutions have long prohibited the wearing of any item that conceals personal identity whilst within their premises.

Another relatively recent development in world events is the increasing prominence of identity-concealing attire being worn in public by rioters, thugs and social anarchists. Such attire is a regular feature at events such as the G7, G12 and G20 rallies where individuals seek to avoid prosecution from criminal acts when they smash windows, usually of bank buildings, or attack those they regard as the enemy of society, the local McDonald's restaurant.

Some seek public concealment in order to facilitate a criminal act rather than to avoid the consequences. Since 2001 there have been dozens of cases around the world where terrorists have made use of an ancient cultural item of clothing called the burqa to conceal weapons and explosives intended for murderous purposes. Terrorists have repeatedly used burqas for such purposes in Afghanistan, Pakistan, the United Kingdom, Iraq, the Gaza strip, India, Somalia and other countries. I want to make this very clear: I am not saying that concealing attire alone makes a person a criminal or a terrorist. Many individuals are law-abiding citizens going about their daily business. Some need, or are required to wear, such attire, as I mentioned before when I referred to new subsection (3).

In some cases individuals are required or forced to wear concealing attire due to cultural pressures. For example, some women within Islamic society are being forced to wear the burqa, in contravention of the principles of freedom and equality of sex in our society. The garment is an ancient cultural form of sexual repression. Many Islamic clerics and public leaders have joined a worldwide chorus to have the clothing banned.

Shikh Mohammed Tantawi, who was the Grand Mufti of Egypt and the highest Sunni authority in the Islamic world, banned the burqa from the al-Azhar Islamic college, stating "it had no connection with religion". The Muslim Canadian Congress has stated:

The Quran teaches modesty, however it does not have one word about covering the face. It is a tribal custom that is promoted by extremists such as al-Qaeda and the Taliban.

That is not Fred Nile saying that. That is from the spokesman for the Muslim Canadian Congress. The Conference of French Imams echoed those sentiments. Dounia Bouzar from the French Council of Muslim Faith stated that:

the imposition of this garment on women is one manner Salafists get individuals to renounce their individuality and submit to extremist cult thinking that masquerades as Islam but which is an abomination of it.

Those words come from the representative of the French Council of the Muslim Faith. French member of Parliament and Muslim Fadela Amara went further, calling it the "cancer of fanaticism". Further impetus is provided through the recognition that we are signatories to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. We also are signatories to the Universal Declaration of Human Rights, which states:

All human beings are born free and equal in dignity and rights.

Earlier I quoted from the French Parliament's resolution. No-one would criticise the French for being a nation that does not care about liberty and freedom. The French Revolution is the source of liberty and freedom. This bill echoes those sentiments and seeks to ensure that all New South Wales women enjoy the liberties and freedoms of an open Australian society. New subsection (7) stipulates that a person who compels another person to conceal their identity is guilty of an offence. The penalty on conviction is 10 penalty points, which translates to a \$1,100 fine. New subsection (4) stipulates that "religious or cultural belief does not constitute a reasonable excuse", except within a religious place of worship, which includes a mosque, a temple, a church or any other religious place of worship.

The content of the Summary Offences Amendment (Full-face Coverings Prohibition) Bill 2010 is based on the Belgium bill 52K2289, which was passed by 136 votes to nil on 30 April 2010 and the French legislation to be

rubberstamped in July following the passing of resolution No. 459, which I sought to table but the Greens, as opponents of information and democracy, would not allow me to do. Shame on them! As I said, this bill is also based on the draft French legislation, which will be rubberstamped in July following the passing of resolution No. 459 by 434 votes to nil on 11 May 2010.

I emphasise that, while we appear to have some disagreement in this House, in the parliaments of those two important European countries, France and Belgium, with all political views from the extreme Left to the extreme Right, the votes were unanimous. Some members have reacted without giving enough thought to this matter. Why would those votes be unanimous? Yet people here are saying this bill should not be debated, let alone voted on.

The PRESIDENT: Order! Members will cease interjecting.

Reverend the Hon. FRED NILE: Some members must have a very poor opinion of the politicians in the French Parliament and the politicians in the Belgian Parliament. Both those parliaments noted the importance of ensuring the liberty of women and safety of the community. A statement by the French National Assembly said that the burqa and like face coverings were "contrary to the national values of liberté, égalité and fraternité. The Assemble Nationale deems it necessary that all useful means be put in place to ensure the protection of women who are subjected to violence and pressure and in particular are forced to wear the full veil." The French Justice Minister Michele Alliot-Marie stated that concealing the face "challenges the values that we share and the very principles according to which we live together."

Switzerland also has passed this motion in its Council of States, "The burka is a symbol of dominance of men over women", and Switzerland also will introduce legislation. Last week Spain stated that it will ban face coverings in public after the towns of Barcelona, Lerida and El Venrell had already taken the initiative to do so. The Spanish Justice Minister, Francisco Caamano, stated, "We believe that there are things like the burqa which are hard to reconcile with human dignity and which pose problems of identification in public places." Countries such as Italy—many people in this House would admire the Italian nation, and we have members with Italian heritage—adopted this type of legislation in 1975. Turkey banned the burqa in 1923, even though the majority of the population—well over 90 per cent—were Muslims.

Whilst legislation should not be driven by polls alone, it is worth noting that in the Australian national survey conducted by UMR Research found that 60 per cent of the population supported the legislation that I seek to introduce. This was replicated in the poll conducted by the Sydney *Daily Telegraph*. I also have many examples of burqas being used to conceal peoples' identity for terrorist activity. On 17 April this year a refugee camp at Kohat in Pakistan was struck by two suicide bombers who disguised themselves with burqas, the full-body veil worn by some Muslim women to ensure none of their skin is exposed. The attacks, which killed 41 people and injured 62, helped to heighten the debate in Europe about whether wearing burqas and niqabs in public should be banned.

An example on 17 March 2010 was reported in Kandahar in Afghanistan. I could quote many examples but I am pointing out that these are all very recent examples, in the past few weeks. Two suicide attackers dressed in burqas were killed in a gunfight outside the offices of a United States aid group in Afghanistan. Three people, including two foreigners, were wounded in the shootout with guards at the International Relief and Development compound in Lashkar Gah, capital of the volatile Helmand province. The two suicide bombers were shot and killed by the International Relief and Development guards. Luckily, their explosives did not detonate.

It is important to note that the two suicide bombers dressed in burqas were, in fact, men. The bombers were wearing explosives-packed vests beneath traditional women's all-cover dress when they arrived at the International Relief and Development compound on a motorised tricycle at about 9.45 that morning. The two male suicide bombers started firing on the police guards and in a return of fire by the national police within moments both suicide attackers were killed. The police then seized two assault rifles and two suicide vests filled with explosives. That should be a very important warning as we debate this issue in due course. As I said, 23 September is the preferred date that I proposed, to allow quite a number of months for all members to give serious consideration to this issue and not have a knee-jerk reaction. Homeland Security Asia-Pacific Pty Ltd, experts in security technology, which puts in place closed-circuit television surveillance, has stated that it is important that we be able to differentiate people's faces:

For the record, there is absolutely no difference between the burqa and the balaclava when it comes to blocking biometric facial recognition and CCTV surveillance capabilities. Both garments are designed to specifically conceal all facial features and the identity of the wearer.

That is a very important document, which I seek leave to table.

Leave granted.

Document tabled.

I was very interested to receive this statement from Virginia Haussegger, who is a Canberra-based ABC news presenter. We do not expect ABC staff to be on the right wing of the political spectrum but her views are interesting. I will quote one or two references from an important article published in the *Sydney Morning Herald*. She says:

A bizarre form of political correctness is preventing us from an open discussion about what is, in fact, female subjugation.

It would seem there are some things in Australia we are not allowed to discuss. A ban on the burqa is clearly one of them. But the time has come to get over our fears and cultural fragilities—and grow up. The call to ban the burqa is receiving serious consideration in European parliaments. And it should here, too.

She goes on to say:

Here's the problem. Those who are critical of calls to ban the burqa perceive it to be an attack on personal freedoms. They view the burqa as an individual choice—which is arguable—and a religious requirement, which it is not. They look straight past the woman hidden from public view under heavy cloth, and instead applaud our multicultural tolerance. This is a mistake. The burqa has nothing to do with ethnic diversity and everything to do with a war against women. Those who wear it, and those who insist it be worn, subscribe to an ideology in which women are inferior sexual temptresses, whose female form is a problem and must be covered.

This is based on the contradictory proposition that men are both superior and yet unable to control their sexual urges if they see women in their natural human state. If this wasn't deadly serious, it would be funny.

The article goes on to quote award-winning Muslim journalist Mona Eltahawy, who says she is appalled to hear Europeans defend the burqa and the niqab. The article quotes her as follows:

"A bizarre political correctness has tied the tongues of those who would normally rally to defend women's rights," she argues. Yet, to argue directly with Islamic fundamentalists about gender equality is fruitless. According to Eltahawy, "the ideology that promotes the niqab and burqa does not believe in the concept of women's rights to begin with".

The article continues:

The burqa and the niqab shroud the full body, covering every part of a woman except her feet. The niqab includes a slit for the eyes, whereas the burqa has mesh netting. Malalai Joya, an Afghan MP and a devout Muslim, hates wearing it. "It's not only oppressive," she says, "but it's more difficult than you might think. You have no peripheral vision. And it's hot and suffocating under there."

When visiting Australia recently, Joya didn't pack her burqa. She is one of the many millions of Muslim women around the world who choose not to wear it—when they don't have to. Numerous Islamic scholars, men and women, argue that there is not a single reference in the Koran that mandates women must cover their face and bodies and hide themselves from public view. The Koran does call for modesty, which some interpret as an obligation to wear the headscarf. But even that is widely questioned by progressive Muslim scholars such as Tarek Fatah, founder of the Muslim Canadian Congress. Furious at Islamic extremists for the "gender apartheid", Fatah insists that even the hijab is being used by fundamentalists as a "political tool" who have turned it into "the central pillar of Islam".

They are the words of Virginia Haussegger, a Canberra-based ABC news presenter. That demonstrates the wide range of views that are held on this issue. It is not a matter of men versus women. The proposition is clearly supported by many women. Many female politicians in the French National Assembly and the Belgium Parliament voted for the legislation. It was not a case of men voting for an anti-women bill; male and female politicians freely voted for it in a democratic Parliament. Now is the time to act and to ensure that everyone in New South Wales enjoys the security and freedoms of a modern, twenty-first century state.

Debate adjourned on motion by the Hon. Robert Brown and set down as an order of the day for a future day.

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