Submission on the Summary Offences and Other Legislation Amendment Bill 2019

08/10/2019

[redacted]

Dear Members,

Thank you for the opportunity to provide feedback on the Summary Offences and Other Legislation Amendment Bill 2019.

I am writing to express my concerns regarding the proposed legislation, which are disproportionate, overreaching, and appear to have no evidential basis.

I have been involved in the environmental movement for a decade in a number of different groups in different parts of the country. Among other methods of protest and social organising, this has included use of the kinds of devices referred to in these laws. I have years of close observation and experience of what actually happens when these devices are used and can speak with some degree of expertise.

The practice of locking yourself to an object as a method of protest has a long and proud history in this country. It goes as far back as the beginning of the 20th century, when South Australian woman Muriel Matters, upon moving to Great Britain and finding herself suddenly unable to vote because of her gender, locked herself to the grille that separated women from the proceedings at the British House of Parliament.

Other women used the tactic to fight for gender equality in Australia. In 1965, Merle Thornton and Rosalie Bognor famously locked themselves to the men-only bar at Toowong's Regatta Hotel, demanding the right of women to be served and to socialise at public bars. In 1969, Zelda D'Aprano locked herself to the doors of the Melbourne Arbitration Court building where she was frustrated at the fact that only men were inside the court arguing over whether women should have equal pay.

The lock-on device of the kind described in this legislation was first developed and used in the campaign to protect old growth forests from logging on the South-Eastern Coast of NSW in the late 1980's. Mark Blecher designed the lock-on pipe (the kind described in this legislation as a "sleeping dragon") and used it to stop logging operations by attaching himself to machinery.

This action, though illegal, was justified later when several of those forests that had been logged were declared National Parks – Coolangubra and Tantawangalo forests are able to be enjoyed by nature lovers and native flora and fauna because of that campaign. Many other national parks around this country are the result of such protests using the same devices. Similarly, the other examples of women in the 20th century all won gender equality outcomes we now take for granted even though at the time their actions were illegal and they would have been rejected by the authorities of the day as disruptive and potentially dangerous.

This is the nature of social change, and something those in power need to always remember. The Queensland Labor party, which traces its origins to the illegal 1891 Shearers' Strike (where participants were convicted of sedition), has more reason than most to remember this. The party still tries to use that imagery of Australians working together to stand up to power and injustice to give it credibility, but is now actively reducing the ability of current Australians to do the same.

The Premier, and the explanatory notes given for this legislation, insist that the laws are not about restricting the right to protest. The explanatory notes say *"The right to peacefully assembly has been held as a defining characteristic of a democratic society… There must be a balance between the rights of those participating in a peaceful assembly with considerations about public order and safety and the rights and freedoms of others."*

This is true, but there also should be an understanding that the right to political expression goes beyond tokenistic free speech. It should include the right to use tactics that have been proven to be effective through the history of social change. Civil disobedience (the act of intentionally and openly breaking laws one considers unjust) is unquestionably one such tactic. It is also by its nature illegal, but there should be an agreement of good faith between citizens engaging in such protest and a government sympathetic to political freedom – the citizen does not break laws beyond the ones that are under question, and the government recognises the difference between conscientious law-breaking for political purposes and malicious law-breaking for personal gain.

It does not seem the Queensland government at the moment is upholding this side of the agreement. For one, because even though there are already laws that criminalise protesters using lock-on devices which police and courts use regularly, the government is seeking to further criminalise this with harsher penalties. Secondly, because the Premier in her public discourse and in this proposed legislation has wilfully misrepresented the intentions of people using these devices.

They use the pretext of safety for police officers to say why these laws are necessary, implying that these devices are designed to cause physical harm without offering genuine evidence to back that up.

The explanatory notes say *"It has been reported some people have claimed that they have placed glass or aerosol cannisters inside devices such as 'sleeping dragons' and metal fragments have been used to lace the concrete found in 'dragon's dens'"* This sentence would fail the most basic test of valid evidence requirements, and yet the Queensland government is proposing introducing laws that could imprison people for up to two years on the basis of what "it has been reported some people have claimed". Any government that proposes to do that should be ashamed of itself.

The reason there is not more concrete evidence offered is because it does not exist. The day after Premier Annastacia Palszczuk claimed she has seen evidence of devices "laced with dangerous traps" intended to injure police officers, news outlet The Guardian contacted Queensland police to ask if this was the case. The police themselves responded only that the devices were *"designed to delay the attempts of police to extricate protesters in a timely manner"*[1].

If it were the case that these devices were constructed as weapons intended to injure another person, that would certainly already be illegal, and there would be examples of police charging people as such. There have been hundreds of cases of people charged for "locking on" in recent years, and police have had ample opportunity to do so. The fact that there are not examples and that the government has to use hearsay to back up its assertions speaks volumes.

The fact is that the lock-on pipe is a remarkably non-violent form of protest – it does not restrict the liberty of others, nor does the person using it take an action and then run away to avoid the consequences. The person who locks themselves to a machine puts their own safety in the hands of their political opponents and law enforcement personnel, and stays to willingly face the legal

1 https://www.theguardian.com/australia-news/2019/aug/21/queensland-government-accused-of-fabricating-claims-about-climate-activists

consequences of their action. It is shameful for the Premier to publicly misrepresent those who do this by claiming otherwise with no evidence to back it up.

The misrepresentation of these devices and the intentions of those who use them goes further. The Premier and even the legislation use the terms “sleeping dragon” and “dragon’s den” to describe the devices. These sinister sounding names are great for the mining industry and media to paint protesters as a dangerous threat, but they are not terms that are ever used by protesters in Australia. I can honestly say that in ten years spent in close proximity to these devices, I have literally never once heard a single person use this terminology. In the USA it seems the term “sleeping dragon” is sometimes used, but in Australia, these devices are always referred to as a “lock-on pipe” and a “concrete barrel”. There are countless examples of activists using this terminology that the Queensland Government could have found, not to mention a dearth of examples of the contrary.

The fact that this legislation still uses those terms says two things: Firstly, that the government has taken advice on the laws from the mining industry who have vested interests in these laws being passed but not actually spoken to the people who use and know about the devices. Secondly, that the government themselves are misleading the public and masking the real intentions behind these laws by using emotional and misleading language.

The real purpose of these laws is to stifle dissent. This is a worry because political expression, and by that I mean genuine effective political expression as proven by historical examples of social change, is a pillar of democracy. It is also a worry because our society is currently in the midst of a climate emergency humans have caused but have so far proven ineffective at stopping. It should not be a controversial statement to say that one of the key reasons we have been ineffective at doing so is because the large fossil fuel corporations, who benefit from our carbon pollution and would lose money from attempts to stop it, hold disproportionate power in our society.

The Labor Party in Queensland should surely be aware of this given our recent history of what happened when Kevin Rudd tried to introduce a “Mining Profits Super Tax”. The bombardment from a threatened industry literally led to the removal of a democratically elected Prime Minister. We saw a similar fallout from Malcolm Turnbull trying to effect climate strategy within the Liberal Party.

Our democracy is currently hijacked by corporations who make political donations, have lucrative lobbying relationships with politicians, and will revert to media propaganda if needed. The real “dangerous attachment” is our governments being wedded to an industry which is literally willing to put at risk all life on our planet for the sake of their own profits. This influence is evident in the drafting of these laws, where the Queensland Resources Council was consulted on laws that are directly in their interest. The only environmental group consulted were Australian Conservation Foundation – a lobbying group who have never used devices of this kind.

If our society is to have any hope of reining in catastrophic climate change and maintaining a planet that is environmentally sustainable and socially just; we need to empower everyday people to stand up to the power of corporate and governmental inaction. The Queensland government is not doing that – in fact it is doing the opposite, bringing in repressive laws to criminalise protest and publicly demonising those who engage in non-violent protest activities.

For this reason, these laws must be rejected. The very basis of the laws is a lie, a misrepresentation of those who in good faith sacrifice their own liberty for the sake of environmental protection. Misleading public statements with no evidential basis is no way to go about formulating laws, and

in our current circumstances of dangerous climate change we need rational analysis and good policy, not emotive hyperbole. To stop citizens using disruptive methods of protest, to get across what seems to be a rational and commonly shared view that we need stronger climate action, the government should put in place steps to ensure everyday people feel their voice is given equal weight in parliament to the voices of those who profit from our continued dangerous inaction on climate change.

Please feel free to contact me if you would like any further correspondence on the matter,

Andrew Paine.