



Speech by

Mr D. BRISKEY

MEMBER FOR CLEVELAND

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OCCUPANTS [HOME INVASION] PROTECTION BILL

Mr BRISKEY (Cleveland—ALP) (9.01 p.m.): I would like to thank the Leader of the Opposition for supporting the law that already exists. That is what he did in the last 10 minutes—he supported the law that already exists in Queensland. We do have the right to defend our own homes and families and use reasonable force in doing so. I was amazed when the Leader of the Opposition said, 'Whilst I don't support your bill, I agree with what you are trying to say.' What does the Leader of the Opposition give the honourable member for Nanango's bill out of 10? Two? One? We are not attacking it, all we are saying is that it is wrong and absurd. It is a silly thing to bring before the parliament.

As the Attorney-General said, nine different defences already apply under the Criminal Code. How many more defences does the member want? In her second reading speech, the member said that the bill allows the occupant the right to use any force necessary to prevent an intruder breaking and entering. How absurd is that? We really do not want to live in a society where people can use any force to prevent someone breaking into their homes. We do not want to live in that sort of society.

Mr English: The police can't do it.

Mr BRISKEY: The police cannot do it. In her second reading speech the honourable member maintains that the purpose of the bill is to recognise that people do have the right to defend themselves. They already have that right to defend themselves, their family and property under the Criminal Code without fear of prosecution and civil liability. I am disappointed with the intent of the bill. As other honourable members have said, the content of this bill very much promotes a vigilante style of society where people are encouraged to take the law into their own hands. We do not want a society like that. I cannot think of anything more absurd—

An honourable member: It's obscene.

Mr BRISKEY:—or obscene. If the honourable member has not seen *Bowling for Columbine* she should take herself along to see what the fear is like in the United States of America and how there is not that same level of fear in other countries such as Canada, as shown in the documentary. In fact, some aspects of the bill can be described as nothing short of farcical. The definition of 'intruder' is taken to include a person who is lawfully in a dwelling house and fails to leave that dwelling house immediately on being asked to do so by an occupant.

Mr Mickel: That's the 'how to get rid of your mother-in-law' provision.

Mr BRISKEY: I like my mother-in-law; I would not ask her to leave. But there are quite a few people I would ask to leave and have occasionally asked to leave. I do not think I would be within my rights to get a baseball bat, hit them over the head and remove them from my dwelling. That is absurd. I am sure other members can see how much chaos this kind of definition may lead to. As the Attorney-General has rightly said, if this bill were to succeed, we would have—

Mr Mickel: Fewer pizza boys.

Mr BRISKEY: We would not have pizza delivered to our homes anymore; everyone would be too afraid to deliver pizza to our homes. Take the instance of a de facto couple who engage in a domestic dispute. Clearly both parties are lawfully in the dwelling. They both live there. However, let us assume that the dispute becomes quite heated and, in a rage, one partner asks the other

to leave the premises. If the partner refuses to leave the premises, presumably on the grounds that he or she lives there, the bill provides for the other partner to use any force to cause the intruder to leave the dwelling.

Mr English: The quick and the dead. Get in first. Shoot first, ask questions later.

Mr BRISKEY: That is exactly what is implied by this bill. Shoot first, ask questions later and you will not be brought before your peers to answer for any action that you take. Does this mean the partner who asks the other to leave can then legitimately shoot the other simply because they have a squabble? The definition is surely preposterous.

Mr Reeves: You'd be in trouble then.

Mr BRISKEY: I've been in trouble and I will be in trouble again.

Mr WELFORD: You haven't been shot yet.

Mr BRISKEY: There are no weapons in our house, fortunately for me. If this definition were to become law, crime rates in Queensland would soar. We would not be able to keep people out of jail.

Turning to another section of the bill, the intent of proposed section 10 of the bill to confer immunity from civil liability is already provided for in section 6 of the Criminal Code. As the Leader of the Opposition said, it is already there. Under this proposed legislation no action can be brought in respect of anything declared to be lawful under the Criminal Code. What this means is that in respect of a person who is found to have acted in self-defence or lawfully assaults a trespasser no civil action is available. What is more, if a person found guilty of an indictable offence suffers loss or injury in the course of committing that indictable offence, they have no right of action against another person in respect of that loss or injury. That is already there.

I could go on all night about the farcical nature of the provisions within this bill and their potentially disastrous impact on the criminal justice system and on Queenslanders. What I will say is that the current law in Queensland adequately provides for the protection of a person acting in self-defence. As I have already mentioned, nine different defences already apply under the Criminal Code in defence of a dwelling and defence of property. However, these provisions do not mean that a person can apply deadly force in any situation. That would be utterly ridiculous. The current law makes it plainly clear that there must be some proportionality between the force exerted in self-defence and the assault which has been defended against. Therefore, the bill before the House does not make an attempt to create any limit on proportionality. Therefore, I very much speak against the Occupants (Home Invasion) Protection Bill.