Speech by

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MEMBER FOR KAWANA

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CIVIL AND CRIMINAL JURISDICTION REFORM AND MODERNISATION AMENDMENT BILL

Mr BLEIJIE (Kawana—LNP) (3.13 pm): I rise to speak to the Civil and Criminal Jurisdiction Reform and Modernisation Amendment Bill 2010, which is before the House today. I must say at the outset that I am quite surprised that this bill has come before the House today in the midst of a federal election campaign. With all the issues facing Queenslanders, we are debating this bill today. I would have thought there would be more pressing issues. Perhaps we will put it down to the real Julia Gillard asking the real Bligh government to lay low for the next few weeks—nothing too controversial.

The bill will significantly alter the jurisdiction of the magistrates, district and supreme courts; remove the right to trial by jury; and remove the right to cross-examine at the committal stage. The bill is a response to a review of the operation of the civil and criminal jurisdictions in Queensland conducted by the Hon. Martin Moynihan AO, QC and his report that was released on 21 July 2009. The bill will amend some 22 pieces of legislation including the Criminal Code, the Drugs Misuse Act and the Justices Act 1886.

The bill seeks to expand the jurisdiction of the Magistrates Courts to determine indictable offences under the Criminal Code and the Drugs Misuse Act. It also increases the monetary limit for civil disputes in the District Court to $750,000 and in the Magistrates Court to $150,000. In the Attorney-General's second reading speech, he stated that these 'reforms aim to make more effective use of public resources to deliver improvements across the justice system, thereby delivering improved justice to Queenslanders'.

The Moynihan report states that 'it would appear that something in the region of half to three-quarters of the matters presently heard in the District and Supreme Court could be dealt with in the Magistrates Court'. In the Australian Productivity Commission's 2010 report on government services, we saw that the Queensland Magistrates Court system had a backlog of a total of 67,413 matters comprising 32,304 criminal matters and 35,109 civil matters, making Queensland's Magistrates Court system the most inefficient in Australia. We can just add it to the list of the things that this state Labor government cannot manage.

The expansion of the jurisdiction of the Magistrates Court to deal with indictable offences and to deal with civil disputes of increased monetary limits is in no way an effective use of public resources and will in no way deliver improved justice to Queenslanders. For this government to add more cases to this already congested system shows that the Bligh government has no consideration or understanding of how overworked and gridlocked the system is already. In 2009, the backlog of the Queensland Magistrates Court increased from an already high case load in 2008 of 69,619 matters. This was with the assistance of the judicial registrar scheme, which was set up as a two-year trial in an effort to ease the pressure on Queensland's busiest Magistrates Courts. The judicial registrars were appointed to hear minor court matters that had previously been heard by a magistrate, including matters such as minor debt claims and small claims, civil chamber applications and domestic violence adjournments, temporary orders and orders by consent.

Instead of looking at ways to actually make the congested Queensland justice system more efficient, the Bligh government is simply shifting the jurisdiction goal posts and removing personal rights and

liberties for all Queenslanders. This bill is a campaign by the government to appear to bring about a more efficient justice system. But, in effect, this bill removes fundamental rights and freedoms of the people of Queensland. Last year we saw the Bligh government strip away the fundamental rights and freedoms of the people of Queensland through the passing of the Criminal Organisation Bill 2009. At the time we debated those laws I reminded the House that it was actually Kevin Rudd who said that Labor believes in the freedom of association as a democratic right for all Australians. He made that comment in 2007 in the document 'Forward with fairness'. It appears Kevin Rudd was moving forward well prior to Julia Gillard. But, if he had known that he was moving forward to a sharp knife in the back, he may have taken another road at the time.

Mr Springborg interjected.

Mr BLEIJIE: They are forwards, backwards, sideways. Through the bill that is before the House today, we are witnessing the Bligh government's further attack on these fundamental rights and freedoms—the right to a jury trial, a right first established by the Magna Carta in 1215, and the right to cross-examine during committal.

In the Queensland Law Society's submission to the draft bill in 2009, the society stated that it is 'strongly opposed to the indiscriminate removal of the fundamental and historical right of an accused to elect to be tried by a jury of his peers. Reformation of the criminal justice system should restate and reaffirm fundamental rights, not remove them'. I absolutely agree with this statement. I note that on the speaking list we have most of the lefty libertarian lawyers on the other side of the House. I am very interested to hear their contribution in relation to limiting rights of defendants to a fair trial and the right to trial by jury, as is the case now. I am very much looking forward to those hot topics when those members get up and speak later today. I hope that we will hear the members' real opinions on these matters, particularly the lawyers—the ones who call themselves libertarian lawyers from the Left. I do hope that we hear the members' real opinions.

The society goes on to state—

At no time does the Moynihan Report directly suggest that citizens are currently abusing their right to elect Trial by Jury by having minor matters inappropriately heard in the District Court. If such abuse is not occurring, the Society queries the need for such a substantial reform.

Through this bill we are witnessing the stripping away of the right to a trial by jury without a clear basis for its removal. Both the Queensland Law Society and the Council for Civil Liberties have suggested that the efficiency sought by the government could be achieved by providing defendants the right to choose to have offences dealt with by the Magistrates Court without a jury rather than in the Supreme Court and District Court. It is suggested that many defendants would elect to have their offences dealt with by a magistrate in the Magistrates Court for reasons of speed and to reduce the legal costs. But that is a right that they should maintain. This proposal of election, rather than the government's proposal to merely strip away the right to a trial by jury, would most likely result in the number of matters dealt with by the District Court and Supreme Court decreasing.

Another essential freedom, and one that runs to the heart of the legal system, is the fundamental right to a fair trial. This bill will amend the Justices Act to remove the right to be cross-examined during committal—a process that is used to clarify issues, refine charges, negotiate pleas and identify weak cases and processes that support a fundamental right to a fair trial. This was clearly outlined by the honourable shadow Attorney-General. The amendments will restrict the right to call and cross-examine a prosecution witness unless the prosecution consents or the magistrate is satisfied that there are substantial reasons why the witness should be called. In the Queensland Law Society submission the society set out that—

... in the majority of committals where cross examination occurs, one or more witnesses will alter their account, will offer new evidence that has not been told to the police, or will depart from the evidence given in their statement. If such evidence is given at trial, in many cases the jury will need to be discharged and a retrial ordered, substantially increasing costs and inefficiencies in the superior courts.

These particular parts of this legislation may have the opposite impact on our judicial and court system in Queensland than the government intends.

Accordingly, the restriction of the right to cross-examine witnesses at committal will result in issues arising in superior courts as a result of untested evidence and superior courts dealing with issues that could have been flushed out through cross-examination during the committal process. This will result in delays for Queenslanders and additional costs to Queenslanders and all taxpayers.

This bill will have a significant impact not only on the Magistrates Court case load but also on the workload for Legal Aid and police prosecutors. The government has not proposed any additional funding to meet the expected increased workload for Legal Aid or police prosecutors. However, after witnessing the cost of living expenses spiral out of control over the past 16 months under the Bligh government, I am sure that the people of Queensland can expect to be hit with a levy or tax to cover the cost of this so-called reform.

Once again, I challenge the members of the government to simply not toe the party line but for once to actually think about the people in their electorates, whom they are elected to represent, and to stand up for the rights of Queensland citizens today by voting against the aspects and parts of this bill that blatantly disregard the freedoms that the people of Queensland should have the right to enjoy.