




Speech By  
**Michael Berkman**

**MEMBER FOR MAIWAR**

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### **SUMMARY OFFENCES AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr BERKMAN** (Maiwar—Grn) (6.06 pm): I oppose this bill, and it seems I am the only member here who will. I will address the bill in detail, and the shocking lack of evidence supporting it, but first we must remember why this is happening. We are on the edge of a cliff. The best scientists in the world are telling us we have 10 years to completely retool our economy, green our cities and restore the land and if we do not things will get really ugly—more killer bushfires, longer droughts, more extreme weather, food shortages, advancing deserts, loss of ancient landscapes, mass displacement of millions of climate refugees, wars over water.

That is the danger, but the solutions are within reach. Those solutions are what the peaceful protesters who have forced this issue to the surface are striving for. They are calling for 100 per cent clean energy, no new coalmines, a jobs rich transition to a better future and real justice for First Nation people, who are already on the front line of climate change and fossil fuel extraction—in short, a better world.

Today, when we need civil disobedience more than ever to change our course, Labor's response is to do precisely what the *Courier-Mail* tells them—to curtail civil rights and silence dissent in a fashion we have not seen in Queensland since the days of the corrupt Joh Bjelke-Petersen government. Let us be clear on a fundamental point—disruption is not violence and the disruptive protest we have seen that has embarrassed Labor into fast-tracking these laws is entirely peaceful, consistent with the approach of successful progressive social movements throughout our country's history. The labour movement is built on peaceful protest and nonviolent direct action. The fact that the Queensland Council of Unions opposes this bill tells us all we need to know about Queensland Labor's deliberate and, frankly, spineless betrayal of the union movement and what might have once been considered Labor values. Without peaceful, disruptive but nonviolent protests, we simply would not have many of the things that make our lives worthwhile.

**Mr DEPUTY SPEAKER** (Mr Stewart): Order! Pause the clock. Member for Maiwar, you have used unparliamentary language. I ask you to withdraw.

**Mr BERKMAN:** I withdraw. Votes for women and Aboriginal and Torres Strait Islander people, a woman's right to choose, the defeat of military conscription in this country, the eight-hour working day and the five-day working week—none of these would have happened without peaceful but disruptive protests that were often illegal at the time. When the Premier tells the kids in the School Strike for Climate Justice to strike on the weekend, she forgets that without disruptive and sometimes unlawful protests we would not have a weekend to start with.

Many of us disagree with some tactics of the recent climate protesters. I support Extinction Rebellion and I support their tactics, even though, of course, like any other social movement, sometimes they get things wrong, sometimes they could listen better, especially to the voices of First Nation people on the front line of climate change and state violence. The point is that these brave people are putting their liberty on the line to make a safe future for everyone. They are the smoke alarm and the house is on fire. It is time to stop trying to shut down the smoke alarm and start fighting the fire.

I will address the most disturbing ways in which the laws themselves are ill conceived, anti-democratic and based on lies, but we cannot overlook the way that the Premier and the minister have dictated terms to the supposedly independent committee to rush this bill through. With all due respect to the secretariat, the report signed off by the Legal Affairs and Community Safety Committee is next to worthless. It completely overlooks the absolute dearth of evidence from QPS about the 'sinister tactics' that are the supposed basis for these laws. It completely ignores the evidence of the Queensland Human Rights Commissioner and others about the ways this bill encroaches on the internationally enshrined rights such as the right to peaceful assembly.

What is so cynical about the chair's deliberate gagging of the newly appointed Human Rights Commissioner, Mr Scott McDougall, at the hearing and in the report is that this bill, if it was not so rushed, would be the first ever bill to be really tested against the Human Rights Act this government legislated just months ago. On the evidence we have heard, it would not fare well. Mr McDougall's submission and the limited evidence allowed at the hearing is pretty damning of the bill, yet the committee did not even mention it in the report.

The Human Rights Commissioner made the important point, 'Inherently, the devices are not dangerous,' and, further, that the proposed legislation appears to be a disproportionate encroachment on fundamental democratic and human rights, specifically the right to peaceful assembly. He referred the committee to the UN's draft general comment No. 37 on article 21 of the ICCPR, the right of peaceful assembly, which states—

It is in the nature of assemblies that they sometime disrupt the daily exercise of rights such as freedom of movement. This has to be tolerated, unless it imposes a disproportionate burden, in which case detailed grounds for limitations must be provided.

He told the committee—

From what I understand of the protests that have occurred in the CBD this week, the existing laws that police have managed those situations and the disruptions have been reasonably minimal and I think well within what is considered proportionate in international law.

The commissioner also commented on ABC RN yesterday morning—

We need to cherish our human rights and only undermine them and erode them when we can absolutely justify it. In this case I don't think the case has been made out to limit the rights in the way that's proposed.

Why has the committee ignored every single one of the concerns raised by someone in such an important role as the commissioner? The answer is that the process has been a farce—nothing more than a rubber stamp for bad law. It is a shocking indictment on this Labor government and the hopelessly weak oversight that the committee process provides.

The Human Rights Commissioner and others, including the Caxton Legal Centre, the Human Rights Law Centre, the Queensland Council of Unions and Terry O'Gorman of the Council for Civil Liberties, have made the point that existing laws are entirely sufficient to achieve what these laws purport to achieve. Locking yourself to a pipe or concrete filled barrel or gluing yourself to the road is already illegal. Nobody has properly identified any inadequacy or gaps in existing laws to respond to unlawful protest, particularly for the purpose of dealing with any potential public safety risks of so-called dangerous attachment devices.

That brings me to the very first comments from the Premier and police minister and the false claims that have been made to justify these laws—'sinister tactics', 'extremist protesters', 'booby traps', 'devices laced with traps, including butane gas canisters'. I do not know that I have ever heard such divisive and baseless rubbish in this place. I will go specifically to the Premier's claims about butane gas containers.

On 20 August the Premier told this House that she had been shown evidence of protesters using locking devices with butane gas containers inside them. Evidence from the QPS at the hearing clearly contradicts the Premier's claim. It turns out that she was referring to an unconfirmed incident—a rumour—dating from 2005. When asked, the police could not even confirm that such a container ever existed. Unless some factual basis for this claim is presented in the remainder of the debate on this bill, the Premier has clearly and deliberately misled the House with this comment and must correct the record. Otherwise, she may just find herself in contempt of parliament again.

There is absolutely no evidence of protesters designing or constructing devices with an intention to harm anyone—themselves, first responders or the general public. QPS could give the committee no evidence of any harm to first responders other than one instance where a police officer sustained what was called a 'relatively minor laceration' that was treated at the scene by a first aid officer. Collectively, the supporters of the bill including the government, the police, Aurizon and the QRC could provide no evidence of any protester or member of the public ever being harmed by the use or removal of these devices.

**Mr Costigan** interjected.

**Mr DEPUTY SPEAKER** (Mr Stewart): Member for Whitsunday.

**Mr BERKMAN:** They could provide no evidence of booby trapping, no evidence of any intention on the part of protesters to cause harm, no evidence of any incident on rail infrastructure or even any instance of a near miss. We heard plenty of evidence of police using existing laws, extensive training and carefully developed safety procedures to go about their work in a way consistent with our right to peacefully protest. The only real concerns that have actually materialised are simple disruption and economic loss for coal companies.

**Mr Costigan** interjected.

**Mr DEPUTY SPEAKER:** Pause the clock. Member for Whitsunday, you have been interjecting. I have given you a bit of warning. You are now warned under the standing orders.

**Mr BERKMAN:** The question for the Premier, the minister and every Labor member here is: where do you expect this to end? What other items or disruptive behaviours will the government criminalise next? It is frankly insane for a Labor government to have opened the door to what the LNP has now so predictably proposed—additional penalties for all manner of currently lawful protests and mandatory sentencing for protesters. When the LNP has the opportunity to implement this kind of law, Queenslanders will remember that it was a Labor government that gave them the political cover to do so. Whatever talking points they will use to justify proposing or supporting this law, every Labor member here will be remembered for having ushered in the next big crackdown on protest, on unions and on civil liberties in Queensland—and they should all be ashamed.