




Speech By  
**Stephen Bennett**

**MEMBER FOR BURNETT**

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### **HUMAN RIGHTS BILL**

 **Mr BENNETT** (Burnett—LNP) (2.52 pm): We are often asked to consider legislation in this place for all Queenslanders, including those who are vulnerable. I am always concerned when we attempt to change the relationships between the courts, the parliament and the executive and modify our separation of powers. Many people have written about a bill of rights. I acknowledge articles by Bob Carr who has stated—

If Australians were asked whether they wanted non-elected judges to enjoy the final say on all public policy, it is pretty clear how they would vote. A modest increase in judicial review was proposed in 1988. Voters were asked only to endorse trial by jury, freedom of religion and fair terms for property acquired by government, by inserting these as rights in the constitution. The referendum lost in every state and territory by votes of up to 75 per cent.

This is important especially when we have such a left leaning government incapable of dealing with powerful stakeholders in our state. What is even more problematic is the disdain the people of Queensland have for this type of legislation. It has been suggested by many that this bill might be unconstitutional.

There are good reasons to oppose the bill on the grounds that it is fundamentally undemocratic. I acknowledge the submitters to the committee, all with passionate claims and counterclaims, many suggesting and agitating that all will be good into the future. However, it is my belief to start with that a human rights bill guarantees nothing. Britain abolished slavery in 1772 with a court decision based on the common law. The US, as late as 1857, confirmed slavery was valid, notwithstanding its constitutional bill of rights. Indeed, America had a bill of rights for 150 years before African Americans in the south could vote. More than 3,000 Americans are on death row in 34 states awaiting their sentence. This year, 36 prisoners are expected to be executed. All this with a bill of rights. Years ago elected politicians in Australia, which does not have a bill of rights, abolished capital punishment.

Some have argued that we need a human rights bill to protect the interests of the disadvantaged, the poor and the marginalised. It is strange that in America the disadvantaged still have no health care or guaranteed unemployment benefits and that one in three African Americans will experience prison. The US, with its constitutional bill of rights, has the biggest prison population in the world. When Mohamed Haneef was mistreated by the Australian Federal Police his rights were reinstated by the court. That is our common law tradition.

The common sense of Queenslanders tells them they are free. A human rights bill would increase litigation, not rights. The rights of Queenslanders are already contained in legislation and case law and are thorough and have been developed over time to reflect the growing need to protect rights. There is no version of a charter of rights or a constitutional bill of rights that has not had the effect of shifting power from parliaments to non-elected judges. This proposal before us is about judges and commissioners having extra powers. The vague statements in the bill, such as the freedom of the press, freedom of speech, freedom of association, will be interpreted by judges. Under the proposed legislation decision-making is being transferred from an elected parliament to non-elected judges. If we are going to be serious about it and we are going to ask Queenslanders to revise the way their government works, then it should be a matter for a referendum.

We must recognise the fundamental need to preserve the sovereignty of parliament. A human rights act will fracture the fundamental foundations of Queensland's democratic society by allowing judges to issue notices to parliament whenever a law conflicts with any of the broad human rights. The LNP will not support a bill that will give the judiciary the ability to ignore the clear intent of parliament and to scrutinise the intent of every piece of legislation that comes before it to determine whether it is inconsistent with human rights. The LNP will not support a bill that explicitly gives the judiciary the power to depart from the literal meaning of words in legislation, which creates an extraordinary power to effectively rewrite legislation.

A human rights act will cause never-ending unintended consequences and will put offenders before victims. There are many examples from other jurisdictions. I refer to clause 36, the right to education. The bill talks about every child having a right to access to primary education. I have just met with representatives from Independent Schools and heard about remote students who are struggling to get money after the floods and drought. These are real examples that will not be fixed under this bill. This morning we heard about the way we are treating our maternity services in the bush. I refer to clause 37 that talks about the right to health services. The government is in breach of its own act already.

There are other international examples. A Canadian provincial government creates incentives for doctors to serve in rural areas but the Canadian court overrules that because it is an interference with freedom of travel. In the United Kingdom a court said the police could not interfere with a group of gypsies or travellers who pulled down a fence on a private property and occupied the land because it is an interference with freedom of movement. Sex offenders could appeal decisions to have their supervision conditions overturned. Young people causing havoc in the street, committing acts of vandalism or intimidating older people, will say something like, 'Oh, the police won't do anything about it because it'll be an interference with our human rights'.

Courts will have wider power not to admit evidence which is held to have been obtained in breach of a person's human rights, which will destroy the prosecution's case. Bikies will challenge organised crime laws by arguing they have the right to associate with one another. Police powers to conduct random licence and name checks may be unlawful. Prisoners will have more power to own goods, such as objectionable material, even if it breaches prison policy. More applications for prisoners to undergo surgery, such as IVF, will be granted. Sex offenders will have greater power to change their name despite it not being in the public interest. There are many examples where a human rights bill will open the door to these unintended consequences.

Ours is one of the freest countries in the world. Our freedom compares favourably with every other nation state in the world and it rests on common law principles that work and that guide us. It rests on parliamentary democracy and it rests on robust freedom of speech. In conclusion, I again reference Bob Carr. He has compared our status and standing with that of the United States, which has a full constitutional bill of rights, and concluded that Australia has better outcomes. In the end, it is the political character and culture of a country that determines how free it is; not a bill of rights that wrenches decision-making away from the elected people of this place and gives it to non-elected judges.

The LNP will always support laws and policies that are aimed at protecting vulnerable Queenslanders. We are supportive of the laws currently in place that protect the vulnerable and that offer adequate remedies to compensate victims for their losses. Queensland already has a robust system for protecting the vulnerable from poor bureaucratic decision-making through a well-resourced and professional public service, the capacity for judicial review of administrative decisions and an outstanding judiciary. Queenslanders already have ample protections of their human rights embedded in Queensland and Commonwealth legislation, particularly that which relates to discrimination; common law protections of freedoms, including association, expression and belief; and Constitutional rights, all of which are operating effectively in Queensland.

I will be voting against this bill of rights for the many reasons that I have articulated today. I have to say this: we attend ballot boxes, receive how-to-vote cards and go through a process of democratically electing members to this House. How can we support something that will take away many of the reasons that I am here? Sometimes I question why we are here, considering some of the debates that go on in this place. However, one thing we will not stand for is the watering down of our parliamentary right to act for our constituents.