




Speech By  
**Michael Berkman**

**MEMBER FOR MAIWAR**

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Record of Proceedings, 6 February 2020

### **AGRICULTURE AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr BERKMAN** (Maiwar—Grn) (12.26 pm): I rise to make a contribution on the Agriculture and Other Legislation Amendment Bill 2019. This is an omnibus bill that makes a number of very positive changes, most of which have been addressed by others, so I will focus my comments today on the deeply problematic elements of the bill, specifically the changes to clauses 131 to 133 of the Summary Offences Act. I do so, noting again that I am sure I will be the only member here who reflects in their contribution on the very real concerns raised by the Queensland Human Rights Commissioner and the Queensland Law Society, among others.

This is yet another kneejerk response and extreme overreach from a government that seems more inclined to fall in behind the LNP's 'tough on crime' rhetoric than it is to address legitimate community concerns. It is yet another example of a trend. When the government sees a kind of protest they do not like, even if it is already illegal, instead of addressing underlying issues they will just jack up the penalties.

Every member here will stand up and say they abhor animal cruelty and will not tolerate such flagrant disregard for the welfare of animals. Some of the obscene conditions and cruelty we have seen in animal agriculture and export would turn anyone's stomach and cannot be accepted, but it is also the case that this kind of cruelty has been overlooked by governments or simply not been picked up by under-resourced regulators. I understand that the investigation and enforcement of animal welfare laws generally relies on a complaint being made to trigger an investigation, and these complaints and the subsequent investigation and enforcement of animal rights protections is often a direct consequence of the kinds of conduct this bill attacks.

Not everyone will agree with the methods of every protest, including me, but there is no denying that animal advocacy organisations and activists have been instrumental in exposing animal cruelty and illegal behaviour. Consider the abhorrent treatment of greyhounds that was only exposed by covertly obtained footage, the treatment of battery hens, the use of sow stalls and various other practices that just do not stack up to community expectations. All of these breaches of animal welfare have been investigated or brought to the public's attention through the work and dedication of animal rights advocates, and some of the worst breaches of the law and community expectations have only been exposed by these people obtaining footage or exposing animal cruelty by unlawful means. This is the central point here, as it was when we considered the government's most recent crackdown on civil liberties. The conduct of animal activists that this bill targets is already illegal.

The amendment to the offence of unlawful assembly is particularly concerning. Right now the offence of unlawful assembly covers only situations in which someone in the vicinity would reasonably fear that unlawful violence will take place against people or property. That is already a fairly broad offence. This bill would add a swag of new circumstances where the gathering occurs on farmland or other areas. As the Queensland Human Rights Commission noted in their submission—

A question for the Committee to consider is whether extending the offence of unlawful assembly in the Summary Offences Act 2005 is necessary, when there are existing offences of trespass and unlawful entry of farmland. The Explanatory Notes do not provide any explanation as to why the existing trespass laws are unable to achieve the stated purpose of the proposed limitation on the right to peaceful assembly—

The commission concluded that even though the Human Rights Act does not yet apply—

Having balanced the considerations in section 13 of the Human Rights Act 2019, and noting the absence of a demonstrable justification for the limitation, the Commission does not support Clause 132—

The current section 13 of the Summary Offences Act is a very specific application of the law of trespass. What is proposed in the bill would significantly expand the kinds of facilities and conduct to which the penalties apply and simultaneously double the penalty for that offence from six months to 12 months in prison. There is no good reason given for the expansion of this offence or the doubling of the penalty. As the Queensland Law Society noted in their submission—

QLS advocates for laws which are evidenced-based ... QLS submits that there is no cogent or persuasive evidence that the current law is inadequate and that these penalties are necessary. Furthermore, there is no evidence that these provisions are appropriately adapted to achieve the desired effect.

When the minister got to his feet in here and tried to provide some justification in his second reading speech, he simply pointed to the fact that acts of protest in general had gone up. He did not put forward anything else. We can only assume that his long-term objective is zero protests—a society completely anaesthetised without any dissent. Is that the objective here? Is that what we are aiming for: the dream of the government?

What is absolutely plain for everyone to see is that this will not satisfy the LNP. They have separately proposed a preposterous and harshly repressive law that would lock people up for 10 years for organised trespass. Why is it so difficult for the government to see that they will use this thin end of the wedge to outlaw all kinds of conduct that their corporate backers find inconvenient or embarrassing? How long until they use this style of law to target construction workers walking out over safety concerns or aged-care workers pushing for better pay and safer conditions for their patients? This is not science fiction or fantasy either. The Liberals in New South Wales and Tasmania have already pulled a very similar manoeuvre and it is frankly puzzling that no-one else here seems to see it coming.

A potentially unforeseen consequence of this panicked law is that it may make it illegal for farm workers to meet together as a group when they are being exploited by their employer. Clause 132 of the bill makes it illegal for any group of three or more people to gather together on farmland where their conduct could cause a person in the vicinity to reasonably believe that they could cause economic loss to the farm business. That means any meeting of workers—who could be underpaid or subject to abuse or extortion—could be in the frame as an unlawful assembly and those workers could be liable to one year in prison. For farm workers—many of whom are casualised and insecure and many of whom are on temporary work visas—that is an incredibly threatening and dangerous law. When someone's visa status depends on their job, they are almost never going to rock the boat, so exposing them to criminal sanction for gathering together is a very serious thing.

I note that the provisions in question do not apply to lawful industrial action under state laws and that federal protected industrial action would also remain legal. That may technically be correct, but the scope of protected and lawful strike and other industrial action is narrow and getting narrower all the time. For instance, at a federal level, workers cannot go on strike unless they are in a bargaining period—so every three years or even less frequently sometimes. The committee did not hear from any unions—certainly not from the National Union of Workers which is doing fantastic work organising migrant and casualised farm workers—and it apparently did not consider this possibility in its deliberations.

Similarly, the Department of Agriculture and Fisheries has advised that there was no consultation with animal welfare groups or animal industries groups on these provisions. It shows just how damaging it is when the *Courier-Mail*, Labor and the LNP drum up a pointless culture war against vegans or any other group of protesters. What ends up happening is workers lose out and Labor are too distracted fighting a culture war to notice.

The minister noted in his speech earlier that he would be moving an amendment to clause 132 of the bill to, in his words, ensure that it only applies to conduct which is already illegal. We have not seen those amendments but the existing clause 132 adds a very significant list of broad-ranging circumstances in which people might be exposed to a year in prison. The clause which criminalises economic loss in particular should be removed.

In summing up, as I said at the outset there are a number of changes proposed in this bill that I support and there appears to be no doubt that it will pass and that those useful, commendable changes will come into effect. While I do not oppose everything in the proposed bill, I have no option but to vote against it because of the draconian and dramatic overreach that these particular provisions represent.