

Workplaces (Protection from Protestors) Repeal Bill 2016

Second Reading speech

This bill would repeal the Workplaces (Protection from Protestors) Act 2014, also known as the Anti Protest Laws.

The Anti Protest Laws were brought to Parliament by Resources Minister Paul Harriss less than three months after being sworn in by the Governor.

In the years to come these laws will be seen as a rookie mistake by the Hodgman Government, who were not used to drafting legislation after 16 years in Opposition who were not used to responsibly balancing competing interests as a government and who were more used to viewing the world in black and white, who were used to picking sides in a debate and demonising the other side.

For the reasons I will outline shortly, the state of Tasmania would be better off without these laws and today we are giving the opportunity for the Government to admit its mistake and scrub these laws from our statute book.

There is a long list of problems with the Anti Protest Laws:

Firstly, the laws harshly punish free speech and peaceful assembly carried out in public places through the possibility of four year jail terms or \$10,000 fines.

Secondly, the laws have been used against local Tasmanian parents and grandparents, contrary to the government's pledge it would not be used against 'mum and dad protesters'.

Thirdly, the laws may contravene the implied right to political communication in the Australian Constitution. Professor George Williams is of the view that the laws are on "quite shaky constitutional ground" and the United Nations Special Rapporteur on freedom of opinion and expression stated "If passed, the law would almost certainly run afoul of Australia's human rights obligations, which Tasmania is also obliged to uphold."

Fourth, the laws politicise the police who are asked to implement these deeply flawed provisions.

Fifth, the laws were drafted in an unnecessarily complex and convoluted style, which was subsequently compounded by amendments made in the Upper House, and as a result there is considerable uncertainty about the operation and scope of the Act.

Sixth, the laws were passed by the Tasmanian Parliament without the benefit of any formal public consultation process with the legal profession or other expert or interested groups.

Seventh, the laws duplicate existing laws, including trespass and public nuisance, which manage to govern protest activity in a way that raises none of these concerns.

Many of these points were raised in a petition I tabled in Parliament this morning.

Since that petition commenced in February there have been other important developments.

- on the 10th March 2016, the Minister for Forestry said *“We are confident in the Constitutional validity of the laws, and will vigorously defend them.”*
- on the 17th May 2016, the Commissioner of Police announced the charges under the Anti Protest Laws against Bob Brown would be ‘discontinued’. This because he was on “business premises” and therefore the charge relating to being in a “business access area” should not proceed. Also announced was the fact charges against four other protestors would be reviewed
- on the 18th May 2016, the Minister for Forestry said *“In line with precedent, the Solicitor-General will now seek to have the matter discontinued in the High Court.”*

These developments are highly revealing.

In March the government pledged to defend the laws vigorously but just two months later in May it is running scared.

If the Government are so confident its laws are valid, why are you not game for a court challenge? Why are you seeking to strike out the challenge before a full hearing can take place?

The statement from the Minister that moves from the Government are 'In line with precedent' is highly ironic.

In the 1997, the State of Tasmania attempted the same thing against Rodney Croome and failed.

Mr Croome had been charged under the states then anti-gay laws. He challenged the laws in the High Court and subsequently had his charges dropped. The then government then asked the High Court to discontinue their hearing on the basis the charges had been dropped.

However, the High Court specifically ruled that Mr Croome could have his day in the High Court and that the dropping of the charges was irrelevant.

Eventually, the State's anti-gay laws were removed before that hearing took place.

If this is the 'precedent' the Minister is taking his lead from he's setting his Government up to fail.

The High Court provides the ultimate form of scrutiny and the government are using every trick in the book to get off the hook.

Well, the Greens know these laws will not stand the test of time.

One day they will be scrubbed from our statute book, whether it be due to the High Court challenge ruling the laws are unconstitutional, or whether history repeats itself and the this government gets in first and repeals these laws today or whether it be a more democratically minded government in the future, these laws will be dismantled.

Ultimately what this Bill will do is repeal overly heavy handed, unnecessarily complex which politicise the police.

In their place, the State would return to the conventional laws of trespass and public nuisance. These laws are simple and regulate protest activity in a way that is well understood by all parties, and is accepted.