



Department of Justice
Strategic Legislation and Policy
GPO Box 825 Hobart TAS 7001

3 March 2019

Re: Submission on the Workplaces (Protection from Protesters) Amendment Bill 2019

Please accept this submission on the Workplaces (Protection from Protesters) Amendment Bill 2019.

I do not support this bill and, if elected to the Legislative Council, will vote against its passage. I believe this bill, and the *Workplaces (Protection from Protesters) Act 2014* (the Act) it seeks to amend, are unnecessary, politically motivated and dangerous infringements on civil liberties.

As a long term participant in the debate over forestry-related conflict in Tasmania, to which this bill is supposedly seeking to address, I believe it more productive for Government to seek to resolve the source of community conflict and protest, the logging of high conservation value forests.

Instead, this bill and the Act to which it pertains, seeks to restrict rights and punish behaviors, irrespective of any analysis as to the expected efficacy of these punishments, the impact on personal rights or constitutionality.

The findings of the High Court should have served as an opportunity for the Tasmanian Government to repeal the Act, rather than seek to retro-fit amendments, supposedly to address the concerns of the Court.

I note the commentary from experts in law, including UTAS lecturer Brendan Gogarty, who has condemned the bill and foreshadowed likely further challenge, at the expense of the taxpayer and Tasmania's reputation. He has written that "*assuming the Government bunkers down and maintains this approach then it may very well find itself before the High Court again. Given the hundreds of thousands of dollars (at least) lost to the failed defence of this Bill's predecessor, it may be worth considering whether this script deserves a second reading at all.*"

This is an ominous warning and an indictment on the approach of the Government.

Specifically, I make the below points on the bill:

- These exists laws under which people who chose to trespass to protest can be prosecuted;

- The bill is confusing and inconsistent, making the original Act even more opaque and difficult to apply, Brendan Gogarty has said “*the problem is, so much of the old law was expressly or impliedly invalid, that the new Bill is a thicket of amending provisions almost as long as the original (which it has to be read alongside). It’s like a multidimensional, do-it-yourself, choose-your-own adventure book of befuddlement.*”
- The bill would leave uncertainty as to its application, compounding doubt in the minds of both the public and the police with regards its application;
- The bill establishes the new offence of threatening to interfere with a business, however it provides no definition or clarity as to the thresholds of what constitutes a threat. Application of this component of the Act, should it be gazetted, presents a challenge for police and the public and does not appear to be limited to physical acts of interference, a concern with regards to the notion of freedom of speech and personal expression.

I urge this bill to be abandoned and the necessary steps taken to repeal the Act and address the root cause of environmental-based protest, the destruction of important environmental values.

Yours sincerely,



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ⁱ <https://www.themercury.com.au/news/opinion/talking-point-protest-bill-rehash-fails-to-clear-the-air/news-story/da1223229c8eb055b44b7aae118a8d99?csp=994a8d732438acdf3423c1092f672c24>