



Speech By
Andrew Powell

MEMBER FOR GLASS HOUSE

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HUMAN RIGHTS BILL

 **Mr POWELL** (Glass House—LNP) (11.47 am): I rise to address the Human Rights Bill 2018 and to oppose it. The bill includes 23 human rights and brings about four major reforms: the government must have regard to human rights principles when drafting laws; government agencies must have regard to the human rights of the people they are dealing with, especially when making important decisions that affect their lives; courts must consider and uphold human rights when determining legal issues affecting people that appear before them; and any person can make a complaint to the newly named Human Rights Commissioner if they believe that their human rights have been breached.

At the outset let me pick up on some of the challenges thrown at those of us on this side of the chamber by the member for South Brisbane. Let me refute any suggestion that I or my colleagues do not stand up each and every day for the vulnerable in our society and that we do not represent those in our communities who have disabilities, who need protection, who have child protection issues, who have domestic violence issues or whatever else it is.

As challenged by the member for South Brisbane, I have sat down on a regular basis with mothers of children with disability. I can tell members that there is nothing—nothing—in this bill that is going to improve their situation. What improves their situation? More funding. What improves their situation? The application of the existing funding rules, the existing guidelines, the existing policy, the existing legislation that addresses our responsibility as a government, as a state, to care for those kids with disabilities. What happens? Occasionally a public servant does not apply those existing funding guidelines, principles, practices, policies or legislation in the way they should. In those instances, our role is to step in. More often than not, following sitting down with that mother of a child with a disability, we get a positive outcome for that family. Where we cannot, we raise the matter with the Ombudsman. Why? Because that is the existing process to achieve an outcome. When we cannot achieve an outcome, more often than not the Ombudsman can.

To suggest that by opposing this bill somehow we do not want to protect the vulnerable in this state is ridiculous, reprehensible and wrong. In this chamber, every member of this House has a responsibility to ask a couple of questions. The first question is: is this legislation necessary? Already we have heard speaker after speaker say that constitutionally, legislative and judicially we already enshrine human rights in this state and in this nation. We have an ability to address abuses of human rights in this state and in this nation. This is Queensland. This is Australia. We are the best state in the best nation in the world and we have reached that point by not needing, requiring or having a bill of human rights. There is nothing broken in our system that requires this intervention.

I heard the member for Bonney ask: where is the public outcry for this bill? Where is the call, the necessity for a bill of human rights in this state? I will have been the member for Glass House for 10 years in March. I would like to say that it is one, but I will be generous and say that, in 10 years, fewer than five individuals in the electorate of Glass House have come to me asking for a bill of human rights. As I have said already, I have had double, triple, quadruple that number of mothers with children with disability come to me and I have helped every single one of them and I did not require a bill of human rights to do it.

Those concerns that I have about this bill are also addressed in a submission by two eminent individuals, one of whom I know very well: Professor Nicholas Aroney and Professor Richard Ekins. I refer to their submission to the committee that considered whether a human rights bill was necessary and then subsequently considered the bill. In their submission Professors Aroney and Ekins recommend that the Queensland parliament should not enact a human rights bill. They have several reasons for that recommendation. They state—

Firstly, respect for human rights does not require enactment of a statutory charter of rights. Human rights are best protected by carefully drafted legislation which specifically addresses particular issues in a manner that gives certainty to all those affected by the law. The enactment of abstract 'rights' does the very opposite, because it introduces vagueness and uncertainty into the law.

It is very clear. If there are problems in ensuring that human rights are upheld in this state, the best means to address those problems is through improving and amending existing legislation. We do that on a weekly basis when we meet in this chamber. We improve legislation and, in this instance, we can do it again. As the professors point out, by introducing a bill of human rights we do the opposite. We create a level of ambiguity, we create uncertainty, we create vagueness that means that we could probably drive a truck through the human rights legislation.

The professors go on to state in their submission—

Secondly, charters of rights distort the proper functioning of the courts. They invite judges to evaluate legislation against standards that are so broad that they amount to an open-ended assessment of whether the law ought to have been enacted. This entangles courts in what are essentially political controversies, undermining public confidence in their political impartiality and impairing their ability to uphold the rule of law.

Mr Deputy Speaker, you are a former principal of a high school. At one time, all of us were students. We were taught the three arms of government: the executive, the legislative and the judiciary. The separation of their roles was made very clear. It is the government's role to determine the agenda. It is the legislative role to enact the laws. It is the judiciary's role to ensure that those laws are upheld and applied. It is not the job of the courts to intervene in the legislation of this state. That is what is going to happen when this Human Rights Bill becomes enacted, should it do so.

The professors go on to explain that in a little more detail. They state—

Courts routinely uphold the rights that individuals have against one another and against public bodies. However, the abstraction of the rights set out in the Bill and the fact that those rights are subject to limits on very general grounds (clause 13) is unusual and will require courts to choose what these rights are to mean. This is a novel and far-reaching empowerment of the courts.

Similarly, courts will be introducing a new interpretative direction that will, as their submission states, 'constitute a significant change in the relationship between the courts and the parliament and will increase the relative power of the courts'. As the shadow Attorney-General said quite clearly in his contribution, we will have courts interfering in the day-to-day operations of the legislature in determining law rather than applying it. That is completely unacceptable. It goes against everything that we were taught about our structure of government in Queensland, in Australia and, indeed, in many nations that have preceded us and from which we have adopted it.

Mr Power: Shall we get rid of the Constitution?

Mr POWELL: I take that interjection from the member for Logan. The fact that we have a Constitution is a reason we do not need a bill of human rights. Human rights are enshrined in the Constitution. They are enshrined in the legislation that this House enacts and they are enshrined in the decisions made by the judges and the courts as we speak. That is a ludicrous interjection by the member for Logan. No-one is suggesting that we get rid of the Constitution.

Mr Janetzki: You rely on it.

Mr POWELL: I take that interjection from the shadow Attorney-General. You rely on it, as we do with the legislation that we have and, if there are flaws, we amend that legislation. We do not bring in a bill of human rights that takes the power off the legislature and hands it to the courts. For that reason, I oppose the bill.