

ROADS AND CRIMES LEGISLATION AMENDMENT BILL 2022

Second Reading Debate

Debate resumed from an earlier hour.

The Hon. SHAOQUETT MOSELMANE (19:04): My colleague the Hon. John Graham has carriage of the Roads and Crimes Legislation Amendment Bill 2022. He has earlier expressed some of our concerns, and I understand that he and others will move a number of amendments to make the bill a little more agreeable. At the outset, I express my concerns that the bill is being pushed through as an urgent bill. Rushing through bills of this nature can have dire consequences for our civil liberties as enshrined in our constitution—namely, the rights to free speech, to congregate and to protest. Freedom to protest is fundamental to any democracy. It allows people to express themselves within the bounds of the law.

I particularly object to the penalties within the bill, which, I believe, could mean locking up citizens for 24 months simply for exercising their democratic right to protest. An outsider looking in could argue that the real intent of the bill is to silence opposition and block protesters. If you restrict the rules then people are bound to break them, intentionally or unintentionally. That is not what we want to happen. If that is the intention, many members in the House will oppose the bill. I know that some amendments are being negotiated and that some restrictive aspects or definitions will be relaxed somewhat. I trust that the outcome will give us enough comfort to support the bill. I hope that the amendments will mitigate or reduce the adverse impacts intended or unintended in the bill.

We have all been involved in some form of protest in one way or another. I have been involved in many anti-war rallies and many student protests, whether as a university student protesting against higher education charges or cuts to student union services, or as a university faculty of law representative when we conducted sit-ins because of the various faculty cuts. There are many ways within the law that members of Parliament and members of society can protest and express their displeasure with certain things. My main concern is the potential for members of our multicultural communities to fall foul of this law when protesting. Some may not understand the law and some cannot express their concerns through letter writing. One thing they understand in this democratic country of ours is the right to protest. I do not want them to protest against low wages or unfair work, for instance, and be caught in this net under the bill and be jailed for two years. We must tread carefully here. I hope the Government will take these issues into consideration when dealing with the proposed amendments.

The Hon. MARK LATHAM (19:07): I contribute to debate on the Roads and Crimes Legislation Amendment Bill 2022 to support the bill. I will take a few moments to rebut the proposition that has been put by The Greens because it is an act of fantasy. They would have us believe that the protests from Blockade Australia are random miscellaneous protests that are designed to save the planet. That is clearly not the case. The only reason they blockaded the Spit Bridge was to maximise traffic chaos and keep people locked in a traffic jam for hours on end. The only reason they pushed cars onto the rail line at Scone and caused other disruptions in the Hunter Valley was to disrupt the jobs and the movement of working people in that region. The only reason they blockaded Port Botany was to harm the small businesses that wanted to get their freight in and out of the port and the surrounding traffic made up of working people who just wanted to get to work.

It is a targeted campaign. There is nothing random about it. They are not people who wake up in the morning and see a good cause they want to support, notify police and get a permit to do that. They are Trots and ferals who target certain locations to maximise harm to their fellow citizens. That is why these State laws are justified. You cannot allow people on the extreme of our society to target certain locations to hurt people and maximise economic harm. As I said in the earlier debate, I regard that as theft. They are stealing people's time and economic opportunities. Many people in Sydney travel a long way on their commute. The idea of a meaningless protest targeted at holding people up in traffic is abhorrent. They will do it on suburban trains and anywhere to maximise harm. They will hold commuters up for hours on end.

On the question of convenience and harm to others, you only have to listen to The Greens to understand the hypocrisy. Ms Abigail Boyd was in a huff earlier today because of the inconvenience that her disallowance motion might be debated after the bill. That was her big problem. Try being locked in traffic for hours on end. Try getting to work when you are obstructed for hours from your simple task of a working day. Those are the pressures and First World problems of The Greens, the bourgeois left. The member was greatly inconvenienced because her motion was going to be delayed in this House. Try sitting in a traffic jam for hours on end because some ferals blocked a bridge or a road or pushed a car onto a rail line. That is the real inconvenience that real people face. The great inconvenience to the leader of The Greens, Mr Shoebridge, was the gutter dispute at his home. Apparently a neighbour had the gutter—

Ms Abigail Boyd: Point of order: I have made the same point a number of times. The Hon. Mark Latham knows better. If he is to refer to Mr David Shoebridge, he is to refer to him by his name. The honourable member knows full well that The Greens do not have a leader.

The DEPUTY PRESIDENT (The Hon. Wes Fang): The Hon. Mark Latham has the call.

The Hon. MARK LATHAM: We know one thing: They need a leader for some of the rubbish they advance. They could not make all of that stuff up and be so misguided, could they? That psychobabble from Ms Abigail Boyd must be orchestrated. Someone must have written the script. Some form of leadership must have directed her in that fashion.

The Hon. Anthony D'Adam: Point of order: The member has drifted away from the subject matter. He is not debating the bill. Now is not the time to discuss The Greens or its internal politics. The member must focus on the bill before the House. He should be drawn back to the bill.

The Hon. Natalie Ward: To the point of order: Other members have drifted off to other matters and they have not been drawn back to the contents of the bill. That is an outrageous allegation to make by point of order. The Hon. Mark Latham should be allowed to continue his contribution.

The DEPUTY PRESIDENT (The Hon. Wes Fang): I have given members wide latitude in their contributions to debate on the bill. A number of contributions have strayed from the contents of the bill. I do not believe the Hon. Mark Latham has strayed any further than other members.

The Hon. MARK LATHAM: I am engaged in compare and contrast, which is a valid form of debate. Ms Abigail Boyd tried to trivialise the nature of the Trots blockading certain bridges and roads by saying that schoolkids were three minutes late for school. That is fundamentally untrue. Schoolkids were hours late for school, workers were hours late for work and small business owners were hours late to open their businesses. It was not a matter of three minutes. Attempts to trivialise the matter and say that there is no inconvenience to a blockade is false. The member said that the Spit Bridge can be closed because yachts sail through anyway. That bridge opens so that the boats can go through. The argument that closing the Spit Bridge inconvenienced people by three minutes is untrue. The inconvenience of closing down Port Botany is manifest. The inconvenience in the Hunter Valley was dreadful. That shows the geographic pattern.

The protests started in the Hunter Valley four or five months ago. The cops caught those protesters, as they should have done. The protesters then moved to the Spit Bridge. When that gig was up, the protesters moved to Port Botany. If the bill was limited to closing down those three venues, they would simply move somewhere else. That is why my colleague the Hon. Rod Roberts will move an amendment to anticipate where those ferals will go next. Members should use the bill to arrest and jail those characters who protest on industrial estates. One of the vulnerable locations in this targeted campaign would be to close down Tomago or BlueScope Steel at Port Kembla. Just as this law would apply to roads, bridges, rail lines and ports, it should also apply to industrial estates where that targeted disruptive campaign will inevitably move.

The question is where those Trots will go next. Their disruption to society and their harm to others is unlimited. The bill must be as broad as possible. The core question is one of convenience. The Greens obviously live in a bubble. The First World inconvenience for Ms Abigail Boyd is to have her disallowance motion delayed and for Mr David Shoebridge it is to have a dispute about a gutter. After having sent many emails, Mr Shoebridge's neighbour knocked on his door and wanted to have a cup of tea but was told, "Don't waste my time." When The Greens are inconvenienced about a motion or a gutter, it is a crisis; it is a big, blown-up problem. Yet they have the hide to defend the Trots and the ferals who would close down major parts of Sydney and the Hunter Valley and cause hours of disruption and real-life inconvenience to people who are not on six-figure salaries—these are working people who are trying to make ends meet and get to their place of employment on time.

Those are the real-life circumstances that the bill will attempt to defend. Those are the real-life working people the bill will attempt to defend. For the Hon. Anthony D'Adam and others to be blatantly anti-worker and to be in favour of people who would stop workers from getting to their job is abhorrent to a fair society. The Hon. Anthony D'Adam has said that he does not support the bill but that he was caucused into it. The truth is that the Labor caucus has made the right decision because at least it is saying that workers must have the basic freedom and dignity of getting to their work.

If you do not stand for that, what do you stand for? You are hanging around with the worst elements: the Trots, the ferals and the great unwashed. Those disgusting people want to punish workers who are just trying to make a living. There cannot be anything worse in our society. The bill is not without fault. It must be broadened by amendment to cover those industrial estates. But at least the bill defends freedom of movement and the freedom of working people to get to their job and it closes down the real inconvenience—not a disallowance motion or a gutter in Woollahra—of a targeted campaign to really hurt working people and stop them from getting to their job.

The Hon. ROSE JACKSON (19:16): In debate on matters like this, the Roads and Crimes Legislation Amendment Bill, I sometimes think, "This is why the left cannot have nice things." At its heart, we are debating the right to protest on issues like more action on climate change. The community wants more action on climate change, there is no doubt about that. Poll after poll shows clearly that people want more action on climate change and they want more to be done to protect the planet. They see the fires and the floods and they know that those extreme and frequent weather events are caused by erratic climate conditions, and they want more to be done. But instead of building a meaningful coalition around those issues—which may include mass protests, parliamentary action on government organisations and politicians working with unions—we are distracted by people who do absolutely nothing to help the cause. In fact they take us backwards.

That is why we are not winning. We are on a complete wedge—let us call it what it is for the Government—and on a complete distraction. Instead of doing the hard work—and it is hard work to change minds and build a better world, because people do not automatically agree with you when you are a progressive—people are trying to defend activity that makes life harder for other people. To participate in behaviour that makes life hard for others is not helping us. We want those people to be on our side; we do not want to make their lives harder. Ruth Bader Ginsburg says—and I try to live by her words, though I do not always succeed—"Fight like hell for what you believe in but do it in a way that brings other people with you." I do not always live up to her wise words but I try to, and that is why I am in the Labor Party, a party that actually tries to make change. We know what we believe in and we are passionate about it, but we must do it in a way that brings people with us.

Labor has a clear position on this. I do not accept the argument that Labor is trying to walk on both sides of the street. Those of us in the Opposition have a clear position; we know what we believe in. We believe that you should be able to protest—that is obviously essential—but there are limits on that. We have always supported limits on that. It is clear that we are the party that, from my amazing colleague the Hon. Penny Sharpe, introduced legislation around safe access zones. We have had a consistent position in favour of protests but we had limits, where appropriate. It is not something new. It is completely consistent with our history as a movement that brings the industrial wing and the political wing together. Protest is central to what we believe in but there are limits and those limits include rogue individuals who are going out there and doing things that are so unbelievably destructive not only to our society generally, obviously, and our economic productivity, but also to the causes that we believe in.

We also think that there are limits on punishment, though. I do want to put on the record that the creeping incrementalism of higher punishments for behaviour that is intended as protest is something that we need to keep our eye on. We are not for public floggings; we are not. There is a limit on punishment: There is a limit on protest and there is a limit on punishment. Those things are completely consistent with how Labor has approached these matters for a long time. I want to be clear: This is not criminalising protest; it is just not. It is really unhelpful to put things like that on the public record. It is really unhelpful. It is completely disingenuous to suggest that this legislation does anything to change the framework around how protest activity can be engaged in in this State. I reject the suggestion that that is the case. It is an unhelpful contribution.

Having said that, the original draft of the bill was completely unacceptable and raised serious concerns among people. There is no doubt that under the original framing of this bill I would have been subject to two years' imprisonment for sit-ins that I participated in as a student activist on George Street against voluntary student unionism. There is no doubt in my mind. But that is not just about me not wanting to go to jail for two years. It is about the fact that no-one—no student or environmental activist or feminist or climate change protester—should be criminalised for behaviour such as that. The original draft of the bill was completely unacceptable and would have rightfully been rejected by Labor in its original form as not consistent with our approach. However, we have been able to secure some essential amendments, some critical amendments, to rein in the operation of a bill that was completely unacceptable and unworkable to make it more in line with the types of things that we think are reasonable. It is still not in a form that I think is perfect; but, hey, nothing in this world is perfect.

It is much more consistent now with the framework that I have outlined, which I think characterises Labor's approach to these issues. I think we need to be clear about what the bill is not, which is a criminalisation of protests. Protest will remain legal in this State in the way that it has been, but I also think it is important to be clear about the serious reservations that we have had about the original drafting and the way the Government has approached this as well as how important it has been to us to secure some of the amendments we have secured. One of the most important for me is the two-year review because I remain concerned about unintended consequences. I want to put on the record right now: If this bill is used to arrest and charge unionists, environmentalists, students, feminists or anti-war activists, engaged in completely nonviolent mass street meetings, even if they are on George Street or Macquarie Street, that is utterly unacceptable and these laws should be trashed. If that is the way that they are operating, that is not acceptable and they should not go ahead. There will be an essential review to assess that.

If they are being used to target rogue individuals who completely disrupt peak hour traffic on the Spit Bridge, on our ports, while endangering not only themselves but also the workers who have to try to get them down and deal with these situations, it is an absolutely valid point to say it is extremely dangerous not only for them but also for the people who are trying to respond to it, and if these laws are being used to target that behaviour, I think that is acceptable.

Finally I reiterate my plea to the protesters who are engaged in blockade rebellion by Fireproof Australia: Please do not do what you are doing. It is not helping. I want to see action on climate change as much as you do and your behaviour is not helping. If you want to do something helpful, find five or 10 or 15 people who are unsure about how they are going to vote in the next election and have a conversation with them about voting for a party that wants action on climate change. Do that; change a mind; persuade someone. It is not easy. I am not going to tell you that is an easy thing to do. But it is probably easier to glue yourself to a road, much as I am sure that messes up your hands. Eventually, with some hand cream, your skin might heal. Actually, that is the easy thing to do.

The hard thing to do is to find someone who is unsure or does not agree and talk to them and convince them about why action on climate change is necessary. My plea to those protesters is this: Please, we can win. We can win the things that you care about and that I care about, but we cannot win if everyone is annoyed with us; if everyone is frustrated with us; if everyone is going, "God, these guys are really annoying me." Do not do that to the community who we want to come along on this journey with us. That is my plea to you. Think about the consequences of your behaviour for those of us who are trying to use our democratic system to achieve those outcomes. How distracted we are with these debates and talking about these things because of what you are doing. That is what I want to finish on—that plea. Thank you.

The Hon. ADAM SEARLE (19:26): I will not delay the House too long. This is an extremely important debate. The right of people to protest peacefully has been part of our social and political landscape for centuries. It does not seem that long ago, for example, that we debated in this Chamber—on 15 March 2016, in fact—a panoply of new laws to crack down on people's rights to protest in connection with mining. On that occasion we took a different view. We took the view that the legislation was unnecessary because many of the evils it was directed at were already dealt with in existing laws. Of course, that is the case with the Roads and Crimes Legislation Amendment Bill that we are debating today. Much of what it seeks to do, and the evil that it seeks to prevent, are in fact covered by different aspects of the existing law.

Nevertheless there is a serious public policy issue that the bill seeks to grapple with. As a responsible alternative government, the Labor Party has come to grips with that legislation. We support it but we do not think it is fit for purpose. The member who preceded me in this debate, the Hon. Rose Jackson, indicated—and it was quite clear—that in its initial draft this legislation went far beyond the reasonable objectives claimed for it by the Government. It did not just seek to deal with what the Hon. Mark Latham refers to dismissively as "Trots"; it went significantly further into the realms of people's right to protest, to bargain, to pursue better wages and conditions and safer workplaces. That was a real peril presented by the legislation.

But of course on the non-Government side of the House, students of history know that unions now have many industrial rights and working people rightly have those rights to bargain and to make their voices heard in their workplaces. But it was not always so. It was not that long ago that trade unions were unlawful combinations, when unions seeking to bargain for better rights with employers were accused and taken to the common law courts for the tort of inducing breach of contract. So a lot of what is now accepted in our community as reasonable and lawful action, to protest and to be heard, was once unlawful. We should remember when we are discussing these issues that today it can seem all very cut and dried and all very black and white about good protest and bad protest, but many of the social games—environmental or industrial—have come from people who pushed the boundaries and at that time sometimes what they did was not lawful.

Members should remember that and respect the gains and improvements to our society that have come from that place. We should treat this debate with the seriousness that it deserves when changing the balance of people's rights and responsibilities in the compact of society. People have the right to protest and be heard, but those rights must be reasonably circumscribed to ensure public safety and people's right to get to and from work. We must ensure that protesters do not unreasonably put themselves at serious risk of harm and, perhaps equally, if not more importantly, that other persons not involved in those activities are not put at risk of harm. In our sober deliberations on these matters members must make sure that we do not fall into the easy pattern of caricaturing the people we are seeking to target in the legislation while, in the same breath, demonising the legislation by saying that it has no value.

It is clear that the bill was seriously wanting at its inception. It had all the hallmarks of a government rushing to cobble together something in a desperate attempt to distract people and avoid talking about its obvious failings: the broken health system, rising tolls and chaos in the transport system. On one level the bill has all the hallmarks of a stunt that has been cobbled together, but the Opposition takes seriously all legislation before the House. We have made a sober evaluation and, as a responsible party—both in this place and in the other place—we have engaged with the bill and proposed reasonable amendments. Through dialogue with the Government we have secured the beginnings of a carve-out to protect working people so that industrial action would not be caught by the provisions of the bill. That is a good change and we thank the Government for adopting it. We also pushed for a sunset clause in the bill due to its serious and far-reaching nature. The significant \$22,000 fines or two years in jail for an individual are not to be trifled with; they are serious matters. We thought a sunset clause appropriate to see how and whether or not the provisions in the bill are used.

Another hallmark of many terrorism, police powers or serious criminal offender control order laws is that they are ultimately not needed or not used by law enforcement. I think all members earnestly hope that the matters caught by the bill will not ever be needed. The Opposition did not get a sunset clause but it did get a review, which is an important matter. As the Hon. Rose Jackson has said, after two years of operation we will be able to see whether the legislation has been used. If it has not and if there is a real question mark about whether it was ever needed, or if it has been misused, then obviously that would call for reform. However, the Opposition did not get all its measures included in the bill. One of the flaws in the drafting of the bill, which is perhaps reflective of the Government's haste, relates to what it defines as a major facility in new section 214A (5) (c) on page 4:

(c) an infrastructure facility, including a facility providing water, sewerage, energy or other services to the public, prescribed by the regulations.

That definition is very broad and imprecise. The Government's regulation-making powers would enable it to give an ambulatory effect to that new section to widen the scope of its catchment, which is why the Opposition proposed an amendment in the other place to tighten it to focus on the matters that the Government said the bill is designed for. Another hallmark of government legislation over the past 10 years is that governments say legislation is needed to do A, B and C, yet the legislation they dish up has other provisions that allow that government to enlarge its own power. Legislation is subject to supervision by both Houses of Parliament, so if this part of the bill is not changed then supervision by this House to ensure that legislative provisions are deployed sensibly and reasonably will be an important obligation on all members.

We have started the journey of moulding the legislation into much better shape. The industrial rights carve-out—if I can call it that—was good, and it was achieved in a short space of time. However, overnight and through the course of the day further examination of the bill revealed it to be more flawed than the Opposition was sensibly able to deal with in the time available in the other place. Of course, the arrangement of the other place is slightly different to this House. I hope and believe that the Labor Party will propose additional amendments to ensure that all aspects of working life and people's rights in and out of the workplace to make their voices heard as citizens on workplace matters are not prescribed, caught up or in any way suppressed by this legislation. A range of other considerations has also been ventilated in the debate, but we cannot let the perfect be the enemy of the good. We must make improvements to the legislation that can be reasonably obtained during the course of this debate.

The bill may not be to everyone's flavour—and, in an ideal world, it probably would not be to mine—but this is where we are. It is our obligation as legislators not to spit the dummy, throw in the towel or say it is too hard, but to engage with the subject matter, to make the case for reform and to persuade members of this House to adopt reasonable measures to make this legislation work. The Government says that it intends to achieve those aims. In 2016 the government of the day clearly sought to intimidate the community into not engaging in public discourse and dialogue on anti-protest laws. This bill does not offend in the same way as that legislation, which was ultimately passed, in no small measure because there was significant community disquiet about those laws, even though they eventually passed through the Parliament. I do not know how often they have been used but it is probably not very much. I thank honourable members for their attention and I look forward to the Committee stage of the bill, where we can improve upon where it stands today.

The Hon. DANIEL MOOKHEY (19:37): I make a contribution to debate on the Roads and Crimes Legislation Amendment Bill 2022. The object of the bill is:

... to create offences for certain behaviour that causes damage or disruption to major roads or major facilities ...

The bill arises out of the special circumstances that led to massive disruption for lots of working people and to the operations of the Port Botany. I have a lot of sympathy for people who want fast action on climate change, but those who cause disruption at Port Botany are targeting that facility in an aggressive way.

Prior to being voted into this Parliament, I had the honour of representing the many truck drivers who used the land site off Port Botany. I recall fighting very hard for the most basic facilities for those truck drivers. They did not have toilets because back then none were provided. Each time there was a land site delay—that is, any disruption to a truck accessing the port—there were many cascading consequences for those categories of workers, two of which I draw particular attention to. The first is long-haul owner-drivers who use the port. Any delay at Port Botany has a cascading impact and jeopardises workers' ability to comply with fatigue laws. Those laws are unique to truck drivers because they restrict the amount of time they can work, which then restricts the amount of income that they can earn as well.

A one-hour delay at Port Botany can lead to an owner-driver—or for that matter, an employee driver—losing four to five hours of income later in the week. A delay on a Monday will affect a truck driver on a Saturday when it comes to fatigue laws. That is why the Transport Workers' Union and others have agitated so hard for reform for the landside of Port Botany, especially because the way the ports work is they always privilege the needs of the ships ahead of the needs of the trucks. Those fatigue laws are crucial to safety in the road transport industry. With any disruption at Port Botany—whether it is caused by mismanagement at Port Botany by various operators and stevedores, which is often the case, or whether it is caused by various shipping delays—the risk is internalised by the landside, especially the truck drivers. That is a huge issue for those working people as well. I would urge any person who targets the port as part of a protest to consider the consequences of their actions for the working people who use the port, especially those truck drivers.

That brings me to the second consequence when it comes to landside disruptions at Port Botany, which is the ability of an owner-driver or otherwise to recover the costs of a delay. For those who say, "Well, this is just the price people have to pay as we make a point of disruption," to some extent that is a privilege point. Some people can afford that sacrifice while others cannot. An owner-driver who is leveraged and who is picking up a container has usually borrowed half a million dollars for the truck. They have interest payments. They have debt repayments. They put their mortgage on the line for that as well. The amount of income they earn is seriously important to them. To lose hours at work, particularly if they are paid on piece rates—they are not paid for all time worked; they are not paid for every minute that they are sitting at the port—is a serious problem.

What we know, and what the Government and the conservative side of politics denies, is that those owner-drivers do not have the power to recover the cost from their clients. They cannot pass the cost on. It comes out of their bottom line. That is why they are always so agitated when it comes to reform at Port Botany. Having witnessed the actions which took place at that port last week, my immediate thoughts went to a lot of those owner-drivers, employee drivers and businesses that will suffer the loss of income and cannot pass that cost on to the retailers.

That port is a container port. It is not a coal port or a bulk goods port, although there are some aspects of bulk goods. The people who use that port are overwhelmingly the big retailers. I do not particularly have much sympathy for Woolworths, Coles, Wesfarmers and others that control those facilities because they exercise massive amounts of power over supply chains. But when protesters disrupt Port Botany randomly without notice—certainly not without demands—it is the case that the people who actually pay for it are many of the people on the landside part of these things. It is necessary that the Parliament make it clear that those people matter and their interests matter as well.

That brings me to the other point I will make in this second reading debate. The other irony in this particular debate is that the people who have aggressively campaigned on our roads for reforms are actually our truck drivers. When my colleagues the Hon. Adam Searle, the Hon. Penny Sharpe and the Hon. Rose Jackson talk about carving out the rights and protections of working people to protest on roads it is not an abstract demand. It has been seized upon by truck drivers in this State since Razorback in '79, which got us the owner-driver legislation in this State. In fact, when they blocked the Hume Highway travelling south to Canberra it caused this Parliament to establish chapter 6, which has provided baseline conditions. My point is that protests can work and people should have the right to them, and working people need those rights as part of their industrial campaigns.

I will tell a couple of other stories about various times where working people have blockaded roads as part of industrial campaigns and the type of changes that has led to. I have to talk about two fantastic campaigns I had the honour of being involved with. The first was the campaign to protect \$4.5 billion worth of goodwill that owner-drivers depended upon. It took place in 2006 when the Howard Government was trying to eliminate chapter 6 by passing the Independent Contractors Act. Along with perhaps the spouses of certain other members of the House, and seeking to defend the rights of those small businesses and the investments that they made, I organised a brief stoppage of approximately 20 minutes on the M4. That was part of the Your Rights at Work campaign. I recall very vividly the huge impact that had at the time and how crucially important it was in drawing the attention of the Howard Government, which had absolute power in the Senate, to exempt this part of the law in New South Wales from the operation of the Federal Act.

It was a years-long campaign. I am sure the Hon. Rose Jackson would recall many a convoy over the Anzac Bridge and over the Harbour Bridge, all safe, peaceful, notified to the police and done in compliance with the laws as they applied at the time—except for the stoppage of the M4. They were crucial in drawing attention to the plight of people who were otherwise not identified as ordinary constituents of a trade union. They were small business owners. At the time there was \$4 billion of goodwill invested in their businesses that they felt they had to take to the road to defend. When my colleagues in the Chamber talk about how crucial it is that we secure amendments that protect the rights of working people—as constituted by owner-drivers, small business owners or otherwise—to take protest actions in defence of their rights, that is the first use case that I point the House to.

I would hate to feel that another conservative government could try to knock off chapter 6 through the Senate and destroy billions of dollars of goodwill, and that this House would have passed laws that do not provide adequate protections for the rights of those small businesses to act collectively in their own defence. That is why it is such an important step, when we get to the amendments stage, that we ensure that owner-drivers or others who participate in industrial campaigns, industrial actions or industrial disputes are unaffected by the operation of this law. That is the first use case that I point to when it comes to particular reasons that I have blocked roads.

The second is the Safe Rates campaign, which is a radical reimagining of supply chains and how we regulate conditions. I am prepared to accept that of all members of this House and, dare I say, the Parliament—it might be a contested record by some—I have blocked my share of roads. I have probably blocked more than any other member. It is not typical that a member of the right of the New South Wales Labor Party is accused of that, but we Transport Workers' Union ex-officials have that as a source of pride. I recall vividly the particular trigger point that I had with the Safe Rates campaign, and that was when I met with an employee long-distance driver who told me that he was under immense pressure to meet deadlines.

It was common practice in his workplace for his employer to distribute amphetamines to keep truck drivers awake. He felt he had to take them, as did his other workmates, otherwise he would lose his job. He did take them, and he was involved in an accident. He nearly killed people, and it devastated him. It caused him to leave the industry. He came back and told his story. The immense courage that he showed in accepting that he did the wrong thing, but equally accepting that conditions had to change, was one of the sparks that caused the TWU to launch the Safe Rates campaign as aggressively as it did. That campaign was all about rebalancing the power, not between employee and employer but between the buyer of transport services and the seller—clients and the industry.

That campaign required aggressive actions on our public roads. I willingly confess that I sat down on James Ruse Drive a few times. I was part of a convoy that went to Canberra to circle our Parliament. I did that as part of an effort to persuade the then Labor Government to use its power. It took multiple actions on our roads; I vividly recall a few convoys across the Harbour Bridge. I would hate to think that a law like this could stop a campaign like that. There is a real risk it could. That is why I again say to the House that, as we move to the next stage of debate, it is so important to ensure that working people have the right to act collectively in public spaces, including on our roads, in pursuit of their rights at work, be that through industrial action, industrial disputes or other industrial campaigns. I look forward to the Committee stage, where we will have the power to make those changes to the bill. I hope the House will support our amendments.

The Hon. PENNY SHARPE (19:49): I speak in debate on the Roads and Crimes Legislation Amendment Bill. I will not go through the bits and pieces of the bill. We are about to do that very extensively in the Committee stage. But I will make a few points in relation to the bill. It is a very important and challenging bill, because members on this side of the House absolutely support the right to protest. It is fundamental to who we are. Most of us have had a lot of skin in the game when it comes to protests, whether we have been student activists, feminist activists, queer activists or forest activists. In my case I have been all of those at various points. I have participated in protest that has been allowed and I have also, spontaneously, been involved in protest that has not been allowed.

Protest is important, because it is a fundamental right of every citizen to be able to demonstrate when they disagree with what their governments are doing and what the community is doing. It is fundamental to who we are and to our democracy. It is something that we have to hold onto very dearly. I say that in response to earlier comments that I believe were extremely inflammatory, extremely unhelpful and, frankly, very disappointing. Because I think that we can draw different lines. Of course there is an absolute right to protest. But there is not an absolute right to do whatever we think is reasonable, no matter what the consequences are to others, to ourselves and to the cause that we are trying to fight for. That is just not the case. I remind the House that, when the Hon. Trevor Khan and I were debating the safe access zone bill, we spent hours in the Chamber talking about free speech, about the right to protest and about whether silent prayer was the right to protest.

The House collectively—not everyone agreed with this—made the final decision that was it was okay to draw a line that said that women or staff that work at reproductive health clinics cannot and should not be harassed, intimidated or blockaded from going to seek medical treatment or going to work. We drew that line. I was very frustrated earlier in the debate with some of the comments from our friends in The Greens. I agree with a lot of what they said. I do not agree with some of the self-righteous attacks on the Labor Party and its members—people who have been very involved in protest and who will defend the right to the protest until the day they die—and the suggestion that it is not reasonable to draw some lines. Because we have drawn those lines and The Greens have agreed with those lines. Some members on the other side of the House, by the way, almost died in a ditch and did not support safe access zones but they are very happy to support this bill. I will leave that for them. They can sit with that comfortably or uncomfortably.

The Hon. Ben Franklin: Some of us supported it.

The Hon. PENNY SHARPE: Yes, a majority did, but some did not. We have to understand that that is what we are talking about. The Hon. Rose Jackson said a lot of what I was going to say in her speech. She also made the point about the difficulty of protest and why it is so important. It is not just to disagree. It is fundamentally about change. Those of us that are honest in this place know that politicians rarely want to make change on their own. We do it because it is part of the democratic push, whether it is through the ballot box, through campaigns or through changes to law. The reason we are all here is that we want to make change in our own ways. We do not always agree about that. We definitely do not always agree about the change. But it is extremely important.

I also make some comments about where we have come in the last 24 hours. I accept that it is unacceptable that the Government has decided to bung this in this way. This is not the way we like to make legislation. Unfortunately, it is not unusual and it happens quite a bit. While sometimes I would like that to be different, sometimes we must play the hand that we are dealt, and here we are. Labor has been doing that in the past 24 hours. The bill that was put forward yesterday was completely unacceptable. It was a massive attack on the right to protest; it was not only about capturing the behaviour we are concerned about, such as people locking on and blocking access. The Hon. Daniel Mookhey talked about the real consequences of that for good working people who cannot afford to lose four hours of work when they are paid by the hour or by the piece. The Hon. Daniel Mookhey covered the real consequences well.

We must decide how we can make these things better. Labor has engaged extremely strongly in the past 24 hours with its union colleagues, who are very worried about this bill, as they should be. All of the industrial rights we take for granted, such as holidays, sick leave, penalty rates, basic rates of pay and safety in the workplace, have been won by unions. No employer has just given them to workers. They were won because of protest and campaigns. Sometimes the campaigns have been very difficult. I do not know but, given our ages, I suspect that about half of us on this side of the Chamber were on the docks at Patrick's in 1998. We were there for weeks. If it had been dealt with in this way, people would have been arrested. That is a real problem for us. So I think we must take seriously what we are trying to do.

The amendments we have so far are important. They are in the bill as we speak. We will be pursuing some more a little later. It is important to understand the changes that have been made. There is a clear carve-out in relation to industrial action. We on this side of the Chamber believe that should be broader, and we will have more discussions about that, but it is an important recognition the Government has accepted, which we are very pleased about. There is also the two-year review. The Hon. Adam Searle said that we originally talked about sunset clauses, but sometimes we must have an actual discussion and come to an agreement and compromise. The two-year review is extremely important. We need to see how this works and what it really means.

The other change is fundamental. The original draft of this bill essentially meant that the Government could say that every road and every facility could be considered and activated under this bill. That was very problematic. What has been built into this bill now, which makes me much happier than I was 24 hours ago, is that whether it is a facility or a road, it must be gazetted. There has to be a regulation. We have the opportunity to challenge that and to discuss whether that is reasonable. We cannot have a broad-brush approach that pretty much sterilises half the State from legitimate protest. That is a really important thing.

Labor has a set of amendments that will be moved in the Committee stage. I will foreshadow one amendment. We want a clause in the bill that says we support the right to peaceful protest. We believe we can do what the Government is saying this bill does and also actively, openly and clearly respect that right. That is extremely important and goes to the heart of Labor's position in relation to these things. We want young people to have the right to protest about anything—whether it is animals, climate change, forests, feminism, trans rights or any of the issues about which young people feel passionate and want to change, and we want them to be able to do it safely. We want them to be able to do that and not be threatened with jail or with large fines. There are real problems with this and we accept that but we want that to be clear. The other group that I wish to talk about are the Knitting Nannas.

The Knitting Nannas are some of the most fantastic people I have ever met and had the privilege to spend time with. They are quiet, persistent, caring, demanding and tenacious in their approach to getting action on climate change. They do not take no for an answer. Similarly, if they decided to sit down in middle of the road because they were protesting—as they protest almost every week in Martin Place—no one believes that they should in any way be threatened with jail or fines. We have to be clear about what this bill is and what this bill is not and why that matters. There are a few other amendments that I will talk about. Labor will make absolutely clear in relation to industrial protest that where a person works they will be able to protest. It is basically extending what has already been accepted by the Government, and we will talk about this in the Committee stage. The amendment will make it very clear that people are allowed to protest at their work. If you look at the Maritime Union of Australia and the work that dockworkers and maritime workers do, they protest at the port and we must make sure that is protected.

I find the Attorney General to be someone who is careful in the way he speaks on matters in the House and is fairly precise with the words that he uses, as all of the lawyers are. Members in the House know that I am not a lawyer, so I am often less precise. What shocked me last night during the debate, and what I am concerned about, is that we could somehow make Parliament House a facility where the provision would be turned on. I am gobsmacked by that and obviously Labor absolutely rejects that. We will present an amendment that makes it absolutely clear. I go back to the safe access argument. One of the biggest points that the Opposition wants to make is that if someone wants to protest against abortion, the best place to do it is out the front of this building, in front of the people who make the decisions.

Every citizen should be able to protest out the front of this Parliament, as the nurses did today. Thousands of people have done so, including the fishers and the people who did not support abortion law reform—members will remember there were 10,000 people out there. I do not care whether I agree with someone or not; they are able to be there and they should absolutely be there. If there is any idea or suggestion from this Government that somehow it would contemplate trying to regulate the area, it would be pretty silly because I do not think it would survive a disallowance motion. I would be very confident that it would be knocked out pretty quickly by this House. Having said that, we need to be absolutely clear about this. There is no room for hedging our bets in relation to this. Parliament House has to be absolutely clear that, if people want to protest out the front to the people in the Parliament who are making the decisions and the laws that we are asking everyone else to live by, they are welcome any time and they need to do that.

There is a lot more debate to come but I want to place on the record that the right to protest is important, but we should be able to have a debate that does not abuse people or suggest that people have poor motives for the reason that they come to their decision. I want to place that on the record, particularly for Labor members in the House. The right to protest is fundamental to our party. It is in our DNA. All of us have been involved in protests. I am going to challenge the Hon. Daniel Mookhey—he is probably right on the roads but, between the Hon. Rose Jackson and me, I reckon there is a fair number of us that have been in a bit of trouble. Having said that, it is part of what being young is about, it is part of pushing for change, it is part of our democratic rights, it is a part of being a citizen of this State and it is something that Labor will always defend. This bill does not change that.

The Hon. BEN FRANKLIN (Minister for Aboriginal Affairs, Minister for the Arts, and Minister for Regional Youth) (20:04): I am pleased to be speaking after the Leader of the Opposition on the Roads and Crimes Legislation Amendment Bill 2022 because we vociferously agree on this matter, and that is that the right to protest is critical, is paramount in any democracy. The thing that I found challenging is that members have contributed to this debate who say the bill is about the capacity and the ability to protest or not. It is not. What it is about and what it must be about is balancing societal obligations. The right to protest is indeed an appropriate and important right, one with which the Leader of the Opposition and I profoundly agree, and I would hope that every member of this Chamber agrees. It is an appropriate and reasonable way to achieve political action and reform and to get your views known. But that must be balanced against the rights of a society to function effectively. This is not a referendum.

The question is not is protest good or bad. Protest is good but other things are important too, and we have to balance them. We have to look at the impact that one has on the other and work out how we as a society can function effectively. That is why we have traffic lights. Some people's liberty will be necessarily inconvenienced to achieve the greater good for society. That is a compact that has been made, not just with traffic lights, but with a whole range of issues and laws. That is what we are debating. For individuals to say that the bill is about whether we are allowed, and should be allowed, to protest is simplistic in the extreme. That is the first point I make.

The second point is that I want to refer to two speeches that were very different but which summed up significant parts of the debate, which crystallised it for me. The first was from a new member of this House, the Hon. Scott Barrett. I thought he incredibly and effectively talked about the practical implications for families and individuals if this law was not brought in, if we did not have limitations and if we did not achieve the appropriate balance. Frankly, the Hon. Daniel Mookhey did exactly the same thing. The Hon. Scott Barrett talked about the importance of families being able to get to doctors' appointments, to get to legal appointments and to do critical shopping. So many issues in life are challenging for families and individuals. We find it difficult to get everything done during the day, but protests drag down society and stop people being able to do the basic fundamentals like get to work.

The Hon. Mark Latham talked about people from western Sydney taking longer hours to get to work and the impact protests would have on them, on their pay packets and their family lives. He is absolutely right. I have not heard a scintilla of a suggestion about those issues from those opposing the bill. It is having an understanding of what real-life consequences will be if we do not pass this legislation, particularly as we are seeing a targeted and increased focus on exactly these tactics to make the maximum disruption possible for society. That was the first speech—I have referred to a number of them, but nonetheless it was the Hon. Scott Barrett.

The second was from the Hon. Rose Jackson, who gave a very different speech. Frankly, it was an outstanding speech, which was lauded across the Chamber, even by members who profoundly disagreed with her position. Her position, which was echoed by the Leader of the Opposition, was that if people want to achieve the outcomes they are striving for, protesting in the manner they do is not the way to do it. They have to take the community along with them. Sticking yourself to a pedestrian crossing with super glue is not the way to take the community with you.

I am a passionate believer, as this Chamber knows, in the transition to renewable energies, for example. I think I proved that when I stood up hour after hour debating the legislation. But we have got to do this in the right way. We have got to take people, like me frankly, along for the ride. And the way that we lose people like me, and so many of my colleagues who have voted in favour of this, is when society grinds to a halt, when we stop the fundamental supply chains, when we stop people being able to get to work, when we stop people being able to get to their doctors' appointments. We have to understand how important it is for society to function and yet be able to achieve the causes that we want to achieve at the same time.

So while I probably disagree with the Hon. Rose Jackson—and I suspect I am not in the same activist camp as the Hon. Rose Jackson and we would profoundly disagree, I suspect, on a range of ideological issues—we agree on a fundamental point; that is, for people to achieve their ideological aims they have to do it in a way that takes society along with them. They have to carry the community, and they are not carrying the community by doing what they are doing now. And, for me, as a democrat, as someone who believes passionately in democracy and liberalism, that is profoundly offensive and should not be tolerated. I understand that people are concerned and that people should be asking questions about whether this bill poses risks to civil liberties or to authorised peaceful protests. I understand that; it is a valid question and it should be asked. But amendments within this bill have been carefully drafted, and they have been referred to by a range of members here, and the answer to that question is a profound and clear no.

The amendments will in no way prevent authorised and peaceful protests from taking place, because we all agree—I am sure every member would agree—such protests, such public expressions of differing points of view are critical for an underlying functioning democracy. We can look around the world at when democracy is threatened. We have seen what will happen when another country, or sometimes organisations and individuals within a country, seek to undermine that democracy. We should be doing in this Chamber everything we possibly can to preserve and to support the underlying foundations of our democracy. But that means ensuring that the community supports any democratic, peaceful political action. The community must support it because when the community starts opposing what people are doing in a democracy, that is when we start down the slippery slope.

Under this bill, no changes are proposed to the current provisions of the Summary Offences Act 1988, which both guarantees under law and provides the mechanism for people to participate in lawful protests. The mechanism provided under the Summary Offences Act allows protest organisers to conduct public assemblies by providing a notice to the commissioner of police of their intention to protest and relevant details about that protest. These details are to include the proposed location and/or the route of the protest, how many people are expected to attend and the duration of the protest—all utterly reasonable questions so that we can organise and focus on what logistics are required so that society can continue to function. In this way, a public protest is an authorised public assembly if a notice has been served on the commissioner by protest organisers and certain criteria are met.

Under this bill, the proposed amendments will only apply penalties to those who seek to exploit the provisions of the Summary Offences Act. Importantly, New South Wales courts will also retain the discretion to impose penalties based on the individual circumstances of a case. The bill makes amendments to two pieces of New South Wales legislation: the Roads Act 1993 and the Crimes Act 1900. I will limit my comments and speak solely about the proposed amendments to the Roads Act, which will expand the current provisions of section 144G of the Roads Act to also make it an offence if a person's actions damage or disrupt a major road in New South Wales. The proposed new offence will carry a maximum court fine of \$22,000 or two years' imprisonment, or both, which is the current penalty under the existing provisions for an offence of causing damage, disruption or obstruction on the Sydney Harbour Bridge or other major bridges or tunnels as prescribed under the regulations, which members have discussed at some depth today.

A person participating in a lawful protest under the current Summary Offences Act will not be guilty of any offence under the proposed amendments to the Roads Act in the bill. I could not be clearer than that. During the drafting of the new provisions, it came to my attention that any offence under the Summary Offences Act could render a person liable for the maximum penalties under section 144G of the Roads Act. That was an unintended consequence of the 2018 legislation, and the opportunity is appropriately being taken at this time to address that anomaly.

With respect to the new offence of damaging or disrupting a major road, the Roads Act currently provides reasonable excuses such as mechanical fault or breakdown of a vehicle to ensure that only those who intentionally seek to damage or disrupt a major road will be liable to be prosecuted for the offence. That once again goes to the appropriate societal compact that we are looking to achieve here. It is a give-and-take; it is about ensuring that people who are going about their daily lives or their daily business are able to do so in an unobstructed way, while preserving our democratic rights at the same time. As well as ensuring that our citizens' civil rights continue to be protected, an additional benefit of the bill is the protection of citizens' safety when participating in protests, including ensuring safety on our roads. A haphazard and illegal gathering of any number of people, whether only a few or a large crowd, on a major road can create serious dangers both to those gathering on the road and to other road users, which has not been touched on much in this debate.

Major roads are designed to allow for the movement of all types of vehicles—including heavy, freight-laden trucks—as efficiently and as quickly as possible. They are not designed for a few individuals or a crowd of people to camp on them or to stroll along them. Protests can be held in other places; public roads, the arteries of our nation, are not the place. People who have blocked major roads have caused serious network disruptions and economic losses. However, thankfully—very fortunately—the potential disaster of a car or a truck colliding with protestors on a major road has so far been avoided, but I worry. We will all carry significant guilt on our conscience if that does happen and we do not pass the bill, which will also help to ensure that such a tragedy does not occur.

Upon first impression, perhaps the bill does not look like something that goes to the fundamental nature of the democratic structures in this State. But it does, and we have seen the seriousness of the contributions to this debate. The bill goes to the heart of who we are as a society. How do we want to live as a society? What are our expectations of our citizenry? Our expectations are that citizens have rights but that citizens also have responsibilities, and that both of those things must be balanced. That is the sensible, moderate and reasonable outcome that the bill is proposing. I acknowledge the amendments that have been moved by the Opposition, which mean that the bill lands in a place that preserves exactly the balance that I am talking about. I commend the bill to the House.

The Hon. SCOTT FARLOW (20:19): I contribute to debate on the Roads and Crimes Legislation Amendment Bill 2022. Like the majority of members in the Chamber, I support the bill before the House. The COVID-19 pandemic has caused much disruption in our society over the past two years. Businesses have been forced to close their doors to customers and people have been huddled in their homes. That disruption continues with the protests that have been rolling throughout the city. I have heard the claims from members opposite that it is only three minutes of disruption and "The poor kid is three minutes late to school. The poor inconvenienced motorists. These protests are for the greater good." But it is not about the three minutes of delay. It is about the people who decide to turn around and go home because they are not going to put up with the challenge of getting into the city.

Ms Abigail Boyd: They get the day off.

The Hon. SCOTT FARLOW: I note the interjection by The Greens that it is a day off. But guess what? It is a day off for businesses in the city that are just getting back on their feet and that are able to trade again and customers are not frequenting their stores. After two years of torture and trying to get back on their feet, every time that they think they have caught a break, it is taken away from them. The Greens are there cheering them on, for those closed businesses. That is the difference it makes when people do not have the confidence to get around the city. I saw it a couple of weeks ago when I got in the car to come to a committee meeting at Parliament House and an individual was on the Sydney Harbour Bridge. I saw cars turning into side streets and people going back home—people who were not confident about going to the city or to work in their office.

Those protests are crippling our city and our State. They are taking away confidence and they are sending people back home because they do not want to venture out and deal with the traffic. They do not want to deal with the gridlock, so they turn around and go home. It means that another business loses more money, and they have lost enough over the past two years. Fewer and fewer people have the faith and confidence to go back to the city. The bill is not just about main arterial roads and that extension; it is also about major infrastructure items, like ports. The freight and logistics task force has faced enough trouble over the past two years.

[A Government member interjected.]

I note the interjection of the Minister for Regional Transport, who deals with that industry on a daily basis. We are both going to the Road Freight NSW conference next week. That industry has done amazingly well in times when it should have been crippled. It has been resilient and it has had to innovate because of workforces shutdown during COVID, special geographical restrictions for workers in certain local government areas, testing requirements, and global supply chain problems. Nothing is more crippling than holding up the business at Port Botany and not allowing critical freight to leave the port. It means that goods cannot get to stores or to warehouses and distribution centres and our freight task is completely crippled.

When it comes to this legislation we should look not only at the interruption to major arterial roads but also at the interruption to our supply chains and our infrastructure across New South Wales—the things that keep the State moving and society going. As members on this side of the House have said and as I said in debate earlier today, we do not in any way, shape or form disagree with the right to protest. We uphold that right but we disagree with the actions of one individual or small group of individuals who, because of their choice, take it upon themselves to cripple our society and our infrastructure, and to inconvenience the people of this city and this State.

However noble the aims may be, there are other ways to express it—for example, through an organised protest like the one that took place today in Macquarie Street. Nobody would have any qualms with that. Today's protest was organised with the police and had a huge impact. It attracted media attention and was heard in this building. But, as many members opposite have remarked—members with whom I may not agree—and, as the Hon. Rose Jackson said, this is why the left cannot have nice things, and it is true. Because it is in fact detrimental to the causes that they seek to promote or protest about. As the Hon. Ben Franklin said, it is necessary to consider people like him. Now, maybe I am a little more stuck in my ways than the Hon. Ben Franklin.

The Hon. Adam Searle: Almost certainly.

The Hon. SCOTT FARLOW: Almost certainly, I think. I would concede that. But the people that have to be brought along on the journey turn off—the people whom protesters want to have listen to them. They turn off when society is crippled, when they have to turn their cars around and are inconvenienced. That is when people become fringe and not mainstream. That is what The Greens seem to want to entrench. I commend the Opposition for being wise enough to understand that that is not the right approach. Certain criticisms have been levelled at the right wing on this issue with regard to no control of protests. The Hon. Natalie Ward may have remarked on this. We talk about Ministers being considerate of all angles with respect to legislation such as this. The Attorney General and the Hon. Natalie Ward have drafted this legislation. They are people who will certainly give consideration to all angles, and that is evident in the bill. There is no overreach. I am sure the Hon. Natalie Ward will be happy to hear me call it "moderate legislation".

The Hon. Shayne Mallard: Hear, hear!

The Hon. SCOTT FARLOW: There are a few others who are happy to cheer that on. This proposed legislation is tempered and considerate. Assertions have been made in this debate about people standing on the pavement having to move if they are inconveniencing somebody. That is patently untrue. That is not what this bill is about. We are talking about major infrastructure, main arterial roads, and the organs of our society in New South Wales that people need to get around. We are not talking about some side pavement or somebody standing outside Parliament House. That is not what the bill is about. It is about things like the Spit Bridge.

I heard the arguments of Ms Abigail Boyd about the disruption caused by opening of the Spit Bridge for the boats to go through. Having lived on the northern beaches in the past, I know about the slight inconvenience of that, as does everybody. It does not cripple for hours on end the main thoroughfare into town. The Spit Bridge opening runs to a timetable. People cannot simply toot along in a yacht, demand the Spit Bridge to open and have everything stop. That is not what happens. It is an orderly passage. That is what we want during protests—an orderly passage. We want people to get about their lives and not be inconvenienced. But we also want people to be able to have their say. We want people to be able to protest in the right way.

Of course, this is not new, earth-shattering or groundbreaking legislation. The same principle has been applied to the Harbour Bridge. This bill is an extension of that. People do not travel through this city only from north to south or vice versa across the Harbour Bridge. We need to be sure every crossing through the city is accessible, whether it be Camden Valley Way or the Harbour Bridge or Sid Einfeld Drive—the Hon. Shayne Mallard likes us to consider that occasionally—or the M5. We must make sure that infrastructure across our State is also supported, like Port Botany and the freight corridor in the Hunter. That is why legislation like this is important. We have all witnessed the impacts of the protests on our city and economy, as I have mentioned before, particularly when transport across our city grinds to a halt. Laws that relate to protests are not made lightly, nor do they limit our citizens' right to freedom of speech; they are targeted at illegal demonstrations and protests that put the participants at risk of significant injury. I heard reports on the radio of commuters dodging protesters on the Sydney Harbour Bridge. That is not safe for motorists or protesters. It is important to discuss community safety, which the bill seeks to achieve.

The bill allows the same protections that apply to our major bridges and tunnels to our major arterial roads, which is essential. If we maintain loopholes in our laws that protect our road system from trespassers, incidents like these will extend beyond Sydney and into other parts of the State. In his contribution the Hon. Mark Latham talked about what happened in Newcastle when one magistrate decided to deal with those protesters because of the crippling impact they were having on freight in the Hunter. Those protesters moved south to the Spit Bridge and blocked off the major corridor to the northern beaches, which has only two other corridors via Mona Vale Road through Terrey Hills or over the Roseville Bridge, and that is a longer journey.

I turn to the proposed amendments that relate to the Roads Act 1993 and allow for the protection of major road corridors and ensure that the movement of vehicles, goods and people across the city is not disrupted by the actions of a small number of individuals. Why should the law-abiding citizens of our State be inconvenienced by the behaviour of certain individuals—sometimes one; sometimes a small group—whose intent is to inflict major disruption across our transport network? These laws are designed to actively discourage illegal behaviour through the introduction of fines of up to \$22,000 or two years' imprisonment or both, if the circumstances warrant it. Of course, those are large penalties, but large penalties are obviously needed to dissuade people from undertaking that activity, which causes millions of dollars of economic damage to our State as well as inconvenience to people across New South Wales.

By extending the current legislation to allow penalties to apply equally to major roads and to areas like Port Botany, the Government is not only minimising our community from inconvenience in traffic, but also ensuring that their goods are delivered as well. It will help retailers and suppliers not only in New South Wales but also across our country. Over the past two years we have seen the interconnectedness of our supply chain, particularly during the border closures. The New South Wales freight network is very interconnected; indeed, it is globally connected as well. It is important that we prevent further economic loss. Our port at Botany and the nearby Sydney Kingsford Smith Airport are essential gateways for goods entering the country. No doubt the Hon. Shayne Mallard looks forward to the aerotropolis becoming part of that gateway as well.

In 2018 legislation was passed by the Parliament making it an offence to remain on or otherwise trespass on any part of the Sydney Harbour Bridge or any other major bridge or tunnel prescribed by the regulations if that conduct seriously disrupts or obstructs vehicles or pedestrians or if that conduct is an offence under the Summary Offences Act 1988. The offences contained within section 144G of the Roads Act are punishable by a fine of up to \$22,000 or imprisonment for two years or both. The bill before the House expands those offence provisions by inserting a reference to a major road that is prescribed under the regulations. That will make it an offence for a person who causes damage or disruption to a major road—be it a main road, highway or freeway. Like the existing offences under section 144G, the offence will be punishable by a maximum court penalty of \$22,000 or two years' imprisonment or both.

A consequential amendment will also be made to section 144G to correct an anomaly that was identified during the drafting of the bill—it is good to see that Parliamentary Counsel is on top of that. It was noted that, as section 144G is currently worded, any person who commits an offence under the Summary Offences Act, for example by using offensive language, could be subject to the harsher penalty of two years' jail if the offence was to occur on a bridge or in a tunnel. I do not think people swearing on the Sydney Harbour Bridge is a two-year offence, nor worth a \$22,000 fine, so it is good to see that this anomaly is being corrected. The original intention of the 2018 change was only intended to apply to illegal actions that caused damage or disruption to the transport network, so that is of course being clarified under the bill. The bill removes the relevant subsection to remedy the situation—of which I am sure we are all very glad.

Without these changes, the types of illegal protest that we have seen occurring will likely continue to occur. The Greens are a cheer squad for these illegal protests to continue. They want to see more of it. That is the choice we face in this Chamber—we can either support the bill and preserve the right to protest in an orderly manner that does not debilitate the city, or we can take the path of opposing the bill or amending it so severely that it will be of no effect. That is a path for more disruption, more protest and our city grinding to a halt. We need to put an end to it now. I was pleased that the Minister for Metropolitan Roads took such quick and decisive action. I think most of our city was impressed and relieved to see action was being taken on this area. The Hon. Rod Roberts said earlier today that it was action prompted by his question in question time. I suspect that the Minister for Metropolitan Roads had turned her mind to this a little earlier than that, but she was quick. She was quick in seeing the problem and taking the corrective action to solve it, and that is commendable. It is commendable for Ministers to take such decisive action and to do it so quickly.

I have heard in this debate that certain members would have liked to have had more time to consider the bill. It is not extensive or complex legislation. But it is urgently needed, which is why we are still here on a Thursday night, most likely until Friday morning, debating this. I think all members of this House know that the decision we make tonight on the bill will be fundamentally important to whether or not this kind of activity that disrupts, that holds our city hostage, will continue. Of course, it is disruption that moves on and will then hold the rest of our State hostage. So this House faces a significant choice tonight—one which it often faces. It is the choice of whether we want order, whether we want certainty, whether we want to respect the right to protest but in an orderly way where our city keeps moving and our citizens are not inconvenienced—that is the choice of supporting the bill and making sure that it can pass tonight—or the alternative of more protests, more disruption, a city that grinds to a halt, a city that is held to ransom due to the wills of one, two, a few people—

The Hon. John Graham: Why are you attacking David Elliott? Leave David Elliott alone.

The Hon. SCOTT FARLOW: Maybe the Hon. John Graham should have a chat to his friends at the Rail, Tram and Bus Union. Maybe they can get on board as well. The Government wants to ensure that this House makes the right choice tonight. We want to make sure that this House makes the choice that our city will continue functioning, that our State will continue moving and that as we progress through this COVID recovery—where, as we are reminded constantly, New South Wales is in many ways the envy of the world with a 3.7 per cent unemployment rate and an economy that is moving forward—we keep this State growing. We want to keep this State bouncing back. We want to see that roaring twenties that the Premier has talked about when it comes to our economic recovery here in New South Wales. We want to see businesses open and people back to work in this State. That is a choice that we make tonight in this House. That is a choice I am confident that this House will make, despite the intent of some to try to stop it. It is the choice the people of New South Wales want us to make, because they want to get on with their lives and they do not want to be held to ransom by a fringe few.

The Hon. SHAYNE MALLARD (20:39): I support the Roads and Crimes Legislation Amendment Bill 2022. I do so having been in the Chamber or in my office paying attention to the diverse range of contributions to debate on this legislation. I have been interested to hear that some members have been quite critical but are supportive and others are supportive. There have been quite a diverse range of views. Of course, The Greens and their colleagues have very strong views on this matter. It will shock the House, not, and my colleagues, not, and the non-Government side of the House, probably not, that I have indeed protested on the street myself.

The Hon. Natalie Ward: Oh, Shayne, I am shocked.

The Hon. SHAYNE MALLARD: Indeed, lock me up. Members may well remember the heat around the gay marriage campaign. I participated in a number of protest campaigns comprising huge numbers of people. I spoke at rallies with big crowds who protested from Town Hall all the way up to Elizabeth Street, and then all the way down Oxford Street, ultimately ending at Taylor Square. They were huge protests that closed all of that road infrastructure. But that was with the authorisation of the police and the council. There was a huge media contingent. They were big protests. And guess what? They helped to achieve the outcome. I was involved in a number of those protest rallies. I also spoke at a very angry public meeting in Harmony Park at Surry Hills.

The Hon. Daniel Mookhey: Were they protesting you?

The Hon. SHAYNE MALLARD: They were protesting a much more serious matter than me. The rally was after some police violence 10 or 15 years ago towards participants in the Mardi Gras. I must say that it really changed the culture of the approach by police to Mardi Gras. It was an angry crowd at that protest rally. The rally was meant to stay in the park, then it was authorised to go on the footpath of Oxford Street to Taylor Square. But the crowd was so angry and so big that without authority they went onto Oxford Street, just like the 1978ers did. They invoked that passion. They marched up Oxford Street, and half of Oxford Street was closed by the police for probably an hour on a Saturday afternoon. Indeed, I joined them on the street and I think Alex Greenwich and others were there at that time. It achieved change because the police established a much stronger dialogue around the policing of Mardi Gras and identifying police officers who had empathy and understanding of the issues of the inner-city community. I was tossing it over in my mind today, would that road closure trigger this legislation, if the police were angry about it?

I am interested in an amendment about gazetting, I think, or perhaps it is in the Government legislation, and the notion that not every street is covered by this bill unless it is identified and the nature of the protest is not one that is premeditated to cause massive disruption to the community, such as the spontaneous Mardi Gras protest. I think that such an amendment would pick up some of the concerns expressed by The Greens in relation to spontaneous protests. One would hope that those enforcing this legislation would understand that the nature of this legislation does not pick up a spontaneous protest that might intrude upon the public domain. I had considered going through the various amendments in this bill, but I just wanted to share that life experience.

The Hon. Daniel Mookhey: Share some more, about 15 minutes more.

The Hon. SHAYNE MALLARD: I will share some more. I hope it is understood that a spontaneous protest—and I am thinking about quite a few protests at Victoria Park relating to Aboriginal rights during my 20 years on council—would not trigger this legislation. A spontaneous protest may go on the road and it may cause disruption, but the protesters do not have calculated intent, they are not Aralditing themselves to the road or DynaBolting themselves to infrastructure. It is not calculated to cause massive disruption to the nature of our enterprise as a State.

The Hon. Daniel Mookhey and other members, on both sides, talked about how innocent people with no real interest in what is going on in those protests are getting caught up in quite serious ways and experiencing disruption to their day-to-day lives. They may say that climate change or whatever the protest is about is much bigger than that inconvenience, but it causes many hours of disruption. We heard about supply chains being affected and small businesses being impacted. Those issues need to be taken into account when those planned protests intrude upon people's day-to-day lives.

I will talk about some of the offences and why the Government has drawn to this point in the legislation. It may have been mentioned before but different offences are in place for different ranges of activities that are unauthorised and cause public nuisance. The ultimate one is the one we are talking about tonight. A number of existing offences can be applied where a protest results in the unauthorised obstruction of traffic. Under section 6 of the Summary Offences Act 1988, wilfully preventing the free passage of a person or vehicle in a public place without reasonable excuse is an offence punishable by a fine of \$440. Similar offences that carry higher monetary penalties are also available under the Road Rules 2014. Under rule 125 drivers are not to unreasonably obstruct the path of any other driver or pedestrian.

The Hon. Natalie Ward: I am convinced.

The Hon. SHAYNE MALLARD: The Minister is convinced. That is good. With those few words, the legislation has clear support from me, as well as the two-year review, which is important. I strongly support the right to protest. I have protested before and I will protest again. I heard Alex Greenwich talk about the '78ers being arrested for their protest in 1978, but I do not think that would happen today in terms of what this legislation is aiming at. I commend the bill to the House.

The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (20:46): In reply: I thank all honourable members for their contributions to debate on the Roads and Crimes Legislation Amendment Bill 2022, for their passion for this matter and for getting on their feet. I will attempt to be brief. I thank the Hon. John Graham, the Hon. Rod Roberts, Ms Abigail Boyd, Reverend the Hon. Fred Nile, Mr David Shoebridge, the Hon. Sam Faraway, the Hon. Mark Banasiak, the Hon. Mark Buttigieg, the Hon. Scott Barrett, the Hon. Antony D'Adam, the Hon. Emma Hurst, the Hon. Peter Primrose, Ms Cate Faehrmann, the Hon. Shaoquett Moselmane, the Hon. Mark Latham, the Hon. Rose Jackson, the Hon. Adam Searle, the Hon. Penny Sharpe, the Hon. Daniel Mookhey, the Hon. Scott Farlow and the Hon. Shayne Mallard.

I will address some of the matters I have been asked to address in Committee of the Whole. I thank the Attorney General for all of his work in this matter and refer members to his second reading speech in the other place. It is fair to say that it has grown an existence of its own, and I appreciate his constructive work. We have sought to work with everyone in this place, as the Attorney General did in the other place, and I place on record my thanks to members for doing so. A number of amendments were made to the bill in the other place through those discussions and I am pleased about those. Additional amendments will be moved in this place that we are pleased to work on, but they are going further. The Hon. John Graham talked about us struggling. I do not think we are struggling. We are acting swiftly. The entire tenor of this debate is to get this done so we can get on with business and people can stay on the roads. The Hon. John Graham mentioned that the trains can run but it is best they run safely. We do not apologise for putting safety first and making it a priority to ensure that people are safe on our trains.

I thank the Hon. Rod Roberts for his contribution. He has been very proactive in this space and I thank him and his party for that. I need to correct one slight issue for the record. He mentioned rail incidents occurring and being asleep at the wheel. I note that serious offences already exist in the Crimes Act covering that incident, which is being prosecuted. Two tourists have been deported to Germany and one person has been arrested. There is provision for those incidents already. Ms Abigail Boyd was quite passionate in her contribution. I respect her for that, as always. However, I have to correct her. She said, "You don't understand." Respectfully, I do understand. When you live in a community you have civilised rules to live together. They are the rules that keep us organised. She also said that you cannot have a protest without disruption. I disagree. Protesters do not need to disrupt people; that entirely defeats the point of a protest. People do not listen to a protester's message if they are simply annoying them.

The contribution of The Greens is an example of them being out of touch with their communities. It is unfair to say that the Government is ramming anything through. We are responding to community concerns, which is our job and what you do when you govern. I reject the claim that we are an arrogant government. We are a government that puts the people of New South Wales at the centre of everything that we do, which is the point of the bill.

Mr David Shoebridge: Say "arrogant government" again.

The Hon. NATALIE WARD: I reject that entirely, Mr David Shoebridge, because this Government puts people at the centre. The measures in the bill are necessary. The Greens in this place are proud of their history of protest, and they should also be proud of their history of being all care and no responsibility. The Greens are simply running a scare campaign. There are provisions in the bill for people to protest. The Government supports those. Government members are all supportive of extra work on climate change. I am a member of the Liberal Party because we have actually done something about it. I acknowledge the Hon. Ben Franklin, who stood in this Chamber for 30 hours on that issue.

I thank Reverend the Hon. Fred Nile. He was spot on in what he said. As always, he puts people at the centre of his considerations. I thank Reverend the Hon. Fred Nile for saying that society can only operate in an orderly way. My colleague the Hon. Sam Faraway spoke about the safety of protesters and the impact of their protests on freight. I also thank him for his consideration of the emergency services. The Hon. Mark Banasiak nailed it when he said, "It's not what you're saying, it's the method by which you're saying it." That is right; the message is lost when people are interrupted.

I sat on the Spit Bridge that morning and I felt it like every other commuter around me. I saw people sitting in their cars with their schoolchildren trying to get to school. These protests are a real issue, not a trite or three-minute matter. The Hon. Mark Latham summed that up perfectly. They have been repeated, and we are on notice that those protesters will continue to repeat their disruptive protests. Their actions are unnecessary and unfair, and the bill addresses that, which the Hon. Rose Jackson summed up well. I thank members of the House for their support.

It was interesting to hear members' stories of their protests. For the record, I have not attended a protest. However, in his first university year my son professed to me that he joined a protest on climate change. Almost every speaker referred to the speed with which the bill has been introduced. It is regrettable that the Government has had to introduce the bill quickly, but it is genuinely urgent. A lot of these issues were exhausted in the disallowance motion this morning, so I will not touch on those any further. I look forward to consideration of the bill in Committee of the Whole. I also thank honourable members who have worked with my office and with the Attorney General on the bill over the past few days.

The PRESIDENT: The question is that this bill be now read a second time, to which Mr David Shoebridge has moved an amendment. The question is that the amendment be agreed to.

The House divided.

Ayes	4
Noes	31
Majority	27

AYES

Boyd (teller)	Hurst	Shoebridge (teller)
Faehrmann		

NOES

Amato	Franklin	Nile
Banasiak	Graham	Poulos
Barrett (teller)	Jackson	Primrose
Borsak	Latham	Rath
Buttigieg	Maclaren-Jones	Roberts
Cusack	Mallard	Searle
D'Adam	Martin	Sharpe
Donnelly	Mookhey	Tudehope
Fang	Moriarty	Veitch
Farlow (teller)	Moselmane	Ward
Faraway		

Amendment negatived.

The PRESIDENT: The question is that this bill be now read a second time. Is leave granted to ring the bells for one minute?

Leave not granted.

The House divided.

Ayes	31
Noes	4

AYES

Amato	Franklin	Nile
Banasiak	Graham	Poulos
Barrett (teller)	Jackson	Primrose
Borsak	Latham	Rath
Buttigieg	Maclaren-Jones	Roberts
Cusack	Mallard	Searle
D'Adam	Martin	Sharpe
Donnelly	Mookhey	Tudehope
Fang	Moriarty	Veitch
Farlow (teller)	Moselmane	Ward
Farraway		

NOES

Boyd (teller)	Hurst	Shoebridge (teller)
Faehrmann		

Motion agreed to.*Instruction to Committee of the Whole***The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (21:13):** According to sessional order, I move:

That it be an instruction to the Committee of the Whole that, notwithstanding anything to the contrary in the standing orders, in relation to the Roads and Crimes Legislation Amendment Bill 2022:

- (1) Any amendment that seeks to omit all words in a clause or schedule is to be dealt with in the traditional form by putting the question "that the clause/schedule stand a clause/schedule of the bill".
- (2) Amendments circulated by the Opposition on sheets c2022-053C, c2022-057, and c2022-058 will be considered in the following order:
 - (a) Opposition amendments Nos 1 and 6 on sheet c2022-053C are to be moved and debated in globo, and are to be put together by the Chair as one question;
 - (b) Opposition amendments Nos 2 and 7 on sheet c2022-053C are to be moved and debated in globo, and are to be put together by the Chair as one question;
 - (c) Opposition amendments Nos 3 and 8 on sheet c2022-053C are to be moved and debated in globo, and are to be put together by the Chair as one question;
 - (d) Opposition amendments Nos 1 and 2 on sheet c2022-058 are to be moved and debated in globo, and are to be put together by the Chair as one question; and
 - (e) Opposition amendment No. 1 on sheet c2022-057 and Pauline Hanson's One Nation amendment No. 1 on sheet c2022-059 will be moved and debated concurrently.
- (3) After the amendments in paragraph (2) have been resolved, all other amendments will be considered in the usual form.

Mr DAVID SHOEBRIDGE (21:15): I speak to the amendment but it is not clear why the amendments are being privileged in the manner put forward by the Government because the Minister has given no rationale for it. The very real concern is that the Government wants to limit the debate on amendments by grouping them as the Government chooses and therefore preventing separate debates and votes on the amendments, effectively gagging debate on the amendments. The other concern we have is that, in doing it in this manner, the Government intends at some later point to move another conduct motion to do a job on the remaining amendments. By doing that, it will allow debate on these amendments to be in a slightly truncated form. Moving another motion to group the amendments together without the consent of those who have put them forward—in this case, The Greens and the Animal Justice Party—would be an attack on the traditions of this House to allow individual amendments to be put and properly debated.

The absence of any explanation from the Government about why it is going down this path can only lead to the conclusion that it is being done for a poor purpose, which is to gag debate so the Government can try to ram this bill through, less than 36 hours after it was first introduced in the other House. The fact that the Minister cannot explain to the House the rationale behind this can only lead us to that one conclusion. The Government wants one set of rules for these amendments because the Opposition and the Coalition have come to some arrangement between them about the amendments and then they will deal with those with some kind of charade of democracy, a gloss of democracy. Then, having cut the deal between the Government and the Opposition, members will come in with a sledge hammer to knock over the balance of the amendments from a minority of MPs, which would be an anathema to the traditions of this House.

Let us be clear. This debate is not like the debate we had more than 12 months ago on the renewable energy legislation, when weeks of notice had been given about it. That legislation was circulated to everybody and we all had a chance to look at the merits of it. That has not occurred in this debate. As I said earlier, the Government has put on legislation that was literally hot off the photocopier when it got voted through in the other House and without showing any respect for the parliamentary traditions in this State, which require, unless there is some kind of absolute compelling urgency, a minimum of five days between the introduction of legislation and its eventual adoption. The Government is flouting centuries of democratic traditions because it wants to get a headline in *The Daily Telegraph* tomorrow and have Ray Hadley sing a little sonnet in the morning about how great it is to have smashed climate change protesters. It is about the Ray Hadley sonnet and *The Daily Telegraph* headlines and it does not care about the traditions of democracy in this House.

The Hon. Natalie Ward: We care about commuters.

Mr DAVID SHOEBRIDGE: I note the interjection; it is probably true. That is probably why the Government wants Ray Hadley to sing a little sonnet tomorrow. The Government wants to claw back its position. I ask the Minister, "Why are you doing this? How is it that you move a very unusual—novel on the face of it—motion that is contrary to the practice of this House? How is it that you are bringing this legislation forward and privileging a handful of Opposition amendments in the manner that you are doing? Is it because, as soon as this legislation gets through, you have a plan to move another motion to gag debate on the balance of the amendments in order to get legislation through within 36 hours of it being the brain fart of Minister Elliott? Is that the plan that you have? Is that how democracy is going to be done in the Legislative Council and the New South Wales Parliament?"

The Greens will not accept the flouting of all the traditions in this House and the breach of those democratic principles, go quietly into the night and accept that the deal the Government has cut with the Opposition will be quietly and politely agreed to. It is wrong in principle and it is in breach of our democratic traditions, and the Minister knows it. The Minister cannot explain to us why she is doing it. She should at least be honest about it and tell members that she is going to do a job on the traditions of the House and she is going to do a job on democratic norms by smashing through the balance of the amendments without any fair debate. She should at least say it upfront. She should not come forward with this proposal without any rationale and pretend that what she is doing is anything other than an attack on democracy. That is what this is.

The Government is pushing legislation through within 36 hours of it first being introduced to the Parliament in order to crack down on the tradition of protest and civil disobedience and to criminalise its political opponents. The Government is using the criminal law to criminalise its political opponents. The Government wants to send the police in to arrest its political opponents and it is willing to break the traditions of this House to get the laws to send the police in to arrest its political opponents. I say to the other crossbench members, "They are coming for us and climate change supporters now but they will be coming for you next." That is how they do it.

The Hon. Damien Tudehope: Point of order—

The PRESIDENT: Order! I will hear the Minister's point of order.

The Hon. Damien Tudehope: Standing Order 94 has a clear reference to tedious repetition. The member has clearly articulated his objection to what he suggests is the trouncing of democracy. It has been repeated over and over in many different forms and guises. We all know what the member is trying to do and what this is all about. The member is trying to flout the will of the Parliament. The member should not be allowed to continue in this form.

Ms Abigail Boyd: To the point of order: The term "tedious" is perhaps a subjective term. The contribution of my colleague Mr David Shoebridge was not tedious at all. In fact I thought it was quite riveting. I ask that Mr Shoebridge be allowed to continue and for his contribution not to be gagged.

The PRESIDENT: I am willing to hear more from Mr David Shoebridge, but I note if there is continuous repetition I will draw the member back to the leave of the motion. Mr David Shoebridge has the call.

Mr DAVID SHOEBRIDGE: There is a degree of irony in this day, is there not? On the same day that 10,000 nurses protest on the street, the Coalition and Labor want to criminalise that—

[*Members interjected.*]

Sorry, maybe they will have a carve-out for unions.

The Hon. Damien Tudehope: Point of order: The member should be directed to speak to the ordering of the amendments for debate. He is stretching well beyond that in the submission which he is now making. He should be directed to speak only to the motion moved by the Minister and to not make any other submissions.

The PRESIDENT: Mr David Shoebridge will direct his remarks to the instruction to the Committee of the Whole that has been moved. He will direct his contribution in that regard and be relevant to that. Extraneous material will be allowed to a point, but I think he has made full use of that to date. I ask Mr David Shoebridge to direct his comments to the strict instruction of the Committee of the Whole.

Mr DAVID SHOEBRIDGE: If it is good for the Opposition amendments to be done in that way, I have a couple of Greens amendments that might also benefit from being added to that proposal. I move:

That the question be amended by inserting after paragraph (2):

(3) Greens amendments Nos 1 and 5 on sheet c2022-052 are to be moved and debated in globo, and are to be put together by the Chair as one question.

I do that because we are trying to be helpful and, as I said before, we have a very real concern that, unless we get the amendments onto this sheet, they will be gagged by the Government and the Opposition moving together to breach the traditions of this House. I look at the amendments that the motion proposes be moved together, starting with the first two, amendments Nos 1 and 6 on sheet c2022-052. They should not go together because they deal with two distinct elements of the bill.

Amendment No. 1 seeks to insert new section 144G (4A) on page 3 of schedule 1 to the Roads and Crimes Legislation Amendment Bill 2022, which deals with provisions in relation to tunnels and roads where there is a separate offence considered. That amendment is proposed to be grouped together with amendment No. 6, which deals with new section 214A, which is a distinct part of the bill. New section 214A is, perhaps, one of the main offence provisions, which carries with it a distinct two-year imprisonment term and 200 penalty units. They are distinct matters and the House should be able to consider them separately and vote on them separately.

Amendments Nos 2 and 7 on sheet c2022-053C are quite distinct matters. Amendment No. 2 seeks to put a new subsection (4B) into section 144G, and that subsection (4B) proposes some additional form of defence, which would have to be proved by the defendant, found within section 144G. Yet amendment No. 7 is putting a distinct provision into new section 214A, a separate offence provision. Those matters should be dealt with and considered separately by the House. I could say the same in relation to the proposal for amendments Nos 3 and 8, which again deal with those provisions: They should be put separately.

One of the difficulties we have with Opposition amendments Nos 1 and 2 on sheet c2022-058, which, again, are proposed in this amendment to be put together, is that those amendments do not appear to have been circulated. It is clearly next to impossible for us to agree to the grouping of those two amendments when we have not been given the courtesy, or I would say the democratic precondition, of being provided with a copy of them. Amendments Nos 1 and 2 deal with quite distinct provisions in schedules 1 and schedules 2 to the road crimes legislation. They seek to have some extended definition, but it has quite separate impacts and they should be put separately. We do not support this form of pre-emptive gag motion being put by the Government and, I say again, if the Government wants to persuade us to go down this novel course of action, at least have the decency of saying why it is doing it. And I say to the Minister: Why are you doing this?

The Hon. JOHN GRAHAM (21:32): I put a couple of things on the record. There have been some discussions about proceeding with debate. I understand the member may not have been consulted. For the Opposition, I simply say there is no agreement to gag debate here, none at all. We are keen to get going on this, but I can explicitly rule that out. We will make a judgement about the process of this debate once it starts. We hope to deal with it in an orderly fashion. I simply place that on the record.

The Hon. MARK LATHAM (21:33): When I heard those words read out about the instruction to the Committee of the Whole, I was reminded of the great Yogi Berra, "It's like déjà vu all over again." They are the sorts of words that were directed to the Committee of the Whole in the electricity road map, and their author is sitting right there in the corner. The author of the gag and the guillotine and the instructions to the Committee was Mr David Shoebridge.

The Hon. Adam Searle: I think it was Mr Matt Kean, but anyway.

The Hon. MARK LATHAM: Well, and in Mr David Shoebridge's presentation he said the big, principal difference here is that if he sits in his office with Matt Kean long enough, devising the policy and devising the restriction on debate, that is okay, but if not too many people tell him about the item, that is an atrocity and a complete betrayal of the traditions of this Chamber. This is the author of the gag coming back to complain about himself.

The Hon. Anthony D'Adam: It is not a gag. That is a nonsense.

The Hon. MARK LATHAM: They are the same types of restrictions and instructions to the Committee of the Whole that Mr David Shoebridge authored on the electricity road map. The hide, the hypocrisy—talk about no shame! He is complaining against his own tactic and leaving the Chamber, saying it is a betrayal of democracy—which he authored. If the tradition has been lost, he is the one who kicked it down the road and said, "We'll see you later." Never again—the hypocrisy of this person should not be allowed to stand.

The Hon. EMMA HURST (21:34): As my colleague Mr David Shoebridge just highlighted, it is not really clear why the motion has been moved. It seems to drop certain groups down, and that raises concern. The way the whole bill has been treated has already created mistrust, and the motion just re-emphasises that. It seems to be a way to silence smaller parties' amendments in an attempt at a procedural abuse to restrict debate from parties that have indicated great concern about the bill. The motion creates a dangerous precedent in this place, and it will also be used against other crossbench members at some point. I support the comments made by the Hon. Mark Latham that the motion is a gag. He has said quite clearly that the motion is a gag, and I agree. But if the motion is truly about procedure then my amendment makes perfect procedural sense to include as well. I move:

That the question be amended by inserting after paragraph (2):

(3) Animal Justice Party amendments Nos 4 and 5 on sheet c2022-050A are to be moved and debated in globo, and are to be put together by the Chair as one question.

I also support the amendment moved by Mr David Shoebridge, which similarly moves two Greens amendments in globo. Mr David Shoebridge highlighted concerns about other aspects of the motion combining distinct matters, and I have the same concerns. However, the amendments that have been moved by the Animal Justice Party are not distinct matters and do not need to be put separately. It makes perfect sense for the Animal Justice Party amendment No. 4 to be moved in globo with Animal Justice Party amendment No. 5. They read respectively:

No. 4 Page 3, Schedule 1[9], proposed section 144H(2), line 28. Omit "2 years". Insert instead "1 year" ...

No. 5 Page 3, Schedule 1[9], proposed section 144H(3), line 32. Omit "2 years". Insert instead "1 year".

It makes sense to consider the amendments together, and it is not really clear why they have been previously excluded from the motion that has been moved by the Government. Animal Justice Party members do not support the motion, but we encourage members in this place to support the amendments put forward by The Greens and the Animal Justice Party.

Ms ABIGAIL BOYD (21:37): This is a peculiar motion. For all of the mock outrage that we are seeing from members opposite, I have been in the Chamber the entire time and watched people come and go. There was a distinct moment when the Government came up with this idea. They all came in smiling, winking and thinking that they had come up with something really clever—and that was very cute. But this unusual motion has been moved without explanation and without talking to the parties that have put up the vast majority of the amendments. If this is just a simple procedural motion and not a pre-emptive motion for a gag, why did the Government not ask The Greens for our views on the motion?

The Hon. Shayne Mallard: Your behaviour was pretty obvious.

Ms ABIGAIL BOYD: It is really obvious. It is obvious because this was a stitch-up. I absolutely respect and accept the comments made in debate on the motion by the Hon. John Graham that the idea of this being a pre-emptive gag was not something the Opposition was aware of or anticipating. But this is an unusual motion and, as far as I am aware, it—or anything similar to it—has only been put once before in this term of Parliament. As the Hon. Mark Latham said in a clear attempt at the time to hurry a debate that had gone on for several days by that stage—

The Hon. Damien Tudehope: Days!

The Hon. Ben Franklin: It had gone on for six days. That is quite true.

Ms ABIGAIL BOYD: I could measure it by how many times I went up and down the internal steps for each division. It was a long time before that motion was put. I remind members that we had plenty of notice about that bill. That bill was not rushed through this Parliament and it was put forward in the ordinary course. That bill was debated and discussed. The Government had the respect to come and discuss that bill with crossbench members. A lot of work was put into that bill before it came to the House and there was a lot of discussion with stakeholders and other people. In that context, and in the context that the Hon. Mark Latham had been putting up so many amendments—which perhaps inspired and gave the rest of us great ideas—the gag or the attempted procedural motion that is or is not a gag was put up. But we are now dealing with a bill that was put up yesterday and was not discussed. At no point has anybody come to talk to The Greens about it.

We have moved a series of amendments in good faith to try to make this hastily drafted bill just that little bit better. In the context of those 70-odd amendments that the Animal Justice Party and The Greens have moved, rather than come and talk to us about the procedural motion, it has been put together and then launched upon us. In that context, we call this out for the pre-emptive gag that it is. I would love to hear why the Minister thought this was a sensible amendment to move or if there was any other reason for moving such an amendment. The motion groups particular amendments in preference. I suspect that the amendments that are preferred to be debated on first are already agreed upon between the Government and the Opposition. Then we will move to the amendments from the crossbench that the Government has not had the slightest amount of respect for. It did not come and debate with us.

As for the motion before us, on the one hand, it is good to see that perhaps there has been some movement from the Government towards perfecting the bill. Perhaps it gave the Government pause for thought. Perhaps it made it think again before rushing such an important bill through the legislative process. This is not just any bill; this bill includes extraordinarily severe penalties for people going about their day-to-day activities and trying to express their political views. This is not a bill that would ordinarily be rushed through Parliament. There are standard legislation-making principles that clearly point the Parliament towards not including penalties or offences that are punishable by more than a minor fine by regulation because it is a matter of such import that this Parliament should scrutinise in full and in detail any provision of that kind.

I hope the debate on the bill in the Legislative Assembly, and the amendments to the draft version that were agreed, cause the Government to think again before hastily pushing through another poorly drafted bill. Perhaps it will make it produce better drafts next time and seek the input of, at least, external lawyers or possibly human rights organisations or others. If it does not do that, at least we can take comfort that by attempting to debate the bill in a more long-form manner, the amendments that were agreed between the Opposition and the Government make this

The PRESIDENT: Order! I have given the member a fair degree of latitude to make general comments relating to the instruction to the Committee of the Whole. I ask the member to address her comments directly to that instruction or to the amendments to that instruction that have been moved.

Ms ABIGAIL BOYD: Returning to the motion before the House, which, with respect, I was just about to do, if the amendments show that there has been some good-faith agreement—or any kind of agreement, to be honest—to make this bill slightly better, and if we can take it that these amendments might progress through this place to make the bill even slightly better, then I for one am very glad we have taken a longer period of time to debate the bill. That said, I support the amendments to the motion that have been put by my colleagues Mr David Shoebridge and the Hon. Emma Hurst to improve what the Government has put forward for our consideration. Obviously, The Greens support the two amendments, but we oppose the bill for all the reasons that my colleagues have stated. I repeat that if the Government puts up such an unusual procedural motion, which it does not want us to consider to be a pre-emptive gag, it might want to come and talk to us about it and explain its reasons because we are very reasonable individuals.

Ms CATE FAEHRMANN (21:47): The Government member's motion seeks to do something that is, in fact, a new low for this place. In any debate in this place, it is quite extraordinary for the Government to suggest that a set of Opposition amendments to a bill that are in lock step with the Government's position are the amendments that it will prioritise because of a little backroom conversation—or more likely a big backroom conversation—between the Government and the Opposition for the purpose of getting that bill through. That is the reason for the motion. That is why I have described it as a new low for this Parliament. This motion is a new low, and it is incredibly disappointing to be discussing it. Let us remember that the bill before the House was introduced—

The Hon. Damien Tudehope: Point of order: It is clear that The Greens would like to debate the bill all night. The President has ruled twice that members must direct their comments to the motion before the House and not to the substance of the bill.

The PRESIDENT: I have allowed some latitude because I am reluctant to not let members be heard on general points on the motion and the amendments. However, the member must now be specific to the motion or the amendments.

Ms CATE FAEHRMANN: My remarks on the motion before the House, in terms of grouping the amendments, was that it was a new low. I did not digress from that. In fact, this goes against the spirit of debate in the House. Discussion on a bill that was introduced in the other place only yesterday has taken place in the corridors and not in the Chamber. That is important to the motion. We cannot talk about what is happening right now without talking about the bill that we are debating. That is why The Greens strongly oppose the motion. Dirty deals have been done to bring forward Labor's amendments before the amendments of the Animal Justice Party and The Greens, as if to say, "Let's get it all stitched up." Members must be able to voice dissent to the motion because, after the deal that has been done, the bill will allow for two years' jail time. That is what we are talking about.

The PRESIDENT: Order! The member has moved to the substantive provisions of the bill. The member must make her comments directly relevant to the motion that has been moved or to the amendments. If she does not, she must resume her seat.

Ms CATE FAEHRMANN: It is because it is two years' jail that members need to consider these amendments so carefully. That is why members need to consider what The Greens amendments do, because they have been carefully constructed to make this very bad bill slightly better. That is if we in fact get to consider the amendments, which I am extremely concerned may not happen because a deal has been done, as evidenced by the motion before the House. It is a very bad bill. Members need to be able to consider every single amendment from the Animal Justice Party and every single amendment from The Greens, because this is an extraordinary piece of legislation that has been rushed in at the last minute.

The Government is trying to move the bill through Parliament before it adjourns for a five-week break, and members know what will happen during that five-week break. I support my colleagues who have made contributions to debate on the motion as to why it is an absolutely outrageous move by this Government—it is the lowest of the low, in fact—as low as I have seen in my time in this Parliament, for such an extraordinary bill with such wideranging implications. They will impact not only on individuals but also on the very fabric of our democratic society. Let's see what happens next. The Greens absolutely oppose what the Government is suggesting it wants to do. Honestly, that is it from me.

Mr David Shoebridge: Mr President—

The PRESIDENT: My advice is that members may only speak once on the motion.

Mr David Shoebridge: Point of order: My point of order is that this debate is not governed by a sessional order that limits the contributions to the debate and I seek to be heard again. If there is a sessional order, could that be made clear to members of the House because there is a distinct contribution that I wish to make on this matter.

The PRESIDENT: You are able to speak to the amendments that you have not spoken to. The advice I have received is that you cannot speak to the motion that you have already spoken to, but you can speak to the amendments that have been moved. If you have a contribution, you are welcome to make it. You have the call.

Mr DAVID SHOEBRIDGE (21:54): The amendments being moved by the Hon. Emma Hurst are amendments that The Greens believe should be given equal billing to the amendments being proposed by the Opposition and Pauline Hanson's One Nation, which are being privileged in this motion. It is still unclear to The Greens why it is that the Opposition and the Government think it is appropriate to have Opposition amendment No. 1 on sheet c2022-057 together with Pauline Hanson's One Nation amendment No. 1 on sheet c2022-059 to be dealt with together because one narrows and one expands the exact same provision.

The Hon. Damien Tudehope: Point of order: You have already given a direction to Mr David Shoebridge that he may speak to the amendment moved by the Hon. Emma Hurst, but he is now flouting that and speaking entirely to the motion generally. I ask that you direct the member to speak directly to the amendment.

The PRESIDENT: I ask the member to direct his contribution to the amendment that he has not spoken to, which is the amendment of the Hon. Emma Hurst. The member should confine his remarks to that. He has spoken to his own amendment and to the substantive motion.

Mr DAVID SHOEBRIDGE: I appreciate your ruling, Mr President. The amendment being moved by the Hon. Emma Hurst, these two amendments Nos 4 and 5, have the critical impact of reducing the maximum criminal penalty from two years of imprisonment to one year of imprisonment. When we are talking about laws criminalising protest—

The Hon. Damien Tudehope: Point of order: Mr David Shoebridge should not be directing his remarks to the substance of the amendment but why the amendment ought to be included as part of this motion. This is what I understand has been moved. If the member is suggesting that the amendments should be heard in conjunction with other provisions of this motion, then he should identify the other component of the motion and how it aligns with this motion, but not canvas the substance of the motion as part of this debate.

Mr DAVID SHOEBRIDGE: To the point of order: I have to be able to describe the amendments. This point of order has been taken just as I am simply at the process of describing the amendments. If I cannot describe the amendments, it is next to impossible to speak to how they should or should not be dealt with in this compendium motion.

The PRESIDENT: I am willing to hear more from Mr David Shoebridge, but I caution him in regard to how he puts his contribution so far as it relates to the instruction of the whole and, indeed, the amendment of the Hon. Emma Hurst, which is primarily what the member should be dealing with.

Mr DAVID SHOEBRIDGE: I appreciate and respect your ruling, Mr President. Amendments Nos 4 and 5 go to the heart of the bill and need to have the same procedural respect as is being given to the amendment being put forward by Pauline Hanson's One Nation to also rope in any road that is located out the front of a manufacturing facility. These amendments go to the very heart of the bill. We know what is coming after this motion, as sure as right-wing members gather together in this House to do a job on democracy, as sure as that is happening.

The Hon. Damien Tudehope: Point of order: Mr President, I am sure you know what I am about to say in relation to where Mr David Shoebridge is now going. The comments of Mr David Shoebridge do not conform to the direction you have given as to why this amendment should be included as part of the motion.

The PRESIDENT: I uphold the point of order. I warn Mr David Shoebridge and I ask him to make his contribution directly relevant to the amendment moved by the Hon. Emma Hurst. Mr David Shoebridge has the call.

The Hon. Damien Tudehope: Mr President, I draw your attention to the time.

The PRESIDENT: According to sessional orders, proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

The House continued to sit.

Mr DAVID SHOEBRIDGE: I want to be clear that The Greens are running under the assumption that after this motion comes the gag motion. I think that is close to certain. When the House is asking why we are trying to include amendments Nos 4 and 5 in this in globo motion, it is because we know that if we do not get them in, as sure as night follows day we will be hit with a gag motion and we will not be able to debate them with any kind of substance. That is almost certain. So if it is good enough for amendments Nos 1 and 6 on Opposition sheet c2022-053C, then it should be equally applicable to these amendments Nos 4 and 5 on sheet c2022-050A. It is for those reasons that we endorse and support the motion moved by the Hon. Emma Hurst.

Ms CATE FAEHRMANN (22:02): I, too, will speak briefly.

The PRESIDENT: Order! I have conferred with the Clerk. I believe that Ms Cate Faehrmann spoke after the amendments had been moved by the Hon. Emma Hurst. Ms Cate Faehrmann has spoken in relation to those amendments and the substantive motion.

Mr David Shoebridge: Point of order: The test is not the time at which a member spoke. The test is whether or not the member addressed the motion. From my recollection, Ms Cate Faehrmann did not address the amendment being put by the Hon. Emma Hurst.

The Hon. Damien Tudehope: To the point of order: Ms Cate Faehrmann indicated she supported it.

The PRESIDENT: My recollection is that Ms Cate Faehrmann addressed the amendment of the Hon. Emma Hurst and showed support in that contribution.

Mr David Shoebridge: Mr President, if that is your memory, I accept that.

The Hon. ANTHONY D'ADAM (22:03): Under Standing Order 93, I request that the Clerk read the motion in full.

The PRESIDENT: Is the Hon. Anthony D'Adam taking a point of order or seeking advice?

The Hon. ANTHONY D'ADAM: I make a request under Standing Order 93 that the Clerk read the motion before the House. I am not sure what we are dealing with nor the text of the various amendments that are being moved.

The Clerk read the motion and amendments.

The PRESIDENT: The Hon. Natalie Ward has moved a motion, to which Mr David Shoebridge and the Hon. Emma Hurst have moved amendments. The question is that the amendment of Mr David Shoebridge be agreed to.

Amendment of Mr David Shoebridge agreed to.

The PRESIDENT: The question is that the amendment of the Hon. Emma Hurst be agreed to.

Amendment of the Hon. Emma Hurst agreed to.

The PRESIDENT: The question is that the motion as amended be agreed to.

The House divided.

Ayes	32
Noes	4
Majority	28

AYES

Amato	Franklin	Poulos
Banasiak	Graham	Primrose
Barrett (teller)	Latham	Rath
Borsak	Maclaren-Jones	Roberts
Buttigieg	Mallard	Searle
Cusack	Martin	Sharpe
D'Adam	Mitchell	Taylor
Donnelly	Mookhey	Tudehope
Fang	Moriarty	Veitch
Farlow (teller)	Moselmane	Ward
Farraway	Nile	

NOES

Boyd (teller)	Hurst	Shoebridge (teller)
Faehrmann		

Motion as amended agreed to.

In Committee

The CHAIR (The Hon. Wes Fang): Is leave granted to take the bill as a whole?

Leave not granted.

The CHAIR (The Hon. Wes Fang): I confirm that we have Animal Justice Party amendments Nos 1 to 10 on sheet c2022-050A and Nos 1 to 3 on sheet c2022-056; The Greens amendments Nos 1 to 8 on sheet c2022-052, Nos 1 to 4 on sheet c2022-055A, Nos 1 to 48 on sheet c2022-051A and No. 1 on sheet c2022-060; Opposition amendments Nos 1 to 8 on sheet c2022-053C, No. 1 on sheet c2022-057 and Nos 1 and 2 on sheet c2022-058; and One Nation amendment No. 1 on sheet c2022-059. The Committee will deal with clause 1 of the bill. The first amendments we will deal with are The Greens amendments Nos 1 to 3 on sheet c2022-051A.

Ms ABIGAIL BOYD (22:21): I move The Greens amendment No. 1 on sheet c2022-051A:

No. 1 **Name of Act—Anti-Democracy**

Page 2, clause 1, line 3. Insert " (Anti-Democracy)" after " Amendment".

This is a pretty straightforward amendment. It seeks to change the name of the Act, if enacted, to instead become the "Roads and Crimes Legislation Amendment (Anti-Democracy) Amendment Act 2022". I think the—

The Hon. Damien Tudehope: Point of order—

Ms ABIGAIL BOYD: —reason for this particular proposal is quite clear.

The CHAIR (The Hon. Wes Fang): The Minister has taken a point of order.

The Hon. Damien Tudehope: There was an instruction to the Committee of the Whole adopted by the House as to the manner in which the amendments would be dealt with. I suggest to you that the Committee is now governed by the determination of that resolution.

Ms ABIGAIL BOYD: To the point of order: My understanding of the correct procedure in this circumstance is in fact that the denial of leave to consider the bill as a whole actually takes precedence over the motion that was just agreed to by the House. The effect of that is the Committee will consider the amendments in the form that has been circulated by the Clerks, where the priority that was put forward in the last motion will only apply to amendments being considered in relation to a particular clause of the bill. Where there is not one of those priority amendments in relation to a particular clause of the bill, the amendments that have been circulated in order in relation to the bill will instead apply.

Mr David Shoebridge: To the point of order: I think it is unfortunate that the Leader of the Government has failed to read the Government's own motion. I assume he is talking about paragraph (2) of the motion. The motion commences with the preamble according to sessional order:

That it be an instruction to the Committee of the Whole that, notwithstanding anything to the contrary in the standing orders, in relation to the Roads and Crimes Legislation Amendment Bill 2022:

(1) Any amendment that seeks to omit all words in a clause or schedule is to be dealt with in the traditional form by putting the question "that the clause/schedule stand a clause/schedule of the bill".

That does not in any way prioritise any amendment. Then we have paragraph (2). It states:

(2) Amendments circulated by the Opposition on sheets c2022-053C, c2022-057, and c2022-058 and will be considered in the following order:

And then there is an order for those amendments. Where does it say that Greens amendments Nos 1 to 3 will not be dealt with when they arise as the House considers the bill clause by clause? That is not what paragraph (2) says. Paragraph (2) does not say that at all. Paragraph (2) is silent. Indeed, paragraph (2) does not give any priority to those amendments. Maybe the Government wishes it had drafted something different, but that is what we have.

The Hon. Damien Tudehope: To the point of order: It is reasonably clear according to the sessional order that it be an instruction to the Committee of the Whole that, notwithstanding anything to the contrary in the standing orders, this is the manner in which the amendments are to be dealt with. I suggest that it is clear that the House adopted a process for the manner in which the amendments were going to be considered, and the whole of the debate was predicated on that understanding. I suggest that the amendments referred to in paragraph (2) are to be considered in priority.

Mr David Shoebridge: Further to the point of order: It cannot seriously be the Government's proposition that including the words "notwithstanding anything to the contrary in the standing orders" in a preamble suspends the standing orders. That is plainly not what it does, yet that is the import of the Leader of the Government's proposal. It is plainly wrong. Apart from that, we have now heard from the Government that, notwithstanding what the actual motion says, the Chair should be ruling on the vibe, because it has a certain vibe about it. Somewhere in the Leader of the Government's waters, he feels like the motion says something different than it does. Well, we rather think we should be governed by the words on the paper.

[*Members interjected.*]

The CHAIR (The Hon. Wes Fang): Order! It is late and we are dealing with a complex set of circumstances. I am trying to listen to all contributions to the point of order. It does not assist anybody when the Chamber is unruly. Members will maintain order for however long we deal with the bill tonight. One person will speak at a time. Mr David Shoebridge is speaking to the point of order; I will hear him in silence.

Mr David Shoebridge: Thank you, Mr Chair. At the highest, the proposition put by the Leader of the Government is that there was a certain vibe, a certain feel—

The CHAIR (The Hon. Wes Fang): The member is starting to move away from the point of order.

Mr David Shoebridge: I accept that, Mr Chair. I have endeavoured to understand the proposition put on this point of order by the Leader of the Government. He said that, notwithstanding what is written in the motion, that there was a certain vibe in the debate. Mr Chair, you are a servant of the House governed by the words adopted by the House.

The CHAIR (The Hon. Wes Fang): I will seek advice, which is probably the wisest thing I can do at the moment. Having had the opportunity to seek some advice from people in the Chamber who are smarter than me, I make the following ruling. The first paragraph of the instruction to the Committee of the Whole states "notwithstanding anything to the contrary", as the Minister has indicated. However, paragraph (3) of the instruction states:

After the amendments in paragraph (2) have been resolved, all other amendments will be considered in the usual form.

Because leave was not granted to take the bill as a whole, the "usual form" is to go through the bill clause by clause. When we get to the amendments that are mentioned in paragraph 2, they will be grouped according to the instruction to the Committee of the Whole. At this stage, we will consider the bill as I have indicated. The Committee will now consider clause 1 of the bill and the amendments on The Greens sheet c2022-051A.

The Hon. DAMIEN TUDEHOPE: I move:

That the Chair do now leave the chair, report progress and seek leave to sit again at a later hour of the sitting.

Question put.

The Committee divided.

Ayes	32
Noes	4
Majority	28

AYES

Amato	Graham	Poulos
Banasiak	Latham	Primrose
Barrett (teller)	Maclaren-Jones	Rath
Borsak	Mallard	Roberts
Buttigieg	Martin	Searle
Cusack	Mason-Cox	Sharpe
D'Adam	Mitchell	Taylor
Donnelly	Mookhey	Tudehope
Farlow (teller)	Moriarty	Veitch
Farraway	Moselmane	Ward
Franklin	Nile	

NOES

Boyd (teller)	Hurst	Shoebridge (teller)
Faehrmann		

Motion agreed to.

Instruction to Committee of the Whole

The Hon. DAMIEN TUDEHOPE: I move:

That it be an instruction to the Committee of the Whole that, notwithstanding anything to the contrary in the standing orders, in relation to the Roads and Crimes Legislation Amendment Bill 2022:

- (a) the bill be taken as a whole; and
- (b) only a Minister may move that the Chair report progress and seek leave to sit again.

Ms ABIGAIL BOYD (22:41): We again have an unusual motion. I will make a note of what we have just heard.

The PRESIDENT: Order! Ms Abigail Boyd has the call.

Ms ABIGAIL BOYD: The first paragraph states that the powers of the Committee of the Whole will be restricted so that it cannot consider the bill clause by clause. Secondly, that only a Minister may move that the Chair report and seek leave to sit again. It is a doubling down of the anti-democratic vibe that we have seen today from this Government. The Government debated its previous motion for half an hour or more and got that wrong, as it had been drafted in a hurry. As we know, if one drafts things in a hurry one tends to get them wrong. It is again a lesson as to why the Government might do things in a more orderly manner when it is dealing with new legislation and the procedure around dealing with new legislation. It is why we have sessional orders and the rules of this House, to ensure that these things do not happen.

We have a motion that is not particularly well thought out, that could be stymied by one member of the House denying leave to consider the bill as a whole. We have now gone through this ridiculous scenario of another unusual motion put to members at the last minute to take away the powers of the House of legislative review entrusted by the people of New South Wales to hold the Executive accountable, to hold the Government accountable and to uphold the democratic principles of the system—

The Hon. Mark Latham: It is not even a good filibuster.

The PRESIDENT: Order! Ms Abigail Boyd has the call. The member has had latitude to make a few general comments and observations. I now bring her back to the motion moved by the Minister.

Ms ABIGAIL BOYD: I acknowledge the interjection by the Hon. Mark Latham. Perhaps my contribution is not very good at whatever time of night it is, but this is not a very good motion and has not been very good process to a bill that is not very good. I think it is fitting that my contribution is not very good either. The motion has been moved at the last minute and we have had no time to take a good look at it, but we do not agree that the bill should be taken as a whole. We have said at length throughout the debate today that the bill was rushed. The bill was put to us just over 24 hours ago in circumstances that are very unusual for a bill of this kind.

It is the responsibility of this House, which I take very seriously, to review the legislation that comes to it in great detail. That is why we should be considering the bill clause by clause. Again, we have an attempt by this Government to subvert democracy. It is attempting to ram the bill through in the most disgraceful manner. Then we have paragraph (b), which is that only a Minister can move that the Chair report progress. This Government is determined to tell people what to do rather than listen to what people want. This Government is determined to subvert the will of the House. For the past three years this Government has not understood that it does not have a majority of members in this House and it cannot tell this House what to do. I move:

That the question be amended by omitting paragraph (b).

Even for the Opposition paragraph (b) is taking things a little bit too far. I assume it has been put in as some pre-emptive move. I do not know what it is that they think might be coming. The idea that we would somehow empower the Government to be the only ones to take on certain powers of this House is pretty disgraceful. I expect the crossbench and the Opposition to vote in favour of that amendment on the basis that they have the majority of numbers in this place, not the Government.

To move that only a Minister could move such a motion is an unfortunate precedent to set and we should reject it. Paragraph (b) is going a step too far. It is within the powers of the House to consider the bill as a whole. If that is the majority will of the House then I respect that and by all means we will go ahead. I implore the Opposition not to agree to paragraph (b) because it sets a very dangerous precedent that the Government somehow has power over this House. We all know that this House is a representative of the broader New South Wales community and should be always empowered to act as a House of review and hold the Executive to account.

The Hon. EMMA HURST (22:48): This further amendment to the motion is poor form. It is also embarrassing for the Government to pull the House out of the Committee stage to amend its own motion, which now has the potential to further gag members and disrupt the process of the bill. Ms Abigail Boyd was only moments into speaking to her amendment. This motion and the further amendment to this motion that has been proposed by the Government will push her amendment to later in the discussions, at the Committee stage of the bill. But the Government has given no indication as to why we would now look at amending this motion further and why we would push the clauses not to be considered first, as is the usual process. I suspect the Government wants to ensure that only a Minister can have those powers in the House to gag other members and it will stop us from being able to follow that proper process.

The Animal Justice Party supports the amendment that has been put forward by Ms Abigail Boyd to strike out paragraph (b) from the motion. That amendment makes a lot of sense and I thank Ms Abigail Boyd for that amendment. We will definitely be supporting it. The amendment ensures that the motion does not go too far and ensures that we can go back to the Committee stage and further hear the aspects of those clauses, because, as I said, we have only just begun. We had only heard a couple of sentences from the member in her debate on that clause before we were suddenly pulled out. I support The Greens amendment to strike out paragraph (b). However, the Animal Justice Party does not support the Government's further amendments to this motion.

Ms CATE FAEHRMANN (22:51): A short time ago I said that it was a new low for the Government to move the motion that it moved before. In fact, it is a new low now.

The Hon. Mark Latham: It is an old low.

Ms CATE FAEHRMANN: This one that has just been moved is the new low for this place. I support the amendment moved by my colleague Ms Abigail Boyd to strike out paragraph (b), that only a Minister may move that the Chair report progress and seek leave to sit again. It is quite extraordinary that we were just about to get into amendments, just about to debate The Greens amendment No. 1, which was to insert "(Anti-Democracy)" after "Amendment", and what was then decided was to move out of Committee and here we are debating this right now. It is a new low for this place.

Considering once again the importance of this bill, the importance of the amendments that we are moving, The Greens feel very strongly, as does the Animal Justice Party, that we should be able to move through this clause by clause, and that is what we are still seeking to do. We do not support this instruction to the Committee of the Whole. We do not support this motion hastily drawn up, again, in the middle of the night, in little secret conversations that are happening in the corridors, in a desperate bid to get through this draconian bill literally before the strike of midnight. We do not support that. It is a crying shame that here we are. This is the lowest of the low.

The Hon. MARK LATHAM (22:53): We have heard a lot about the lowest of the low and new lows. I want to bring some clarity to that point. This is, in fact, a very old low, because exactly the same procedural motion was moved by the Hon. Damien Tudehope in this place, recorded in the Legislative Council minutes of Tuesday 24 November 2020, and it was voted for by The Greens and the Animal Justice Party. There is nothing new about this low; it is an old low. Referring to The Greens' memory fade, one can only assume the Shoebridge farewell party has got them quite lightheaded.

Mr DAVID SHOEBRIDGE (22:54): The reason the motion is grossly inappropriate to the bill is that tonight is unlike the prior occasion, where the legislation had weeks of being laid on the table and seen by all and where the motions were moved on day three of consideration of a series of hundreds of amendments—which, to be clear, had been drafted by a coal baron. To compare the coal baron amendment scenario to what we are seeing tonight—which is literally legislation that has had no public discussion or review, which was hot off the photocopier at three o'clock, four o'clock or five o'clock yesterday afternoon and which the Government is trying to ram through an hour before midnight—is just plainly false. The bill deserves close and careful scrutiny, clause by clause, and that is why The Greens object to the proposal by the Government, literally four minutes into the consideration of the bill by the Committee. The Government pulled it out of Committee to come up with yet another plan, not three days but four minutes after it went into Committee.

The PRESIDENT: The Hon. Damien Tudehope has moved a motion, to which Ms Abigail Boyd has moved an amendment. The question is that the amendment be agreed to.

The House divided.

Ayes	4
Noes	32
Majority	28

AYES

Boyd (teller)	Hurst	Shoebridge (teller)
Faehrmann		

NOES

Amato	Franklin	Poulos
Banasiak	Graham	Primrose
Barrett (teller)	Latham	Rath
Borsak	Maclaren-Jones	Roberts
Buttigieg	Mallard	Searle
Cusack	Martin	Sharpe
D'Adam	Mitchell	Taylor
Donnelly	Mookhey	Tudehope
Fang	Moriarty	Veitch
Farlow (teller)	Moselmane	Ward
Farraway	Nile	

Amendment negatived.

The PRESIDENT: The question now is that the motion be agreed to.

The House divided.

Ayes	32
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Noes 4
Majority 28

AYES

Amato	Franklin	Poulos
Banasiak	Graham	Primrose
Barrett (teller)	Latham	Rath
Borsak	Maclaren-Jones	Roberts
Buttigieg	Mallard	Searle
Cusack	Martin	Sharpe
D'Adam	Mitchell	Taylor
Donnelly	Mookhey	Tudehope
Fang	Moriarty	Veitch
Farlow (teller)	Moselmane	Ward
Farraway	Nile	

NOES

Boyd (teller)	Hurst	Shoebridge (teller)
Faehrmann		

Motion agreed to.

In Committee

The CHAIR (The Hon. Wes Fang): The Committee will deal with the bill as a whole. The first amendments to be dealt with are circulated on Opposition sheets c2022-053C, c2022-057 and c2022-058. We come first to Opposition amendments Nos 1 and 6 on sheet c2022-053C to be moved in globo.

The Hon. JOHN GRAHAM (23:19): By leave: I move Opposition amendments Nos 1 and 6 on sheet c2022-053C in globo:

No. 1 Exemptions from offence

Page 3, Schedule 1. Insert after line 13—

[6A] Section 144G(4A)

Insert after section 144G(4)—

- (4A) A person does not commit an offence under this section if the conduct occurs—
- (a) at the place at which the person works, or
 - (b) at a place owned, occupied, operated or used by an employer of the person.

No. 6 Exemptions from offence

Page 4, Schedule 2, proposed section 214A. Insert after line 17—

- (3A) A person does not commit an offence under this section if the conduct occurs—
- (a) at the place at which the person works, or
 - (b) at a place owned, occupied, operated or used by an employer of the person.

Opposition members have made no secret of their agenda with these amendments and with many other amendments to the bill that we have sought to have driven in. We want to ensure that legitimate industrial activity is not constrained by the bill. We have had strong assurances in the lower House from the Attorney General. I recognise Labor's shadow Attorney General in the gallery, who put that case strongly in the other place and was successful in having the Government commit to significant changes to the bill that make it clear that action taken and authorised under this legislation will not be about unions going about the ordinary business of representing workers. It will not be about workers banding together to go about their ordinary business of defending their workplace rights. That is now clear in the bill.

Members would know that this is a complex area and that is why the amendments seek to put that out of doubt altogether. The amendments will ensure that an offence is not committed if the conduct occurs in the workplace—"at the place at which a person works" or "at a place owned, occupied, operated or used by an employer of the person." The goal is to capture workplaces that may not be in one fixed spot to deal with the nature of modern work. That will ensure that it is further out of question. In some ways that approach is agreed on philosophically between the Government and the Opposition—and I think all parties—after the case we put in the other place. As a number of Labor members have already made strong remarks in their contributions about exactly why that is, I will not seek to repeat those comments.

I acknowledge that The Greens in the other place moved similar amendments. At that time the Opposition was unable to accept that approach. The concern at that point was about how those amendments interacted with the gains that had been made on industrial relations in the bill that were to be incorporated. That was one of the reasons why that was not successful. The Opposition amendments are not the same as those of The Greens in the other place. We have taken our own approach. Our amendments sit well with what was discussed with the Government and incorporated in the bill. They now greatly strengthen the approach in the other place.

The Hon. MARK LATHAM (23:19): I move:

That Opposition amendments Nos 1 and 6 be amended by omitting "place" and inserting instead "workplace" wherever occurring.

One Nation's concern was that the Labor amendments would exempt a blockade "at a place owned, occupied, operated or used by an employer of the person". That could include the employer's home, which is undesirable. Changing those words to "workplace" clearly carves out legitimate industrial action. We are not often persuaded by speeches in this place, but I pay tribute to the Labor members who pointed out the heavy significance of the Ted "Mad Dog" Stevens blockade at Razorback Mountain, where there is a wonderful memorial to what was important industrial action. Mention was also made of the Patrick dispute in 1998. On the flipside, no-one mentioned Chifley calling in the Army on the coalminers; Hawke calling in the Air Force on the pilots; or, in 1995, Paul Keating, in response to the timberworker blockade phoning his defence Minister to call in an air strike, which did not actually happen.

The Hon. Adam Searle: That is a Federal issue.

The Hon. MARK LATHAM: We will set aside those Federal issues and stick to Patrick and "Mad Dog" Stevens—and leave "Mad Dog" Keating out of it.

The Hon. JOHN GRAHAM (23:24): If it is of assistance to the House, I indicate that the One Nation amendments are acceptable to the Opposition. They sit well with the intention of our amendments. This is about capturing workplaces, but diverse workplaces. As to the other matters the Hon. Mark Latham raised, I indicated that these matters were complex and he has certainly made that point.

The Hon. NATALIE WARD (Minister for Metropolitan Roads, and Minister for Women's Safety and the Prevention of Domestic and Sexual Violence) (23:24): We do not oppose the amendments. We welcome the clarification by the Hon. Mark Latham.

Ms ABIGAIL BOYD (23:24): I make a contribution on behalf of The Greens, although I foreshadow that my Greens colleagues will also be making contributions on this very important set of amendments. I note that Opposition amendments Nos 1 and 6 are substantially the same as the ones that my colleague the member for Newtown moved in the other place. I refer the Opposition to the amendments that unfortunately we are not able to consider at the same time, as would ordinarily be the case, because of the motion that was moved prior to the Committee of the Whole being formed—The Greens amendments Nos 2 and 4 on sheet c2022-055A. In our amendment—which is in our view a better amendment—there is an additional paragraph. Opposition amendment No. 1 provides:

Insert after section 144G(4)—

(4A) A person does not commit an offence under this section if the conduct occurs—

- (a) at the place at which the person works, or
- (b) at a place owned, occupied, operated or used by an employer of the person.

Clearly that is to capture the relationship between an employer and employee and the ability for an employee to be able to assert their rights against or perhaps in opposition to their employer at times. We added an additional paragraph to say:

... or ... the conduct occurs in relation to an action or campaign involving a workers' organisation or other group of workers.

We believe this paragraph, particularly the addition of "in relation to", is very important. If, for example, an action is occurring at a workplace and an individual goes to show solidarity with those workers and they are not themselves at a place owned or occupied by their employer, they would otherwise be caught by this draconian legislation and subject to potentially being thrown in jail for two years or getting a fine of \$22,000. By adding "in relation to an action or campaign" we catch, for example, any of us who might show solidarity for a union action or for workers taking action to draw attention to the need for better pay and conditions or a number of other things. I wish I could have an entire list at this moment. I refer to the comments that my colleague the member of Newtown made in this regard in one moment.

The Hon. Mark Latham: Just table them.

Ms ABIGAIL BOYD: I will not be tabling them. I thank the Hon. Mark Latham for that suggestion. Instead I believe it would be more appropriate for me perhaps to take each statement and consider it. In any event, I will return to the point, which is that if any member went down and stood with workers who are expressing opposition to their employer and took a selfie—

The CHAIR (The Hon. Wes Fang): I am loath to interrupt. I say pre-emptively that the second reading debate has occurred and we are now considering amendments in Committee. Contributions made during the Committee stage must be focused tightly on the amendments at hand. I am not suggesting that Ms Abigail Boyd has strayed from that path, but I want to ensure that members keep focused on the amendments.

Ms ABIGAIL BOYD: I assure you, Mr Chair, I have not yet strayed from that path, but I appreciate being warned in advance. I am talking about how The Greens amendments—which we have not been able to move at the same time—are more beneficial than the Opposition amendments that would not give protection to a person if they showed their solidarity with a protest and perhaps took a selfie.

The CHAIR (The Hon. Wes Fang): I point out that the Committee is considering the Opposition amendments.

Ms ABIGAIL BOYD: Yes, that is right.

The CHAIR (The Hon. Wes Fang): Detailed discussion on The Greens amendments will occur when the Committee considers them. Ms Abigail Boyd will refer to the Opposition amendments.

Ms ABIGAIL BOYD: I absolutely respect your ruling, Mr Chair. However, I am reflecting on, and explaining why, The Greens will not actively support the Opposition amendments, although we will not oppose them. In our view, they do not go far enough to give cover to a person who has gone to show solidarity with workers, or to a family member who has taken some lunch to people who are demonstrating in an action. Because of that, it is difficult for The Greens to support wholeheartedly the Opposition amendments.

As slightly different versions of the Opposition amendments were first moved by The Greens in the lower House, I will reflect on some of the comments made by my colleague and friend the member for Newtown, Ms Jenny Leong. She said that The Greens were very concerned that previously there were no references to, or protections for, industrial action in the bill. The protection of people's ability to take industrial action is, of course, absolutely essential. It is a cornerstone of our democracy, as any protest is. She noted that it would be far from ideal and completely inappropriate to call for the nurses and midwives who protested outside the Parliament today to be put in jail simply for engaging in their right to strike and take collective action. She continued:

The Greens, though, believe that it is important to recognise that industrial action defines one type of workplace or collective action but that in some cases there are types of actions that workers can take in their workplace or that are directed at their employer that would not be described as industrial action. Therefore, we believe that it needs to be broadened slightly.

The amendments will provide that a person does not commit an offence if the facility damaged, disrupted or obstructed is the place at which the person works or if the facility is owned or occupied by the employer of the person.

...

We can think of a number of examples where someone may engage in an action that may disrupt a major facility.

I further reflect on the words of my colleague the member for Newtown, who also said:

We have heard a lot of people talk about the actions at Port Botany. We also know that often workers who are members of the Maritime Union of Australia will urgently take actions in the interests of their safety. That is the case of the famous recent picket at Port Botany in relation to the Hutchison dispute. Workers were sent a text message in the middle of the night and then they engaged in action at Port Botany.

Although it might otherwise be defined as an industrial action, it cannot be determined as such in this case because of the speed with which those workers responded. In the view of The Greens, it is important to make it absolutely clear that workers have the right to collectively organise. That is why we moved amendments in the lower House to state that a worker does not commit an offence if the facility damaged, disrupted or obstructed the place of work.

The Hon. Catherine Cusack: Point of order: The member is talking about an amendment from the other House. I ask that she be drawn back to the amendments that we have before us.

Ms ABIGAIL BOYD: To the point of order: For the clarification and benefit of members, the amendments that we are discussing, which were moved by the Opposition, are in almost identical terms to the ones that The Greens moved in the lower House. I am referring to the Opposition's amendments that are in front of us today and reflecting on how important it is that those amendments be agreed to.

The CHAIR (The Hon. Wes Fang): I allow the contribution to continue. Instead of referencing the amendments in the other place I ask that you reference the amendments before the Committee.

Ms ABIGAIL BOYD: It is the view of The Greens that it is important to make it clear that workers have the right to collectively organise and that a worker does not commit an offence if the facility damaged, disrupted or obstructed. I refer directly to Opposition amendment No. 1 on sheet c2022-053C, which states:

- (a) at the place at which the person works, or
- (b) at a place owned, occupied, operated or used by an employer of the person.

Let us be very clear. It is absolutely critical that people are allowed the right to take collective action at work. We have heard a number of members in this place reflect on that during today's debate.

The CHAIR (The Hon. Wes Fang): Order! There is too much audible noise in the Chamber. The member will be heard in silence.

Ms ABIGAIL BOYD: In conclusion, The Greens will not oppose the amendments, but they are not quite as good as The Greens amendments.

The Hon. DAMIEN TUDEHOPE: I move:

That the Chair do now leave the chair, report progress and seek leave to sit again at a later hour of the sitting.

Motion agreed to.

Adoption of Report

The Hon. DAMIEN TUDEHOPE: I move:

That the report be adopted.

Motion agreed to.