# Kit Kowol - Disrupting the Disruptors

## Introduction

Parliaments, as central sites in which laws are made, communities represented, and governments held to account, have often been the site of protest. From the suffragette chained to the gallery in the House of Commons to the aboriginal tent embassy outside Parliament House in Canberra; the symbolism of contesting parliament’s claim to representation has been almost impossible for activists to resist. Yet, protests are, by nature and design, disruptive. The activist shouting from the public gallery drowns out the legislator chosen as the voice of his constituents; the roof-top protestor demanding a change of policy may prevent scrutiny of that very same policy. The balance between legitimate and illegitimate protest is fine, balanced, and subjective.

Parliaments have, of course, long grappled with such questions. However, the growing number of protests and, more worryingly, the increasing levels of violence associated with them have brought these questions into sharper focus. Recent years, for example, have seen violent protests at the US Capitol, the Sri Lankan Parliament, the Brazilian Congress and the Indian Lok Sabha. Nor has Australasia proved immune from violent parliamentary protests, as the events surrounding the anti-lockdown protest at the New Zealand parliament in 2022 graphically demonstrated. Moreover, even where protests have been peaceful their growing number – many, in the West at least, associated with the war in Gaza and concerns over climate change – have placed a strain on parliamentary authorities.

This paper probes a particular element of the challenge parliaments are facing when it comes to protest; the way in which some MPs have used social media to publicise and celebrate protests. It asks how parliaments can effectively balance MPs right to free speech with the need to prevent further disruption as well as whether the procedures and culture that have grown up around managing disruptive are sufficiently resilient in our social media age. To do so, the paper examines two separate protest events in which MPs shared images and commentary on social media; one in the Queensland Legislatives Assembly in November 2022, in which the Member was referred to the Ethics Committee but a finding of contempt was not recommended; the other in the Victorian Legislative Assembly, roughly 12 months later, in which the Member was ‘named’ in the House and subsequently suspended. It argues that the types of parliamentary procedures used in both cases demonstrates that parliament do have the tools they need to respond to such situations but that parliamentary authorities – Speakers, ethics committees, etc – need to be mindful about the procedures they choose, how they are applied, and the wider need to promote the ‘Dignity of Parliament’.

## Disruption in the Queensland Legislative Assembly

The disruption in the Queensland Legislative Assembly occurred on 13 November 2022 during Question Time when 12 activists, seated in the public gallery, unfurled banners and began chanting ‘Stop Coal. Stop Gas’. Two additional activists, who had used a wheelchair to smuggle a mobile phone and tablet into the gallery past metal detectors, then began live streaming the protests to the Extinction Rebellion Facebook page. The Speaker ordered filming to cease and the gallery to be cleared. Proceedings were suspended for 3 minutes. The activists were subsequently charged under the Queensland Criminal Code with the offence of Disturbing the Legislature.[[1]](#footnote-1) To date, one activist has pled guilty and has been sentenced to pay $5000.[[2]](#footnote-2)

Of especial relevance to this paper were the actions of the Member for Maiwar, Mr Michael Berman MP, a member of the Australian Greens. Following the protest the Member posted on his Facebook page a description of the protest and his position in relation to the Queensland Government’s climate and energy policy. Significantly, the Member concluded his post with the following:

So to those who took a stand today, I just want to say: you are absolutely right. We need to stop coal and gas. And we need to keep saying it until the major parties start listening.[[3]](#footnote-3)

A number of members of the public ‘commented’ upon the Member’s Facebook post. This included a post that included a link to the footage of the event another which stated, ‘thank you brave rebels!’. The Member ‘liked’ these two comments.[[4]](#footnote-4)

On 1 December 2022 the Speaker made a ruling in respect of the protests and the subsequent posts by the Member for Maiwar highlighting the way in which the protest was neither lawful nor peaceful and stating that it is ‘unacceptable for our members to participate, incite or encourage such protest.’[[5]](#footnote-5) The Speaker later wrote to the Ethics Committee (Committee) alleging that the Member’s conduct fell within the example of contempt set out within Standing Orders SO 266 (26)

(26) making public statements (either orally or in writing) inciting or encouraging disruption of the Legislative Assembly by bringing the proper proceedings of the Legislative Assembly or its committees into disrepute.[[6]](#footnote-6)

The Committee undertook its investigation – which also included a separate allegation that the Member had subsequently reflected on the Chair in a radio interview – and tabled its report on 7 March 2024. The Committee’s investigation examined not only the comments by the Member himself – which he argued did not reflect support for the protest but rather the protestors ‘message’ – but also the wider context of the post, including the Member’s liking of various comments from members of the public. While condemning the Member for ‘celebrating’ the protest and his reckless use of social media, the Committee did not recommend that the House make a finding of contempt.[[7]](#footnote-7)

## Disruption in the Victorian Legislative Assembly

The disruption in the Victorian Legislative Assembly occurred on 15 November 2023 during Question Time. It was led by 3 activists promoting the anti-climate change ‘school strike 4 climate’ movement. The protestors, seated in the Public Gallery, hung banners from railings and began chanting. The sitting was suspended for 8 minutes while the protestors were escorted from the public gallery.[[8]](#footnote-8)

During the protest, the Member for Richmond, Ms Gabrielle de Vietri MP, also a Green Party representative, took a ‘selfie’ with her 3 Green Party colleagues and the protestors in the background. The Member for Richmond then posted the image on Twitter/X with the comment:

Courageous school strikers demanding an end to coal and gas and a safe climate future (red heart emoji) Question time shut down and protestors removed by PSOs. When the future of the planet is at stake, business as usual is no longer tenable. [[9]](#footnote-9)

Later in the day, the Manager of Opposition Business raised a point of order drawing the Speaker’s attention to post. Overnight, the Speaker met with the Member for Richmond and outlined her concerns about the Member’s actions and the adverse effect that they could have in encouraging further disruption. The Speaker invited her to apologise. [[10]](#footnote-10)

As the Member for Richmond had not apologised, on the following day the Speaker made a ruling referencing previous *Rulings from the Chair* which notes that taking photographs in the Chamber is not allowed and that publishing photos of protest activity ‘could be seen as encouraging disruption to the house’.[[11]](#footnote-11) The Member for Richmond subsequently made a statement declining to apologise and stating that, as the picture was taken during a suspension, she did not believe it violated standing orders. As the Member for Richmond defied a ruling from the Chair (by not apologising), the Speaker then ‘named’ the Member. The Leader of the House then moved a motion to suspend the Member for the remains of the sitting week. The motion was passed with only the 4 members of the Victorian Greens Political Party voting against.[[12]](#footnote-12)

## The challenge to parliament

In many ways, these two protests and the ways in which Members (and subsequently Parliamentary authorities) responded to them are reflective of the wider challenges that parliaments regarding protest and social media.

For a start, both episodes highlight the sheer ubiquity, speed, and reach of social media. In the Victorian case, the Member for Richmond had her mobile phone to hand and was able to arrange a suitable picture in seconds. There was then a delay of roughly an hour and a quarter until the post appeared on X/Twitter. As of the 19 September 2024, it had been viewed over 110,000 times.[[13]](#footnote-13) In Queensland, the protestors were able to stream their actions ‘live’ with the Member for Maiwar’s Facebook post made less than an hour after the protest began. The comment on this post by a member of the public, containing the link to the video, was made soon after and the video itself has been watched over 4,000 times.[[14]](#footnote-14)

The speed at which social media content can be made is problematic in a number of ways. Appearing almost simultaneously, it can inflame tensions and provoke reactions in what are often highly dynamic situations. Disorder that might begin with just a handful of people can thus rapidly escalate as seen, so vividly, in the riots in the US Capitol. The speed of interaction also precludes the kind of careful interaction that Members, for example, might undertake when writing an article for newspapers or even a blog. The ‘social’ element of social media is also problematic with Members and their staff either unwilling or unable to control what is said by members of the public due to a lack of resources (principally) time to ‘vet’ comments. Indeed, it is even questionable how many members in fact write their own social media posts, with this responsibility often delegated to aides and other staffers.

Linked to the social element of social media is the fact that this is a frequently ‘mixed’ form of media. Comments can be easily attached photos, videos, and articles. As in the case of the Member for Maiwar, it can be difficult to determine therefore the context of a particular comment of statement. This is of vital importance because parliaments must balance the threat of potential disorder with Parliamentarians right to speak freely, including about the protests that take place within them. The latter right is guaranteed not only through parliamentary privilege when speaking in the Chamber, but also, at least in the Australian context, via the implied freedom of political communication contained within the Australian constitution. Weighing these competing priorities, especially when a disruption has caused the limiting of other parliamentarians speech and may hypothetically encourage others to do similar, is a particularly difficult undertaking.

The fact that some protest movements, and parliamentarians linked to them, have limited respect for parliamentary procedure is also of considerable concern. This is especially true of the organisation Extinction Rebellion which believes that parliaments across the globe are incapable of resolving the ‘climate crisis’ and who have proposed Citizens Assemblies as an alternative model.[[15]](#footnote-15) In a situation in which a group believes in a genuine existential threat to humanity the case for maintaining ‘business as usual’, in the words of the Member for Richmond, is difficult to make. As such, the threat or actuality of punishment by parliaments – such as suspension from services of the house – has a limited deterrent effect. In particular, the spectre of seemingly unwarranted, unfair, or disproportionate punishment may lead to a member becoming something a cause celeb and may lead to the original protest garnering more attention than it perhaps would have done.

## The Parliamentary response

How well then are parliaments responding to the challenges posed by parliamentarians using social media during protests? The answers, at least from our two case studies, are mixed.

In the case of the Member for Richmond, Parliament acted quickly. Once it became clear that the Member was not going to apologise she was named and the motion was carried in a matter of minutes. In situations which there may be an imminent threat of further disruption if the member remains in the chamber this a useful procedural tool. Likewise, a near immediate ‘naming’ has the benefit of clearly showing how seriously parliament takes actions that may encourage disruption, especially cases where a breach of parliamentary rules is clear cut. At the same time, acting quickly may also have its downsides by drawing unwarranted extra attention to the protest incident. This was potentially the case in Victoria where it was the Member for Richmond’s suspension from Parliament that led the ABC news article about the incident and not the protest itself, with the ABC including the Members picture in its article and thus, ironically, giving it a wider audience.[[16]](#footnote-16)

While the question of whether the timing of the response in the Victorian case is open to question the fact that the ‘naming’ resulted from the failure of the Member for Richmond to apologise and thus follow a direction of the Speaker, did leave the question of the Member’s right to free speech open while also affirming the significance of the Speaker’s authority. It was also made clear in the Speaker’s ruling that the Speaker’s objection in this instance was the inclusion of the ‘selfie’ in the post and not the comments by the Member herself.

Since then, the Member has nonetheless continued to be involved in protest activity. On the 7 February 2024 the Member, along with her Green Party colleagues, held up signs in the Chamber regarding the Israel-Gaza conflict. The threat of being ‘named’ was then dangled over the Members by the Speaker, leading in this case to an apology.

The way in which the response played out in Queensland also highlights, albeit in a different way, the perils facing parliaments in coming to terms with the vexed question of parliamentarians social media use during protests.

Unlike in Victoria, the Member for Maiwar was referred to the Ethics Committee. As well as the fact that his case was less ‘clear cut’ than the Member for Richmond this also reflects the different approach to parliamentary discipline taken in the two legislatures and the procedural tool kits available. The Queensland Legislative Assembly is unique among Australian states and territories in including in its Standing Orders ‘inciting or encouraging’ disruption as a specific example of contempt. This was added to the Standing Orders in 2018 following a disturbance in which anti-Adani protestors dumped black confetti from the public gallery onto MPs below.[[17]](#footnote-17) The practice of ‘naming’– though provided for in the Standing Orders – has also rarely been used in Queensland compared to Victoria. In the ten years prior to the Member for Richmond’s suspension there were in fact 9 instances in the Victorian Legislative Assembly in a which a Member was named and a motion subsequently passed to suspend them from the services of the House.

The advantage and disadvantage of the referral to the Ethics Committee is the elongated timeframe this provides. Over 14 months elapsed between the Speaker’s referral and the tabling of the Committee’s report. This period ensured that limited additional publicity was attached to the original protests. It also ensured that there was sufficient time for the Committee to examine in detail the Member’s comments and for the Member to provide a number of written submissions in response to the committee’s requests and to attend a private hearing.

The committee’s report was also mindful of the ‘mixed’ and ‘social’ nature of social media. It examined the critical element of the Member’s statement that (‘So to those who took a stand today, I just want to say: you are absolutely right.’) in the context both of the newspaper article included by the Member in his post and the interaction the Member had with those who commented on the post. Notably, the committee examined the times in which the Member had ‘liked’ comments using the ‘red heart emoji’ as well as the meaning of such ‘likes’ through reference to the website *Emojipedia* – surely the first time this has been cited as an authority in a parliamentary report.[[18]](#footnote-18) Indeed, it was through an awareness of the dynamic, multiple, and social context of Facebook that the committee came to the conclusion that the Member’s post both supported the message of the protests (as the Member argued) as well as their conduct ‘taking a stand’ (as alleged by the Speaker). Far from being technophobic and out-of-touch Members of are, as this example demonstrates, well aware of the dynamics of social media use.

The committee’s report is also indicative of the fact that it was mindful of the need to balance the Member’s right to free expression with the need to protect the dignity of the House. Having never previously considered this particular example of contempt before, the committee used as precedent the analogous example of ‘deliberately misleading the house’. Here, it drew on both McGee and Queensland’s Member’s Code of Ethical Standards to state that one element of the test for contempt is ‘intent’ and that for intention to be found intention requires ‘a very high standard of proof’ and is ‘the only logical finding’. Noting the short time that had elapsed between the protest and the Facebook post and the Member’s own argument that his comments were in relation to the message of the protest not its means, the committee thus concluded that the example of contempt could not be made out.

At the same time, the committee’s report was caustic about the Member’s actions. It argued that the Member had behaved ‘recklessly’ and while not encouraging or inciting disruption nonetheless ‘celebrated’ it.[[19]](#footnote-19) The report thus performed an important educative function in highlighting what it considered to be the legitimate boundaries of commenting on protests via social media. This educative element was, however, also attached with a stinging rebuke to the Member whose actions were likened to that of US Congressmen following the January 6 attacks, with the Report stating:

While the Member, no doubt, would be aghast to have his behaviour compared to those Congressmen, who celebrated a violent disruption in their own House of Assembly, in reality his actions were little better. Naivety is not a sufficient excuse.[[20]](#footnote-20)

Whatever the merit of this comparison, the strength of them led the Member to describe them as ‘outrageous’ and ‘disgusting’ – with the Member noting that the protestors in Queensland were largely elderly men and women and thus a far cry from QANON et al.[[21]](#footnote-21) The Members remarks were widely reported and once again brought the original protest back into public view.

## Conclusion

Where then does this leave us in terms of our wider question of whether Parliamentary procedure is sufficiently robust to meet the challenge of parliamentarians commenting even ‘celebrating’ disruptive protests?

As we have seen, social media obviously poses a challenge in terms of the ease in which content can be created, shared, and commented upon. Parliamentarians’ temptation to generate ill-thought out ‘content’ can sometimes be hard to resist – especially where the rules around what constitutes acceptable commentary are either unestablished, as was the case in Queensland, or as in the Victorian case vis-à-vis photographs during a suspension somewhat unclear. However, when parliamentarians do act in this way the two examples show that, procedurally at least, there are ways in which Parliaments can respond and can draw on precedent, as well as their own often sophisticated understanding of social media, to support them. Whether that is via the speedy route of ‘naming’ or the more elaborate process of a referral for contempt. Indeed, given that disruptive protests in parliaments across the globe are becoming more of a feature, other legislatures might do well to examine Queensland’s example of including ‘inciting’ or ‘encouraging’ disruption as a specific example of contempt. Likewise, legislators everywhere might usefully reflect on the methods other parliaments have taken when it comes to protests – often unused elements of their Standing Orders (such as naming and potentially the issuing of financial penalties) revisited, even if just for educative (and potentially deterrent) possibilities.

What is equally clear, however, is that parliamentary authorities in their determination to maintain the dignity of the House must be careful in selecting which methods they employ with sometimes longer and more drawn-out procedures preferrable either to reduce the temperature or because issues of a members right to free expression are genuinely at stake. Whatever methods they choose must also be applied and, as importantly, be seen to apply with scrupulous impartiality. Protestors justifications for disruption is often that parliaments are partial and that different rules apply, this misperception must be countered rather than sustained.

Finally, there is the wider issue of the ‘dignity of parliament’ to consider. While this is a term that appears frequently in parliaments in reference to members behaviour, including in the Queensland Ethics committee report, what the term actually *means* is not entirely clear cut. The term is not in fact referenced in either the House of Representatives Practice, Odgers’, or McGee. Erskine May, in fact, uses it only once in regards to breaches of privilege and how both Houses of Parliament share a similar approach to determining how ‘the dignity of Parliament is vindicated’, though what that actually amounts to is not explained.[[22]](#footnote-22)

Given this lacuna, it is best to go back to the Latin. For the origin of the word ‘dignity’ is the Latin ‘dignus’ meaning ‘worthy’. This implies that members behaviour needs to be ‘worthy’ of Parliament but equally that Parliament must be ‘worthy’ itself. As such, I would humbly suggest, that incidence of disruption and members engagement with them are not only times for punishment, or even education, but also reflection – for all those in parliament, members and strangers alike, to ask whether they are acting in ways worthy of the communities they represent and the historic, but also living, institution of which they are a part. The answers to these questions will be, almost by definition, multiple and subjective. The difficulty of reconciling them should not, however, prevent them being asked in the first place.

1. Ethics Committee, ‘Report No. 221, 57th Parliament, Matter of Privilege Referred by the Speaker on 12 December 2022 Relating to an Allegation of Inciting or Encouraging Disruption of the Legislative Assembly’, March 2024, 2. [↑](#footnote-ref-1)
2. Joe Hinchliffe, ‘Queensland Climate Protester Fined $5,000 under Laws Last Used during Bjelke-Petersen Era’, *The Guardian*, 16 July 2024, sec. Australia news, https://www.theguardian.com/australia-news/article/2024/jul/16/queensland-climate-protester-dr-lee-coaldrake-guilty-plea-ntwnfb. [↑](#footnote-ref-2)
3. Ethics Committee, ‘Report 221’, 2. [↑](#footnote-ref-3)
4. Ethics Committee, 2. [↑](#footnote-ref-4)
5. Record of Proceedings (QLD), 1 December 2022, 3819. [↑](#footnote-ref-5)
6. Legislative Assembly of Queensland, Standing Rules and Orders of the Legislative Assembly, standing order 266 (26). [↑](#footnote-ref-6)
7. Ethics Committee, ‘Report 221’, 13. [↑](#footnote-ref-7)
8. Benita Kolovos, ‘“Politicians Aren’t Doing Their Jobs”: Teens Escorted from Victorian Parliament after Climate Change Protest’, *The Guardian*, 14 November 2023, sec. Australia news, https://www.theguardian.com/australia-news/2023/nov/15/politicians-arent-doing-their-jobs-teens-escorted-from-victorian-parliament-after-climate-change-protest. [↑](#footnote-ref-8)
9. Gabrielle de Vietri, ‘Courageous School Strikers’, X (formerly Twitter), 14 November 2023, https://twitter.com/GabrielledeVie/status/1724270958318342291. [↑](#footnote-ref-9)
10. ‘“This Is a Grown-up Parliament”: Major Party MPs Vote to Suspend Victorian Green over Climate Protest Selfie’, *ABC News*, 15 November 2023, https://www.abc.net.au/news/2023-11-15/victorian-greens-mp-gabrielle-de-vietri-suspended/103107236. [↑](#footnote-ref-10)
11. Record of Proceedings (VIC), 15 November 2023, p 4419. [↑](#footnote-ref-11)
12. Record of Proceedings (VIC), 15 November 2023, 4419-4420. [↑](#footnote-ref-12)
13. de Vietri, ‘Gabrielle de Vietri on X’. [↑](#footnote-ref-13)
14. Ethics Committee, ‘Report 221’, 2. [↑](#footnote-ref-14)
15. ‘Citizens’ Assembly’, *Extinction Rebellion UK* (blog), accessed 19 September 2024, https://extinctionrebellion.uk/decide-together/citizens-assembly/. [↑](#footnote-ref-15)
16. ‘“This Is a Grown-up Parliament”’. [↑](#footnote-ref-16)
17. ‘Anti-Adani Protest inside QLD Parliament’, *9News*, 4 September 2018, https://www.9news.com.au/national/anti-adani-protest-inside-qld-parliament/23dfddc4-6129-4a83-83a5-dec4c7f638da. [↑](#footnote-ref-17)
18. Ethics Committee, ‘Report 221’, 7. [↑](#footnote-ref-18)
19. Ethics Committee, 8. [↑](#footnote-ref-19)
20. Ethics Committee, 13. [↑](#footnote-ref-20)
21. Joe Hinchliffe and Eden Gillespie, ‘Outrageous and disgusting’: Greens MP condemns comparison of Queensland climate protests to US capitol riots’, *Guardian*, 8 March 2024, https://www.theguardian.com/australia-news/2024/mar/08/extinction-rebellion-protest-michael-berkman-greens-mp [↑](#footnote-ref-21)
22. Thomas Erskine May, *A Practical Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (Butterworths, 1855), 62. [↑](#footnote-ref-22)