

Thomas Cartwright

**Testimony to the Ohio State Senate Judiciary Committee on SB 250
14 November 2018**

**Judiciary Committee Chairman Bacon and Committee Members.
Thank you for allowing me to testify here today.**

Thomas Cartwright

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Ohio resident for about 25 years

Retired from JPMorgan as an Executive VP after 38 years

Now I devote much of my time to social justice issues as an advocate and activist.

Today I'm here as a concerned individual citizen and constituent of the Chairman. I am not representing any group or organization, nor have I discussed my testimony with anyone.

I'm concerned about SB 250 for many reasons but in the interest of time today I'll focus my testimony on 3 overarching concerns.

First, it treats "**INHIBITING CONSTRUCTION**," which is in and of itself a dangerously nebulous term as to duration and severity, as a criminal offense **EQUAL TO** the **DESTRUCTION AND DAMAGE** of property of the same exact facility, and **HIGHER** than the destruction of the property of a NON "critical" facility.

Our criminal justice system is based on the theorem that punishment should be proportionate to the crime, and that includes acts of non-violent civil disobedience which is clearly targeted in this Bill.

- **Does anyone here believe** that if you sit down to block a construction road into a Rubber Manufacturing Plant that is under construction until quickly and peacefully removed by the police that

you should receive the same felony charge as if you **DESTROYED** a **COMMUNITY'S WATER INTAKE SYSTEM?**

Certainly no one here would see those as anywhere close to equivalent crimes but this bill defines them **both as Felony 3s.**

- If, instead of a Rubber Manufacturing Plant, you did the same thing at an **Automotive Wiring Manufacturing Plant**, your offense would be a **MISDEMEANER, NOT A FELONY.** That is unequal and unfair treatment.

- **Does anyone here believe** that chaining yourself to a bulldozer to temporarily “inhibit” construction of an oil pipeline until you are quickly and peacefully removed by the police should carry the same felony charge as **DRIVING** that bulldozer **INTO THE PIPELINE?**

Certainly no one here would see those as anywhere close to equivalent crimes. Yet this Bill defines them **BOTH AS FELONY 3s**

- If instead of a pipeline construction site, you did the same thing at a **COAL MINING OPERATION**, your offense would be a **MISDEMEANER NOT A FELONY.** That is unequal and unfair treatment.

- **Does anyone here believe** that staging a non-violent sit-in at the construction office of a **Steel Manufacturing Plant** that “inhibits” construction until the police quickly and peacefully remove you should face an **EVEN HIGHER** criminal charge than the same act in a **US Senators Office** in Washington DC.?

Certainly no one here would consider a sit-in at a Construction Site Office a **HIGHER** crime than the same act in the office of a U S Senator in Washington DC. Yet this Bill considers a sit in at a steel manufacturing construction office a **FELONY WHILE THE SAME ACT IN A U S SENATOR'S OFFICE IN DC IS A MISDEMEANER.** That makes absolutely no sense.

Second, the Bill carves out a specific group of profit-making enterprises as “critical infrastructure facilities” for unequal protection, and escalated criminal charges for infractions impacting those enterprises above similar infractions against other business.

There is no definition of “critical.” The classification of “critical” is inconsistent and **TARGETS FOR UNIQUE PROTECTION BUSINESSES THAT HAVE BEEN SUBJECT TO PROTESTS BY ENVIRONMENTAL ACTIVISTS**

- Moreover, in my view, it’s a monumental stretch of reason to consider any enterprise “critical” if that project is under construction and has never ever been in operation.

Here is a list of some of what the Bill considers “critical infrastructure facilities”

- A petroleum refinery
- A Rubber manufacturing plant
- A trucking freight terminal
- A gas fracturing plant
- A steel making facility using an arc furnace
- A video service network

The paramount question is - What makes any of these facilities “critical.” And why are any of these business’s worth unique protection over:

- A soybean processing plant
- An automotive manufacturing plant,
- A city’s main metropolitan bus terminal
- The headquarters of a Fortune 100 company

Does anyone here believe that if any project of these “critical” businesses was cancelled, or a site closed because it no longer met its ROI hurdle - maybe because oil prices fell so they stopped building or closed refinery - that any legal authority would file charges against

these companies, or that they would face any political fallout because they did not build or closed their “critical infrastructure?” Certainly not.

Again, what makes these business projects more “critical” than others?

The strongest common bond and differentiating characteristic is that the majority of these “critical” enterprises are enterprises that are **highly risky in terms of polluting the environment**. As such they are often protested by environmental activists and therefore **THIS BILL SPECIFICALLY TARGETS ENVIRONMENTAL ACTIVISTS** and singles them out for **UNEQUAL AND HARSHER LEGAL TREATMENT**. I ask, Is targeting and unequal treatment of environmental activists fair? I would offer that it is crystal clear that it is not fair.

Third, enacting SB 250 will have the chilling effect **dampening** our **Constitutional rights to freedom of speech and freedom of assembly by intimidating people** who oppose certain projects that they deem damaging to our world. Elevated criminal charges and fines 10x higher for people that come together in a group of only 2 or more to oppose certain inconsistently classified business projects will dampen free speech by design, **which is the antitheses what our Constitution stands for**.

Whether you agree with the positions, protests, or non-violent civil disobedience actions of activists is not the point. I would hope that **EVERYONE IN THIS ROOM** agrees that **Ohio laws** should **bend every effort to protect our Constitutional rights of freedom of speech and assembly for EVERYONE**, even if we don’t agree them. And that, when in doubt, our laws should err on the side of **augmenting freedom, not diminishing it**. The preservation of democracy demands, and depends upon, our actions **to reject any laws that lead to inhibiting the freedom of speech or of assembly**.

To be sure, **non-violent civil disobedience is not protected by the 1st Amendment**, and I am in no way asserting that it is. It is a crime and those that violate the law should face legal action. **But where a protest ends and civil disobedience begins is often subjective** and this Bill does not even require a protester be charged before becoming subject to civil action as an individual, or as a group of 2.

Do we really want an **activist to face a felony charge** for standing up and walking away **a minute too late** to avoid being arrested at a sit-in at Trucking Freight Terminal? Is that fair? That is beyond unfair. **And, as it is intended to do, it will clearly intimidate activists** and therefore have the effect of inhibiting freedom of speech in **NON-civil disobedience** protests, which **ARE** protected by the 1st Amendment.

Ohio already has significant legal protection, criminal charges and methods to recover costs associated with property damage, as we should. Ohio does not need SB 250, **unless the Ohio legislature has a desire to restrict the Constitutional rights of its citizens to freedom of speech and assembly. Or, to uniquely protect certain businesses that engage in environmentally risky enterprises over others by imposing higher criminal charges that are not proportional to the offenses committed.**

I ask you to reject this bill in its entirety in the interest of fairness and in support of our Constitution.

Thank you for your consideration
Thomas Cartwright

PS If you would to know more about activist direct action and protests I would be happy to discuss my experience in more detail at your convenience. Feel free to call.