




Speech By
Tim Nicholls

MEMBER FOR CLAYFIELD

Record of Proceedings, 1 December 2020

**COVID-19 EMERGENCY RESPONSE AND OTHER LEGISLATION AMENDMENT
BILL**

 **Mr NICHOLLS** (Clayfield—LNP) (12.20 pm): Obviously new change is afoot, Mr Speaker, as you look to the member for Redcliffe to speak as the Attorney-General and get some guidance from the Clerk. It is a pleasure to be back on the opposition front bench after reflecting on the pleasures of the freedom of the backbench. It is a pleasure to take up the cudgels as the shadow Attorney-General and shadow minister for justice in the 57th Parliament. This pleasure will only be exceeded by taking up the role of Attorney-General and minister for justice in the 58th Parliament, which I am looking forward to. I congratulate the Attorney-General on her appointment to the role. I look forward to serious debate about significant matters that will arise in the portfolio over the next four years. It is also a pleasure to be contributing to the debate on this the first bill of the 57th Parliament.

The COVID-19 Emergency Response and Other Legislation Amendment Bill 2020 is somewhat uninspiringly named but it will have a significant impact on the lives of many and the operation of businesses in this state. With the opening of the borders to Greater Sydney and Victoria today and with the arrival of passengers on airline flights at Brisbane Airport in my electorate of Clayfield this morning, we can hope for better times ahead and a time when hopefully this legislation can be consigned to a dim past. In that vein, I hope that jobs will return to the very many people who live in my electorate and throughout Queensland and who work in the airline industry and at airports, including Brisbane Airport.

I know of many who have struggled over the past eight months as a result of the border closures: people who have had to take their kids out of school and people who have had to take up second and even third jobs to hold on to the family home, to keep the lights on and to keep their families together. I also extend my sympathy to those in the airline industry affected by the announcements made yesterday by Qantas about the loss of jobs on the ground at airports across the country, again particularly at Queensland airports. Queenslanders will be paying a heavy price as a result of government decisions made during the past eight months as those governments responded to the COVID-19 pandemic.

The LNP will not be opposing this bill. Earlier this year the LNP supported the COVID-19 Emergency Response Act and the Justice and Other Legislation Amendment Act 2020 and will continue to support that legislation, which aims to make people's lives safer and business more prosperous during what is hopefully the start of the end of this pandemic and the recovery from it. While this may not be the end of the pandemic, to misquote Churchill hopefully it is the beginning of the end. The main function of the bill is administrative in nature and aims to extend the expiry date of the emergency response act, the regulations made under the emergency response act and a range of statutory instruments that are all due to expire on 31 December this year. Those changes have provided certainty to business and community while the policy of social distancing has been in place and have facilitated the ongoing requirements of the very many facets of our day-to-day lives.

Many people live in community title schemes and have been unable to meet to carry out their normal business, which is a very important facet of day-to-day life, particularly in our cities. People have had to carry on with the business of signing documents, making wills and entering into contracts and negotiations. Whether they are having a meeting of their body corporate, signing documents or, unfortunately and regrettably, responding to domestic violence incidents, life has had to go on and this legislation has facilitated that.

As we come to the festive season and Queenslanders and, I am sure, many members in this place quite understandably look forward to Christmas holidays and time with friends and family, it would be both unfair and unreasonable to expect them to come to grips with wholesale changes that are currently in operation from the first day of the new year in 2021. Many of the changes affected under the COVID-19 Emergency Response Act and the Justice and Other Legislation Amendment Act have provided practical and sensible measures that have enabled social distancing requirements to be adhered to during this pandemic.

The objects of the bill are quite clear and they are set out in the explanatory notes. I am sure that many members will have read those in detail and taken note of them. For the benefit of those who may have skimmed the notes only briefly, the objects of the bill include extending the operation of the COVID-19 related legislation required to respond to the impact of the government's COVID-19 restrictions until 30 April 2021 or an earlier date that can be prescribed by regulation. They amend the Youth Justice Act to allow the chief executive to delegate his or her powers to qualified temporary detention centre employees in the event of a future COVID-19 outbreak.

They amend the Electoral Act to provide flexibility in the conduct of by-elections. Of course, the current provisions only took us up to 31 October. As we are going to find out in subsequent discussions in relation to this legislation, potentially there will be by-elections to fill vacancies in the office of a mayor or a councillor. The bill amends the process for filling a vacancy in the office of a mayor or councillor that arises, as so eloquently termed, during the period starting on a quadrennial election and ending on the day before the first anniversary of the election—that is, the first year of a four-year term.

The bill ensures that legislation or regulations necessary to respond to the COVID-19 emergency continue past the currently mandated 31 December end date by setting the new end date of 30 April 2021, subject to advice from the Chief Health Officer. We say that the background information of that advice should be openly and freely provided to the public. I am sure that we all hope for an earlier end date than 30 April 2021. I could say that, knowing the process of this government as we do, we might not expect either the release of the information guiding the CHO's advice or an earlier end date, but that would be unkind and uncharitable at this early stage of the parliament. Therefore, I and, indeed, Queenslanders live in hope that the government will provide the information and act swiftly to return businesses and people's lives to normal before 30 April 2021 if the advice and circumstances permit.

In considering this bill the opposition considered a four-month or earlier time frame to be acceptable and also notes that an extension beyond 30 April 2021 will require a further bill and further consideration of this parliament. In those circumstances we consider that the time frame of four months is understandable. As I say, hopefully it will be able to be terminated sooner by regulation. Let us hope another extension is not required.

I will deal with a couple of matters of particular significance in relation to this legislation. The first of those is commercial leases. In her explanatory speech the Attorney-General said that the Retail Shop Leases and Other Commercial Leases (COVID-19 Emergency Response) Regulation 2020 was made to give effect to good faith leasing principles for non-residential leases agreed by the national cabinet and establishes a process for resolving disputes. We all remember when, in late April and early May, this was a matter of some considerable significance for landlords and tenants.

The bill will preserve the rights and obligations that have accrued during the lease protection period up to 31 December 2020. I think the original period ended in September and was extended, and it has been extended to 31 December 2020. That was the period that would allow for, if you like, negotiation and a reduction in rent because of falls in turnover of tenants. It will also facilitate the conclusion of any lease disputes that may still be on foot. If anyone is unable to achieve a resolution and subsequently there is a dispute, a process has been put in place. As the legislation states, that was established by the national cabinet.

There is no doubt that many in the property industry would like to see the lease regulation come to a complete end on 31 December. There is also no doubt that this has been one of the most contentious issues for a sector that is among the largest contributors to investment and employment, not to mention economic activity and taxes, in this state. It is also a sector that provides security of income for many prudent people who invest in property in order to secure their future either as superannuants or for their family or other reasons.

The Property Council has called for the lease regulation to end completely on 31 December. For landlords, the postponement of the expiry date of part of the lease regulation will continue to impact significantly on their property rights. We cannot be under any misapprehension that this lease regulation significantly altered the private property rights of both landlords and tenants. It sought to provide government intervention into what has traditionally been, and properly so, the realm of private deals between individuals best placed to make decisions about their rights.

While accepting the government's view on this matter, we believe that this regulation has had a dramatic effect on lease covenants and the sooner normal commercial principles can return to private contracts between individual entities the better for all concerned. In the meantime, the preservation of accrued rights under the lease regulation should demand from the government sufficient resources for the expeditious resolution of any disputes and the rapid end to a significant intrusion into private property rights.

I acknowledge that this is not solely the responsibility of the Queensland government. These were principles that were agreed at the national level. These impacts are felt not just by large property owners, but in many cases small investors and owners who have suffered substantial losses and been forced to bear the brunt of those losses, with some little sympathy from this government—not no sympathy but little sympathy.

I am sure like many in this place, I have received many inquiries and heard many stories of the anguish and personal loss suffered by many honest and good landlords who have dealt with their tenants fairly and openly. Equally, there have been cases of unreasonably hard lines taken by some landlords. That is not to be unexpected in these circumstances. This is not to favour any one side of the lease bargain. It is simply to highlight the dangers of abandoning time tested principles of commercial property leasing and the well-established principles of resolving these disputes which inevitably arise. The truth is that while in this case necessary, government intervention in private property matters rarely delivers as consistently as good a result as a bargain freely entered into according to the needs and desires of the parties negotiating it.

I want to touch on the local government runner-up laws. The changes to the Local Government Act are being rushed through this week—changes directly attributable to the incompetence and political game playing of the Labor government. The need for this follows the sudden resignation of Margaret Strelow as the mayor of Rockhampton following adverse findings of the Councillor Conduct Tribunal.

In fulfilment of the law of unintended consequences, a former Labor member who left the party because of her unhappiness with the Labor preselection process and ran as an independent in the state election has now been caught again by Labor laws and, in a trifecta of failings, Labor was left with the prospect of 'Pineapple' being the mayor of one of Queensland's major regional cities. You seriously cannot make this stuff up! Rocky must be a great place to be a Labor Party member. First, a seemingly popular local mayor and party member gets rolled for preselection in favour of the current member. This is, of course, after a constant campaign, that all in this place remember, of white anting the previous Labor member, good old rats in the rafters, Bill Byrne. We all remember Bill, the former member for Rockhampton.

Then Mayor Strelow has an unfavourable finding made against her and decides to quit as mayor, leaving a bit of a steaming mess of Labor's own making. Then what happens? The current member for Rockhampton then calls for her to not run again, calls her actions a childish tantrum and an expensive stunt—perhaps settling an old score given that in 2017 Mayor Strelow, then running as an independent, scored 23½ per cent of the vote and the current member for Rockhampton got 31.7 per cent of the vote—while the member for Keppel goes and visits Pineapple to try to persuade him not to take up the position of mayor.

The Rocky Labor Party is in it all together all the way through. They are blueing amongst themselves. They are undermining their own mayor. They are undermining their former member. The bloke who won on 31 per cent of the primary vote does not like the mayor who left and is saying, 'Don't run again.' We have the member for Keppel out there intervening and paying a personal visit to Pineapple's shop to try to convince him not to take up the position. An hour later the then acting local government minister—the now tourism minister, I think—said, 'We will introduce retrospective legislation.'

I never thought I would say it, but bring back Schwarto. We want to see Schwarto. At least when Schwarto went in hard it was just a bit of Labour Day biffa after a few Fourex with the partner of the federal member. At least it was all out on the street there. You could see it. He had a good right hook and they all went down scrambling around on Labour Day. Maybe they are going to bring him back. Here is my prediction: he is going to put his hand up and run for mayor. He is going to forget about all the back room business of just doing the numbers and getting people in and out of the way as he

pleases and actually take up the position. He is going to give up wood turning. He is no longer on the board of the QBCC. He has stepped off that I think. He is going to emerge from the swamp and take on Rockhampton. Bring back Schwarto, a person who stood up for Labor principles in this place, gave as good as he got and did not muck around in doing so. I did enjoy having Schwarto in this place. We miss him a fair bit.

That is the Labor Party in Rockhampton as far as anyone can make out. I am not sure they know what is going on. We certainly do not. It is interesting to speculate about what is going on up there. I do not know who is going to be in more danger, the current member for Rockhampton or the current member for Keppel.

Mr DEPUTY SPEAKER (Mr Kelly): Pause the clock. Member, I have given you a great deal of latitude. I bring you back to the long title of the bill. Certainly some of that information was helpful in explaining your position, but I would ask you to come back to the long title of the bill.

Mr NICHOLLS: Indeed. I am indeed grateful for your forbearance, Mr Deputy Speaker.

The bill provides that where a mayor resigns within their first 12 months of being elected, a by-election will be called. Where a councillor resigns within the first 12 months of being elected, the council they are a member of will have the option whether to conduct a by-election or impose the runner-up provisions. In effect, we are going back to what was the case before the changes made earlier this year. Those decisions will be made on a case-by-case basis.

The amendments retrospectively remove the amendments that were rushed through parliament earlier this year and of which the opposition was given notice of at 9 pm the night before the debate on the bill. Concerns about the impact of those rushed laws were raised by the shadow minister for local government, the member Warrego, whom I am sure will not mind me quoting her. She may indeed reflect on her own words when she makes her contribution. She stated—

Filling the vacancy of a mayoral position during the first 12 months after a quadrennial election with a runner-up is a significant departure from the existing legislation, which states that the position must be filled by way of a by-election.

The member for Warrego goes on to ask the question—

What if the departing mayor won with 80 per cent of the vote and the next two candidates had 11 per cent and nine per cent? How could appointing a runner-up be a reflection of the electorate's wishes in those circumstances? They would be appointing somebody who won 11 per cent of the vote.

...

The full implication of these amendments has not been realised by the stakeholders or by the public.

I think that is probably true given that they were only delivered at nine o'clock at night. She continued—

This is just another rorting of the voting system by the Labor government and it is particularly undemocratic when it relates to the way that mayors can be elected.

Her words have the ring of truth about them. We know they have the ring of truth about them because the Labor Party is coming back into this place to change things back to the way they were because they got it wrong when they rushed those amendments through.

I have been in this place and around the political environment long enough to remember Labor's ongoing and continuous fiddling with and major changes to local governments. Let us not forget, it was Terry Mackenroth who first wanted to penalise councillors who sought election to either this place or the federal parliament. He effectively required them to lose their positions as councillors if they wanted to serve the public in another forum. He made no bones about it. Unlike anyone else in any other occupation, councillors had to lose their jobs. One could be a public servant and take leave and still be able to run. I absolutely had a great deal of time for Terry Mackenroth. He introduced that and he was proud to introduce it saying, 'This is a fix because I am sick of all those who come out of small councils throughout the state running for state parliament or federal parliament.'

There are no sour grapes from me. I was affected by those changes. I took the chance knowing the risks. I was happy to take on the then Labor MP for Clayfield and win the seat fair and square in 2006—and, I might say, hold it for five subsequent elections. Who knows how many councillors could have served in this place and who chose not to stand simply because of that law.

Who can forget the Beattie Labor government's complete betrayal of the local government sector in 2007 with the forced amalgamation process? There was no word of it before the 2006 election campaign. They rolled in here and presumed to say, 'There are too many local governments. We are going to reduce you all from 173 down to 87 or 89,' and there was no discussion about it. It was sprung on the councils and sprung on the LGAQ, who had engaged in a sustainability process with that very government to address the issues in relation to size and sustainability of those local authorities. It was a dark day and is a stain on that government.

Who could forget that at the time one of the most affected local government areas, yet again, was Rockhampton and the Keppel coast with the amalgamation of the Livingstone shire council and the Rockhampton council—and how well did that go! There was the forced acquisition of councils' water assets under the Beattie government and the creation again of amalgamated water bodies and a plethora of bureaucracies simply to deliver water that had been successfully delivered for decades.

Mr BAILEY: Mr Deputy Speaker, I rise to a point of order. As fascinating as this trip down memory lane is, I cannot see its actual relevance to the bill before the House.

Mr DEPUTY SPEAKER (Mr Kelly): Member, I have been giving quite a degree of latitude. I ask you to come back to the long title of the bill.

Mr NICHOLLS: Thank you, Mr Deputy Speaker. Of course I take your direction. It will be fascinating for the member for Miller because we all remember that he cut and run from the Brisbane City Council in 2004 when he did not get the position he wanted as chair of planning.

Government members interjected.

Mr DEPUTY SPEAKER: Order, members! Again, I bring you back to the long title of the bill. I am not finding that any more relevant than the last contribution, member. I ask you to come back to the long title.

Mr NICHOLLS: Indeed.

Mr Bailey: Go easy on me, Tim.

Mr NICHOLLS: It is only my first day back in the job and the member for Miller already wants me to go easy on him. Just wait until I have had four more years in the job going hard! That will be a different kettle of fish. We have not even touched on the promises he sort of made in Clayfield which we will be coming back to at some stage as well.

Mr Deputy Speaker, to take your direction rather than taking any more interjections from the member for Miller, I come now to the point of why we are debating this particular legislation. It is a direct follow on from the changes that were made in the last term when the former minister for local government could not resist interfering in local government. In much the same manner as his rail fail and his management of the racing portfolio, he has got it wrong again—yet again. We are back in here with this legislation having to correct his mistakes. We will support the amendments under this bill, and the member for Warrego will no doubt expand further on this.

While we are here, I think it is important that we touch on a matter of wider concern that we have in relation to the process of consideration of this bill. This bill has been marked, if you like, or has been designated as urgent, requiring urgent consideration. A bill introduced on Thursday, on the first full sitting day of this parliament, is now being debated on the second full sitting day of this parliament with a short period in between. Like so many other proposed pieces of legislation that have come before the House, it has not gone through the normal committee and parliamentary scrutiny process.

Of course, particular circumstances might necessitate urgent legislation to be brought before this House without committee scrutiny. No-one disputes that. There may well be valid reasons but whether this is one of those types of legislation is, in my view, debatable. It is not as though the expiry date of 31 December has not been known for some time. It is not as though the election date was unknown. It is not as though warnings were not provided about the pitfalls of the Local Government Act changes at the time that they were brought in.

Labor is becoming more and more familiar with abusing proper parliamentary processes. In the current case the former minister tacked 229 amendments on to the amendment bill of 2019 and the opposition was given notice of those 229 amendments on the night before the bill was debated. Now, in a state of embarrassment, the government has to come back in and revert the amendments because precisely what was feared in relation to the changes made has now occurred. As I said earlier in my speech, the law of unintended consequences has come back.

There are others who have made the point in relation to the lack of scrutiny and the very real dangers to the processes in this place. On 9 September this year, the *Courier-Mail* published an article titled 'Palaszczyk Govt breaching 'spirit' of Constitution by ramming through laws without scrutiny'. It is in that article that reports were made from an expert in constitutional law claiming that the government was acting 'contrary to the spirit' of the Constitution. Those comments were made by constitutional expert Gim Del Villar QC after advice was sought by the Speaker—not by the opposition but by the Speaker—in relation to matters raised by the member for Kawana. What did Mr Del Villar QC say? He said to the Speaker—

In my view, the treatment of the CSI Bill, the Electoral Amendment Bill and the Agricultural Amendment Bill 2019 by the government and the Assembly exposes deficiencies in how section 26B of the Constitution operates.

As I said, we will not be opposing this bill, but the passage of this bill continues to raise serious questions in relation to the role of this place and the manner in which the government goes about getting its legislative agenda passed. We will continue to look at those matters and continue to hold the government to account, as we should, when it fails to give due regard to the proper process in this House.

Lastly, I would like to highlight some amendments which will be extended under this bill and which have received considerable support from key stakeholders such as the Queensland Law Society. Prior to the election, the QLS, in their call to parties, called for a commitment to evaluate the measures introduced in response to COVID to ensure that those that have a lasting benefit are retained and implemented on a permanent basis. This makes perfect sense. Sometimes it does take an emergency to move things on at a faster pace than they would otherwise do for people to see the benefits of changes that have long been talked about and long been resisted.

In this case the Law Society expressed a strong desire for facilitating the use of electronic signatures by individuals, corporations and legal practitioners in the signing of court documents, including permanently retaining the virtual execution and witnessing arrangements introduced in response to the COVID pandemic. In the interests of promoting access to justice—and I would think that the Attorney would have this firmly planted in her mind as a policy issue and something that I think, as I said earlier, we can have a serious and proper debate about—I would hope that proper consideration is given to reviewing those benefits with a view to keeping them in place not as emergency matters but as proper policy matters to facilitate, as I said, better business after 30 April 2021.

As I indicated, we will not oppose the bill, but equally the government should not expect a free ride on similar future bills. Emergency legislation passed at the height of a pandemic is no substitute for proper legislation and policy and better legislation subject to proper committee scrutiny and the careful consideration of this place. I look forward to the debate on this bill.