




Speech By
Stephen Andrew

MEMBER FOR MIRANI

Record of Proceedings, 24 February 2021

PUBLIC HEALTH AND OTHER LEGISLATION (EXTENSION OF EXPIRING PROVISIONS) AMENDMENT BILL

 **Mr ANDREW** (Mirani—PHON) (2.40 pm): I thank the Health and Environment Committee—I am a new member of the committee—the secretariat, frontline workers and doctors in the hospitals and all of Queensland for how they have handled themselves through this pandemic. This bill amends the Public Health Act to allow a declared public health emergency to be extended by regulation for periods of up to 90 days. The bill also amends various other pieces of emergency COVID legislation by extending their expiry dates by another six months, to the end of September 2021.

Under Queensland's COVID-19 public health emergency legislative framework, enormous legislative and executive decision-making powers are left in the hands of a select few. The original powers the Palaszczuk government granted were developed and granted in haste, following a late-night emergency sitting of parliament without any public debate. What must be made clear is that delegated legislation is an exception and a break to the separation of powers principle. All these decisions have been made by the executive, including unelected departmental officials, with no oversight, debate or parliamentary scrutiny.

During a time of emergency it is essential that we continue to hold governments to account in the exercise of their powers. Even in an emergency, governments must exercise their powers in accordance with the rule of law. A failure to do so will seriously threaten civil liberties and many fundamental legal principles inherited from our common law tradition including due process, the presumption of innocence and habeas corpus.

Mr Saunders interjected.

Madam DEPUTY SPEAKER (Mrs Gerber): Member for Maryborough, cease your interjections.

Mr ANDREW: There is also a real danger that, without any clearly defined exit plan, these emergency powers and laws will become normalised over time and eventually could become permanent. We see hints of this direction in the bill's explanatory notes, which state—

Further extensions past September may be required in the future.

Mr Saunders interjected.

Madam DEPUTY SPEAKER: Member for Maryborough, I have warned you. You are warned under the standing orders.

Mr ANDREW: Dr Young echoed this when she appeared before the committee. She said—

It is difficult to determine with absolute certainty how long these emergency response measures will be required.

I was also alarmed by some of the witness testimony I heard as a member of the Health and Environment Committee which detailed some of the terrible impacts these restrictions and sudden lockdowns are having on ordinary Queenslanders. There was a lot of confusion in pubs when certain measures were handed down. People did not understand fully the restrictions and what they had to comply with. It was difficult.

According to testimony given by the Mental Health Commissioner and the Human Rights Commissioner, there are many significant and adverse effects on people's mental health and wellbeing as a result of the government's emergency laws and restrictions. The Mental Health Commissioner in particular told the committee that many people are facing a number of huge challenges including financial stress, business and job losses, pressures of homeschooling, loneliness and social isolation.

Demand for mental health services in Queensland has increased significantly since March 2020. Medicare subsidised mental health service provision increased by 15 per cent. The Queensland Ambulance Service reported a 20 per cent increase in triple 0 mental health related incidents. Self-harm and suicide cases presenting at emergency departments have increased by 11 per cent. The commissioner said that many cases of self-harm and suicide were amongst young people who face particular challenges and mental anxiety as a result of the ongoing restrictions and uncertainty around lockdowns. These include missed schooling, remote learning, social isolation and the loss of rites of passage such as birthday parties, schoolies week and graduation ceremonies, all having a lasting psychological impact on our young. Kids Helpline reported a national increase of 24 per cent in demand for counselling services alone, while public mental health services saw an almost 21 per cent increase in referrals of 12- to 18-year-olds in the July to September quarter.

The pandemic has also affected Queenslanders' use of alcohol and other drugs, with government funded drug and alcohol services reporting a shocking 54 per cent rise in weekly calls last year. The Human Rights Commissioner said at the hearing—

... the right to life creates positive obligation on the government to protect lives.

However, he was also critical of the Queensland government's interpretation of this obligation, saying—

... they have gone, in my view, too far in saying that it automatically overrides all other rights.

We also heard from other witnesses of the countless hardships inflicted on families, workers, small business owners and sole traders in Queensland. The CEO of the Queensland Hotels Association, Bernie Hogan, told committee members—

Many of—

our members—

are family owned enterprises with long histories of being the heart of their communities. I will put it simply: 2020 has been the year that brought our industry to its knees in many parts of Queensland.

Many of our iconic hotels were forced into bankruptcy or closed down across Queensland, which Mr Hogan said was 'probably one of the most disheartening things we are seeing, because once they go they do not come back'.

Many written submissions as well as a number of witnesses at the public hearing also expressed concerns over the secrecy and lack of transparency around data and the medical advice on which the CHO and Queensland Health were basing some of their policies. Trying to get information from the Queensland government on anything to do with the virus or detailed information regarding cases has been impossible. At a time when the government should be providing as much information as possible to the public, it has brought down the shutters and told the public simply to trust the government.

The people need information so that they can better understand why these decisions are being made and on what basis. Hiding the scientific basis for pandemic policies makes it harder for the public to evaluate what is being done. When health authorities present one rule after another without clear, science based substantiation, their advice ends up seeming arbitrary and inconsistent. That erodes public trust and makes it harder to implement rules that do make sense.

Of the 124 public submissions to the committee on the bill, I counted 107 that were opposed to the bill and just 17, mostly from government or government connected groups, in favour of it. That equates to 87 per cent of submissions opposing the bill and just 13 per cent in favour. Most of the 107 who opposed the bill did so with a great deal of conviction and emotion. Against the bill there were submissions from at least six doctors, one a former director-general of Queensland Health; one from the Menzies School of Health Research; and another a former consultant thoracic physician in Queensland from 1988 to 2018 with considerable experience in treating people with acute respiratory viral infections. There were also submissions from Senator Malcolm Roberts, the Nurses' Professional Association of Queensland, a leading biomedical scientist, several highly qualified naturopaths, a former high-level federal Treasury economist/analyst as well as two law professors from Queensland universities.

It was stated as being a core goal that the committee give proper consideration to the legislative or democratic principles at stake here. That being the case, why were there no legal or constitutional experts at the public hearing to provide expert legal opinions on some of the legal questions around the bill? There were two written submissions from constitutional law academics, both of whom were

opposed to the bill's use of delegated powers and extension of the CHO's extraordinary emergency powers. Why were these two legal experts not invited to appear at the hearing—or the Queensland Law Society, the Queensland Bar Association or a professor of constitutional law from one of the universities?

Under the rule of law model Australia was built on, any exercise of the executive's regulation-making powers needs to be proportionate. The government, CHO, the committee's report and the bill's statement of compatibility with human rights all state in perfunctory fashion that it is. Unless you believe that absolutely anything is justifiable in the interests of eliminating the transmission of this disease, that is clearly too simplistic, as the Human Rights Commissioner pointed out in his evidence at the hearing.

Many scientific experts that I have heard from have stated that, unlike smallpox, the COVID virus cannot be eliminated as it is also hosted by other species. Maintaining an eradication strategy in Queensland risks a future of economic impoverishment, endless snap lockdowns, disruptive travel restrictions, panic buying and rationing. There is a whole list of things that can go on, but thankfully this week we have seen the rollout of the vaccine. It is not a silver bullet, as the CHO has said. There will be other vaccines that will come after this vaccine. With regard to transparency, it would be nice if the government could give the health committee some sort of oversight when emergency powers are going to be wielded so that people can get some forewarning so they can understand what they can do about it to better ensure that Queensland stays COVID free.