




Speech By
Andrew Powell

MEMBER FOR GLASS HOUSE

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EVIDENCE AND OTHER LEGISLATION AMENDMENT BILL

 **Mr POWELL** (Glass House—LNP) (4.10 pm): I too rise to address the Evidence and Other Legislation Amendment Bill 2021 and I do so for a number of reasons. First and foremost, it happened to be one of the last committee considerations that I undertook as a member of the Legal Affairs and Safety Committee.

Mr Nicholls: A very valued contribution, too.

Mr POWELL: I take that interjection from the shadow Attorney-General; there would be many who would dispute it. I want to address a number of the matters contained in the committee's report and the legislation, some of which cover areas that the shadow Attorney-General and others have also taken an interest in. I will start with an issue that is very near and dear to my heart and that of my family.

On numerous occasions in this chamber I have mentioned that my family moved to the Sunshine Coast hinterland town of Palmwoods in April 2003 and it was later in that year when another young man from Palmwoods was sadly taken. Ever since, my family has considered Day for Daniel a very special day. It is a day that we participate in as a family. When I worked for the department of child safety I was able to commence a friendship with Bruce and Denise Morcombe and their family. Then, as the local member representing that area, that relationship went to another level. It has been great to continue to work alongside Bruce and Denise and to advocate for the fantastic work that they do with young people throughout Australia in raising awareness.

There is a part of this bill that means a whole lot to the Morcombe family and I think it will mean a lot to other families that have lost a loved one, under whatever tragic circumstances, into the future. I am referring to the elements of the bill that address the viewing and examination of the body of a deceased person. As the shadow Attorney-General and others have mentioned, the coronial inquest into the death of Daniel determined that the Queensland government should amend the Criminal Code to ensure a time limit is imposed on the testing of human remains in circumstances where the prosecution and defence fail to reach agreement on the identity of the deceased. This came out of the fact that finally, eight years after losing Daniel, in December 2011 they were able to locate his body; however, they were not able to properly commemorate his life until the body was released from the coroner in November of the following year, some 11 months later. I remember at the time that that was particularly challenging for Bruce and Denise. In some ways there was a level of closure, yet it could not be finalised. In such an instance everyone understands the importance of fairness in trials and making sure evidence is collected properly. However, after waiting eight years having to wait for another 11 months was incredibly traumatic.

I note that the government raised, as I just did, that it is a bit of a balancing act in this regard. The Department of Justice and Attorney-General advised—

The bill contains amendments to the Criminal Code to implement the government's response and address the underlying intent of the coroner's recommendation to ensure a deceased person's remains should be returned to their family and loved ones as soon as possible for burial by inserting a new specific provision dealing with the viewing and examination of the body of a deceased person. This new provision is intended to clarify the process for testing human remains and ensure the prosecution and court can have regard to a coroner's duties under the Coroners Act as well as the need to ensure the integrity of the body is protected, as is currently required.

Perhaps these amendments do not go quite as far as I think the coroner or perhaps the Morcombe family and others wanted, but they are a huge improvement on where we were previously. At this point I again acknowledge Bruce and Denise. I thank them for the way that they have turned a tragedy into such an exemplary force of influence in so many ways in our schools, here in government, across the departments and in the broader society. I thank them for everything that they do.

I will briefly touch on the statement of reservation that the member for Currumbin and I made to the committee report. Our statement is around protecting victims of domestic and family violence and the trial of the use of recorded evidence as evidence-in-chief. The shadow Attorney-General unpacked this in some detail and I will not go back over that.

A number of submitters raised concerns regarding the definition of a 'trained police officer'. The majority of those submitters recommended that the definition be changed to include that the officer must be trained in domestic and family violence and not simply the recording of evidence. We on this side of the chamber certainly support those concerns and that recommendation. We believe that for this legislation to be effective and for the trial to be extended, appropriate resourcing of the Police Service is essential. That must include trauma informed training in domestic and family violence so that victims do not suffer further traumatising as they progress through the justice system. We would like to see clarity around the evaluation of the pilot, including the independent assessor, the measures they will be assessing and whether the evaluation will be made public. I think I heard the Attorney-General refer to some of that in her presentation earlier this afternoon.

The final area of the legislation I want to speak to is something that I guess most of us will focus on, that is, the shield laws. As the shadow Attorney-General has said, not one of us will dispute the need for or fail to support these changes in the legislation. However, irrefutably most concern from submitters came from the fact that, given this opportunity, we are not extending the shield laws to the Crime and Corruption Commission. The shadow Attorney-General read out a number of the submissions made so I will touch briefly on only a couple. The Bar Association of Queensland said—

Whilst the Association appreciates there are significant public interest considerations in respect of this, it considers the same shield laws should apply in matters before the Crime and Corruption Commission.

The QCCL explained—

... it is a classic illustration that people with extraordinary powers should not be exempt from supervision; they should have more supervision. The CCC, like any other body which has compulsive powers, should be required to demonstrate that the public interest outweighs the free speech interests of the journalist. I do not see the fact it is the CCC makes one jot of difference. The difference will come no doubt in the assessment. In the weighing of those interests the court will say, presumably, that whatever the CCC might be investigating might be more important than some ordinary court process. That is where that will be worked out and it should be worked out outside the CCC because, as I say, the CCC is basically a standing royal commission. It has enormous powers. Those powers should be subject to more supervision, not the other way around.

The ARTK stated—

... the key issue with the bill is that the shield does not protect a journalist from a demand by the Queensland Crime and Corruption Commission that the identity of a confidential source be disclosed.

And it goes on and on.

The members of the committee clearly picked up on that. On page 18 of the report we mention that submitters supported the introduction of proposed shield laws but also supported the view that the laws should apply to the CCC. We on this side do not think the government's response to that has been adequate enough. I support and acknowledge the amendments that will be moved by the shadow Attorney-General to extend these powers to the CCC. I think that the point made by the QCCL is particularly poignant: to those given much power much supervision is also required. For that reason, we call on all members of the chamber—including the members of the Labor government and the crossbenches—to support our amendments to ensure that, if we are going to have shield laws, which we all accept are required, they should apply to all including the CCC. With those comments, I commend the bill to the House.