




Speech By  
**Stephen Andrew**

**MEMBER FOR MIRANI**

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**EVIDENCE AND OTHER LEGISLATION AMENDMENT BILL**

 **Mr ANDREW** (Mirani—PHON) (6.15 pm): I rise to speak on the Evidence and Other Legislation Amendment Bill 2021. Queensland is currently the only jurisdiction in Australia without any legislative shield law protections, meaning journalists can be forced to disclose the identity of their sources or risk facing a substantial fine or even jail time. For any democracy to thrive, the free availability of information is crucial. Without this, journalists will not keep people informed on matters of crucial public interest.

Sources who leak classified documents and information to journalists do so to expose wrongdoings when it comes to power, whether governmental, bureaucratic or corporate. Such people have little to gain and everything to lose in doing so. Journalists put themselves at risk too when protecting the identity of sources and their information. As things currently stand, there is little in Queensland's common or statute law to protect either of them.

Queensland has become a very secretive place, with many restrictions in place preventing the public accessing vital information that is in their interests to know. The current pandemic has greatly accelerated this trend towards secrecy. Pandemic modelling is deliberately withheld from the public on the basis that ordinary people are like children—incapable of understanding or likely to misrepresent it. This is unacceptable. It has meant that bureaucratic health committees and other government agencies have been left free to operate without any public transparency or oversight by parliament. The extent of Queensland's secrecy problem was made clear earlier this year when a news report from the ABC began—

There is a politician we can't name—

**Mr DEPUTY SPEAKER** (Mr Kelly): Pause the clock. Member, I am struggling to find relevance in your contribution to the long title of the bill.

**Mr ANDREW:** This is about the shield laws.

**Mr DEPUTY SPEAKER:** I will give you some latitude. You may continue.

**Mr ANDREW:** A news report from the ABC began—

There is a politician we can't name, using a non-publication order we can't get, in a case to suppress a report by a corruption watchdog which won't talk about it, in a court hearing that was held with no names.

Welcome to Queensland.

The people of Queensland deserve much less secrecy and better protections for their journalists. If sunlight is the best disinfectant, then things are getting darker and darker in Queensland. Various attacks on journalists in the last few years are an affront to our democracy. Throughout this time, there has been a steady erosion of our rights and freedoms, something the mainstream—to its discredit—has been largely silent on. One journalist even tried to assert last year that Julian Assange was not entitled to the same rights as other journalists because he is not a real journalist. Whatever people may think of Julian Assange, he is definitely a real journalist and he is entitled to all the same rights as other journalists lay claim to.

For all the government's lofty sentiments about the bill providing Queensland journalists with shield laws, there are a number of major loopholes which render all its purported protections tokenistic at best. Chief amongst these loopholes is the bill's significant caveat which allows the shield law protections to be waived if a judicial officer decides it is in the public's interest to do so. What the left hand gives the right hand will take away. There is no criteria or set of rules that a judge must adhere to when determining whether something is of public interest or not.

In the UK and EU, courts work under the presumption that journalists are not required to reveal confidential information—full stop. New Zealand operates under that presumption. Without strong and effective shield laws, we simply will not have sources willing to come forward or journalists prepared to publish them—no matter how vitally important to the public interest that information is. Without real protections, journalists risk becoming little more than stenographers for power in Queensland. Few will risk passing on information to the public which they may need to know and which is essential for shining the light on injustice and holding governments and powerful vested interests to account.

Apart from the bill's public interest caveat, there are a number of other clauses that further limit the bill's shield laws. Clause 14Q(1)(a) of the bill restricts the shield protections to cover only that information which is disclosed 'in the expectation that the information may be published in the news media'. This is far too narrow. A better definition can be found in the Northern Territory's legislation which simply requires an informant to expect that their information may be used by a journalist.

A much bigger 'get out' clause in the bill is proposed new section 14S(2), which specifically excludes the Crime and Corruption Commission. The main reason these shield laws were needed in the first place was the way the CCC's extraordinary and secretive powers have been used to intimidate and coerce Queensland journalists into divulging their information and sources. The recent proceedings against 'F' is just one of many cases which revealed just how badly shield laws were needed in Queensland to protect journalists from the CCC and its 'star chamber' proceedings.

Shield laws that exclude the CCC will mean Queensland journalists remain at significant risk of being forced to reveal their sources and of being imprisoned if they refuse. I therefore urge the Attorney-General to reconsider this exclusion and extend the shield law protections to include the CCC and all its proceedings. Shield laws must apply in all circumstances without exception. To put that into effect, proposed new section 14S(2) of the bill needs to be deleted. I also oppose the bill's amendments creating or continuing offences that increase the risk of journalists being imprisoned for doing their job. I therefore strongly oppose proposed new sections 93AA, 93AC, 103Q and 103S of the bill.

Proposed new section 93AA is another extraordinary and unjustified intrusion on the open administration of justice. No exception is made under the clause for when publication happens in the ordinary course of news reporting. Nor is there an exception for a journalist reporting parts of a criminal statement or transcript which have already been disclosed in an open court. I do not accept the assertions in the explanatory notes that this penalty is 'proportionate and relevant'. It is neither proportionate nor relevant to put journalists at risk of imprisonment for simply doing their jobs, especially when that offence is for something that is likely to constitute no more than 'fair reporting' or open court proceedings. I therefore ask that proposed new section 93AC also be deleted.

I also note that there are no provisions covering bloggers or citizen journalists contained in the bill. This is another serious omission in my view. These and other limiting clauses in the bill make it hard to see how these new shield laws offer journalists anything in the way of real protections or rights. In my view, the government would be better off looking at the old shield provisions contained in the Commonwealth Privacy Act. Under the act, a journalist can be fined or imprisoned for failing to provide information, answer a question or produce documents, except where 'he or she testifies that doing so would reveal the name of a source who had supplied the information confidentially'. There are no ifs, no buts—just straight up protection. That is what we need. They are the sorts of shield laws Queensland journalists do need, not the Swiss cheese variety this bill offers. A strong and protected fourth estate is essential in a healthy and open democracy.

The bill does not adequately reflect Queensland's commitment to this principle. The relevant provisions which I have just highlighted must be redrafted to better protect Queensland journalists and the public's right to know.