



February 19, 2024

Senator Paul Scarr  
Chair  
Legal and Constitutional Affairs References Committee  
c/- Ms Sophie Dunstone  
[LegCon.Sen@aph.gov.au](mailto:LegCon.Sen@aph.gov.au)

Dear Senator Scarr,

From the transcript of the hearing in which I took part on Thursday February 1, 2024, there appear to be three questions that I was to take on notice.

The first was from Senator Green where she wanted to know:

1. more about the organisations appearing;
2. what other inquiries we had made submissions to; and
3. whether we had been supportive of government policies or whether it depended on what those policies were.

The answers to those questions in order are:

1. The Australian Institute for Progress is a centre-right think tank based in Brisbane. Our primary research concerns at the moment are housing affordability, energy and free speech. We did considerable work during the COVID-19 pandemic in a number of areas.

Our research centred around the costs and benefits of lockdowns, and civil rights issues to do with vaccine mandates. We also explored ways of temporarily supporting citizens through lockdowns without incurring the budget-busting costs involved in the federal and state responses. We were also opposed to the closing of state borders. Like most policy makers our understanding of COVID-19 and appropriate measures expanded during the pandemic, and when the evidence changed, we changed our position.

2. We have made submissions to this committee and the Commonwealth Government COVID-19 Response Inquiry.
3. Initially we supported federal government policy to flatten the curve, but we never supported what morphed into an elimination strategy – no respiratory virus has ever been eliminated. The only government whose policy we supported almost in its entirety was that of Sweden's. Apart from the initial approach of closing Australia's borders, and the general direction of supporting people injured by lockdowns we didn't support the length of time or the quantum of the Australian measures.

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*The Australian Institute for Progress exists to advance the discussion, development and implementation of public policy for Australia's future, from its base in Brisbane. The future does not look after itself.*

We were critical of most state and territory governments, and published a monograph comparing their approaches and what could be learned from them within the context of a functioning federation.

The second was from you and was “To what extent do you think those issues relating to governments...around emergency declarations and the checks and balances of parliament as a check on the executive powers should be the subject of this royal commission?” and this question was in the context of delegated legislation.

I would differ from Dr Prasser in that I can see no point in having a Royal Commission that does not have the power to examine government actions, and our proposed terms of reference specifically a) (iii) and (iv) had that in mind. We drafted our proposed terms of reference to be as broad as possible, allowing any potential commissioner(s) to go where they need to go.

The lack of effective supervision by parliament is one of those areas, as well as the fact that the delegated legislative authority rests solely on the shoulders of the health minister.

I am of the view that the problem wouldn't be solved by greater parliamentary scrutiny, and this tends to be supported by the examples of New Zealand and the UK, which are given in the reports on the “Exemption of delegated legislation from Parliamentary oversight”. None of these parliaments appears to have pushed back against the measures implemented when arguably they should have. Once a measure has been implemented it tends to have a momentum that is difficult to reverse. Better to fix the decision-making process so it is more inclusive.

The Bio-security Act tends to treat the decisions to be made in the case of pandemics as being issues for “expert” opinion, without any definition of what that expertise should be. In the case of pandemics, a narrow definition of expertise leads to the sorts of mistakes that we made. A broader definition would allow for expertise in governance, economics and health economics at the very least, and require a collective decision-making process.

You also asked about “...the utility in terms of draft terms of reference being circulated for public comment prior to being adopted to found a royal commission”. I would tend to agree with Dr Prasser that this is a good idea.

Yours sincerely,

**GRAHAM YOUNG**  
**EXECUTIVE DIRECTOR**  
**AUSTRALIAN INSTITUTE FOR PROGRESS**

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