



TREIG E. PRONSCHINSKE

STATE REPRESENTATIVE • 92nd ASSEMBLY DISTRICT

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Contact: Rep. Treig E. Pronschinske
(608) 266-7015

“Safer at Home” Argued in Court

On Tuesday May 5th Governor Evers’ “Safer at Home” executive order was finally heard in the Wisconsin Supreme Court. At 10am the oral arguments started from both sides of the argument.

Opening arguments included the Supreme Court Justices asking questions of both sides. Justice Daniel Kelly asked if the Department of Health Services (DHS) Designee, Andrea Palm, could sit alone and make crimes and punishments relating to the order. The order says Violation or obstruction of this Order is punishable by up to 30 days imprisonment, or up to \$250 fine, or both. However, only the Legislature has the power to make crimes and punishments.

Justice Rebeca Bradley asked many questions as well and brought up the parallels of the Korematsu vs. United States case. That case was about the Japanese internment camps. She asked if the DHS Designee Secretary could legally implement something like this for social distancing without legislative approval. It was also asked if she could potentially close down the entire state every normal flu season. She continued on by saying that the people never consented to having an unelected cabinet secretary having this much power.

The reason that there was a lawsuit filed on Governor Evers’ extension was because of the abuse of power. Under Wisconsin Law a Governor may only declare a public health emergency for 60 days without legislative approval. Once those 60 days are up, the Assembly and the Senate must vote to decide if they would like to extend it further. Governor Evers decided to extend the order until May 26th. However the 60 days end on May 11th. There are 99 Assembly Representatives and 33 State Senators. These positions are elected by the people to represent their interests. Our democracy has three co-equal branches of government and all branches should have a voice at the table during this important process.

As of publication of this column the Wisconsin Supreme Court had not come back with a decision.

As always, feel free to contact my office with questions, comments, or concerns.

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