

**ELECTORAL AND OTHER LEGISLATION (ACCOUNTABILITY, INTEGRITY AND OTHER MATTERS)
AMENDMENT BILL**

Nowhere in the Government's advocacy for the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill [the Bill] is there anything, beyond mere assertions that these amendments will achieve the aims for which they are purported to be designed.

In her Explanatory Speech for the Bill the Attorney General and Minister for Justice, Hon Yvette D'Ath, stated:

"The bill imposes caps on donations to limit potential for improper influence by political donors."
(*Hansard*, 28 November 2019, p 3945)

However, there are no references in the speech to either the philosophical foundations upon which these changes are based to demonstrate they will "limit potential for improper influence" or, more importantly, any recent instances where the absence of these proposed provisions has resulted in any "improper influence" of which the Minister appears so concerned.

It is difficult to imagine that, had there been any credible evidence of the behaviour which so threatens our very democratic system, the Minister would not have made extensive references during this speech and in the extensive public material that has been made available subsequent to the Bill's introduction. The reasonable conclusion to be drawn from this lack of robust and compelling argument is that the Government has no reliable evidence upon which to support the allegation of "improper influence".

Under current donation disclosure laws applying in Queensland all electors have the opportunity to make their own judgment as to whether any donors, either individuals, corporations or trades unions, are in a position to exercise this sort of influence.

While not being able to provide evidence of "undue influence", the Government has taken upon itself to endeavour to limit the exercise of influence of any sort. It is acknowledged by all, with the obvious exception of the government, that the fundamental basis of the political system is the contest of ideas. This influence is almost universally not "improper".

The government appears to believe that all influence must be limited. However, the influence of the majority of the electorate is at the heart of our political system. The government has provided no explanation as to how it has been able to distinguish between "improper" influences and legitimate influences.

Indeed, it could be argued that whether influence is "improper" or not depends on the eye of the beholder. If a political party supports the use of renewable energy resources, for example, the receipt of donations from the renewable sector is not "improper" but simply reinforcing an existing policy position. On the other hand, the receipt of donations from the mining industry by a party publicly supporting the job creating features of that industry is in no way "improper". Those who hold differing views on energy policy may object to these positions but there is no way in which the donations could be characterised legitimately as "improper".

This leads to the inevitable conclusion that the government has created a straw man which this legislation is designed to tear down. In reality, there is no credible threat to democracy. However, there is ample evidence of governments under pressure creating diversions to draw the attention of the public from these particular problems.

This is a standard response in which the political classes find refuge on so many occasions and which the state government has grasped in this instance.

As well as failing to provide evidence of the problems which this legislation is supposed to overcome the government has proffered a solution which is completely contrary to its express purpose.

In the Explanatory Notes to the Bill (at page 1) the government claims Chapter 2 of the legislation will, amongst other things:

- secure the actual and perceived integrity of the State electoral and political process by reducing the risk that a single person or entity can have an improper, corrupting or undue influence on political parties, candidates and third parties involved in electoral campaigning; and
- level the playing field for electoral campaigning and ensure that an individual or entity has a reasonable opportunity to communicate to influence voting in an election without being “drowned out” by the communication of others.

However, the reality of these amendments is that the power of particular persons or entities to exercise influence will be strengthened at the expense of others while the “playing field” will be tilted in favour of those who enjoy a privileged relationship with the current government.

In fact, the outcome of this legislation is that two of the specific aims of Chapter 2 will be defeated by the very contents of the legislation itself.

The imposition of spending caps will work to the disadvantage of the Opposition and to the advantage of the ALP.

The basis of this is the relationship between the ALP and the Queensland Council of Unions and its 26 affiliated unions (https://www.queenslandunions.org/hrf_faq/affiliates-who-are-the-affiliates-of-the-qcu/).

The Act imposes on registered political parties spending caps of \$92,000 for each district for which a candidate is endorsed and \$58,000 for candidates so endorsed.

Each registered third party (which would include trades unions) is entitled to spend \$87,000 in any district and an additional \$1 million across Queensland. There is no limitation on where this latter amount can be spent meaning that it can be directed to as many or as few districts as the third party itself determines.

The practical implications of this are that the ALP and its associates will derive a disproportionate entitlement when it comes to expenditure in each critical marginal district.

In the current Parliament the LNP Opposition requires an additional nine districts to gain office.

In each of these nine districts both the ALP and the LNP would be entitled to spend a total of \$150,000 - \$92,000 by the party and \$58,000 by each particular candidate. However, when the entitlements of third parties are considered, the ALP will derive a significant advantage that will render the aims of the legislation useless.

Third parties will be entitled, as they are now, to conduct their own campaigns in these and other seats as they see fit.

If, for the purpose of this argument, five unions decide to support ALP candidates in each of these nine critical seats, the ALP would be able to spend an additional \$87,000.

However, each union is entitled to spend an additional \$1 million throughout the state. Assuming that this is spent across 30 districts (to accommodate marginal districts and support particular ALP members who enjoy a particular relationship with the unions under consideration), that would provide each ALP candidate in the key marginals with an additional \$33,333 in campaign funds.

The outcome of this is that, in the nine key districts the LNP needs to gain office, the LNP would be legally entitled to spend \$150,000. On the other hand, the ALP would have access to \$273,333 – 182 percent (or nearly twice the amount) of the funds to which the LNP would be entitled. This is a conservative estimate as the ALP may be able to draw on the resources of other unions meaning that, under ideal circumstances, each additional union could direct an additional \$120,333 to the ALP cause.

It would be disingenuous for the government to argue that the LNP has access to funds from business and professional organisations to match the funds source from trades unions. Such organisations do not enjoy a privileged position within the LNP as the unions do within the ALP nor are they legally affiliated to the LNP as many unions are to the ALP. At the same time such independent organisations have no significant and long-term record of financially supporting the LNP or its antecedents.

It should also be noted that these amendments will work to the disadvantage of those other mature minor parties represented in the Queensland Parliament – Katter's Australian Party and One Nation. While it is conceded that their prospects of forming government are extremely limited, their capacity to defend the districts they hold or win additional districts would be hamstrung by this legislation.

The Bill is not simply a device to harm the LNP's electoral prospects alone, it is a shameless attempt to endeavour to cement the ALP in office.

The Bill's Explanatory Notes are little more than a work of fiction.

This legislation will do nothing to enhance the integrity of the electoral and political process or level the playing field for campaigning. It will achieve the exact opposite but be clothed in a scandalous raiment of hypocrisy and double dealing. These amendments are designed to cement an electoral advantage for the ALP, disadvantage the LNP and demonise those wishing to make legitimate donations in support of political parties or causes.

Just as the ALP has sought to tilt the electoral system in its favour through the last minute introduction of full preferential voting before the last election it now seeks further partisan advantage in the guise of support for democracy and fairness. This shabby Bill does little more than restrict both accountability and integrity - all in the name of partisan political advantage.