Speech by

JACK PAFF

MEMBER FOR IPSWICH WEST

Hansard 1 December 1999

ELECTORAL AMENDMENT BILL

Mr PAFF (Ipswich West—ONP) (9.25 p.m.): I rise to support the motion moved by the member for Warwick. One Nation's Electoral Amendment Bill was widely researched. Various reports, court judgments, rafts of recommendations from different committees, examination of other legislation and discussion with members of the public have all played their part in the formulation of this Bill. It reflects the overwhelming public desire for truth in political advertising.

The South Australian legislation, amended in 1996 to improve the truth in political advertising provisions of its Electoral Act, is obviously looked upon as quality legislation and successful legislation. One Nation's Electoral Amendment Bill is modelled on the South Australian truth in political advertising provisions, but extends it in some other areas. The South Australian legislation incorporated how-to-vote cards in truth in advertising provisions and strengthened the requirements for identification of the author of election matter on all advertising. This ensures that it is easily known to electors exactly whose advertising it is. One Nation's Bill also makes these improvements. We go further and include "executive officers" of political parties in the dictionary and provide a special clause to ensure that a real deterrent is ensured by this legislation.

The Bill defines an "executive officer" of a political party as a person who is concerned with or takes part in the party's management, whether or not the person is a director or manager or the person's position is given the name of "executive officer". In the case of Carroll v. the Electoral Commission of Queensland and Reeves, for example, the judge found the distribution of the false how-to-vote cards to be fraudulent. The member for Mansfield would not be the only one penalised for these actions. Members within his organisation who organised anything that contravened these provisions would also be penalised. Mike Kaiser perhaps would have been penalised had this legislation been in force at the time. It would be difficult not to assume that the direction for candidates to distribute the false how-to-vote cards or the design of these cards came from higher positions within the party organisation or that at least the executives of the party were aware of the deceptive cards.

So that the candidate does not become a scapegoat for the party, this legislation holds the party responsible also. The Bill does provide reasonable defences being if the officer was in a position to influence the conduct of the party in relation to the offence and the officer exercised reasonable diligence to ensure the party complied with the provision or if the officer was not in a position to influence the conduct of the party in relation to the offence.

This Bill puts a legal obligation upon executives of political parties to ensure that the party complies with truth in advertising provisions. It also increases the penalties for failing to abide by those provisions. The individual penalty is increased from 20 penalty units, or an equivalent dollar value of $1,500, to 40 penalty units, or $3,000. The penalty in the case of a corporation is increased from 85 penalty units to 400 penalty units, a considerable increase from approximately $6,000 to $30,000. I am sure that political organisations such as the major parties in this State would find $6,000 to be of little threat to them and little deterrent. In the number of cases in the last State election where false how-to-vote cards were used, only one of those cases ended up in the Court of Disputed Returns. Only one got caught. The risk of paying the penalty, and such a small penalty, provides no deterrent to a party the size of the major parties in this State. On the other hand, $30,000 is a reasonable figure for a corporation which breaches these truth in advertising provisions.

This is not an over-the-top clause. This is a necessary clause to ensure that the public is protected against deceitful actions by politicians vying for votes. I am sure that no honest political organisation would oppose the inclusion of this clause. I know that the public would certainly not oppose it. Again, party responses to this Bill will give the people of Queensland a clear indication of what the organisation stands for.

One Nation's Electoral Amendment Bill contains a provision allowing voluntary lodgment of how-to-vote cards to the Electoral Commission by close of business of the day before the election. The cards are to be kept as a register of candidates' how-to-vote cards and be available for viewing. This costs little effort to the ECQ but provides a safeguard for candidates and voters should a contentious issue arise, as it will aid in deterring misleading and deceptive behaviour.

The South Australian legislation has been through a legal battle and survived, hence the high regard in which it is held in reviews and reports on truth in political advertising. Research Paper No. 13 of the Commonwealth Parliamentary Library in 1996-97 discusses the South Australian legislation. The report states—

> "It would seem likely that the South Australian Supreme Court in Cameron v. Becker, as well as the provision suggested by the Queensland Committee, are effective and valid models by which truth in political advertising might be regulated.
>
> Section 131(1) (of the South Australian legislation) has supported a successful prosecution and survived a challenge to its constitutional validity in Cameron v. Becker."

I repeat that One Nation's Electoral Amendment Bill is modelled on the South Australian legislation and also incorporates recommendations from various reports.

Apart from South Australia, other jurisdictions have legislation that makes it an offence to mislead an elector in relation to the casting of his or her vote. The problem with this legislation is illustrated by the case of Evans v. Crichton-Browne, where the High Court determined that—

> "... in relation to the casting of his vote in section 161(e) of the Commonwealth Electoral Act were limited to the act of recording or expressing the political judgment which the elector has made rather than to the formation of that judgment."

Provisions such as this are insufficient to ensure truth in political advertising. Technically, they allow misleading or deceptive behaviour throughout the election campaign, prohibiting such behaviour only at the very moment the elector is casting their vote. The wording of the existing legislation is completely ineffective, hence the call for more comprehensive legislation such as that in place in South Australia. Again, this Bill achieves that.

The Scrutiny of Legislation Committee reported concerns with this Bill in Alert Digest No. 6 of 1999. Their concerns were, as expected, the perception that the rights and liberties of individuals may be transgressed by the mention of their details on any advertising material and the reversal of the onus of proof. In his response to the committee, the member for Caboolture said—

> "I believe that requiring the authoriser of political propaganda to disclose membership of any political party enhances the freedom of choice of political consumers, whether the material emanates from a political party proper, an apolitical group, or more importantly, a political affiliate masquerading as an apolitical group."

The inclusion of these details on political propaganda is necessary for the effectiveness and purpose of this legislation. Similar requirements appear in the South Australian legislation and are recommended in other reports on this issue. It is also noted that in the member's response to the committee he expresses, as I have already mentioned, the difficulty in catching political parties out for breaching truth in advertising provisions, let alone their ability to pay the measly fines set down in the current legislation. The member for Caboolture stated—

> "Although I agree with the Committee's view that in general it is undesirable to reverse the onus of proof, in certain circumstances such as this I believe it is necessary and justifiable."

That belief is held by all One Nation members in this House. These parties have far too much power and it is far too easy for the electoral system to be abused and manipulated. Harsh deterrents are necessary.

The Scrutiny of Legislation Committee also had a problem with the voluntary lodgment of how-to-vote cards with the commission. I stress that this option is not compulsory. It is provided purely as a safeguard. If the candidate does not desire to make such lodgement, there is no compulsion to do so.

There is just one more issue I want to mention before I conclude, and that is the cost of this legislation to the Electoral Commission. On 11 June 1997 in Estimates Committee B, Attorney-General and Justice, the issue of the cost of introducing truth in political advertising legislation was discussed at page 83 of Hansard. The member for Yeronga asked Mr O'Shea, the Electoral Commissioner—

"Can you inform the committee as to the likely extra cost to the commission if such legislation were to be introduced?"

Mr O'Shea responded—

"If the legislation were to focus on the South Australian model, which is simply concerned with misstatements of fact, then it would be administered in the same way as South Australia has done, in which case you would take no action during an election period and you would simply prosecute in the appropriate court afterwards. I do not think the cost would be excessively high."

The electoral process is an important process in a democratic nation. From the announcement of the date to the conclusion of the count elections should be conducted with the utmost integrity and security. The current Electoral Act does not provide this security. There is much room for improvement.

One of those areas is the truth in political advertising provisions, to which changes are long overdue. One Nation's Electoral Amendment Bill makes the changes necessary to shore up these provisions, to provide more conclusive and broader legislation, to provide a deterrent, to increase the penalties and to provide more security for the people of Queensland. The people of Queensland deserve this legislation and in the interests of fair and democratic elections, in the interests of the people of Queensland, I commend this Bill to the House.