



Speech by

JAN JARRATT

MEMBER FOR WHITSUNDAY

Hansard 20 February 2002

LOCAL GOVERNMENT AMENDMENT BILL

Ms JARRATT (Whitsunday—ALP) (10.24 p.m.): I rise to oppose the private member's bill before the House this evening. I repeat some of the sentiments already placed on the record tonight. There are problems with this bill. The sentiment sounds fine, but the practicalities just do not hold together.

The bill passed in May of last year was about asking people to make a decision. It was about honesty. It was about going out to one's constituency with one's cards on the table. This bill wants to cloud the waters. It wants to allow people to have a foot in both camps. It is not about honesty. It is not about people going out to the constituency and saying, 'This is what I stand for. This is what I will do for you.' It allows people to hedge their bets and say, 'I'll do this if I'm elected. Otherwise I'm going back to my other job.'

Ms Keech: 'What you can do for me?'

Ms JARRATT: That is right. It is not, 'What can I do for you?', but, 'What can you do for me?'

As a teacher, if I were to stand in a federal election I would most certainly have had to resign my position. This bill is asking councillors to take a leave of absence on becoming a candidate for election to the Legislative Assembly. The period of leave commences on the councillor becoming a candidate and ends on the day the Electoral Commission is notified.

Opposition members interjected.

Ms JARRATT: Mr Deputy Speaker, could I please be allowed to continue in silence?

Mr DEPUTY SPEAKER (Mr McNamara): Order!

Ms JARRATT: Thank you, Mr Deputy Speaker. During the period of the election the councillor must not 'act in the office'. These words are not terribly clear. What does that mean? The bill also says that he or she would not be entitled to remuneration for service as a councillor. There are some problems there, as have already been put before the House tonight. There is no penalty involved for someone who does not stick to the rules according to this amendment. Councillors can continue to use their equipment and place themselves in a position of advantage over other potential candidates—

Ms Keech: And their car.

Ms JARRATT: That is right. We have been through the types of things. Councillors actually have a nice little campaign office set-up in their local government offices.

There could also be difficulties if a councillor is approached by a member of the public on a council matter. What is the person going to do? I can see it now. This councillor who is not acting in his office is approached by a person from his or her local government area with a question of some importance. Is this councillor who is not acting in the office just going to say, 'I'm sorry. I can't answer your question.'? It is quite ludicrous to think that the councillor would not discuss an issue with a person when until very recently they had done just that job—and in fact, that was the job they were elected to do in the first place. The bill does not deal with these matters. It is quite deficient in this regard.

There is also a difficulty with the use of the term 'remuneration'. While the bill applies to the Brisbane City Council, members of the council are not paid their entitlements in accordance with the provisions of the Local Government Act. Their entitlements are set out under the City of Brisbane Act 1924. As the term 'remuneration' is defined in the Local Government Act, it is not clear how this provision would apply to councillors from Brisbane. This is another problem that just is not dealt with in the amendment bill.

The bill also seeks to repeal provisions of section 298 that prohibit a candidate of an Australian parliament—that is, a state or Commonwealth parliament—from also nominating for council election until a result of the higher election is known. These provisions were inserted into the Local Government Act at the same time that section 224A was inserted. The intention of the amendment to section 298 was to prevent problems arising where a local government by-election is required because a councillor vacates office on becoming a candidate for election to an Australian parliament and the person is standing for local government office at the same time.

Section 221F of the Local Government Act provides that a member of an Australian parliament is not qualified to be or become a councillor. Without the amendment to section 298, a person who had vacated their council office by virtue of section 224A would have been eligible to nominate for the by-election to fill the council vacancy while at the same time being a candidate for an election to an Australian parliament. This is quite obviously an untenable situation. However, this is not the only circumstance where dual candidacy could occur. Any person not currently a councillor but who is otherwise qualified to nominate for election could potentially nominate for election to an Australian parliament and for election as a councillor.

One of the difficulties that could arise in these circumstances relates to the issuing of ballot papers, and this is an important point. Once nominations close for a local government election, the names of all candidates must appear on the ballot paper. It is not possible to withhold or remove the name of the candidate who then becomes unqualified for office by virtue of an election to an Australian parliament.

Ms Keech: That would be illegal, wouldn't it?

Ms JARRATT: I do not know about it being illegal, but it is certainly untenable to have their name on the ballot paper when indeed they are not qualified to do that. While I admit that the likelihood of these circumstances arising is probably pretty remote, this anomaly in the law had existed for some time. The opportunity was taken with the Local Government and Other Legislation Amendment Act 2001, which was passed in May 2001, to correct it. These provisions are therefore needed irrespective of whether section 224A exists or not. For the reasons I have outlined tonight, I cannot support this bill.
