



Speech by

**CHRIS CUMMINS**

**MEMBER FOR KAWANA**

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Hansard 30 October 2003

**LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT BILL**

**Mr CUMMINS** (Kawana—ALP) (4.45 p.m.): The Local Government and Other Legislation Amendment Bill will amend the Local Government Act 1993 to give effect to Crown Law advice that legislation should make clear that local governments do not have jurisdiction to make local laws or subordinate laws that would impose a ban on electoral signage. Local governments can only regulate signage in relation to public safety, prevention of property damage, proximity to election dates or other public purposes.

I believe Crown Law's advice was based upon an interpretation of the High Court's decision in a number of cases as to the implied constitutional freedom of communication in relation to political matters and applies to local laws regulating signage at local, state and Commonwealth elections. While approximately 47 local councils have local laws dealing specifically with election signage, over 100 councils have some form of control on the placement of advertising signs in general. In many of these cases the local law is broad enough to regulate election signage as well as general advertising signs. To the extent that these local laws deal with election signs, the laws must comply with the implied constitutional freedom for political speech and other laws dealing with election matters, for example, the Electoral Act 1992 and this Local Government and Other Legislation Amendment Bill once it is in force.

We talk of constitutional freedom and communication. It is my belief that incoming councillors, incoming incumbent state members and even federal members obviously have an advantage if there were no signs. This is not a level playing field. I was on a council once that banned signs, Caloundra City Council, as did the neighbouring shire of Maroochy. Maroochy shire also copped criticism for having one division that had three councillors in it back when I believe the member for Nicklin was there—I think it was division 11 around the Mooloolaba area—and then they cut the number down to two. They have since divided it so that any division that has more than one sitting member does not have preferential voting. This is also weighted towards the incumbent because preferences are not done and it is therefore first past the post. Something that gets thrown back at the Maroochy mayor is—

**Mr Hobbs** interjected.

**Mr CUMMINS:** No, I support optional preferential voting. It should be people's options to not have to mark a Labor candidate or a National Party candidate or an Independent or One Nation candidate. If people do not want a One Nation, Labor or National Party candidate, they should not be forced to give them their preference. That is my belief. We might differ on that but that is my belief.

I would rather my vote be extinguished than go to a One Nation candidate, or a National Party candidate for that matter, but not an Independent. Some of the criticisms made against the Maroochy mayor were that she was voted in on less than 30 per cent of the vote because it was non-preferential because there was one ward or division represented by two councillors. We can always ask the question, although it is not going to do any good: what would have happened if there was preferential voting? There was not. The mayor—and I am not casting any aspersions on the mayor—has copped criticism that she got to that position with less than 30 per cent of the vote. I will give Maroochy council credit where credit is due, because it has worked to turn this around and now has one councillor per division. So it will have optional preferential voting in the March 2004 elections.

With regard to the issue of councillors needing to resign to contest state elections—and I interjected on the member for Warrego earlier in this regard, and I will touch on it—there were probably over a dozen councillors who ran at the last state election, that is, elected government officials ran at

the February 2001 election. There were high-profile mayors, deputy mayors and some ward or divisional councillors. Only one succeeded, a Labor candidate. We get criticised for making electoral commitments and not keeping them. This was one that was a clear electoral commitment. The Beattie government was returned with an increased majority—

**Mr Hobbs** interjected.

**Mr CUMMINS:** It was introduced. It was part of our platform. Part of the electoral commitment was that if we were returned we would introduce it. It is as simple as that. It was part of our policy. So what the member is saying is that he would support a government that breaks its electoral promises. I was of the understanding—and I have asked the member for Nicklin—that if a state or federal member of parliament wanted to contest a council election they would have to resign due to the state or federal acts. So the member can have it one way but not the other.

**Mr Hobbs** interjected.

**Mr CUMMINS:** The member is saying that a backbencher in state parliament would be going backwards if he wanted to run for mayor of Brisbane. That is what the member is saying.

**Mr Hobbs** interjected.

**Mr CUMMINS:** I think the member has just lost the argument there. If the member said that a Gold Coast backbencher from any side of the parliament who wanted to run for mayor of the Gold Coast would be taking a backward step, I disagree with him.

I want to put a question to the minister that I hope she can address when she sums the debate up. Minister, I would be interested to know whether election caps, T-shirts and badges would constitute election signage. The reason I ask is that it was an issue on the Sunshine Coast. Last Sunday's *Sunday Mail* contained a photo of Mrs Sheldon, the Liberal member for Caloundra, with the headline 'Have you seen this woman?' I am not going to refer to the article by Darren Gillies which raised issues of the member's presence in this chamber, but I refer to the photo. The photo was of Mrs Sheldon wearing a T-shirt with 'Sheldon' emblazoned on it. That was actually against a local law or subordinate law of the Caloundra City Council, and I think that was ludicrous. I seek leave to table that document.

Leave granted.

**Mr CUMMINS:** Also during that state campaign and a local government campaign 11 months prior there were candidates from the Green party and Independents who did not have the money to advertise in the paper and similar. They were doing things on a very tight budget. I remember that one had a shop in the hinterland but was not allowed to put a sign in her window saying that she was a candidate and that her policies were of a green nature or a strong environmental nature. I hope this legislation—and I will ask the question again—will ensure that councils cannot limit it in a way that will in fact ban it. I hope that they cannot introduce a subordinate law or a local law where they can limit it to one or two signs, because that would be against, I believe, the intention of the amendment bill before us.

It is imperative that Queenslanders at a local government election, a state government election and a federal government election have the opportunity to apply to be a candidate, whether it be for a political party or as an Independent candidate, and then run for election. We do not want only rich people running for public office, because that is in fact what banning electoral signs does. If candidates have people who are going to support them and they can put electoral signs up in their yards or businesses or certain areas, people will see that. That competes favourably with the high costs of TV ads, newspaper ads, billboards and similar.

We have to have more of a level playing field. I do believe that it is a constitutional freedom of speech issue that candidates should be able to do that. We have to remember that it is only for a very short period of time. Since being elected to state parliament I have had people come up to me in the federal election and not know who the candidates were. There are other members of this House who have been at a local government and a state government level, and people get confused. I have been involved with local government elections where people have not even known who the mayor was, and that is a pretty regular occurrence. The vast majority of Queenslanders would know who the Premier is, but there would be a percentage who do not know who their local member is. There would be a percentage who do not know who Queensland senators are or who the various federal members are.

In closing, I commend the minister and her department for bringing this legislation to the House. I sincerely hope that it makes this issue a lot clearer to councils. I believe there has been a lot of consultation. I believe it is a good amendment and good legislation that will see a more level playing field. I hope the councils come on board and accept the decision, because it is a legal issue that has come from Crown law. I hope everyone supports the bill.