



Speech by

Hon. Andrew Fraser

MEMBER FOR MOUNT COOT-THA

Hansard Wednesday, 5 September 2007

LOCAL GOVERNMENT AMENDMENT REGULATION (NO. 2) 2007: DISALLOWANCE MOTION

Hon. AP FRASER (Mount Coot-tha—ALP) (Minister for Local Government, Planning and Sport) (9.15 pm): I commence my reply to the disallowance motion tonight by, for the benefit of all members of the House, extolling what is the present state of the law in Queensland at the moment—that is, since the *Gazette* was published last Friday, 31 August, the provisions that would seek to penalise or otherwise fine councils or councillors for conducting any polls are no longer the law in Queensland. The regulation was passed by Governor in Council, duly gazetted, and thereafter the law of Queensland no longer includes any provision to provide for a penalty upon a council or councillor and no ability to seek dismissal of the council and the councillors for conducting a poll.

The effect of what would be tonight's vote put forward by the National Party should the government join with the National Party and Liberal Party would be to reinstate the provisions that would seek to penalise or otherwise fine councils or councillors. The reality is that as of today—a regulation validly made through the Governor in Council—that does not form part of the law of Queensland. What an absurdity that tonight two hours of the parliament's time has been consumed by the opposition seeking to reinstate penalties and fines upon councils and councillors conducting those polls. That, in the end, would be the effect if the government were to join with the opposition tonight.

In that regard I welcome the support of the Independent member for Gladstone and other Independents, as I gather, in joining with the government and not seeking to provide for this disallowance. The fact that the Independents see through the stunt that the National Party is trying to prosecute here tonight speaks volumes because it exposes the National Party's tactics in this chamber for exactly what they are.

This is purely about the politics of the parliament not about the substance of the matter. This is purely about their political pursuit of an issue not about the substance of any opposition. If it were about the substance of any opposition we would not be having this debate tonight. The reality is that to walk into this chamber to move a disallowance motion that one hopes is not going to be successful because one actually does not support the end result surely has to be one of the acts of folly and one of the more earnest abuses of the parliament's time that can be comprehended in recent times.

It has been the case that the government has been clear about the fact that we said we would not enforce the provisions in section 159ZY. We introduced a bill into the parliament to remove those sections formally from the statute books. As of last week by regulation we expired those provisions out of the law of Queensland. That much is clear. What is also clear is that the regulation was validly made. It is well known that the power to make a regulation that exists in section 159ZZA of the act provided for the ability to expire that part of the Local Government Act. As is well known, the whole includes the part and the general includes the particular. It was entirely competent for the Governor in Council to make the regulation to expire section 159ZY out of that part.

In that regard there would be no question ever about the validity of that regulation until such time as the parliament moved to disallow it and successfully voted to disallow it. So the folly of the argument of the

opposition is this: it is questioning the validity of the regulation by seeking to disallow it. It is only at the point in time that a regulation is disallowed that its validity comes into question. So rather than this being an exercise by the opposition where it seeks some point of principle, the end effect and the result of its actions here tonight is that it seeks to draw the regulation into question and by its own actions it seeks to make the case to remove that regulation from the law of Queensland. In that regard, the tactics of the National Party in this parliament tonight are exposed for the political stunt that it always has been in this instance.

There is some piety by members of the opposition about whether this change in the law can be achieved by a regulation, quite apart from the fact that the original bill provided for the ability to expire that part of the legislation. Let me be really clear on one front. I have often spoken in the debate about whether referenda are required or appropriate in boundary determination. The part of the Local Government Act that was authored into the Local Government Act in 1996 when the National Party was in government, which it likes to pretend is some deep constitutional right, and that existed before 1996 is the provision for referenda. As we all know—and government members are well aware of this—the provisions of the bill at the time in 1996 also included the ability for the minister of the day to overturn the result of a referenda. So far be it from the case that the notion of the referenda was determinative or absolute. It was in fact always subject to the minister of the day otherwise moving to overturn a referenda. I have never once heard from the shadow minister for local government an admission that that was in fact the case.

But more importantly in the context of tonight's debate about whether a regulation is competent to expire this part from the bill, what was the mechanism that the National Party sought to utilise to overturn a referenda to implement an amalgamation against the will of the people in 1996 when it drew up the legislation? It was a regulation. So tonight we have had two hours of debate about whether a regulation can competently expire a part of the Local Government Act, and of course it can. We know that much to be true. The piety from the opposition is that it was somehow offensive to the parliament to have a regulation passed to that effect. But the hypocrisy of its argument is exposed by the fact that in 1996 not only did it never hold true the notion that a referendum would be absolute and determinative; it also provided that the way in which a referendum would be overturned was by regulation—exactly the path that the government has undertaken to ensure that as quickly as possible, as of last Friday, no longer is it the law in Queensland that councils can be subject to fines or penalty for seeking to conduct polls.

The reality of the situation is this: the National Party sought to engage in this debate tonight because it saw a political opportunity to occupy the time of the parliament on this front. That is the same reason that the LGAQ is continuing to waste ratepayers' money in pursuit of a legal challenge to the same provisions of the Local Government Act that, as I have said, firstly, we are not going to enforce. Secondly, we have introduced a bill to remove those provisions. Thirdly, by the regulation—the regulation that the opposition seeks to disallow tonight—we have already expired those provisions out of the law of Queensland as of last Friday, 31 August. Why then is the LGAQ continuing to pursue and occupy the time of the Supreme Court in Queensland using ratepayers' money in the pursuit of that case? The answer is that its motivation is quite simply aligned with that of the National Party in this place tonight, and that is the pursuit of a political agenda in the context of a debate in which it has provided no leadership during the whole conduct of the reform exercise.

It aligns also neatly and somewhat amusingly with the political interests of the Prime Minister. There has been no reference to constitutionality and democracy by those former federalists that used to be known as the coalition parties in Australia. There has been no reference whatsoever to the great trashing of the concept of states' rights and the very foundations on which this country came into being in 1901, that is, the concept of the Federation. There has been unconstitutional and unconscionable conduct by the federal government, through the Prime Minister, in seeking to dismantle the proper, competent and constitutional jurisdiction of the Queensland parliament to legislate in the area of local government.

Why is that the case? What we know is this: out there in the community there is a notion that John Howard, through introducing legislation that will provide taxpayer funds to conduct polls, is in some way seeking to provide for change to the boundaries that have been determined through the independent Local Government Reform Commission. In fact, when it comes to polls what the Prime Minister is offering is complete and utter false hope. Nowhere in his intervention when it comes to the conduct of polls does the Prime Minister mention local government once. Nowhere in the Commonwealth's proposal does the Prime Minister propose to change one single boundary. What he is actually offering and what he is actually peddling is constitutional false hope.

So we see a circumstance where the Prime Minister is seeking to say something, his lips are moving, but he is not really saying anything. He is offering a notion to people out there in the community that he may well change something although he will not. The reason that he will not is that deep down he does not want to and deep down he knows he cannot. The Prime Minister is trying to pretend that he is interested in the vote of the people in the shires of Queensland when he is actually interested in his own vote. We have a Prime Minister who is 10 points behind, with 10 weeks to go, who is prepared to do and say anything and to spend taxpayers' money on anything and to trash any notion of what is an appropriate way to act in a constitutional sense in the pursuit of re-election. Why are none of us surprised about this?

Because the bloke has got form. This is the typical sort of desperate, kamikaze, gonzo politics that the Prime Minister practises in an election year. It is the desperation of a Prime Minister who is seeking to latch on to any issue but not to do it in a way that holds substance. It is done in a way that only peddles false hope and when he is at his meanest and his trickiest best.

What we see in the debate tonight is the absurdity of the opposition coming into this place, occupying the time of the parliament, putting forward an argument and hoping against all hope—hoping with all its might; hoping desperately—that the government does not join with it and vote for this disallowance motion. Because what would the effect of that vote be? The effect would be that through the authorship and the advocacy of the National Party in this state the penalties for conducting polls on local government amalgamations would be reinstated. The absurdity of the opposition's folly in putting forward this disallowance motion and the political agenda that underpins it is exposed by dint of the contribution from the member to Gladstone. I acknowledge the member for Gladstone. Indeed, all of the Independent members have some opposition to the local government reform process, but they clearly saw through the partisan nature of the intervention and the folly conducted by the opposition here tonight.

We saw in the last sitting of parliament that the opposition had resorted to quoting from the satirical newspaper *The Bug* in seeking to ask questions about the policy agenda being pursued by the government. I cannot imagine that a satire that involved a National Party walking into this place and saying, 'We believe councils should be sacked for conducting polls,' would make it even to the most far-flung parts or the deepest imaginations of the authors of *The Bug*. Certainly, the ability or the imagination to have such a satirical exercise included in *The Bug* would be something that I am sure will entertain those authors of *The Bug* for an upcoming edition. But what I might say—rather than referencing that great piece of literature which is *The Bug*—is that this is more essentially like groundhog day. We see the same arguments being used by the opposition against a reform process that is being passed into law. In that regard, I point out for those people who do review this debate the contribution of the Leader of the Opposition tonight who specifically said that he believed that the amalgamations would proceed.

I confirm to the Leader of the Opposition that that is absolutely the case. It is absolutely the case that the amalgamations, the boundaries that were proposed by the Local Government Reform Commission, have been put into law. They are the law of Queensland. The boundaries are in place and the elections will occur on 15 March for those new councils.

I can also absolutely confirm to the Leader of the Opposition—who I suspect knows this, given that admission—that nothing that the Prime Minister is offering to the communities of Queensland is going to change that by one centimetre. The Prime Minister is not offering to change one boundary by one centimetre. To the extent that the Prime Minister is engaging in this exercise, he is exposed for seeking to muddy the waters on the federal election front to seek to pursue a matter that concerns the state government in Queensland. Why would a Prime Minister be doing that? Because the Prime Minister is so far behind the federal Labor Party he is seeking to muddy the waters.

We see the Australian Electoral Commission, quite rightfully and quite appropriately, resisting and resisting forcefully the attempts of the Prime Minister to compromise the Australian Electoral Commission. Section 394 of the Commonwealth Electoral Act quite properly provides that federal elections should not be clouded by the conduct of other polls or other elections. That is the original intent of section 394. In seeking to fund with taxpayers' money plebiscites that will not change any boundary, the Prime Minister has tried to compromise the independence of the Electoral Commission and, quite rightfully, the Electoral Commission has sent him back from whence he came. The Australian Electoral Commission is focused on conducting a federal election.

Let us be really clear about this. In the final analysis, this is not going to be an issue that will determine the federal election. This is a Prime Minister who called an election three years and one week ago. As of today, and as of every other day, the question is rightfully asked of this Prime Minister: why do you go beyond each and every day three years since you called the last election? Why do you not step up to the mark and call the next federal election? Why do you not step up to the mark and call the federal election and, more to the point, fight it on federal issues? Why do you not account for the interest rates rises that you promised would not happen? Why do you not account for the WorkChoices legislation which has undermined the fair go in this country? Why do you not account for the continued presence of our troops in Iraq? Why do you not call the federal election, instead of attempting to run into every issue, to muddy the waters, and attempt to fight it on state issues? Why do you not show the courage of a true leader and call the federal election today, fight it on federal election issues, face your day of reckoning and see Kevin Rudd elected as the next Prime Minister of this country?