




Speech By
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MEMBER FOR LOGAN

Record of Proceedings, 14 May 2019

ELECTORAL LEGISLATION (POLITICAL DONATIONS) AMENDMENT BILL

 **Mr POWER** (Logan—ALP) (6.49 pm): I rise as the chair of the Economics and Governance Committee to let the House know that the committee, upon examining the bill, determined unanimously that the bill not be passed. I was deeply disappointed and a little hurt that the member for Maiwar said in his tweet—in his gratuitous attack—that it was a Labor dominated committee that rejected the bill when it was six members of this House who dutifully examined this bill and rejected it. It was not, as this tweet says, that we ‘failed to name a single good reason why the bill should not be passed’. We gave a good reason. It was because of the Constitution of the Commonwealth of Australia. We gave that as a good reason that this bill should not be passed.

He said ‘we simply claimed corporate cash isn’t a problem’. That is not true. We actually quoted in depth no less than the member for Maiwar’s views on this. We did not pass over that. We gave the bill good consideration and put forward good reasons for not passing the bill.

I heard the member for Sandgate suggest in his contribution to the debate that this was grandstanding. I rejected that suggestion. I thought that the member for Maiwar would not grandstand in this place. However, when I heard his speech and saw this tweet which totally ignores our report and the evidence we put forward as well as the legitimate concerns that Queenslanders have about the influence of money in our elections, I believe he is totally misleading this House and all Queenslanders, especially those who are considering voting Greens, about his intentions with this bill. We unanimously rejected the bill. We did that not because we wish to ignore the effects of large donations on Queensland and Australian politics but because we recognise the clear limitations of action on limiting freedom of speech and donations that the High Court has repeatedly made clear.

To do anything other than what we suggested is to do one of two things. One is to dismiss the High Court and make laws that are simply against our Constitution and will be struck down. The other is that this is a cynical piece of politics—a bill written not to improve Queensland by passing it but a bill written to fail to pass this House but then be misrepresented to supporters. This tweet was evidence of that even before it came before the House. This is chaotic, misleading or cynical, but either way it cannot be said that this bill will benefit Queenslanders.

Greens supporters throughout the state or those who were thinking of voting for the Greens must be deeply disappointed that a party that they thought better of, a party that they once trusted with their vote, is on this, a very important issue, playing a cynical and misleading game. I say to voters across the spectrum—Liberal, Labor and Greens—that the Palaszczuk government has perhaps more than any other government in Queensland’s history reduced the effect of donations on Queensland politics.

The Palaszczuk government has restored the disclose threshold of \$1,000 that the member for Bonney so rightly claimed as an important part of the transparency of our system. That was increased by the Newman government to \$12,800. We require six-monthly reporting by political parties and associated entities. We have restored the special reporting of gifts of \$100,000 or more. The Attorney-General highlighted the gift from the federal Greens which obscured the nature of that

\$100,000. We have restored the threshold for anonymous gifts to political parties to \$1,000. We have introduced real-time disclosure of political donations. We have banned political donations from property developers at both a state and local level. That is despite the best efforts of the LNP to use the federal parliament to create loopholes and to take the legislation to the High Court where we know it will fail.

These provisions are to increase the transparency and reduce the problematic effect of big donors. This is real action on donations and money from the top end of town that attempts to buy our politics. This is action that the average voter who might be tempted to vote for the Greens is looking for.

We could at first reading take the member for Maiwar's explanatory notes at face value—that is, an attempt to stop corporate entities donating. However, members should be aware of the decisions of the High Court that have consistently made it clear that restricting donations and free speech through donations should be limited to specific classes of donor where there is direct evidence of problems. A complete ban on all corporate entities would face a dim prospect of success given the consistent rulings of the High Court on this issue. I will expand more on that. We see corporate entities giving to such causes as flood relief, scholarships, helping farmers and the Great Barrier Reef. Any court would find it difficult to see all these actions as directly benefitting the bottom line of corporations.

In a previous hearing of the Economics and Governance Committee on electoral laws, Mr MacSporran of the CCC put forward the view around the suggestion of a ban on political donations that while he and others might seek a wider ban, such as the one suggested by the member for Maiwar, he would not put forward legislation that had 'no realistic prospect of a successful challenge to the legislation'. The CCC's recommendation to the House is that the last thing we want is to recommend something that would be knocked over by the High Court. Mr MacSporran said—

That is just a waste of everyone's time. You could not ignore High Court cases. You need to account for that.

It is quite clear that a blanket ban on all corporations, ignoring all their history of philanthropy and giving and indeed political donations to support a particular philosophy rather than direct company profit, would be doomed to fail in the High Court. We would be passing a bill that would simply waste everyone's time.

It is important to note that in 1997 the High Court of Australia established the test for freedom of speech applying to donations—the Lange test. The test was whether the law burdens political communication and whether the law is appropriate and consistent to the system of government established by the Australian Constitution. It went further when this was tested directly with regard to the ban that the LNP strangely seems to want to put forward in *Unions NSW v New South Wales* and *McCloy v New South Wales*—the developer versus New South Wales. It was further expanded to third parties in *Unions NSW v New South Wales No. 2* and the Spence case.

Further to the Lange test they said that where there is a denial of a prospective burden on political free communication there needs to be an exclusively and well thought out reasoning. I put it that this bill does not meet this test. Whatever feelings we have about wanting to restrict donations, we need to do it in a way that is constitutional, will not fall over and will not be a waste of time.

We saw the LNP take to the High Court a much more limited electoral donation ban on property developers and challenge their validity. They failed and the government's carefully crafted laws were upheld. However, this is not to say that relevant issues may not come out in the reasons of the High Court. We await those reasons. No member of this House could in good faith vote for this bill with much confidence that the bill would be constitutional.

I note that the member for Sandgate suggested that if the state were to be burdened with hundreds of thousands of dollars of costs with regard to a High Court challenge that we could allay that waste of Queensland taxpayers' money if the Greens and possibly their millionaire donors put forward all the money to take this to the High Court. I wait to see if that offer comes.

For those who want greater restrictions on donations, we should note that this legislation does not stop big, single donors like Mr Palmer or third-party campaigns or, indeed, millionaires who donate to their party of choice—in some cases the Greens. I am disappointed that this was not a legitimate attempt to reform our electoral donation laws. Reforming donation laws carefully within the framework of the High Court is what the Palaszczuk government, through the work of the Attorney-General, is doing and will continue to do, especially after the affirmation of this approach by the recent High Court decision.