



Speech By
Peter Russo
MEMBER FOR TOOHEY

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ELECTORAL LEGISLATION (POLITICAL DONATIONS) AMENDMENT BILL

 **Mr RUSSO** (Toohey—ALP) (6.00 pm): Before I address the long title of the bill, it is interesting to hear the member for Toowoomba South talking about preference deals when the LNP will preference the Greens in South Brisbane at the next state election.

Mr DEPUTY SPEAKER (Mr Whiting): Order!

Honourable members interjected.

Mr DEPUTY SPEAKER: Order! Order! I have said, 'Order!' Three times I called for order. Member for Toohey, I will give you the same warning that I gave to the member for Toowoomba South: stick to the long title of the bill. I am giving you a little bit of latitude.

Mr RUSSO: I rise to oppose the passing of the Electoral Legislation (Political Donations) Amendment Bill. In my contribution to the debate of the bill I will be urging the members of this House to vote down this piece of legislation. The best way I can describe this bill is that it is one step too far and serves no utility in providing the people of Queensland any positive engagement with the democratic process, either during campaigning or at election time.

The Palaszczuk Labor government has taken positive steps to adopt the recommendations of the Belcarra report, and at the time of the Economics and Governance Committee report into this bill there had been proclaimed the Local Government (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018, which I will discuss in more detail. The remainder of my contribution opposing the passage of this legislation has been taken from report No. 21 of the Economics and Governance Committee of November 2018.

At this stage of the debate I believe it is important to note that the objective of the bill, as outlined in the accompanying explanatory notes, is to 'eliminate the actual and widely perceived risk of corruption within Queensland's democratic as a consequence of corporate donations to politicians, candidates and political parties'. The bill proposes to build upon the 'restrained reforms' of the government's Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill, introduced on 6 March 2018 and passed on 17 May 2018, and to 'help restore Queenslanders' confidence in their political system'.

The bill amends the Electoral Act 1992 and the Local Government Electoral Act 2011 to prohibit the making of political donations by for-profit organisations to candidates in state or local government elections, groups of candidates in local government elections, third parties, political parties, councillors and members of state parliament. The bill also proposes to make it unlawful for a prohibited corporate donor to solicit a person to make a political donation and for a person to solicit, on behalf of a prohibited corporate donor, another person to make a political donation. After examination of the bill, including the policy objectives it is intended to achieve, and consideration of the information provided by submitters and witnesses, the committee recommended that the bill not be passed.

I will now deal with the law as it was at the time the committee was conducting its inquiry into the private member's bill. As I said earlier, the Electoral Act 1992 and the Local Government Electoral Act 2011 govern the conduct of state and local government elections in Queensland, providing for a range

of matters such as the distribution of electorates, enrolment and voting, registration of political parties, and election funding and disclosure requirements. All candidates, registered political parties, associated entities, groups and individuals are required to inform the Electoral Commission of Queensland of any loans, donations and gifts of \$1,000 or more given and/or received within seven days of receiving them. There are no donation caps or caps on electoral expenditure in Queensland. Gifts of foreign property, anonymous gifts to a political party totalling \$1,000 or greater, and anonymous gifts to a candidate totalling \$200 or greater are prohibited.

Most recently, the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill amended the Electoral Act and the Local Government Electoral Act to introduce a ban on donations by property developers to political parties, elected members and candidates in a local or state government election. Candidates, groups of candidates, third parties, political parties, associated entities and councillors are prohibited from receiving gifts from a property developer or industry representative organisation where a majority of members are property developers. It is unlawful, on behalf of a prohibited donor, for another person to make a political donation and a person to accept a political donation made by or on behalf of a prohibited donor.

In September 2016 the Queensland Crime and Corruption Commission commenced an investigation, Operation Belcarra, into complaints regarding the conduct of candidates in several local governments during the 2016 local government elections. One of the aims of the investigation was to examine practices that may give rise to actual or perceived corruption, or otherwise undermine public confidence in the integrity of local government, and to identify strategies to prevent or minimise corruption risks and increase public confidence. In conducting Operation Belcarra, the Crime and Corruption Commission found 'widespread non-compliance with legislative obligations relating to local government elections and political donations ... largely caused by a deficient legislative and regulatory framework'. The Crime and Corruption Commission published *Operation Belcarra: reforming local government in Queensland* in October 2017. The Belcarra report made 31 recommendations 'to improve equity, transparency, integrity and accountability in council elections and decision-making'.

The Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act was proclaimed in 2018. The Belcarra act contains retrospective transitional provisions which provide that any donation received after 12 October 2017 which is a prohibited donation under the act is to be paid back to the person who made it within 30 days of the act commencing.

Following the Crime and Corruption Commission's investigation and subsequent publication of the Belcarra report, the government introduced the Belcarra bill on 6 March 2018. It addressed a number of recommendations from the Belcarra report—recommendation 20 and recommendations 23 to 26. As we know, the Belcarra bill was the first stage of integrity reforms to implement the government's response to recommendations from the report. Of relevance to this bill, the Belcarra bill gave effect to recommendation 20 of the Belcarra report to prohibit candidates, groups of candidates, third parties, political parties, associated entities and councillors from receiving gifts from property developers. The amendments relating to political donations commenced on 2 October 2018.

I think it is important in my contribution to the debate that I address what the High Court of Australia has said about the implied right to freedom of political communication. There is a view that the proposed amendments in the bill may affect people's freedom to participate in the political process at a local and state level, both generally and regarding the treatment of fundraising contributions.

I think it is relevant, as did the committee, to explore the nature of the right to freedom of political communication in Australia as part of my contribution to the debate on the bill. Articulated by findings of the High Court of Australia in the early 1990s, Australians enjoy an implied right from the Australian Constitution to the freedom of communication on political matters. However, this right is not absolute and can be restrained by legislation, with certain qualifications.

Three judgements of the High Court are especially relevant to the bill, but I will only deal with one. In *Lange v Australian Broadcasting Corporation* from 1997 the High Court unanimously acknowledged that there was an implied right of communication within the Australian Constitution. This implied right will invalidate a law that burdens or restrains political communication to an impermissible extent. In *Lange v ABC*, the court outlined a test to determine the validity of a law. The *Lange* test is subsequently available to the courts to decide whether or not a law is invalid with regard to political communication. The *Lange* test involves two considerations. In closing, I recommend that the House not pass this bill.