




Speech By
David Janetzki

MEMBER FOR TOOWOOMBA SOUTH

Record of Proceedings, 17 June 2020

ELECTORAL AND OTHER LEGISLATION (ACCOUNTABILITY, INTEGRITY AND OTHER MATTERS) AMENDMENT BILL

 **Mr JANETZKI** (Toowoomba South—LNP) (3.10 pm): The opposition will be opposing the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019. Let me be clear: the Palaszczuk Labor government has now launched a full-frontal assault on the democratic process in Queensland.

As I was working my way through the Attorney-General's proposed amendments at midnight last night—229 amendments over 100 pages—I was trying to work out where I would begin my contribution today. I thought I would go back to the very beginning and the Attorney-General's and Premier's joint media release of 29 October last year headed 'Sweeping electoral reforms to make elections fairer and more transparent'. I could not help but notice the quote attributed to the Attorney-General. It was: 'We want all Queenslanders to have a say.'

Given the 229 amendments over 100 pages circulated last night I can assure the House that no Queenslanders have had their say. With the permanent gag on this House, not everybody on this side of the House will be able to have their say on these laws either. The Attorney-General talks about wanting Queenslanders to have their say, but yet we operate under a permanent gag in this House. The Attorney-General says, 'We want all Queenslanders to have their say,' yet for a 10-week period over Christmas and New Year when this bill was put out for consultation—in the depths of summer and over Christmas and New Year—Queenslanders did not have their say because it went way under the radar.

The Attorney-General also says that she wants to take money out of politics, but the Attorney-General took \$25,000 from the AWU for her campaign—taking big money out of politics. The Attorney-General talks about taking money out of politics but takes donations from staff of an organisation she is to regulate. When the Attorney-General introduces bills of this nature into this House and proclaims the moral high ground, we on this side of the House know it is without foundation. What we know from this Attorney-General and this government—

Mr Nicholls interjected.

Mr SPEAKER: The member for Clayfield will cease his interjections.

Mrs D'ATH: Mr Speaker, I rise to a point of order. I take personal offence to that interjection and I ask that it be withdrawn.

Mr SPEAKER: Member for Clayfield—

Mr NICHOLLS: I withdraw.

Mr SPEAKER: Thank you, for dignity of the House.

Mr JANETZKI: This Attorney-General's legacy of bills of this nature and of accepting donations from organisations she regulates is best framed by the 18 minutes notice this House was given to remove optional preferential voting. Time and time and time again in this House we have seen this government throw Queensland democracy under the proverbial bus.

What we saw last night with the 229 amendments over 100 pages is just the final nail in the coffin of this government's disdain for the democratic process in Queensland. It is deplorable. It has been interesting to hear the comments of members on this side of the House. Members will hear from many of them over the next 24 hours. The prevailing word is 'sad'. Is it not sad that this government will stop at nothing to gain political advantage? Is it not sad that this House is so severely curtailed that there is going to be no scrutiny of the 229 amendments over 100 pages?

There will be no public consultation. Stakeholders will be learning about the amendments now. I will be interested to hear whether the Attorney-General spoke with the Queensland Law Society about these amendments. The Queensland Law Society said about the bill introduced in November that there was no genuine or proper consultation.

It is deplorable that this government would once again take electoral laws and use them for their political advantage, whether it be the 18-minutes notice for the removal of optional preferential voting—that was not even a cabinet decision, as I recall; it did not go through any committee process or cabinet committee process—or the amendments circulated last night.

I will turn to the bill. It requires registered political parties, candidates and registered third parties to maintain dedicated state campaign accounts to comply with the donation and expenditure caps, which the Attorney-General has outlined. Public election entitlements are also increased—and I will come to them later—effective for the 2020 state general election. Public funding will almost double from \$3.14 to \$6 per formal first preference vote for registered political parties and from \$1.57 to \$3 per formal first preference vote for candidates. The eligibility threshold for registered political parties and candidates will decrease from \$6 to \$4 for formal first preference votes.

The bill imposes caps on donations that donors may make and that defined recipients, including political parties and their associated entities, candidates and third parties involved in election campaigning may receive. Specifically, an individual or organisation cannot donate more than \$10,000 in each parliamentary term. It is \$6,000 to candidates of the same party collectively, \$4,000 for political parties and \$4,000 to a maximum of six third parties over four years.

Electoral expenditure caps will apply to political parties and their associated entities, candidates and third parties involved in electoral campaigning. Expenditure includes designing, producing, printing, broadcasting or publishing an advertisement or other election material, direct distribution costs for an advertisement and carrying out opinion polls or research. Third parties will be caught where influencing voting in the election is the dominant purpose. The maximum amount that can be spent is \$58,000 by an endorsed candidate, \$87,000 by an independent candidate, \$92,000 by a party in any single electorate in which it endorses a candidate, \$87,000 by a third party in any single electorate and no more than \$1 million in aggregate.

As per the amendments circulated last night, the cap will apply during the final six months of the parliamentary term and for the 2020 ordinary general election. The expenditure caps will apply from 1 August 2020, although I would ask the Attorney-General to clarify the mechanism by which some contracts entered into by today's date, 17 June, will operate. I would appreciate some clarification on that particular clause.

I would like to turn for just a moment to some philosophical aspects about electoral reform. We have heard from the Attorney-General in this regard, and it is appropriate that we take some time to reflect on it. This area of law has rightly been the subject of considerable academic analysis over the last decade. Always central to this analysis is the balancing of competing interests—that is, the conflict between the democratic right to free and unfettered participation in political speech against the notion of an equitable opportunity for all citizens to participate in the electoral system. All participants in the public arena seek to influence political outcomes. This is further complicated by third-party participants.

This bill has failed to balance those concerns, with the Queensland Law Society warning the government that its contents would have a chilling effect on charities and not-for-profit organisations. I appreciate that the Attorney-General will be moving amendments in that regard. However, even the ECQ has admitted that they were not yet sure whether federal parties would constitute third parties and that they would need time to resolve this uncertainty, along with a number of other questions that remain outstanding.

All of this amplifies why sound electoral system regulation is necessary—proper process, fair evidence gathering and assessment of that evidence, fulsome consultation. All of this ought to be done to preserve the balance, integrity and fidelity of the democratic system and to maintain the lofty idealism of any functioning liberal democracy.

Admittedly there are no easy answers; however, the opposition strongly believes that the answers suggested by the government in this bill unfairly and unjustifiably skew the electoral system in its favour. It is an unforgivable effort from this Labor government but sadly predictable from a political party more interested in the accumulation and seizing of power and prestige than exercising good government for the people of Queensland.

It is an historical fact that the Australian Labor Party in the Australian political experience has affiliated to it trade unions. Such unions not only have the power to influence policy and control the endorsement of Labor candidates but also are functionally designed to, and do, engage in the political process directly in support of Labor candidates and, indeed, against candidates competing with Labor candidates. This is entirely in keeping with this form of affiliation.

In particular, by reason of that direct formal affiliation, unions have established political infrastructure for the purpose of conducting political campaigns for campaigning from everything from the election of its own internal officers through to those officers becoming delegates to Labor entities and to the endorsement and election of Labor candidates, not just to the Queensland parliament but to all Australian parliaments.

It follows that unions are both formally and functionally a part of the Australian Labor Party. In fact, it has often been said by Labor comrades in this place throughout the decades that the Australian Labor Party is the political arm of the union movement. The funding for that political campaigning by unions is acquired through the imposition of levies on its members. These levies are often practically imposed on an employee whether or not she or he shares a political allegiance or supports the objectives of the Australian Labor Party. These levies may be imposed by reason of formalised workplace agreements—

Mr BAILEY: Mr Speaker, I rise to a point of order. As fascinating as this historical treatise is, I do not believe he is referring specifically to the bill. I ask him to come back to the bill.

Mr SPEAKER: No. I am happy with the context in which the member is making his contribution, Minister.

Mr JANETZKI: These levies may be imposed by reason of formalised workplace agreements whereby employers are to agree to only employ or prefer union members for employment. Let us be clear: no other political party in Australia has such a structure. In particular, those other political parties in this parliament or active in Queensland politics including the Liberal National Party, the Greens, Katter's Australian Party or One Nation have no such structure.

It could be argued that, in its practical operation, proposed new part 11, division 9 of the bill, imposing caps on electoral expenditure on political parties and third parties, would have the following effects in marginal seats. The Labor candidate would be able to outspend the Liberal National Party, the Greens, One Nation and Katter's Australian Party, as the case may be. This is because the Liberal National Party, the Greens, One Nation and Katter's Australian Party, as the case may be, do not get third-party endorsements so would be left with a combined \$150,000 cap. The Labor candidate could realistically expect at least a couple of unions with formal affiliation to the Australian Labor Party to spend to their \$87,000 cap, meaning that the Labor cap would, for practical purposes, be a multiple of the Liberal National Party, the Greens, One Nation and Katter's Australian Party caps.

Consequently, rather than creating a level playing field for political discourse in Queensland politics and electing members to its parliament, the practical effect of part 11, division 9 is to assist the Australian Labor Party presently holding power in the Queensland parliament to resist or suppress opposition and attempts to displace it from holding government.

Serious questions will continue to be raised about the justification for the quantum of the caps and the relativities between the various caps proposed by the government. If the High Court decisions over the last few years in McCloy, Unions NSW and Spence teach this legislature anything, it is that the High Court will weigh up whether these questions have been addressed fairly and are justifiable in all the circumstances.

In this regard, I think it appropriate for the Attorney to consider a couple of questions. I appreciate that she gave some guidance before. The question has to be asked: did the government undertake any evidentiary analysis to determine their caps? As I foreshadowed, New South Wales unions made some

comments in this regard. Although evidence is not necessarily required to prove the basis of government legislation, it was observed that, where there is a legislative burden on an implied freedom, there is some basis for that legislation. Secondly, what analysis has the government undertaken as to what in fact is necessary to enable third-party campaigns to communicate their messages to the community?

When considering these questions there are the political aspects, which I will be returning to shortly, but there are these deeper questions, these philosophical questions, that continue to need to be asked—that need to be considered ultimately by courts and by parliaments. My fear, again, is that this Labor government has plucked some figures out of the air and thought only of the relativities amongst other jurisdictions without deeper consideration of what is required. What is the evidentiary analysis that has been undertaken to justify the caps in this regard?

I would like to return briefly to the bill particularly with regard to signage. The bill imposes restrictions on signage and bunting. I know that the Attorney-General is quite pleased about the disappearance of bunting into the future. What has surprised me is the signage changes to the bill, because they are significantly different. We have gone from registered political parties having two signs at a polling booth to now registered political parties being able to have six but third parties being able to have four. Again, we will see a plethora of unions coming into each and every polling booth. Protesters and third parties such as GetUp!—everybody—will be coming along and putting up their signage completely in contravention of everything that the Attorney-General and the government had previously said on signage.

Mr Krause: So what's changed?

Mr JANETZKI: I take the interjection from the member for Scenic Rim. What has changed? My guess is that the unions have reached out to the Attorney-General and said, 'I think you have to change that position, Attorney.' What is not clear is what analysis and what consultation has been undertaken.

The Attorney-General has also decoupled the need for people to be present with any signage at a polling booth. Initially the idea was that people could not just drop off their corflutes or their A-frames and walk away, but now that has been changed. We will now have people dropping off corflutes and A-frames—up to four if you are a third party—and then just wandering off. There is no need for any person to be near that signage.

Again I ask why? What has dawned on the Attorney-General? What political advantage does the Labor Party now have by making this change? I would be very intrigued to hear what the Attorney-General has to say as to what has changed over the last couple of months.

I want to turn to the issue of why these laws have been brought in in the first place. The Attorney-General will talk endlessly about money and politics, the need to get big money out of politics and all of these high-minded ideals. It is appropriate that caps always be considered; we accept that. However, what has happened is that this is not necessarily about big money from third parties. This is about the Australian Labor Party's donations falling off a cliff.

When you take out trade union donations, as we saw before the federal election the Australian Labor Party was running out of donations. What do they have to do to get things back together? They need the taxpayer to pay for their political campaigns. Ultimately, that is what this bill is about. When they talk about the public funding of campaigns, that is what the Labor Party government is talking about. When they talk about the plumber from Pumicestone paying for a roadsider in Mansfield or the hardworking nurse, a taxpayer of Queensland, paying for a phone canvasser in South Brisbane, this is the kind of behaviour Queensland taxpayers are deeply sceptical about.

I am always intrigued by when bills are introduced into the House. In 2011 when the Bligh government was struggling and funding was drying up again for the Australian Labor Party they introduced a very similar bill. This bill had caps, and what it achieved was to top up the Australian Labor Party's coffers. I think it has been 20 years since the Shepherdson inquiry, and I think there was nothing prosecuted beyond the Shepherdson inquiry because it ran out of time. We saw the attorney-general at the time, Paul Lucas—

Mr Nicholls: Mike Kaiser?

Mr JANETZKI: I will take the interjection from the member for Clayfield. Mike Kaiser as well, yes. In 2011 we saw internal decay in the Labor Party. They were going broke in 2011. They had sent Queensland broke already and then they wanted the taxpayer to pay, so they changed the law then. Once you take union money out you will see an Australian Labor Party that is struggling. The way they filled the gap was by drawing on public funding, and that is what we see here again with this bill.

I would also note that I believe the Attorney-General's by-election was the last under the caps introduced by the attorney-general of the day, Paul Lucas. It is timely to recall that particular by-election in 2014, because what happened? The evidence is that the Australian Labor Party and the LNP spent about the same, but ultimately in that campaign the candidate there was outspent seven to one under the laws introduced by the former attorney-general, Paul Lucas, in 2014. The Attorney-General really has firsthand knowledge of how these laws operate in favour of the Labor Party and their affiliated unions, and they know it.

Mr Krause: That's the start they needed.

Mr JANETZKI: I will take the interjection from the member for Scenic Rim. That is the start they need when it comes time for the campaign.

I now want to turn briefly to a couple of comments the Attorney-General made this morning. I do think that when the Attorney-General's days in politics are over there is a career in stand-up comedy waiting for her, and it is appropriate that the member for Currumbin is here. If I heard correctly, this morning in her ministerial statement the Attorney-General said that the 28 March election was a great success. I do not think that is in any way, shape or form how Queenslanders viewed the local government elections on 28 March and the two by-elections because it was an absolute shambles.

The concern I have is that we are completely rewriting the Electoral Act right now and we are expecting the ECQ to go and get ready for it. I noticed in the explanatory notes to the amendments last night that the Attorney-General was talking about resourcing to ECQ because they are going to need a lot of resourcing to get ready for the election, no matter COVID-19 or otherwise. The Attorney-General said that resourcing for ECQ would be conducted in the normal budgetary process. There is only one problem: there is no budget this year. I am not exactly sure how the Attorney-General is planning on resourcing the ECQ for the preparations ahead in a COVID environment when there is no budget on the horizon, so I look forward to the Attorney-General explaining that for us.

One of the other legacies that we have to address here is the performance of the ECQ over two local government elections in 2016 and 2020. In 2016 their performance was that bad that the Premier said she would conduct a report and report back to the cabinet. That was the Soorley report, which gave us 74 recommendations. Most of those, funnily enough, were IT related. They talked about a lack of dry runs and a lack of preparation for the software that was utilised in the 2016 local government elections. Would you believe it, Mr Speaker, but in 2020 at the member for Currumbin's by-election and at the local government elections across Queensland it happened again. I know that the Attorney-General met with the ECQ on 12 of the last 13 days before the local government election and the by-elections on 28 March, so the question has to be asked: what were they talking about?

Government members interjected.

Mr JANETZKI: I accept there was COVID-19 and it was very difficult. I get all of that, but did the ECQ give the Attorney-General assurances that the IT and technology were ready to go? After the local government elections and the by-elections on 28 March we again saw the Premier standing up and saying, if I recall, that they had one job and they did not do it. She said, 'I will be ordering a review of that as to why it happened', so again there are more reviews essentially reviewing the same problems.

Mr Krause: Where's the accountability?

Mr JANETZKI: I will take the interjection again. Where is the accountability? There were two election failures in a row.

Ms Simpson: The coronavirus was in Wuhan.

Mr JANETZKI: COVID-19 or otherwise. There were failures in the IT systems in back-to-back elections, and the Attorney-General has to explain what has gone on, because a lot of IT recommendations from the Soorley review were never implemented. A couple of them were implemented. There was talk of postal voting, however most of the IT upgrades—

Mrs D'ATH: Mr Deputy Speaker, I rise to a point of order on relevance. I believe that the member has strayed significantly from the bill now.

Mr DEPUTY SPEAKER (Mr Kelly): I think you are coming very close, member for Toowoomba South, and I ask you to return to the bill with your remaining two minutes and 39 seconds.

Mr JANETZKI: If the Attorney-General thought that the local government election on 28 March and the by-elections on that day were a great success, then I have no confidence whatsoever that the state election on 31 October 2020 will be any better. The Attorney-General must talk to the ECQ, get in

front of the ECQ, and make sure we are ready to go, because it is not even what the LNP would say. I note that the LNP did present to the committee that was considering these matters. I note that the member for Currumbin and the member for Southern Downs were there. I want to quickly go to the public committee hearing where Antony Green addressed the performance of the ECQ that evening.

Mrs D'ATH: Mr Deputy Speaker, I rise to a point of order on relevance. We are speaking to the bill, not the parliamentary committee report into the IT of the local government election.

Mr DEPUTY SPEAKER: I am happy for the member to proceed.

Mr JANETZKI: Antony Green spoke to the performance of the ECQ, which the Attorney-General is the responsible minister for. Antony Green said—

The failure to deliver that on the night created even more confusion than what was going on because of the lack of scrutineering.

Again, Antony Green said—

I gather that the results and reporting was the biggest failure of their new system.

In response to a question from the member for Southern Downs, what did Antony Green say? He said—

I would have to be thinking back 25 years to find the last time I did not get results on a regular basis on the night.

What is clear is that Queenslanders deserve to have confidence in their electoral system. The performance of ECQ must lift for the state government election in October. Our democracy depends on it. My hope is that they do not have to spend the next 3½ months wading through this entirely new bill. I hope that the Attorney-General gives better consultation to the ECQ than what she did to this side of the House, with 229 amendments over 100 pages. My hope is that the Queensland people have a fair fight between every political party in this state and that these laws, which this government have introduced to simply advantage themselves, do not prevent that. The thing that Queenslanders need more than anything else is confidence in their electoral system.