




Speech By  
**Michael Berkman**

**MEMBER FOR MAIWAR**

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### **ELECTORAL LEGISLATION (POLITICAL DONATIONS) AMENDMENT BILL**

 **Mr BERKMAN** (Maiwar—Grn) (6.51 pm), in reply: I think honourable members all enjoyed that soliloquy as much as I did. I rise to reply to all of the contributions on the Electoral Legislation (Political Donations) Amendment Bill 2018. I will start this contribution by quoting the Premier in an answer she gave in question time during the last sitting week of last year. The government has made much in recent months of its intention to take up the Greens' electoral reform policy and capping all donations and electoral spending. In the last sitting week of last year the Premier said—

Under my government, we will clean up the big business donations in this state. We have already banned property developers. Now we will take the next step.

I would suggest that just a few years ago it would have been unthinkable for either Labor or the LNP in Queensland to stand up in parliament and promise to clean up 'big business' donations. What we now know is that, unlike my bill, which would ban all corporate donations, the government's bill will not actually ban corporate donations; it will just cap them.

In introducing this bill, way back in May 2018, I made the following comments—

There is still a need for the imposition of caps on all donations across-the-board, not just those from profit driven corporations. We should reinstate a cap on the amount that is spent on elections and put a stop to the endless barrage of negative advertising, smear campaigns, pushy political operatives and the plastic paraphernalia that is strewn around polling booths on election day.

I welcome the fact that the government has stepped up and adopted this longstanding Greens policy. The government bill has its flaws, and we will get to that in good time.

**Mr POWER:** Mr Deputy Speaker, I rise to a point of order. He seems to be speaking to the 2011 Bligh legislation, which is not actually being debated, instead of his own legislation.

**Mr DEPUTY SPEAKER:** There is no point of order.

**Mr BERKMAN:** Once again, I appreciate the non-point of order.

It is important to pause and consider just how far this private member's bill and the Greens have moved the debate in Queensland, including moving Queensland Labor. Regular Queenslanders know that our system is broken. Every time the big parties feel threatened by the Greens, they start to listen to us and to what Queenslanders want. They follow our lead. Queenslanders should take heart from this progress and know that we intend to keep that going. Even with only one Greens MP in here, we will keep the government moving in the right direction. I would invite everyone to imagine what we can achieve when I finally have some Greens colleagues in this place.

I lost count of the number of times a member on one side or the other said in this debate that the bill was nothing but a stunt or an exercise in grandstanding or moralising, as the member for Southern Downs said a moment ago. We hear that rhetoric thrown around in the federal political arena all the time, for example, when the Greens moved a motion to raise the rate of Newstart. Within just a month, that 'stunt' forced federal Labor to support an increase in Newstart and even some government members came onside, not least of all poor skint Barnaby Joyce.

Here in Queensland, once again, we are very happily witnessing Labor adopt Greens policy on electoral funding reform. It was a few short months ago that I wrote to the Premier and the Attorney-General to note my intention to introduce the necessary next stages of electoral reform policy. Specifically, I indicated my intention to propose legislation to impose caps on donations and on electoral spending, just like those now proposed by the government.

This bill would ban all corporate donations, and that is all the more pressing in light of the recent data dump from the Australian Electoral Commission, as well as the constant revelations from Queensland's live disclosure scheme. The data made public just yesterday from the AEC showed that politics in Australia is still awash with corporate cash. I will share this because it has just been released and it is relevant to the most recent election. It showed that despite the state-level ban on developer donations, the Australian Labor Party and the federal Liberals both received hundreds of thousands of dollars from big developers with major projects in Queensland, including \$92,000 for Labor from the developers of the Queens Wharf megacasino and \$37,000 for the Liberals.

The Walker Group, the developers of the infamous Toondah Harbour development, which Queensland Labor and the federal Liberals both support, gave \$50,000 to both the ALP and the Liberals. The Meriton Group, with multiple developments across Queensland, gave \$50,000 to the ALP and \$200,000 to the Liberals. The fossil fuel industry have also put their hand on the scales of democracy, with Adani giving more than \$200,000 to the coalition, and Woodside Petroleum, Shell, Origin Energy, Alinta and others flooding both major parties with cash to the total of \$700,000 for the ALP and \$1.4 million for the Liberals.

Of course, the biggest fossil fuel donor of all, Clive Palmer, gave \$83 million from his own companies to his own political party, all to make sure his own massive coalmine in the Galilee Basin can go ahead and he can keep lining his own pockets. I would also say that neither party in this parliament can distance themselves from that donation since they are both working night and day to make sure Adani and all the other Galilee Basin mines, including Clive Palmer's project, go ahead. Big banks, insurance companies, and the pokies and gambling industry all featured, and Queenslanders are rightly suspicious when big corporates write the cheques and they call the shots.

I would like to respond to some of the comments from others in this debate who have asked where this amounts to corruption. I invite them to try to convince some regular people that when big corporations make donations, they are not expecting some outcome, some return. We know they are law bound to spend money when they know it is going to raise money for shareholders and for their CEOs. What I and so many others have been referring to is legalised corruption, where corporations like big banks, fossil fuel companies, insurance companies and the pokies lobby make donations to protect their own financial interests. The question is about bosses who are trying to underpay their workers, banks that are ripping off their customers and mining companies that are trying to dig up a dangerous product. Should those corporations be writing cheques to the same politicians who are making decisions?

I only have a few minutes remaining. The committee in its report and countless members in their contributions made a lot of hullabaloo about constitutional concerns. There were specific concerns raised in respect of the High Court's previous decisions in *Unions NSW v New South Wales*, and in *McCloy v New South Wales*. The claim broadly made, which we have heard again this evening, by members is that a ban on corporate donations would be a disproportionate infringement on the implied right to freedom of political communication. None of us here is a constitutional lawyer, although some members perhaps think they are, given the confidence and the authority with which they have stated the law in their contributions. We all must be absolutely clear that the committee's view on constitutionality is not only very softly worded, but clearly not the incontrovertible truth. Nobody but the seven judges of the High Court can make an authoritative statement on the constitutionality of a bill. The committee only went so far as to say—

The committee is not confident that the evidence provided by Mr Berkman MP is sufficient for the Bill to pass the Lange Test given more recent High Court cases, as committee considers that the Bill proposes to restrict the implied freedom of political communication without sufficient justification for the restriction to be considered appropriate.

I disagreed with the committee's conclusion on the question of constitutionality when it published its report but, importantly, we now have the benefit of a new High Court decision—fresh jurisprudence on the question of political donations and the constitutionality of a ban on these. On 15 May last year, after the last time the House adjourned debate on the second reading, the High Court delivered its reasons—

Debate, on motion of Mr Berkman, adjourned.