



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

**COMMONWEALTH ELECTORAL
AMENDMENT (POLITICAL DONATIONS
AND OTHER MEASURES) BILL 2008 [2009]**

Second Reading

SPEECH

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BY AUTHORITY OF THE SENATE

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Speaker Polley, Sen Helen

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Senator POLLEY (Tasmania) (11.37 am)—I rise on this occasion in the Senate to speak on the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008 [2009]. We are a proud nation blessed with a democratic system of government, a system that allows all voters to express their wish without fear of retribution. Many nations throughout the world strive to achieve the freedom we have in terms of the right to free speech and the right to contribute to electing a government to rule their land. The concept of democracy allows for the formation of political parties and for their respective members and other Australian citizens to contribute to the process. This, however, comes with responsibilities and the need for transparency in the eyes of the Australian public to ensure that the funding for political parties is an open process and not secretive or deceptive—hence the need for these amendments. This bill is needed because of another example of the cynical political exercise of the former Liberal Howard government.

Over many years, there has been criticism from the Australian population regarding the amount of money donated and spent during election campaigns. In order to ensure that this process is open and transparent, certain standards are necessary to ensure that the declaration and reporting of donations is honest and fair. The Australian population deserve to know where donations have been received from, be it from public or private sources. As many Australians are also shareholders in Australian companies, they also have a right as shareholders to know whether the company concerned has donated to a political party.

The bill endeavours to ensure that the Commonwealth Electoral Act is respected as a means to maintain transparency, accountability and integrity in the eyes of the Australian population. The proposed amendment bill will come into effect from 1 July 2009. The bill has several main features. It is proposed that the donation disclosure threshold be reduced to a flat rate of \$1,000. Presently, that threshold stands at \$10,900—\$10,000 plus CPI. The threshold previously stood at \$1,500. However, that was lifted to the \$10,000 level by the previous Liberal government, without explanation. It can only be assumed that this was done to hide away small donations from the eyes

of the public, thus thwarting fair review and discussion by them.

Donations made to different state branches of a political party should be accumulated to determine the true amount being donated by that person or organisation. This will prevent the situation of persons or organisations splitting their donation to the non-declarable amount and then donating to several branches, thus negating the need for declaration and reporting. These actions can only be seen as a measure to avoid the existing requirements of the act. This action also denies the Australian public the opportunity to see the true value of donations from these sources as they are omitted from the reporting radar. This is why I have been cynical in some of my previous comments about the actions of the former Liberal government.

Under the existing legislation, it would be possible for donors to contribute almost \$100,000 by splitting their donation amongst state and territory branches without having to declare them. I believe that the majority of the Australian public would view this action as dishonest and a means to conceal the true value of the donation. It is an example of utilising loopholes within the law to achieve a solution that is not in the essence or spirit of the existing law. The purpose of the bill is to provide valuable information to the Australian population for their own information and consideration. This type of action does not display the honest and accountable behaviour the Australian people deserve.

Presently, political parties have up to 20 weeks from an election date to meet reporting obligations. It is proposed that this period be reduced to eight weeks. This change aims to ensure that the Australian public receive more timely information for perusal and consideration. Access to up-to-date information is essential for the many decisions we make in our lives, and this case is no exception. Potential investors may wish to know whether an organisation in which they intend to invest their valuable resources has been associated with a political party. This information should be easy to find and in a format that is easy to understand. This proposed change to the act ensures that it is also available to be considered.

The existing act requires ‘donors, political parties, associated entities and people who have incurred electoral expenditure to furnish returns within eight

weeks of the end of the six monthly reporting periods'. At present, donors, political parties and associated entities and people are required to report annually, and this can be done up to 20 weeks after the end of the financial year. The current guidelines meant that the reporting from the 2007 federal election needed to be submitted by 2 February 2009—that is, 14 months after the date of the election. This does not provide timely information for decision making to the Australian public and other key stakeholders.

The bill seeks to ban donations from overseas. This area can be broken into several aspects, each requiring consideration. The banning of donations from overseas seeks to ensure that all parties and candidates commence campaigning on a level playing field. In Australia's quest to be seen as a fair and just nation, all candidates should have access to the same level of support. Whilst this in reality is not the case, donations from overseas could significantly distort the final outcome of campaigning during the intense time leading up to a federal election.

The Australian public are hungry for information to enable them to vote in the knowledge that they are selecting the party and candidate who will best serve them. Should, for example, overseas donations enable the disproportionate advertising of a particular party's policies, then the information the voter may receive could be distorted in terms of quantity and quality. It could also be argued that Australians would expect that funds for political expenditure be generated from their own economy and not brought in from overseas. Overseas donors, no matter how good their intentions may be, should not have the ability to give any party an advantage over another, especially given that a party's ability to ultimately form government could be affected.

This change seeks to bring Australia into line with other countries—for example, the United States—where overseas donations are unlawful. There have been cases where overseas donations have been received by associated entities and other third parties purely for the purpose of incurring political expenditure. Whilst I acknowledge that several of the major parties received overseas donations—including the Labor Party, as was declared in the returns released on Monday, 2 February—the Rudd Labor government wants to put an end to this practice. At the appropriate time, it would be enlightening to find out where the opposition now stands on this matter.

A further change included in the bill is the requirement that public funding be genuinely associated with campaign expenditure and genuinely incurred during the period of an election campaign. This could be defined as the period from the issuing of the writs to the close of polls. The inadequacy in

the existing law has resulted in some political parties and candidates making a profit from public funding. This unfair practice would be frowned upon by the community and would be seen as a rot. Given that public funding is derived from taxpayers, the public have a legitimate expectation that it be expended on genuine campaigning costs associated with the election. They would also expect that funding be provided only to the extent that it covered the actual cost of running the campaign. With good reason, the Australian people expect sound financial management of the funds to which they have contributed through taxes from their hard-earned income.

This bill also introduces changes to the offences and the levels of penalties under the existing act. Some of the new offences cover areas such as failing to lodge returns, lodging incomplete returns and providing false or misleading information for the purpose of increasing the level of public election funding. The current penalties have remained unchanged since 1983 and over time have become an inadequate deterrent against not meeting the current requirements of the act. In addition, the current penalties no longer reflect the magnitude and seriousness of the offences. As Australians are expected to be honest with the submission of their tax returns and associated income declaration and expense claims, a corresponding standard is being placed on political parties and candidates to ensure the same level of honesty and integrity is maintained. The Australian public deserve nothing less.

The Joint Standing Committee on Electoral Matters report delivered in October 2008 recommended several amendments. One of these was the issue of anonymous donations and whether or not they could be accepted. The committee recommended that some small, low-scale, anonymous donations be allowed and this recommendation has been accepted by the government. Anonymous donations of an amount up to \$50 may now be received at public fundraising activities such as fetes and street stalls or at private fundraising events such as trivia nights, barbeques and dinners. Various records are required to be maintained for provision to the Australian Electoral Commission for these types of events. These include the nature of the event, the total number of attendees, the total amount of the donations collected and details regarding the personnel collecting the money. It will also be an offence to knowingly create or keep misleading or false records of these facts.

An additional amendment has been proposed to ensure that third parties cannot receive anonymous donations purely for the purpose of avoiding the existing reporting requirements, yet it will allow the recipient to incur expenditure directly related to an election campaign. Organisations that incur particular

types of political expenditure above the threshold level in a reporting period will be required to declare anonymous donations targeted towards the purposes of conducting a political campaign.

A further aspect of debate has been the element that may be legitimately included as political expenditure for the purpose of claiming public funding. This was the other main recommendation of the committee, and the government has since approved it. There are several additional approved expenditures that are now able to be offset by public funding. The first is the rental cost of premises dedicated solely to the running of the campaign. This may be a commercial office or a shop located in a major shopping centre or strip. The location of a campaign office or shop can be crucial to increasing public awareness of candidates and the party and policies they are supporting. A constituent may feel more comfortable asking a question in a friendly, campaign environment rather than approaching the office of a local member of parliament. The second is the employment cost of hiring staff who are dedicated to working on the campaign. This may include people with media and public relations skills, secretarial skills, project management skills and general organisational skills. Campaigns as we all know are extremely busy times, usually with tight time frames and much work to be completed. The ability to hire staff with professional skills allows the campaign to run more smoothly whilst providing a better service to constituents and more effective publicity throughout the electorate.

The third is the provision of office equipment, whether by purchase, hire or lease. As each of the senators in this chamber would be aware it is a necessity that the campaign office be able to produce local media publications, constituent brochures, information leaflets, policy fact sheets, letters and a myriad of other material for distribution to their electorates. The timely production and distribution of these items is critical in providing information to the voting public, who wish to make the best informed choice of a member for their respective electorates. Reliable office equipment is essential for the sound operation of any office, particularly during times of high stress levels such as election campaigns. As is the case where the government is providing public money for other purposes, the Australian people should expect nothing less than transparency, integrity and accountability when providing public funds for the purpose of electoral campaigning.

In summary, the general public have a right to know where their contribution, through taxes to the government, is being directed and how it is being expended and, in addition, they have a right to information regarding the amount and the source of donations. I reiterate that this information is also of

more value if it is provided to stakeholders in a more timely manner, hence the changes to the reporting period time lines. Australia is a great nation with a fair system of government. The strengthening of laws in regard to the declaration and reporting of political donations can only serve to provide a better level of information to the Australian people. I would like to commend Minister Faulkner for his leadership in this very important area and I commend this bill to the Senate.