



Parliamentary Electorates and Elections Management (Truth in Advertising) Bill 2007

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Extract from NSW Legislative Assembly Hansard and Papers Thursday 28 June 2007.

Agreement in Principle

Mr DONALD PAGE (Ballina) [10.12 a.m.]: I move:

That this bill be now agreed to in principle.

The object of the Parliamentary Electorates and Elections Amendment (Truth in Advertising) Bill is to prohibit inaccurate and misleading political advertising. Under current New South Wales law, the misleading advertising provisions that apply to business do not apply to political parties or political candidates. Political advertising should meet similar standards of probity and honesty as commercial advertising under State and Commonwealth law.

The law as it stands in New South Wales allows people to seek and obtain political office and power through political advertising that can be totally fraudulent. This lax attitude to truthfulness fosters a culture that deception is simply part of the political game, rather than a serious attack on the integrity of the political system. It is imperative that we restore the public's faith in the accuracy of political advertising because people in a democracy are entitled to expect honesty and accuracy from their leaders. If the integrity of our political system is to be assured, it is essential that information provided to voters in determining their decision about voting not be inaccurate or misleading.

During the recent election campaign, the New South Wales Labor Party ran a series of negative advertisements about the New South Wales Coalition across a range of mediums that were grossly inaccurate and misleading. These advertisements misrepresented the Coalition's policies and the business history of the former Leader of the Opposition. For example, the Labor Party ran advertisements accusing the Coalition of planning to cut 29,000 jobs from the public sector, claiming front-line positions, including nurses, police and teachers, would go. These advertisements featured prominently on television networks throughout the State and in other campaign material produced by the New South Wales ALP. In one advertisement in this series, Labor used paragraphs from two *Sydney Morning Herald* stories and added quotation marks as proof that the Leader of the Opposition at the time, Peter Debnam, said those words.

In fact, the Coalition's policy was to have an employment freeze in the backroom bureaucracy in Sydney only and this was announced publicly. Savings made in this process would be diverted into the employment of more front-line employees like police, nurses and teachers. The New South Wales Australian Labor Party fabricated information and deliberately misled the New South Wales voting public. Yet under the current law, there are no legal repercussions for producing such inaccurate and misleading advertising.

This bill would put in place penalties for a person who authorises, causes or permits the publication of an electoral advertisement if that advertisement contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent. This applies to advertisement published by any means—including radio or television or on the Internet. This bill also applies to local government elections. This bill would legislate the application of fines for persons or body corporates who are guilty of this offence. The maximum penalties are \$11,000 if the offender is a natural person, and \$110,000 if the offender is a body corporate.

The Electoral Commissioner would be the regulator—the judge—of whether a statement purporting to be fact is inaccurate and misleading to a material extent. The bill provides the Electoral Commissioner with two options if an advertisement is found to be misleading and inaccurate to a material extent. These are, firstly, to request the advertiser to withdraw the advertisement from further publication; and/or, second, to request the advertiser to publish a retraction in specified terms. If the advertiser refuses to comply, the Electoral Commissioner can go to the courts to impose a fine. Under the bill, it is a defence if the defendant can show they took no part in determining the content of the advertisement and they could not reasonably be expected to have known the statement to which the charge relates was inaccurate and misleading.

This bill is based on section 113, clause (2), of the South Australian Electoral Act 1985 which has been successfully implemented for many years. Similar legislation was introduced at the Federal level by Senator Andrew Murray. Senator Murray also recognises that misleading and inaccurate electoral advertisements can persuade voters to vote in ways that they would not normally, based on misleading political advertising. Unfortunately, the Commonwealth Parliament never passed that legislation.

Misleading and inaccurate advertising erodes our democracy and makes a mockery of our political system, increasing distrust among voters, and brings about electoral results that may have been different, had the

campaign been based on truth and accurate representation of policy and other relevant information. Political elections should be based on truth and accuracy, and voters deserve an assurance that this is the case. Accuracy and honesty are required of business and individuals in our society and I believe political parties and political candidates should be subject to the same standards. This bill will outlaw misleading and inaccurate advertising to ensure elections are held in a climate of truth and honesty. I encourage all members to support this bill if they want to guarantee the future integrity of our democratic processes and our political system. I commend the bill to the House.