



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

DO NOT CALL REGISTER BILL 2006

DO NOT CALL REGISTER (CONSEQUENTIAL AMENDMENTS) BILL 2006

In Committee

SPEECH

Thursday, 22 June 2006

BY AUTHORITY OF THE SENATE

SPEECH

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Questioner
Speaker Stott Despoja, Sen Natasha

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Senator STOTT DESPOJA (South Australia) (11.51 am)—Obviously the Australian Democrats will be supporting the amendment before the chair. We have the same amendment, in line with our longstanding practice of not supporting exemptions under privacy law generally, and the Privacy Act specifically. For legislation such as the Do Not Call Register Bill, when it comes to the issue of exempting political acts and practices—in this case members of parliament and Independent members of parliament, so people from parties and candidates—we think that is an inappropriate exemption.

The reason I say that is not simply on the basis of so-called nuisance calls. I am not necessarily arguing that politicians are going to be violators of family or other time by making nuisance calls. Having said that, there are a number of Australians who maybe got a bit of a shock in the 2004 federal election when they returned home to get a message from the Prime Minister on their answering machines—although that might work for some people. So I guess this gets to the gist of the matter: I want to know whether Australians are going to be given the opportunity to select, on a register, politicians in the same way that this legislation is giving them the opportunity to say that they do not want to receive calls from a variety of other institutions, organisations and businesses. This is an issue of whether or not we have a double standard operating for politicians.

Also, the last thing I want to do is to be seen to be in any way curtailing the freedom of speech, freedom of political expression or freedom of opportunity of political parties, candidates and politicians such as ourselves to canvass, lobby for or advocate a particular position when it comes to the electorate. There may be people out there who are not necessarily keen to have unsolicited—we are talking unsolicited—phone contact from a particular organisation, or indeed politician. That does not mean that as politicians our opportunities and avenues for contact with electors are curtailed in a way that means we cannot actually have any contact. We have direct mailing and a range of other opportunities through which we can lobby for or canvass votes, so this is not about denying political freedom.

I also want to point out that the Democrats' position on this is consistent in an historical sense—and Temporary Chair Brandis, you and others would be aware of amendments we have moved previously. Indeed, the private member's bill that I finally introduced today—I have been threatening to introduce it for a long time—actually seeks to remove the broad-ranging exemption for political acts and practices from the Privacy Act. So it is a consistent position in a historical sense. Let us face it: we have been on about this for a while.

However, it is also consistent—and we are aiming for logical consistency here—in that my concern is with exemptions generally. It is not because I do not think that there are particularly worthy organisations such as the ones that have been nominated in this bill, arguably in an arbitrary way, that are exempt from this legislation—be they religious, charitable, educational, government agencies and departments and, of course, politicians, Independent candidates et cetera. I have a problem with exemptions to these kinds of laws. I am not suggesting that there are not occasions when there may be an exception to the rule. But my basic belief in terms of privacy law or a specific piece of legislation such as the Do No Call Register Bill is that, when there are opportunities and when you have the capability to make a register as sophisticated as it can be, you do not need exemptions.

I know this is the line of the Australian Privacy Foundation, and it is not unusual that I would have a similar position. But, if there is an opportunity to make the register as impressive, sophisticated, tight as it can be, you do not necessarily need these exemptions in law. Let us face it: these are broad-ranging exemptions. When you look at the list of exemptions that apply with this legislation, it is broad ranging.

I want to make it very clear that this is not just about politicians, although the importance of this amendment, which does obviously deal specifically with politicians, is to set a standard and not a double standard. It is to make it clear that as politicians we do not accept and we do not expect special privileges. But, when it comes to other exemptions too, it is not good enough to say, 'I don't want politicians to be included but it's okay for religious organisations or educational institutions.' We all have different arguments that we could use in our favour. So the best thing is, surely, to create a very fair and equal law—a very equal piece of legislation.

It may be that the government's advisers will suggest: 'We're not quite at the stage where the register is as sophisticated as it can be. We need some time to develop this.' Then I would like the government to perhaps give us an undertaking—and I will accept an undertaking—that says: 'These are early days. We're just looking at how this register will work and develop. We will consider removing some of these exemptions as time goes on.' I will take that for now, but I would like to see an expressed position on behalf of all political parties here today that says that giving politicians an exemption is not good enough.

I think politicians are now among the worst violators of personal privacy in this land. It is not because I do not expect us to be able to collect data or information about our constituents. It is not that we do not keep files or that we are not going to tag certain people as maybe voting in a certain way or having a particular political leaning or direction. That is okay, provided that the national privacy principles in the legislation apply to that, so that very basic aspects of privacy law or theory pertain to that collection of information—that is, that we or our constituents and our citizens can access that information and can correct it if it is wrong.

I am not suggesting a curtailment of the practices that many of us practise or abide by. Certainly the major political parties are responsible for collecting a great amount of data. But I want to ensure that Australians have the chance to respond, to scrutinise and to correct information that is stored about them. I honestly think that, if we create laws that businesses, organisations and other people in the community have to adhere to, why the hell don't we adhere to them too? That is the double standard. We should be similarly adhering to privacy law, especially when we expect other organisations in the country to do so. I do not think that the Do Not Call Register Bill really allows for politicians to be the exception to the rule. That exemption is particularly an affront to me.

But a logically consistent position would also suggest that any exemptions to a register of this nature have to have pretty convincing arguments and there have to be pretty exceptional circumstances. Given the wide-ranging exemptions contained in this legislation, as many people have pointed out—the Australian Law Reform Commission has made it clear too—Australian customers, consumers, citizens or whatever are still going to be subject to a large number of unwarranted and unsolicited phone calls at home as a consequence. So I urge the government to tighten up this register and minimise the exemptions. I know it is not going to happen today, but I urge you to consider at least removing this one because, even in terms of perception, it is a bad look for politicians, Independent members of parliament and registered political parties to be exempt from this particular piece of legislation.