



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**THE SENATE**  
**PRIVACY LEGISLATION**  
**AMENDMENT BILL 2006**

**In Committee**

**SPEECH**

**Thursday, 7 September 2006**

BY AUTHORITY OF THE SENATE

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## SPEECH

**Date** Thursday, 7 September 2006  
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**Questioner**  
**Speaker** Stott Despoja, Sen Natasha

**Source** Senate  
**Proof** No  
**Responder**  
**Question No.**

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**Senator STOTT DESPOJA** (South Australia) (2.20 pm)—I move Australian Democrats amendment (1) on sheet 5036:

(1) Page 5 (after line 28), at the end of the bill, add:

Schedule 3—Amendments relating to exemptions within the Privacy Act

Privacy Act 1988

For those members of the public who are interested in our views on this, we have copious policy work in this area. I have talked about it and written about it on many occasions. This amendment actually deals with the exemptions to which I referred earlier, specifically, the small business exemption and the exemption dealing with political acts and practices and political parties. I seek to remove those exemptions. I understand the will of the chamber on this one, but obviously I want to take the opportunity to raise these issues yet again.

I want to acknowledge the contribution by Senator Hurley. I think all people in this place have an interest in and a concern about privacy, not just as to our own personal information—and that particularly to do with health is the most sensitive of information—but also as to that of the community. When we talk about privacy rights we accept that there is a balance and there is no definitive privacy right as such. Certainly in this country we recognise that it is all about balancing community needs and interests—and, indeed, arguably the national interests—with personal security, privacy and safety. We do not always get the balance right. I still think that the privacy scheme in Australia is arguably ‘too light touch’. I know it was an original boast by the government that it was not going to be unnecessarily regulated or prescriptive, but I still think that there are a lot of holes in the Privacy Act.

As you know, a few years ago I initiated an inquiry through the Senate Legal and Constitutional Committee to examine the Privacy Act and its effectiveness, in particular to examine some of the loopholes in the act. That committee recognised that there were problems. They are understandable problems. There are loopholes that are usually caused by the rapid pace of technology and the impact of technological change. For instance, developments in the health field—specifically, in genetic technology and biotechnology—have a huge impact on the ability of our laws to keep up in terms of protecting people’s personal data and information. So I really do implore the government to acknowledge not only the recommendations of the ALRC which dealt specifically with the issue of genetic privacy but also the broader recommendations that arose through the Senate Legal and Constitutional Committee process. In many cases they were bipartisan or cross-party recommendations that acknowledged that there were loopholes in this law. I do not think it is good enough for the government to come back, eight years after the first time we discussed these things in the parliament, to just make changes, as much as I welcome some of the changes in this legislation today. We have to try to be a little more innovative in this field even though I acknowledge that often this kind of legislative process is necessarily a reactive one, especially when it comes to dealing with science.

I implore the government to examine those recommendations and respond to them in a legislative and policy form. Once again I put on record that the first time that we brought the issue of genetic privacy to the attention of this chamber was in 1998. I know that a lot of discussions and reviews have gone on, but essentially the amendments that we are dealing with today are pretty much the same as those of mine that got knocked back in 2000—better late than never but we have to be much more vigilant in acknowledging that there is a legal and a regulatory response to biotechnology and genetic technology and that up until now we have lagged behind in this country. So I welcome the amendments in the bill and I certainly commend my amendment to the chamber, although I can read the will of the chamber.

Question negatived.

Bill agreed to.

Bill reported without amendment; report adopted.