THE SENATE

BILLS

Broadcasting Legislation Amendment (Convergence Review and Other Measures) Bill 2013, Television Licence Fees Amendment Bill 2013

Second Reading

SPEECH

Wednesday, 20 March 2013

BY AUTHORITY OF THE SENATE
Senator IAN MACDONALD (Queensland) (19:42): Senator Ludlam has the advantage of being able to comment on all six bills because he at least seems to know what the other four bills will say. The rest of us in this parliament will just have to wait until Senator Conroy, the minister responsible, and Ms Gillard eventually get around to informing the Australian people what sort of a deal they have done with Mr Katter, what sort of a deal they have done with various of the Independents and what sort of a deal they have done with the Greens political party. I want to refer to all six bills, because the way the Greens political party and the Labor Party will guillotine or curtail this important debate—one of the most important debates on freedom ever had in our country—is reminiscent of the totalitarian regimes of the mid-1900s. I will start with a quote said in a debate:

To trivialise it by saying that it can be cut off at the whim of a majority—maybe the uninterested majority, at that—and to prevent those who find this matter extraordinarily and hugely important and deserving of the greatest consideration is very bad parliamentary process. I think it is unconscionable: the unconscionable is occurring to what we proclaim as the conscionable. It is bad parliamentary process and a total abrogation of the whole idea that, when we get to complex and important ethical mileposts like this in the progress of our society, the matter should be given greater importance and should not be cut down by a guillotine …

Who said that? None other than the then leader of the Greens political party. That was just one of the flourishes that Senator Bob Brown and current members of the Greens political party would use on the rare occasions that the coalition in government did, after much debate, cut off the bill.

I remember, dealing with Senator Brown for 26 hours on the Regional Forest Agreements Bill 2002. We would not cut it down; we wanted everyone to have their say—the only person saying anything against it was Senator Brown. After 26 hours, we allowed the debate to go and that was on something as innocuous as saving the Tasmanian forests with the Regional Forest Agreements Bill 2002. Yet here we are with a bill dealing with freedom of speech in this country and it is going to be guillotined by Senator Brown's political party, the Greens, and the Labor Party.

We have heard Senator Ludlam concede that the process is an absolute shamble. We are not dealing with Tasmanian forests here. We are dealing with freedom of speech in this country, and the Greens and the Labor Party will curtail speech to a few hours. I should not be talking about those other four bills, but I know that I am not going to get another chance to talk about this because the Greens and the Labor Party will be savagely curtailing speech on those very important bills. Isn't it ironic that they will be curtailing freedom of speech on these bills that are all about freedom of speech in our country?

The coalition is deeply opposed to those parts of the overall package that have the effect of increasing regulation of the news media and diminishing or restricting freedom of speech. Senator Brown once confessed in a book that had he been around in Germany in the 1930s he would have been a member of the Hitler Youth. Perhaps it is appropriate, that the party that he founded in this parliament is taking the sort of actions that led to the establishment of the Hitler Youth in the 1930s.

This sort of thin edge of the wedge of government control of the media is the sort of thing that, if you look through history, is how totalitarian regimes started. Senator Ludlam, in his contribution, also acknowledged that our side would be attacking the Labor Party on the process. He said he agreed with us. He expected us to attack them. Yet, does it make any difference to the Greens? They still join with the Labor Party in everything the Labor Party wants them to do, even to the extent of curtailing and having government control over the media in this country. I know it was the Greens political party who originated the term 'the hate media', but you can see it coming into play now as the Greens join with Senator Conroy in introducing legislation that will effectively allow politicians and Labor Party puppets to control what goes into the press.
The imposing of these sorts of controls over the freedom of the press will bully and threaten those who would publish in the newspapers, on TV and on radio to toe the government line. Isn't that what this is all about? The Gillard government has, in recent times, been getting an absolute belting from every section of the media. I cannot remember when the *Age* and the *Sydney Morning Herald* were so anti the Labor Party. But even they now understand that this incursion into their right to print and say what they like is too much even for the Fairfax press to understand and to allow it to go through.

This legislation is the first government control over what is being published in newspapers in Australia's peacetime history. There has been some need for censorship in times of war, but in a peaceful country, in a country that was until now as democratic as Australia, to have this control directly and indirectly over what papers and other media can say is something that I think most Australians find abhorrent. If the number of emails and phone calls to my office in the last three days is any guide, most Australians have the same view. The Labor Party will find out to their detriment. Unless they get rid of Ms Gillard and her current communications minister, and get someone who understands the impact on the freedoms that our country enjoys, then the Labor Party will be decimated at the next election. You do not need me to say that. Have a look at any opinion poll, but have a look at the polls in a few weeks after the full impact of this curtailment of the freedom of the press is concerned.

We also have this farce, which shows how the Labor Party has absolutely no interest in truthfulness or freedom or exposing some of the bad elements of these bills. There is a committee set up by this parliament called the Scrutiny of Bills Committee. It is set up in a bipartisan, non-partisan way to look through, without making any opinion comments, on different pieces of legislation.

The terms of reference of that committee are to identify pieces in acts of parliament which:

(i) trespass unduly on personal rights and liberties;

(ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;

(iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;

(iv) inappropriately delegate legislative powers; or

(v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.

That committee met when the first iteration of these bills came to the parliament and identified some particularly nasty elements of these bills now before the parliament. We have not yet had a look at the other bills.

It is very important in the normal course of events that, following the deliberations of the Scrutiny of Bills Committee in identifying these particular provisions that made rights and liberties dependent upon non-reviewable decisions or made rights and liberties subject to ill-defined administrative powers, members of the Senate have the benefit of the identification of those before they debate this bill.

But, again, thanks to the Australian Labor Party and the Greens political party we were even prevented from tabling that bill in time to allow senators to understand it. I would be committing a breach of the Senate standing orders if I were to tell you what is in the Scrutiny of Bills Committee report because it has not yet been tabled and discussed by the Senate, as it would in the normal course of events. But I am going to risk my hand, just to alert my colleagues to the fact that there are particular provisions, even in these first two bills—you would almost call them the two more innocuous bills of the whole package—that do unduly trespass on rights. There are provisions in the bills with retrospective effect. There are provisions in the bills that deny any merits review process—that is, once the decisions are made by these administrative authorities you cannot review them. That is almost unheard of in English jurisprudence. But these bills take away that merits review in certain instances. Very broad discretionary powers are given. The bills as presented give no indication of how you enforce what is said to be public consultation and a direction to consider any submissions received on the public interest media authority. So their decisions will be almost unchallenged.

There are provisions that trespass on personal rights and freedoms, privacy and freedom of expression. These were all identified by the Scrutiny of Bills Committee. But the Labor Party and the Greens would not even allow those to be tabled here before debate was to be held on those particular provisions. So not only will Labor and the Greens join together to bring these constraints on the freedom of our press before parliament but, by guillotining...
the debate, by shortening the debate, they are preventing any other aspect of these bills that would really frighten
the general public if they understood them completely from being identified. The alerts of these horrendous
provisions of the bills are not even allowed to be tabled in this chamber.

Senator Siewert: Mr Deputy President, I rise on a point of order. That amendment did not get up to allow those
reports to be tabled, but the government then gave leave and Senator Macdonald said no.

The DEPUTY PRESIDENT: Senator Siewert, that is a debating point; it is not a point of order.

Senator IAN MACDONALD: Thank you, Deputy President. In fact, Senator Siewert—and I always expect
better from Senator Siewert—is deliberately misrepresenting the facts. In other circumstances, I would say that
you were doing something else. But you will recall that I sought leave and it was refused and Hansard will show
that I sought leave to table the document and to speak to it and that leave was refused.

Senator Siewert interjecting—

Senator IAN MACDONALD: Who said that? The President?

Senator Siewert interjecting—

Senator IAN MACDONALD: The President said that? I am sorry—

The DEPUTY PRESIDENT: Order! Through the chair, Senator Macdonald. Interjections are disorderly.

Senator IAN MACDONALD: Thank you, Mr Deputy President. The President, when he is in the chair, is
supposed to be balanced and supposed to not take sides. If the President said something—and I am not quite
sure what that had to do with the debate and I would comment outside this chamber otherwise on the President's
handling of the whole issue—the facts will speak for themselves, Senator Siewert. You have a look at it in
Hansard. Leave was sought and was refused. The amendment was moved and it was opposed by both the Greens
and the Australian Labor Party.

The Joint Standing Committee on Foreign Affairs, Defence and Trade Human Rights Subcommittee, like the
Scrutiny of Bills Committee, looks into pieces of legislation that impinge upon human rights in our country. It is a
joint committee made up of members of both houses, members of all parties, with a preponderance of Labor Party
members. This is what the joint committee said in relation to these media bills, and I quote: 'On the basis of the
material provided with the bill, it is difficult to assess whether the limitation of freedom of expression is justified.'

So there is no doubt in the mind of the subcommittee on human rights, with a Labor majority, about accepting this
bill brings a limitation on freedom of expression. Their comment is: 'There is nothing in the material to say why
that limitation on the freedom of expression is justified.' They go on to say, 'Neither the explanatory memorandum
nor the statement of compatibility demonstrate why these reforms are necessary.' They said 'reforms'; I would not
call them reforms. But that was the joint parliamentary committee, with a Labor majority. Clearly, they are not
of Senator Conroy's faction, the Labor members on that. But I would ask those Labor members of this chamber
who are on that committee to explain to the Senate why it is they say that they accept there is a limitation on
freedom of expression and why they say that there is nothing in the material or in the bills that justifies this
curtailment of freedom of expression.

I know, as I started to say before, that this government has been hammered by the media across the country,
and that Senator Conroy does not like it. Ms Gillard does not like it. So what do you do? Try and improve your
performance on the things the media are rightly criticising—things like Ms Gillard lying to the Australian public
prior to the last election—

The DEPUTY PRESIDENT: Order! Senator Macdonald, you will have to withdraw that about the Prime
Minister.

Senator IAN MACDONALD: About Ms Gillard lying?

The DEPUTY PRESIDENT: Yes, and not repeating it.

Senator IAN MACDONALD: Okay, I withdraw that. Sorry, Mr Deputy President.
Things like Ms Gillard deliberately misleading and telling untruths to the Australian public before the last election. And the media criticised her for that, validly. But Senator Conroy and Ms Gillard do not like that, so what do you do? You do not try and run a decent government that is honest and democratic; you shut down the media. You are certainly going to put in a government watchdog over the media which will make sure that the government’s view predominates.

No other Prime Minister in Australia’s history has ever attempted to muzzle the press as Ms Gillard has done. You might recall that she had a go at this a few years or so ago when she called in the media proprietors. They were running stories about her dodgy dealings as part of Slater & Gordon, with the slush fund for the unions. You will remember when those stories were being accurately reported and that Ms Gillard did not like that, so she called the media proprietors in. She threatened them at the time, and for a moment it did have some use.

Mr Deputy President Ludlam, I wonder if you are going to keep talking all the way through my presentation? Are you going to keep talking to the minister all the way through my presentation?

The ACTING DEPUTY PRESIDENT (Senator Ludlam): Order! Senator MacDonald, you have the call.

Senator IAN MACDONALD: I would just like the chair to ensure some order here and stop this minister—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, I do not need your assistance in chairing the chamber! You have the call.

Senator IAN MACDONALD: Well, that is a question for debate, Mr Acting Deputy President. But this minister—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, that is a reflection on the chair and I ask you to withdraw it.

Senator IAN MACDONALD: I withdraw.

The ACTING DEPUTY PRESIDENT: You have the call.

Senator IAN MACDONALD: Mr Acting Deputy President, here is the minister, trying to curtail freedom of speech, and here he is distracting you yet again in the rudest, most unparliamentary way. And you, Mr Acting Deputy President, are acquiescing in his conduct that is anything but parliamentary. But what else can you expect—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, that is a reflection on the chair and I ask you to withdraw it!

Senator IAN MACDONALD: Well, Mr Acting Deputy President—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, it is not a debating point. I ask you to withdraw that reflection on the chair.

Senator IAN MACDONALD: I withdraw it, Mr Acting Deputy President. Can I ask you when you are going to sit this minister down? He does not—in fact, I will take the point of order. I will stop my speech here so I do not—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, there is no point of order before the chair—

Senator IAN MACDONALD: I am taking a point of order, I am sorry!

The ACTING DEPUTY PRESIDENT: You cannot during your contribution, Senator Macdonald. You have the call.

Senator IAN MACDONALD: On what ruling is that?

The ACTING DEPUTY PRESIDENT: Are you seriously proposing that you are taking a point of order during your own contribution?
Senator IAN MACDONALD: Yes. Mr Acting Deputy President, my point of order is that the minister, in breach of parliamentary orders, is wandering around the chamber, chatting with you—

The ACTING DEPUTY PRESIDENT: Senator Macdonald, that is not a point of order.

Senator IAN MACDONALD: Is it not a breach of standing orders?

The ACTING DEPUTY PRESIDENT: Senator Macdonald, it is not a point of order, as you well know. Please continue with your contribution.

Senator IAN MACDONALD: Mr Acting Deputy President: you have the Greens political party, you have the Labor Party and a minister who has no interest in the freedoms which Australians have enjoyed since time immemorial. This package of bills are bills which must be defeated, and I certainly hope that somewhere during the course of this debate that the Greens political party and some of those in the Labor Party who have been criticising it internally will have the courage to do something about it. (Time expired)