



Parliament of South Australia
SPEECH
25 March 2020

FRANCES BEDFORD MP JP *Member for Florey*

**SUBORDINATE LEGISLATION
(DISALLOWANCE) AMENDMENT
BILL**

Introduction and First Reading

Ms BEDFORD (Florey) (10:47):

Obtained leave and introduced a bill for an act to amend the Subordinate Legislation Act 1978. Read a first time.

Second Reading

Ms BEDFORD (Florey) (10:48): I move: That this bill be now read a second time. I am pleased to introduce the Subordinate Legislation (Disallowance) Amendment Bill 2020. My contribution will be brief as I have spoken about the need for this bill in my Address in Reply contribution as well. Over the course of my time in this place, a constant concern of mine has been the value of the vote and the importance of the democratic practice. As I have often said, democracy does not happen every four years when we vote: it happens every single day. Sadly, trust in politics is at an all-time low in our nation.

Rebuilding trust in politics is far from easy when politicians take shortcuts. One of the more outrageous of these, in recent times, has been the political games played by the government with the GM crop legislation. Firstly, the government tried to lift the moratorium on GM crops by regulation before a parliamentary committee had even reported. Then, having lost a disallowance motion in the other place, the government proceeded to suspend standing orders and ram the bill through the house,

hoping to split non-government members in the other place. The hope was particularly to pick off enough votes on process grounds, given that many members in the other place indicated their support for the disallowance motion on process. But the bill failed again—and again on the process grounds.

After having lost two votes, the government remade the regulations while parliament was in recess and prorogued the parliament, enabling a further bill to be reintroduced. The regulations were promptly disallowed by the other place when parliament resumed, but were remade again the very next day. To describe this process as a farce would be generous. All these political games serve to achieve is to erode public faith in our democratic system and cause damage to the conduct of good government in our state.

Had the minister and the government taken the time to progress this matter in the proper way, had the traditions and conventions of this parliament been adhered to and had there been proper respect for the democratic system parliament embodies, it is quite possible there may have been a new policy win by now. Instead, a fight has been picked with members of the crossbench and the opposition and, therefore, the people we represent. That is why I am bringing this bill before the house. When regulations are disallowed, no minister should have the power to remake them with the disregard that we have seen in this particular case.

The Subordinate Legislation Act dates back to 1978 and has been amended 15 times since. All the amendments have been minor in nature and primarily related to other legislation being progressed through parliament. The potential for a Mexican stand-off between the minister and parliament has always been an inherent tension baked into the scheme of the act. Of course, it has been used by governments of all colours.

Since the Subordinate Legislation Act was enacted, according to information provided by the parliamentary library, motions of disallowance have been carried on 99 occasions in either of the two houses. This has included disallowance of regulations and by-laws. While it is difficult to extract full details from the parliamentary record, the number of occasions when ministers have remade regulations that either house of parliament has disallowed is a widely known loophole in the legislation exploited by both sides.

Among the more notorious examples, members may recall, was the stand-off in the early 2000s between the Legislative Council and the then attorney-general in relation to victims of crime regulations, which were disallowed five times. Similar stand-offs arose in the 1990s in relation to recreational net fishing, Housing Trust water rates, shopping hours and unfair dismissals. All of these occasions gave rise to private members' bills for the reform of the Subordinate Legislation Act to prevent such abuses.

It is notable that on most occasions these bills were moved by the then opposition, without the support of the then government. For the keener observers amongst us, you will note the irony of these dates. The first of these bills, the Subordinate Legislation (Miscellaneous) Amendment Bill 1998 was moved by the Hon. Ron Roberts, a former member and later presiding officer of the other place. The second of these bills, the Subordinate Legislation (Disallowance and Variation) Amendment Bill 2005 was moved by another former member of the other place, the Hon. Robert Lawson, who was also attorney-general in the last Liberal government.

This bill has a very simple purpose: to ensure that once parliament has disallowed regulations they may not be remade by the government until six months has passed. This is the same standard applied by the commonwealth, Tasmania, New South Wales, the ACT and the Northern

Territory, as well as reflecting a reasonable limitation for bills.

As in other jurisdictions, the bill incorporates a safety measure allowing the parliament in effect to withdraw a disallowance if circumstances change. We really should not be playing around and wasting time on procedurally dubious political pointscoring, and this bill will help address that. I note the remarks of the Hon. Robert Lawson who, in moving his bill over a decade ago, stated:

The practice of remaking regulations immediately after they have been disallowed makes a mockery of parliament's power to disallow subordinate legislation.

In these times, when trust in politics is at its lowest ebb for a generation—and dare I say more important than ever in these particular times—responsible politicians do not act the way we have recently seen. I know the government is passionate about its policy agenda, but I urge the minister to stop the political games and start focusing on proper process that honours this parliament's traditions and the spirit of democratic practice. A first good step would be to pass the bill. I commend the bill to the house.

Debate adjourned on motion of Mr Pederick.



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