



Speech by

**Hon. J. FOURAS**

**MEMBER FOR ASHGROVE**

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Hansard 16 May 2001

### **ELECTORAL AND OTHER ACTS AMENDMENT BILL**

**Hon. J. FOURAS** (Ashgrove—ALP) (4.11 p.m.): I am pleased to take part in the debate on the Electoral and Other Acts Amendment Bill. The bill contains reforms in relation to how-to-vote cards and amends the Electoral Act to allow appeals on questions of law from decisions of the Court of Disputed Returns.

Members have spoken at length about the provisions in this bill relating to how-to-vote cards. I will talk about the need for appeal provisions and refer to two particular decisions of the Court of Disputed Returns that have been handed down during my time in this chamber. One related to the electorate of Nicklin—a Liberal, King, against later Speaker Turner of the National Party. That dispute took 13 months to resolve. There was a bit of debate at that time. Turner thought he would win the matter and actually made an application to be paid for the time he was awaiting its resolution. I think legal opinion was that, since King was actually acting as a member during that time, Turner should not be paid. Nevertheless, I think the time taken to resolve that matter—some 13 months—was less than adequate. The process could by no means be called expeditious.

The next dispute I mention was between Tanti and Davies in Mundingburra. That has become quite famous in terms of the political history of this state because the outcome of it resulted in a change of government. I will go over some of the detail of that decision. In the Electoral Act there are two categories of postal voters. One is the ordinary postal voter and the other is the special postal voter. An ordinary voter has to go through the process of making an application for a postal vote—telling the Electoral Commission where they are going to be and asking for the ballot papers to be sent to their address. Special postal voters automatically get the ballot paper and declaration envelope sent to them. The definition of a special postal voter is a voter whose real place of living is not within 50 kilometres of a polling booth.

The issue that arose in Mundingburra related to peacekeepers in Rwanda. Justice Ambrose, who presided over the dispute, decided that the real place of living for these soldiers was in fact Rwanda and that therefore they ought to have been treated as special postal voters. I am not being critical of the judge, though I feel that his decision was flawed. There is a need to allow those sorts of decisions to be reviewed by an appeal court. I think Ambrose should have been guided by the act, which was based on an EARC report, which specifically stated that postal voters were determined based on Commonwealth legislation.

There is no way the Electoral Commission can know the addresses of students over 18 who are not living at their residences or, for example, itinerant workers. I have been involved in postal voting for over 25 years and feel that I fully understand the mechanics of postal voting. There is no doubt that we could not have an election based on the decision of Justice Ambrose. For example, my son was at a theological college in Melbourne for four years. His home was here. He knew that because he wanted to vote—of course he was voting for his dad—he had to apply and go through due process. And it is his responsibility if he wants to vote to apply for a postal vote through due process.

In today's world we have faxes and emails. In the last couple of election campaigns I have been expediting postal voting for people by saying, 'Give me your fax number. I will fax you the application and you can fax it back.' With fax and email, things can be done very quickly, particularly when governments tend to take the shortest period of time for election campaigns. I think no state or federal

election campaign could be run on the basis of Justice Ambrose's definition of a real place of living. As I said before, it overrode the intent of the legislation.

This bill will establish a right of appeal from the Court of Disputed Returns to the Court of Appeal. It will provide, as the minister said in his second reading speech, greater procedural justice to the parties and will enhance public confidence in the outcomes of electoral disputes. It is clear that appeals will be limited to questions of law, and there will be a time frame of seven days in which people have to say that they intend to appeal.

There are laws that give a right of appeal from the District Court to the Court of Appeal in relation to a \$50,000 civil dispute. It is amazing that we can have an appeal in that instance but not in the case of a disputed return. It is important that we remedy that situation. We have to learn from experience. History is a great teacher. We must make sure that the lessons of history are well learned so that the mistakes of the past are not repeated.

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