



Speech by

**Mr L. SPRINGBORG**

**MEMBER FOR SOUTHERN DOWNS**

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Hansard 16 May 2001

**ELECTORAL AND OTHER ACTS AMENDMENT BILL**

**Mr SPRINGBORG** (Southern Downs—NPA) (2.30 p.m.): In rising to speak to this bill, I indicate that the opposition broadly supports the principles contained in it and will not be dividing on the second reading. However, the opposition will be moving a series of amendments at the committee stage that we believe will make the bill a better one and more effectively enshrine the concerns of Justice Mackenzie as reported by him as a consequence of the Court of Disputed Returns hearing following the result in Mansfield at the 1998 election. The legislation does go some way towards addressing those issues. However, as I will point out later on, what it seeks to do, I believe, is validate many of those practices which I think people in the community who expect a greater degree of transparency and honesty in our electoral process are very concerned about.

There is no doubt that our democratic process is sacred and something that we must ensure is underpinned in legislation and convention. We all enjoy a great opportunity to be able to share in robust political debate, not only in this parliament but also outside it, and not only elected members but also the general community at large. Therefore, it is important that we have laws that enshrine in a very sacred way transparency and openness, not only in the electoral process but also in the governmental process.

If we look around the world at what happens in other so-called democracies, even in the Commonwealth, we see the process of distortion, retaliation and the pursuit of one's political opponents, various regimes ignoring legitimate election results and the process of intimidation by their supporters as they go about trying to stay in office. Thankfully, that is something that we see as a fairly foreign concept to our democracy.

At the Centenary of Federation celebrations in Melbourne the Prime Minister made some very good points, as did many other people who spoke. Although I was not there, I heard them on the radio. He said that Australia, since the time of federation, has been only one of six countries in the world that has enjoyed a continuous democracy. That democracy was not achieved through guns; it was negotiated and achieved through conciliation and the vote. That is extremely important. That is why we must uphold all of those principles.

Over the past year or so there has been much debate in the parliament about how we can ensure a greater degree of transparency, particularly post the 1998 election result. Following the result in Mansfield, a matter contesting the returned writ went before a Supreme Court judge and the Court of Disputed Returns for certain deliberations. It was a great concern to the Liberal Party that second preference how-to-vote cards issued on the day were designed to deliberately mislead voters—voters who may have had the intention of voting another way with their second preference and who may have been influenced by those cards. Although the judge in that case did not move to overturn the result in the electorate of Mansfield, he drew some conclusions and made some recommendations to parliament, some of which have been picked up in this legislation.

I offer the following counsel to the government: it needs to be seen to be accountable to this parliament and to be enshrining the best transparency principles and processes in our Electoral Act in this state. If nothing else, the Shepherdson inquiry highlighted to us how an unfair process became so systematically enshrined in a political party that many people did not see it as anything unusual. That is

a very sad indictment on our democratic process and we must do all we can to ensure that we overcome that.

As I indicated, this bill is weak in many areas. Last year I clearly indicated that the coalition would be moving amendments in parliament to strengthen the bill. As the official opposition spokesman on the matter, I indicate that those amendments will be moved at the committee stage, and they have been circulated for the benefit of all honourable members. One thing that concerns me is that, whilst there are provisions for an indication of clear authorisation on how-to-vote material or material that is eliciting a certain voting outcome, it does not extend to all voting material. My amendments will be clearly indicating that very strict transparency and authorisation criteria should extend to all voting material not only displayed but also distributed on or about election day. I believe that is very important.

Although there are in this legislation provisions which talk about minimum font sizes for display on how-to-vote cards and some other how-to-vote material, it really creates a situation where people can still get away with a lot. A how-to-vote card is basically the size of an A4 piece of paper folded in half. An authorisation can be placed at the bottom and can be little more than four millimetres high. Some may argue that that is fair, but I would argue that it is not necessarily fair. When a lot of people go to vote, they grab all of the material without even knowing who it is from. On polling day we need something that stands out and is clear to people, not something designed to inhibit the disclosure process.

Importantly, as we explore this issue we should look also at the posters on display on polling day, for example, the 'Just Vote 1' posters distributed widely by the Labor Party, firstly, very successfully in the Woodridge and Bundamba by-elections and subsequent to that. I suppose the practice has also been used previously by other political parties. A lot of people are not sure where those come from. The authorisation at the bottom can be so minute that people would have to stop at the side of the road and use a magnifying glass to find out who authorised it. The 'Just Vote 1' signs distributed by the Labor Party at the last state election and at the Woodridge and Bundamba by-elections are not illegal. They send a legitimate voting message to the electorate that they can just vote 1, because it is catered for under the Electoral Act. But it was so blurred that many people thought it was a message from the Electoral Commission. If we are going to have a process which requires disclosure, we have to go the whole hog so that people are sufficiently informed so as to know which political party or candidate authorised it. I will be explaining my amendments a little later on, but they seek to overcome that issue. The government should look seriously at supporting those amendments.

At the end of the day, although I have addressed some concerns in relation to the distribution of material by the Labor Party in by-elections and general elections, the boot could very well be on the other foot. This is all about providing a greater degree of confidence among the electorate in the electoral process and about people's right to know who is distributing and doing what.

Something that concerns me which has not been addressed and which I believe should be addressed is the practice of second preference how-to-vote cards. I do not believe that they should exist. I actually considered moving an amendment which would have the effect of banning second preference how-to-vote cards. I doubt that the government would have supported it, but it was a matter of principle. I was advised by Parliamentary Counsel that, at the end of the day, the amendment would have been too complex for the bill before the parliament.

What is the purpose of the second preference how-to-vote card? Its purpose is to deliberately mislead electors. Quite frankly, at the end of the day, the only how-to-vote card that should count is the official how-to-vote card of the party or the candidate seeking election. That is the only how-to-vote card that should legitimately be distributed. I know that in the past most political parties and Independent candidates have distributed these things. I am saying that it is time for it to stop. It is time to realise that this sort of thing adds to the cynicism out there in the electorate about the electoral process.

Consider the case of a voter rushing in on election day and picking up a how-to-vote card which on one side says, 'Considering voting for X candidate? Give your second preference to Labor,' or 'Consider voting for Y candidate? Give your second preference to Labor.' The only message that should be contained on that card is the official message from the political—

**Mr Wilson:** Vote 1.

**Mr SPRINGBORG:** Whatever the member wants to do. 'Vote 1' is a legitimate voting message which is facilitated under the Electoral Act. Because it is legal, all I have argued for with regard to 'vote 1' is that, if candidates are going to be distributing material, people have a right to know who the message is from. If we are going to continue to adopt this practice of second preference how-to-vote cards, which can be used as a tactic, that is wrong and it misleads the electorate. Ultimately, I would advise the Attorney-General to bring legislation before this parliament to ban them because at the end of the day they are designed to con, cheat and send a very misleading message to the electorate at large. It is great to see that the Attorney-General is really interested in this debate! I will try to rev things

up as we go along. That is something that I would very much encourage him to do. Another issue which has been talked about—

**Mr Rowell** interjected.

**Mr SPRINGBORG:** I think it is more the fact that he cannot understand it.

Another issue that has been much discussed is the registration of how-to-vote material. Whilst there may be some concerns in that regard, it is something that we should not dismiss; it is a measure that we should consider bringing back to this parliament at some future time. If how-to-vote material must be registered within reasonable time frames and with an opportunity for amendment or update, that could overcome a lot of the argy-bargy that goes on post-election about whether how-to-vote material was designed to mislead, whether it was fully truthful or whether it was just part of the political process and contained very subjective information. I believe that could overcome many of these issues.

This legislation also provides an opportunity for a decision of the Court of Disputed Returns to be appealed and it contains provisions dealing with time frames for the return of information arising from the election. Generally we very much support that. If we go a bit further on other issues relevant to this legislation, we look at the whole matter of voting in general and also making sure that our approach is contemporary. By and large, today we are voting in the same way as we voted 50 or 100 years ago. In fact, looking at the outcome of the United States presidential election in Florida, I understand that the process of poking a stick in a hole was used, which was pioneered in Australia in the 1950s; it was part of our voting procedure at a very early stage in one of our jurisdictions.

It is important to realise that in Australia we generally have a consistent voting process—something that other countries do not have. However, we need to be aware that with new technology may come better ways for us to vote and also better and more scrupulous identification of people when they register to vote and when they turn up to vote on polling day. I encourage the Attorney-General to keep abreast of such modern innovations. I am sure that he will.

A lot of people say to me, 'In this computer age, why can't we vote electronically?' It is problematic when we consider the need for the requisite information technology, particularly in the far-flung areas of Queensland. By that I mean that, whilst there may be a fast, reliable Internet connection in Brisbane, the ability to vote reliably in a place like Bedourie or even further afield in Queensland—if that is possible—could be compromised by the lack of information technology techniques and expertise as well as the lack of access to such technology.

A fellow came to me when this whole issue of electoral cheating was going on. He told me that he has actually devised a system—which he has put in place in many of the African countries—of finger coding in which the fingerprints—

**Mr Welford:** The dictatorships in Africa?

**Mr SPRINGBORG:** It was not necessarily an issue of dictatorships. We are talking about some of the places that are far more democratic than that. I suppose the issue of dictatorship in the African concept is a very subjective thing. To see that, you have only to look at Robert Mugabe, the President of Zimbabwe, who is going to be invited to Australia to participate in CHOGM, and the way that he is intimidating the High Court over there and the vilification of his opponents in his country. It is absolutely disgraceful. I would urge the leaders of this country, such as our Foreign Affairs Minister, to take the opportunity to express to him that those practices—intimidation of the High Court, deliberately ignoring legitimate judgments of the High Court and actually seeking to bring in presidential decrees to overturn those decisions—are intolerable in our form of democracy and in the Commonwealth.

Returning to the issue of technology—effective electronic identification is possible through a process of fingerprint technology, which is then turned into a code. So people really do not know what your fingerprint looks like, but it has a very significant code. You can have more solid state hardware, which is not as prone to crashing as the typical computer may be. There are ways of time stamping a card so that a person cannot vote twice on the same day. There is technology out there and we need to keep abreast of it.

I understand that electronic voting is conducted in many areas in the United States. I am not qualified to speak on how successful it is other than to say that it is expanding rather than contracting. It seems to have met with general support over there. Of course, the United States is a far more developed country, from the Midwest right across. So the linkages with regard to technology are probably far more reliable there.

My colleague the honourable member for Hinchinbrook is going to raise an issue later which I think is important for the Attorney-General's consideration as well. As honourable members would be fully aware, the member for Hinchinbrook was placed in a very uncomfortable situation after the election in which the announcement of the result for that seat was basically postponed for a bit over a week because people were unable to get to two booths to cast their votes because of seasonal rain conditions. That raises a number of questions, including is it right and should it be right for a political

party to be able to continue to campaign in a seat in the circumstances of a postponement of the voting in two booths?

Whilst there was no doubt who won—and who won overwhelmingly—in this last election, the nature of modern or contemporary governmental outcomes in Australia has been that governments have been elected by one or two seats or even that minority governments are elected. If that sort of thing happened in a minority government situation in which it was unclear which party had actually won, we could have seen the whole circus traipsing up to that particular seat, or any seat for that matter, and seen another quasi election campaign conducted. I believe it is only fair that when people vote, they vote on the issues of the day up until that official Saturday. If there is a need for a postponement in voting, a blackout of further intensive campaigning until those people have a possibility to vote needs to be looked at because I think a distorted outcome can result.

Therefore, a properly constituted committee of this parliament should undertake a review of what happened in the Hinchinbrook electorate by conducting public hearings and make recommendations, because it is a concern. The same situation might not happen again for a number of years—a decade or maybe two—and hopefully, it will never happen again. However, we are aware that the cyclone season in this country generally starts at the end of the year and continues into January, February and March and then trails off. If elections are held around that time of the year, we run the risk of this situation recurring in places affected by the cyclone season. This is a legitimate issue that needs to be considered.

As I said, by and large the opposition supports the sentiments of the bill before the parliament. We do not believe that it goes far enough. We do believe that, in an attempt to make some changes, the government may in fact be invalidating some aspects with regard to the distribution of how-to-vote material which is misleading and which does not carry enough information to be fully transparent. For that reason, I will be moving amendments at the committee stage in order to allow the bill to achieve the objectives stated by the minister in his second reading speech and the explanatory notes.

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