



Speech by

RACHEL NOLAN

MEMBER FOR IPSWICH

Hansard 17 April 2002

ELECTORAL [FRAUDULENT ACTIONS] AMENDMENT BILL

Ms NOLAN (Ipswich—ALP) (9.55 p.m.): I, too, rise to oppose the Electoral (Fraudulent Actions) Amendment Bill brought to this House by the alternative leader of the National Party, Lawrence Springborg. As I said in the House last week, I am appalled by electoral rotting. However, I do oppose this bill.

This bill is an extremely lightweight effort to deal with the serious issue of electoral fraud in Queensland. For two years now, members of the National Party have with perfectly straight faces feigned moral outrage at the electoral fraud revealed at the Shepherdson inquiry. Coming from the National Party, a party infamous for its institutionalisation of electoral dishonesty, this moral outrage has seemed more than a bit ironic. Now, after all of the feigned moral outrage and all of the substantive recommendations of the Shepherdson inquiry, the greatest contribution the National Party can make to electoral reform is a one-clause bill. After all these years the National Party still does not grasp the fundamental principles of democracy and is still not genuinely interested in the protection of that democracy.

This bill, which seeks to deal only with punishing electoral rotters, pales in comparison to the comprehensive body of electoral reforms passed in this parliament last week. However, even within this narrow focus the bill is seriously flawed. While Mr Springborg has made it clear that the bill is a response to the rotting revealed by the Shepherdson inquiry, there is considerable doubt as to whether it could successfully do so. Proposed section 168 seeks to punish those who act with intent to fraudulently influence the outcome of an election. While this is indeed a noble aim, it appears obscure in light of the fact that the Shepherdson inquiry saw no evidence of fraudulent acts which intended to or actually influenced the outcome of an election in even a single electorate. There is no doubt that the practices revealed were dishonest in the extreme, but it is possible, given that these actions were designed to support family members or to influence preselections, that the actions reveal that the Shepherdson inquiry findings would not be picked up by this bill. On the other hand, experts have expressed real concerns that the bill with its current wording may actually cast the net more widely than Mr Springborg's stated intention.

LCARC considered that the bill may be interpreted to include as fraudulent actions intended to influence the outcome of an election political shiftiness in the form of deliberate misstatements made during the course of an election campaign. I would be interested to know where Mr Springborg would stand if his bill was interpreted to include his colleague the member for Darling Downs, who told the voters he was a committed Independent during the election campaign—a statement which undoubtedly influenced the result—only to abandon that independence 10 months later.

If the severe ambiguity of the bill's coverage is not enough, there is also serious concern about its constitutionality. As the LCARC report points out, with the joint electoral roll Commonwealth legislation regarding enrolment applies in Queensland and indeed takes precedence. This legislation is inconsistent with the Commonwealth legislation and is therefore highly likely to be invalid.

Most importantly, I absolutely condemn the introduction to this House of a bill that proposes a mandatory prison sentence. I will tell members a story as to why. When I lived in the Northern Territory a couple of years ago, a young man was convicted and sent to jail for a relatively minor offence—I think it was a break-in. On the face of it, I am sure that a jail sentence for a break-in reflected community expectation, as the Northern Territory government had intended. While I do not remember all the

details, it turned out that the boy was deaf and intellectually impaired. He was an Aboriginal boy from a remote community and, when sent to jail, he was taken away from any support he had—all for a relatively minor crime. In sentencing, the magistrate indicated that he did not want to send the boy to jail for so long, but he had to because that was the law.

We are all different. We come from different backgrounds, have different abilities and have different opportunities in life. Mandatory sentencing reflects none of that. It cuts at the very heart of the separation of powers and, in doing so, it reveals the reasons why we have them. In the Northern Territory under mandatory sentencing, the whole judicial system began to fail. Not everybody supported mandatory sentencing, so police would ask victims of crime if, knowing that if someone was caught they would be convicted regardless of circumstances, they wanted their crimes investigated. It meant that for those people who opposed mandatory sentences, crimes were not even investigated. The justice system began to fall apart and offenders got off purely because of the divisive nature of the policy. In the territory, the application of mandatory sentencing to only some crimes, just as is proposed here, created serious inconsistency, with real criminals virtually getting off while misguided kids ended up in jail.

There is real concern in the community about the adequacy of sentences, but for the National Party to propose mandatory sentencing as a solution to that is real knuckle-dragging stuff. Why can't the National Party come up with an approach to these real issues that does not seek to politicise the justice system or send people who really should not be there to get bashed up in jail? We should be genuinely looking at ways to improve community involvement in the justice process. We should be ensuring that victims are heard. We should be extending community conferencing. And we should be looking at the state more often appealing inadequate sentences. It is not necessary to turn the justice system upside down to achieve these ends.

To come in here and propose mandatory sentencing reveals a fundamental failure to understand our democratic and judicial processes. But then, that is the National Party all over.