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Senators' Elections Amendment Bill 2007

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SENATORS' ELECTIONS AMENDMENT BILL 2007

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Second Reading

The Hon. JOHN DELLA BOSCA (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [3.54 p.m.]: I move: That this bill be now read a second time.

As the second reading speech is lengthy, and has been given in the other place, I seek leave to incorporate it in *Hansard*.

Leave granted.

The Commonwealth has recently amended the Commonwealth Electoral Act 1918 to reduce the close of rolls period for Commonwealth elections from seven days to three days after the writ for an election has been issued.

This reduced close of rolls period applies to enrolled electors who need to update their details.

In addition, in the case of most new enrolments and re-enrolments, the roll will close at 8.00 p.m. on the day on which the writ is issued.

The effect of these reforms is that the Commonwealth Act is now inconsistent with the close of rolls section in the New South Wales Senators' Elections Act. That section provides that the rolls close for the election of Senators from New South Wales seven days after the writ is issued.

New South Wales has serious concerns about the Commonwealth amendments.

Many voters do not fix up their enrolment details until they become aware that an election has been called.

Given that the Prime Minister has a broad discretion to determine the timing of the election, the effect of these reforms is that it will now be too late for many people to enrol once a Commonwealth election is called. Even if they fix up their enrolment details, these people will not be able to vote until the following election.

Despite these concerns, I am advised that under the Commonwealth Constitution, the New South Wales Government cannot prevent these Commonwealth reforms from taking place.

Further, the close of rolls provision in the New South Wales Act has no legal force and has been displaced by the Commonwealth close of rolls provisions.

It would not be desirable for New South Wales to leave the New South Wales Act as it is because this would create a direct inconsistency with the Commonwealth Act and might create confusion.

Accordingly, it is proposed to remove the close of roll provision from the New South Wales Act altogether.

The bill does just that by repealing the close of rolls provision in section 4 of the Senators' Elections Act.

I reiterate the New South Wales Government's reservations about the Commonwealth reforms.

The potential unfairness of the Commonwealth changes must be countered by a widespread enrolment education campaign.

This campaign should take place well before the next Commonwealth election is called.

I urge all voters to check their enrolment details now, so that they will be able to exercise their right, and fulfil their obligation, to vote in the next Commonwealth election.

I commend the bill to the House.

The Hon. DON HARWIN [3.57 p.m.]: I lead on behalf of the Opposition and indicate at the outset that it supports the Senators' Elections Amendment Bill. The bill seeks to amend the Senators' Elections Act 1903 to omit provisions pertaining to the close of electoral rolls that are no longer consistent with the Commonwealth Electoral Act 1918. A secondary aim of the bill concerns the removal of those sections that repeal provisions of the Federal Elections Act 1900. The latter piece of legislation was actually repealed in its entirety in 1912, and so the aforementioned sections of the Senators' Elections Act 1903 are now superfluous.

The principal purpose of the bill is to omit section 4 of the Senators' Elections Act 1903, which provides that the electoral rolls be closed seven days after the date of the writ. Expunging this part of the Act, and leaving the Act silent as to the timing of the closure of the electoral roll, will effectively result in the rolls closing three working days after the date of the writ, as per the Commonwealth Electoral Act 1918. This will continue the longstanding practice of having consistency of State and Federal electoral rolls. The desirability of consistency between the two levels of government is the primary argument for supporting this legislation.

Having conflicting provisions about the timing of the closure of the electoral rolls would cause confusion. It

would also allow differences to appear between the Federal and State rolls that would not only pose practical difficulties for voters but also undermine the integrity of our electoral system by potentially opening it up to abuse. The integrity of the electoral roll must always be zealously protected against fraud. While the primary reason for supporting the bill is to ensure the preservation of consistent Federal and State electoral rolls, it is worth noting the circumstances that have made the bill necessary.

Last year the Federal Parliament passed amendments to the Commonwealth Electoral Act 1918 which constituted the most significant updating of the Act in more than two decades. Designed to promote electoral integrity, many of the changes were long overdue and many stem from the recommendations made by the Federal Parliament's Joint Standing Committee on Electoral Matters after its inquiry into matters pertaining to the conduct of the 2004 Federal election.

The committee concluded that the close of roll period is the most vulnerable time for electoral fraud because the ability of the Australian Electoral Commission [AEC] to thoroughly check the veracity of enrolments was impaired by the volume of people coming forward to change their enrolment or to be included on the roll for the first time. In public hearings the Electoral Commissioner, Mr Ian Campbell, acknowledged the enormous burden of work placed on commission staff in the period between the issuing of the election writs and the holding of the election. He concurred that shortening the period between the issuing of the writs and the closing of the roll would substantially reduce that burden.

Under the changes passed last year by the Federal Parliament, the close of rolls period after the writ is issued has been reduced from seven days to three working days. During this period people already enrolled may update their details, 17-year-olds who will turn 18 before or on the election day may enrol and people who expect to become Australian citizens by election day may also enrol. Anyone else needing to enrol or re-enrol must do so before 8.00 p.m. on the day on which the writs are issued. This includes people who had previously been enrolled but whose names have been objected off or expunged from the roll. Bringing the close of the electoral roll closer to the issuing of the writs will reduce the opportunity for fraudulent enrolment. The capacity of the commission to accurately scrutinise any changes to the roll made during this period will be enhanced. And from the point of view of electoral integrity this can only be a desirable outcome.

The Senate's Finance and Public Administration Legislation Committee considered the impact of the change and concluded that while there were "possible side effects the reduced time for enrolment measures designed to strengthen and protect the integrity of the electoral roll are essential for upholding Australia's democratic system [and that] limiting the scope for electoral fraud is therefore important, both in principle and practice". The rush to either enrol or amend enrolment in the days after the calling of an election is, of course, largely caused by voters failing in their responsibility to ensure that their enrolment is accurate. It is the responsibility of new electors to enrol to vote once they have attained the age of 18 years, and for some time now the Australian Electoral Commission has allowed the provisional enrolment of 16-year-olds to make initial enrolment easier. Those voters who are already on the electoral roll are responsible for changing their enrolment within one month of changing their principal place of residence.

In order to remind individuals of their obligations with regard to enrolment, and with the aim of counteracting any unintended consequences from the earlier closing of the rolls, the Australian Electoral Commission has embarked on the most significant pre-election enrolment advertising and public awareness campaigns in its history. The national media campaign was launched last Sunday. It encourages all adult Australians to value their vote and accurately enrol before this year's Federal election. The campaign will run for the next six weeks on television and radio, in cinemas, newspapers, magazines and websites and will include advertisements in more than thirty languages. This first week of the campaign is also the Australian Electoral Commission's inaugural national Enrol to Vote Week, which will involve 1,700 secondary schools and colleges across the nation actively encouraging 17- and 18-year-old students to enrol this week.

In launching the campaign the Electoral Commissioner reminded Australians that it remained their responsibility to enrol and update their enrolment when they moved address. He also reminded them that individuals could check their enrolment status at the Australian Electoral Commission website, any commission office or by calling its 13 23 26 number. The Australian Electoral Commission should be commended for embarking on this enrolment awareness campaign, unprecedented in scale, in the months before the next Federal election,. It is acting to counter any unintended side effects from the recent amendments to the Commonwealth Electoral Act. With this campaign and the earlier closure of the rolls, voters can have greater confidence in the accuracy of the roll and the integrity of our nation's democratic system. This increased confidence will also apply here in New South Wales in due course.

One of the benefits of a fixed parliamentary term is that the date of the election is known for years in advance. With voters aware of the election date, the issuing of the writs can hardly come as a surprise, as it perhaps can be at a Federal level, where the Prime Minister can call an early election at almost any time—although, in practice, there has not been a truly early election at a Federal level for some time. In New South Wales the argument that voters need a substantial period between the issuing of the writs and the closing of the rolls lacks any veracity whatsoever.

An accurate and properly scrutinised electoral roll is a fundamental part of a sound democracy. With the closing of the rolls being brought closer to the issuing of the writs, in combination with an extensive public awareness campaign regarding enrolment obligations, the integrity of our electoral roll is being well protected and well promoted. This bill ensures that these changes to the Commonwealth Electoral Act apply consistently to the electoral roll used in New South Wales at the Federal and State levels and we are pleased to give it our

support.

Mr IAN COHEN [4.04 p.m.]: I speak on this bill on behalf of the Greens and my colleague Ms Lee Rhiannon, who is necessarily absent at this time. The push by the Howard Government to close the electoral rolls early undermines the integrity of democracy in Australia. It locks out many young and disadvantaged people from the democratic process. It is yet another appalling outcome of complete Coalition control of the Senate. It is disappointing, to say the least, that this change has been forced on the New South Wales electorate. The Greens acknowledge that the consequences of closing the rolls early for New South Wales elections are not as dire as they are at a Federal level. New South Wales has fixed terms. Theoretically, voters should not be caught completely unawares by the issuing of writs. There is a predictable time in which to run education campaigns to get people to enrol. However, I suspect that a significant number of people in New South Wales may still fall between the cracks.

The calling of an election is a significant and obvious trigger to people to enrol or update their details. Closing the rolls early undermines the democratic franchise and was brought in at a Federal level for the blatant advantage of the Howard Government. Closing the roll early stands to disproportionately impact young people. And, surprise, surprise, young people tend to vote for progressive parties, such as the Greens.

The Hon. Amanda Fazio: Come on! Not just the Greens.

Mr IAN COHEN: I acknowledge the interjection. I think it would also be reasonable to say that in a great number of cases they would also support the Australian Labor Party before they would the Coalition parties. So there is certain value electorally for the position that the Howard Government has taken on this matter. Surely the quality of democracy is a measure of how inclusive the electoral process is for all citizens—the extent to which the electoral machinery goes to ensure that marginalised people are given every opportunity to enrol and vote. The legitimacy of a government depends on the principle that it represents all citizens. A democracy that scrimps on this principle is surely not worthy of the tag of a just form of societal organisation.

In the Federal election the early closure of the rolls will silence the democratic rights of many. Young people are very vulnerable to this change; 18- to 24-year-olds have the lowest enrolment rate of any age group eligible to vote. People from a non-English speaking background, people from rural and remote communities, people in alternative communities, people from disadvantaged backgrounds and the homeless and itinerant are very vulnerable. These groups have traditionally low participation rates. Closing the rolls early is a blatant attack on some of the most disadvantaged members of our community. It is a manipulation of the electoral system by the Howard Government.

The Electoral Commissioner of the Australian Electoral Commission, Mr Ian Campbell, recently provided Australian Electoral Commission figures to a parliamentary inquiry on the number of changes made to the electoral roll in the seven-day period before the close of the rolls prior to the 2004 Federal election. Mr Campbell stated that 423,000 people either enrolled for the first time or changed their enrolment details. Of this figure, 78,908 people enrolled for the first time; 78,494 people re-enrolled—that is, they had been enrolled, they had been objected off the roll, but the Australian Electoral Commission still had a record for them; and 255,000 people had changed their enrolment details.

This move to close the rolls early is not out of the blue but comes on top of previous attempts by the Howard Government to undermine the Federal electoral process. In the 1996 budget the \$2 million Aboriginal and Torres Strait Islander Electoral Information Service was slashed. More recently, the Howard Government raised the bar for evidentiary requirements for enrolment. The reason given by Senator Abetz for closing the roll early was that it safeguards the integrity of the process as the Australian Electoral Commission does not have the resources to check and assess the veracity of enrolment claims received. Surely the solution to the Australian Electoral Commission's problem of poor resourcing is more resources, not limiting the number of people that enrol. The Federal Government should provide the Australian Electoral Commission with the resources it needs, not cook up ways to deny people the chance to vote.

This change to Commonwealth and State legislation leaves Australia and New South Wales dragging shamefully behind other developed democracies. Canada allows young people to enrol on the day when they turn up to vote. New Zealand gives young people until the day before the election, and it also allows young people to ask for their enrolment form through a free text message. The Greens recognise that this change to electoral process has been forced on New South Wales by the Howard Government and acknowledge the efforts by Federal Labor to resist this change in Parliament. I understand that the Federal Australian Labor Party has promised to repeal these laws if elected in the upcoming election. I urge Labor to stick to this commitment and be assured that Greens senators will also seek to overturn these laws at the Federal level.

Reverend the Hon. FRED NILE [4.09 p.m.]: The Christian Democratic Party supports the Senators' Elections Amendment Bill 2007. The bill repeals the close of rolls section of the Senators' Elections Act, which currently provides that the electoral rolls close for the election of senators from New South Wales seven days after the writ for a Commonwealth election is issued. Recent amendments to Commonwealth electoral legislation have reduced the close of rolls period for a Commonwealth election from seven days to three days after the writ for an election has been issued. This period applies to enrolled electors who need to update their details. In addition, new enrolments and re-enrolments will close at 8.00 p.m. on the day on which the writ is issued. Obviously, this will put pressure on people to ensure that they are enrolled, whether they are new citizens or young people reaching the age of enrolment. It is hoped that the Australian Electoral Commission [AEC] will bring this to their attention, and that they will have their names placed on the rolls before the Federal election later this year. New South Wales must accept the Commonwealth's decision. I note that the Commonwealth

Act provides a date fixed for the close of electoral rolls to be three working days after the issue of the writ. However, the practical effect of the Commonwealth Act is to close the rolls on the issue of the writ, because the Commonwealth Act generally prevents names from being added to or removed from the electoral rolls after the issue of the writ. The date of the writ has now become quite critical. We support the legislation.

Ms SYLVIA HALE [4.11 p.m.]: As a supporter of democratic participation in the government of this State and also this country I condemn the bill. It will have the effect of making it harder for people to enrol to vote or to change their enrolment details once the writ is issued for a Senate election. Unfortunately, New South Wales is compelled to introduce this mirror legislation. However, that does not make it better legislation. The object of the bill is to amend the Senators' Elections Act 1903 to omit the provision that is now inconsistent with Commonwealth legislation relating to the close of the electoral rolls for the election of senators for New South Wales. The practical effect of the Commonwealth Act, which the bill mirrors, is to close all the rolls on the issue of the writ because the Commonwealth Act generally prevents names being added to or removed from the electoral roll after the issue of the writ. Thanks to the Howard Government citizens of this State and of Australia will not have seven days to update their details if they are enrolled; they will have only three. People who are not enrolled to vote will have until 8.00 p.m. that very same day to enrol. Theoretically, the Government could issue the writ at 7.59 p.m., giving no-one the chance to enrol. A young person, a person who has moved, a person who has limited time and has not got around to changing their enrolment details, a person unable to get to a post office to pick up the form or without access to the Internet, or a person living in a remote or regional area may not be able to vote. Young, renting, rural and regional people will be the ones who miss out—exactly the sort of people who may not vote for John Howard and the Coalition because they are the ones who are being paid the same amount for working on Sundays or at midnight as they are being paid for working on a weekday, thanks to the Howard Government's "WorkSlavery" laws. Electoral changes are just another brick in the wall that the Howard Government is building between voters and democracy in Australia. The Greens oppose these laws, but we understand that the New South Wales Government cannot legally prevent their passage. Such is democracy in Australia.

The Hon. JOHN DELLA BOSCA (Minister for Education and Training, Minister for Industrial Relations, Minister for the Central Coast, and Minister Assisting the Minister for Finance) [4.14 p.m.], in reply: I thank all honourable members for their contributions, and I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

Motion, by leave, by the Hon. John Della Bosca agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly.

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