

**PARLIAMENTARY ELECTORATES AND ELECTIONS AMENDMENT  
(PROHIBITION ON VOTING BY CRIMINALS) BILL**

**Second Reading**

**Mr HUMPHERSON** (Davidson) [10.28 a.m.]: I move:

That this bill be now read a second time.

The right to vote is a privilege for any citizen in this State. The right to influence the outcome of the democratic processes at a State, parliamentary or local government level is a significant privilege. That right to vote is provided to and is available for citizens over the age of 18 years who have respected the law. This bill seeks to take away the privilege to vote from those who have not respected the law, those who have not respected the rights and property of other citizens. A number of people are serving punishment imposed by the justice system because they have broken the law and been convicted. This bill provides that while they are completing a sentence involving full-time, weekend or home detention they are denied the right to participate in democratic processes.

New South Wales prisoners serving sentences of 12 months or more are not entitled to vote in State or council elections. That applies to about 5,000 offenders in the corrective services system. Another 13,000-odd offenders who are serving one form of punishment or another retain the right to vote and to influence the democratic processes. By virtue of that they have a significant influence on government and local council policy and decision making. The Opposition does not believe that those serving a punishment, having not respected the rights of their fellow citizens, should retain the right to vote while serving a sentence.

**Pursuant to sessional orders business interrupted.**

**Debate resumed from 11 March.**

**Mr ANDREW HUMPHERSON** (Davidson) [10.00 a.m.]: The Coalition has introduced this bill with the objective of denying criminals who are serving their sentences the right to vote. We do not believe that those who have shown disrespect for their fellow citizens and who have been given a just sentence by a court should have the right to vote whilst they are serving their sentence. The object of the bill is to disqualify anyone who has been convicted of an offence and who is serving a sentence from voting in a New South Wales election. The disqualification applies to any person who is serving a sentence by way of full-time detention, periodic detention, or home detention, or who is on remand pending sentencing, or who is subject to a parole order or community service order. At present a person in New South Wales is only disqualified from voting if the person has been sentenced to imprisonment for 12 months or more and is in prison serving that sentence.

The effect of this legislation will also be to deny those same people the right to vote in local government and local council elections. It was our original design and intention, as it would be with the concurrence of the Government, for this legislation to have effect at the local government elections in New South Wales on Saturday a week. A principle that applies at a State level ought to apply equally at a local government level, and ideally it should also apply at a Federal level.

The right to vote is a privilege for any citizen in this State. The right to influence the outcome of the democratic processes at a State parliamentary or local government level is a very significant privilege. That right to vote is provided and available to citizens over the age of 18 who respect the law and continue to respect the law. This bill will take away that right of privilege to vote from those who have not respected the law and from those who have not respected the rights and property of their fellow citizens. A number of people are serving a punishment imposed by the justice system because they have broken the law and have been convicted. This bill provides that while they are completing a sentence involving full-time, weekend, or home detention they are denied the right to participate in democratic processes.

New South Wales prisoners serving sentences of 12 months or more are not entitled to vote at State or council elections. That applies to about 5,000 offenders in the State's corrective services system. Yet another 13,000 or more offenders who are currently serving one form of punishment or another retain the right to vote and retain the right to influence democratic processes. So there are 13,000 offenders currently serving a punishment in this State who have the right to vote at a State election and who will have the right to vote and influence the outcomes of the council elections on Saturday a week. By virtue of that, they have a significant influence on government and local government policy decision-making and the composition of governments and councils. The Opposition does not believe that those serving a sentence, having not respected the rights of their fellow citizens, should retain the right to vote.

As I said, currently 5,000 people in the corrective services system in New South Wales do not retain the right to vote, and almost three times as many currently serving some other form of punishment do retain the right to vote. This legislation would apply to every one of them. A person serving a part-time incarceration, such as weekend detention or home detention, would not have the right to vote whilst that person still has an unexpired portion of their sentence to serve. A person in custody, whether on remand pending sentencing or serving a full-time prison sentence, no matter how short the sentence is, would not have the right to vote. A person completing a community service order, that is, an unexpired commitment to a punishment, would not have the right to vote. A person who has served the custodial part of a full-time sentence and is on parole will be deemed to be still serving part of the original punishment and will not have the right to vote.

So, 18,000 criminals under the State's penal system now should not, in our view, have the right to vote. Yet under the current legislation 13,000 of them do have that right. We exclude, logically, people who have been issued with a fine as a form of punishment or who have had a suspended sentence. In that case their punishment has been served. There are many people who get a more substantial punishment because they are repeat offenders, not just because of the magnitude of their crime. If the justice system dispenses an ongoing form of punishment, we do not believe that those serving that punishment should have the right to vote.

It is worthwhile contrasting this with other jurisdictions. At a Federal level, prisoners serving sentences of less than five years have the right to vote. The current Federal Government sought to amend that law back in 1997-98 and it was objected to predominantly by the Labor Party and also by the Greens in the Senate. As I understand it, that position prevails. For reasons they can justify, the Labor Party at its Federal level, and we can only presume at a State level, wish to preserve the right of criminals to vote and influence the outcomes of our democratic processes.

Tasmania does not allow any prisoner to vote, and that is tougher than the existing regime in New South Wales, where prisoners who are serving sentences of less than 12 months can vote. Recently the South Australian Labor Government changed its laws to allow all prisoners to vote. The United Kingdom and New Zealand uphold the principle that offenders who are serving their sentences, who have shown no respect for the law or their fellow citizens, lose the right to vote. Any offender serving a sentence in the United Kingdom is removed from the electoral roll.

**Mr Alan Ashton:** In some States in America they put them in gaol so they can't vote. Talk about that!

**Mr ANDREW HUMPHERSON:** The honourable member for East Hills invites me to comment on the American system, and I will. I am sure he will contribute to the debate and defend himself to his constituents who, I am sure, would be less than impressed that he wishes to preserve the right for criminals to vote.

**Mr Alan Ashton:** That's what they did in Florida. They put all these blacks in gaol for two days and removed them from the roll.

**Mr SPEAKER:** Order! The honourable member for East Hills will come to order.

**Mr ANDREW HUMPHERSON:** There are exceptions, but in almost every State of the United States the law disqualifies inmates from voting while they are in prison or on parole. The extension to preclude parolees from voting recognises that the parole period is part of their punishment and, therefore, they continue to lose their rights. Honourable members will be interested to know that approximately one-quarter of the people in the United States who have criminal records lose the right to vote for life. The honourable member for East Hills stated that many people in the State of Florida have lost the right to vote for life. Under the Federal Constitution of the United States of America, the States are allowed to determine the punishment and the loss of voting rights for someone who has committed crime.

Some States of the United States have interpreted that principle to include not only the loss of the right to vote while serving a punishment but for the remainder of their lives. By contrast, Japan, France and Germany allow prisoners full voting rights. The Coalition believes that anyone who is serving a punishment should lose the right to vote, but not for the full term of his or her natural life. I look forward to the contribution from those opposite and hearing them explain why the Labor Party upholds the right of prisoners, those who have not respected the law and the rights of individuals, to vote.

**Mr SPEAKER:** Order! The honourable member for Bathurst will come to order.

**Mr ANDREW HUMPHERSON:** Prior to next year's State election in Western Australia, the State Labor Government has indicated that it will seek to amend the electoral laws to bring them in line with Federal legislation, which are more liberal than those in New South Wales, and will dilute its current laws to give more prisoners in Western Australia the right to vote. I do not subscribe to the Federal laws. They should reflect what I am advocating: no prisoner should vote. I know the Federal Government has sought to change the laws, but the Labor Party, supported by the Greens, has opposed those changes. It will be interesting to hear not only the Minister but also other members opposite justify and explain away why offenders should have a right to vote and, therefore, influence the outcome of elections. I put to the House—and I will provide statistics to back up this argument—that it is the Labor Party and the Independents that benefit the most from preserving the right of criminals to vote.

**Mr Alan Ashton:** We've been waiting for you to get to this.

**Mr Gerard Martin:** Prisoners in New South Wales gaols have .000 per cent of the vote.

**Mr Alan Ashton:** We want all those marginals in Sylvania Waters, Manly and all those places of Labor corrupters in gaols voting, do we?

**Mr ANDREW HUMPHERSON:** Obviously members opposite want to make a contribution, and I am keen to hear it at the right time. I will be more than happy to respond. Statistically it is clear that those who are serving punishments are far more likely to vote Labor.

**Mr Alan Ashton:** Where did he get that from—Alan Jones?

**Mr Gerard Martin:** Exit polls?

**Mr Neville Newell:** Is that the only reason you're bringing this bill in, is it?

**Mr ANDREW HUMPHERSON:** The contributions from the honourable members for East Hills, Bathurst and Tweed should be noted. I would like them to justify to their constituents why criminals should support them and back them, and assist in their re-election. The most recent prison census reveals where the prisoners came from, where they committed their crimes and their most recent arrests. The 10 areas of New South Wales that provide the State's prison system with the most inmates are Fairfield-Liverpool, inner Sydney, Blacktown, Newcastle, Canterbury-Bankstown, central western Sydney, outer western Sydney, outer south-western Sydney, St George-Sutherland, and Gosford-Wyong. The bulk of the 10 areas

that contribute the most criminals to our prison system are Labor-voting areas. I challenge any number of members opposite to make clear their views on the right of prisoners to vote.

The Fairfield-Liverpool area provides about 704, almost 10 per cent, of the State's prison inmates. The honourable members for Liverpool, Fairfield and Cabramatta benefit from criminals who have the right to vote; they back them and support them. I would like to hear them justify to their constituents why those criminals should have the right to vote. The second most significant area, inner Sydney, is the electorate of the honourable member for Port Jackson. She is more than welcome to come into this Chamber and contribute to the debate and explain to her constituents why criminals should influence the political outcomes of State and local council elections in inner Sydney. The honourable members for Blacktown and Mount Druitt can do the same, similarly the honourable member for Newcastle. The honourable members for Canterbury and for Bankstown might wish to justify why criminals from the Canterbury-Bankstown area should retain the right to vote and influence the political outcome.

**Mr SPEAKER:** Order! The honourable member for East Hills and the honourable member for Bathurst will cease interjecting.

**Mr ANDREW HUMPHERSON:** It is self-evident that the proportion of criminals from any area of the State is statistically less than 1 per cent. Therefore 99 per cent of the people are clearly law-abiding citizens whose rights we should respect and uphold. In some areas criminals who have the right to vote are inappropriately influencing the democratic outcomes for the 99 per cent of law-abiding citizens. Two members in this place who represent the Canterbury-Bankstown area have the opportunity to stand up to say they do not believe that criminals should have the right to vote. The honourable member for Drummoyne and the honourable member for Strathfield both represent interesting political areas. Do they believe that they should benefit from vote of criminals? I invite the honourable member for Camden, who represents south-western Sydney, to contribute to the debate and justify why he should receive the votes of criminals that help him to get elected.

**Mr SPEAKER:** Order! The honourable member for Lismore should not respond to interjections across the Chamber.

**Mr ANDREW HUMPHERSON:** The honourable member for Kogarah, the honourable member for Georges River and the Minister for Energy and Utilities, who represent the St George-Sutherland area, should justify to this House and their constituents why they should benefit from the right of criminals to vote and whether they will preserve that right. Similarly, on the Central Coast the Minister for Gaming and Racing, the honourable member for Wuyong and the honourable member for Peats have the opportunity to say whether they believe criminals should have the right to vote or whether they will vote to preserve that right. The bulk of the 8,000 or so criminals in the full-time prison system statewide come from Labor seats and vote Labor, Independent or for other minor parties. A weighted statewide analysis would show that at least 70 per cent of criminals are likely to vote Labor, and that figure would be even higher if a direct survey was carried out. Although honourable members might seek to dispute it, it is one reason why I believe they wish to preserve the right of criminals to vote.

**Mr Gerard Martin:** You have just splattered south and south-west Sydney. That's typical of your side.

**Mr ANDREW HUMPHERSON:** Clearly, the honourable member for Bathurst wants to preserve the right of criminals to vote. It is not a difficult proposition: should people lose their right to vote if they assault someone or commit some crime?

**Mr SPEAKER:** Order! Members will have the opportunity to debate this at a later time.

**Mr ANDREW HUMPHERSON:** Why should people retain the right to vote when serving punishment? The most recent figures show that 5,130 criminals in the State's correctional system do not have the right to vote. Another 3,170 full-time prisoners do have the right to vote, many of them on remand, but they should not retain that right. Approximately 830

periodic detainees at this time have the right to vote in State and local council elections, but I believe that they should lose that right. There are 270 offenders on home detention in New South Wales at any one time and every one of those should lose the right to vote. Approximately, 4,200 offenders have been given community service orders and they, too, should lose the right to vote, along with the 4,400 offenders on parole or under supervision because they have been punished under the judicial system of New South Wales for failing to respect the rights, properties and liberties of their fellow citizens.

Realistically, it is now impossible, given the passing of time, for the bill to be effective in time for the local government elections. However, it is worth pointing out that offenders should not have the right to vote at either the local government or State level. It is ironic that with the manipulation of local government and the desire of the Carr Government to manipulate mergers, sack councils and merge councils for its own political purposes and, in some cases, preserve councils such as Rockdale City Council, which has a proven history of corruption, it allows other councils to continue. If there is anything more corrupt than preserving the rights of criminals to vote, I cannot think of it. There was no justification for not sacking Rockdale City Council; it should have been sacked long ago. One wonders at the delay in sacking Liverpool City Council when Warringah Council was sacked, even though it was in no way corrupt but was simply dysfunctional. I suggest that the outcomes of individual seats in a number of State and Federal elections have been influenced by criminals because of the magnitude of the margin.

**Mr Gerard Martin:** Name one.

**Mr ANDREW HUMPHERSON:** The honourable member for Bathurst invites me to name one. How about Dobell, which has been a marginal seat for a number of elections? Back in 1996 Michael Lee, the Federal member, held on by a handful of votes and it is quite clear that the margin was so close that the preservation of Michael Lee's political career at the Federal level was achieved using the votes of crooks and criminals.

**Mr Alan Ashton:** Point of order: I know that the honourable member is introducing a bill, but his speech has now degenerated into an attack on Michael Lee. There is no correlation between what happens in the electorate of Dobell and Michael Lee. I ask that you bring him back to his point about criminals generally voting in elections.

**Mr Andrew Humpherson:** To the point of order: I was responding to an interjection. The honourable member for Bathurst invited me to give an example and I am in the process of giving an example.

**Mr SPEAKER:** Order! Before I rule on the point of order I remind members that a second reading speech has an important legal purpose: it gives definition to the bill. A second reading speech may be used subsequently to interpret the bill when it becomes law, and the second reading speech of the honourable member for Davidson should be specific in relation to its terms. In relation to the point of order, various matters that have been canvassed in relation to different personalities appear to be outside the leave of the bill. However, I remind the honourable member for Davidson that he should resist the temptation to respond to interjections.

**Mr ANDREW HUMPHERSON:** I will speak generally about close results in elections and not focus specifically on Michael Lee. In the Federal seat of Dobell, the Labor Party won by a very narrow margin and the electorate obviously has a number of offenders who are either on parole in that area, serving short sentences or undertaking community service orders. Statistically it is clear that offenders serving their punishments had the capacity to influence the outcome and, therefore, preserve the current member's political career. There would be numerous similar examples statewide.

This is a challenge not just for individual members of the House but also for the Premier. I remember back in the period 1996-98 when One Nation came onto the political scene in Queensland and New South Wales, in particular. The Premier was strident in saying that he would not do deals with the devil and would not swap political preferences with One Nation or

Pauline Hanson. Sensibly, he presumably has maintained that view. However, if he has an objection to receiving preferences or votes directed by way of preferences from those who voted for One Nation, what justification can there be for criminals having the right to vote and voting for the Labor Party? It is not justifiable. It is immoral to object to receiving preferences from people who vote for One Nation, yet retain the capacity to receive votes from those who have committed crimes and are serving punishment for those crimes.

I challenge the Premier to justify why criminals should not lose their right to vote whilst serving their punishments. The motivation by the Labor Party is quite clear, as I have already elaborated. There is only one argument, which is a very tenuous argument, why that right to vote should be preserved, that is, the argument mounted by the Greens and other prisoner advocates—not one I share—that it assists prisoners in their rehabilitation to be able to participate in community processes.

**Mr Alan Ashton:** What about a Prime Minister telling a police commissioner of Australia what he has to do and not do?

**Mr ANDREW HUMPHERSON:** Do you want me to go back to Michael Lee? I will go back to Michael Lee if you keep on interjecting.

**Mr Paul Lynch:** Point of order: The person who is purporting to be a member of Parliament has once again raised the name of Mr Lee in this debate. That seems to be contrary to your previous ruling. I would ask you to bring the member back to being vaguely within the leave of the standing orders.

**Mr SPEAKER:** Order! The honourable member for Liverpool has raised a relevant point. Not only are the comments outside the leave of the bill, but the honourable member for Davidson gave an undertaking earlier that he would not mention a specific name and would speak in generalities. I advise him to comply with his undertaking and proceed accordingly.

**Mr ANDREW HUMPHERSON:** I was only responding to interjections. Mr Speaker, you have always upheld that right of members.

**Mr SPEAKER:** Order! Interjections can be distracting, particularly when a member is delivering a second reading speech, and again I advise the honourable member for Davidson to ignore them

**Mr ANDREW HUMPHERSON:** I can only concur. The Greens have always argued rehabilitation as the basis of preserving prisoners' rights to vote. I discard and reject that argument. There are only very occasional opportunities when prisoners would have the right to vote and it would not be an exercise in participating in the wider society in a manner that provides any rehabilitative benefits. The principle that prisoners should not participate in a democratic process is a far stronger point.

**Pursuant to sessional orders business interrupted.**

**Debate resumed from 18 March.**

**Mr ANDREW HUMPHERSON** (Davidson) [10.00 a.m.]: I have concluded my contribution.