

2001

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

ELECTORAL (ENTRENCHED PROVISIONS) AMENDMENT BILL 2001

PRESENTATION SPEECH

**Circulated by authority of
Bill Stefaniak, Attorney-General**

OUTLINE

This Bill provides for amendments to the *Electoral Act 1992* to increase the number of versions of the ballot papers to be printed for a Legislative Assembly election under the method of printing candidate names in different positions on ballot papers known as Robson rotation. This increase in the number of versions of the ballot papers is intended to prevent some candidates from benefiting from “the luck of draw” through the operation of Robson rotation.

Robson rotation of candidates’ names on ballot papers was adopted in the ACT for two reasons: to spread the effect of the “linear vote” evenly to all candidates in a party column and to reduce the influence of party machines over the election of candidates. A “linear vote” is a vote where all the candidates in the column including the voter’s first preference are numbered consecutively from the top down.

Under the existing Electoral Act, Robson rotation works in the following manner. When there are five candidates standing for a particular party (for example), that party’s column of candidates is printed in five different “versions”, with each candidate appearing first in the list on one of the versions. Each candidate also appears second on another version, third on another, fourth on another and fifth on another. One fifth of all ballot papers printed would carry one of those versions, and another fifth would carry another version,

and so on. The same principle applies to columns of different lengths.

After the 1995 and 1998 elections, analysis by the ACT Electoral Commission noted that, while Robson rotation did share the linear vote evenly between candidates within a party column when first preference votes were counted, it did not effectively share the linear vote equally between candidates whenever a candidate was excluded during the scrutiny and later preferences were counted.

Consequently, whenever a candidate is excluded, all the “linear votes” counted to that candidate go to only one other candidate in that column. If a high proportion of votes for the excluded candidate are “linear votes”, the resulting disproportionate distribution of preferences to one particular candidate can give an arguably unfair advantage to that candidate simply on the “luck of the draw”, as the order of candidates is determined by a random draw.

This Bill addresses this problem by substituting new tables showing how candidates’ names are to be printed on ballot papers, including more rotations designed to evenly share the distribution of linear votes between all candidates in a column.

To facilitate the additional versions of the ballot papers, the accompanying Electoral Amendment Bill (No 2) contains amendments to limit the maximum length of columns of candidates.

Under these amendments, a column of candidates cannot be longer than 5 candidates in the 5 member electorates, and a column of candidates cannot be longer than 7 candidates in the 7 member electorate.

This Bill includes 60 different variations for lengths of columns up to 5 candidates long for the 5 member electorates, and 420 different variations for lengths of columns up to 7 candidates long for the 7 member electorate. Expert advice indicates that these variations will ensure that the “linear vote” will be spread equally (as nearly as practicable) across all candidates remaining in the count at any stage in the scrutiny.

In recognition of the greater complexity of the process of printing 420 versions of the 7 member electorate ballot paper, the accompanying Electoral Amendment Bill (No 2) also includes a measure to close nominations one day earlier to allow more time for typesetting, proof-reading and printing more versions of the ballot papers.

The Government gratefully acknowledges the contributions of Ken Brewer, Miko Kirschbaum and the Electoral Commissioner, Phillip Green, in devising the expanded tables included in this Bill.

As the changes to the Robson rotation tables set out in this Bill are inconsistent with Schedule 2 of the Electoral Act as in force on 1 December 1994, this Bill is a law to which the Proportional

Representation (Hare-Clark) Entrenchment Act 1994 applies. Consequently this Bill cannot take effect unless it is passed by at least a 2/3 majority of the members of the Legislative Assembly, or by a majority of the members of the Legislative Assembly and a majority of electors at a referendum.

This Bill will serve to remove a minor flaw in the ACT's Hare-Clark electoral system and cement its reputation as one of the fairest electoral systems available.