

**ELECTORAL AMENDMENT BILL 2000**

*Committee*

Resumed from 19 September. The Deputy of Committees (Hon Derrick Tomlinson) in the Chair; Hon N.F. Moore (Leader of the House) in charge of the Bill.

**Postponed clause 62: Part IIIA inserted -**

Progress was reported after the clause had been amended.

The DEPUTY CHAIRMAN: The amendment shown as 14/62 on Supplementary Notice Paper 11-3 is a clerical amendment that does not require a motion of the Committee and will be dealt with by the Clerk.

Hon N.F. MOORE: I move -

Page 46, line 23 - To delete the line.

Page 48, lines 15 to 18 - To delete the lines.

Page 48, lines 19 and 20 - To delete "if the application is for a party that is not a parliamentary party -".

Amendments 13/62, 15/62, 16/62 and 17/62 relate to the issue raised by Hon J.A. Cowdell in respect of the activities of Mr Oldfield in the New South Wales Parliament. These amendments will mean that in future no member of this Parliament will be able to register a political party by virtue of being a member of Parliament, and registration of new parties cannot be achieved without a list of 500 members who are electors. The Bill will ensure that political parties represented in the Parliament on 14 June, when this Bill was introduced, will automatically be registered under the grandfather clause in proposed new section 62I. We do not believe anybody in this Parliament would do the things the New South Wales member has done; the provisions are to ensure that they could not happen if somebody had that view in mind. These amendments will remove any Etteridge clause from the Act.

Hon Norm Kelly: Oldfield.

Hon N.F. MOORE: Excuse me, I am being unfair to Mr Etteridge, although I think they both have a similar view on these matters.

Hon J.A. COWDELL: I support these amendments as they appear adequate to prevent the sort of activity undertaken by Mr Oldfield. Interestingly, these amendments go some way in covering the concerns expressed by Hon Mark Nevill. One could call them a half-Nevill amendment. Indeed, they put Western Australia into a position that appears to be the direction of other state jurisdictions of not allowing a backdoor method of party registration, by establishing a requirement for a minimum of 500 members which applies equally to all parties. Of course, that regime comes into force after the initial registration of political parties that are registered by virtue of their representation in this Parliament. The Labor Party supports the amendments on the basis that they appear to overcome a problem that could arise and that has arisen in another State.

**Amendments put and passed.**

Hon N.F. MOORE: I move -

Page 52, after line 25 - To insert the following new subclause -

- (2) Subsection (1) only applies to a political party if the party was in existence on 14 June 2000 and at least one member of the party was a member of the Assembly or the Council on that day.

**Amendment put and passed.**

Hon N.F. MOORE: I move -

Page 54, after line 13 - To insert the following new subclause -

- (6) The Electoral Commissioner may refuse to register a political party if the Electoral Commissioner believes on reasonable grounds that a substantial proportion of the electors whose names are set out in the party's application as required by section 62E(4)(e) are electors whose names have also been provided to the Electoral Commissioner under this Part for the purposes of the registration or continued registration of another political party (not being a related political party).

This amendment concerns the other issue raised by Hon John Cowdell that the 500 members of one political party could be the same as the 500 members used to register another political party. It was difficult to find a drafting solution to this problem; however, this amendment is a way forward. This amendment will insert a new

subsection that lists the grounds on which the Electoral Commissioner could refuse the registration of a political party. The amendment states that registration may be refused if a substantial proportion of the names provided to register a political party have already been used to register a political party. The Electoral Commissioner has been given the discretion to interpret the term “substantial”. However, we have every reason to believe that he will use his discretion sensibly so that people cannot use the same 500 people to create a range of political parties. This amendment is as close as we could get to solving this problem. We do not want the Electoral Commissioner to have to inspect the names of all members of political parties. I think he will be able to see whether somebody is carrying out a rort or whether the registration is a genuine attempt to create a new political party.

Hon J.A. COWDELL: I support the amendment, as it will provide some check against potential abuse. Perhaps there are other ways of fully checking such abuse; however, this amendment provides for the Electoral Commissioner to examine the sets of names provided to him. Charging the Electoral Commissioner with checking that various lists do not contain duplicate sets of names provides a constraint against potential abuse. Therefore, I support this amendment.

Hon J.A. SCOTT: The Greens (WA) support this amendment. I am concerned about the term “substantial proportion” and wonder whether that could be legally challenged, but I support the thrust of what it is hoped will be achieved through the amendment.

Hon NORM KELLY: The Australian Democrats also support this amendment as it provides a limited form of protection against abuse of the system. However, we are concerned that the amendment does not provide uniformity across all political parties, but simply requires that a list of the names of 500 members of one political party be checked against a list of members of another political party. Of course, the transitional clauses in the Bill mean that not all political parties will be required to provide those 500 names. The Australian Democrats would prefer an amendment that would allow the Electoral Commissioner to take reasonable steps - at his discretion - to ascertain that the list of 500 names provided to him does not include members of another political party.

This amendment provides for checks against other lists of 500 voters, but it does not provide for checks of other political parties. That could easily be accommodated by including in the legislation a requirement that those 500 members include a statement, either on their application or in another evidentiary way, to show they are not a member of another political party. That will not be able to be ascertained under this amendment. Checks will be able to be made only against other lists of 500 names. When we have raised these concerns outside this place, people have said that such a provision would open up the membership lists of existing political parties for public view. My proposal would not have that effect, but would allow the commissioner to verify that the voters on the lists provided to him are not members of other political parties.

The Democrats have a statement in their application form whereby an applicant must state whether he or she is a member of another political party. Our constitution does not allow a person to become a member of our party if that person is a member of another political party. This amendment could be strengthened by doing something similar. What we had proposed, but will not move because it does not have support, was to delete some words, and after proposed section 62E(4)(e) would be the words “are electors who are not members of another political party, not being a related political party.” That would leave discretion with the commissioner to ascertain that, and we believe it would make the legislation a lot stronger. I would appreciate hearing why the Government will not entertain that change to this amendment.

The DEPUTY CHAIRMAN: Before I call upon the Leader of the House, I take it that Hon Norm Kelly is not foreshadowing an amendment?

Hon NORM KELLY: Not at this stage.

Hon N.F. MOORE: The Government believes that this could require the Electoral Commission to have access to all membership lists of political parties, and that is unreasonable. It is not the business of the Electoral Commissioner to know who belongs to a political party. It could also compromise the privacy of those citizens who do not want their political memberships known to anybody. At the same time, it could create a great deal of unnecessary work for the Electoral Commissioner. The Government's proposal will to a large extent deal with the problem. There is no black and white solution to this issue.

If the member is suggesting we should have a law that says that a person can be a member of only one political party, that is an invasion of people's free choice and I would not support it. The Government does not think the Electoral Commissioner needs access to the membership list of any political party, as a general rule, in order for him to abide by the regulation the member is seeking to introduce. The Government does not support the amendment put forward by Hon Norm Kelly.

Hon NORM KELLY: First, I was not suggesting that the membership lists of political parties should be opened up to the commissioner. We would not support that. I was simply saying that I believe we could strengthen this amendment in the way I have outlined. Secondly, I was not suggesting there should be a requirement that people belong to only one political party. I make those two points so the Leader of the House is clear that what he was alluding to is not in fact the Democrats' position.

Hon J.A. COWDELL: The Australian Labor Party supports the amendment as it is. It provides for a prima facie check. It does not require the Electoral Commissioner to investigate to make sure that a substantial number of people on any list are not members of another political party. In fact, this would leave it open for the Electoral Commissioner to establish whatever test he chose. I do not believe it is the role of the Electoral Commissioner to go through every list of 500 names that he receives to establish that the overwhelming bulk of those names are in no way connected with any other political party. This is an appropriate check. It is obviously not watertight. We cannot establish a watertight system; it provides a barrier to a potential abuse, and it is only potential abuse.

**Amendment put and passed.**

**Postponed clause, as amended, put and passed.**

**New clause 30 -**

Hon N.F. MOORE: I move -

Page 22, after line 1 - To insert the following new clause -

**30. Section 22 amended**

Section 22(2) is amended by deleting "or supplied under section 112" and inserting instead -

, made available under section 25, provided under section 25A or supplied under section 112 or when information on or derived from rolls is made available under section 25 or provided under section 25A

Pursuant to section 22(1) of the Act, regulations can provide for additional information, such as occupations, to be part of rolls. Also, regulations can allow this additional information to be omitted from the printed rolls or rolls used in elections.

The proposed new clause will allow the additional information to also be omitted when a roll or information from it is shown or provided to the public, parliamentary parties or members of Parliament. That is the purpose of that new clause.

**New clause put and passed.**

**Title put and passed.**

*Report*

Bill reported, with amendments, and the report adopted.

*Third Reading*

Bill read a third time, on motion by Hon N.F. Moore (Leader of the House), and returned to the Assembly with amendments.