

ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

Third Reading

MR J.R. QUIGLEY (Butler — Minister for Electoral Affairs) [1.18 pm]: I move —

That the bill be now read a third time.

The ACTING SPEAKER (Ms M.M. Quirk): The member for —

Mr P.J. Rundle: Central Wheatbelt.

The ACTING SPEAKER: Central Wheatbelt—sorry; slow today.

MS M.J. DAVIES (Central Wheatbelt) [1.18 pm]: The Acting Speaker is no orphan on that front!

The ACTING SPEAKER: I am used to calling you Leader of the Opposition; this is the problem.

Ms M.J. DAVIES: It is okay if that is the confusion. I thought it might be because we have the member for North West Central and the member for Central Wheatbelt sitting next to each other.

From the outset, I thank the minister, his advisers and those who sat in on the consideration in detail stage of the Electoral Amendment (Finance and Other Matters) Bill 2023 for the last couple of days. Prior to that, the Attorney General offered a number of briefings after the bill had been introduced, including one with the state Solicitor-General, and the opposition appreciates that.

Once again, I thank the minister for providing a marked-up copy of the bill for ease of reference. That courtesy was not extended by the Minister for Aboriginal Affairs for the Aboriginal Cultural Heritage Amendment Bill 2021. That was a complex bill, as was this one. That certainly made it easier to navigate the bill and ensured we understood the intent of the amendments brought forward by the government. I thank the Attorney General for endeavouring to answer all the questions put by the opposition and for supporting suggestions for the amendments that were put forward, particularly the amendment moved by the member for Cottesloe. I think in our house, in the last six years—at least in the last two years—that might have been the first amendment the opposition has moved that has passed.

Mr J.R. Quigley: You'll get me in trouble.

Ms M.J. DAVIES: Yes; I will not dwell on it, but we would like to extend our appreciation. Thank you on that front. It goes to my point, Attorney General, that if there had been consultation prior to the introduction of the bill, those amendments from the floor of Parliament or on the notice paper could perhaps have been avoided. The Attorney General confirmed during the debate that there was consultation with the Electoral Commission—which we would expect—with other state jurisdictions, the state Solicitor-General and the Labor Party on a number of issues that were brought forward.

It was disappointing to us. Rather than be overtly partisan about it, I will just say that if there is a real desire to make sure we get this right and create a transparent system for disclosure and expenditure, which I think the people of Western Australia have every right to expect, and we as a Parliament should attempt to deliver, then the key stakeholders who are involved in this are, in fact, our political parties, along with third-party campaigners. A conversation with those organisations would perhaps have added additional food for thought for the Attorney General prior to bringing it to the house, because we are all different beasts and not all organisations operate as the Labor Party does.

We accept that we would likely not have reached agreement on some of the policy decisions made by the Attorney General, but there could at least have been feedback from various party organisations about the practicality of what was suggested. I hope as we go forward that the Electoral Commission and the government will continue to engage with political parties, because I think everyone genuinely wants to make sure that they do the right thing. Nobody wants to be in the media for the wrong reasons when it comes to the disclosure of financial matters in a political campaign or outside of those periods.

The organisational wings of our parties, which this legislation predominantly captures, could have provided feedback. We were given that opportunity during consideration in detail and I have no doubt that when this passes through to the Legislative Council, there will be more feedback by our esteemed colleagues in the other house. It is still the view of the opposition alliance that behind some of those sensible and reasonable reforms, this bill predominantly allows for the Labor Party to spend significantly more than any other political entity in our state. I spoke in the second reading debate about the cynicism we bring to these discussions, because of the government's track record of electoral reform. We pointed out that despite the fact the majority of unions are affiliated with the Labor Party, they are not captured under the proposed expenditure caps. They all have their own allocations and when we multiply that by 12 or 14 or however many unions in the state are affiliated with the Labor Party, it is significantly more in terms of funding that what will be available to either the National Party, the Liberal Party, the Greens or any other political party under the current affiliated organisations or entities that are associated with the conservative side of

politics. The Attorney General made a point about the fact that this is a bill that will try to level the playing field; in some respects, I think it will restrict that outcome—if we are talking about a player that we have seen operate in other jurisdictions using significant funds. It will still permit or enable the Labor Party and its affiliates to significantly outspend others in Western Australian politics.

The Attorney General will have to forgive me for my cynicism, but I think this bill is still about the Labor Party creating an electoral system that is favourable to its own election and its desire to keep a strong grip on power. Perhaps if there had not been such a long track record by this government when it came to electoral reforms that saw the disenfranchisement of its political opponents and, by extension, certain parts of the community—particularly those who the National Party seeks to represent—we may have had a slightly more open mind when it came to some discussions.

We covered the history of how this tranche of electoral reform came to the house; we touched on the very first piece of legislation that this government brought to the house immediately after the 2021 state election. That perhaps provides context for people who will only read the third reading and summary of the debate. There is a history of the Labor Party changing the rules for its own benefit when it comes to electoral reform. When it comes to those expenditure caps, which we have discussed, I reiterate that those caps apply only to expenditure during the actual campaign period—the capped expenditure period. There is nothing that I can see that will stop the Chamber of Minerals and Energy, the Australian Nursing Federation, other third-party entities or political parties from running significant campaigns and spending significantly, from right now up until the commencement of the campaign period.

Whilst there are caps, they have necessarily been set at a level that means that rightful political communication is not impeded. That is a necessity because that has been challenged in other jurisdictions. The Attorney General pointed out that the caps had been set at such a significant level that we have not seen anyone in prior elections get close to those caps. Again, with some cynicism, I point out that perhaps the government will have something nice to say in its media statement when this passes through the Parliament, but the reality of the application of those amendments is that it is unlikely to restrain expenditure by anyone who is currently in the system. I will concede that one of those significant players we have seen in elections in other federal and state jurisdictions, who has entered one of our campaigning periods—without great success I might add—will spend a significant amount of money.

As I touched on earlier, the bill contained the provision for the declaration of any donation over \$1 000. The Attorney General and the government accepted an amendment to retain it at the current threshold of \$2 600. I think we can agree that no significant mischief is likely to be done, or a minister's head likely to be turned, on any donation less than \$2 600. The Attorney General outlined conversations around donations and disclosure and that the issue had been canvassed by the Corruption and Crime Commissioner. Those are serious matters and we need to make sure we are striking the right balance. I thank the Attorney General for accepting that \$2 600 was a reasonable balance. Thank you very much.

We discussed the new third-party campaigner category that captures entities that participate in the campaign and do not run candidates. I look forward to the Electoral Commission's campaign to ensure that everyone who meets that definition is aware that they are required to register, and spend and disclose their expenditure as well as the timing of those disclosures, as is laid out in the bill. That is quite a significant addition to what is already required.

As political parties, we are familiar with what is required for annual returns and disclosures. I recall that the Chamber of Minerals and Energy needed to be followed up after its significant expenditure in the 2017 state election and was quite tardy in declaring that information. As I said, we are not being petty about this; some elements of this bill will make it very clear to organisations like that that they will have a responsibility to spend in accordance with the new limits, they will have to disclose and it will be disclosed during the campaign. I think that is a good outcome because there was some misinformation about that campaign at the time. Much later, it emerged that significantly more had been spent on the campaign that was run predominantly in the electorate of Pilbara than was disclosed through the media.

We had a discussion about the total ban on foreign donations, and the provisions make it very clear that people cannot seek to avoid that as well. There will be some significant penalties. The opposition supports those amendments and, indeed, in previous governments moved to seek to do just that.

We also talked about the increase in public funding, and the Attorney General was very open and frank about his decision to include a clause for opting in to receive the higher amount of \$4.40. I do not want to verbalise the Attorney General, but the rationale was to prevent the opposition from grandstanding against increases to public funding and then taking the funds down the track. It is an interesting use of legislation to write something like that in, rather than just taking the rough-and-tumble of debate as it is, but that is what the government has chosen to pursue. It will occur, in fact, regardless of whether we agree or disagree.

As I pointed out in consideration in detail, this bill will add a significant administrative burden to ensure that we meet the aim of providing transparency for Western Australians. I cannot imagine that political parties on this side

will argue that we will not be opting in for that additional fund, but it happens against the backdrop of an increase in the cost of living, which is on the minds of every Western Australian, and we need to be cognisant of that. I will not belabour the point. It was an interesting and quite frank conversation with the Attorney General in consideration in detail.

The last word on that is that the minister who brings this in should be happy to stand against it and should not need contrivances in legislation to make sure that the opposition is prevented from making those decisions, particularly in a Parliament of this nature. Ultimately, the public would judge us if we railed against it and then accepted the opt-in at the other end. I am not sure that it is necessarily the Attorney General's job to prevent us from making ourselves look like hypocrites. Nevertheless, we have a clause in the legislation that will do or seeks to do just that.

Just to cover off, we had a discussion about state campaign accounts. I think that, although it sounds simplistic, it will be an additional administrative burden in practice for those who do not already employ something of that nature. I am speaking about the National Party; I cannot speak about the Liberal Party. We have quite a decentralised organisation, so the centralisation of those accounts—although we appreciate the requirement to be able to have a line of sight on campaign expenditure—will take some doing behind the scenes by our organisation and, I suspect, other smaller parties.

I still hold grave concerns that the registration of how-to-vote cards will be a timely process. The Attorney General did his best to convince us that people will be on hand in the Electoral Commission to make sure that there will be a quick turnaround on the approval of registered how-to-vote cards. The proof will be in the pudding when we get to the election. I think that the timing was one element. The Electoral Commission decisions and how subjective some of the approval processes will be in the actual doing of the approvals are other elements. We are yet to see what that will look like in the long term. In principle, the opposition absolutely agrees that we need to minimise the mischief that can be done by the circulation of incorrect information.

The new enrolment processes will include allowing 16-year-olds to provisionally enrol but not vote. There was clarification about how no-one—not government departments, not political parties—can contact or use their details until the person comes of age at the voting age of 18.

We also explored the provision for electors who have moved districts and not updated their addresses. It is fair to say that we still have some queries and questions about the practicality of allowing that to happen on election day. We do not have an argument with making it as easy as possible for everyone to be enrolled, but enrolling people on the day without an electronic system to manage that in real time could perhaps present some challenges. Again, the proof will be in the pudding.

Political parties will no longer be able to continue their current practice of issuing postal vote applications, with there being a point in time when they are posted back to the organisation before they arrive at the Electoral Commission. I mentioned behind the scenes that I think some political parties will have some strategic challenges, but as a former state director and campaign director, I understand that we will still be able to access information from the Electoral Commission about who has applied to be a postal voter. Those voters can still be contacted by political parties; we will just be removing the political parties from that process. I agree with that. I am not entirely sure whether my state director agrees, but, as someone who previously had that responsibility, I certainly do.

A number of other things were discussed, including some clarification of how fundraising dinners and gifts should be disclosed, and some more specificity and consideration of the real value of something, what is paid for it and how that will be disclosed. The discussion we had during consideration in detail will provide some guidance to the people who will be required to put this into action. Certainly, as the Attorney General pointed out, we could pose any number of hypotheticals during these discussions. I suspect that more will be posed in the Legislative Council. Perhaps, if it goes to the Standing Committee on Legislation as we are suggesting, that would be an opportunity to explore that further because there are grey areas in fundraising, and there should be as few grey areas as possible. There have been some changes in how we clarify what those look like, but there are any number of permutations about how that will be applied, depending on the scenario, and we will need to be very careful about that going forward. I have no doubt that state directors and those responsible will be very mindful of that.

As I said earlier, despite the Attorney General's answers in this house, matters in this legislation still warrant review, so we continue to urge the government to consider sending this bill to the legislation committee, just for a short and sharp review, especially as no political parties other than the Labor Party were consulted prior to the bill being introduced. I dare say that this invitation will be declined and the legislation committee will continue to sit around and twiddle its thumbs, as it has done for the last 2.5 years. That is not because they are not hardworking members of Parliament but because they have literally been asked to do nothing by this government in the last two years. They are there, ready, willing and—I presume—very able to assist the Attorney General to make sure that there will be no further questions in a prolonged Committee of the Whole or examination in the other house.

As I said during the second reading debate, although I have spoken about some of the elements that will go through, given what we know from the Labor Party's history of electoral reform and its pursuit of electoral reform to ensure its own political fortunes, I think that the major premise of this bill, as I said at the beginning, is to allow a disproportionate amount of funding to be spent by the Labor Party and Labor Party-affiliated organisations. Despite protestations from the Attorney General that he is not captured by the unions and is not a member of any of those unions, and that he is simply trying to make changes to make our elections a contest of ideas and not money, his own political party's record on electoral reform muddies these waters.

I said in my second reading contribution that electoral reform by the McGowan and Cook governments has become synonymous with actions that protect, embed and enhance the Labor Party's own political fortunes. To give him credit, the Attorney General has brought forward some sensible reforms for our consideration, but the overriding outcome of this bill is that the Labor Party and its affiliated unions will be empowered to outspend every other political party. That does not make it a level playing field, and that is why the Nationals WA and Liberal Party alliance will not be supporting the bill.

DR D.J. HONEY (Cottesloe) [1.41 pm]: I rise to make a brief contribution to the third reading debate on the Electoral Amendment (Finance and Other Matters) Bill 2023. I will go through a couple of key issues.

I still have an overarching concern that this bill will entrench an intrinsic advantage for the Australian Labor Party over the Liberal Party and Nationals WA through the ability of the affiliated unions to spend up to \$500 000 each. Because the Liberal and National Parties do not have any affiliated organisations like those of the ALP, in effect, the Labor Party will have a \$6 million expenditure cap advantage over the Liberal and National Parties in any particular campaign.

I also share the concerns about the administrative burden. This will affect all parties. The Attorney General said that he has beta tested this with his own organisation, but I am always worried that a change in the law can inadvertently make honest people guilty of a crime. In this case, I think there will be a large administrative burden on the branches. I appreciate that the member for Central Wheatbelt recognised that the National Party has a smaller capacity than the Liberal Party, and I suspect the Liberal Party has a significantly smaller administrative capacity than the Labor Party has, but I think that the Labor Party's own administrative branch will struggle, particularly with the requirement for 24-hour recognition of any donations during a campaign. Those members who have been involved in the thick of a campaign will know that it is all hands on deck. Having to agonise over those administrative issues is going to be very hard and burdensome, particularly when we have a much smaller number of people managing many different roles.

I think that I was reassured by what the Attorney General said about how-to-vote cards. It is clear that people will still be able to spread misinformation, although that will hopefully be restricted. I am concerned about what I think is a loophole in the provisions for foreign donations. I appreciate the discussion we had about that issue during consideration in detail, but I still think that far too many foreign actors have an influence in Australian politics, and I say that is overwhelmingly on the left side of politics, particularly the Green left. A number of organisations are very largely and significantly funded from overseas. Although those organisations might not spend that foreign money during a particular election campaign, which is only five or six weeks, up to that period, those organisations are typically very actively involved in politicking—quite consistently for the Greens and Labor—against the conservative parties. I think there is some move there; however, as I say, I think we will still see foreign actors having a significant and undesirable influence on Australian politics.

I thank the Attorney General for his favourable consideration of the reporting limit threshold for donations to be raised to \$2 600. I think that makes sense. As I pointed out, that was very much an issue for our side, because we rely on those smaller donors, and the \$1 000 limit would have been restrictive, although I suspect that increase in the limit will also assist the other parties, including the Labor Party, with their donations.

I refer to the issue of enrolment of 16-year-olds. I listened to the Attorney General explain that this provision is so that when kids are doing politics and law at school, as an exercise, they can enrol and so on. It worries me. There has been some consistent buzz and talk of trying to lower the voting age to 16 years. Although I am not saying that this provision is intended to lower the voting age, it obviously will help to facilitate that, in the sense that changing the enrolment to 16 years will remove one of the barriers. Obviously, there will have to be a change in the law to allow 16-year-olds to vote. I say at the outset that I am fundamentally opposed to that consideration. I think that there has to be some level of adult maturity before people vote, and 16 years is too young. Being a father of six children, I think I can make a fair assessment of that.

Otherwise, I am extremely grateful to the Attorney General and his staff for their considered responses during consideration in detail. I thought that was done very well and the Attorney General made every effort to answer the questions as thoroughly as he could. I am grateful to the Attorney General and his staff who assisted us.

MR J.R. QUIGLEY (Butler — Minister for Electoral Affairs) [1.46 pm] — in reply: Firstly, I acknowledge the opposition's contributions, especially those of the members for Central Wheatbelt and Cottesloe, the speakers on

this bill, and the matters they drew to the chamber's attention. Yes, we did go to some length to make sure that the Solicitor-General was available to advise on those important issues of expenditure caps and how they might operate.

I reflect that the opposition did not oppose the second reading of the bill. There was not a division on the second reading. During the consideration in detail stage, members opposite questioned clauses, but they did not demur or seek a division on any clause at all. The consideration in detail was a searching debate, but it was not one of conflict, because members of the opposition did not seek to mark out their position by opposing any clause at all.

Members opposite have indicated, a little bit disappointingly, for my part, that they oppose this legislation; that is, they oppose the transparency, the spending caps, the disclosure, the third party campaign restrictions—they oppose everything about this bill because they do not support it. During consideration in detail, we did not get that flavour at all. Although there was interrogation of me on the clauses, no opposition was expressed. I am a little disappointed, but not surprised, that the opposition will not support the bill. I have tried to perhaps break new ground. I think the opposition and the member for Central Wheatbelt noted that I accepted amendments. I also tried to accommodate the opposition on other queries about what comprised a gift by way of donation at a fundraising event, for example, bearing in mind the cost of putting on the event or the prize at the auctioned event. I am a little flummoxed, quite frankly, that the opposition will now oppose all the provisions in this bill—every one of them. That is disheartening, given that the opposition chose not to oppose any clause in the bill during the consideration in detail stage. I have searched for an answer to that. Why did the opposition not oppose any clause after we went through the consideration in detail stage for a day and a half and finished at nearly seven o'clock last night, during which the opposition asked searching questions? I come back to the question: what is driving the opposition to oppose the whole of the legislation? As far as I can tell from the lead speaker for the opposition, it is based on the proposition that this legislation is designed by Labor to favour and entrench Labor. That proposition is founded on the allegation—if I can put it that way—that the Labor Party has brought this bill in to facilitate unlimited spending by this side of politics at a general election by counting how many unions there are and saying that each one of those unions will be registered as a third-party campaigner and that each of those unions will start their own state campaign account and will each spend up to \$500 000, all in support of the Labor Party. If only that were the case. That is not the purpose of this legislation at all. It is neither its intent nor its desire, and it will not facilitate that.

The member for Central Wheatbelt said that we have seen in other jurisdictions huge sums spent by a little party. Clive Palmer's United Australia Party spent a large sum at the last Queensland state election and multiple tens of millions of dollars at the last federal election. I think all that returned was one member in the Victorian upper house. But that is not the purpose of this legislation. We are not aiming it at any particular person. We are not aiming it at the Palmer party. I saw a picture in the paper that looked as though the Palmer party had run aground. Western Australia was the beneficiary—I do not shy away from that—of the disfigurement of one electoral district in which north of \$4 million was spent, not by a union, not by a lefty and not by someone trying to entrench Labor, but by two mining companies that had taken issue with the local member and decided to get rid of him at any cost. That is why I say we do not want a war of money; we want a contest of ideas. That was a disfigurement of democracy. We have a fantastic member for Pilbara. He won at the subsequent election and, no doubt because of his work in that electorate—I have been up there and met a lot of people—he will win again because of his work ethic and knowledge of the Pilbara and the respect in which he is held in the community.

The ACTING SPEAKER (Ms M.M. Quirk): Member for Bassendean.

Mr J.R. QUIGLEY: It is almost a matter of doctrine that the opposition has opposed the legislation; that is, "We are the opposition and we will oppose the legislation, but we will not identify any particular clause that we oppose and we did not oppose any during consideration in detail." The government has now heard that the opposition opposes the bill. Which part of the bill led the opposition to this point? It is this idea that the legislation itself is constructed to entrench the Labor government in power. Looking at the bill, the opposition cannot identify any provision that does that except for the rights for third-party campaigning. The most money that has ever been spent on third-party campaigning was spent not by the unions but by the Chamber of Minerals and Energy. That is the organisation that has spent the most ever on third-party campaigning. If this bill passes in the upper house, it will introduce transparency. I cannot express my disappointment strongly enough. During the consideration in detail stage, no issue was taken with any particular clause. The opposition is just opposed to the idea that this bill will somehow benefit one side of politics. I have stressed all the way through that we are trying to make the process transparent and fair. The lead speaker for the opposition, the member for Central Wheatbelt, said that we must look at this in the context of the Labor Party's history of electoral reform and she returned to the 2021 electoral reform bill. She said this is another example of that. That is why this bill was dealt with separately. As I said at the time of that bill, we had another bill coming to deal with the rats and mice—the little things that need doing—in the Electoral Act. The member for Cottesloe, for example, at the third reading stage, expressed concern about the provisional registration of 16-year-olds and said that it was the beginning of the slippery slope. As I explained in the consideration in detail stage, we were just bringing the legislation into line with the federal act because we wanted harmony, as far as possible, between the federal electoral laws and our electoral laws. We know that at the moment 16-year-olds can

enrol on the federal roll and 17-year-olds can enrol on the Western Australian roll. Why should we not be the same as the commonwealth? No reason was advanced by the opposition for why that should not be so. It does not make sense for the opposition to say, “We oppose this bill and this is one of the grounds on which we oppose it. We did not oppose it in consideration in detail but we will raise this concern now to justify our opposition to transparency and accountability in the electoral system in Western Australia.”

Debate interrupted, pursuant to standing orders.

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