

Hon Tjorn Sibma; Hon Matthew Swinbourn; Hon Dr Steve Thomas; Hon Nick Goiran; Hon Neil Thomson; Hon Martin Aldridge; Hon James Hayward; Hon Dr Brian Walker

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**CONSTITUTIONAL AND ELECTORAL LEGISLATION AMENDMENT  
(ELECTORAL EQUALITY) BILL 2021**

*Committee*

Resumed from an earlier stage of the sitting. The Chair of Committees (Hon Martin Aldridge) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

**Clause 1: Short title —**

Committee was interrupted after the clause had been partly considered.

**Hon TJORN SIBMA:** The parliamentary secretary kindly gave an undertaking earlier to reply to some questions, I think, after the dinner adjournment, so I am not expecting them any earlier than that. There is a thematic link to the next tranche of my inquiry, which relates to some of the evidence that has been helpfully provided to us already. It concerns consultation on iterative versions of the draft bill with ex-members of the Ministerial Expert Committee on Electoral Reform. All governments obviously have sensitivities to consider when drafting bills, yet they are put in the practical quandary, I suppose, of needing to solicit advice. What caveats applied to the four members of the committee when the government consulted them or sought their feedback on those iterative drafts? Were they obliged to maintain a level of confidentiality; and, if so, how were their obligations conveyed to them?

**Hon MATTHEW SWINBOURN:** Any information that was provided to the former members of the MEC was provided in the strictest of confidence, and that confidentiality was expected to be maintained by them. I think it would be fair to say that given the professional and academic nature of those members, they understood the difference between matters that were before cabinet and those that were not, so that confidentiality was expected to be maintained.

**Hon TJORN SIBMA:** To some degree I anticipated that response, but I suppose the circumstances around this are a little unusual. Although I understand that these things almost need not be spoken of when the government consults at an intradepartmental or interdepartmental level—that is, in a bureaucratic sense—seeking external advice brings with it the potential for a misapprehension or misunderstanding of these responsibilities. Was it essentially a caveat in an email that said, “Please be aware that this is obviously a cabinet-in-confidence document”? That would have been a reminder. Was that information provided? The parliamentary secretary just told me that there was an assumption that they would do the right thing. I would like to think that they did the right thing, and they probably did. But if I might put it this way, the whole construction of this looks to me just a little too chummy or matey. Considering that this is a very serious undertaking, I want to understand how the government went about reminding these esteemed people of their responsibilities. I am not casting aspersions on anybody; I just want to understand how formal this process was, given the fact that the committee had ceased to be lawful at the point at which consultation was taking place between the minister’s office and the parties concerned.

**Hon MATTHEW SWINBOURN:** Each of those individuals, who were formerly members of the MEC, were specifically advised that the bill was before cabinet and that any information that was provided to them was provided in confidence.

**Hon TJORN SIBMA:** I thank the parliamentary secretary. I think the parliamentary secretary referred a couple of hours ago to other agencies that were consulted on this bill, among them the State Solicitor’s Office. Were any other agencies consulted? I think the parliamentary secretary referred to the Western Australian Electoral Commission at some stage. I am talking about the bill itself, not the bit before it. I want to confirm whether I understood the parliamentary secretary correctly and whether any other government parties or agencies were consulted on the construction of the bill.

**Hon MATTHEW SWINBOURN:** I did say the Solicitor-General, but I am not sure whether he is in fact an agency. Obviously, I sometimes get confused myself between the Solicitor-General, the State Solicitor’s Office and the State Solicitor, but they are different things. I can confirm that the Western Australian Electoral Commission was also consulted, particularly about things like ballot paper design, eligibility of political parties, returning officers, the electoral roll, increasing the nomination deposit and other such matters that were collateral to and contingent upon the broader reforms.

**Hon TJORN SIBMA:** I might just get into the nature of the consultation on what I will call an exposure draft or an iterative draft of the bill, noting, of course, that the policy of the bill has been set. I will park that for a moment. Before I get into that, I want to ask whether any consultation occurred with non-government organisations or individuals, aside from the four ex-members of the MEC. Did any consultation occur with any other individual, journalist, political party or organisation as the bill was, as I say, iterated, reformed or amended over time?

**Hon MATTHEW SWINBOURN:** No private individuals were engaged other than those we talked about before who were connected to the MEC. I am advised that a discussion happened between the ministerial office and the New South Wales Electoral Commission and Electoral Commission South Australia about their electoral systems, but no draft bill was provided to them. It was more about seeking clarification about their own electoral systems.

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**Hon TJORN SIBMA:** That is fine. I understand that those two bodies are cited in the report as being consulted on the first piece of policy work and they were subsequently consulted, presumably on the operation of the whole-of-state electorate, I imagine. Both states operate that system. I will just park that.

Aside from the four individuals who were ex-members of the MEC, the Solicitor-General and then at some stage the Western Australian Electoral Commission, no other organisation or individual was consulted on the construct, form or substance of the bill; is that correct?

**Hon MATTHEW SWINBOURN:** I think the member missed from his list, by omission, the State Solicitor's Office, but I confirm that nobody outside those ones that the member mentioned, plus the State Solicitor's Office, was involved.

**Hon TJORN SIBMA:** Ordinarily, because we see this from time to time in other portfolio domains, we can have—I will use one of the most abused words in the Australian political lexicon—reform. One person's reform is another person's change and sometimes it is needless, but we have lost that fight. Oftentimes, a minister will seek a review or a report into a particular issue. That report might suggest that there is regulatory or legislative change and then a government will consider and release that report and then potentially embark on a further round of consultation about the bill or the regulations. This is a reasonably standard practice. For example, it is going on for cost recovery for the purposes of undertaking environmental assessments in the environment portfolio. At least there has been a staged approach so that everybody understands effectively what they are getting into when the detail of the regulations or legislation is exposed. I suppose this is a question that can be asked only of a government, an elected official. Why did the government determine not to undertake a further range of consultations on the form and the substance of the bill, particularly in light of the fact that the next state election is still a number of years away? That is a discretionary thing, but is there a reason that it was not undertaken; and, if there was a good reason, please explain it to me.

**Hon MATTHEW SWINBOURN:** I think it would be fair to say that because we have almost exclusively adopted the recommendations of the MEC and it conducted a process that we were satisfied was sufficiently consultative and took into account the relevant materials, we then just proceeded with drafting the bill. Other people might take a different view about that pathway, but that was the pathway that we chose. As I said, the bill does not really diverge from the recommendations of the ministerial expert committee so we proceeded to legislate. Other ministers or other governments might choose a different path, but in this instance this is the path that was chosen.

**Hon TJORN SIBMA:** I might ask the parliamentary secretary questions about the consultation process that was engaged in at a later stage. Was the consultation that took place between the minister or the minister's office and the WAEC on the bill a one-off consultation or was that a series of engagements?

**Hon MATTHEW SWINBOURN:** It was a series of ongoing engagements with the Electoral Commissioner.

**Hon TJORN SIBMA:** Would the parliamentary secretary be in a position, potentially, to outline a number of these issues, because I presume we will talk about some of this as we go deeper into the clauses of this bill? Would the parliamentary secretary be in a position to identify, for example, which specific clauses on which advice was either sought or received?

**Hon MATTHEW SWINBOURN:** I cannot be specific about the clauses on which advice was sought because obviously the drafting of the bill at that stage is cabinet-in-confidence. The member talked about tired terms in politics, but it has a specific and important meaning. The Electoral Commissioner gave evidence in the other place during its estimates hearings. If it is of help to the member, when it came up, he said —

No, we were not asked about reform of the upper house either before the election or recently. As the minister has said, we were only recently asked for technical and operational advice around the drafting of the bill.

That is the substance of what advice was sought on technical and operational issues.

**Hon TJORN SIBMA:** I fully expected that to be the case, but I was hoping the parliamentary secretary might be in a position to identify a little more precisely what specific technical and operational advice was sought and how that is reflected in the bill on which we are deliberating.

**Hon MATTHEW SWINBOURN:** I know the member wants to drill down to very specific things on that. I think once we get into the details of the bill, it may become more apparent, as we work through, where the commissioner gave advice. He certainly outlined things in his estimates evidence. As I said to the member previously, the kinds of things that were consulted on included ballot paper design, eligibility of political parties, returning officers, the electoral roll, increasing the nomination deposit and other matters. I am not trying to be obtuse here, member. I think the consultation with the Electoral Commissioner was reasonably detailed. I thought we would probably flesh that out in the detail that the member is seeking now as we go through the particular clauses of the bill.

**Hon TJORN SIBMA:** I thank the parliamentary secretary. Look, I gathered that, but I was also looking for an opportunity to potentially fast-track deliberations when we get to the clause 60 mark. I raised in my second reading contribution, for example, the issue of the determination for one to 20 sequential candidates being listed in their

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order of preference. Where did that find its origin when we reflect on, for example, how optional preferential voting works for the Senate, which has one to 76? This seems to be an exhaustive threshold. We will park that issue for the clause 68 determination if the parliamentary secretary would prefer. My question then is: there was a series of interactions with the Western Australian Electoral Commission during the iterative versions of the draft bill; by what means did the WAEC convey its views back to the minister or the minister's staff? Was that done by email? Was there a piece or a series of pieces of formal correspondence that articulated the WAEC's views on these technical and operational matters?

**Hon MATTHEW SWINBOURN:** It was by phone and email, not formal correspondence—I suppose emails, however we wish to characterise emails in this day and age in terms of their level of formality, as opposed to a letter that is put in a letterbox and posted and those sorts of things. I do not want to get stuck into the technicalities of that. It was by email and telephone.

**Hon TJORN SIBMA:** I am chancing my arm a bit by venturing into territory that is probably not that profitable for me, but I will get as close to the mark as possible. With whom did that email exchange occur? I will focus on just the email exchange. Was that between the minister's office and the Electoral Commissioner or was it between the minister's office and another senior official within the Electoral Commission? Who was conveying back to government the WAEC's views on the matters that the government wanted to seek its views on?

**Hon MATTHEW SWINBOURN:** As specific as I can be, it was between the commissioner himself and one of his senior staff, whose position and name I do not have here, but obviously between the commissioner and the ministerial office. As the member can appreciate, there is no department that this falls within, so there was not a departmental arrangement in that regard. It was strictly between the minister's office and the Western Australian Electoral Commissioner and his senior staff member.

**Hon TJORN SIBMA:** I think we talked about this in the second reading debate and in the parliamentary secretary's reply, and in the debate on the appropriation bills. To what degree is the WAEC, as an independent statutory authority, bound by considerations of cabinet confidentiality?

**Hon MATTHEW SWINBOURN:** Member, I do not have an answer at the table to what I think is a very specific question, which is to what degree is an independent statutory officeholder like the Western Australian Electoral Commissioner bound by cabinet confidentiality in these circumstances, so we might seek some further advice and come back to that. The member is asking a very specific question and it has probably a very specific answer.

**Hon TJORN SIBMA:** I thank the parliamentary secretary. I will await the answer to that. I think it is a reasonable proposition that reasonable individuals might disagree on particular issues, and in fact that applies to organisations as well. When we have that interface of executive government and an independent statutory authority, there is obviously a difference in perspective and in callings, and that is completely appropriate. Taking the evidence at face value that the WAEC was consulted almost specifically on the technical and operational dimensions required to give effect to the government's policy direction, would it be fair to say that, in the main, the WAEC's technical and operational advice has been considered and is reflected in this bill, or are there areas of difference between the government and the WAEC? For example, was advice provided or a view expressed by the WAEC to the government on this bill, or a recommendation, if you like, that has not been taken up or was rejected or is otherwise not reflected in the bill?

**Hon MATTHEW SWINBOURN:** I think it would be fair to say that when we engage as a government with people like the Electoral Commissioner, we want them to engage with us as fully and as frankly as possible. My advice is that in terms of what the commissioner came back with, no, we did not quibble with the points that he wanted to make. We have not rejected recommendations that he has made on specific things. I cannot get into some of those specific things, for obvious reasons, but it is not the case that we have picked and chosen what we want. There might be things he was indifferent about, but there was nothing in terms of an outright rejection of his position. It comes back, member, to the fact that he was consulted on the things that we would expect him to be most interested in, which are the technical and operational aspects of the bill, because the commissioner is the authority on those things.

**Hon TJORN SIBMA:** If it transpires at some other time, perhaps during the adjournment, that there might be a qualifier that needs to be added to the statement that the parliamentary secretary has just provided, we will accept that. I take what the parliamentary secretary has provided at face value, but I anticipate that there might be some differences of interpretation. I will ask the parliamentary secretary this question, and perhaps it will not be known even by the WAEC, but what will be the likely resource implication on the WAEC as an agency of implementing the full scope of the measures embedded in the bill? Aside from the potential for the ballot paper to grow quite large as a consequence of the quota being dropped to what I think is an unreasonably low level, through to the kinds of registration and governance duties additional to that, or expanding those that the WAEC does have, is there a view on what the WAEC would require in order to be in a position to implement the bill; and, if so, what are the details?

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**Hon MATTHEW SWINBOURN:** I will again use to the Electoral Commissioner's words from the estimates hearing in the other place. He said —

We were asked questions about the possible costs that might arise from the bill, but our analysis of the bill as it stands is that most of the additional work will be around the party registration side of things and those elements. We are confident that we can absorb those costs within the existing resources.

He went on to say —

The only other item I would identify at this point—we are probably not able to estimate what it would be, and I do not even know whether it will be an additional cost—is the explanation of the changes in the voting system for the Legislative Council, the change to optional preferentials. There will be an element of an educative program that we will have to do in conjunction with the normal education program we will run in the lead-up to the 2025 election. It may be that we will need to spend some more money in that space —

Although technically the educative program is not part of the bill —

and that will be the subject of ongoing negotiations with Treasury about an increased amount for the state election in 2025 ...

**Hon TJORN SIBMA:** Thank you, parliamentary secretary. As I forecast when I first stood up, I want to talk about the submissions received by the Ministerial Expert Committee on Electoral Reform. This might be labouring the point, but I suppose I want to understand the thinking. Originally, the opening up of—I will not say consultation because although consultation occurred, it was with a series of organisations, which are listed in the annexure, and they were largely official organisations, the respective Electoral Commissioners from other jurisdictions and the like. The decision was made early to open submissions for four or five weeks, which is, I think, a reasonably short period—we do not need to argue about that—and then there was a determination to extend the submission deadline by another week to take it beyond the public holiday. In the middle of that, a discussion paper was released; it was released at the midway point during the opening of submissions, which I found to be an unusual and irregular process because my experience of these things is that discussion papers are provided at the start of a consultation process rather than at the midway point—but that is beside the point. It gets down to the parliamentary secretary's reply to the second reading debate, which I will quote from, and it concerns the number of submissions received. Hon Martin Aldridge asked whether the final number of submissions received was 184. He was trying to ascertain the circumstances in which the five submissions that were not published were kept confidential. I want to go back over the vote of support for what the government was intending to do that was expressed via those submissions. During his reply to the second reading debate, the parliamentary secretary took issue with Hon Martin Aldridge's breakdown of submissions and what camp we would put them in. I will quote from *Hansard*, ask a series of questions that relate to it and then apply that to the bill. The *Hansard* reads —

With respect to Hon Martin Aldridge, he misrepresented the breakdown of submissions for and against the government's model. He said he was advised in his briefing that 62 of the 184 submissions supported electoral equality and 79 did not. It is inaccurate to characterise what the advisers said in that way. The advisers made the point during the briefing that the remaining submissions were varied. The true position is that 62 submissions supported equality of votes. The remaining submissions were extremely varied in how they addressed the terms of reference.

I will stop at that sentence. The parliamentary secretary identified that 62 of the 184 submissions were in support of the government's proposition—I will call it equality for ease of reference. One-third of the submissions expressed a view in support of the government's position. That is not the majority view, is it? I think we can agree on that. The parliamentary secretary said that the remaining submissions were extremely varied in how they addressed the terms of reference. Should I interpret that to mean that the residual—what is it?—122 submissions were varied? I am concerned about how the parliamentary secretary reflected on the two-thirds of submissions that did not necessarily express full-throated support for the government's proposition. There is a point to this. The parliamentary secretary went on —

For example, only 29 specifically favoured keeping the existing system, five submissions called for the abolition of the Council, —

I read a few of those —

eight favoured a threshold to be returned at an election, eight favoured half terms, four favoured mixed member proportional representation similar to New Zealand, and eight submissions called for first-past-the-post voting. Of the remaining submissions that favoured a regions-based system, there was a variety of proposed models, such as four by nine or two by 18, or other adjusted weighting. It is important to note that disagreement increased over time, and there are reasonable grounds to believe that some submitters collaborated in their opposition.

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After I have finished reading this in, I want to understand what the parliamentary secretary meant when he said that it was important to note that disagreement increased over time—disagreement on what, specifically? Was it different models of retaining regional representation? I presume that that is the implication. With respect to the parliamentary secretary's charge of collaboration, he cited 24 submissions from the Western Australian Local Government Association and local government shires and stated —

The submissions from WALGA, Great Eastern Country Zone and Regional Capitals Alliance Western Australia were virtually identical. Other shires appeared to have copied directly from the WALGA template, including the Shire of Trayning, the Kulin Shire Council, the Shire of Bruce Rock and the Shire of Mt Marshall. The Shires of Narrogin and Boyup Brook also apparently relied on a joint template. The Shire of Chapman Valley and the City of Karratha at least indicated that they had relied on the submission put forward by WALGA and did not simply copy the template and put it forward as their own work. They were perfectly entitled to do that, but there is a question about how much weight can be given individually to template submissions.

I might leave it there and ask a question because I think the implication in the parliamentary secretary's reply to the second reading debate is quite clear. Were the submissions from WALGA, Great Eastern Country Zone, the shires of Trayning, Kulin, Bruce Rock, Mt Marshall, Narrogin, Boyup Brook and Chapman Valley and the City of Karratha effectively discounted by the government?

**Hon MATTHEW SWINBOURN:** I do not think that the government discounted those submissions; they were submissions to the Ministerial Expert Committee. The government's final position was based on the recommendations. As I understand it, the MEC considered all the submissions it received. In terms of me saying in my second reading reply that the weight that was given to the template submission, in terms of the numbers and the point that Hon Martin Aldridge made about how we chop up the numbers to work out whether it was a straw poll for support and reflective of the broader community, was a fair one to make, but it does not reflect the views of the MEC's recommendations.

**Hon TJORN SIBMA:** For clarity, was it the MEC's position that these—let me call them—consistent submissions were discounted on account that a number of them expressed very similar sentiments? Or was it the government's decision to effectively park those views—discount them—because busy local government authorities used a template to reply to a government-run consultation process that was operating on some very tight time frames and it would appear, through answers provided by the parliamentary secretary previously, that the government did not necessarily go out of its way to advertise this process in rural and regional media? I do not know whether to ascribe to the view of the parliamentary secretary about what weight can be attributed individually to those submissions. I do not know whether that is a value judgement that the government made or whether the MEC made that value judgement with which the government also agrees? Could the parliamentary secretary clarify that position for me, please?

**Hon MATTHEW SWINBOURN:** The MEC was independent of the government. It took all the submissions and, the report, which we both have in front of us—I was not a member of the MEC; I am not considered an expert on these matters—into account. It made recommendations that were contrary to the position put forward by Western Australian Local Government Association and those associated local governments. The government adopted the recommendations of the MEC and we disagreed with the position—therefore implicit in our adoption of the recommendations for a whole-of-state electorate and for electoral equality in the Legislative Council—that was put forward by WALGA and those groups that relied on the WALGA template.

I do not know how we can necessarily take this issue any further on that point—that is, to say that they were lazy or anything else like that. That is not what we are saying. Groups do those sorts of things; they work together with peak organisations or with each other. They are entitled to do that. I made that point in my reply. But the simple reality is that the government did not agree with the position put forward by WALGA and those local shires.

**Hon TJORN SIBMA:** Thank you, parliamentary secretary. I appreciate that at the end of what had been presumably a difficult week for the government, the parliamentary secretary might have expressed things in a way that was not necessarily consistent with my experience of him as a member of this house. I just want to note that it would prove to be a disincentive for particular regional shires to engage with the government in good faith if a view is formed, or they form the impression, that government will not take seriously their views anyway if there is a range of difference. I think perhaps, constructively, with the benefit of hindsight—this could have been appreciated at the time—the government might have received far richer engagement and deeper consultation or submissions had the MEC been empowered, resourced or guided, independent or not, to go out and seek input directly from the regional communities on which this bill is going to affect. But can I take it that this is a policy issue, because it also came up, for example, in the decision to close the native timber harvesting industry? That was largely directed or justified on the basis of survey results. Presumably, a lot of submissions received by the government through that

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process were templated, or very similar. I just hope that the government adopts a policy that is consistent across the board—that it does not just discount the views that it does not like and accept the ones that are consistent with its policy framework—because I think that is exactly what the government has put in here.

I want to reflect on one submission that I read in and that the parliamentary secretary quoted back to me throughout the process—that is, the submission of former Senator Andrew Murray. I do not know this person but I thought that it was probably a good submission from the perspective that it was thoughtfully constructed and was borne of deep political experience. He is neither a fellow traveller of the Australian Labor Party or the Liberal Party either—he is a former Democrat and I think that sometimes that is actually a perspective worth reflecting upon. He put the view in his submission that he did not detect an overwhelming public appetite for the reforms that the government had decided to proceed with and that are embedded in this bill. The parliamentary secretary did not take the opportunity to refute that assertion. Is that assertion a reasonable and fair representation of the public will from the government’s perspective—that there is no burning platform that requires mediation in the form of abolishing regional representation?

**Hon MATTHEW SWINBOURN:** With all due respect to former Senator Andrew Murray, I do not think he is the final authority on what the public vibe is on these sorts of matters. Certainly, following the election, there was a lot of light and movement around our electoral system; there often is. We think that this reform is justified and appropriate. If the member wants to use anecdotes, when I speak to people in my East Metropolitan Region, most of them are absolutely of the view that their vote should be equal to everyone else’s vote. What the member asked me to do is a bit of a mug’s game in divining the public will. I can take that only so far when the government certainly is of the view that this is important enough for us to legislate, and that is why we are here today.

**Hon Dr STEVE THOMAS:** Minister, I want to make a small contribution.

**Hon Matthew Swinbourn:** Parliamentary secretary.

**Hon Dr STEVE THOMAS:** Sorry, parliamentary secretary—I think you should be promoted. You are doing remarkably well.

**Hon Tjorn Sibma** interjected.

**Hon Dr STEVE THOMAS:** Yes, it might be a demotion.

We did not have a lot of debate from members during the second reading speech. The only speech I can really go on, apart from your good self, parliamentary secretary—you made a considerable contribution between the second reading and the second reading reply—was from the Minister for Regional Development, who seemed to be concerned about the worth of regional people. In *Hansard* on 28 October she said —

If that is the way that we were going to vote weight, why would we say that a wheat farmer in Esperance, who lives on a property that is conservatively worth between \$4 million and \$5 million —

Then Hon Darren West interjected, after which the minister said —

Sorry, it is much higher than that; it is more like \$10 million.

At least the definition, in a regional area, presumably, of “wealth” is identified by the government in that particular comment. She then commented —

Why would we not look at a pastoralist, for example, in the Kimberley—a cattle baron?

Two things spring to mind. Firstly, I am concerned that there was a bit of politics of envy; but, most importantly, because there was mention of cattle barons during the debate, the minister referenced Mrs Rinehart, for example. I am interested in whether the government has a definition of “cattle baron” that we should consider so we will know who to consider to be certainly not disadvantaged. Do we have a definition of “cattle baron”?

**The CHAIR:** Order, members! I just remind members that we are on clause 1 of the bill. Clause 1 does not allow members a right of reply to everything that was said and done during the second reading stage of the bill unless there is some direct relevance to the clauses that we are now considering and ranging over as we progress into the technical detail of the bill. But I will leave it to the parliamentary secretary as to whether he wants to respond to that.

**Hon MATTHEW SWINBOURN:** I have nothing further to add to the comments of Hon Alannah MacTiernan.

**Hon NICK GOIRAN:** In the second reading speech, the parliamentary secretary indicated the three purposes of the bill. Which provisions establish the whole-of-state electorate?

**Hon MATTHEW SWINBOURN:** Clauses 10 and 15 are the significant operating clauses with respect to the whole-of-state electorate.

**Hon NICK GOIRAN:** I will defer my questions on that matter to those clauses. Another purpose of the bill, as indicated in the second reading speech, is to abolish group voting tickets. What provisions do that?

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**Hon MATTHEW SWINBOURN:** Clauses 10 and 63.

**Hon NICK GOIRAN:** The parliamentary secretary mentioned clause 10 on the other matter. Can he explain why clause 10 will establish a whole-of-state electorate and also abolish group voting tickets? I do not want to go into great detail on clause 10.

**Hon Matthew Swinbourn:** That is the definition clause.

**Hon NICK GOIRAN:** So the answer is clauses 15 and 63, understanding that clause 10 relates to definitions. What clauses implement the third purpose of the bill, which is the introduction of optional preferential voting?

*Sitting suspended from 6.00 to 7.00 pm*

**Hon MATTHEW SWINBOURN:** Before the break, Hon Nick Goiran asked which clause deals with optional preferential voting. The answer is clause 68. During the course of this afternoon, I took a number of matters on notice, for want of a better word. I have some responses to those questions. Hon Tjorn Sibma asked a number of things. I note he is on urgent parliamentary business —

**Hon Nick Goiran:** It's all right, I'll take notes.

**Hon MATTHEW SWINBOURN:** Okay, Hon Nick Goiran will take notes. One of the things he asked me early on was about the dates of conversations between the Minister for Electoral Affairs and each of Malcolm McCusker and Professor Murray as to their participation in the Ministerial Expert Committee on Electoral Reform. My advice is that there was a phone call to Professor Murray on or about 8 April. We cannot be more specific about that at the moment. In relation to Mr McCusker, it was also by telephone and, again, at this stage, we cannot be more specific about the time because we have not had a chance to verify the date. Hon Tjorn Sibma asked whether any documents were created from the first meeting on 1 April. I can confirm that the minister did not take any notes. I do not have the authority to table any notes taken by the ministerial adviser, if such notes were created. I am certain that the minister himself did not make any notes. Hon Tjorn Sibma also asked whether any documents were created at the second meeting and I refer back to the answer I have just given about the minister not taking any particular notes and that I do not have the authority to table any notes taken by his ministerial advisers.

Hon Tjorn Sibma asked the date of the in-person meeting between the minister and Mr McCusker. The answer to that is not in his ministerial diary, so we are not able to verify the day at this point. The question was asked whether anyone else was at the meeting with Mr McCusker and the minister and the answer is no. Hon Tjorn Sibma asked whether any notes were generated in that in-person meeting between the minister and Mr McCusker and the answer is no. He also asked whether, in the period between being sworn in on 19 March and the announcement of the MEC on 30 April, the minister had engaged with any individuals from the Western Australian Labor Party—that being the lay party rather than the parliamentary party. The answer to that question is no; I think that was in relation to the ministerial expert committee. Hon Tjorn Sibma asked when the first iterative draft of the bill was shared with members of the MEC, or former members as they would have been at that time. That was on 23 July 2021. Hon Martin Aldridge asked about the cost of the MEC remuneration and advertising. He asked this question prior to the budget estimates and it has been answered. I have a copy of the answer. My undertaking to him was to seek that answer from the Premier's office and this is the answer that was received. I am happy to read details of that answer into *Hansard* if the member wishes, or to table a copy of the answer he received.

**Hon Martin Aldridge:** If you're prepared to table it, that will be fine. Then everyone can have access to it. I will have some follow-up questions.

**Hon MATTHEW SWINBOURN:** That is right. I table that document.

[See paper [859](#).]

**Hon MATTHEW SWINBOURN:** Hon Tjorn Sibma asked to what degree the Western Australian Electoral Commission or other, similar independent statutory bodies are bound by cabinet confidentiality. The answer to that is all public sector organisations, including the Western Australian Electoral Commission, are bound by the code of conduct required by the Public Sector Management Act. That code includes the requirement of confidentiality. Hopefully that covers off on most matters.

**Hon NEIL THOMSON:** I am going to follow on from the questioning on the level of consultation and analysis done on this bill. The first questions I have to clarify are: Who was the instructing officer for parliamentary counsel? Were they from the department or the office of the Attorney General?

**Hon MATTHEW SWINBOURN:** One of the reasons we were taking a bit of time is that we want to be consistent with the answers that were previously given to questions without notice. Regarding the question about who was involved with the drafting of the bill on those specific details, the position that we have put forward consistently is that the drafting of the bill is a decision of cabinet and that information is cabinet-in-confidence.

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**Hon NEIL THOMSON:** Without necessarily dealing with a specific person, I assume that somebody, or a group of people, provided advice regarding the nature of this bill between the ministerial expert committee and Parliamentary Counsel.

**Hon MATTHEW SWINBOURN:** The ministerial expert committee did not provide any instructions to the Parliamentary Counsel's Office. It was not involved or it did not have any contact with the office. The MEC finished its role upon the presentation of the report. More generally, perhaps to give the member context to help with this line of questioning, there is no department that is responsible for electoral affairs in the same way that, for example, the Department of Justice might be responsible for other bills or those sorts of things. The matter was dealt with out of the minister's office and, as previously explained, in consultation with the State Solicitor's Office and the Solicitor-General on some specific areas relating to the Constitution and also the ongoing advice with the WA Electoral Commissioner.

**Hon NEIL THOMSON:** We assume somebody somewhere, probably out of the Attorney General's office, did some sort of assessment of the report that was prepared. I would like to focus on the due diligence that might have been done about some of the assumptions that led to the committee's conclusions and recommendations. I particularly want to focus on page 26. The analysis is at paragraph 2.3 of the report. Paragraph 2.3 is titled "Conclusion: Whole of State electorate is preferable to Regions-based system". There are a series of dot points, which I think are quite informative. I would suggest they might be a little scant in their assessment. I assume that the Attorney General's office and cabinet formed a view in relation to these dot points. It states —

While Regions Options —

The options are outlined —

... would all be a significant improvement on the current system, by achieving ... electoral equality while retaining a form of proportional representation in the Legislative Council, each regions-based option has these disadvantages:

That is the point I would like to get to. One of the disadvantages is that it is more complex than a whole-of-state system. Did the government form a view about how that would be more complex than a whole-of-state system?

**Hon MATTHEW SWINBOURN:** If the member turns to page 27, there is a recommendation that the state of Western Australia be one electorate. That recommendation was accepted by the government. From there, I suspect that the drafting instructions were prepared in order to achieve that rather than dealing with the commentary that is at paragraph 2.3. The MEC considered those matters and then made that recommendation. We accepted that recommendation and proceeded from that point forward.

**Hon NEIL THOMSON:** I hoped that some sort of analysis would have been done of the rationale for the recommendation. Is the parliamentary secretary suggesting that the Attorney General's office and the government only read the recommendations? I am sure the parliamentary secretary is not suggesting that. Maybe I could make some conjecture about the greater complexity. I assume the expert committee was referring to the mathematical complexity of the allocation of regional members to regions or districts and that it was not actually referring at all to the complexity of the election itself. Without verballing the Electoral Commission, I noted that some concerns were raised in our briefing with the Electoral Commission about the complexity of the ballot paper. I assume it is not referring at all to the complexity for the average voter. I would suggest that they would not be disadvantaged. I am wondering, without labouring the point too much on that particular issue, whether those matters were raised in consideration of this decision about discounting the regions-based system in relation to the complexity. I would have thought that in a lot of ways, for the consumer—the voter—this would be a whole lot more complex.

**Hon MATTHEW SWINBOURN:** The member has taken us to paragraph 2.3 on page 26, which I note is the MEC's conclusion of the matters dealt with in chapter 2. They deal with some of the issues of complexity arising out of that. The committee made a recommendation that the government accepted. The member is now asking whether we engaged in more analysis of a recommendation that we accepted. The analysis was done by the MEC and I think we were reasonably entitled to rely on its recommendations, which is what we have done. The fact that others prefer a different model or might have a view that there are issues of complexity is open for others to make that conclusion. We have accepted the recommendation and that is what we are trying to legislate today.

**Hon NEIL THOMSON:** I note that there is a significant assessment of various items, which I will get to during my further points about the analysis that was done prior to paragraph 2.3. The second dot point states —

- Requires the Electoral Distribution Commissioners to undertake a redistribution every 4 years.

Would it be fair to say that that would not be a significant deterrent to a regions-based system insofar as that would simply be a mathematical equation, if we still had the principle of equality? Maybe that is a rhetorical question,



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but the parliamentary secretary can respond to that if he wishes. The third dot point, which is probably worthy of a bit more interrogation, states —

- Involves a trade-off between proportionality and regional connectedness.

When there is a trade-off, there is usually a negative and a positive. We are talking about a disadvantage here. Is it fair to say that the assessment done by the expert committee in coming to its conclusion on a statewide system found that the proportionality was a positive outcome and the connectedness was a loss of a positive outcome, being a negative?

**Hon MATTHEW SWINBOURN:** The policy of the bill has been set, and the member is asking me to comment on an evaluative thing about different possible models that sit outside of what this bill now proposes to do. I do not propose to get into a debate about what is fair or not. We debated those matters during the second reading speech. I made a second reading speech and a reply, and I think that everything I have to say about those sorts of things are contained in that speech and reply. I do not propose to get into the mind of the Ministerial Expert Committee on Electoral Reform. The report is here for the member to read and make his own judgements about whether he thinks it is good, bad or indifferent. The government has selected its position, which is that we adopted the recommendation for a whole-of-state model, and I do not think I can take it any further than that.

**Hon NEIL THOMSON:** That is a somewhat surprising response, I must say. There has been a lot said in and around this particular reform, not so much in this place from the other side, but in the media about regional representation. To me, it is quite clear, actually, so I will make my own assumption—I think it is there in black and white—that a disadvantage that the expert committee saw was that it involves a trade-off with proportionality. The whole aim of the reform bill that is sitting before us is to ensure equality and proportionality, but what we are seeing is that in order to get equality—I think it is very honest of the expert committee to put this into the report; I think it should be highlighted in *Hansard*—this government is actually trading off proportionality, which it believes is a higher objective, for regional connectedness. That is what it says here in black and white. I guess it underscores the comments by people like Hon Don Punch in the other place, but, clearly, from this report, the government is trading off regional connectedness. The parliamentary secretary has said that he will not comment on that, but I have one last question on this point. The last point states that it —

- Delivers, most importantly, a lower standard of electoral equality compared to a Whole of State ...

I am sure that the good people in the Attorney General's office or whoever was advising the Parliamentary Counsel's Office had considered this matter, and that they saw that somehow this whole-of-state concept was going to result in a much higher rate of electoral equality than something that could be seen here, such as having maybe a different number of representatives. Was there at any stage a serious consideration of a regional-based system with different representation that met the government's objective of equality?

**Hon MATTHEW SWINBOURN:** As the member can see from the report, the MEC considered those matters. It weighed them up. As is the case with any kind of recommendation, generally speaking, there are always pros and cons in what is accepted. In this instance, the government accepted the recommendation to go to a whole-of-state model, and we saw the reasoning of the MEC. But, as I say, the policy of the bill has now been set, so I am not going to get into a debate about whether it would have been more appropriate to have three regions, four regions, multi-member proportional systems or anything else like that, because we are now in a position whereby the policy of the bill has been set.

**Hon NEIL THOMSON:** It is good that the parliamentary secretary has cleared that up, because we have the pros and cons, as we said before—proportionality is a pro and regional connectedness is obviously a con for the people of Western Australia. The parliamentary secretary said earlier on—these are my notes of his words; I tried to write them down as quickly as possible—that “almost exclusively we adopted the recommendations and it does not really diverge from the recommendations”. That is something that the parliamentary secretary said earlier. But in relation to the number of seats that have been proposed in this place, I refer to table 7 at page 22 of the report. This is coming back to the analysis we talked about earlier, whereby the parliamentary secretary said that some analysis was done to come to the summary of conclusions in paragraph 2.3. In table 7, a mathematical table outlines the impact of smaller regional seats. I guess that this is the crux of some of the expert committee's thinking as to why it could not do this mathematical equation and say, for example, “We might have only three members in Mining and Pastoral and three in Agricultural.” We can see this table running down the line. The right-hand column of table 7 is titled “% of vote required to win a majority of seats in the region”. It goes through with the variation being much greater when there is a smaller number of seats. We get down to the bottom of the table where there are 36 seats, and the variation required to have a majority is 19 seats, or 51.4 per cent. Does the parliamentary secretary know the majority required for 37 seats? It is not on that table. Does the parliamentary secretary know what that is?

**Hon MATTHEW SWINBOURN:** I am not sure that the table says exactly what the member thinks it says, but in relation to the percentage of votes required to win with 37 seats, I do not have a figure for the majority of seats.

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I will tell the member that it will be less than 51.4 per cent but greater than 50 per cent. As to the exact amount, it is simply a mathematical formula—there is no magic to it—but I do not have that figure right now. I am sure at a later stage we can calculate what it would be, but, as I say, it is not something that is particularly novel or difficult to work out if someone has a competency in maths, which I suppose some of us do and some of us do not. I am not suggesting the member does not; I am perhaps reflecting on my own mathematical abilities.

**Hon NEIL THOMSON:** I will save the parliamentary secretary the pain: it is exactly 50 per cent. That is what is required to have a majority of the vote.

**Hon Matthew Swinbourn:** Sorry, member, at 37 members, you are saying it's 50 per cent?

**Hon NEIL THOMSON:** If you have 19 seats, that is right; it is 50 per cent. The parliamentary secretary can do it on his calculation. That is on the assumption —

**Hon Kyle McGinn** interjected.

**Hon NEIL THOMSON:** It is a valid point; I was just about to go into this, because there is more to this. That is on the assumption that an equal number of votes for each quota is provided. We know from the discussion on this matter that the advice is that there could be up to four, five or maybe six of those last seats because of the exhausting votes, so the quota will not be fully filled in order to fill a seat in this place. It is an important point, because despite what the parliamentary secretary said earlier about almost exclusively adopting the recommendations, clearly the “almost” part was this particular recommendation for 37 seats. It is important. The good people who wrote this report had very limited time to write it. They are obviously smart people. I will bring one of the recommendations to the parliamentary secretary's attention. So we do not waste time, it is important to go straight to it. A fair point is made in the first dot point in the group of dot points under paragraph 2.2.3 on page 23 of the report. It is a technical point. It says —

Whether or not the percentage of votes required for a party to win a majority of seats in that region is realistic and fair.

That indicates that the committee was not going to worry about whether it was realistic or fair. It continues —

This strongly suggests that *regions should have an odd number of MLCs*.

That is the only time this idea of an odd number is thrown into the report. If we look at the second paragraph on that same page, we see that Electoral Reform Australia, a significant body, actually said something that is a bit more nuanced. It submitted, as stated in the report —

*“there is no problem with electorates electing even numbers of representative if district magnitude [i.e. the number of members elected in a district] is sufficiently large so that the quota is small enough to avoid electoral stasis”.*

That is a very important point. If we go back to the table, there seems no justification whatsoever for the recommendation of 37 members. That idea of an odd number only applies when there are a smaller number of seats in a region because of this electoral stasis. Who directed parliamentary counsel to add another member of Parliament to this place?

**Hon MATTHEW SWINBOURN:** I think the member is misrepresenting what I said earlier in the day. I think Hon Nick Goiran may have asked—I stand to be corrected—whether the bill reflects the recommendations of the MEC. I said that the bill almost exclusively represents those recommendations, in the sense that some additional matters are included in the bill that were not subject to MEC recommendations. One of those includes the addition—I believe I brought this to the attention of the house—of the thirty-seventh member, which has been included. The addition of a thirty-seventh member did not come out of a recommendation of the committee. During my second reading speech, I justified why we are including a thirty-seventh member. It relates to the President. It does not necessarily relate to the things that the member raised here. I make the point that an uneven number of members at an election is the preferred model reflected in the commentary that the member set out. The panel did not recommend an additional member. We acknowledge that. We are not saying that that came from the report. That is a separate matter.

As I said, I am sure the member can check *Hansard* to see what question I asked. I understand why the member has taken the view that I am somehow suggesting that it arose almost exclusively out of the report. I was saying that the bill reflects in its entirety almost what was in the report, but some additional matters have arisen, which includes the thirty-seventh member that the bill deals with, that do not come from the report itself.

**The DEPUTY CHAIR (Hon Dr Sally Talbot):** Before I give Hon Neil Thomson the call, I remind him as a new member that although the debate on clause 1 is broad ranging and, as I referred to earlier, there are plenty of precedent rulings on that matter, it is nevertheless not a debate without limits. One of the ways to test those limits is that, from the chair, I really do not want to hear the parliamentary secretary repeat what he already said during the second reading debate. If it helps to clarify the member's line of questioning to bear that in mind, I advise him to contemplate that matter. I give Hon Neil Thomson the call.

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**Hon NEIL THOMSON:** Thank you for your advice, deputy chair. I appreciate that.

I suppose I am trying to understand this concept in its simplest terms. Notwithstanding that the parliamentary secretary said this relates to the President, we have seen the who and why in relation to this extra member. I have some questions that relate to that. Is it true—this is my reading of the constitutional bill—that the ability to increase the number of members in this place can be done through this process but to decrease the number of members, we would have to have a referendum? Is that correct?

**Hon MATTHEW SWINBOURN:** That is correct, member.

**Hon NEIL THOMSON:** I guess we can agree to disagree. I posit, given the analysis here, that the actual justification, as Electoral Reform Australia says, is that there is no problem with this even number. One might form the view, given it was not a recommendation of the expert committee, that somebody who was instructing PCO had the idea that it would be easier to increase the number in order to protect the statewide regions. Was that ever a consideration by whoever was instructing PCO that this might be undone with relative ease if 36 members were retained?

**Hon MATTHEW SWINBOURN:** I will take the member to our rationale of why we increased the number of members to 37 members. I cannot tell the member about matters that are subject to cabinet-in-confidence, which the member has pushed and pushed. I suppose that is his entitlement but I will not go into which person said what about those things. With an even number of seats, the vote required to secure a majority of seats is above 50 per cent, often significantly so. Having an odd number of Council members makes it easier for a party that wins a majority of votes to win a majority of seats. Of course, any party will only win the seats under this system that are proportional to the number of votes it gets. An odd number of seats also addresses the anomaly of the President having only a casting vote. With 35 members voting, excluding the President, there is no need for a casting vote. Increasing to 37 members means that if all members vote, excluding the President, and the vote is equal, the casting vote has no value. That is the rationale for it. That is the decision we have made. Some will agree and some will disagree. The policy has been set on that matter. We will get to it specifically when we get to the particular clause that deals with that, which I am sure we will debate further. I do not think I can add anything more to the member's line of questioning.

**Hon NICK GOIRAN:** Prior to the adjournment for the dinner break, the parliamentary secretary indicated to me that with regard to the three purposes of the bill set out in the second reading speech, clause 15 deals with the first of those three things, which is to establish a whole-of-state electorate. Clause 63 deals with the second, which is the abolishment of group voting tickets. Clause 68 deals with the introduction of optional preferential voting. Are those three things matters that were recommended by the ministerial expert committee?

**Hon MATTHEW SWINBOURN:** Yes, member.

**Hon NICK GOIRAN:** The parliamentary secretary will recall that prior to the interval I indicated that there remains a very substantial issue that the government needs to address—that is, the validity of the final report. The government now seeks to rely on recommendations that do not exist. At law they do not exist; there was no power for the report to be made. That is incredibly inconvenient to the government, but it remains the case. That said, as I understand it, the government has included matters that certainly have no basis in the report, whether it exists at law or otherwise. The parliamentary secretary has just been dealing with one of those matters with my colleague—that is, the increase in the number of members. In the bill before us, parliamentary secretary, there are some 97 clauses. Which of the clauses will require an absolute majority of the house?

**Hon MATTHEW SWINBOURN:** Member, an absolute majority is only required at a vote at the second reading and the third reading speeches; it is not required at individual clauses.

**Hon NICK GOIRAN:** That being so, parliamentary secretary, which of the provisions other than the matter that was just discussed—which I understand is clause 6 to increase the membership of the house from 36 to 37—fall outside the remit of matters purportedly recommended by the ministerial expert committee?

**Hon MATTHEW SWINBOURN:** On the comments I made on things that specifically arise out of the recommendations, I clarified that some things arise in the act that are necessary consequences of making changes, so they may not specifically relate to a recommendation, but because we are making changes, we have to make consequential or collateral changes. There are some provisions that were not specifically dealt with in the recommendations by the committee. There is clause 23, the entrenchment clause. The death of a candidate was not dealt with by the committee, as I understand it, but of course to some degree that comes up when we move away from a region because the provision in the current act relates to the death of a candidate in a region as opposed to a whole-of-state electorate. The death of a candidate clause 54 and clauses 73 and 92 are tangentially connected—I think that is a term that Hon Tjorn Sibma likes to use.

**Hon Nick Goiran** interjected.

**Hon MATTHEW SWINBOURN:** Sorry; am I going too fast?

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**Hon Nick Goiran:** What clause number is that?

**Hon MATTHEW SWINBOURN:** It is clauses 54, 73 and 92. The continued registration of political parties was not a specific recommendation of the MEC, which is clause 39. Registered party groups being first on the ballot paper was not a specific recommendation of or issue for the committee, although it does connect more broadly to recommendation 3, which deals with how to manage the size of the ballot paper. The point I am making here is that we can argue whether or not the position of registered political parties on the ballot paper does or does not technically fall within that provision, to put it to you. That is clause 63, if I did not already mention that.

**Hon NICK GOIRAN:** To clarify: the government is saying that the clauses in this bill that do not find themselves as a matter purportedly recommended by the ministerial expert committee final report or are not consequential upon amendments associated with those recommendations are clauses 23, 39, 54, 63, 73 and 92. With the exception of those six —

**Hon Matthew Swinbourn:** Clause 6 is the 37 elected members, but we have already covered that.

**Hon NICK GOIRAN:** I thank the parliamentary secretary. That is right. I had asked about any clauses other than clause 6. Other than those seven clauses, the balance of the 97 clauses can be described as originating from the ministerial expert committee's final report—putting aside my comments about the validity of those things—or are consequential upon amendments to those recommendations or other structural drafting matters; for example, clauses 1 and 2 and those types of things. Is that a fair description of the clauses before us with particular emphasis on those groups of clauses that are not found in the ministerial expert committee report?

**Hon MATTHEW SWINBOURN:** I think so. We have constructed that from the table here. I do not wish to say that there is something outstanding, but there may be something minor. However, they are the significant matters that we have identified to the member. As I say, if there are other things, it would be drawing a long bow between them and those that are tangentially related. I do not want to give the member an absolute answer about that. This is the best advice I have at the table now. I hope the member will be fair to me and the advisers here that we have given the member an answer in good faith about that. If we come back later and say that we have missed one, it will not be because we have tried to mislead the member.

**Hon NICK GOIRAN:** That is a fair caveat. I thank the parliamentary secretary for making that. I am happy to abide by that.

One of the documents the parliamentary secretary tabled immediately after the suspension was a response to a question prior to a hearing that was delivered to the Standing Committee on Estimates and Financial Operations. The date that the question is said to have been received is 8 October this year. The parliamentary secretary will see that in response to question (1)(b), asking about the hourly rates and total cost of each committee member, there is a reference to a fee of \$110, excluding GST and expenses, per hour for work performed outside of meetings. Earlier, it was identified at clause 1 that the ministerial expert committee's final report was provided to the government on 28 June this year. The committee was functus officio on 23 June this year. Were any costs incurred during that additional five-day period?

**Hon MATTHEW SWINBOURN:** We do not have information in that level of detail available to us. The best I can do is seek an answer for the member and come back. I am sorry—not sorry; it is not possible.

**Hon NICK GOIRAN:** While that information is being obtained —

**Hon Matthew Swinbourn:** It will not be today.

**Hon NICK GOIRAN:** I understand and accept that. During the time it takes to obtain the information, would it be possible to provide the invoices that the committee gave?

**Hon MATTHEW SWINBOURN:** I can only take that one away with me. As the member would note from the question here, not all the invoices have yet been received. I would suspect that because —

**Hon Martin Aldridge:** This was 8 October.

**Hon MATTHEW SWINBOURN:** I appreciate that. Again, it is the Department of the Premier and Cabinet, not the Department of Justice. We are aware that we still have one outstanding invoice. I would have to take advice on whether they can be provided. As I say, the invoices are not coming from the individuals themselves but from the institutions because they have asked for the moneys to be paid to their institutions rather than to them personally. At this stage, I just do not understand the status of those invoices in terms of whether those documents can be provided, because they are not technically the government's documents.

**Hon NICK GOIRAN:** I will just make this point to the parliamentary secretary, and then we will move off this topic: this is a very significant issue. If this ministerial expert committee has acted without power and members of the committee have then been paid by the taxpayers of Western Australia for work that was done outside of that power, that absolutely needs to be inquired into. I accept that the parliamentary secretary does not have that information

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at the moment. I also accept that we do not need to get to the bottom of this issue with respect to clause 1, but I just want to be clear to those people in government who might be observing this debate that this matter definitely will not be dropped. Somebody had better get to the bottom of this and find out exactly what is going on, because the situation involving the ministerial expert committee's final report is nothing short of a debacle. It is the key document that the government is relying on for the entirety of the bill except for the seven clauses that we have identified. Ninety of the 97 clauses rely on this document, which is a nullity at law. I absolutely do not want to see this mischief that has occurred being compounded by the taxpayers of Western Australia paying people—not one person—over that five-day period when these matters were being handled in an unlawful fashion. I am not saying an illegal fashion. No illegality has occurred here, but there was no power at law to issue this on 28 June and no explanation has been provided.

Prior to the suspension, one of the matters that I thought was taken on notice and for which an answer might have been provided was the seeming anomaly between the seven weeks in the terms of reference that was provided to the members of the committee and the eight weeks that is found in the document. Have we managed to get to the bottom of that or is the explanation for it that it was simply a typographical error?

**Hon Matthew Swinbourn:** I think it was typographical.

**Hon NICK GOIRAN:** Okay. I did not know whether there was some further explanation.

**Hon Matthew Swinbourn:** No; there was simply an error.

**Hon NICK GOIRAN:** That is fine.

**The DEPUTY CHAIR (Hon Dr Sally Talbot):** Hon Nick Goiran, you still have the call.

**Hon NICK GOIRAN:** Thank you very much, Deputy Chair.

With regard to the seven clauses that the parliamentary secretary referred to that do not have their genesis in the purported final report of the Ministerial Expert Committee on Electoral Reform, are any of those matters that arose from the Electoral Amendment Bill 2020—in other words, matters that were carried over from the bill in the last Parliament and/or matters arising from the forty-seventh report of the Standing Committee on Legislation?

**Hon MATTHEW SWINBOURN:** No, member.

**Hon NICK GOIRAN:** Why is that?

**Hon MATTHEW SWINBOURN:** Although they are obviously in the same category of electoral matters, this bill deals with electoral equality and those matters that we think are consequential to that. Those other matters in relation to that particular bill are not being progressed by the government at this point. Just let me get some more advice on it. The Minister for Electoral Affairs has indicated that he intends to progress the matters that were dealt with in that previous bill at a later stage. He has made the statement that he intends on doing that.

**Hon NICK GOIRAN:** This is pretty interesting. We have a situation in clause 1. My colleague Hon Tjorn Sibma has taken us through the time line that there was, I think by anyone's measure, an expedited process embarked upon by the government. The government expedited a process that the Premier said was not on the agenda prior to the election. No sooner had the election occurred, the Premier appointed Hon John Quigley as his Minister for Electoral Affairs and that began this expedited process that sees us have the bill that is before us now. The core document that the government relies upon for this expedited bill is a report that has no status at law, yet a bill that was pressed through the fortieth Parliament, with the benefit of Parliamentary Counsel's Office and funded by the taxpayers of Western Australia, is not included in the matters before us. According to the parliamentary secretary, there are 97 clauses in this bill and not one of them deals with the matters pertaining to the Electoral Amendment Bill 2020. But we are then told that the Minister for Electoral Affairs is intending to progress it at some later stage.

Would it be possible to construct a process that could be more inefficient than this? A bill was already prepared in the fortieth Parliament. The government could have uplifted it and brought it into the forty-first Parliament, but it decided not to. It gave some vague indication that it will happen at another stage. As I recall, these matters were actually promised not at the 2021 election but at the 2017 election. We now find out during the clause 1 debate that not one of the 97 clauses before us deals with the commitments made at the 2017 election, and the matters that are put before us were certainly not promised in the 2021 election. In fact, the exact opposite was said. The government said it was not on the agenda. This is remarkable. The more time we spend on clause 1 interrogating this matter, the more revelations are made. It is no wonder that there was resistance to this matter going to the Standing Committee on Legislation for further interrogation. The truth has come out, most certainly, today.

There was a discussion earlier between the parliamentary secretary and Hon Tjorn Sibma with regard to the Electoral Commissioner. The parliamentary secretary indicated that there were a series of engagements with the Electoral Commissioner. In a response after the adjournment, following a question from Hon Tjorn Sibma about whether the Electoral Commissioner was bound by matters that might be said to be constrained by cabinet

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confidentiality, the parliamentary secretary indicated that the Electoral Commissioner is bound by a code of conduct with respect to confidentiality. How many recommendations did the Electoral Commissioner make to the government with respect to the bill before us?

**Hon MATTHEW SWINBOURN:** I cannot give the member those specific things because there were a number of them. I have come back to say that they were in relation to the technical and operative parts of the bill rather than anything to do with policy—it was ongoing. I cannot give the member anything tonight because I do not have a ready reckoner for anything that relates to clauses rather than sections of the existing Electoral Act, if I can describe it that way. Therefore, I think we might take it under contemplation, if I can do that, and see whether there is anything we can provide to the member at the next sitting day to consider in relation to those matters that were engaged in with the Electoral Commissioner.

I think I said this to Hon Tjorn Sibma: as we get into the clause-by-clause debate, there will be times when the member may ask why we went down this path and not that path and we will say to him that we received advice from the Electoral Commissioner. I am not trying to be obtuse or difficult; I just need to put it in a fashion that is presentable to the chamber.

**Hon NICK GOIRAN:** Parliamentary secretary, that is very fair. So that we can make some progress and not be too concerned about the feedback from the Electoral Commissioner for those parts that do not warrant it, the bill consists of five parts. Is it fair to say that when we look at part 1, which is the preliminary provisions, part 2, which is the amendments to the Constitution Act 1889, and part 3, which is the Constitution Acts Amendment Act 1899 amendments, we see that they are not matters that would have invoked the consultation process with the Electoral Commissioner, but rather it would be part 4, which is the amendments to the Electoral Act 1907, and some of the clauses thereafter that would have been subject to the consultation process?

**Hon MATTHEW SWINBOURN:** I have been advised that that is a fair comment.

**Hon NICK GOIRAN:** If we can park that piece of homework, or whatever we want to describe it as, it would be ideal for those assisting with the passage of this bill if those matters could be ascertained before we get to clause 9.

**Hon MARTIN ALDRIDGE:** Before I move to another matter, following from questions asked by Hon Nick Goiran, I understand one part of the bill—clause 45 replacing section 75—was an inclusion that was requested by the Electoral Commissioner on the advertising of writs and changing the form of advertisement requirements. That was not something contemplated by the MEC and, as I understand, it was not contemplated by the government until it was suggested to it as part of the consultation process with the Electoral Commissioner. Is that correct?

**Hon MATTHEW SWINBOURN:** My advice is that the Parliamentary Counsel's Office originally flagged the issue and that the Electoral Commissioner concurred with the issue PCO raised, which has been resolved by the new proposed section 75.

**Hon MARTIN ALDRIDGE:** I must be mistaken; I will go back and check my notes. Unless there is a different clause that amends the advertisement requirement, I thought this would naturally be it, but I understood it was one of the perhaps unrelated but practical suggestions that the Electoral Commissioner put forward as part of the consultation with him over one of the earlier drafts of the bill. I will have a look at that later on. Of course, it is also something we can address when we get to clause 45. Were other practical matters, whether they were related to the policy of the bill, presented to government by the Electoral Commissioner that were not progressed in this bill? Is the parliamentary secretary able to identify them and would they be considered as part of the second tranche of reforms, which I think the parliamentary secretary has just had an exchange with Hon Nick Goiran about delivering the 2017 election commitments?

**Hon MATTHEW SWINBOURN:** The minister has indicated in the other place that, as soon as he gets the third reading of this bill through—he said the house, but I suspect the Parliament—he will be discussing with the Electoral Commissioner what improvements can be made to the system he uses here but, more broadly, to the Electoral Act because obviously there are some archaic issues with the act that go beyond what we are dealing with here. Those matters will be looked at post the passage of this bill. What they might finally look like will be revealed in the fullness of time, if I can put it that way.

**Hon MARTIN ALDRIDGE:** I guess we will see how that progresses in terms of government priorities and the extent to which the government wishes to engage with others on electoral reform post this bill. I will make the observation that I think it was the 2017 election report in which the then Electoral Commissioner—I think it was Warwick Gately—made his first recommendation, which was for a rewrite of the Electoral Act. Then we had the Labor Party's 2017 election commitments, which were the basis for the 2020 bill, which has not progressed in this bill, yet these reforms are being prioritised ahead of those two matters. Particularly given there is no need for this bill to pass in any short period, one would have thought that those matters, whether it be an entire review of the act or the delivery of the government's now ageing election commitments, could have been contemplated as part of the bill that is

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before us, perhaps with cool heads prevailing in 2022. However, they are just comments, and I know the parliamentary secretary is not in charge of the portfolio or the decisions relating to this matter; he is merely the messenger.

Can I move back to the issue of the remuneration of the committee. The parliamentary secretary provided some information to the Legislative Council after the dinner adjournment. He tabled an answer to a question asked prior to hearings of the Standing Committee on Estimates and Financial Operations. It is something I would like to take members to now. Part (c) asked —

On how many occasions did the committee meet providing the date and duration of each meeting;

I would not have thought that question would need to be referred to the Department of the Premier and Cabinet because we know that the terms of reference for this committee, which are found at annexure 1 of the report, show that executive support was provided by the office of the Minister for Electoral Affairs. The answer provided to the standing committee was —

The Committee met on five occasions with secretariat support, with each meeting lasting between 2 and 5 hours. The Committee also held multiple meetings by video conference and telephone with Committee members only for the purpose of drafting the discussion paper and the final report, without secretariat support.

Can I start with the five occasions on which the committee formally met: can the parliamentary secretary provide me with the dates, the duration, and the attendance at those meetings?

**Hon MATTHEW SWINBOURN:** I understand from the advice I have received that there is another question from the honourable member relating to these specific matters with the Department of the Premier and Cabinet. To be consistent with the answer that we want to give, we want to be able to confer with the department before we give the member an answer today as to the information. Hopefully we will be in a position to address that the next time we meet. We do not have the answer that the department is either working on or has finalised in relation to that.

**Hon MARTIN ALDRIDGE:** Thanks, parliamentary secretary; that would be very helpful. I appreciate this was something that I raised at estimates and has been taken as supplementary information. Obviously, it would be useful during consideration of this bill because it is directly relevant. The answer provided was that committee members met on a number of other occasions without secretariat support. To the extent that it is possible, could the parliamentary secretary provide information relating to the frequency of those meetings and the attendance of committee members at those meetings?

The other part of the answer I want to take the parliamentary secretary to is part (f). I asked the committee to seek from the Premier to table any correspondence between the committee members and the government, including letters of engagement or other documents relating to their engagement or appointment. In answer to this question, I was referred to Legislative Council tabled paper 188 on 12 May 2021. We learnt earlier today that that paper was tabled by the parliamentary secretary in response to a question without notice by Hon Tjorn Sibma on that date. We know that an error has been identified in those documents. Is it the parliamentary secretary's intention to correct not only the answer that was provided to Hon Tjorn Sibma, but also the answer that was provided to the Standing Committee on Estimates and Financial Operations? There is a factual error relating not only to the terms of reference, but also in the body of the letter of appointment to the members of the ministerial expert committee.

**Hon MATTHEW SWINBOURN:** I will have to consider what the member has just put to me, although if the error is contained within the document, I do not know how it would have been misleading on my part to provide and table a report, but I will reflect on that. If the record needs to be corrected, of course I will correct it, but at this point in time I will need to reflect on that answer and the documents.

**Hon MARTIN ALDRIDGE:** I am certainly not accusing the parliamentary secretary of misleading the Council; that would not be the case. I will identify what I believe are the errors. The error in the letters of appointment refers to the appointment from 28 April 2021 expiring on 28 June 2021. We know now that that exceeds the eight weeks' authority provided to the committee by cabinet. The terms of reference that were attached differ in a couple of respects from the terms of reference contained in the committee's report. The parliamentary secretary confirmed to us today that the terms of reference contained in the final report are accurate. The inconsistencies relate to the titles and postnominals of the members, which is a relatively minor matter, but a more significant matter is the term of appointment that was reflected in the terms of reference in the tabled paper to which the Standing Committee on Estimates and Financial Operations has been referred in answering a question to that committee. It reflects a term of appointment of seven weeks; clearly that is inaccurate. They are the two aspects contained in those documents that were tabled by the parliamentary secretary. I ask the parliamentary secretary to reflect on those and consider correcting the record in that respect.

I asked again through the Standing Committee on Estimates and Financial Operations what was the total cost of the review and the report of the Ministerial Expert Committee on Electoral Reform. The answer I was given was —

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The cost of engagement of the committee members is estimated to be \$42,231.20 (inclusive GST). The Department has not yet received all invoices for payment and therefore does not yet have the total costs.

I think the parliamentary secretary is taking this on notice, in terms of trying to get to the bottom of DPC and making sure that he provides a consistent response in consultation with the department. It sounds as though the department is paying the bills; that is good. This did not completely answer the question. It is good to know what the estimated cost of the committee members was, noting that Hon Malcolm McCusker declined to receive payment. It is really just the cost of the three remaining committee members. Surely the committee and its processes incurred further costs other than the engagement of the committee members. Obviously, there was an advertising cost, because we know there were three advertisements in *The West Australian*; we know there was a printing cost because we have a nicely printed and bound ministerial expert committee report. I assume a number of other costs, such as secretariat support provided by the minister's office, are probably internal costs so cannot necessarily be itemised in that respect. I am still none the wiser, after asking for several months what has been the total cost of the ministerial expert committee process. I am unsure whether the parliamentary secretary is in a position tonight to provide an answer to that question or whether that is something he can confer with the Department of the Premier and Cabinet on overnight and seek to get a response.

**Hon MATTHEW SWINBOURN:** I think, for the sake of consistency, I will seek advice overnight and see what we can come back with for the member.

**Hon MARTIN ALDRIDGE:** We had a bit of a conversation about the submissions. This was also something that Hon Tjorn Sibma and Hon Nick Goiran pursued. I am also aware that I have attracted a fair bit of criticism for my second reading contribution on this matter, including some disorderly contributions in members' statements last Thursday. Is the parliamentary secretary able to confirm a couple of minor matters with respect to submissions? I started to ask a question before about the five private submissions. The parliamentary secretary was going to confirm for me whether that was the right number.

**Hon Matthew Swinbourn:** That is the right number.

**Hon MARTIN ALDRIDGE:** The parliamentary secretary also confirmed with me earlier that they were made private by the committee at the request of the submitters. We have ascertained that. Did the government have access to the private submissions or were those private submissions accessible only to the ministerial expert committee? I know there is a little bit of a crossover here because the secretariat support was provided by the minister's office. To the extent that you cannot necessarily delineate the ministerial expert committee from the government because of that common linkage, were those private submissions protected to the committee itself or were they available to the government?

**Hon MATTHEW SWINBOURN:** My advice is that it was the MEC itself and the secretariat, which was obviously Ms Buchanan from the minister's office, but that they did not get distributed outside of that.

**Hon MARTIN ALDRIDGE:** The parliamentary secretary provided some numbers earlier, and I will reflect on the *Hansard* overnight, so I will not ask him to repeat them. Is the parliamentary secretary able to provide a breakdown of the submissions into those that were submitted from regional Western Australia versus those from metropolitan areas, to the extent that the government was able to identify the submissions, or is that not something the government has considered in its analysis of the submissions?

**Hon MATTHEW SWINBOURN:** My advice is that a breakdown of those submissions into where people live has not been conducted. It is not that it is not possible to conduct it, but we would have to go back manually through the submissions and work it out. I think that submissions were submitted through an online portal as well, so it may be the case that some submitters did not provide their address details. But as I think the member already contemplated in the question he asked, to the extent that that is possible, based on the submissions, it has not been done, so I cannot provide it to the member.

**Hon MARTIN ALDRIDGE:** I appreciate that work has not been done, but maybe that is something we can talk about at a different stage of this bill. Another thing I want to come back to arose from my briefing, and I just want to clarify this point. I will probably get the terminology wrong, because it is a Legislative Assembly thing, which I do not tend to occupy my mind with, but a bill requiring an appropriation requires a message from the Governor. Obviously, there is a constitutional limitation—I think it is section 46 but I am happy to be corrected—so that bills that require an appropriation be introduced into the Assembly with a message from the Governor. At the briefing, I thought I was advised that there was not a message accompanying this bill, but on further investigations I am advised that that is not correct. Is the parliamentary secretary in a position to set me straight on whether this bill does require an appropriation; and, if so, whether it received a message from the Governor prior to introduction in the Assembly?



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**Hon MATTHEW SWINBOURN:** I was at that briefing with the member. I am not sure where he obtained the additional qualified advice from. Perhaps he could indicate to us where he got that additional advice from in relation to this particular bill.

**Hon TJORN SIBMA:** I was out on urgent parliamentary business, so unfortunately I was not in a position to listen to the answers that the parliamentary secretary had undertaken to report back on with respect to, at the very least, the administrative arrangements that applied in the meetings that were undertaken with Professors Phillimore and Drum on 1 and 8 April. I apologise for putting the parliamentary secretary through this position, because I was not here, but am I correct in ascertaining that no notes of those two meetings were kept by the minister's staff?

**Hon MATTHEW SWINBOURN:** I think the answer that I provided was that the minister did not keep any notes of his own, and that I am not authorised to provide any notes that have been provided or created by any of his staff.

**Hon TJORN SIBMA:** I actually would not have expected the minister to keep his own notes, even though that would possibly have been helpful.

**Hon Matthew Swinbourn:** I said that he didn't make any notes.

**Hon TJORN SIBMA:** He did not make any notes. The parliamentary secretary has been advised that he did not make notes of those meetings, but he is not in a position to confirm whether the minister's staff took notes of those meetings, or he is not in a position to divulge to us the contents of those notes? Can I just clarify that position, please?

**Hon MATTHEW SWINBOURN:** The member can take from my answer that notes might and possibly do exist, but I am not authorised to provide any details or copies of them through this process. I am here in a representative capacity. If such things exist, the member is entitled to seek them through other means, but I am not in a position to provide them to him.

**Hon TJORN SIBMA:** Is it the usual practice, whether for this minister or other ministers in the McGowan government, for notes to be taken at meetings, particularly when those meetings —

**Hon Matthew Swinbourn:** Member, I can't answer that question.

**Hon Sue Ellery:** How would he know?

**Hon Matthew Swinbourn:** Exactly; how would I know? I mean, you're asking me to speculate on something I could not possibly have any knowledge of.

**Hon TJORN SIBMA:** We are changing the law—in fact, changing three acts—in contradiction of election promises, and we are dealing with the appointment of a ministerial expert panel, which is a draw on taxpayer funding. The parliamentary secretary has reflected on the fact that at least two if not four of the members of this expert panel were consulted in establishing the terms of reference that they were bound to report upon as their key function. It would be highly unusual, would it not, that notes would not be taken? I put it to the parliamentary secretary in the simplest terms—yes or no—do notes exist of the meetings of 1 and 8 April as they relate to meetings between the minister and Professors Drum and Phillimore?

**Hon MATTHEW SWINBOURN:** I have given my answer in relation to this. I cannot take it any further.

**Hon NICK GOIRAN:** What is required for the parliamentary secretary to obtain authorisation for those notes to be released?

**Hon MATTHEW SWINBOURN:** I do not really understand the member's question about what would require me to get authorisation. I have been given my instructions. I do not have any power to do anything further than that. There is no process for me to get authorisation to obtain those notes.

**Hon NICK GOIRAN:** In other words, it is not that the parliamentary secretary has not asked for authorisation to release the notes; it is the case that he has asked and he has been expressly told not to table the documents.

**Hon MATTHEW SWINBOURN:** I have conferred with the Attorney, and they are my instructions.

**Hon TJORN SIBMA:** Seeing that we cannot rely upon notes—I will give the government fair warning that it should expect an FOI request, and it will not be of any use to me because the bill will have passed but at least it will reflect somewhat on the anatomy of government operations —

**Hon Nick Goiran:** Maybe they could expedite the freedom of information application.

**Hon TJORN SIBMA:** I very much doubt that, if my experience concerning the Public Transport Authority's contractual arrangements with Huawei are any guide. I will reflect on that on another occasion.

Were issues of remuneration discussed at those meetings; and, if not, how were the rates, which were referred to in the answer by the Department of the Premier and Cabinet during the estimates period, determined? The following rates were provided for remuneration for time worked: \$825, excluding GST and expenses, per full day for a meeting

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over four hours; \$537, excluding GST and expenses, per half day for meetings of four hours or less; and \$110, excluding GST and expenses per hour, for work performed outside of meetings. Were those market rates discussed at those meetings; and, if not, how were those rates established and by whom were they authorised?

**Hon MATTHEW SWINBOURN:** The minister took advice from the Public Sector Commissioner. These rates are set by the Public Sector Commissioner. They are not rates that the Attorney had any input into.

**Hon TJORN SIBMA:** I thank the parliamentary secretary for that pretty reasonable response. They look like standardised rates. Nevertheless, I was interested in the fact that the three members of the committee, other than Malcolm McCusker, determined either individually or collectively or had determined for them that invoices for their services would be issued by presumably their employing tertiary institution. How was that decision taken? Presumably, these people were appointed based on their individual merit; however, that was determined by the minister. I find it very unusual that these specific individuals, with a body of work and an academic and policy pedigree, have now effectively not been remunerated directly by the state government for their work and their fees have been issued via invoice, I think, by three employing institutions collectively. I do not understand the procurement policies that apply to that. It is not a big issue but I find it unusual. Can the parliamentary secretary please explain to me how this set of arrangements came into force and what was necessary to give effect to them?

**Hon MATTHEW SWINBOURN:** These individuals are all salaried from their respective institutions. It was at their individual request that the money be invoiced from their institutions to the government rather than that the money be received by them. They had their own reasons for doing that; it was not at the insistence of the Attorney or the government or anything of that kind. Those were the arrangements that were agreed to.

**Hon TJORN SIBMA:** I thank the parliamentary secretary. I will probably leave that issue there.

An earlier exchange between Hon Nick Goiran and the parliamentary secretary concerned matters included in the bill that were not recommended specifically by the committee in its report. I am talking about a difference of about seven clauses in a 97-clause bill. My area of interest is the adverse of that; it relates to matters that were canvassed by the committee but not included in this bill and possibly were not possible to include in the bill at this stage.

I noted with some interest the minister's appetite for further electoral reform in some way or another. I want to address a couple of specific issues on pages 41 to 43 of the final report of the expert committee, with a particular focus on paragraph 4.1, "Turnout in regional and remote communities", which I think is particularly important considering some of the known and unknown implications of implementing a statewide electorate. I also wish to focus on paragraph 4.3, "Facilitating a regional presence of MLCs". Over the next quarter of an hour or so, perhaps we could possibly turn our minds to these issues.

I first want to reflect on an extensive quote attributed to our Electoral Commissioner, Mr Robert Kennedy. It is quite a good quote. It states —

*"Given the focus of the Committee's work is on matters of electoral equality I would also take this opportunity to identify a legislative issue directly impacting electors in remote and regional areas around equality of access to voting services. Currently many of these electors rely on mobile in person polling teams who visit remote communities and town sites at election time. This service is subject to the vagaries of weather, remote travel arrangements and other impediments. The introduction of technology assisted voting provisions in the Act present a more reliable avenue for a greater number of these electors but unfortunately the application of this service is limited to a small cohort of electors defined under s.99C of the Act. In other jurisdictions such technology assisted voting provisions are available for electors in remote areas who are enrolled at a location greater than a specified distance from a dedicated ... location. A similar amendment in Western Australia would provide the Commission with a more efficient and effective means of receiving votes from those electors who in particular may be more directly impacted by any changes that your Committee may recommend."*

Is this very amendment that the Electoral Commissioner recommended the government give consideration to somewhere in this bill that we are contemplating? I could not find it in there, but if it is, could the parliamentary secretary kindly direct me to it?

**Hon MATTHEW SWINBOURN:** No, member, it is not addressed in the bill.

**Hon TJORN SIBMA:** I will reflect on my contribution to the second reading debate when I invoked, probably against some of the better angels of my nature—others might consider them to be the worst ones—the invocation of the principle of charity when applied to arguments. In light of the fact that the government has attempted to elevate conceptually the issue of equality and voting equality, why was the interesting contribution made by the Western Australian Electoral Commissioner overlooked at this particular time?

**Hon MATTHEW SWINBOURN:** I do not think we have overlooked it. This really relates to a broader operation of the act rather than the more specific matters that we are trying to deal with through this bill. We do not think that

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these things are not important. To the contrary, we think they are important. I think the Minister for Electoral Affairs has indicated his intent to engage in further activity on reform of the Electoral Act.

**Hon TJORN SIBMA:** Thank you, parliamentary secretary.

**Hon Matthew Swinbourn:** You might also note that the federal government is also taking action on things like voter identification that we directly relate to the matters that have been raised here by the Electoral Commissioner.

**Hon TJORN SIBMA:** I imagine that this recommendation will be part of a suite of potential further amendments that the minister might give some contemplation to following the passage of this bill, and I look forward with some interest to movement in that particular space.

I will move on to probably the most pressing matter that will fall out of the passage of this bill, in that, axiomatically, having a whole-of-state electorate means the abolition of specified regional representation in the upper house. The Ministerial Expert Committee on Electoral Reform turned its mind to how a regional presence of members of the Legislative Council might be, in its words, “facilitated”. For the benefit of all, I might just read in very briefly the three paragraphs that the expert committee determined that it should include in its final report —

Several of the submissions raised concerns about how accessible MLCs would be to electors living in non-metropolitan regions, should the current regional vote-weighting be abolished and replaced with a Whole of State electorate. This is a significant concern —

I want to underline “significant” —

given that the distance between major regional centres is considerable. While emerging technology can assist in this respect, there is nevertheless value in encouraging MLCs to situate their offices in locations where there is currently no other upper or lower house member of parliament. Even under the current system, where half the MLCs are elected from outside the Perth metropolitan area, there are very few MLCs who are based a considerable distance away from other members of parliament.

There are two potential solutions to this challenge, should a Whole of State electorate be established. The first is to offer additional resources to those MLCs who base themselves a minimum distance from the centre of Perth. For instance, an MLC may be eligible to apply for additional staffing and travel allowances. This may be more effective than the current system of MP allowances, under which there are a number of such allowances available for MLCs who are elected from regional areas, even if they are based in West Perth.

A second solution may be to offer similar resources to MLCs who base themselves a minimum distance from the office location of MLAs. This would ensure that the offices of MLCs complement MLAs rather than duplicate their location.

I will make a personal reflection. My office is located in Cedric Street, in Stirling.

**Hon Dan Caddy:** It is opposite David Michael.

**Hon TJORN SIBMA:** I could kick a footy and it could be marked by Hon David Michael, the member for Balcatta.

**Hon Dan Caddy** interjected.

**Hon TJORN SIBMA:** Is he not an honourable member? Is he not a parliamentary secretary?

**Hon Dan Caddy** interjected.

**Hon TJORN SIBMA:** He is a tall fella.

**Hon Sue Ellery:** He is a parliamentary secretary.

**Hon TJORN SIBMA:** He is a parliamentary secretary but he does not get called honourable member.

**Hon Sue Ellery:** I don’t think he gets it.

**Hon TJORN SIBMA:** Not yet—okay; he has to work up to that.

He could then punt the ball to Vince Connelly, who is currently the federal member for Stirling, who could then forward the ball to the City of Stirling. In a very concentrated area there are two members of state Parliament—just coincidentally from different political sides and in different houses—next door to a federal member, who is just across the road from the local government building.

**Hon Darren West:** What happens after local government?

**Hon TJORN SIBMA:** What normally happens is that constituents who are seeking remediation are actually pretty well served by or at least triaged among the four of us in what I think to date has been a pretty cooperative way that has focused on the needs of the individual. I often reflect on that situation and think perhaps there is a better way to allocate that space, particularly as it relates to the two state members concerned. I do not know what other people’s experience has been coming into this place but effectively my experience with the Department of the Premier and

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Cabinet, irrespective of the government of the day, is: here is your office—take it or leave it. I am not necessarily sure at the moment the degree of discretion available to members in this chamber, even members from the regions, on where they can possibly situate their office. I know, for example, that some mischief has been made about regional members who have an electorate office in West Perth. I might just make the observation that some of those members had very few options for what has been provided to them, and I think that is unfortunate.

My question at this stage is about something that cannot be contemplated in the bill but will be a consequence of the passage of the bill. Might I ask, because this is the only appropriate time to ask it, what the government is considering to safeguard or secure some measure of regional representation in the upper house post-2025?

**Hon MATTHEW SWINBOURN:** As the member knows, the current arrangements do not dictate that a member of the Legislative Council's electorate office has to be in their region, so there are no requirements in place currently that protect regional representation in the way the member has described. It comes down to the individual members and political parties to, for want of a better word, "negotiate" with the Department of the Premier and Cabinet, which works out where our offices are or where we can locate them. I am sure that members on both sides can share war stories about their involvement with the Department of the Premier and Cabinet, but the fundamental principle generally is that individual members get to work with the Department of the Premier and Cabinet on the location of their office.

The Premier has a draft letter that will go to the Salaries and Allowances Tribunal to ask, if the Council changes to a whole-of-state electorate, whether a review of entitlements would be appropriate and how the Salaries and Allowances Tribunal could continue to support members who choose to either base their electorate office in the regions or travel to the regions as a means of engaging with regional communities across Western Australia. Obviously, the Premier will not send that letter—I do not have a copy of it to table here, but my understanding is that a draft is available—until the bill passes the house. He will not write to the tribunal now because as a statutory tribunal, it will not deal with that issue until the law has changed. It will then, of course, be up to the political parties and members to write to the Salaries and Allowances Tribunal to advocate for that point of view because, obviously, the change in nature from six regions with six members to one region with 37 members will have some implications for the way the tribunal will structure allowances and things of that kind. SAT is an independent statutory body and it will make its decisions based on that process as it goes through. I encourage members to make their own submissions if the bill passes the house and the time comes for them to make those considerations.

**Hon TJORN SIBMA:** I thank the parliamentary secretary. That was very polite, but I put it to him that it is a matter of when, not if, this bill passes the house.

**Hon Matthew Swinbourn:** I do not want to get ahead of myself.

**Hon TJORN SIBMA:** I can reflect on the *Hansard* tomorrow. I do not need to ask the parliamentary secretary to table a draft version of a letter that has not been sent yet.

**Hon Matthew Swinbourn:** I cannot table it.

**Hon TJORN SIBMA:** The parliamentary secretary cannot table it but, effectively, he has largely read in the text of the letter that is likely to be sent to the Salaries and Allowances Tribunal, which is quite good.

I want to reflect on that without any accusation of self-interest because I am elected as a metropolitan member. In addition, I am concerned whether there will be much scope for metropolitan-based members—albeit upon the passage of this bill we will all be members for Western Australia after 2025—to travel the state and familiarise themselves with the issues that might be germane to a portfolio responsibility and whether their sworn responsibilities as a member of this place will be either facilitated or curtailed. My fear is that this bill will eventuate in a metropolitan-biased chamber. However, I am interested in the progress of that particular matter. I think it would be opportune for the government to at least establish some bare minimum criteria about office locations in the three regions in a very generic sense and ensure that there will be a regional presence, because nothing will guarantee that as a consequence of this bill.

I will reflect on chapter 4.5 of the final report of the Ministerial Expert Committee on Electoral Reform. This matter concerns civics and education. The expert panel says —

Education and awareness of voting and civics education are critical for the functioning of any electoral system, and they are especially important when electoral reform is undertaken. Honorary Professor Harry Phillips AM ... has opined that 'there exists a very strong belief in the community about the importance and need for political and civic education'. While the WAEC, the Constitutional Centre of Western Australia and the WA Parliament ... have significant education programs in place, the reform of the electoral system represents a unique opportunity to enhance electoral education. This may include a focus on some of the following issues well in advance of the next WA election:

- The role of preferences in impacting outcomes in proportional voting systems.
- Ballot paper changes.

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- The importance of enrolment and voting in elections.
- The importance of representation in our political system.
- The role of upper and lower houses of parliament.
- Means of accessing and engaging with MPs.

My broad question is: does the government see a need to revamp, I think in some form, remedial civics education or re-education, but, in particular, is the government committed to explaining to the population at large the different roles of the upper and lower houses of Parliament; and, if so, by what means?

**The DEPUTY CHAIR (Hon Jackie Jarvis):** The parliamentary secretary.

**Hon MATTHEW SWINBOURN:** Thank you, deputy chair; it is nice to see a new face every now and again.

The Electoral Commissioner himself—I have spoken about this before—acknowledged when he was at the estimates committee in the other place that an element of an education program will have to be done in conjunction with the normal education program. We will run that in the lead-up to the 2025 election.

Recommendation 5 in chapter 4 states —

**That the measures discussed in Chapter 4 be considered, to improve the electoral system.**

I can confirm that the recommendation for chapter 4.5, “Civics and education”, is under consideration by the government and we accept that education is important. I do not think that has gone into the long grass, if I can put it that way, but the progress of this bill will result in a change. Having a degree in political science myself, I strongly believe that education is important as well, but perhaps that is my personal view and is not reflective of—I will not say the broader government, but I am not speaking on behalf of the broader government.

**Hon TJORN SIBMA:** A couple of thoughts occurred to me about the issue we were discussing previously on how to maintain a level of regional representation when there will be no such thing as dedicated regional representation anymore. The parliamentary secretary helpfully read in the draft letter that the Premier intends to send to the Salaries and Allowances Tribunal. I suppose this is an early warning: I think it would be desirable for the Premier to also write to the party leaders in those terms, once he makes a decision to engage with SAT in that manner.

I want to put two issues to the parliamentary secretary. Under what is contemplated in this bill, and by virtue of the draft letter that is likely to be sent to SAT, it might be possible now, but I want to clarify—I am not having a go at any individual or party—whether it will be possible for a member to have an ordinary residence in the metropolitan area and an electorate office as an MLC in a region. I am not picking on Esperance, but I will use it as an example. Would that member be considered a regional representative in the terms that the Premier might be contemplating when he sends the letter to SAT? Where will the line be drawn about who might be a member with regional representative responsibilities if they are no longer a member for the Mining and Pastoral Region, the Agricultural Region or the South West Region? I hope the parliamentary secretary understands my meaning.

**Hon MATTHEW SWINBOURN:** I think I do understand the member’s meaning, but I do not think I can answer the question, because the bill does not deal with those kinds of issues at that level or specifically; who fits into those categories will be matters for the determination of the independent Salaries and Allowances Tribunal. But I will make this general comment about regional representation: both our political parties are political parties of the whole of Western Australia. We, the Liberal Party and the Labor Party, seek to represent the whole of Western Australia, and so we both seek to gain the broadest possible support from Western Australia. It is at our political parties’ peril if we do not address and make accommodation for regional Western Australia, and that will be a matter that we will be either rewarded or punished for as political parties because of those votes that are out there, and they are not inconsequential votes. Therefore, that is really an issue about how each political party wishes to get the best out of its elected representatives for the benefit of getting out to the community. As I say, any party that decides it will only be narrow in its base is not likely to get the necessary support to, firstly, be a party of government and, secondly, continue to be supported at future elections, and that is on us as members of Parliament and members of political parties.

**Hon TJORN SIBMA:** Thank you, parliamentary secretary. Oftentimes I think possibly in the public mind and oftentimes in the mind of what I will call the media establishment, there is a misapprehension of the resources that are provided to a member of Parliament, particularly when it relates to members of the upper house. I do not think I am telling a tale that is not shared by just about everybody here. We rely upon the two FTE staff we are gifted with to deal with inquiries, do our diaries, prepare notes and the like. I am reflecting somewhat on the circumstances of other upper house members in, say, the jurisdictions of New South Wales and South Australia. I know New South Wales a little bit better—not much better. My understanding is that those members have no office outside of the housing provided to them. There is no room for an upper house member other than inside the New South Wales Parliament. There is no other office. I am not completely sure about their staffing allocation, but I do not think that

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they enjoy even the two FTEs we are gifted with as an ordinary member—at least as an ordinary non-government member. Therefore, I seek to clarify that there is no government policy or intention to reduce the level of staff resourcing or to, I suppose, rationalise the accommodation expenses of upper house members post the passage of this bill.

**Hon MATTHEW SWINBOURN:** There has been no discussion along those lines. I am certainly not aware of it. I think if I were aware of it, I would be as alarmed as the member is.

**Hon JAMES HAYWARD:** Parliamentary secretary, while we are on this view, the argument for this change was largely around fairness. I note that the parliamentary secretary mentioned just recently that the Premier was preparing a letter to send to the Salaries and Allowances Tribunal around potentially rewarding some members with some extra resources or looking at a model that might work. I am just wondering how the parliamentary secretary views that in terms of equity. If all 37 members will represent all of Western Australia, how would it be equitable that a number—whatever that number would be—of them would have resources to travel the state and others would not? How would that work out given that the whole process of this —

**The DEPUTY CHAIR:** Member, I ask you to take a seat for a moment. Members, I am having trouble understanding how this line of questioning relates to the legislation in front of us, given that the second reading debate has been completed and we are on clause 1. If we can just make sure that we bring our comments or questions back to the bill before us.

**Hon JAMES HAYWARD:** Thank you, Deputy Chair. I would have thought, with all due respect, that this is exactly what the bill is about.

**Hon Matthew Swinbourn:** Member, you don't argue with the chair.

**Hon Nick Goiran:** Just ask the question.

**Hon JAMES HAYWARD:** My question is: given that this bill is based on equity and that there is going to be —

*Point of Order*

**Hon SUE ELLERY:** As I understand, what you just did, Deputy Chair, was you provided advice to the honourable member. It appears to me that the honourable member is not listening or acting according to the advice that you have just given him.

**Hon Nick Goiran:** He hasn't even finished asking his question!

**Hon SUE ELLERY:** I am making a point of order —

**Hon Nick Goiran:** You can't actually wait for that before you do your point of order.

**The DEPUTY CHAIR (Hon Jackie Jarvis):** Members!

**Hon SUE ELLERY:** And I have the floor.

**Hon Nick Goiran:** You're not doing a very good job, again.

**The DEPUTY CHAIR:** Members!

**Hon SUE ELLERY:** Are you getting tired and grumpy, mate?

**The DEPUTY CHAIR:** Leader of the House!

**Hon SUE ELLERY:** It is only day one.

Therefore, I ask you, Deputy Chair, to remind the honourable member of the point you have just made to him.

**The DEPUTY CHAIR:** Members, there is no point of order, but I will seek to remind you all that we are on clause 1 of this bill and I would ask that the questions and comments relate to the bill before us.

*Committee Resumed*

**Hon NICK GOIRAN:** Parliamentary secretary, much weight has been placed on the report of the Ministerial Expert Committee on Electoral Reform. On page 62 is annexure 5, which discusses other electoral models. The parliamentary secretary has previously explained to the house that the government has decided to take some of these recommendations—I believe there are five recommendations in this report—as the basis for the bill that is before us. Again, putting to one side the comments that I previously made about the validity and lawfulness of this report, nevertheless, the government is seeking to rely on it. The parliamentary secretary has indicated that there are seven clauses in the bill that do not have their genesis in this particular report, so the government has decided to include certain things in the bill, notwithstanding that they are not in the report.

Annexure 5 has some discussion about other electoral models. At the end it states —

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The Committee is of the view that none of these other models would satisfy the objectives of the Terms of Reference.

Were these particular models nevertheless considered by government?

**Hon MATTHEW SWINBOURN:** In short, member, no, they were not contemplated.

**Hon NICK GOIRAN:** Therefore, by what criteria did the government decide what to consider and what not to consider? I understand that the chair of the ministerial expert committee had made some comments in the media around the time that the report was released, effectively—I am paraphrasing here—indicating that there was probably going to be no other model able to be recommended due to the construction of the terms of reference. Nevertheless, the ministerial expert committee saw fit to draw to the attention of the government these other electoral models, and it is not as though these models have been proposed by members of the public without any reference to the question. At the top of page 62, it states —

In our Discussion Paper, we asked for submissions on “whether any other electoral model, not covered in this Discussion Paper, is better suited to achieve electoral equality”.

The committee members have not provided any analysis on that, and, in fairness to them, their reason will be that it does not satisfy the objectives of the terms of reference. But that does not mean that the government cannot consider those models—four of which have been suggested. I am curious to understand by what criteria the government decided that it would then not consider certain matters that were still raised by the ministerial expert committee, yet the government then inserted things in the bill that have no reference to the committee report at all.

**Hon MATTHEW SWINBOURN:** The committee report does draw our attention to them based on the submissions that were provided. I would submit to the member that at least three of the four models could not possibly satisfy the requirement for electoral equality, including returning to the provinces system. The first-past-the-post system does not really deal with the issue of electoral equality at all, it is just the voting, so it sits outside the terms. The introduction of a weighted voting system in the Legislative Council is absolutely not consistent with our desire to achieve equality. The next model is the mixed-member proportional system that occurs in New Zealand, Germany and Scotland. It would involve the abolition of the Legislative Council so it would make it impossible for us to pick that system because it has never been our goal to abolish the Legislative Council in this term of government, although it might have been many, many moons ago. Some members in the past may have come here pledging it but I certainly have never been of that view. The government is not of that view at all. The report’s very last line reads —

The Committee is of the view that none of these other models would satisfy the objectives of the Terms of Reference.

We do not consider that we set the terms of reference in conjunction with the members, obviously, to then go down the path of the other suggestions. I think they were doing a courtesy to those who had suggested those options but, as I said, at the third dot point, the introduction of a weighted voting system in the Legislative Council, which would operate in a similar fashion to the voting system in public companies, is completely contrary to what we are trying to achieve.

**Hon NICK GOIRAN:** I do not disagree with the parliamentary secretary but I think the analysis he has just provided is what the government should have done. I do not understand why it is left to the hardworking parliamentary secretary to provide it on the floor of the Parliament. Again putting aside the validity and lawfulness of this report, why did the government invest time in asking members of the public to make submissions and then not have any regard for them at all? At least the parliamentary secretary has provided some rational explanation.

That said, turning back to the terms of reference on page 45, again, when I asked earlier in the clause 1 debate what was the purpose of the establishment of the ministerial expert committee, the response that was provided, in a word, was “independence”. There was a desire by government to establish some form of process that would be able to persuade members of the public and members of Parliament that these recommendations and the bill had some not only expertise but also independent expertise. I note that it says that executive support was to be provided by the office of the Minister for Electoral Affairs. That immediately calls into question this idea that what is before us has been established independently. Is the parliamentary secretary in a position to advise us to what extent the office of the Minister for Electoral Affairs provided support? I know that there was some discussion earlier about one member of staff being provided, but was that the sum total of the office of the Minister for Electoral Affairs’ contribution to the so-called independent process? Further to that, while the parliamentary secretary is getting advice on how many people from the office were involved, what protocols were put in place to ensure this was actually an independent process? How confident can we be that the result that is before us—this 97-clause bill—actually, genuinely has at its heart an independent process that has not been contaminated by the office of the Minister for Electoral Affairs?

**Hon MATTHEW SWINBOURN:** The first thing I will bring to the member’s attention is who the members of this ministerial expert committee were. I think their esteem, standing and reputations would not have allowed them

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to be involved in a fix up, if the member wants to call it that, to begin with. I cannot contemplate the circumstances in which any of those persons would have agreed to be in a process whereby their independence was not respected and maintained. On the practicalities of the secretariat support, it was one person, whom we have already identified is Ms Buchanan. She is thanked in the report. There was additional support, which was just administration support, from a member of the Attorney General's office, who received submissions and then uploaded them to the webpage. On the deliberations, considerations and drafting of the report, the minister's office was not involved in any meaningful way other than providing support at a secretariat level. It is not the case that they were involved in the decisions of the committee at all. I think the member can be assured that what we have here is the independent mind of the committee. I know the member brought to my attention the comments made publicly by Mr McCusker on this. I do not want to speculate on what he meant. I am sure he has probably clarified it further along the way. The committee itself contemplated a number of different models and opportunities, including a four by nine and a three by something else, off the top of my head. It did consider other models and did do it judiciously and independently.

**Hon NICK GOIRAN:** For the record, I share the parliamentary secretary's confidence in the professionalism that the four members of the ministerial expert committee would have brought to the task, as I do, I hasten to add, with anyone else who was involved in this process—whether they be what is described here as executive support or other forms of resourcing. Professionalism I do not question whatsoever, but there is an issue with loyalties and the conflict of loyalties in a process that is to be authentically independent. My question was: was there ever any discussion by those providing executive support to the Minister for Electoral Affairs that were matters being contemplated by the ministerial expert panel?

**Hon MATTHEW SWINBOURN:** I do not think there was any issue of a “conflict of loyalties”, as it was described by the member. The role of the minister's staff in the MEC process was simply facilitative; it was not deliberative. The hand of the Attorney General; Minister for Electoral Affairs has not steered this into the direction that it has gone. What we have are the conclusions that were drawn by the committee. Its recommendations were then presented to the minister on 28 June—I am testing my memory now; sorry. I do not know whether I can take this much further in terms of the point the member is trying to raise. We maintain the point that this is a report produced by independently minded and independently motivated people and that it reflects their genuine views. I do not think that anything can be said to the contrary.

**Hon NICK GOIRAN:** The parliamentary secretary would be familiar with the concept of a Chinese Wall in law firms. What I want to be clear about here is that in the Attorney General's office, was a Chinese Wall or something of that nature established during the course of the ministerial expert committee's deliberations? I want to be satisfied that no conduit was established between the ministerial expert committee and the minister during this period. It is not me who has emphasised this issue of independence; it is the government that has emphasised this. It has made a big deal about the fact this was an independent process, yet it has chosen to insert somebody from the Attorney General's office into the process. I hasten to add what I said earlier: all the individuals involved, including those from the Attorney General's office, have my respect for their professionalism, but there is an issue with regard to loyalty and the potential conflict that can arise. I would like to be satisfied that no person has been used as a conduit for communication between the Attorney General and the ministerial expert committee.

**Hon MATTHEW SWINBOURN:** The minister's staff were not involved in the deliberations. To the extent that there was any influence, there could not have been because there was no deliberative involvement. We have talked about the meetings that were held and there has been recognition that there were meetings held between the members without any involvement of the committee. In the words of the adviser, they did not write a word of the report. I cannot be any clearer than that.

**Hon Dr BRIAN WALKER:** A couple of matters have been puzzling me; I am sure they will be quite simple to clear up. The first is that we have gone through a lot of information about the make-up of the MEC. We are dealing with an electoral amendment; all the excellent consultations have gone on. The first word of the title of the bill is “Constitutional” amendment. I am certain that the experts would have considered, with a Constitutional amendment, there would be the necessity to think about having a referendum and I am certain that the decision had been taken that this was no longer necessary. Could the parliamentary secretary walk us through why it was decided not to consider a referendum?

**Hon MATTHEW SWINBOURN:** The MEC was not really in the space of dealing with an issue about the referendum; it was not in terms of how the process would then follow for the government to adopt its recommendations or anything of that kind. The reference to “Constitution and Electoral Legislation Amendment” is because there are entrenching provisions that deal with this that have previously been drafted into our Constitution, and our Constitution amendment acts require that. The naming of the bill is done by convention; hence why it is called what it is in relation to those specific things. But in terms of a referendum, there is a provision that requires a referendum if we want to reduce the numbers in the Legislative Council. There was that issue. I believe that that provision was put in there by the



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Charles Court government back in the late 1970s by an ordinary act of Parliament, I might add, not via referendum; so that was not considered. It is our job to make the laws of this land and that is what we are doing here today.

**Hon Dr BRIAN WALKER:** I take very much on board the essential need for considering equality, which was one of the major remits of the expert committee. That would automatically mean, the focus being on equality, that the concept of equity—something dear to the Labor Party’s heart, I am sure—took maybe a second seat. Bearing in mind that in future discussions during Committee of the Whole we are going to look at the equity that may have been reduced when it comes to the voting public, I would like to have confirmed that the focus has been on equality and that equity would take second place.

**Hon MATTHEW SWINBOURN:** I do not accept a characterisation that equity has taken second place. Voting equality relates directly to the concept that all our votes are the same; so equity is obviously a much broader thing. The Labor Party is not just interested in equity, but justice as well, and social justice. To follow that line of thinking, one can get past just equity and think about social justice—removing barriers for Western Australians to access social justice. As I said, the primary focus here was equality. It is in the terms of reference and it is in the title of the bill.

**Hon NEIL THOMSON:** I have a question about the impact of this on the other place. Did anybody in the Attorney General’s office or anyone instructing the Parliamentary Counsel’s Office provide advice about the impact of this reform on the other place—the composition of the other place and the impact on the electoral boundaries?

**Hon MATTHEW SWINBOURN:** No, member, I do not think there were any instructions about the implications there. There are necessary implications going from a regional system to a whole-of-state system, which I think the member is probably getting at in relation to the metropolitan region scheme, but that is a consequence of going from six regions—three metropolitan and three non-metropolitan regions—hence that is removed. We will get to that when we get to clause 15, I believe it is, in terms of more details.

**Hon NEIL THOMSON:** That is not surprising because there is not any commentary in the explanatory memorandum. I would contend that this reform has just as much impact on the future of the electoral boundaries in the other place as it will have on this place.

I refer the parliamentary secretary to the third dot point on page 21 of the report, commencing “Another significant factor is the large district allowance in the Legislative Assembly”. As part of the rationale for this reform, it makes a comparison between the Agricultural Region and the Mining and Pastoral Region. It states —

... made up of 4 districts, the Agricultural region has a much higher enrolment per MLC (17,230 voters) —

I think that is meant to be “MLA”; it is a mistake in the report —

than Mining and Pastoral (11,609), because the latter region comprises four districts with the largest LDAs.

Just for the record, I think that should be corrected. We are talking about the lower house electorates here. With the removal of the metropolitan region scheme boundary and the rabbit-proof fence boundary, if we can call it that, the boundary that designates or defines the difference between the Agricultural Region and the Mining and Pastoral Region, the question is—I assume that someone has thought about it—will it provide a lot more flexibility to the Electoral Commission? It is not the Electoral Commission; I think there is another body that sets the boundaries, if someone could give me the name of that other body.

**Hon Martin Aldridge:** The boundary distribution commission.

**Hon NEIL THOMSON:** Thank you; the boundary distribution commission. Could the parliamentary secretary clarify that the boundary distribution commission will now not be encumbered by the regional boundaries, subject to this bill passing, when it undertakes the next review of the electoral boundaries for the lower house?

**Hon MATTHEW SWINBOURN:** In the next redistribution, the Electoral Distribution Commissioners must continue to take into account the community of interest; land use patterns; means of communication, travel and distance from the capital; physical features; existing boundaries of districts; existing local government boundaries and the trend of demographic changes. The only thing that has been removed from there is the word “regions”. Obviously, I do not think it is a reference to the metropolitan region scheme, but it is in relation to the reference that comes back to the metropolitan regional schemes. The commissioners will still be constrained by all those other matters in section 16I of the Electoral Act.

**Hon NEIL THOMSON:** The parliamentary secretary might give me some comfort here. He referred to land use patterns and the other points that he raised; I am sorry, I did not write them down, but there were a number of points there. Can the parliamentary secretary guarantee that the Electoral Distribution Commission will not be able to, for example, change the boundary of, say, North West Central into —

**Hon Darren West:** Balcatta.

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**Hon NEIL THOMSON:** I do not think Balcatta; we can get onto that shortly—into the northern part of Moore, for example, in order to adjust its population. Is that correct?

**Hon MATTHEW SWINBOURN:** I cannot give any guarantees as to what that committee will do, because the committee is independent in its functions. Under its current functions, without any amendment to this act, the committee still has to do a redistribution at a set time, and that may result in the moving of boundaries, the abolishment of certain seats, the creation of new seats and those sorts of things. The only effect of this bill on the functions of the relevant section 161 will be the removal of the term “regions”. The committee does not have to take into account the current six regions; however, it will still have to take all those other matters into account, including the matters that relate to the divergence from the district averages. As I say, I am not in a position to guarantee anything that the committee will or will not do. I do not think that is unreasonable.

**Hon NEIL THOMSON:** Thank you; I think that is very important. Will the parliamentary secretary agree with the statement that the boundary commission will have significantly more flexibility in the definition of future boundaries for regional lower house seats than it currently has?

**Hon MATTHEW SWINBOURN:** I am not going to endorse or disendorse anything that the member is saying. The point is that the committee is constrained by the provisions of the act in relation to regions, and I do not think I can take it any further than that.

**The DEPUTY CHAIR (Hon Jackie Jarvis):** Member, I note that the parliamentary secretary has noted that this will be dealt with in a further section. I just mention that.

**Hon NEIL THOMSON:** Thank you. I will keep to a few brief points on that, just to lay the groundwork for further discussion at the more detailed stage. I think one of the potential impacts of this reform will be that a seat like the Kimberley, for example, with 11 609 voters, notwithstanding its large district allowance attribution—I have done some rough, back-of-the-envelope type numbers; of course, I do not have the capacity of the same information that the government has—could potentially be in a situation whereby it could be taking parts of the Pilbara.

**The DEPUTY CHAIR:** Member, I was going to let you finish your comment, but it has taken too long. Noting the time, I am required to report progress to the chair.

**Progress reported and leave granted to sit again, pursuant to standing orders.**