ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

Consideration in Detail

Resumed from an earlier stage of the sitting.

Debate was interrupted after clause 33 had been agreed to.

Clause 34: Section 44 amended —

Ms M.J. DAVIES: As I understand it, this clause will make some quite substantial changes to the existing provision. I would like the minister to clarify why proposed section 44(1) will be removed. It will essentially delete the requirement to include the date, the place of birth and the signature of the person who wants to make a claim. Why is that being deleted and what rationale was provided by the Western Australian Electoral Commission on this matter?

Mr J.R. QUIGLEY: The most significant deletion will be the witness's signature. There is no way of checking a witness's signature; anyone can just do a squiggle and that is the witness's signature. I decided, and took it to government, that we should align ourselves with the commonwealth. The place of birth and usual signature is not an essential part of the claim for initial enrolment. In addition, the removal of this factor is consistent with the commonwealth requirement. The consistency underpins the joint-roll agreement. We are bringing ourselves into alignment with claims to go on the commonwealth roll so that there is consistency.

Clause put and passed.

Clause 35 put and passed.

Clause 36: Section 45 replaced —

Ms M.J. DAVIES: This clause seeks to replace section 45. It is quite a significant rewrite of the original provision of the act. I note that the penalties will not change.

Mr J.R. Quigley: Sorry; they were talking behind me. I couldn't quite hear.

Ms M.J. DAVIES: Pipe down in the back! Is it the member for Mandurah? He is always —

Mr J.R. Quigley: Between you and me, I will leave it up to the chair.

Ms M.J. DAVIES: I do not think it was, but it normally is the member for Mandurah having a little chitchat.

Clause 36 is about offences in relation to compulsory enrolment. It is quite a substantial rewrite of the current section 45, but I note that the penalties have not changed. Can the minister clarify what the deletion and amendment will achieve? It appears to be an almost wholesale rewrite. I am happy to accept it if it is just a matter of modernising the language, but it does seem to be quite a substantial rewrite.

Mr J.R. QUIGLEY: There is no substantive change; it modernises the language. A person must update their enrolment after moving to a new district. The language is modernised, but there is no substantive change to the law.

Clause put and passed.

Clauses 37 to 40 put and passed.

Clause 41: Section 51A replaced —

Ms M.J. DAVIES: We touched on this earlier. It relates to a lack of capacity to vote. As I understand it, the clause provides an updated reference to people who lack the capacity to vote and sets out how those people who will not be included in or removed from the register of electors, including a requirement for the Electoral Commission to give notice of that. Why are those changes being made and why has the government considered them in the context of advice? Is this something that has happened in other jurisdictions? Is it to align the legislation with commonwealth legislation? I am seeking some clarity on this particular clause.

Mr J.R. QUIGLEY: There are a number of things here. There is the modernisation of language, and we discussed that before during the consideration of earlier provisions. The wording will be changed to ensure that a person is disqualified for voting because of incapacity, not by reason of impairment. A person might be impaired but still have capacity. A person will be disqualified on the basis that they do not have capacity. It is not the impairment itself that will disqualify someone; it is their lack of capacity to understand. We are seeking to cleanse the roll of only those who are incapable of making an informed decision at the time they enter the polling place.

The provision will also provide for a person to not be included or removed from the register if they are not on the commonwealth roll due to the equivalent provisions of mental impairment under the commonwealth act. Once again, it is to achieve consistency between the two registers, or rolls. In that respect, later on we will look at

proposed section 206A, "Persons who lack capacity to vote", as well as proposed section 206B, "Revoking lack of capacity notice".

Ms M.J. DAVIES: Can the minister define lack of capacity for me? I presume it is a legal term and that there is a formal process in which a person is declared to have a lack of capacity; it is not a subjective subject on behalf of the Electoral Commission.

Mr J.R. QUIGLEY: The commission would require a medical practitioner to sign off on the lack of capacity. They can also challenge the decision at the State Administrative Tribunal, because it is administrative.

Ms M.J. Davies: The individual?

Mr J.R. QUIGLEY: Yes. They will get the medical certificate. A person who maintains that they have capacity but are being struck off could seek to have that decision reviewed.

Ms M.J. DAVIES: I am interested because I have not turned my mind to this previously. Is this something that normally involves an application from the individual or from family dealing with someone qualified as lacking capacity or does it come from a medical practitioner? Who approaches the Electoral Commission to say, "Please take this person off the list"?

Mr J.R. QUIGLEY: The application is most often from care or nursing homes. They have locked areas. My late father was in a nursing home. He was not in a locked area, but I know that there was a locked area for demented patients. The nursing home would contact the commission. Sometimes it may be from a family member, if they are the primary carer. Those sorts of support people draw the situation to the attention of the commission and obtain the medical certificate.

Clause put and passed.

Clause 42 put and passed.

Clause 43: Section 51B replaced —

Ms M.J. DAVIES: As I understand, this clause relates to silent electors—that is, the request for somebody to not be identified on the roll. The proposed section defines the conditions that will enable a person to be a silent elector. From my understanding, someone has to provide information to the Electoral Commission to justify that. Can the minister clarify whether there has been any real substantive change from what is in the current act to what is being proposed? To me, again, it does seem to be quite a significant rewrite of the existing clause. Maybe the minister can answer that question, and then I will ask the next one.

Mr J.R. QUIGLEY: There will be no substantive change to the law. It will introduce the term "silent elector", which was not in the act before. We note that under regulation 8(3) of the Electoral Regulations 1996, a person's name may also be omitted when the commissioner makes the roll available for public inspection or gives the enrolment information to other persons or organisations that are not members of Parliament or parties. There will be no substantial change to the law. Clarifying the language is important, but as I said about rats and mice, we are trying to clean up all those things.

Ms M.J. DAVIES: Out of interest, how many silent electors would there be at any point in time? Can that be answered? Has it come up?

Mr J.R. QUIGLEY: I will have to take advice from the commission. There are about 25 000 silent electors and it is always rising. There are new victims of domestic violence. Police officers are also silent electors so that is another whole new cohort that will come in, I believe. It rises, but it is for people who have genuine concerns for public safety.

Ms M.J. DAVIES: Proposed section 51C refers to the review of the register of electors in relation to silent electors. This is the review of the roll. What does that entail and how many times is that actually done by the Western Australian Electoral Commission? Is it something that the Electoral Commission initiates? Is it required to do it from a timing perspective? Or is it a request from the government of the day? What will happen?

Mr J.R. QUIGLEY: It is not done as a specific enterprise; it is part of the general roll cleansing done from time to time on an ongoing basis. There is no specific task to say, "Right, we will deal with silent electors this month", or something like that. It is just an ongoing task of roll cleansing to keep in sync with the federal roll and keep it as clean as possible from the register.

Clause put and passed.

Clauses 44 and 45 put and passed.

Clause 46: Section 56 amended —

Ms M.J. DAVIES: Earlier, we touched briefly on the Registry of Births, Deaths and Marriages. This provides for the Registrar of Births, Deaths and Marriages to notify the Electoral Commissioner of deaths in the state. I mentioned that, from time to time, I have sent correspondence to people who may already have passed away.

Mr J.R. Quigley: Sorry?

Ms M.J. DAVIES: I made the comment that from time to time, I have used the roll provided by the Electoral Commission and sent letters to people who have already passed away. Firstly, is there any substantive change? I could not see it. Secondly, how does that work exactly and how often does it get updated when somebody is registered as having passed away, because that is quite awkward?

Mr J.R. QUIGLEY: I am advised that the Registry of Births, Deaths and Marriages advises the commission on a monthly basis. It could blow out to six weeks, but never several months. Usually, it provides the updated list of death certificates issued. There might be people who have died because of coronial inquests, and the member knows it can take a long time before the registry is advised; it could be advised by someone else presenting a doctor's certificate that the person is dead. However, Births, Deaths and Marriages send it through on a monthly basis. That information is processed through the registry about every month or six weeks. I say registry, as before, as a kind of de facto electronic database.

Clause put and passed.

Clauses 47 and 48 put and passed.

Clause 49: Sections 61 and 62 inserted —

Ms M.J. DAVIES: This will insert new sections into the act. It refers to the conditions for applying to be a general postal voter. I thought this was already a provision within the act. I am not sure why. I am surprised, actually, that once a person hits 70, they can just apply to be a general postal voter. It seems quite a young age to say that is a reason. I think in our society today, voting is not a particularly onerous task. I thought this provision already existed, but I could be mistaken. I am looking for some clarity around why it appears here. Again, I hope to be corrected, but I think proposed section 62 and the marked-up version of the bill is not the official version, but I could not find it in that version, which pertains to the offences relating to applications to be general postal voters. I want to ask whether this is the section that will prevent political parties from participating in the postal voting application process, but I am happy to deal with general postal voters first.

Mr J.R. QUIGLEY: It was there before in section 93(1), (2) and (3), which referred to those applications to be registered as a "general early voter". The application then was to be registered as a general early voter. We are introducing the term "general postal voter". People could vote early in the extended 11 days as a general early voter, but this is for a general postal voter. If someone qualifies under proposed section 61(1)(a) to (g), they can be registered as a general early postal voter. If a person is over 70, they can register. Okay, I will plead, I can register, but I like the sausage! If a person fulfils any of the criteria, they will be registered as a general postal voter, not a general early voter. It is modernisation and clarification, but not any substantive change to the law.

Ms M.J. DAVIES: Proposed section 62 refers to offences in relation to applications to be general postal voters. Does that have anything to do with political parties being involved in postal voting applications, or is that later in the bill? Does it have anything to do with the political parties being involved with the postal vote application process?

Dr D.J. Honey: Is it specifically aimed at that?

Ms M.J. DAVIES: That is what I am trying to clarify.

Mr J.R. QUIGLEY: It does, of course. All those offences in proposed section 62(2), (3) and (4) come out of section 95 of the act. Subsection (1) deals with parties controlling postal votes, as is what used to happen. It states —

> (1) A person commits a crime if the person distributes or makes available a form for making an application under section 61(1), or causes or permits a form for making an application to be distributed or made available, unless —
>
> (a) the person is authorised by the Electoral Commissioner to do so; or
>
> (b) the form is accompanied by a statement advising that when the application has been completed it must be returned directly to the Electoral Commissioner.

It must not be returned back through a political office.

Ms M.J. DAVIES: Thank you for the clarification. For the purposes of *Hansard*, this is obviously a process that all political parties have undertaken for every election, and I spoke about it in my contribution to the second reading debate. As a former campaign and state director, it caused me enormous anxiety, but it is a political tactic that is used by political parties. Just to clarify, will there still be an ability for political parties to post something to voters telling them to apply for a postal vote, but they cannot ask for the voter to send that application to the political party? Will it have to say that they must forward the application directly to the Western Australian Electoral Commission?

Mr J.R. Quigley: Correct.

Ms M.J. DAVIES: Will there no longer be any capacity for political parties to harvest information from a postal vote application being sent directly to voters?

Mr J.R. Quigley: No—however.

Ms M.J. DAVIES: Perhaps can the minister advise why this is being pursued, and was it on the recommendation of the Electoral Commission? Has it come from advice from the Labor Party, or is it a government policy decision?

Mr J.R. QUIGLEY: Political parties will be able to send out an approved form to a general postal voter, but it will have to be an approved form and it must have the direction to send the form back to the commission. If political parties want to send out a how-to-vote form to people applying for a postal vote, the information as to who is making those applications will be available through the commission. This will keep the party at arms' length from the casting of the actual vote. A political party will be able to find out from the Electoral Commission in real time who has applied, and then it can post out its registered how-to-vote card to that postal voter.

Ms M.J. DAVIES: So that I am clear in my mind, a political entity will be able to apply to the Electoral Commission for a list of people who have applied to be a general postal voter. That entity will be entitled to have those contact details for that particular election, and it can then directly post its how-to-vote card to those individuals. Is that what the minister just said?

Mr J.R. QUIGLEY: Yes, with one caveat—that is, unless the person is registered as a silent elector. If we leave the silent electors out, the answer is in the affirmative.

Dr D.J. HONEY: I am not satisfied—at least I do not think I understand the answer the minister gave to the member for Central Wheatbelt. If I understand the dialogue, the member for Central Wheatbelt said that if a party sends out whatever information plus the appropriate application form so that a person can apply directly to the Electoral Commission for a postal vote, that will not fall foul of this law.

Mr J.R. QUIGLEY: Yes, as long as the material is in there: this must go to the Electoral Commission.

Dr D.J. HONEY: Absolutely. I will read out the clause because perhaps I am missing something here. On page 60, at the top, proposed section 62(1) states —

> A person commits a crime if the person distributes or makes available a form for making an application under section 61(1), or causes or permits a form for making an application to be distributed or made available …

Mr J.R. Quigley: Unless?

Dr D.J. HONEY:

> unless —
>
> (a) the person is authorised by the Electoral Commissioner to do so —

Mr J.R. Quigley: Or?

Dr D.J. HONEY:

> … or
>
> (b) the form is accompanied by a statement advising that when the application has been completed it must be returned directly to the Electoral Commissioner.

Okay. Therefore, it has to be very explicit in that form; however, if they just send it out carelessly, they can end up committing a serious offence.

The DEPUTY SPEAKER: That was a statement of clarity, so no response is required.

Ms M.J. DAVIES: If a political party does exactly what the member for Cottesloe just read out, is it covered? If a political party sends a form to a voter, but the voter just sends it back because that is what they have always done, is the political party covered from any infringement? Would the political party be obliged, as it has been in the past, to send it on as soon as possible, but would there be no issue about it? Can the party be subject to an infringement for that?

Mr J.R. QUIGLEY: The answer to that is no because no offence has been committed by the political party, just to make it clear for the member.

Dr D.J. HONEY: I think that last question is clear, under proposed section 62(4). I am worried about unintended consequences. Proposed section 62(2) states —

> A person must not persuade or induce an elector, or associate with any other person in persuading or inducing an elector, to make an application under section 61(1).

Quite often, more often than we might expect, people ring up my electorate office. I have a very good person named Adam, who is very diligent, on the front desk there. Electors will explain a particular circumstance, and Adam may give them advice and say, "In your circumstance, if I were you, I would make a postal vote application because there is not an appropriate pre-poll," or whatever it is. I am interested in the definitions of "induce" and "persuade", in that if my electorate officer gives advice to a person in my electorate, such as "I think the best thing for you to do is to put in a postal vote application," will they potentially fall foul of that clause?

Mr J.R. QUIGLEY: No. As I have said to the member before, this is not a change to the current law. What it was trying to strike at, the old law successfully struck. Inducing someone to do a postal vote is saying, "Will you do a postal vote?" and then inducing them to do it. It is not giving advice about a person's alternatives. That is one thing. This is current law; it is nothing new. People can give advice about what is available to electors to facilitate the vote, but they cannot say, "I encourage you to put in a postal vote and you can vote for me!"

Clause put and passed.

Clause 50 put and passed.

Clause 51: Part III Division 6 inserted —

Ms M.J. DAVIES: This clause seeks to insert proposed division 6. I think we have talked about this already, so I will not dwell on it, because, as I understand it, this relates to the creation of the register. The Electoral Commission will prepare register extracts for the purposes of the election, which we have touched on already. The proposed division includes regulation-making powers. Can the Attorney General talk about what he envisages will be part of the regulations? What is required to be put in regulations?

Mr J.R. QUIGLEY: To put it into context, this provision clarifies what a register extract may relate to and what it must include. It will be extracted from the register. This bill provides that if an extract relates to more than one district or the whole of the state electorate, it must identify the district in which the elector is enrolled. The provision allows for the extract to be in electronic form and will allow regulations to be made on the content of what will be extracted from the register to go on the roll.

We have already discussed the register. There might be telephone or other contact information on that register. Regulations will be made on what will come out of the register and go onto the roll, because the roll will be made public.

Section 25(5) of the current act states —

> The regulations may provide that if by virtue of —

That section —

> information relating to a person is not shown on a roll, that person's name may be omitted when the Electoral Commissioner makes rolls available under this section.

This clarifies it all and makes it a lot simpler. That is all I can help you with.

Ms M.J. DAVIES: I refer to proposed section 62AA, "Public inspection of register extracts". This is the requirement for the Electoral Commissioner to make a register extract available for inspection by the public without a fee. Will a member of the public be able to just wander in and ask for an extract? Will there be one prepared and sitting there waiting for them, or will they have to request it in advance? I understand that this can already be done, so I apologise for not being familiar with what one can already do. My question is how will that extract be prepared, and how will a member of the public access it? Will they be able to access it for the whole state? Political parties can access the information of the whole state, but members of Parliament are restricted to their own electorate. Can a member of Parliament walk into the Electoral Commission and request that? What can they do? Can they just view it? Is that the extent of what they can do?

Mr J.R. QUIGLEY: There are terminals in the reception at the Electoral Commission, so any member of the public can walk in and search on the terminal. If they have the details of whom they are looking for, they can search it on the terminal, and it will come up, if they are not a silent elector. We could not make it any more available than being able to go in and search it on a database.

Dr D.J. Honey: They used to be in post offices, back in the day. You could go and look at it.

Mr J.R. QUIGLEY: They are not post offices anymore; they are shops. We are not going to sell the roll!

The DEPUTY SPEAKER: Are there any further questions, member for Cottesloe? Clause 51 goes through to page 67.

Dr D.J. HONEY: No, that was resolved earlier. Just to explain myself, my question about proposed section 62AC was about contact details for 16 and 17-year-olds, but the Attorney General answered that in a previous question.

Clause put and passed.

Clauses 52 to 61 put and passed.

Clause 62: Section 71 amended —

Ms M.J. DAVIES: This clause seeks to amend section 71 of the act and the heading to the amended section will be "Rules for fixing polling day". The bill seeks to add Christmas Day to the list of excluded days for election days. It is really just a curiosity from my perspective. Were any other days considered, such as Anzac Day or New Year's Day? Why only Christmas and Easter?

Mr D.R. Michael: Whenever it's 40 degrees or above!

Ms M.J. DAVIES: That is the whole of March in the wheatbelt! My question is why has Christmas Day been added and not New Year's Day, Anzac Day or those sorts of things?

Mr J.R. QUIGLEY: They are the days of Christian festivities.

Ms M.J. Davies: I see that!

Mr J.R. QUIGLEY: The existing legislation, against which there has been no protest, provides —

> ***excluded day*** means —
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> …
>
> (b) Easter Saturday or the Saturday immediately preceding or succeeding Easter Saturday.

We are adding Christmas Day into the count, or excluding it from the count, I should say.

Ms M.J. DAVIES: We have a very multicultural community these days. I know that governments are mindful of big holidays like that, so it would never set an election day on those days, just like it would never set an election day on AFL grand final day. Would it not have been more appropriate to remove Easter and what was there, and just leave it to the discretion of the government, as opposed to defining additional days that are specific to a particular religion? I am going to get myself into trouble here!

Dr D.J. Honey: You're going to get a lot of emails and letters!

Ms M.J. DAVIES: No, I am just saying that no government would ever set an election on Christmas Day—they never have. I just wonder why this amendment has been recommended?

Mr J.R. QUIGLEY: It really only applies to by-elections, because we have fixed days for general elections. If we had a referendum, I suppose it would be applicable, but I cannot think of the last state referendum. I just cannot think of one. It only applies to by-elections.

Ms M.J. Davies: I think it was daylight savings. Don't mention the war!

Mr J.R. QUIGLEY: Don't mention the war; that is right! There is a whole party now that wants to promote the war! It really applies only to a referendum, which is rare, and a by-election. I do not think it is a great issue.

Clause put and passed.

Clauses 63 to 67 put and passed.

Clause 68: Section 78 amended —

Mr J.R. QUIGLEY: I move

> Page 82, after line 27 — To insert —
>
> (ab) after paragraph (b) insert:
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> (ba) include details of a means by which the candidate can be contacted in connection with the election; and

Ms M.J. DAVIES: Could I ask the minister to perhaps provide some guidance on that amendment?

Mr J.R. QUIGLEY: This proposed amendment is to ensure that a candidate nominating in an election must provide at least one means by which they can be contacted in connection with the election. This is necessary due to the proposed amendments to sections 86 and 87 of the act, so that we have a definite point of contact for the candidate.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 69 to 72 put and passed.

Clause 73: Section 81A amended —

Dr D.J. HONEY: I refer to page 87 of the bill and proposed subsections 2A and 2B. Why is there a limit of one candidate per party? If I have read that correctly, does it mean that if the Electoral Commissioner receives two or more party nominations from the same registered political party for a single member and all but one of the

party nominations are not withdrawn under section 82 of the current act, there can be only one nominated candidate from a party in an election? I will give the minister a very specific example that goes back a bit in history. The first time Sir Charles Court stood for election to the seat of Nedlands, the Liberal Party for various reasons actually nominated two candidates for that election; I cannot remember the name of the other candidate. It was actually quite a willing campaign with all sorts of skulduggery—not on the part of Sir Charles Court, can I say—but in any case, the minister can read his biography if he wants to know the history of that. Nevertheless, the party nominated two candidates for the same seat. I wonder whether I am misreading this. Will this clause prevent a party from nominating more than one candidate for a seat; and, if that is the case, why?

Mr J.R. QUIGLEY: Yes, parties are prohibited from nominating more than one candidate for a seat. It will be only one candidate for a seat, to prevent the skulduggery the member mentioned and to have a clean list on the ballot paper; otherwise, parties could start nominating not one but a dozen candidates for the seat, hoping that one will end up in the number one spot on the ballot paper. We do not want that. If a party wants to put up a candidate, let it put up a candidate and name the candidate, and the public will not be confused. Otherwise, a party could just flood the ballot paper with numerous candidates. As the member said, even when there were only two endorsed candidates from the Liberal Party—it is unimaginable today, is it not, member?

Dr D.J. Honey: I wouldn't hold your breath!

Mr J.R. QUIGLEY: I understand, but I can guarantee that on this side of politics we only ever nominate one candidate per district. The member said when there were two candidates for the seat of Nedlands, there was skulduggery involved.

Dr D.J. Honey: Only between the two candidates.

Mr J.R. QUIGLEY: Yes, well, that is what we want to avoid, because where will that leave the public? If they want to vote Liberal, who are they going to vote for? That is the problem. We want to keep it nice and clean.

Clause put and passed.

Clauses 74 and 75 put and passed.

Clause 76: Section 86 amended —

Mr J.R. QUIGLEY — by leave: I move —

Page 90, lines 18 and 19 — To delete "names, occupations and primary residential addresses" and substitute —

names

Page 90, lines 21 to 23 — To delete "names, occupations and primary residential addresses of all candidates nominated" and substitute —

name of each candidate nominated, and details of a means by which the candidate can be contacted,

Page 90, lines 26 to 28 — To delete "names, occupations and primary residential addresses of all candidates nominated" and substitute —

name of each candidate nominated, and details of a means by which the candidate can be contacted,

Page 91, lines 1 to 6 — To delete the lines and substitute —

(3) Delete section 86(2AAA) and insert:

(2AAA) Despite subsection (2), if a candidate is a silent elector the returning officer must not publish information that might enable the candidate's residential address to be ascertained.

The proposed amendments to clause 76 are to remove the requirement for the Western Australian Electoral Commission to publicly declare and publish on its website the occupations and primary residential addresses of all candidates in a single-member election. Making this information publicly available on the internet may give rise to safety and privacy concerns for all candidates and their families, and potentially dissuade people from seeking public office. The Western Australian Electoral Commissioner has recommended removing the requirement for residential addresses and occupations to be published, instead replacing them with a requirement to publish the means of contacting that candidate. This is similar to the requirements for candidates in local government elections, with the wording of the proposed amendments modelled on corresponding provisions in the Local Government (Elections) Regulations 1997.

In moving these amendments, I am mindful of the member for Cottesloe's comments during the second reading debate when he said that the government was doing this for candidates but not for donors. We are not changing it at the moment for donors. The particulars of donors will remain the same as under the current act. We need those details, because people go around using fake names and there is no way for the Western Australian Electoral

Commission, if it is going to audit anything, to check whether the person was actually alive and a real donor, unless it is supplied with their name and address, which can be checked against the electoral roll or other databases.

That is the current law, and it is the same for candidates. However, during the consultation process either the member for Cottesloe or Hon Tjorn Sibma raised this issue. They asked whether the government would give consideration to the issue, so I discussed it with the commission in the context of the way in which protests are going, like the invasion of the CEO's home in City Beach. Protests are no longer just, "What do we want? We want it now!" being chanted on the corner; there is trespass and crimes involved, and that is heightened during an election period; it brings out the crazies, so we gave the matter our consideration. The advice I got back from the Electoral Commission is that, yes, what we have at the moment is good and the Local Government Act provisions seem to be effective. Having regard to the dangerous nature of current protests, on balance it is probably best to protect the address of the candidate, but for the Electoral Commissioner and everyone else to have a point of contact for that candidate.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 77: Section 87 amended —

Mr J.R. QUIGLEY — by leave: I move —

Page 93, lines 13 and 14 — To delete "names, occupations and primary residential addresses" and substitute —

names

Page 93, lines 16 to 18 — To delete "names, occupations and primary residential addresses of all candidates nominated" and substitute —

name of each candidate nominated, and details of a means by which the candidate can be contacted,

Page 93, lines 21 to 23 — To delete "names, occupations and primary residential addresses of all candidates nominated" and substitute —

name of each candidate nominated, and details of a means by which the candidate can be contacted,

Page 93, lines 25 to 27 — To delete the lines and substitute —

(3A) Despite subsection (3), if a candidate is a silent elector the returning officer must not publish information that might enable the candidate's residential address to be ascertained.

These amendments will amend section 87 of the act titled "Close of nominations procedure for Council election where relevant number more than one". The proposed amendments are identical to those for clause 76, which we have just dealt with. They will remove the requirement for the Western Australian Electoral Commission to publicly declare and publish on its website the occupations and primary residential addresses of candidates for the Council. Instead, the WAEC will be required to publish a point of contact for those candidates, which is the same as we did with clause 76. I hope that meets with the member for Cottesloe's approval.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 78 put and passed.

Clause 79: Part IV Division 2A inserted —

Ms M.J. DAVIES: This clause refers to the registration of how-to-vote cards and inserts a proposed section into the principal legislation. In the time we have had to speak with our party secretary, concerns have been raised. When the Attorney General and his staff provided the briefing, it raised some red flags for me in terms of the practicality of being able to get this done in a timely manner. I understand the basis for wanting to have the how-to-vote cards registered. The Attorney General in his second reading speech talked about a reduction in the distribution of misinformation and making sure there was no mischief on polling day. We have all seen it happen. We have seen how-to-vote cards that are not authorised and that contain misleading information. It is very frustrating, because on election day there is very little we can do. Once the cards have been printed and distributed, there is not much one can do, other than complain after the fact. It can be stopped on the day if the person in charge of the polling booth is prepared to take it on. I have some very small polling booths and some very big polling booths and things can get a bit willing on election day, so I understand the intent and I agree with wanting to limit mischief and misinformation.

However, the registration of the how-to-vote cards is one thing. When I read the detail of how this process will work, it says that it will have to be done within a particular time frame. Therefore, there will be no possibility after the ballot draw of having a how-to-vote card without the numbers filled in. Once the ballot draw is done, we will

be unable to insert the numbers on the how-to-vote card, send them off to the printer and put them in the post. I am going to set all the triggers off for Australia Post again, because apparently I turned up on its media monitoring yesterday for having a crack at its inability to deliver post in regional communities, but, unfortunately, it is a fact in regional Western Australia. It takes time for the post to arrive. In election timetables, every moment counts. We want to get that information out as soon as possible. We post out how-to-vote cards to not only electors but also polling booths in the Kimberley. In fact, we pay a lot of money now for couriers because we do not trust that Australia Post will be able to get the cards there on time. We have 59 candidates in this house and 36 in the other house—that is a whole-of-state view, so we probably will not have that many from a regional —

The DEPUTY SPEAKER: It is 37.

Ms M.J. DAVIES: It will be 37 candidates. Thank you, Deputy Speaker. We will not have the regional how-to-vote cards anymore, but 59 candidates from each political party, plus the Independents and anyone who is running a third-party campaign will all be going to the Electoral Commission at the same time because there will be a start date and a finish date for the registration of cards. As I understand it—and perhaps the Attorney General can provide me with some advice—it says that we will not be able to change a card six days out from polling day. Proposed section 89C provides for the registration process and includes a time line that begins the day after the close of nominations and ends on the day that is six business days before polling day. When I read "six business days before polling day", it sounded like we will not be able change our how-to-vote cards during those last six days. That happens on a regular basis. In fact, I have seen it happen on the night of an election.

Mr J.R. Quigley: Sorry, I got distracted on that. What happened on the night of the election? I want to hear more.

Mr P.J. RUNDLE: I want to hear more from the member.

Ms M.J. DAVIES: As I understand it, proposed section 89C provides for the registration process, including the time line that begins on the day after the close of nominations and ends on the day that is six business days before polling day. I have seen people change or create new how-to-vote cards on the day before the election. I do not think this will be allowed to happen any longer.

Mr J.R. Quigley: No, it is.

Ms M.J. DAVIES: I am happy to sit down and have that clarified and then I have a whole bunch of other questions about this.

Mr J.R. QUIGLEY: I thought that if I satisfied that question, the member might give me a rest. The how-to-vote card will have to be registered in that period. A candidate will be able to apply to the commission to alter their how-to-vote card at any time. A candidate might have registered the card the day after a nomination has occurred, but four days out from the election, because their preference says something crazy or something like that and they want to change it, the candidate will be able to email the commissioner and apply to have it changed. This is under proposed section 89E, which states —

> The accountable person for a registered how-to-vote card may apply to the Electoral Commissioner to replace the registered how-to-vote card with another how-to-vote card (the ***replacement how-to-vote card***).

We have not got to that, but we will get to it soon. Let me off the other questions; I gave the member such a good answer!

Ms M.J. DAVIES: As I understand, this is all under clause 79, so we might do a bit of jumping around those proposed sections. Will there be any restriction on how many times someone can change it?

Mr J.R. QUIGLEY: No.

Ms M.J. DAVIES: To go back to the minister's answer, why was there no consideration, or consideration that was discarded, to allow parties to provide the pro forma for their how-to-vote card in advance of nominations closing? It could then be filled in once the nominations are closed without any substantial difference. The numbering of the card is what gets done in quick succession after nominations close so that we can get it to the printer. I am not making it up, because I have done it. I was the state and campaign director. We literally get ours to the printer that night and they are then packed up and posted, because we have to meet really stringent guidelines. If we are waiting for the Electoral Commission, how long will this likely take? It will not be one party. Every political party will want their bit done. As a new process, I am concerned that this will be an unwieldy process to deliver practically.

Mr J.R. QUIGLEY: I am aware of the whole postal vote issue, because, I cannot believe it, I have stood six times, and we go through it each election cycle. We would not think it will take a week. It would take hours, a day or two days maximum. Providing there are a sufficient number of officers, which will happen straight after the close of nominations, it will not take long to check a how-to-vote card. They just have to make sure that there is nothing on it contrary to the legislation—that is it—and that the application has been made by the appropriate person from the political entity. If they are satisfied that they have the application from the right political entity, and an experienced officer looking at the how-to-vote card does not see any instruction on it contrary to the legislation, then tick—next. It will not take long. Once ticked, the party will be safe from an incursion on election day by false how-to-vote

cards being handed out. As the member said, at present, it is a bit problematic what officers at polling booths can do when false material is complained about, but we will now have the authority of the act behind us when we complain. At the last election, people who were not standing in that district were handing out anti-vax cards against Labor and all that. They will be required to register if they are spending over $500 in the campaign, and they will not be able to hand out how-to-vote cards unless they are registered.

Ms M.J. DAVIES: Proposed section 89B(2) states —

> However, a how-to-vote card is not ***suitable to be registered*** if the how-to-vote card —
>
> (a) is likely to mislead or deceive an elector in relation to the casting of an elector's vote for a particular candidate, political party or group; or

I have a question about that one —

> (b) is likely to induce an elector to mark their ballot paper otherwise than in accordance with the directions on the ballot paper …

I understand that. The cards need to have instructions that meet the requirements of the election. They cannot tell someone that they can draw pink elephants on their paper and they will be voting correctly. Proposed paragraph (c) then states —

> contains an error or abusive, obscene, threatening, violent or unlawful or similarly offensive material.

That seems fairly self-evident and a reasonable inclusion. Proposed section 89B(2)(a) states —

> is likely to mislead or deceive an elector in relation to the casting of an elector's vote for a particular candidate, political party or group;

That is a slightly subjective. In politics, one person's encouragement is another person's deceit. Can the minister give me an example of what the Electoral Commission will be looking for when it comes to applying proposed section 89B(2)(a)?

Mr J.R. QUIGLEY: One example could be using the colours or motif of an opponent to mislead electors that it is the true intention of the party when really it is a rogue card. It will not be registered if it is going to induce a person to think, for example, that the candidate out there is Labor—because I have got a big margin. It could be someone else using colours to suggest that they are a Labor candidate, or perhaps using a variation of my name to trick people into thinking they are voting for me, but they are voting for somebody else. The registration of these cards is to protect the integrity of the election so that the information contained on the card truly reflects the intention of the candidate and the party that is supporting that candidate.

Ms M.J. DAVIES: I give the minister a hypothetical, which may be loosely based on something that may have happened a long time ago when one of our candidates first ran for our party.

Mr J.R. Quigley: Council or Assembly?

Ms M.J. DAVIES: In the Assembly. He did not use the livery of the National Party, so it was not a green and yellow how-to-vote card. It was, in fact, white and blue. It had his name on it, and it was our party and he followed all the rules. There was nothing wrong with the actual how-to-vote card, but it was not green and yellow. It was a strategic choice; I am not going to lie. At that point, he thought it would benefit him. If that were sent to the Electoral Commission under these rules, would that be deemed unregistrable?

Mr J.R. QUIGLEY: The party can apply in whatever manner it likes, but it will ultimately be to the discretion of the Electoral Commissioner whether that presented application is likely to mislead voters. There is a discretion with the commission to protect the integrity of the election, but there is no rule that says the National Party has to use green and yellow. The application could be put in, but if the intention is to try to make the National Party candidate look like the Labor candidate in Butler, the Western Australian Electoral Commission might exercise its discretion and say, "This is getting confusing; they're trying to sneak it in to make it look like he's the Labor candidate for Butler." Short of misleading the electorate, it will be approved.

Ms M.J. DAVIES: Maybe a contemporary example of this is the Australian Electoral Commission taking umbrage with the purple that is being used by the Yes campaign. I understand that it said that it looks too similar to the Australian Electoral Commission's colours and it makes it look like the Yes campaign is being endorsed by the Australian Electoral Commission. Is that something that is likely to be an issue when the registration of how-to-vote cards comes up?

Mr J.R. QUIGLEY: When I used to appear for a lot of police, they always used to say that it was about time, place and circumstance when exercising discretion. We will have to look at the circumstances of the particular election. If the Australian Electoral Commission is using purple, I can see the objection. It is trying to mislead the unwary

voter into thinking that they are holding something official that tells them how to vote. That is what we have to steer clear of. There will always have to be that discretion—always. However, it is not to impede the member's party or any other party; it is to protect her party and other parties and all candidates who put in an honest effort from sneaky ways of trying to beat the system. That is what we are trying to do.

Ms M.J. DAVIES: Proposed section 89D provides for the publishing of more than one how-to-vote card, but, in my mind, it is ambiguous on whether a party can have more than one how-to-vote card in circulation for the same candidate. Will parties and candidates be able to have two or more how-to-vote cards in circulation at the same time for the same electorate or division?

Mr J.R. QUIGLEY: No. They will have to apply to replace it with a new one. They could not put out two. That would confuse. As I said in my second reading speech, this is not ideological. I am trying to approach this so that there are clean and fair elections. If a party put out two how-to-vote cards, it would leave the constituency confused. We do not mind if a party changes it unlimited times. If I said something nice, the party might say, "Put Quigley second." If I said something radical against sheep farmers the following week, the party might say, "Put Quigley last." The party will be able to change it all the time, but it will not be able to put out two because people would just get confused, and the commission would not register such a card.

Ms M.J. DAVIES: Again, I can think of a couple of scenarios in which a party or candidate might do it, such as when a preference deal has not been done. I could say, "Put my name first and here is the preference flow if you want to put Labor second." However, for a Liberal voter, people would be given an option. What will happen in some electorates—probably not mine, but others—that have culturally and linguistically diverse communities? One card might be published in a language other than English, so there could be one in English and one in Mandarin. Would that be approved? They would be the same card, but they would not be. There would be two in circulation.

Mr J.R. QUIGLEY: Once again, all these cards will be at the discretion of the Electoral Commissioner. But a Liberal voter would be handing out a Liberal how-to-vote card.

Ms M.J. Davies: Maybe, but sometimes you're a Nat and you give your preference to the Labor Party and sometimes you're a Nat and you give your preference to the Liberal Party. It's not just the Liberal and Labor Parties in this state.

Mr J.R. QUIGLEY: But what will the party want by way of preference, because that is what will happen?

Ms M.J. Davies: We could potentially decide not to allocate preferences and give people a choice.

Mr J.R. QUIGLEY: That would be okay. The party could put out its how-to-vote card saying, "Vote number 1 for Mia Davies and after that, choose your candidate."

Mr D.R. Michael interjected.

Mr J.R. QUIGLEY: I am told by the minister that the Greens already do that. They say, "Vote Greens 1 and after that, choose this or that—name your candidate."

Dr D.J. HONEY: Coming back to proposed section 89A(1), before the last couple of elections, *The West Australian* entered the fray on whom the community should support and it was very explicit that a certain candidate should be supported and another candidate should not be supported at the election, and it did that on a seat-by-seat basis. Would that fall under this rule?

Mr J.R. QUIGLEY: No; that would not be a party handing out how-to-vote cards. That would just be the media saying what its preference is. News Ltd will go around saying, "Don't vote for this person" and it usually chooses a conservative. Other media outlets like *The Guardian* might choose someone else to promote. That would not be a how-to-vote card. Commentators saying whom to vote for will not be captured by the provisions of new section 89. What will be wrong is a how-to-vote card that bears the party's name that is misleading of the party's intentions. That is why we want them to be registered—to protect parties.

Dr D.J. HONEY: This question is related generally to the handing out of how-to-vote cards. We will have the registration of workers on the booths. Will I be able to hand out another party's how-to-vote card? It is not uncommon for workers on polling booths to hand out the how-to-vote card of another party. I am not saying that it would be an unauthorised card, but will I be able to hand out the how-to-vote card of another party?

Mr J.R. QUIGLEY: Of course, that happened in Rockingham, where the Leader of the Opposition pretended to be a Liberal, and I can understand why. However, there will be no requirement for what card they hand out. We just want the Western Australian Electoral Commission booth workers to be statutorily recognised so that they will have the amenity of a toilet and will know who to order to move six metres from the door and those sorts of things. There has been no requirement until now to have any registration of a booth worker, but they can affect an election. Western Australian Electoral Commission officers are part time. They do not know these people. They will have to have some sort of identification. Once again, it is just about keeping it clean. Once they are identified,

they will be able to hand out whatever material they like. Some poll workers could hand out two how-to-vote cards, perhaps because the Nationals and the Liberals could not man every booth and they asked them to hand out some of theirs. That happens with the Greens and all these people.

Ms M.J. Davies: We cover our booths.

Mr J.R. QUIGLEY: The member knows what I mean. There are people who do this.

Ms M.J. Davies: With locals.

Mr J.R. QUIGLEY: If the member is running short of numbers, do not send them to Butler; she can send them elsewhere!

Mr P.J. RUNDLE: I have a couple of quick questions. How will people be able to identify that the card has been registered? Will there be some sort of writing at the bottom of the card?

Mr J.R. QUIGLEY: If it is registered, the card will have small print at the bottom stating "Authorised by the Electoral Commission". All registered cards will be published on the Electoral Commission's website, so the member's electors cannot be fooled. They will see that it is a ridgy-didge card for the electorate of Roe. It will be right there. If they want to check further, they can call up the WAEC website and it would be published there.

Mr P.J. RUNDLE: I think the member for Central Wheatbelt raised the issue of timing. It concerns me that if a party is waiting for approval, in preparation, it will automatically print "Approved by the Western Australian Electoral Commission" on the bottom of the card assuming that it will get approval.

Mr J.R. Quigley: Well, you shouldn't do that.

Mr P.J. RUNDLE: That is what I am saying. As pointed out by member for Central Wheatbelt, time is of the essence in this period. The minister said that registration needs to happen six days prior to the election; how will parties get how-to-vote cards ready for pre-polling?

Mr J.R. QUIGLEY: Registration opens a good three weeks out from polling day and is a good week before early voting commences. I have been advised by the commission that the member was not present when I explained this. I make no criticism of that, but I will just have to repeat my explanation. It is a tick-and-flick exercise and it will not take long: Did this application come from the registered entity? Does it comply with the law? In other words, they have not put "1", "1". Tick! Bang! We are going to put enough officers on this particular task so that it can be dealt with quickly. There are 59 Assembly seats times five candidates. There are 300 how-to-vote —

Ms M.J. Davies: I had 13 candidates in mine last time.

Mr J.R. QUIGLEY: I think I had five, but I am just giving an example.

Checking 300 cards might take 15 or 20 minutes a card, with numerous officers. This will not be a backbreaking task for the commission. It will email back and say "You are right to go!" and then the party's template will go off to the printer—hopefully on the same day, but it might take a couple of days.

Ms M.J. DAVIES: I appreciate the minister's optimism about this, as well as his clarification that it is a week before pre-polling starts. I can tell the minister that it takes longer than a week to get the how-to-vote cards printed, posted or couriered—however it is—to the furthest reaches of this state. It is a challenge. When pre-poll opens, we want people ready at the booths to hand out how-to-vote cards and assist people. I will not ask the minister to repeat what he has said, but I am very sceptical about the timeliness and time frames. I think there will be a fair amount of scrutiny during the first election when this happens. As a political party, it is already a challenge for us. The Labor Party and Liberal Party experience that challenge as well. I have talked about the time frames that we use. We go to print that night; we get it done and then we get them couriered. Adding another process in that is going to create some challenges. I truly hope that the minister will provide additional resources that are sufficient to get this done on the first day so that we can actually all get on with what we need to do.

Mr J.R. QUIGLEY: I am already trembling about budget estimates, but I will leave that until June next year when the member will question me about that.

Ms M.J. Davies: It will not have happened then! I will be gone. I will not have a chance to scrutinise you after the next election.

Mr J.R. QUIGLEY: The member will be here during the next election on television commentating and saying "I know it's a clean election because I was in Parliament when Minister Quigley put this bill through!" I know the member will be there, but in a different capacity. I want to respond to the member regarding pre-polling: parties do not have to wait until the last day to register. They can register on the first day of the close of nominations. They will still have a full week to do their how-to-vote cards. From day one, they can perhaps print their own if they have not got them back from the printers. It is not a big deal.

Ms M.J. Davies: It is when you put caps on expenditure, Attorney General. Every dollar counts!

Mr J.R. QUIGLEY: It would probably be cheaper to run a thousand through my photocopier than to print a thousand. The main thing is that we have to have these blessed things registered and avoid the public being misled. If that puts a little bit more pressure on us, so be it. The public expect a clean, open and fair election. As the minister, I am determined to see that delivered by the commission—so long as it re-elects me! That was not for *Hansard*!

Clause put and passed.

Clause 80: Part IV Division 3 replaced —

Mr J.R. QUIGLEY — by leave: I move —

Page 139, line 7 — To delete "A person" and substitute —

(1) A person

Page 139, line 9 — To insert after "polling place" —

in a district

Page 139, after line 19 — To insert —

(2) Subsection (1) applies even if the claim relates to enrolment for another district.

Ms M.J. DAVIES: Could we have an explanation of what the amendments are?

Mr J.R. QUIGLEY: They will insert proposed section 97G, titled "Provisional voting if person applies to enrol on day on which they intend to vote". It will provide for a person who, under section 17, has enrolled on the day that they intend to vote, to vote as a provisional voter. The proposed amendments are consequential to the amendment to clause 15 to ensure that a person who has been enrolled under section 17 can vote, even if they presented at a polling place outside of their district. This is one of those ideas that came during consultation. The member will remember from the second reading debate that they could do that at the polling place on polling day, but we had not included a provision to allow it to happen at other places.

Amendments put and passed.

Dr D.J. HONEY: Page 118 has proposed section 92F, "Appointment of scrutineers during polling". I want to clarify whether this must be a singular scrutineer or can there be more than one. It states —

(1) A candidate in an election, or the candidate's official agent, may appoint a scrutineer to represent the candidate at a place to vote during the polling for the election.

In the past, it has not been uncommon, particularly at the big booths, to have had more than one scrutineer present because two tables can be counting votes and sometimes upper house votes and lower house votes are counted at the same time. Perhaps I am misreading this, but will there be a limit on the number of scrutineers that a candidate can appoint, or will a candidate still be able to appoint more than one scrutineer when they believe it is required?

Mr J.R. QUIGLEY: There will be no change to the existing provisions. Proposed section 92F will replace section 114, but there will be no substantive changes to the law as it currently exists. It is just terminology, and I will just pull it up here. There will be no change to what is currently there.

Dr D.J. HONEY: I wish to clarify, as we have the commissioner here, that if a candidate wanted to appoint more than one scrutineer, as has happened in the past, would there be an impediment to that?

Mr J.R. QUIGLEY: No.

Dr D.J. HONEY: Page 164 has proposed section 100M, which states —

(1) The Electoral Commissioner, or officers directed by the Electoral Commissioner, must, at a time not earlier than 72 hours before the commencement of the poll on polling day, begin the scrutiny of declarations relating to postal ballot papers …

Will there be any impediment to the postal ballots being counted alongside the other votes once the polls have closed?

Mr J.R. QUIGLEY: Was the member reading from clause 100? The member referred me to page 164.

Dr D.J. Honey: No, page 118 I referred you to, Attorney General.

Mr J.R. QUIGLEY: Page 118?

Dr D.J. Honey: Yes—the new clause 92F. Sorry, Attorney General; I apologise. Page 164—100M.

Mr J.R. QUIGLEY: That is right. The member is getting ahead! He was reading from clause 100, I think.

Dr D.J. Honey: No—still section 80, on page 164. It's the new clause 100M. Attorney General, if I could clarify?

Mr J.R. QUIGLEY: Yes.

Dr D.J. HONEY: Thank you very much. I am not sure whether this confounds it. Would this clause be an impediment to the counting on the day? Officers will be qualifying all those other votes up to 72 hours—so three days—before polling day. Is there any reason they cannot commence counting at the same time as they are counting the other ballots at the end of polling day?

Mr J.R. QUIGLEY: The postal votes go to a processing centre where, three days before polling day, they are checked that they comply with the declarations for the postal vote. If they are checked and are compliant, they will then go to the district to be counted after 6.00 pm that night.

Sorry! I have made an error. I want to correct the record. Page 131 of the bill, proposed section 96(2) states —

> At a polling place for a single member election, only 1 scrutineer at a time is allowed for each candidate.

That is exactly the situation under the existing section 114(1)(a), which states —

> at a single member election, not more than one scrutineer at a time shall be allowed to each candidate at each polling place, or section of a polling place, if divided;

I made an error earlier.

Clause, as amended, put and passed.

Clauses 81 to 105 put and passed.

Clause 106: Section 156 amended —

Ms M.J. DAVIES: We have hit the hundreds, Attorney General! Clause 106 will amend section 156. It relates to electors' voting obligations, and there is a new section in here. New section (1A) states —

> a ***valid and sufficient reason*** in relation to a failure to vote includes an honest belief on the part of an elector that abstaining from voting is part of their religious duty.

I am not sure whether this is a new section for this part of the bill or whether it is a new section in its entirety. How is this honest belief judged? Who will be the judge? Does the person have to be part of an official congregation or grouping and have evidence? Do they require third-party confirmation of said religion? Perhaps the minister could provide some examples of which groups of people this applies to that causes a clause of this nature in the bill.

Mr J.R. QUIGLEY: The person will be a non-voter, and because of a religious reason, they have not gone to the polling station. They will then get a notice, as a non-voter, and that notice also includes that they have committed an offence if they do not have a valid and sufficient reason. That will be judged by the Western Australian Electoral Commission. If the person is a member of a congregation that has a doctrinal position against participating in state elections—I mean "state" in the wider term—the Electoral Commissioner will accept that. A person does not have to be a member of a congregation if they genuinely have a conscientious, valid and sufficient reason for not voting. It is the same in the commonwealth legislation as well, because, as I said, we are trying to keep the two in harmony. It is up to the person to put evidence before the commission that they are sincerely of the belief that it is against their religious belief. It will be easy to capture that belief if they are part of a congregation well-known for that. It might require a little more effort from a person who is sincere in that belief to produce evidence of it.

Ms M.J. DAVIES: It is a new section, is it not? It did not appear in the act previously. Or was there already a provision for people with this honest belief contained in the act?

Mr J.R. QUIGLEY: I refer to the struck-out bit in the member's blue copy of the bill. I know other members have not got the blue copy, but I refer to page 287. The member will see there the struck-out part that this clause replaces. Section 156(16) of the original act stated —

> Every elector who —
>
> (a) fails to vote at an election without a valid and sufficient reason for such failure (in this section the words *valid and sufficient reason* shall include an honest belief on the part of an elector that abstention from voting is part of his religious duty); or
>
> (b) makes a statement in response to a penalty notice or to an infringement notice that is, to the person's knowledge, false or misleading in a material particular, shall be guilty of an offence.

It was there, and we have cleaned it up.

Clause put and passed.

Clauses 107 to 112 put and passed.

Clause 113: Section 175 amended —

Dr D.J. HONEY: I move —

> Page 225, line 14 — To delete the figure "$1 000" and in its place insert —

> $2 600

There has been some discussion behind the chair about this amendment. I thank the Attorney General for taking on board the comment that $1 000 was such a threshold it did not represent any meaningful risk of a minister having their head turned on a matter. It would have been a horrendous administrative burden for the parties. The point I made in particular—on our side at least and for the local campaigns—is that $1 000 would act as a substantial disincentive. I do not see any reason why we should change the amount from what it is now. I do not think there has been any demonstrated evidence, Attorney General, that the amount of $2 600 has resulted in any corruption of government or government processes. That is a compromise amount to stay where it is currently and not reduce it. That will make it administratively simpler but will not represent any risk, I believe, of encouraging corruption.

Mr J.R. QUIGLEY: As I said at the start of my second reading speech, as the minister I am not trying to weaponise the process by these amendments. The member for Cottesloe made a case that, as he said "his side" of politics would find this an inhibition on its normal fundraising activities. I do not want to pass any legislation that he feels inhibits them, so long as it does not tarnish the transparency and integrity of the process. I accept the member's amendment.

Amendment put and passed.

Ms M.J. DAVIES: I want to deal with some of the definitions laid out at the beginning of this clause. Clauses further down the track deal with foreign donors and capped expenditure and things like that. I have a couple of questions about definitions at the beginning of this clause, under part 6. The first is why has "campaign committee" been included and referenced in the act?

Mr J.R. Quigley: The increasing of?

Ms M.J. DAVIES: I am referring to campaign committees in the definitions section at the top of page 221. Why has that been included in the bill? I assume it is in reference to how, as political parties, it is the state secretary or state director who is responsible. I am not entirely sure why there needs to be a reference to a campaign committee, because that formalises something that sits within political parties ordinarily and there are formal definitions for party agents and people who have responsibilities to the Western Australian Electoral Commission. I can sit down and let the Attorney General answer that, or I can keep going. The second question I have is on the compulsory party levy. Under the definition of "compulsory party levy", which is referred to later in the act, part (b) is —

> a person employed by, or appointed or employed to assist, an elected member who is a member of the political party, including an electorate officer as defined in the *Parliamentary and Electorate Staff* …

I do not understand why we would be making reference to an electorate officer in relation to a compulsory party levy, which is included in the campaign finance. I would appreciate an explanation of whether we deal with that here in the definitions, or where it is actually pertinent in the bill.

Mr J.R. QUIGLEY: I got a bit confused, because I think we started off with "campaign committee".

Ms M.J. Davies: I did, and while you were having a chat, I moved on to the next one, sorry! We can come back to it.

Mr J.R. QUIGLEY: I know, Speedy Gonzalez; the member left me in the dust! "Compulsory party levy" means an amount a political party requires to be paid by an elected party member or a person employed by the party, including an electorate officer, because they are working for a party member. The levy has been defined and identified to capture levies as political contributions. That is why we have included electorate officers.

Ms M.J. DAVIES: Perhaps this is where a consultation with the Labor Party might have influenced what has ended up in the bill. None of our electorate officers pay a levy to our political parties unless, privately, they are members of the organisation.

Mr J.R. Quigley: That's right.

Ms M.J. DAVIES: But why would that be defined in the act to specifically include an electorate officer? They pay a membership, not a levy. None of our electorate officers would pay what we would determine as a levy. Members of Parliament pay a levy to our political parties, but none of our electorate officers do. They might be members of the party. I just cannot understand why the act would include a specific reference to an electorate officer and a compulsory party levy.

Mr J.R. QUIGLEY: If a political officer is not subject to any compulsory party levy, they will not be captured by this proposed section. We have to take care of all possibilities. Some electorate officers might be members of a party that has imposed a general or specific levy. Caucus gets levied; other people in the party get levied. This provision fits in with the definition of "political contribution" on page 224 in proposed section 113 of the bill, which states —

> ***political contribution*** means any of the following —
>
> (a) an affiliate fee;

(b) a compulsory party levy;

(c) a gift;

Any levy paid by an electorate officer is captured. If an electorate officer is not captured by the requirement to pay a levy, there is no deal. But I have to take care of other parties that might have electorate officers who are levied. That is then part of a political contribution.

Mr R.S. Love: There's an income stream!

Mr J.R. QUIGLEY: No further suggestions for questions!

Ms M.J. DAVIES: The Leader of the Opposition has just identified a new income stream for the Nationals WA!

Mr R.S. Love: What level is the levy?

Mr J.R. Quigley: I can't find that in the bill, member!

Ms M.J. DAVIES: I am genuinely astonished that we have electorate officers who are, for all intents and purposes, supposed to be independent of political parties. There is nothing to say that they cannot be members of organisations in their own private lives, but for the purposes of being an electorate officer —

Mr J.R. Quigley: You don't have to be a member of a political party.

Ms M.J. DAVIES: No, but the Attorney General is trying to capture something that clearly exists, which is a levy being paid by an electorate officer to a political party. I find that quite astounding. There are all sorts of references, such as the red shirts in New South Wales. It may have nothing to do with that, but that rings alarm bells to me, because electorate officers are supposed to be independent, certainly from a campaigning perspective, at the very least.

Mr J.R. Quigley: I agree, but—may I respond?

The ACTING SPEAKER (Mr P. Lilburne): Certainly.

Mr J.R. QUIGLEY: I agree, but an electorate officer may be—they are entitled to be—a member of a political party. A political party may impose a levy on certain categories of people, like current members: "We're hard-up, we've got to double the fee." I am not talking about Labor; I am talking about some of the other smaller parties. I know that some of the smaller parties have very politically active electorate officers. They might be levied. I do not want their contribution to escape and not be captured by the legislation. Any levy is a gift. Just because a person is an electorate officer, they are not excused from that contribution by reason of their employment as an electorate officer. We want to include it.

Mr R.S. LOVE: That is interesting. Was there any discussion with the Australian Taxation Office about the tax deductibility of gifts and compulsory levies? I wonder whether, by defining that as a gift, you are inadvertently creating a tax issue for electorate officers, who can only claim a tax deduction on a donation up to a certain value. Was there consultation with the tax authorities when the Attorney General made that determination?

Mr J.R. QUIGLEY: No, we do not do this because of the tax deductibility or otherwise. There has been no discussion by my office or any of my advisers with the ATO.

Mr R.S. LOVE: As I understand it, under the current rulings of the ATO, a levy is tax deductible at any level, but there is an upper level for a tax deductible gift. It is a donation.

Mr J.R. Quigley: I think the upper level was 15.

Mr R.S. LOVE: Federally, I think it is to be dropped. I am wondering whether there has been some discussion on that, or should there be, between here and the arrival of this bill in the other place?

Mr J.R. QUIGLEY: No, I do not believe there should be. We are not being driven by the Australian Taxation Office or the rules around taxation. We are trying to come up with a fair and clean system. There has been no discussion or consideration of the taxation effects of all this. We are trying to present to the public a clean system. If levies are imposed, they will be considered as contributions. If a person who is employed as an electorate officer is subject to any party levy, they will be included. They will not be excluded by reason of their employment.

Ms M.J. DAVIES: I move on to the definition of "foreign donor". I know that there is a whole section on foreign donations further down, but this is the definition.

Mr J.R. Quigley: Where are we?

Ms M.J. DAVIES: It is on page 222. The definition of "foreign donor" means —

… a person who makes a political contribution who is any of the following —

It goes from (a) to (f), and (e) is —

a body (whether or not incorporated) that does not meet any of the following conditions —

(i) the body is incorporated in Australia;

(ii) the body's head office is in Australia;

(iii) the body's principal place of activity is, or is in, Australia;

How easy is it for someone to become incorporated or to set up a business in Australia that would allow them to get around not being a foreign donor? Are there any loopholes?

Mr J.R. QUIGLEY: The foreign donor provisions, as the member may recall, received some criticism from the Standing Committee on Legislation as being inadequate, so we have taken the commonwealth definition of "foreign donor" and there is an offence for trying to get around those provisions. We will come to that. It comes up under proposed section 175SAF, "Offence to enter scheme to receive foreign contribution not permitted under Division". I do not know how easy it is, but it is risky.

Ms M.J. DAVIES: That is a good answer. Can the minister explain the difference between a "registered third-party campaigner" and a "third-party campaigner"? There are two definitions. Again, I know this is dealt with at a later part of the bill. I would appreciate more detail than that one of them is registered and the other is not.

Mr J.R. QUIGLEY: There are a lot of little local campaigns. I can remember one in North Beach about cutting down trees to expand the football field. A local campaign about cutting down trees to expand a football field is likely to spend less than $500, so that will be a third-party campaigner. If they spend more than $500, they will have to be registered and become a registered third-party campaigner. The expenses will have to be reported and the whole trip. They are little community campaigns.

Ms M.J. DAVIES: Yes. How will they know that they need to keep their expenditure under $500, and that if they tip over that they will have to inform the Western Australian Electoral Commission and register? The minister is talking about local community campaigns. It is not very hard to get hold of $500, by the way. It sounds to me a little challenging to monitor and police all this. I presume the Western Australian Electoral Commission will be responsible for that.

Mr J.R. Quigley interjected.

Ms M.J. DAVIES: Sorry? I just wonder how the Western Australian Electoral Commission is going to keep tabs on that kind of expenditure and how it is determined. If the Electoral Commission calls them, will it demand to see their bank account in relation to that expenditure? It sounds a bit of a grey area.

Mr J.R. QUIGLEY: There will have to be information on the commission's website. There can be some advertising prior to the election for third-party campaigners to remind them of their obligation to register unless they are not intending to spend more than $500. If they do intend to spend more than $500, they should get in at the outset and register. If they change their campaign strategy during the election period and it looks like they will exceed $500, they should register. I do not think it will be too hard at the bottom end. We are trying to stop third-party campaigners from coming and just flooding an election. They have nothing to lose; they are not standing.

Ms M.J. DAVIES: In the definitions of "third-party campaigner" and "registered third-party campaigner", there is the use of the word "person". I assume that is the legal definition of "person" and applies to businesses, organisations or individuals.

Mr J.R. QUIGLEY: I am pleased that this lawyer received the endorsement of the Solicitor-General for my proposed answer, which is that under the Interpretation Act, the word "person" will include a corporate entity. I thank the Solicitor-General.

Ms M.J. DAVIES: I refer to the cap amounts laid out on page 223. As far as I can see, that is the only specific mention of the amounts for the Legislative Assembly and the Legislative Council in a general election or a by-election. I note that in the 2020 bill the Legislative Assembly candidate cap was set at $125 000 and it has now gone up to $130 000. Could the minister provide an explanation as to why there is a difference between the 2020 amount and the 2023 amount?

Mr J.R. QUIGLEY: It is set out in the justification statement. I refer the member to page 5 of the justification statement. The previous electoral returns do not generally show the amounts spent by or on behalf of the party-endorsed candidates for the Legislative Assembly separately from the party-endorsed candidates for the Legislative Council. However, the largest electorate expenditure for a party for both houses was by an ALP branch in the 2021 state election. An amount of $6 173 558 was spent on behalf of 95 candidates for both houses, there being 59 fielded in the Assembly and 36 in the Council. An individual cap on electoral expenditure in the Assembly is set notionally by assuming that the amount of $6 million was spent only upon 59 candidates in the Assembly. This would overestimate the average amount expended on each Assembly candidate in relation to the largest amount expended.

On that basis, an electoral cap of $104 637 would apply, which is significantly more than the cap set by reference to the average expenditure on all 95 candidates, which would be $64 985. That is a difference of $41 456. The difference suggests that any variability of electoral expenditure in individual seats above or below the average is likely to be accommodated by an individual expenditure cap of, say, $130 000, because there is variation between the seats. We worked it out based on $130 000 per seat. If we multiply that by 59 seats, we come to about $7.4 million.

For the Legislative Council, as noted, I think, by the member in the second reading debate, a different approach was taken because the cost of Council elections is substantially less than the cost of Legislative Assembly elections. In a general election, the electoral expenditure on Council candidates is reduced by the general expenditure on Assembly candidates in delivering the party message. We note that the largest amount spent by an individual candidate upon a Council region in a state general election was in the same vicinity as the notional calculation that we did before when we got to $65 000. It was $79 000 at the 2021 election. That is more than double the next highest expenditure by an Independent Council candidate, which was $33 187 in the 2017 state general election. It is unknown why so much was spent by this one Independent candidate Mr Peter Lyndon-James, but it clearly represents an egregious outlier and may be excluded from consideration. In these circumstances, if the individual expenditure cap for the Council were set at $65 000, it suggests that it would be very unlikely to interfere significantly with any communication on political matters. That is what the High Court of Australia is looking at: does the cap interfere with communication? Such an individual cap is approximately equal to the average individual expenditure of Australian Labor Party candidates in the Legislative Council in the 2021 state general election, which was the largest of any state general election that has been held.

Mr D.A. TEMPLEMAN: I am very interested in what is being said—I have no idea—and I would like the Attorney General to continue.

Mr J.R. QUIGLEY: That is how we got the expenditure caps. We feel that it gives a fair amount for any candidate. It does not mean that $130 000 will have to be spent in that electorate. If I spend $60 000 in the electorate, the $70 000 will not be transferrable to another district, but it could be used by the party for general election campaigning. We have tried to introduce sensible caps that are not, as I said—I was criticised for it by the member but I will take that—a war of money, not a war of ideas. A $10 million total expenditure cap will not give someone the capacity to flood the whole state like a cap of $30 million or $40 million would. If a billionaire comes in to spend and they want to reach that cap, they have to find a candidate for 59 seats in the Assembly and 36 in the Council. From their past effort of fielding about four or five candidates, they rake up all the crazies who say weird things and then damage them or are disendorsed. Imagine what would happen with one of those extreme parties fielding 59 candidates who have only been recruited into a party, but are not affiliated to the party. It would be bedlam. I thank the member for her questions. In the justification statement, the High Court wants to be assured that these matters and these caps have been properly considered by the legislature. If they are reasonable and proportionate, they will pass muster and they will not interfere with the ability to communicate on political matters. On advice from the Solicitor-General, they are designed to limit egregious expenditure by the wealthy who want to take over this Parliament.

Clause, as amended, put and passed.

Debate adjourned, on motion by **Mr D.A. Templeman (Leader of the House).**

House adjourned at 5.16 pm