

ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

Committee

The Deputy Chair of Committees (Hon Dr Brian Walker) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

Clause 1: Short title —

Hon SUE ELLERY: Deputy chair, by way of explanation to the chamber, I am not the Parliamentary Secretary to the Attorney General. I will take responsibility for the bill until the parliamentary secretary returns; he is out of the house on urgent parliamentary business and I reckon I will be at the table for about 20 minutes.

The DEPUTY CHAIR (Hon Dr Brian Walker): Members, in that case we are now in Committee of the Whole, considering clause 1 of the Electoral Amendment (Finance and Other Matters) Bill 2023. I note also supplementary notice paper 130, issue 1. That will happen after clause 4.

Hon MARTIN ALDRIDGE: I thank the minister for that clarification. I also want to recognise the parliamentary secretary's abridged reply to the second reading debate last night so that we could conclude the second reading debate; he acknowledged that and I thank him for canvassing the issues he canvassed, bearing in mind that it is a quite extensive bill of 199 clauses, so some of the issues will probably be best addressed as we move forward.

I want to start with the issue of consultation. Is the government in a position to provide us with some detailed information on the parties that were consulted in the consideration and design of this bill?

Hon SUE ELLERY: The Attorney General made it clear in debate in the other place that the government did not consult with other parties. He indicated in the debate that he had a conversation with the Labor Party, but beyond that there was no consultation that I am advised of.

Hon MARTIN ALDRIDGE: Is it normal for the government to bring a bill to the Parliament without consultation?

Hon SUE ELLERY: Some questions I will be able to answer and some I will not, but I will give it my best effort. It depends entirely on the circumstances of the bill in hand as to what happens each time. Sometimes, such as with the gun law reform bill, there is a very extensive period of consultation; on other occasions there is not.

Hon MARTIN ALDRIDGE: I accept that the level of consultation probably varies. My next question is: why was it deemed appropriate for the Labor Party to be consulted on this bill to the exclusion of others?

Hon SUE ELLERY: I am not in a position to answer that question and, frankly, I doubt the parliamentary secretary will be, either. The member will need to direct that question through the other methods he has available to ask questions of the Attorney General.

Hon MARTIN ALDRIDGE: One would think that the best opportunity to ask these types of questions would be when we are considering the bill before us —

Hon Sue Ellery: Member, if you'll take an interjection: in this case both the parliamentary secretary and I are representatives. There are some things that we can answer, with the help of the advisers at the table, and there are others that will have to be asked of the responsible minister directly.

Hon MARTIN ALDRIDGE: Would the advisers at the table, who may or may not include representatives of the Attorney General's office, know the date on which the Attorney General consulted with the Labor Party?

Hon SUE ELLERY: No, they do not. It was before the time of the person who works in the Attorney General's office, so we do not know.

Hon MARTIN ALDRIDGE: To help narrow this down, on what date did the adviser commence employment in the Attorney General's office?

Hon SUE ELLERY: I am not going to provide that answer. I can understand why the member is going down this line of questioning about consultation, but he will have to ask direct questions of the Attorney General. I think, from what I am advised he said in the Assembly, that it was a conversation and that he did not have staff with him. I think he did not have any advisers from the agency or his office with him either. That is what I think he said. Again, I think the member is going to have to direct those questions to the Attorney General directly.

Hon TJORN SIBMA: I might be referred to the parliamentary secretary when he returns, but I thank the Leader of the House for subbing for him at the moment. The Leader of the House will be aware of the parliamentary secretary's cogent but brief reply to the second reading debate. One of the interesting facets of his reply was his reference to the origins of a number of provisions in the bill. I will refer to yesterday's uncorrected *Hansard*, so there may be some issues of nuance, clarification or correction that I invite the Leader of the House to take up. He stated, in the uncorrected *Hansard* —

Hon Martin Aldridge asked about provisions in the bill arising from the government versus matters that arose from the Electoral Commission.

This is on page 58, minister. I am happy for the clock to wind down a little!

Hon Sue Ellery: So am I!

Hon TJORN SIBMA: See, I can play a team game!

It is the second paragraph. He stated —

Hon Martin Aldridge asked about provisions in the bill arising from the government versus matters that arose from the Electoral Commission. I will not be able to go through that clause by clause, given that there are 190-odd clauses in the bill so I will just talk in a general thematic sense about the areas that have been initiated, if I can put it that way, by government, —

By “government”, I presume he meant the Attorney General, Hon John Quigley, and the cabinet —
and the rump of them are essentially what has come from the commission.

I do not know whether the commission would consider it flattering that it has contributed the “rump” of the bill, but notwithstanding that, I think we all understand the meaning. It continues —

A number of issues arise from government’s election commitments as well as other matters we have pursued since then. This all comes from the government and not the commission ...

I just want to ensure that this is factually accurate. The parliamentary secretary outlined aspects relating to political funding and disclosure as finding their origin from the government, and by “government” I will just use “the minister”. It continues —

... including the reduced time frame for disclosure; the ban on foreign donors; expenditure caps; state campaign accounts and the higher reimbursement rate for electoral expenditure; the registration of how-to-vote cards; —

Additionally, the origin of that provision came from the mind of the government, or the mind of the minister. It continues —

the procedural fairness process for the removal of a person from the register who lacks capacity to vote; the inclusivity principle for the Electoral Commissioner when performing their functions ...

Additionally, there is the recognition of election campaign workers and, further on, the requirement to provide access to bathroom facilities, which is apparently a government initiative rather than one that arises from the Western Australian Electoral Commission itself. There is also the requirement to signpost a designated entrance. Leader of the House, I want to ascertain, if possible—if not, I will ask a similar question of the parliamentary secretary when he is back—whether that effectively constitutes the entire essence of the executive government’s contribution to the drafting of the bill? Is the government also the origin or author of any other provision in the bill that has not yet been claimed?

Hon SUE ELLERY: As I am advised, those seven Hon Tjorn Sibma read out, which appear on page 58 of yesterday’s uncorrected *Hansard*, are matters that were initiated, if I can put it that way, from the government—that is correct. The member used the term “minister” but this process went through cabinet; this is the government’s position.

Hon TJORN SIBMA: Yes, but I imagine that cabinet consensus decision-making was predicated on the advice provided by the submission, which was written by the minister, but I take the Leader of the House’s point.

The parliamentary secretary continues —

The remaining provisions arise from recommendations we received from the commission or relate to modernisation and improvement of language and structure, as recommended by Parliamentary Counsel’s Office, which obviously drafted of the legislation.

Aside from the bill updating the act by modernising the language and structuring it in a way that will make it more cogent and user-friendly, did the Parliamentary Counsel’s Office provide other additional advice or information that finds itself embedded in the bill?

Hon SUE ELLERY: I am advised that the drafting was an extensive process done between the Parliamentary Counsel’s Office and the Western Australian Electoral Commission. I am also advised that in relation to the specific part of what we have been referring to in the uncorrected *Hansard*, the Electoral Commissioner was here yesterday. He approved the inclusion of that wording, so that reflects the view of the Electoral Commissioner. Essentially, the contribution from the Parliamentary Counsel’s Office was around normal language and structural issues.

Hon TJORN SIBMA: Thank you, Leader of the House. I expected that to be the case.

What I am attempting to establish, I suppose, through a process of elimination or deduction is which provisions within the bill belong to whom. On the basis of the Leader of the House’s helpful clarifications and answers, and

the description of the rump of the bill, which was the language of the parliamentary secretary, when I refer to the second reading speech, would it be a reasonable assessment for me to make that a number of the self-described reforms on what appears to be pages 10 and 11 of the second reading speech—if the minister has a copy of the second reading speech read in by the parliamentary secretary, that would be useful. I will go through them but I will not take up more time than is absolutely essential. I suppose what I am attempting to establish is whether the following provisions in the bill originated from the Electoral Commission because I would make that assumption based on the process of elimination. For example, would it be a reasonable assessment—this seems to be specifically from the commission itself—that the commission establishing and maintaining a register of electors from which the roll will be prepared for an election came from the commission itself?

Hon Sue Ellery: I am sorry to be a pain, but I need to get a *Hansard* copy of the second reading speech.

Hon TJORN SIBMA: There is a specific provision within the bill that is very clearly described as finding its origin from the commission rather than anyone else, and that relates to the commission establishing and maintaining a register of electors from which the roll will be prepared for an election. Roughly when did the commission provide that advice to the government and in what form was that advice? Was it by way of a verbal briefing or a briefing note?

Hon SUE ELLERY: I am advised that I cannot be more precise than the first half of this year and it was in discussions between the Electoral Commission and PCO and driven, if you like, by “This is what happens in practice, and the commission would like to see that reflected in the legislation.”

Hon TJORN SIBMA: Again, I will quote from the second reading speech, which states —

Improvements will be made to WA Electoral Commission internal processes—for example, by no longer requiring early votes to be placed in envelopes when voting in person at a polling place.

The justification seems to be that that will reduce costs for the commission. I will make the bold assumption that that advice was provided by the commission, which is reflected in a provision in this bill.

Hon Sue Ellery: Yes, that is correct.

Hon TJORN SIBMA: That makes sense.

There are issues in the bill that might be described as technocratic but, by some, potentially a little controversial or demanding some justification, which relate to the so-called streamlining of enrolment processes. Was the recommendation to allow 16-year-olds to provisionally enrol but not vote until they are 18 originate from the Electoral Commission or the government?

Hon SUE ELLERY: From the commission, honourable member.

Hon TJORN SIBMA: Likewise, did the provision that will enable the commissioner to update the register based on information received from state government agencies in the same way that the Australian Electoral Commission currently updates the commonwealth electoral roll using information received from commonwealth government agencies come from a recommendation that originated from the Electoral Commission rather than the government?

Hon SUE ELLERY: Correct, honourable member, and it reflects what happens in other jurisdictions as well. Obviously, the commissioners around Australia are talking to each other.

Committee interrupted, pursuant to standing orders.

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