

Division 6: Western Australian Electoral Commission, \$7 373 000 —

Ms K.E. Giddens, Chair.

Mr J.R. Quigley, Minister for Electoral Affairs.

Mr R.L. Kennedy, Electoral Commissioner.

Mr C.N. Avent, Deputy Electoral Commissioner.

Ms E.L. Bruce, Director, Business Services.

Ms M. Buchanan, Principal Policy Adviser.

Mr D. Emerson, Principal Policy Adviser.

Mr J. Lee, Principal Policy Adviser.

[Witnesses introduced.]

The CHAIR: This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. It is the intention of the chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. Members should give these details in preface to their question. If a division or service is the responsibility of more than one minister, a minister shall be examined only in relation to their portfolio responsibilities.

The minister may agree to provide supplementary information to the committee, rather than asking that the question be put on notice for the next sitting week. I ask the minister to clearly indicate what supplementary information he agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the minister's cooperation in ensuring that it is delivered to the principal clerk by close of business Friday, 1 October 2021. I caution members that if a minister asks that a matter be put on notice, it is up to the member to lodge the question on notice through the online questions system.

Leader of the Opposition, do you have any questions?

Ms M.J. DAVIES: I refer to page 90 of budget paper No 2, volume 1. I am looking at "Relationship to Government Goals" under "Outcomes, Services and Key Performance Information". Was the Western Australian Electoral Commission asked or did it provide any advice or information about the legislation that is now in front of Parliament to reform the Legislative Council and reduce regional representation in the Council?

Mr J.R. QUIGLEY: Is the member talking about the policy position of a one-state electorate for the Legislative Council?

Ms M.J. DAVIES: Yes, that is correct, unless we can anticipate more legislation and further changes are proposed.

Mr J.R. QUIGLEY: I do not know.

Ms M.J. DAVIES: Please feel free to share them.

Mr J.R. QUIGLEY: The policy position was arrived at after consideration by the ministerial expert panel. During the drafting of the legislation, there was some consultation with the Electoral Commission but not on policy matters, like what the ballot paper will look like and things like that, just how the next state election would be administered under that amendment.

Ms M.J. DAVIES: Could the minister expand on that and provide me with some specific details on what advice was sought from the Electoral Commission in relation to the legislation?

Mr J.R. QUIGLEY: I did not seek advice from the Electoral Commission; I stayed away from the Electoral Commission. The Electoral Commission is independent. It just has to administer the law that the Parliament settles upon. In terms of arriving at the bill, I do not think I had one conversation with Mr Kennedy.

Mr V.A. CATANIA: Hence the issue!

Mr J.R. QUIGLEY: I think I had one conversation with the commissioner when I got the portfolio. The commissioner came down to meet me and briefed me on how the last election went et cetera. As the Leader of the Opposition would appreciate, because she was a minister, when a member becomes a minister, all the agencies come in and tell them what is going on in their agency. The commissioner did that back in late March. I will stand corrected but I think the next conversation I had with the commissioner might have been yesterday. Yes, he is indicating that it was yesterday when he came to brief me on the budget papers. Having said that, I am aware from

the MEP's report that it talked to the commissioner about things; not about policy, as such, but about the size of the ballot paper and those sorts of administrative matters.

[4.10 pm]

Ms M.J. DAVIES: So the Attorney General has not had any conversations, from a government perspective, about the costs that might be involved in a major redistribution of the Legislative Council and also, I anticipate, ahead of the next state election, a major redistribution of the Legislative Assembly as a result of removing the metropolitan boundary line?

Mr J.R. QUIGLEY: I believe there was always going to be a redistribution in the back half of 2023; that is what I was told at my original briefing—that in each cycle there will be a look at the redistribution. As to the cost, if the bill is passed into law—which was the other part of the Leader of the Opposition's question—the first conversation I had on that question was yesterday.

Ms M.J. DAVIES: Is there an understanding of what those costs might be? It is not an insignificant body of work. Is it reflected in the budget?

Mr J.R. QUIGLEY: There is not a line item in the budget concerning the bill, as the Leader of the Opposition will appreciate. I will let the commissioner answer that.

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

Ms M.J. DAVIES: Just to be clear, there has not been a request for an additional allocation to accommodate any of these changes—it will be dealt with within the budget of the Western Australian Electoral Commission?

Mr J.R. QUIGLEY: Correct. That is what I am advised by the commissioner. He has not asked for any money, and, as he has just outlined in the previous answer, he believes that the principal costs will be in relation to party registration. As the Leader of the Opposition will appreciate, party registration will now be required to have attached to it at lodgement 500 individually signed declarations. The commissioner will have a role in auditing that. The commissioner would like to add to my answer.

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

Ms M.J. DAVIES: How much does a normal redistribution process cost? I appreciate that there is a redistribution ahead of each election; it was relatively minor ahead of the last election. I do not know whether a redistribution has an impact on costs, but this will be more significant, regardless of whether there is a change in the legislation to the metropolitan boundary line. How much are we looking at in terms of the costs associated with a redistribution?

Mr J.R. QUIGLEY: How much would a normal redistribution cost?

Ms M.J. DAVIES: Correct.

Mr J.R. QUIGLEY: They are all normal. I will ask the commissioner to answer.

Mr R.L. Kennedy: If I might, I will ask Mr Avent to cover that. I have not yet done a redistribution as commissioner, and he has been through a couple.

Mr C.N. Avent: The main focus of a distribution is on the lower house, in terms of the drawing of boundaries for the lower house districts. The focus for the upper house to change to a whole state would not have a dramatic effect, I would not think, on the Office of the Electoral Distribution Commissioners and the process. From memory—not having been a commissioner in the distribution office—the cost of a distribution was in the order of \$2.4 million. A Supreme Court judge chairs that process, the head of the Australian Bureau of Statistics in WA is a commissioner, and the Electoral Commissioner is the third distribution commissioner. They establish an office that runs for 12 to 18 months and is supported by the Electoral Commission with corporate and administration support.

[4.20 pm]

Ms M.J. DAVIES: Is the \$2.4 million for distribution what occurred prior to the last election? I think the one before that was more significant. Is there a difference in cost when we look at a minor-major, or is it all the same?

Mr J.R. QUIGLEY: Mr Avent.

Mr C.N. Avent: The cost is not different. The impact of the previous distribution had a greater effect on lower house boundaries than the last one. In terms of funding, the float provided separately from the Electoral Commission's budget was comparable.

Mr V.A. CATANIA: In terms of the minister's desired outcomes, as the Leader of the Opposition has mentioned, will the legislation that is in the house as we speak prevent what happened at the last election, in 2021, when a member of the Daylight Saving Party was elected on 96 votes? Will this legislation, leading to a Senate-style state upper house, prevent the election of someone from the Daylight Saving Party who may get 1 000 votes? Will the legislation that is before the house prevent a member of a party, such as the Daylight Saving Party, who may get 1 000 votes, from climbing the ladder and being elected?

Mr J.R. QUIGLEY: I do not want to be difficult but this is not in the budget; I do not think the member could take me to a line item in the budget. But it is a question that the member can put on notice to me or ask in the Assembly when we return.

Mr V.A. CATANIA: On page 90, under "Desired Outcome", it states —

Western Australian electors participate in independent and impartial elections or referenda conducted by the Commission as part of democratic processes.

We are talking about a democratic process that will be completely undemocratic under the proposed legislation. I refer to "Service" on page 90 again, where it states —

Provision of Independent, Impartial and Efficient Electoral Services to Electors for Parliament and other Electoral Clients.

I argue that that is about making sure that we have a fair, equitable and impartial system. The legislation that has been put before the Parliament will take away many rights of regional Western Australians, or will dilute the vote of people in regional Western Australia by going to a Senate-style Legislative Council. My question to the Minister for Electoral Affairs is: will the legislation that the minister has introduced into Parliament stop a member of a party, for example the Daylight Saving Party, who may get not 96 votes but 1 000 votes, from getting elected?

Mr J.R. QUIGLEY: That is a complex issue.

Mr V.A. CATANIA: Yes or no will be fine.

Mr J.R. QUIGLEY: No; how can I say that a party such as the Daylight Saving Party will not have a member elected if, for example, it registers as a party with 500 members and starts a big campaign? I cannot say that any person will or will not get elected. However, I can say that this estimates hearing is not the appropriate place to debate the effect of a bill before the house that has not yet passed into law or even been argued in the chamber.

Mr V.A. CATANIA: I imagine that funds, listed under "Appropriations, Expenses and Cash Assets", are being used within the Western Australian Electoral Commission, as the minister and the commissioner have said, to enable work on how the ballot can look—the size of the ballot and what costs will be associated with it. The deputy commissioner has responded by saying that the costs should be the same. Financial resources out of the appropriations and expenses of this budget have been put into the minister's so-called electoral reform, so I think our questions are very, very warranted. My understanding is that, as the Premier and the minister have said, the reason behind this legislation is to stop a member of a party such as the Daylight Saving Party being elected with a small number of votes. Will this new legislation that the minister proposes prevent a member of the Daylight Saving Party, or any other party who may get a fraction of votes of a major party, from being elected—yes or no?

Mr J.R. QUIGLEY: That is not a line item in the budget and I decline to answer the question.

The CHAIR: The minister is under no obligation to answer the question.

Mr J.R. QUIGLEY: For anyone reading the transcript, I am happy to answer that question if it is asked on notice or asked in the Assembly.

Mr V.A. CATANIA: I will ask another question. I refer to the delivery of services on page 89 and "Item 9 Net amount appropriated to deliver services". How much money has been appropriated to assist in providing the government with new legislation to change the Electoral Act?

Mr J.R. QUIGLEY: The Western Australian Electoral Commission has not done anything on the act since 30 June, to my knowledge. This is the budget for 2021–22.

Mr V.A. CATANIA: The amount of \$6.747 million is the 2021–22 budget estimate. Is the minister telling me that I cannot ask questions on the forward estimates, which clearly show that the minister sought advice from the commission on certain areas of this electoral reform?

Mr J.R. QUIGLEY: It occurred before. If we look at 2020–21, we can see a budgeted amount of \$25 372 000. The member will notice in all the other lines along there that the amount is always just under \$7 000 000, except in an election year. There is no uplift in relation to anything to do with the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill. I will not debate the bill; it is not a line item in this budget. There is no uplift or additional expenditure in relation to the bill, but the commission had some input into administration aspects during the last financial year.

Mr V.A. CATANIA: Has the Electoral Commission done any modelling whatsoever, whether it be on how long the ballot paper will be, what the 37 members will look like or whether it will potentially reduce the number of Legislative Assembly seats? Has there been any discussion or any work done on the legislation that is now before the Legislative Assembly?

Mr J.R. QUIGLEY: I defer to the Electoral Commissioner to answer that question.

Mr R.L. Kennedy: In terms of the allocations in the forward estimates for us, at this time we are allocated, essentially every four years, about \$18.5 million to run the state election. That has been the case since 2013, I believe. That will be the case at the moment for the 2024–25 forward estimates year; that is the amount Treasury has allocated to us for that election. We have not asked at this time for an increase in that amount, partly because we do not know what, if any, additional costs there will be. It is impossible to predict the size of the ballot paper because we do not know how many parties will nominate until essentially a month before polling day when nominations close. Yes, we have had internal discussions about the possibility of a large ballot paper. No-one knows whether we will have one or not. We will deal with that as we get closer to the time. At the moment, I guess the answer to the member's question is that there has not been any forward appropriation made for it because the bill has not passed and is not law. We cannot go to Treasury to ask for money for something that might happen.

Mr V.A. CATANIA: There have been discussions between the minister and the Electoral Commissioner about this legislation, which has not yet passed.

Mr J.R. QUIGLEY: I have had discussions about it.

Mr V.A. CATANIA: Yes.

Mr J.R. QUIGLEY: Yesterday.

Mr V.A. CATANIA: The minister has had discussions with the Electoral Commission about the electoral reform bill.

Mr J.R. QUIGLEY: I have not.

Mr V.A. CATANIA: You just said you had.

Mr J.R. QUIGLEY: I asked yesterday whether it was going to cost any more, and the commissioner said no.

Mr V.A. CATANIA: That is a discussion, is it not?

Mr J.R. QUIGLEY: You are using semantics here.

Mr V.A. CATANIA: Well, it is a discussion.

Mr J.R. QUIGLEY: “Is this going to cost us?” “No” is not much of a discussion.

The CHAIR: Member, I ask that you perhaps consider a new line of questioning. The minister has been quite clear about the relationship between the appropriation and the bill.

Mr V.A. CATANIA: Further to my question on line item “Item 9 Net amount appropriated to be delivered services”, the deputy commissioner and minister said that in the back half of 2023 a redistribution would occur. Under that redistribution and the electoral bill that is before the house, surely funds will be appropriated to it. The minister has said on the public record that the Labor Party has been wanting this for 120 years. The Premier time and again has said, “It’s not on our agenda. It’s not on our agenda.” Clearly, it was on the agenda. Clearly, the minister has had discussions with the commission —

The CHAIR: Member for North West Central, can you ask a question related to a line item in the budget, please?

Mr V.A. CATANIA: I have. The Minister for Electoral Affairs has, through this budget, appropriated money to look at it. It may not be for 30 June, but money is appropriated to it in the out years of the forward estimates.

Mr J.R. QUIGLEY: I have not got money—sorry.

The CHAIR: Minister.

Mr V.A. CATANIA: Can the minister answer the question: will the electoral reform that the government has before the house change the ability for a Daylight Saving Party member to be elected?

Mr S.A. MILLMAN: We have already had this question.

Mr J.R. QUIGLEY: That is not part of it. The outcomes of electoral reform —

Mr V.A. CATANIA: If the minister believes in his legislation, then answer it by saying yes or no.

The CHAIR: Member for North West Central, you have the option to place questions on the proposed legislation as questions on notice.

Mr V.A. CATANIA: Why will the minister not answer it?

Mr J.R. QUIGLEY: Because there is no line item in the budget.

Mr V.A. CATANIA: Obviously, the minister agrees with what I am saying.

Mr J.R. QUIGLEY: No, I do not.

Several members interjected.

Mr V.A. CATANIA: There will be no way of stopping a party such as the Daylight Saving Party, which is the whole premise of the bill that has gone to Parliament.

Mr J.R. QUIGLEY: The member is verballing me.

Mr V.A. CATANIA: Prove me wrong.

The CHAIR: Member for North West Central, do you have a new line of questioning?

Mr S.A. MILLMAN: That is not a question: “prove me wrong”. What is his next statement: take it outside?

Mr V.A. CATANIA: The member for Mount Lawley would not understand.

Mr S.A. Millman interjected.

The CHAIR: Thank you, member for Mount Lawley, there is no requirement to respond.

Mr V.A. CATANIA: I have a new question. I go to page 90.

Mr J.R. QUIGLEY: I just want to say: I do not by my silence accept or consent to the propositions put in the previous question.

Mr V.A. CATANIA: Of course the minister does not!

I refer to page 90 and the heading “Desired Outcome” in the table under “Relationship to Government Goals”, which I will read again —

Western Australian electors participate in independent and impartial elections or referenda conducted by the Commission as part of democratic processes.

My question to the Minister for Electoral Affairs is: in this process of being democratic and impartial, did the commission, which the minister is in charge of, give any consideration to the size of an electorate and distances between towns, and will it, in its redistribution in the back half of 2023, take into account those distances? I will give the minister one example—my electorate, which is just under a million square kilometres.

Mr J.R. QUIGLEY: It is 800 000 square kilometres.

Mr V.A. CATANIA: It is 860 000 kilometres to be precise. I think it is maybe a hundred times the size of the minister’s electorate.

Mr T.J. HEALY: How many phantom voters?

Mr V.A. CATANIA: I am not going to answer that, unless the minister wants to give me some leeway here. Yes, it has phantom voters, but for good reason, because there are 1 000 kilometres between towns. Someone cannot walk around it in half a day.

Several members interjected.

The CHAIR: Thank you, members! We will hear the member’s question in silence.

Mr V.A. CATANIA: Minister for Electoral Affairs, will the commission take into account the distances involved and the remoteness of our state to ensure that places like Meekatharra, Wiluna, The Lands, Onslow, Yalgoo, Sandstone and Gascoyne Junction are able to see and contact their representative by ensuring that the commission does not continue to make these seats larger, which really hurts our ability to represent our constituency given the vast distances between our remote towns and the lack of communication? All these things are reasons why we have phantom voters. My seat is not equal to the seat of Mount Lawley, where people can see a doctor, get mobile phone reception and drive on sealed roads—all those things that my electorate does not have. We need strong regional representation to ensure that we have a representative in Parliament who can represent the electorate, not an electorate which is huge and very difficult to service. Will the minister undertake to ensure that we will still have four members in the current Mining and Pastoral Region who can service the electors and in a way that electors will want to see their member of Parliament?

Mr J.R. QUIGLEY: The question is right out of order. I have asked a few questions in the courts that have been out of order, but the judge has saved me by severing them—cutting the question in half and throwing the objectionable part in the bin! I will sever and throw away what assurances the member seeks and give this undertaking instead, which is an answer to the member’s question: the commission and the redistribution commissioners will undertake the redistribution in accordance with the provisions of the Electoral Act. The member referred to his electorate of just under 860 000 square kilometres and asked whether the Electoral Commission will take that into account. It

is mandated to take it into account by the provisions of the Electoral Act, which has in it, amongst other things, that the member's area has a large district allowance and we must multiply the member's total square kilometres by 1.5 per centum. By my calculation that would give—it varies—the seat of North West Central about 12 500 voters, and about 10 500 to 11 000 real, actual people who can vote.

Yes, the provisions of the Electoral Act mandate that the Western Australian Electoral Commission and the Office of the Electoral Distribution Commissioners take into account the size of the member's electorate. The member asked whether there would be an assurance that people in the Mining and Pastoral Region will have access to their member. That is not a concern that I heard the member express when Hon Norman Moore for many, many years, represented Mining and Pastoral from his office in Harvest Terrace, just over the road, but somehow the member's electors managed to deal with that.

[4.40 pm]

Mr T.J. HEALY: Has the member asked Wilson Tucker to move his office from West Perth?

The CHAIR: The member for North West Central has the call. I remind the member to keep it related to the budget.

Mr V.A. CATANIA: Will the minister change the large district policy in the future, which will enable large electorates to have those phantom voters that realise the large electorate that we must have and do have in the area currently known as the Mining and Pastoral Region?

Mr J.R. QUIGLEY: I do not want anything to be read into this, but I have never been asked to look at that. As the Minister for Electoral Affairs, I was asked to look at the malapportionment in the Legislative Council. The member said that I said that this had been an ambition of Labor for 120 years. I made a mistake. It is actually 127 years. We have actually been fighting for equality for 127 years and all that we fight for is that every vote in the Council be of equal value. That has been an ambition for 127 years, even at a time when a person had to be a landowner to vote in the Council, and even at a time when the conservatives reluctantly—go back and look at *Hansard*—allowed the spouse of a landowner to vote. Each one of these evolutions has caused angst. But, as I said, we fight for equality. It is not a lone item in the budget. I do not want to go any further. The member can ask as many questions as he like and we can have a debate here that could go for hours.

Mr V.A. CATANIA: I have a further question —

The CHAIR: In asking that further question, I ask you to move your line of questioning along to something related to a line item in the budget.

Mr V.A. CATANIA: Can the Minister for Electoral Affairs provide formal advice on the options for electoral reform ahead of the election? Did he have any options presented to him or did he ask for any options from the Western Australian Electoral Commission?

Mr J.R. QUIGLEY: That is not a line item in the budget!

The CHAIR: I ask the member for North West Central to place that as a new question on notice.

Mr J.R. QUIGLEY: Sorry, was the question: did I ask the Electoral Commissioner? Is that right?

Mr V.A. CATANIA: Did the minister seek any advice from the Electoral Commission prior to the election? The minister said that he spoke to the Electoral Commission about it yesterday, but did he seek any advice on options around reform of the Legislative Council?

Mr J.R. QUIGLEY: From the Electoral Commissioner?

Mr V.A. CATANIA: Yes.

Mr J.R. QUIGLEY: No, I sought them from the ministerial expert panel, not the Electoral Commissioner. The Electoral Commissioner might have a better memory than me so I will let him answer as well if he can add to the answer.

Mr R.L. Kennedy: No, we were not asked about reform of the upper house either before the election or recently. As the minister has said, we were only recently asked for technical and operational advice around the drafting of the bill. I might take the opportunity to respond to the member's question around redistribution. That occurs independently of the commission. An Office of the Electoral Distribution Commissioners is set up. It is supported by the commission but operates independently of the commission and of government, as the commission does at election time. If the bill passes, I expect that this will be a contentious issue in certain parts of the community and we will receive a large amount of consultation and feedback when the time comes. I expect that the Office of the Electoral Distribution Commissioners, which includes me, will be doing a lot of consultation at that time around where the potential boundaries might be.

Ms M.J. DAVIES: The legislation is going to pass and then there will be a redistribution. It is the responsibility of the Electoral Commission to manage that redistribution, whether it is done or not, and from a budget perspective that comes under service delivery. Over the last few elections, a number of concerns have been raised with me around

the application of the guidelines for that redistribution. One of them is a community of interest. When a redistribution is done, it needs to be demonstrated that electorates are created that have a community of interest. As a result of this legislation passing through Parliament, there have been great concerns about how much weight that will be given as opposed to simply drawing a line around a number of people, especially given that the metropolitan boundary line is going to be removed. As the minister would be aware, the metropolitan boundary line means that we have to take into account that some seats are, by their nature, regional, and others are metropolitan. If this legislation passes, as I understand it, that will no longer be the case. Keeping that community of interest as part of the redistribution process is, from our constituents' perspective, important. I do not know whether any modelling has been done, but, over the course of a number of redistributions, we could end up with seats the size of Durack or O'Connor in the federal system as a result of the removal of that line and the changes that this government is bringing in. At the moment, the line can be drawn as large as we like to pull in the number of people to make up the calculation of how many electors there are. How much weight will that community of interest requirement in the redistribution guidelines be given? I can tell the minister that that has not been achieved in the last few elections.

Mr J.R. QUIGLEY: I understand the member's desire to have this debate as soon as possible, but the issues that the member has raised are just not budgetary issues.

Ms M.J. DAVIES: With the greatest of respect, minister, they are because the redistribution is conducted by the Electoral Commission. The funding is provided for it to oversee that process.

Mr J.R. QUIGLEY: Of course it is. I am not running from the question. I expect a veritable shower of questions without notice and questions on notice during the coming debate, but this is a budget deliberation. When we talk about redistribution in the budget, we are talking about the commission's delivery of services, and they are all laid out there. The commissioner has already provided an answer that the redistribution process, which occurs every four years, is part and parcel of the commission's normal budgetary allocation. Sorry, I misspoke then. I said that the redistribution is covered by the allocation to the commission. That was not right. Mr Avent has said that for each cycle the commission gets a \$2.4 million allocation to run the office of distribution. I am sorry, I misspoke then.

[4.50 pm]

Ms M.J. DAVIES: Is there oversight from the Electoral Commission in that role, or is it completely separate?

Mr J.R. QUIGLEY: The commissioner himself sits on it.

Mr R.L. Kennedy: With two others.

Mr J.R. QUIGLEY: We are debating here today the budget allocation. Mr Avent told us that there is \$2.4 million —

Mr C.N. Avent: From memory, but that is in 2023.

The appropriation was recommended.