CONSTITUTIONAL AND ELECTORAL LEGISLATION AMENDMENT (ELECTORAL EQUALITY) BILL 2021

Discharge of Order and Referral to Standing Committee on Legislation — Motion

Resumed from an earlier stage of the sitting.

HON MARTIN ALDRIDGE (Agricultural) [5.03 pm]: In concluding my remarks on the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 there are a few things I want to put on the record that would be quite useful for the Standing Committee on Legislation to contemplate. I want to reiterate this point: the government may well think that the public submission process of the Ministerial Expert Committee on Electoral Reform is consultation enough, but there has been no consultation done on the report of the ministerial expert committee nor on the bill before us—none. As I have also said, there are matters in the bill before us that were not contemplated by the terms of reference of the ministerial expert committee; therefore, they naturally have not been consulted on. Members of the committee should examine how, under a whole-of-state electorate, 37 members representing everyone will enhance the representation that regional Western Australia receives in this place or how we should support, resource or, indeed, incentivise a system adopting that structure. I draw members' attention to page 42 of the final report of the ministerial expert committee. There is a section headed "Facilitating a regional presence of MLCs". This section of the report culminates in recommendation 5, which states —

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

As far as I am aware, there is no contemplation by media statement or the bill before us about the way those matters will be addressed to ensure that these 37 members at large will be adequately resourced and supported to meet the challenges of servicing such a large and diverse electorate. When we get to the Committee of the Whole House stage of this bill, I am sure the government will not have given that aspect consideration. One of the simple questions I asked in my briefing was: how much will the thirty-seventh MP of the Legislative Council cost the taxpayers of Western Australia? That is a simple question—simple enough I would have thought—that could not be answered. This could be a matter that the standing committee could encompass in its considerations—not only how to best resource and support 37 members at large, but also how much the thirty-seventh member of this Legislative Council will cost the taxpayers of Western Australia. It would be interesting to know whether there has been any engagement with the Salary and Allowances Tribunal, the Department of the Premier and Cabinet or the Parliamentary Services Department—the three bodies or agencies principally responsible for those matters. Will it be the government's position—it is not clear—that in adopting a New South Wales–style system we will not need electorate offices of upper house members? We will just build another tower across the road, like the department is doing at the moment, and put them all in there.

Hon Alannah MacTiernan: I think that is where a lot of these members want to have their offices. A lot of National and Liberal members will want to move to West Perth. You cannot dig them out of West Perth!

Hon MARTIN ALDRIDGE: It is interesting that these types of interjections come from this minister, the minister for everywhere. I think she might be the chief architect of this member-at-large model, because she has pretty well been a member for everything. I tell members what, she is clocking up the miles on the government jet visiting her holiday house in Albany—she's clockin' 'em up!

Several members interjected.

The ACTING PRESIDENT: Order! Hon Martin Aldridge only has a couple of minutes left in his address.

Hon MARTIN ALDRIDGE: These are important questions, as much as members of the government might like to trivialise them. These are important questions that members should have answers to before casting their vote on this bill.

I am concerned that this will be the beginning of an extremely slippery slope of, firstly, disconnecting members of this place from their constituents, whether they be regional or metropolitan. Over time, I think we will see a reduction in resourcing provided to members of the Legislative Council. I suspect in perhaps 10, 20 or 30 years from now—I hope I am proven wrong—there will be a growing argument on whether Western Australia should adopt a unicameral system.

Members might think that I am being alarmist, and I am going to finish on this quote. I draw members' attention to the contribution of Hon Don Punch, the member for Bunbury, to this debate in the other place on 12 October. Members should listen carefully, particularly members of the government, the colleagues of Hon Don Punch. He said —

> I have worked in the public service for both Liberal–National and Labor governments, but I am pretty certain that in all that time the upper house has not made one skerrick of difference to the lives of Western Australians. The differences are made in this house where government is formed.

He went on to say—

> I can certainly say that the upper house has not contributed in any way to achieving better outcomes for regional Western Australia.

Those comments should stand condemned. I hope that colleagues of Hon Don Punch reflect on his contribution and stand in this place together with me in rejecting them.

This bill ought to be considered by the Standing Committee on Legislation. The government cannot advance one good reason not to support that position. There is no time constraint. This bill is the result of a deeply flawed process that lacks consultation, particularly post the release of the Ministerial Expert Committee on Electoral Reform's report. It should particularly be the focus of the Standing Committee on Legislation to consult with, visit and understand the views of voters and non-voters who live in our non-metropolitan regions. The government has nothing to fear. This motion should be supported unanimously.

HON DR STEVE THOMAS (South West — Leader of the Opposition) [5.12 pm]: I would like to thank Hon Tjorn Sibma for his passionate contribution today and for the motion that we find ourselves debating, that this bill be discharged and referred to the Standing Committee on Legislation for review.

When I viewed the motion of Hon Tjorn Sibma, the first thing I did was look at the standing orders to see whether this is the appropriate place for the review. Before I get to why it should be sent to the committee, let us just make sure that the committee can accept it and the review could potentially occur. The role of the legislation committee is to consider and report on any bill referred to it by this house. Obviously, that is in order. I note that term of reference 4.4 on the committee's website, which is extracted from the Legislative Council standing orders, states —

> Unless otherwise ordered, any amendment recommended by the Committee must be consistent with the policy of the Bill.

I note that the standing orders of this committee have changed, so, in my view, we are able to ask this committee to look at the entire functioning of the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, largely I think on the basis of the standing orders and the changes instituted by the government on the recommendation of the Standing Committee on Procedure and Privileges. Where do we go to in terms of that? The Standing Committee on Legislation's terms of reference are in the standing orders under part 4 of schedule 1, "Committees". I note that the website has not necessarily kept up with the changes that have occurred, because if members look at their copy of the standing orders—the clerks make sure that the books in front of us are the most up-to-date—there are only three sections under section 4, "Legislation Committee". They are —

> 4.1 A *Legislation Committee* is established.
>
> 4.2 The Committee consists of 5 members.
>
> 4.3 The functions of the Committee are to consider and report on any Bill referred by the Council.

There have been some alterations in that section as to the functioning of the committee. Members will note that the website includes the term of reference —

> 4.4 Unless otherwise ordered, any amendment recommended by the Committee must be consistent with the policy of the Bill.

That is no longer in the standing orders. I understand that this was done to make it uniform, so that it would be consistent with all the other committees. What it does, on the good word of the government and the committee in this particular case, is make sure that the legislation committee has been freed up to examine policy and policy direction that is not necessarily in line with the intent of government. I think that is a particularly good thing.

I also note that the committee's website makes reference to Legislative Council standing order 128(2). The website states —

> The Committee is prohibited (by Legislative Council Standing Order 128(2) from considering a bill's policy unless the Legislative Council orders it to do so.

I was a little concerned about that for a while, given that we are suggesting that the legislation committee does indeed look at the policy of the bill. However, if I go to the standing orders and read out section 128, which is the section on referral to committee, section 128(2) actually states —

> Unless otherwise ordered, if a Bill is referred under (1) after the second reading of the Bill has been agreed, the Committee shall not inquire into the policy of the Bill and may only recommend amendments to the Bill that are consistent with the policy of the Bill.

As far as I am aware, given that I have sat through the debate so far, the second reading of this bill has not been agreed to. Given that we have not had agreement on the second reading, under standing order 128(1), we can refer this bill to the legislation committee. Standing order 128(1) states —

> At any time after the second reading has been moved and before the third reading has been moved, a motion without notice may be moved to refer the Bill to a Standing or Select Committee.

That is exactly what has been done—a motion without notice has been moved after the second reading has been moved but before the second reading has been agreed. I will read standing order 128(2) —

> Unless otherwise ordered, if a Bill is referred under (1) after the second reading of the Bill has been agreed, the Committee shall not inquire into the policy of the Bill …

It would appear that Hon Tjorn Sibma has chosen that golden moment in proceedings—after the first and second reading of the bill but before the second reading has been agreed—when, with the new standing orders implemented by the Standing Committee on Procedure and Privileges, the legislation committee would be free to examine the policy of the bill before the house. I am not sure whether that was necessarily the intent of the procedure and privileges committee when it made these recommendations, but we are certainly going to appreciate and hope that it was with good intent and definitive will that the committee did precisely that, because it then allowed the legislation committee to examine not only whether the bill was functional, but also whether the bill before the house is the appropriate policy in any particular position. That is why I think it is important for the house to support Hon Tjorn Sibma's motion tonight. The many questions on this legislation that have not been addressed raise the issue of whether it is an appropriate response to the questions around the election of Legislative Council members.

It was made plain in the Ministerial Expert Committee on Electoral Reform's report that the committee was hamstrung in respect of what it could look into. It refers quite frequently to the terms of reference, which were very short. The report states, at page 8 —

> The Committee was asked to review the electoral system for the Legislative Council of Western Australia and to provide recommendations:
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> 1. As to how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council.

Jumping to annexure 1, the same statement is repeated at page 45 —

> Recommendations as to how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council;

Obviously, only one policy agenda was allowed to be examined by the Ministerial Expert Committee on Electoral Reform. In fact, the committee in its report also made reference to the specifics of electoral equality. At page 20 it states —

> Unlike the Whole of State option, it is impossible in a system with more than one Legislative Council region to achieve *exact* equality of electors per member, and even if it were possible to get 'close' to equality (as in Victoria), the electoral roll is not static. It *may* be argued that if a regions-based system were used, allowing a 10% plus or minus variance from the Average District Enrolment (**ADE**) would (approximately, not absolutely) achieve 'electoral equality'. However, the Committee's brief is not to recommend a system that 'nearly' achieves electoral equality.

The committee was quite adamant that it was not restricted to "close" to electoral equality or "nearly" electoral equality, but had to deliver electoral equality, as defined by the government. I was present at the press conference at which the chair of the committee, Malcolm McCusker AC, CVO, QC, stood with the Premier and the Minister for Electoral Affairs and was asked a couple of times about other options and proposals. He was quite adamant that the committee had been told to design a system that delivered electoral equality. So, this committee was not able to look at all the other possible options that might have been assessed.

The question is: what should the Legislative Council refer to the Standing Committee on Legislation, and what should we expect from that committee? Having done our homework, we can set aside the proposition that the Standing Committee on Legislation could not examine the general principles of the bill; we know that it can, under the new Legislative Council standing orders. In examining the principles of the bill, it might be asked to look at a number of things. We are not yet at the stage of the formal second reading debate on the bill, but we are considering Hon Tjorn Sibma's excellent referral motion.

What should the Standing Committee on Legislation look at to report back to this house? I would have thought the first thing it should look at would be the impacts of the legislation, as it is proposed by the government. The impacts might vary depending on one's definition of "representation". If representation is simply the number of voters per electorate and the performance of a given member of Parliament does not really matter, obviously the government has hit the sweet spot with this bill. If outcomes and performance do not matter and it is simply about the number of votes per electorate, this bill fits the bill. However, if representation means, for example, access to a member of Parliament or equality of access to a member of Parliament, we have to ask: what is a constituent's capacity to

meet with a member of Parliament, or the capacity of a member of Parliament to visit communities regularly, not just occasionally on a trip between major centres? What is the capacity of members of Parliament to have some experience of their communities? What is the capacity of members of Parliament to have some experience of regional communities' industries?

When we get to the substance of the second reading debate, we will be focusing in great detail on what it means to be a member of Parliament. Is it, as is so often portrayed, a game of raw and brutal numbers such that the ways in which parliamentarians perform and the outcomes for the community do not matter? Does it not matter whether health or education services are inadequate or adequate? Does it not matter whether roads are smooth and safe or just gravel and full of potholes so that people occasionally roll down the side? All those things might be reflective of a constituent's ability to communicate with MPs. It might just be that the broader community thinks access is critically important.

If that is the measure by which we define representation, regardless of whether it is a 200-kilometre trip for a constituent to see a member of Parliament, or that the member is a rare and occasional visitor to their communities, towns and local governments, perhaps the Standing Committee on Legislation might at least comment on that. Perhaps the legislation committee might be able to form a view as to the adequacy of representation in regional areas. Again, we will go into this in much more detail in the not-too-distant future.

I pose this question to members for regional electorates: is it the case that your services and facilities are much better than those in Perth because you have a disproportionate level of representation in the Legislative Council of this state? Are the health services provided in the wheatbelt, north west, south west or great southern better because you have a disproportionate level of representation and your vote is worth four times that of someone in metropolitan Perth?

Hon Darren West: Carnage. Absolute carnage.

Hon Dr STEVE THOMAS: I accept that Hon Darren West will not understand, but if I did not speak on things he did not understand, I would remain silent in Parliament for most of my career.

Hon Sue Ellery interjected.

Hon Dr STEVE THOMAS: I am responding to the standard of response I get. The Leader of the House did not hear it.

Several members interjected.

The DEPUTY PRESIDENT: Order, members!

Hon Dr STEVE THOMAS: The legislation committee would have the capacity to examine whether representation is actually measured by votes, performance, services or the standard of living of the people who are being represented. That would be an interesting question for the committee to look at.

The second question the committee should look at is: who benefits from the current proposal? Who will get an increased benefit from the current proposal? If the current system is disproportionately bad and the outcomes are negative for the state of Western Australia, what increased benefit are we going to see from the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, which is before the house today? Who will get an increased benefit? When all the votes are equal, which, given the numbers in the chamber, they will be, and we move from a system in which, in theory, half the members of the Legislative Council are elected from regional areas to a quarter if we go strictly on the numbers, who benefits and how will that benefit be measured? Will we see even better services in the metropolitan area because we are shifting another nine members, effectively, to be elected from the metropolitan area? Should we expect to see an increased benefit to the community in Perth because of that additional representation? How will we measure the benefit and who will be getting that benefit? That interests me deeply. Who will gain a benefit out of this, obviously apart from, it would appear, the Labor Party, because as the Minister for Electoral Affairs, Hon John Quigley, said in the press conference—again, I was there listening to him—it is the achievement of 120 years of Labor Party ambition. Surely, if it is the achievement of 120 years of Labor Party ambition, it is obviously going to benefit the Labor Party, as you would expect. This issue has been in the blood lines of the Labor Party for a long time. It started in the lower house and it is coming to the upper house and the Labor Party will achieve this.

Hon Dan Caddy: The make-up of this house has changed over 100 years to benefit Western Australians as a whole and we continue to evolve. Are you saying this is worse now than —

The DEPUTY PRESIDENT: Order, members! This is starting to move beyond interjections. Leader of the Opposition.

Hon Dr STEVE THOMAS: Thank you, Deputy President. Although Hon Dan Caddy is not right necessarily, he makes a valid point. It is absolutely the case that it has changed over time and it is not specifically change that we

should be frightened of—it is the reasons for that change and the changes themselves. We need to find out whether it is good or bad change. We should never necessarily be frightened of change just because it is change, but who benefits from it and what is the reason that this change is coming in? It cannot be denied that the Minister for Electoral Affairs stood at the press conference and said, "This is the culmination of 120 years of Labor Party ambition." That is precisely what he said.

Hon Darren West: That's got nothing to do with it.

Hon Dr STEVE THOMAS: Why was it a Labor Party ambition? It is absolutely the long-term ambition of the Labor Party to shift votes out of regional areas—it has always been the case. It achieved that in the lower house with legislation that went through in 2005 and it will achieve it in the upper house with legislation that will go through in 2021.

Hon Dan Caddy: Everyone in the regions will still get a vote; no-one is losing their vote. We are not shifting votes.

Hon Dr STEVE THOMAS: I am happy to take that interjection.

Hon Dan Caddy interjected.

Hon Dr STEVE THOMAS: I am happy to take the interjection, because the member is right —

Point of Order

Hon SUE ELLERY: Deputy President, I draw your attention to the motion before us and ask you to listen carefully to the comments being made by the current speaker. He is not addressing the motion before us.

The DEPUTY PRESIDENT: The honourable Leader of the House has moved a point of order. I have been listening carefully to the Leader of the Opposition's contribution and I do not believe at this point in time that there is a point of order. However, I make the point that the member is not ably assisted by the consistent interjections to which he is responding. I ask that members listen to the Leader of the Opposition in relative silence and I encourage the Leader of the Opposition to desist in responding to interjections.

Debate Resumed

Hon Dr STEVE THOMAS: Thank you, Deputy President. I believe that I have made it very clear all the way through in attempting to address the motion why the bill should go to the Standing Committee on Legislation and what the committee should present. It was interesting that the interjections immediately went back to the level of representation being represented by how many numbers, which is exactly how I started this debate. The interjection was, "Is it okay that you've got four times as many voters for one than for others" and that took us immediately back and proved my point that these are the things that the committee should look at. In particular, the committee should consider who will benefit from this process, which was precisely where I got to. I will try not to court any more interjections, Deputy President, but the reality is that the most recent interjections prove my point—that is, the committee should look at who will benefit from this legislation.

The committee should also look at the negative effects of this representation. Again, if the committee considers this bill and makes a decision about whether representation is simply about numbers or outcomes, it can decide whether there are better outcomes for some people and negative outcomes for others. That would be a very useful debate. The committee would be well served by working out whether people will be disadvantaged if the effect of this legislation is a significant shift of representatives from regional to metropolitan areas. That is something else that the committee should look at. It should also look at the impacts on everybody, particularly in regional areas where there is likely to be that shift. There is general acceptance—the government does not like us talking about it—that this bill will see a shift of Legislative Council membership out of regional areas and into the city. The government works very hard to suggest that that is not the case. I was around for the debate in the Legislative Assembly when the then Labor government did exactly the same thing down there. The Labor government was at that point very keen that no-one talked about the potential impacts on regional seats as it shifted eight seats from regional areas into the metropolitan area. The committee should look at those impacts.

Most importantly, the committee should look at the alternative models that the Ministerial Expert Committee on Electoral Reform was precluded from looking at. The committee was given zero flexibility to look at various options, so somebody should look at those options. I was at the press conference when Malcolm McCusker said, "I had no freedom to look at any other options." It may well be that he very carefully believed in the statewide Senate model. But the ministerial expert committee was given no other options. It was written in the terms of reference and it has been stated publicly by the chair that the panel was given one option and that was to review and deliver the state government's policy in this area, which is uniform across-the-state equal representation. The Standing Committee on Legislation would be free to examine other models and it would have the capacity to look at whether other models might deliver not uniform equal proportional representation—not necessarily 2.63 quotas across the state—but

other models that could partially deliver the government's agenda, if that agenda is to deliver more equality, without necessarily stripping capacity and resources from regional areas. The Standing Committee on Legislation would be able to review that because, as we have discussed, under the standing orders it has the freedom to question the policy presented to it, a freedom that was denied the ministerial expert panel. It is absolutely the case that the Standing Committee on Legislation could look at alternative models that it could proceed with, and it may well come back and recommend an alternative model. I can understand why the government would not want that. The government would not want its preferred option questioned. When the Labor Party gets the opportunity to deliver its 120-year-old dream, it does not flinch, and I understand that. I get that the government will not blink on this because this, as the Minister for Electoral Affairs said, is the realisation of a 120-year-old dream.

The motion before the house is a good motion. To refer this bill to the Standing Committee on Legislation to look at the various options and offer potential alternatives should be too good an opportunity to miss if the Legislative Council's intent really is to deliver the best outcome for the people of Western Australia. I think that is what has been missing in much of the debate so far. We have managed to turn this, in my view, far too easily into a party-political debate. I think we need to remember that it is for the people and the community of Western Australia that we function and exist. It is for that reason that the Council sits here. We should be able to surpass that party-political aspect. There is plenty of commentary from the conservative community that is looking at this very much from a party-political perspective, but we do not have to. I will talk about it in more detail in my second reading address. The measure of political outcome is critical to this debate. The measure of success and whether this is good for the people of Western Australia should, in theory, be our primary function. We start each day with a prayer that says that we hope what we will do will be for the best outcomes and the benefit of the people of Western Australia. I am not convinced that the bill before the house has necessarily gone through that scrutiny. The Standing Committee on Legislation could look at whether this legislation will be the best outcome for each person, including those people in regional Western Australia, who stand to lose significant access to their members.

For those reasons, I think this is an excellent motion moved by Hon Tjorn Sibma, and I am very keen to support it. I suspect that those opposite have very little interest in it, but it is with a great degree of pleasure that I ask all members of the chamber to consider supporting this motion to have a genuine and real review of the Legislative Council's electoral options in this state.

HON JAMES HAYWARD (South West) [5.42 pm]: I stand to support the motion to refer the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 to the Standing Committee on Legislation. I do not expect to take too much time, to be honest, but I think a few points need to be made.

Members have heard verbatim from this side of the house that the Premier went to the election saying that electoral reform was not on the agenda. He repeatedly said it, and the view of Western Australians going into the election was that what we are dealing with now would not happen. We know that next it was sent off to the ministerial expert panel. We heard some other members speak very competently about the connection of those people, some of them with ideological views that already predetermined, largely, the outcome. Hon Malcolm McCusker also said, not only at the press conference but at a briefing session that we were part of, he felt that the panel had no other choice given the very, very narrow terms of reference the expert panel was given. Hon Malcolm McCusker at our briefing told us that a significant number of documents were put aside and not read. People went to the effort of putting in a submission, and he said at our briefing that many of those the committee looked at and if they did not meet the rules —

Hon Sandra Carr: The terms of reference.

Hon JAMES HAYWARD: Terms of reference—I thank the member very much for that. If a submission did not meet the terms of reference, it was put aside.

Hon Dan Caddy: That is why you have terms of reference, member.

Hon JAMES HAYWARD: I thank Hon Dan Caddy. He accepts that is the case. The member accepts, then, that people who made efforts to write submissions that did not agree with the predetermined outcome that the government wanted had those submissions put aside. The argument now is to send the bill to committee so that the people who put the effort into writing submissions that were not considered will have the opportunity, through the committee process, to turn up and give evidence. That is the reason that this bill should go to the committee. It should because the Premier said it was not on the agenda, but we know the reality is that it was and is; otherwise, we would not be here now. People feel that they have not had the opportunity to participate in the process albeit because the terms of reference that were set by the government were so narrow. There is an opportunity now to investigate those things through the committee process.

Another thing that Hon Malcolm McCusker said at our briefing was that the committee would have liked to consider other matters, including the effect of the bill on regional people. He said in our briefing that he had some sympathy for the position of regional people and the challenges that might be before them. But he said that they were not

able to pursue, look at or interrogate those because of the terms of reference. That provides a very good opportunity for the Standing Committee on Legislation to consider matters that are wider than those narrow terms of reference. It would give a little more credibility to the process than just ramming it through, because it would give people the chance to have their say and go on the public record.

I would like to make some other comments. During our briefing with the Electoral Commission, there was some discussion about exhaustive votes. We are going to discover, no doubt, over the next couple of days as we talk about votes and how they exhaust after the commission can no longer find a pathway, if you like, because the person electing the members has chosen only a single party above the line or a limited number of steps, which creates a very difficult proposition for the Electoral Commission. It said to us in the briefing that it would take a considerably longer time to work out who was elected and who was not. The reason for that is, of course, every individual who votes will have their own permutation of potentially what that voting pattern might look like because they will do it individually. Some will exhaust sooner than others. Potentially every single person will have a different permutation. That will make counting votes significantly more challenging as well.

But one of the things the advisers said is that under this new system whereby votes exhaust, the last, as I understood it, maybe 20 per cent, which means six to seven spots, will probably not have a full quota. Hon Matthew Swinbourn is shaking his head; he does not agree that is the case.

Hon Matthew Swinbourn: I do not think we said 20 per cent. I do not think it was 20 per cent. I think it was the last maybe one, two or three. But we will get to that more in committee when the time comes, I am sure.

Hon Colin de Grussa interjected.

Hon JAMES HAYWARD: I am sure the committee could get to the bottom of it. My calculations say the number will be around 20 per cent. That is based on working out the positioning under the current system. We have six regions of six members and out of those, generally, the last two spots are filled by a preference flow, and that preference flow will be affected by the fact that votes exhaust. That is where the 20 per cent comes from, but perhaps that can be tested and no doubt in the debate in the next few days we will discover more about it.

The point I am making is that some of those spots, particularly the last one, might be filled with as little as half a quota. In fact, we do not know how small the quota could be to fill that last position. The government has based its argument on malapportionment, but it is bringing in a system that will deliver malapportionment, because those last seats will not have a full quota. People will be elected to this house without a full quota, but that will be okay under the government's system. That is something to think about as well in terms of malapportionment. It is something that the committee could investigate and look at. It could perhaps crunch some numbers based on some projections or look at the New South Wales model in terms of the rate of exhausted votes. There is actually a fair bit of work that a committee could do to be able to bring this legislation through.

The other thing I would say is that if we are going to push legislation through this house, surely we want it to be enduring. I am sure the government would like the changes it is making to stay into the future. For legislation to be enduring, we need to go through a robust process to make it as strong as possible; otherwise, when the numbers change back the other way, it could potentially be tipped out and started all over again. Surely, that is not a good use of our time or the government's time, or good for our democracy either. There is a real opportunity for a committee to take evidence, dig around with a bit more freedom than the expert committee had, and report back to this house with some responses that could potentially improve the legislation and certainly make it fairer. It could consider some of these elements.

I will wrap up with that. I encourage members to consider sending the bill to the committee. That will not add a great deal of extra time to the process. There is certainly plenty of time before the next election. I think it could potentially bring about a better outcome and give more people the opportunity to participate.

HON NICK GOIRAN (South Metropolitan) [5.52 pm]: I rise to support the motion moved without notice by my colleague Hon Tjorn Sibma, which would see the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 discharged and referred to the Standing Committee on Legislation. There are a number of good reasons that this ought to happen, and I encourage members to give this matter proper and serious consideration. Indeed, I can think of at least five good reasons that this bill ought to be referred to the legislation committee. As I embark upon consideration of those five reasons, I note that I was away on urgent parliamentary business when the Leader of the House made some comments on this motion without notice. However, I have had the opportunity to be made aware of the comments that she made. I understand that the Leader of the House indicated that the government will not be supporting the referral. A number of reasons were provided by the Leader of the House, including the existence of the panel, which I want to address in a moment. The Leader of the House also alleged that the motion moved by the honourable member was merely a mechanism for delay, and I also want to address that erroneous assertion.

The first reason the bill ought to be referred to the Standing Committee on Legislation is that Western Australians have been misled. That should be reason enough for the Legislative Council, as the house of review, to immediately refer this matter without an extensive debate. The people of Western Australia deserve better than to be misled by their leaders, but that is precisely what happened over the course of this year. I draw to members' attention, in the event that they have forgotten, that on 12 February this year, there were repeated reports in the media of the Premier's assertion that this issue was "not on the agenda". I draw to members' attention the article from *The West Australian* entitled "Mark McGowan says electoral reform 'not on agenda' as Nationals claim Labor will overhaul Upper House voting". It is dated 12 February this year and starts by saying —

> Mark McGowan has stopped short of giving a guarantee that Labor won't pursue electoral reform of the Upper House after the State election.

It goes on to say —

> The West Australian asked the Premier if he would guarantee that Labor would not pursue Upper House electoral reform.
>
> His written reply did not give that guarantee and instead only said that electoral reform was "not on our agenda".

The article then went on to quote the Premier, who said —

> "All of our election commitments —

For the benefit of *Hansard*, I really think that that "all" should be underlined and bolded. The Premier said —

> "All of our election commitments will be known in coming weeks. Electoral reform is not on our agenda," Mr McGowan said.
>
> "Our priorities right now are focused on keeping WA safe from COVID-19, creating jobs for Western Australians and ensuring our strong economic recovery continues."

There was no problem whatsoever with the member for Rockingham telling the people of Western Australia in February this year that the government's priorities were to keep focused on WA being kept safe from COVID-19, creating jobs and ensuring that our strong economic recovery continues. There was no problem with him saying that to the people of Western Australia in February this year, or that the issue of electoral reform was not on his agenda. There was no problem with him saying that, but a problem arises because he did the opposite after the election. We do not take issue with him saying to the people prior to the election that this was not on the agenda, but we do take issue with the fact that no sooner was Labor on the Treasury bench once again, the highest priority for the government, it would seem, was to do the very thing that the member for Rockingham said was not on the agenda. That is the definition of misleading the people of Western Australia. That, in itself, is reason enough for the matter to be referred to the legislation committee.

Let us test the assertion that there is support for this legislation by sending it to a committee. Why would the government fear that type of process? What does the government have to hide that makes it so scared of this bill going to a committee for a short space of time? What is it? The Leader of the House did not address that issue in the short response she provided earlier. She did not address the fact that the Premier of Western Australia had misled the people. It was not addressed. That could be because it was awkward to try to defend the indefensible, or it could be that the Leader of the House thinks it is fine for the people of Western Australia to be misled. It could be one of those two things, but either way, the opposition is very clear in saying that the people of Western Australia deserve to be treated better than this—they deserved to be able to rely on the member for Rockingham's words prior to the election. If he said that something was not on the government's agenda, they were entitled to rely on that being true. That is the first reason that the bill should be referred to the legislation committee.

The second reason that the bill ought to be referred to the legislation committee is that the Ministerial Expert Committee on Electoral Reform, or as I refer to it, the panel, was handcuffed by the government. It was all well and good for the Leader of the House to use, as one of her two justifications for the government opposing this referral, that this panel, this expert committee, had released a discussion paper, received submissions and the like, until we realise that that particular expert committee had been handcuffed by the government. It was nothing like an inquiry by the Standing Committee on Legislation, which would not be handcuffed by the government, because as a creature of the Parliament of Western Australia and as a creature of the Legislative Council, it would be able to do its job without fear or favour and in accordance with the terms of reference provided to it by this chamber, not by the executive. If members are in any doubt whatsoever as to whether the Ministerial Expert Committee on Electoral Reform had been handcuffed, they might be very interested to know of the public comments made by the chair of that committee at the time the final report was distributed in June this year. I want to take members to a recent article in *The West Australian* from 25 September.

Sitting suspended from 6.00 to 7.00 pm

Hon NICK GOIRAN: The motion before us would be of particular interest to anyone who serves on the Standing Committee on Legislation. Prior to the suspension for the dinner break, we were considering this motion that has been moved by my colleague Hon Tjorn Sibma that would see this bill, the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, referred to the Standing Committee on Legislation. Earlier this afternoon, the mover of the motion provided an explanation on behalf of the opposition alliance for why this should occur. Prior to the suspension, I indicated to members that in my view there are at least five very good reasons why this motion should be supported by all members, but, at the very least, by a majority of members in this place. The first of those reasons is that it is very clear, in accordance with all the public reports since February this year, that Western Australians have been misled by the McGowan government and, in particular, they have been misled by the Premier of Western Australia, the member for Rockingham. Before the suspension, I indicated to members that I would refer to some of the media reports that confirm the promises and commitments the Premier made prior to the election, specifically that this type of matter currently before us was not part of the government's agenda.

Having dealt with that, I was addressing the second of the five reasons, and that is that the government has utilised and commissioned the Ministerial Expert Committee on Electoral Reform. The proposition that has been put forward by the Leader of the House is that that is the key reason why it is not necessary for the Legislative Council to discharge this bill and refer it to the Standing Committee on Legislation. In effect, the Leader of the House is saying that this type of work—the issuing of a discussion paper, the receiving of submissions and the deliberating on the topic—has already been done by the ministerial expert committee. The point I was making prior to the suspension was that this fundamentally misses the point that the panel was indeed handcuffed by the government. I draw to members' attention an article in *The West Australian* dated 25 September this year. The article is titled "Principle test of one vote, one value". Some of the comments are as follows —

> When Labor wrote the terms of reference for an inquiry into the electoral reform —

I pause there to remind members that the inquiry that has been referred to in the terms of reference is the one contained in the final report of the Ministerial Expert Committee on Electoral Reform from June this year. The article continues —

> that McGowan steadfastly said was not on his agenda, it made the linchpin very specific: "The Government now asks the Committee to review the electoral system for the Legislative Council and provide: Recommendations as to how electoral equality might be achieved for all citizens entitled to vote for the Legislative Council."

The article goes on to say —

> Malcolm McCusker, head of the committee whose three other members were all opponents of Upper House "malapportionment"—that's the opposite of electoral equality—belled the cat at the release of its report.
>
> McCusker … made it clear the fix was in from the start. Only one outcome was possible once the terms of reference predicated everything on "electoral equality".
>
> "Mr McCusker said the 'whole-of-state' model recommended by the committee was 'almost inevitable' given the terms of reference devised by the McGowan Government which sought options for electoral equality in the Upper House," this paper reported last week.
>
> The high-minded ideal of "electoral equality" must surely now be Labor's adopted and overriding principle. It achieved the moral objective for the Lower House in 2005 and now pursues it for the Upper House.
>
> So how would it work when applied to the Senate which the McCusker committee noted is an analogous single electorate to the system it has recommended for the Legislative Council?

The article goes on to provide some commentary on that matter, which is better dealt with when we continue the second reading debate on this matter. The point is that we have the highly unusual situation in which the government has implemented the ministerial expert committee to look into this issue but has handcuffed the committee with its terms of reference, so much so that the head of the committee, Mr McCusker, has essentially conceded that point when quizzed about it at the release of the report. With due respect to the Leader of the House, whose premise for opposing this motion moved by Hon Tjorn Sibma was that it was unnecessary because the work of this expert committee essentially made any work done by the Legislative Council's Standing Committee on Legislation redundant, she fails to recognise that the Legislative Council committee would not be handcuffed in the same way.

This matter also requires us to consider whether the McGowan government has a history of producing top-quality legislation. The Australian Labor Party, when on the Treasury bench, has a history of producing flawed bills to amend our electoral laws. Members need go no further back than the immediate last Parliament, the fortieth Parliament of Western Australia, and the forty-seventh report by none other than the Standing Committee on Legislation. That committee, which Hon Dr Sally Talbot chaired in the last Parliament, tabled a report on the Electoral Amendment

Bill 2020 in November last year. The point should not be lost on members that, in the last Parliament, members were concerned that the McGowan government was looking to change electoral laws and so they sought for the bill to be referred to the Standing Committee on Legislation. It is very telling that, when this was undertaken in the last Parliament, it was opposed by the McGowan government. That is why, when the Leader of the House made some remarks earlier today opposing the referral, I thought to myself, "This is groundhog day. We have heard this before." There is an electoral amendment bill before the house. The opposition is suggesting that it could benefit from some supplementary scrutiny. The Leader of the House and WA Labor is saying no; in effect, "This is a flawless piece of art that cannot be critiqued or criticised. There is no need for it to go to the Standing Committee on Legislation." It might interest members who were not here in the fortieth Parliament that the second reading of the Electoral Amendment Bill 2020 started in August. It was transmitted to this chamber on 13 August and was first read on that same day by the then Minister for Electoral Affairs, none other than Hon Stephen Dawson. The bill came on for debate on 8 September and it continued on 9 and 10 September until such time as former member Hon Aaron Stonehouse moved that the bill be referred to the Standing Committee on Legislation. The motion that he moved, rather similar to what we have before us now, read —

> (1) That the Electoral Amendment Bill 2020 is discharged and referred to the Standing Committee on Legislation for consideration and report by no later than 9 October 2020.
>
> (2) The committee has the power to inquire into and report on the policy of the bill.

My former colleague Hon Simon O'Brien moved an amendment to that motion to extend the date. He deleted "9 October" and substituted it with "12 November". All of this is to say that the motion, as amended, passed the Legislative Council in the fortieth Parliament by the barest of margins. It passed with 15 votes to 14 and the bill was indeed referred to the Standing Committee on Legislation. In the last Parliament, we had an electoral amendment bill. The Labor government said, "We don't want this looked at by a parliamentary committee. We certainly don't want it looked at by the Standing Committee on Legislation." The Legislative Council said, "Notwithstanding the objections of the Leader of the House and the Labor government, we want it referred anyway." It just got there by 15 votes to 14. What was the outcome? What was the outcome of the report and the referral of the Electoral Amendment Bill 2020 to the Standing Committee on Legislation in the forty-seventh report? It might interest members who have not had the opportunity to peruse and consider this report to note that there were no less than 16 recommendations made by the committee. This flawless piece of art that was known as the Electoral Amendment Bill 2020, which the Leader of the House and her team said in the last Parliament should not be referred to the Standing Committee on Legislation, resulted in this report that I have in my hand. It has 81 pages and includes 14 findings and 16 recommendations. Such is the quality of the work, draughtsmanship and scrutiny of the McGowan government and the caucus that, despite the resistance, the committee did its work and found flaw after flaw or matter after matter that required further explanation by the government.

I would think that that would be enough to make members pause and consider this. Given that the people of Western Australia understood repeatedly in February this year that this was not on the government's agenda, given that Mr McCusker has effectively said that his committee was handcuffed because of the terms of reference, and given that the McGowan government has form in producing electoral bills in this house that, when they are reluctantly referred to the Standing Committee on Legislation, are found to be flawed—that is three good reasons to send this bill to the committee. However, that is not according to the Leader of the House. She provided only two reasons. She provided the erroneous reason about the fact that this work had already been done by the panel, ignoring the fact that it had been handcuffed. The second reason that was provided was the assertion that somehow this motion by Hon Tjorn Sibma was nothing more than a mechanism to delay.

Let me test the veracity of that assertion by the Leader of the House. I do not know how many members have stooped to actually read the bill that is before the house, but if they have not, it might be a good idea to fully exercise their duty and do so. It is affecting only the composition of the Legislative Council after all. It is some 61 pages in length. It is 97 clauses. For a moment, I would like to draw clause 2 to the attention of members. This is the commencement clause. If members read the entirety of clause 2—it is only lines 5 through to 9, so it will not take too long—they will see that this bill will commence in its entirety, which means all 97 clauses, on the day after assent. All 97 clauses will be fully operational. That means that whether this bill receives assent before Christmas or early next year makes absolutely no difference whatsoever because that is a more-than-adequate lead time for this matter to be addressed before the next election. Members will be aware that the next election is not scheduled to occur until March 2025, so it makes no difference whatsoever to why this bill needs to be fully operational prior to Christmas 2021 or early 2022. There is no harm in the referral motion. Contrary, again, to the erroneous suggestion put forward by the Leader of the House that this is somehow a mechanism for delay, I note that the referral motion before us calls upon the Standing Committee on Legislation to consider and report by no later than 28 February 2022. Had it said 28 February 2025, I could understand why the Leader of the House might be outraged and say that this referral motion was some form of mechanism for delay. But in the circumstance in which clause 2 of the government's bill confirms that this matter will be fully

operational within a day of assent being granted, there is no good reason why this matter ought not to be referred to the Standing Committee on Legislation for consideration and report by the end of February next year.

I note, quite apart from the reasons why this bill ought to be referred—the misleading of Western Australians prior to the election, the fact that the so-called expert panel has been handcuffed, the fact that not only does the government have form in producing bills of this nature that are flawed, but also it will do no harm to the time frame for the implementation of these so-called reforms—any referral, if it were to be agreed by the house today, will benefit the government because it will be able to expedite some other bills that are currently before the house. I find it astonishing that the McGowan government would obstruct this bill going to the Standing Committee on Legislation for further scrutiny and, by doing so, prevent a number of other bills from being considered by the house this week and what I anticipate may be a number of weeks next month.

One of those bills is the Administration Amendment Bill 2021. If this bill were referred to the Standing Committee on Legislation this evening, and if the government decided, we would be able to deal with the Administration Amendment Bill tomorrow. The president of the Law Society of Western Australia recently wrote to the McGowan government complaining about the fact that the Administration Amendment Bill continues to be delayed and continues to be buried by the government. The president of the Law Society has appealed to—in fact, he has pleaded with—the government; I might add, it is not the first time. There has been continuous advocacy on the Administration Amendment Bill because it will have a meaningful impact on dozens of Western Australians every week, but it has been continued to be buried by the government. Indeed, I note, that even in this week's *Weekly bulletin* that bill has not been given any particular high standing, but there is no prospect of getting to it at all this week because, instead, the government has said this bill is the top priority.

Even if the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill is not referred to the legislation committee this evening, it could not sensibly be considered to be a higher priority than the Administration Amendment Bill, which would have a meaningful impact on Western Australians as quickly as this week if the bill were passed; whereas, the bill before us cannot, whatever measure of benefit is prescribed to this bill, meaningfully take effect until the next election, another three and a half years away. We have the opportunity this evening to decide whether we want to benefit Western Australians immediately with respect to some other legislation—for example, the Administration Amendment Bill—or whether we want to continue to defer that benefit for those individuals so that the McGowan government can make some point, which is not evident to any fair-minded Western Australian, that apparently this has to be debated and passed before Christmas.

I mentioned earlier a key reason that I think that this bill ought to be referred; that is, Labor governments have form when it comes to introducing flawed bills. I have already referred members to the flawed Electoral Amendment Bill 2020, which was the subject of the forty-seventh report of the Standing Committee on Legislation, but there was also the eighth report of the Standing Committee on Legislation in the thirty-sixth Parliament. The Chair of the Standing Committee on Legislation at the time was none other than Hon Jon Ford. The report titled *Report of the Standing Committee on Legislation in relation to the Electoral Distribution Repeal Bill 2001 and the Electoral Amendment Bill 2001* is fairly extensive. Members may not have the opportunity to peruse and consider it before we finalise the consideration of this bill, but for those members who do have some spare time, I encourage them to do so. It is 205 pages in length; but, very interestingly, the report is about two bills—the Electoral Distribution Repeal Bill 2001 and the Electoral Amendment Bill 2001. The legislation went to the Standing Committee on Legislation for a short period and was third read in December 2001. It might interest members to know that two years later, on 13 November 2003, the High Court ruled the bills invalid.

We have a very interesting set of circumstances here—Labor governments, whether in the thirty-sixth Parliament or the fortieth Parliament, have a demonstrated history of producing electoral amendment bills that are deeply flawed. The deepest flaw possible is the High Court ruling bills invalid, or there is the less flawed version, which is the McGowan government at the last election and the forty-seventh report of the Standing Committee on Legislation. Might it be that that is part of the reason the Leader of the House and the government are so resistant to this bill going to the committee? Might it be that there is history and form that confirms that when they produce these electoral bills, they end up with flaws and there are problems that need correcting? But the arrogance is so palpable that in the forty-first Parliament, under no circumstances could we possibly let the Standing Committee on Legislation fulfil its role and duty to Western Australians to consider these important laws, which were supposedly not on the agenda and which have been considered by an expert panel that effectively said that it was hamstrung and handcuffed because of the terms of reference.

This 97-clause bill would benefit immensely from scrutiny by the Standing Committee on Legislation. I served on this committee in the last Parliament. Indeed, Acting President (Hon Dr Sally Talbot), it was chaired by you in that last Parliament, and, if my memory serves me correctly, it is also chaired by you in the current Parliament. This committee has the opportunity to enhance the legislation before us.

I would like members to consider this point: if the matter were to be referred tonight to the Standing Committee on Legislation and we then had the benefit over the rest of this week and indeed when we returned next month to progress the government's other so-called legislative priorities, we could come back in February and the Standing Committee on Legislation could give us a report, but it would not compel the government to agree with anything in the report. The government will still have complete control of the agenda, complete control as to the timing and passage of the bill next year, and complete control as to what amendments are agreed to, if any. But as a house of review, we would then all have the benefit of expert advice from the Standing Committee on Legislation, which will have had the proper time to interrogate the bill, to call witnesses and to seek submissions without being fettered by terms of reference that handcuff it. We will be the better for it; the government will be the better for it, because its legislation will have the opportunity to be improved and it will not affect its time line in any way whatsoever—if anything, it will help the government progress other bills in the interim. So why the resistance?

Will another member of the government respond to these concerns? The only response that has been provided so far is from the Leader of the House, who made two simple points—saying, in effect, that this referral was redundant because of the work of the Ministerial Expert Committee on Electoral Reform and that it was a mechanism for delay. That has now been demonstrated to be inaccurate, so there must be some other reason why this bill's referral to the standing committee is going to be opposed. What is it? Let us remember that this government promised gold-standard transparency. So, as part of that gold-standard transparency, it should not be asking too much of the government to provide a reason. Could it be that the government is fearful that there is not the support in the community for this legislation? Could that be the case—or is there overwhelming support for the legislation? If there is overwhelming support, tell us about it. We know much about this government. We know there is a fair obsession with polling, so it has probably already done that—provide it. It should at least do one of the things that the Standing Committee on Legislation would be able to provide to us, which is indication of some form of support within the community. If the community is so supportive of abolishing regional representation, there should be no problem providing that information. Sadly, there has been no indication from the government on these matters.

The last matter I want to turn to is that I think we would be all the better for the Standing Committee on Legislation providing to us two critical pieces of information. The first is: to what extent is the 97-clause bill before us consistent with the recommendations made by the Ministerial Expert Committee on Electoral Reform in its final report? It has been suggested to me that elements of this bill are in fact inconsistent with the *Ministerial Expert Committee on Electoral Reform: Final report*. If that is true, we need an explanation about those matters and those matters ought to be tested—all the more in circumstances that, supposedly, this matter was never on the agenda in the first place, and all the more in circumstances that the government is saying to us, "We don't want the Standing Committee on Legislation to consider this bill any further." We need an explanation. The best forum for that explanation would be via an inquiry by the Standing Committee on Legislation.

The other matter that I think the house would benefit from is for the Standing Committee on Legislation to do a reconciliation between the government's Electoral Amendment Bill 2020 in the fortieth Parliament and the bill currently before the house. Again, it has been suggested to me that very few, and possibly none, of the elements of the bill in the fortieth Parliament have found themselves into this bill in the forty-first Parliament. That being so, that in itself warrants some form of inquiry. Why was the time of the fortieth Parliament wasted by the government considering the Electoral Amendment Bill 2020, which the government at the time opposed referring to the Standing Committee on Legislation? Why was all that done in circumstances in which the government said there was no problem, there was no fault, and that all these things were delaying tactics? Why not bring those matters on now? Were there any redeeming features in the Electoral Amendment Bill 2020 that warrant consideration at this time when the house is being asked to urgently consider the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021? These are all pieces of information that the Standing Committee on Legislation could provide to us, but only if the matter is referred to it.

In conclusion, I indicated to members that there are in my view at least five reasons why this bill ought to be referred to the Standing Committee on Legislation. I think that any fair-minded person who looks at the history books since February this year will recognise that the people of Western Australia were misled by the member for Rockingham when he consistently said that this matter was not on the agenda. That is reason number one. Reason number two is that the panel that the government relies on as the key foundation block for this bill was handcuffed. We only need to look at the remarks by the chair of the Ministerial Expert Committee on Electoral Reform. Reason number three is that we have a political party that, when in office, has form in producing flawed pieces of legislation regarding electoral amendment. Reason number four is that we know there will be no harm done by a referral, as all the government's implementation can occur well in advance of the next election. Lastly, this referral will enable other higher priorities to be addressed by the Legislative Council this week.

HON NEIL THOMSON (Mining and Pastoral) [7.38 pm]: I rise to also commend this motion to refer the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 to the Standing Committee on

Legislation. In my thoughts about this, I want to reflect a little on the pace at which this process was undertaken and how it reflects very poorly on the government and, may I say, reflects poorly on the Ministerial Expert Committee on Electoral Reform. I know that the members of that committee came with serious academic credentials. I would expect that in their quiet moments, they would reflect upon this recommendation within the broader context of electoral reform that we see across the world. There are many places where electoral reform has occurred and I will speak later in my discourse about the process that was undertaken in my homeland of New Zealand with the introduction of mixed-member proportional representation in the 1990s.

Hon Darren West: This is not your contribution to the second reading; you have to talk about the referral.

Hon NEIL THOMSON: I am going to speak about why I recommend that this bill goes to a committee. It is important to refer it to a committee to salvage something from this very shoddy process and apply some appropriate rigour to it to ensure that we have something that we can be proud of to some extent going into the future.

Often we in this place hear about the Labor government's desire for co-design. We see many examples almost on a daily basis of how things are being co-designed. For example, I think there is a genuine attempt to co-design a marine park. Co-design is an important concept, because it implies that there is an engagement with the very people the changes will affect, to the extent that those people can have a say in that process and all matters relevant to that process can be considered. We have in this place a bill that has not been co-designed. I do not think anyone in this place could possibly think that about a process that was hatched with terms of reference that looked as though they were written on the back of an envelope for a committee that was seeking submissions by 8 June. The election was on 13 March and the final date for submissions was 8 June. I went through the list of submissions on the website. I counted approximately 20 from organisations and there were a number of submissions from individuals. There were not a lot of submissions. Those opposite might take comfort in thinking that people do not care or think that this is important enough to put in a submission, but I think that people have not participated in this process simply because they have not been given the opportunity to do so or to think about the implications of what has been proposed.

When I travel the region far and wide, I talk to people about this issue and I get a combination of views. First, I get the view of resignation: "This government will do whatever it likes; there's nothing we can do about it."

Hon Darren West: What has this got to do with the referral?

Hon NEIL THOMSON: I am sure the member opposite who is interjecting at the moment would probably hear the same points. The view of resignation is: "There's nothing we can do about it." Another view is: "Really; this is happening? Are these the implications of it? We hadn't thought of that." Then there is this very strong view that is put to me: "This is wrong and is going to result in a bad outcome for the regions in particular."

We saw the lightning speed with which submissions were sought—by 8 June. Certainly, there was a lot less time than was applied to the co-design process for the Buccaneer Archipelago, the proposal for which is still with the minister. I understand that that process has taken two to three years. This is no reflection on that process, but there have been two to three years of detailed submissions and consideration for an environmental matter compared with about two months of consultation on something that is so fundamental. It is about the way we trust our basic democracy to function, how we in this place and those in the other place represent constituents, and how the views of our communities are taken account of in legislation, regulations and policies.

I have gotten to know members opposite over the last few months and I know that they are decent people and want to leave a legacy. The academics on the Ministerial Expert Committee on Electoral Reform may be looking over their shoulders and thinking about the other sorts of reforms that have happened around the world. I suggest that they might not want to put this on their CV. This is not something that they would want to be proud of, because the panel's terms of reference were simply not broad enough and there was not enough time to consult widely and bring people along. In our democracy, we must bring people along with us on the journey. We cannot just pronounce edicts and expect people to follow; we must bring people along on the journey. By referring this bill to a committee, we will provide the opportunity for some modicum of involvement. I do not think it is ideal. A more ideal process would be to take a much longer journey on this because it is so fundamental.

I will outline the process that occurred in New Zealand after I left in 1985. New Zealand had a system called first past the post. First past the post was applied to a single chamber.

Hon Sue Ellery: You know you're not making a contribution to the second reading. You need to keep telling us why it should go to a committee.

Hon NEIL THOMSON: I have other things to talk about at the second reading stage. I am asking you to listen.

Hon Darren West: You need to talk about the referral.

Hon NEIL THOMSON: I want to pause. This is about the amount of time we have taken to get to this point.

In New Zealand, the issue had been bubbling along for a hundred years, just like this process has done. There had been discussions about it in the 1950s. People were not happy with the emphasis placed on the two-party system. In 1986, New Zealand had a royal commission that looked at a range of options. It was absolutely fantastic. In 1992, New Zealand had a referendum that basically asked a simple question: do you want to change the system? Eighty-five per cent of the New Zealand public said, "Yes, I do." A mandate was given to the Electoral Commission and the government of the day to undertake a review of the options to provide a much more balanced representation in the Parliament of New Zealand. In 1993, a binding referendum with a model was presented to the community and that passed with a mere 54 per cent, so it was a close-run thing.

The important part of that, and the reason I want to refer this bill to a committee, is that in putting it to a referendum, the 46 per cent who opposed the model were able to accept that that was the verdict of the people. There was a proper process. When I go back to New Zealand, I do not hear people complain about mixed-member proportional representation. It is a complex system, but it allows for a variety of representation, with people representing regions and people representing specific electorates. It is not unlike the system we have here, but different because we have two houses, one representing regions and one representing electorates. The outcome was that in 1996, the first election was held using that system, and it has governed New Zealand since. It was given detailed consideration and people were brought along with it. There was broad acceptance of the outcome so when it comes around to elections people feel that their views are heard and they are able to embrace that outcome. It is very important to retain confidence in our democracy.

I will speak specifically about this proposed process because I think referring it to the Standing Committee on Legislation will enable the committee to call witnesses, as I understand it. People will be able to be called and that will provide a broader range of submissions. I have been on the phone today making some calls to follow up on some of the conversations I had earlier. I looked through the list of submissions to the Ministerial Expert Committee on Electoral Reform and noted groups such as WAFarmers, the various local government authorities and the Regional Capitals Alliance of WA were the main organisations that presented to the expert committee, as did some individuals. The thing about those organisations is that they are all well geared up to respond. They have staff; they will see that something is happening and be able to put together a submission very quickly and respond with a detailed report within the two-month time frame.

Hon Darren West: So what's the point of the referral?

Hon NEIL THOMSON: Clearly, the member opposite who keeps interjecting does not understand that people out there do not have the same resources and cannot make the same responses. I have spoken on the phone to Aboriginal corporations, for example, and to land councils, and they have not put their mind to this in a big way. They are just starting to ask questions about what this will do to their representation. It is particularly pertinent given the challenges they are facing such as the Aboriginal Cultural Heritage Bill, which will come before this Parliament. They are beginning to see that, potentially, that legislation might have a more detrimental effect on them when they complain about the lack of representation and co-design. They are seeing that this will impact on them. In the same way, they will not have a say about the Aboriginal Cultural Heritage Bill to come before this place. I am sure even members opposite will have some reservations about that bill but, clearly, they will not be able to speak about it because that is the way the party line works. They cannot speak against their own bill but at least because of this arrangement in which people are dedicated to certain regions and have close connections with those people, they will be able to raise issues and be in regular contact and represent their views. I am not saying it is perfect. I see the lack of representation even under the current system.

Hon Darren West: Speak for yourself.

Hon NEIL THOMSON: Again, the member opposite keeps interjecting. I do my best to listen to the people of the Mining and Pastoral Region. It is a massive area but I get around it as much as I can and listen to what people say. It is important that this issue is dealt with at the very least through the legislation committee. That committee can call on witnesses, call on Aboriginal corporations, call on prescribed body corporates—people who do not have the capacity to knock up a submission in two months when it is advertised through *The West Australian*. We see appalling arrangements at the moment when even some of the COVID material is put through *The West Australian*. Nobody from these communities reads *The West Australian*. It does not get to those places.

Several members interjected.

Hon NEIL THOMSON: The government might be comfortable running its process through *The West Australian* but at the end of the day communities need to be engaged in a proper way. They need to be talked to in situ. I repeat it because I would hate to be those professional academics with this review sitting on their CV when they compare the process that happened in New Zealand and other jurisdictions where there was serious academic thought and engagement. It is an embarrassment. I would hate to be those academics. I am pleading with members opposite to agree to this motion because in some way this motion will help retrieve their reputation by saying that they are serious

about engagement, serious about co-design and serious about talking to people on the ground and will not leave a legacy that is an embarrassment to them all because they just knocked up this bill and pushed it through without any thought. Let me say that so many other things could have been included in the terms of reference. I do not know what would be possible, but I hope the standing committee could look at a broader range of issues.

There is talk of 98 votes, how many votes I got or whatever happened or someone got 5 000 votes—whatever. I look at how much the quota was for the Mining and Pastoral Region, but do members know that if they look at Aboriginal participation, they will see that only 69.7 per cent of Aboriginal people are enrolled to vote. That is on the Electoral Commission website. Along with the Northern Territory, Western Australia has the lowest rate of involvement in the electoral process. It is an absolute shame and embarrassment for this place that it is so low. I know that if we took out people of Aboriginal descent who live in the south west and in Perth, the rate would be much lower. I am sure the rate in communities like Warburton and Balgo is around 50 or maybe 40 per cent. I do not know. The ministerial expert committee did not look at that or think about that issue, which is vital when it comes to representation and how many people are enrolled to vote. Do members know that when we put on top of that the number of people who voted in Mining and Pastoral, the rate was below 70 per cent. It was sitting around 72 or 71 per cent at the previous election, and it dropped below 70 per cent. I spoke to a number of people, and people are frustrated. I spoke to people in communities who said that they went fishing; they got right out of the place because they felt that they would not be able to have a say in the process. To me, that is a very serious issue that the expert committee should have thought about. The committee should have considered how to increase participation, as I was.

Hon Kyle McGinn: We were out there getting people signed up. What are you talking about? It's absolute rubbish.

Hon NEIL THOMSON: The statistics show it to be true. This is not about partisan politics. This is not about Labor versus Liberal. This is about participation in the democratic process. I think it is a stain on the expert committee's academic reputation. I will repeat that over and over because I know how much academics treasure their reputation and I think this is something they will regret. I say to members that this is their opportunity right now to support this motion for the bill to be referred to the Standing Committee on Legislation so that the committee can call witnesses—people who were not involved in that submission, who could not make submissions due to distance, time or resources. The disenfranchised people of our community can be enfranchised by the work of the standing committee.

I personally think the committee needs more time to consider the bill. I would like to see it have at least six months because I think its members need to get on a plane, visit some of these communities and sit down and talk to people in these communities about the impact of this legislation on them. It will impact them in the long run. I will talk about this during the second reading debate. Tonight I want to speak about why I want this bill referred to a committee. That is what I am presenting today.

My plea to members is to please reconsider your opposition to this motion, for the sake of your own reputation and legacy, so that you can put your hand on your heart and say that you did something worthwhile to improve democracy in this place and not absolutely ram something through, which will show up the arrogance of this government into the future. I want to say one last thing. I look at the title of this bill—the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. I want to be in this place the day we put a "Constitutional and Electoral Legislation Amendment (Electoral Equity) Bill" before this place and it is passed. That will be the day that the stain of this bill will be undone. We now have an opportunity to make good that stain and deal with it through this proposal. I commend the motion to the house.

Division

Question put and a division taken, the Acting President (Hon Steve Martin) casting his vote with the ayes, with the following result —

Ayes (8)

Hon Martin Aldridge	Hon Steve Martin	Hon Dr Steve Thomas	Hon Wilson Tucker
Hon James Hayward	Hon Tjorn Sibma	Hon Neil Thomson	Hon Nick Goiran *(Teller)*

Noes (20)

Hon Klara Andric	Hon Sue Ellery	Hon Ayor Makur Chuot	Hon Matthew Swinbourn
Hon Dan Caddy	Hon Peter Foster	Hon Kyle McGinn	Hon Dr Sally Talbot
Hon Sandra Carr	Hon Lorna Harper	Hon Martin Pritchard	Hon Dr Brian Walker
Hon Stephen Dawson	Hon Jackie Jarvis	Hon Samantha Rowe	Hon Darren West
Hon Kate Doust	Hon Alannah MacTiernan	Hon Rosie Sahanna	Hon Shelley Payne *(Teller)*

Question thus negatived.

Second Reading Resumed

HON WILSON TUCKER (Mining and Pastoral) [8.06 pm]: I rise to give my speech in the second reading debate on the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021. I feel compelled to speak today, considering I have been called out as the reason behind this historical reform that is before us today. As I have previously mentioned, I find these comments very flattering, but I think all members would know that they are not true.

I was recently referred to as Mark McGowan's stalking horse on this issue by a political reporter, which I thought was amusing. By now, I think we are all familiar with the circumstances surrounding the introduction of this bill. We have the Premier's broken pre-election promise. We also have the Labor Party's historic win, giving it control of both houses and putting this issue that we are dealing with today back on the agenda.

During my last five months in this role, I have learnt a few phrases and words of wisdom. Two of these are applicable when we talk about this bill today. I will share those with members now. Firstly, "If you are going to break a promise, do it early in the term and hope that voters will forget by the next election." There is a significant amount of outrage in regional WA. The timing of this bill does not feel like a coincidence. Indeed, I do not believe that anything the government does is by accident. Secondly, "You do not form a committee unless you know the outcome of that committee", and that is exactly what we saw with the expert panel given very tight terms of reference and very fixed marching orders. It produced a result that was predetermined and benefits the government. It really does raise the question: how interested do we think the Labor government would be in achieving electoral reform if it did not benefit the government? I think we all know the answer to that question. Taking the moral high ground on this issue and pursuing voter equality rings hollow when it produces an outcome that will benefit the Labor Party in the next election and certainly in elections to come.

I am not going to spend much time talking about the political exercise and the machinations behind this bill. I want to focus on the bill itself, and really from the lens of a minor party representative. Group voting tickets in preferencing is apparently the reason Labor decided to overhaul this system. It is unfortunate that the issue of GVTs is being contemplated with the issue of one vote, one value in the regions. I just want to state that I am not here to defend group voting tickets. I fully acknowledge that there is an issue with the preferencing of candidates. I think Western Australia could do a lot worse than a tech worker who believes in a time zone shift. I fully acknowledge that given the circumstances we find ourselves in with a global pandemic, there is the propensity with the GVT system to elect someone to this place without broad community support and that they could use this seat as a mouthpiece to spread misinformation that is against health advice. I welcome the expert panel's recommendations on GVTs and I am glad to see that they have been adopted as part of this bill.

I want to touch on optional preferential voting. The proposed system will allow for above-the-line voting and below-the-line voting. It is in a way a reflection of the current system. Antony Green—who does not need any introduction in this place—commented that when governments put in a new voting system, voters tend to vote conservatively until they understand that system. That will mean that in the next election, voters will vote above the line more when they would ordinarily vote below the line. When people vote above the line, it tends to favour more established parties. Certainly, in the metropolitan areas we will see a greater concentration of those votes, which favoured Labor in centre-left seats.

A lot has been said about regional voting. I have had unofficial conversations with members around this issue and their comments were to the effect of, "Wilson, if you are keen on being re-elected, you should ignore the Mining and Pastoral Region for the next three years and focus on the metro area." I am wearing two hats: I am a regional member and the leader of a minor party. As leader of the minor party, the issue I represent is more popular in metro areas, so the low-hanging fruit—the path of least resistance for me—would be to ignore Mining and Pastoral and focus on areas with a high concentration of voters and certainly voters who back the issue I support. I do not intend to do that. I take my role as a member for the Mining and Pastoral Region for the next three years seriously. Certainly, setting up a 37-member single state electorate will open the door for people trying to appeal to voters on populist issues in the metro area. I will give an example of this. If an Independent candidate living in Broome, who has been a Kimberley resident for their entire life, wants to win a seat in the upper house and, by magic and happenstance, picks up the 14 000 votes of every voter who lives in Broome, it would still not be enough to get a quota, or indeed half a quota, to have a chance of picking up a seat. That means candidates will have to appeal to a wider voter base, and the easiest way to do that is to adopt a populist issue and appeal to the highest density of voters, which will be in the metro area. That will be a by-product of a 37-member electorate.

I turn to registration and re-registration. Currently, 500 members are required to form a party and that is not changing at all. What is changing is the re-registration requirements. Parties will be required to get 500 signed declaration forms from their members, which is different from the current process in place. Parties will have 12 months to do that as well, which is very time restrictive. It is unrealistic to expect that parties canvassing their member base to

get them to fill out these forms will get 100 per cent of their members to submit those forms. If a party has just scraped in with 500 members, it is highly unrealistic that all members will provide those forms back. The question is: how many members does a party need to re-canvass to provide forms to meet the requirement of 500 members? A political party has a couple of options open to it to re-engage with its member base and get them to complete these forms. Taking into account that we do not know what format the form will take—it will be decided by the Western Australian Electoral Commissioner; it could be electronic or printed—if they are printed forms, there will be a lot of restrictions and hurdles to overcome, especially for regional members, in circulating those forms and getting them back.

It could be an email campaign—so an email blast out to a party's members. Looking at the breakdown for government and politics, the email click-through rate for a campaign is 5.5 per cent. If we run that up to six per cent, for every 100 members, a party would get six responses. If we extrapolate that, a party would need 8 300 members to get 500 forms returned as part of an email campaign. Another option open to parties is doorknocking. This presents a significant hurdle for minor parties; we just do not have the resources to do this. We are in the middle of a global pandemic as well, and I am not sure how comfortable people would be having strangers knock on the door, requesting they fill in forms. Again, it is highly impractical in regional WA, unless a party has an army of volunteers to doorknock and get those forms returned. Another option is direct mail. The response rate for direct mail is roughly 4.4 per cent. Again, if that is extrapolated, it means a party would need 11 380 members to retrieve a response of 500 forms using mail-outs. There is also a cost element to mail-outs; typically, it is $2 to $3 per letter for a mail-out. Let us be conservative and say it is $2. If a party has to send out forms to 11 000 members to get 500 returned, that means it will cost the party $22 000. Social media has about a three per cent response rate. The other option is phoning members. Again, there is obviously a restriction for smaller parties that do not have an army of volunteers to call and engage with members. If a party is warm calling—it has a passionate, engaged member base that it is reaching out to—the phone conversion rate could be as high as 25 per cent. If we look at political parties and be conservative, we see that realistically it would be around 12.5 per cent. Let us round that up to 13 per cent; that still means a party would need 4 150 members if it was contacting them by phone. Adding up these figures and then, to be conservative, adding, say, a 10 per cent overlap from these different channels, it is 2 000 members. That is being extremely conservative; I think realistically that number would be a lot higher. A party would need to have a minimum of 2 000 members.

There is also a $12 000 fee incurred to run in an election. If a party wants group candidates, under this legislation it will need five members and $2 000 for the registration fee. That is $12 000 to contest the election. If we look at the other communication channels, my napkin maths comes to about $37 000. It would cost $37 000 for a party to re-canvass its member base to be eligible to run in the next state election. What this means for the Daylight Saving Party and certainly a lot of other political parties is that unless they dedicate significant time, resources and funds to re-canvassing their member base for the next 12 months, they will be deregistered. In my case, I will be forced to become an Independent. Certainly, this is not an issue for a major party that has a million-plus dollars coming to it as donations, but, again, it will really impact grassroots parties, minor parties and Independents in WA politics moving forward.

I have a few recommendations. I am sure they will fall on deaf ears, but I will say them anyway. We have an existing Western Australian Electoral Commission system to validate members. If a registered party does not have an elected member and contests an election, the WAEC will validate that the party has 500 legitimate members. The WAEC will phone them and extrapolate the numbers and satisfy that requirement in its mind. The bill says that the current system is inadequate and it artificially raises the bar, just for the sake of it, to force minor parties to not be able to contest an election.

We also have e-voting. There was a recommendation by the expert panel on e-voting. It was along the lines of: if the government is realistically trying to achieve equality, it should also adopt e-voting to increase participation in our democracy. We are seeing in the Mining and Pastoral Region a 72 per cent voter turnout. That is a lot lower than the 85 per cent turnout in the other jurisdictions. E-voting can be used side by side with the more traditional means of voting. Certainly in the Mining and Pastoral Region there are difficulties holding an election by the standard means of mail-in ballots and going to the polling booth on election day. E-voting, as recommended by the committee, could be used in conjunction with our traditional means to enhance our democracy and help the voter turnout.

In closing, I do not think this will come as a surprise, but I cannot support the bill in its current state. I welcome the changes to the group voting ticket system, but, as a regional member, and certainly as the leader of a minor party, I do not believe that the restrictions around the requirements for re-registration have been fully considered and fleshed out. In my opinion, it will signal the death of grassroots activism and political parties in WA.

HON MARTIN ALDRIDGE (Agricultural) [8.21 pm]: I quote —

> It is not on our agenda, I've answered this question many times, it's not on our agenda, we care deeply about country WA and the issues of jobs, health, education, important infrastructure other sorts of things that we will implement.
>
> …
>
> Well, I'll be clear, I'll be clear again, it's not on our agenda enhanced regional representation will continue and this is just another smoke screen by the Liberals and Nationals.
>
> …
>
> No like I said before it's not on our agenda.
>
> …
>
> It's not on our agenda we support enhanced regional representation.
>
> …
>
> As I said it's not on our agenda, we support enhanced regional representation.

Those quotes might sound repetitive, because they are. That was the Premier of Western Australia just days out from the state election speaking at a media conference in Albany on Tuesday, 9 March. The Premier said explicitly, seven times in one interview, that the very thing that is before the Legislative Council today was not on the government's agenda. It is now clearly obvious that this matter was not only on the agenda, but also a high priority of the government. As I said earlier tonight, about that same time, the Labor Party was also appealing consistently to voters who had never voted Labor for the first time, to trust and have confidence in Labor. The government shared an infographic with a quote from the Premier that said this —

> If you're thinking about voting for me and WA Labor for the very first time this election, this is my message to you:
>
> You should feel confident in that decision.
>
> My promise is simple—I will lead a sensible, responsible, experienced Government.
>
> We will keep our promises, and properly manage the finances.
>
> And we will always keep WA strong.

It is now obvious that not only did Labor have a plan before the election, but also it deceived voters in appealing for their trust. For many of them, perhaps for the first time in their lives, they voted for the Labor Party. Local members and candidates shared this post in unison; it was orchestrated. Hon Darren West said on 21 February —

> If you're considering voting WA Labor for the first time, Mark McGowan makes this commitment to you.
>
> I've known Mark for over 20 years. He keeps his commitments.
>
> He's a great bloke, a great Premier and he'll keep WA strong.

It is interesting to consider the point at which we have arrived today, particularly now that we are now onto our third Minister for Electoral Affairs, that we have this bill that has been prioritised by the government. The government's choice of electoral affairs minister is also interesting. I remind members that on Wednesday 12 August 2020—not long ago—this house passed a motion in this form —

> That this house —
>
> (a) notes the false and misleading claims of the Attorney General on 28 May 2020;
>
> (b) notes his repeated failure to provide full, frank and reliable information to the Parliament;
>
> (c) expresses its concern about the suitability of the member for Butler to continue as Western Australia's first law officer; and
>
> (d) acquaints the Legislative Assembly accordingly.

As far as I know, that remains a resolution of the Legislative Council. It was passed by a vote of 20–12, with every single non-government member in this place at that time supporting the substance of that motion. I suspect that was critical in the Premier's choice of electoral affairs minister. Who better to get the job done—the job that will deliver the plan that was well and truly considered and developed prior to the last election?

It is no wonder, when circumstances like this occur, that voters have little faith in what parliamentarians say. They have little trust and little faith, and it has been that way for a long time. I draw members' attention to regular surveys of community attitudes towards professions. The one that I have this evening is a Roy Morgan survey from 2021 that shows, again, state MPs ranked amongst insurance brokers, real estate agents, advertising people and car salesmen. It is interesting that we join car salesmen in the rating of professions for ethics and honesty, because it is obvious and

clear that the voters of Western Australia were deceived at the last election and they bought a dodgy second-hand car. That is what happened. The Labor Party and its candidates were not brave. If ever there was an extraordinary election to put something brave and honest on the agenda—the Labor Party's 120-year-old plan for electoral reform—I suspect the Labor Party would still have been elected, but at least it could stand in this place and say it was honest with the voters of Western Australia in the lead-up to the last election. It did not do that; it did the opposite.

I want to reflect on the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill, which is order of the day 16 according to the notice paper. That means there are 15 other orders before it, 14 of them bills. However, this bill is the government's highest priority amongst the 15 bills, by my count, that stand on our notice paper. It is interesting that two of those bills are the appropriation bills. I would have naturally thought that the highest priority of a government at any time would be to pass its appropriation bills, particularly in the uncertain environment that we are in. I would have thought that maintaining the flow of cash to government and government services during an unprecedented and extraordinary state of emergency would be the government's highest priority. I would have thought that the COVID-19 response bill that was introduced into the Legislative Assembly to extend the emergency powers would have been the government's second-highest priority, Instead, we are here debating order of the day 16, the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021, a bill that the Labor Party deceitfully told Western Australians ad nauseam at the last election that it would not introduce.

I made some remarks earlier tonight during the referral motion and I do not intend to restate them but I want to make some important points. One is that this bill is by no means urgent. It is clear and obvious that government members will use the brute force of their numbers in this house, just like they did in the other place as they gagged and guillotined, to ensure that they achieve the end that they desire. It is not an urgent bill. As I said earlier this evening, this bill can be contemplated in the fullness of time, in my view preferably with the consideration of a standing committee, and still be passed next year without impacting on any provision in the bill. Members must ask why this bill is so urgent. The view that I just expressed is not mine alone; it was a view that was put to me in response to a question that I asked at my briefing with the advisers. Their view was that it only needed to be passed before the next election. Obviously, some provisions like the registration of parties would preferably be passed 12 months before the writs were issued for the next election. I believe there is clearly an intended consequence, not an unintended consequence, of also disrupting the regional districts in the Legislative Assembly; therefore, it will be the government's intent to pass this bill before the distribution process kicks off, which is 18 months after an election. We have adequate time. This bill should not be prioritised over the appropriations or the COVID emergency powers bill, yet it is. I think the real reason that this bill is being prioritised is that government members know the deceit that they are engaging in in this chamber tonight. They know. They hope that the sooner they clean up this mess by sweeping it under the carpet or washing it away, voters will not remember their betrayal in three years.

Earlier tonight, I canvassed quite extensively my views around the ministerial expert committee process and I do not intend to rehash them. However, the government made a deeply flawed suggestion when it said that this bill is pure, perfect, well consulted and well informed because it had appointed a ministerial expert committee. The term of appointment was eight weeks. I am pretty sure that the public submission period was only four weeks. The discussion paper was released two weeks into that four-week process, after it had received 28 of the 184 submissions. I am not sure that anybody could stand in here and say that, based on that information, this was a proper process. That is before I even get to the flawed terms of reference and the questionable previous associations of committee members to not only Labor governments but potentially the Labor Party. At least three of the four expert committee members had well-entrenched views on the matter that they were asked to consider. Of interest, I was advised at my briefing that 62 of the 184 submissions supported the government's so-called electoral equality and 79 did not. It would be interesting to get a more fulsome account of the government's analysis of the 184 submissions so that we could understand that if this is the only consultation that the government is going to undertake, what is it that people said about different aspects of the terms of reference. Keep in mind that not all the submissions are public.

I want to turn to some of the limbs of the bill, which I think in the limited time we have are going to be best explored during the Committee of the Whole stage. The explanatory memorandum groups them into a number of categories; I think there are 11 in total. Obviously, the first category is the whole-of-state electorate, which is a matter that I intend to return to. The second is the increase in the number of Council members from 36 to 37, which can be found at clause 6. The explanatory memorandum suggests that this is to make it easier for a government to form a majority in both houses. I find this interesting because some of the information I have read suggests it is unlikely that any government will form a majority in both houses, yet this is the basis upon which we will increase the membership of the Legislative Council to 37 members. The second reading speech, along with the government media statement, refers to it as providing the Presiding Officer—the President—with a meaningful vote. This is one of many matters that have been adopted in this bill which cannot be found as a recommendation of the ministerial expert committee. It is also not costed. At the briefing, it was not possible for the government to tell me what the cost of an additional member of the Legislative Council would be, which I find quite extraordinary. Nor is it known what the cost will

be to taxpayers in making 37 members of this Legislative Council effectively members at large of Western Australia. That will need to be adequately resourced and they will need to be supported in those roles.

It is also interesting to reflect on other jurisdictions that have upper houses. South Australia has 22 members, an even number; New South Wales has 42 members, an even number; Tasmania has 15 members, an odd number; Victoria has 40 members, an even number; and the Senate has 76 members, an even number. I am not the sure that anyone would argue that we should follow the Tasmanian electoral system, but it is interesting to note that South Australia, New South Wales, Victoria and the Senate all have even numbers. I think that that is not by chance or coincidence; I think that it is by design. I have been taught two things—two key features—about the construct of upper houses. One is that in a Westminster system they are typically half the size of a lower house. Strangely, the Legislative Council is not. The Legislative Council has 36 members to the Legislative Assembly's 59. The government wants to increase that to 37, so it will further increase the ratio between the upper house and the lower house. The second reason for an even number of members is that the President, once elected, does not have a deliberative vote, unless it is a casting vote, and that avoids as best as it can a tied vote. In fact, in my time in this place, which goes back to the thirty-eight Parliament, I do not think that I can recall an occasion on which that has occurred.

I have received some subsequent information from the parliamentary secretary and his advisers, who sought advice from the Legislative Council in relation to the President's casting vote. It was confirmed that since 2000, the President has used the casting vote three times—that being on 10 October 2000, 22 November 2000 and 26 May 2005. That is, effectively, three occasions in 20 years; in fact, two of those occasions were more than 20 years ago.

How meaningful is that? What is the cost of the government's meaningfulness? I think that the office of President should be impartial to the best of that person's ability, recognising that we are all elected here through the process of politics. Engaging the President more frequently in casting votes of this chamber does not achieve that principle. It says to me that if we want to create a situation in which the President is likely to exercise a casting vote more frequently, we would need to seek to engage the President more frequently in the political decisions of the chamber. I think that would be a wrong decision and the government would need to give a better justification for that matter.

The third issue that the explanatory memorandum canvasses is with respect to "The Council cannot continue to operate", which is a matter that, in the interests of time, I will explore further in Committee of the Whole. But it obviously arises from the change of regions—from six to one—and the procedure that will occur if a vote fails in the one region, as will be the case under this bill, which is obviously the entire state of Western Australia.

The fourth issue considered in the explanatory memorandum is abolishing group voting tickets and full preferential voting. Some of the conversations I have had outside this chamber have been interesting. They have very much been steeped in democratic principles—that is, the government is only acting in a principled way; this is simply a matter of principle. It is difficult to ascertain what voting principle is preferred by the government, keeping in mind that this work is entirely the government's and no-one else's. What principle does the government prefer when there is a system that is fully optional preferential voting above the line and semi-optional preferential voting below the line, and there is fully preferential voting for the Assembly? It would appear to me there are three principles for the voting systems of both houses, but also above and below the line for the Council.

Group voting tickets, as members will be aware—I think this is found in the explanatory memorandum rather than in the second reading speech—were originally born out of reforms to the Senate, which flowed to other state jurisdictions. At that time—I think it was adopted in Western Australia in 1989—the motivation for group voting tickets was to improve voter formality in upper house elections. In that respect, I want to reflect on to what extent the government considered the impact on that very issue. It was introduced to address informal voting. It is now being used—or manipulated—for another purpose by political parties. If we abandon it, what will the risks be to formal voting in particular? I draw members' attention to the Western Australian Electoral Commission *2021 State general election: Election report*, which shows that over the last five elections the Legislative Council has had a steady decline in informality. In 2005, it was 3.18 per cent. At the last election, it was 1.95 per cent. In comparison, the Legislative Assembly, which has similarly seen a decline, has gone from 5.24 per cent to 3.76 per cent in informality at the last election. Despite what I would argue is probably a simpler ballot to complete, the Assembly has a higher level of informality—in fact, it is almost double that of the Legislative Council.

A key performance indicator, quite rightly so, of the Electoral Commission in the conduct of elections is voter turnout and formality. I asked a question about this in my briefing and was referred to a table in the ministerial expert committee report, but the extent to which voting informality may be impacted by the changes we are talking about does concern me, particularly when we are deviating from the Senate reforms, which are similar to, but not the same as, what we are contemplating in this bill.

My view on the exhausting of votes has changed over the years. Once upon a time I held the view that, as much as possible, votes should count except for perhaps when we get to the last distribution of preferences for the final position in the Agricultural Region, let us say, and there is always a bunch of votes that are left with a stranded

candidate, and they will be exhausted and not elect anybody. My view has moderated somewhat over time; that is, there may be circumstances in which voters do not want to vote for somebody under any circumstances. I must say that I am one of the rare few, as I suspect are other members of this chamber, who has always voted below the line. Sometimes I go through a couple of ballot papers to get it right, but I know who I want to vote for and I know who I do not want to vote for, and I generally then fill in the dots in between. I am interested to know from the government what the predicted rate of exhausted votes will be under semi-optional preferential voting below the line or optional preferential voting above the line.

At the briefing, I was referred to the ministerial expert committee's report at table 13, on page 33. I did not have time to reflect on this at the time of the briefing, but it does not answer the question I seek an answer to. Table 13 flows from table 12 on the prior page, and is an analysis of the 2016 Senate election by state. I remind members that, under the Senate system, electors are instructed to vote by marking at least six boxes above the line or at least 12 boxes below the line. It is not surprising, when we look at this comparison table, that nationally 81 per cent of people voted above the line and numbered six boxes. That does not answer the question that I ask about the rate of exhaustion that we will see through these modified changes. That will have a direct impact on quota, and the number of votes one will require to get elected, which will obviously be a lower quota, the higher will be the exhaustion rate. The fifth limb of the explanatory memorandum talks about the grouping of candidates for the purposes of the ballot paper. Currently, two or more candidates and registered political parties can appear as a group above the line. The ministerial expert committee agreed to a minimum of three; the government has landed on five. This is one of those aspects in which the government says it is consistent with the MEC report, because it is at least three, being five. I guess that is technically correct, but also if it landed on 37, instead of five, by the same argument that would also be technically correct because it is more than three. There are concerns around the ballot paper, and I will focus on this area when we get to Committee of the Whole House. Antony Green, in his submission to the MEC and also in his post-government decision commentary, articulated quite well some of the risks associated with the path the government is heading down.

At the briefing, I learnt that the Western Australian Electoral Commission will have quite significant levels of discretion in designing and constructing ballot papers. One of the key elements of that will be to ensure that the ballot paper remains usable by voters, particularly with a view to minimising informal voting, but also in a form that makes it scannable. One of the benefits of our current above-the-line group voting ticket system is that it makes the job much easier for the Electoral Commission in counting and determining the outcome, because most people vote by marking one box above the line. As easy as that may be for the Electoral Commission currently, it still takes several weeks for the Electoral Commission to determine the outcome of an election. Under a system in which we have one ballot paper for the entire state, with who knows how many parties, I assume major parties will have anywhere north of 20 candidates listed below the line. We do not know how wide the ballot paper will be, whether the first column will go from one to 10, the next column 11 to 20 and the next column 21 to 30; these are all matters for the Electoral Commissioner to work out. Members should keep in mind that the Electoral Commissioner was consulted once by the ministerial expert committee quite late in its review.

The sixth and seventh limbs are grouped together, and they go to party registration requirements, an issue that Hon Wilson Tucker spoke about tonight. This will need to be explored further in Committee of the Whole. I am not necessarily convinced that it will have the desired impact on, I guess, reducing the number of parties that are created soon before an election. The 12-month arrangement is part of that, as well as the increase in nomination fees and also the way in which parties are going to now need to demonstrate unique members in a different way. I will explore that a little later, but I want to understand the impact that will have not only on the resources of the commission, as I would have thought it will be more administratively burdensome, but also on parties. I am interested to know whether there will be some sort of electronic consideration for these declarations or whether it will all be paper.

The eighth limb is parties contesting an election. I have said previously that registration must occur more than 12 months prior to the issuing of the writ. One of the things I would be interested in understanding more about, and whether the bill is deficient in this respect, is whether it will prevent a party from changing its spots moments before an election. A party may have enduring registration, it may be, say, the "Climate Change Party", which then changes its name, through an amendment to its registration, to the "Stop Live Export Party". What would be the impediments for a party engaging in a name change like that? A number of such changes have occurred since the 2017 election, which I intend to explore later.

The ninth limb is that the nomination requirements will increase from $250 to $2 000, and capped at $10 000 for groups of five or more candidates. Again, this is an area in which the government has deviated from the ministerial expert committee's recommendation. The ministerial expert committee recommended a figure of $1 000 and the government has landed on $2 000. The final two limbs, 10 and 11, relate to provisions whereby a death of a candidate

occurs before the close of polls and after nominations; and the death of a candidate after close of the polls and before declaration of the poll.

In the time that I have left, I want to return to the issue of the whole-of-state electorate. The government is taking the wrong approach and its position is not defendable. Its public position in defence of what it is doing is that regional Western Australia will be better represented with 37 members of Parliament. That is nonsense. Hon Wilson Tucker, in his contribution, made it quite clear from a personal perspective, completely out of self-interest, that if he wants to get re-elected to this place in the forty-second Parliament, the reality is that 75 per cent or more of his voters will reside in the metropolitan area and that is where his focus should and most likely will be. Nothing has been said by the government about how members will be supported to represent the entire state. This will result in meaningless representation. It will result in members being less accountable to their electorates and increasingly more accountable to their parties, even more so than they are currently. That is the reality that we face under this whole-of-state system.

If members read only one of the 184 submissions, I encourage them to read the submission of Antony Green. He quite succinctly points out in his submission the way in which we could still achieve the government's policy intention of mathematical equality whilst preserving some semblance of regional representation. That would also go some way to addressing some of his concerns, some of which I have articulated this evening, particularly about the perverse outcomes that might occur from electing all 37 members at the one election in terms of both the quota required to get elected—that is, 2.63 per cent—and the form and construct of the ballot paper.

On that first issue, I am advised that 2.63 per cent, based on the last election voter turnout, would be in the order of 38 000 votes. I was advised at my briefing by the government advisers that if a candidate or a group of candidates achieved half of that number, they would be in with a reasonable chance. In effect, if a candidate gets around 1.3 per cent, or about 20 000 votes, they would be in a pretty safe position for election to the Legislative Council. It is interesting the way that the Premier has conflated these two issues of addressing the election of Hon Wilson Tucker and the way in which the design of this system will inherently advantage Hon Wilson Tucker. I find that quite strange; the government's stated position is conflicted in so many ways. Antony Green predicted in his blog after this bill was tabled that based on the New South Wales experience, there could be four or five members who get elected in that exact position. Currently, that figure is somewhere north of 14 per cent and we are moving towards 2.63 per cent.

In the time that I have left, I want to talk briefly about some of the regional impacts that are likely to occur. There was an interesting opinion piece in *The West Australian* of 14 September by Councillor Michelle Rich, who was—I am not sure whether she still is—the president of the Shire of Serpentine–Jarrahdale. She said in this opinion piece —

> The terms of reference for the State Government's Ministerial Expert Committee on Electoral Reform—demanding electoral equality—are contestable.
>
> It is the Local Government sector's experience that equality has many facets.
>
> Different levels of State Government services provided to different communities exemplify inequality, as does the varying distance to be travelled to access services and elected representatives.
>
> Focusing on equality only in terms of the number of electors in a Legislative Council region neglects to recognise the social, societal, economic, and geographic reality among Western Australian communities.
>
> Electoral equality, established on the basis of the number of electors, in the Legislative Council will reduce political representation of rural and remote communities.

This is not a shire councillor from what I would call a remote area of Western Australia, but I think it goes to the comments that were made by Hon Tjorn Sibma earlier this afternoon. As a metropolitan member, he said that he had never had advocacy or representation to him suggesting that the metropolitan area is deserving of being, and should be, better represented by more members of Parliament.

Acting President, I seek leave for an extension of time.

[Leave denied for the member's time to be extended.]

Hon MARTIN ALDRIDGE: That is unfortunate.

There are other regional representation issues that I do not think have been well considered, but the government's response is effectively, "Well, it'll be up to the parties to ensure that good regional representatives are preselected." I have no faith in that occurring in the short term, let alone the long term, particularly when we hear about the preselection processes of members on the other side of this place happening in the middle of the night when there is no member involvement.

Several members interjected.

Hon MARTIN ALDRIDGE: I have no confidence in the long term that the government will genuinely seek to preselect regional champions to ensure that we have some form of meaningful representation in our regions. It may well be the case that they support factional allies to get preselected and elected, and then buy a holiday house in Broome, Margaret River or Albany and become quasi-regional members. That might be the case, but these are the problems that regional people face—the issues of geography, education, health, services and local government that are not being addressed now and certainly will not be addressed under this regime.

HON PETER COLLIER (North Metropolitan) [9.06 pm]: I stand to make some comments on the Constitutional and Electoral Legislation Amendment (Electoral Equality) Bill 2021 and say at the outset that I am emphatically opposed to it. The government has absolutely no mandate whatsoever for this bill and no authority for it. It is fatally flawed in every respect—in its genesis, in its structure, in what it says and in what it intends to achieve.

I will make most of my comments on the intent under this legislation to move towards a single electorate for the Legislative Council. I would like to go through the genesis of that process and look at why there is an enormous amount of hypocrisy on the part of members opposite on this issue. Members opposite have shown their complete disdain for the Parliament since March 2021; the Parliament is nothing but an inconvenience to them. We are seeing the rapid—not even gradual—erosion of the last vestiges of the parliamentary system before our very eyes; this is another example of that. Make no mistake: the government and members opposite have absolutely no mandate for this piece of legislation. The COVID mandate the government received in March 2021 did not have, even in fine print, "Oh, and by the way, we're going to change the Electoral Act." It did not have that; it was nowhere to be seen. In fact, as Hon Martin Aldridge and a number of other members have said, the Premier insisted, ad infinitum, that electoral reform was not on his agenda. It was like an onion; he just kept repeating himself, over and again. That was unmistakably what the Premier said.

Immediately after the election, he changed his tune, as did the new Minister for Electoral Affairs and Attorney General, Hon John Quigley. On 30 April 2021, the Minister for Electoral Affairs released a media statement headed "Ministerial Expert Committee to advise Government on electoral reform". It stated, in part —

> Former Governor Malcolm McCusker AC CVO QC will lead a panel of four eminent electoral and constitutional law experts appointed to help the McGowan Government modernise the outdated Electoral Act 1907.
>
> The Government has kicked off the independent process after anomalous outcomes at the March 2021 State election demonstrated the current system was not operating in the best interests of democracy.

I will get to that in a moment; the hypocrisy of that has no bounds. It continues —

> The committee is seeking submissions from the public and all stakeholders before 5.00 pm on Monday, May 31, 2021.

A month later it is asking for submissions to change the Electoral Act of Western Australia. We are not talking about a little modification; we are napalming the whole thing and starting again. The public of Western Australia get the single-figure salute yet again from this mob because they want to go ahead with their agenda without a mandate and change the electoral system. Let us make it quite clear; the Ministerial Expert Committee on Electoral Reform is not independent. I have said over and again that I have great respect for Malcolm McCusker. He can stand alone with respect on the ministerial expert committee. The other members have already laid claim to the fact that this is exactly what they wanted. This sham committee that was established, which gave the entire public of Western Australia one month to pass comment, is nothing but an absolute insult.

Hon Darren West: Ask Mr McCusker.

Hon PETER COLLIER: Ask Mr McCusker; he said himself that the whole-of-state model recommended by the committee was almost inevitable given the terms of reference devised by the McGowan government, which sought options for electoral equality in the upper house. Go figure! The chair of the expert committee said that. He basically said, "We've been sidelined; we've been cornered; we've been told what outcome they want." What else could they say? I have long said, as a teacher, a tennis coach or whatever, if we work on the process, the outcome will take care of itself. In this instance, the committee worked on the outcome and then did the process; they completely reverted. This whole thing is an absolute disgrace. To watch this place decimated by you guys is very frustrating.

Let me see where it all came from and the real motivation behind all this. Ask the man himself, the man who said that he had no reason to change the electoral system. The Premier of Western Australia, on 16 September 2021, stated in the Parliament —

> The legislation we brought in deals with the terrible rorting that goes on in the upper house. The vote weighting in some regional electorates within the lower house remains unchanged. That is the situation. The terrible vote rorting in the upper house is an assault on democracy. It is a corrupt system in the upper house. It is corrupt and it offends every democratic principle, what is going on in the upper house. The fact that some people's votes are worth six times that of other people's votes is wrong and offensive to democracy!

He says later on; because he goes on and on, as he usually does —

> When the history books are written about this period, the fact that Liberal and Nationals members wanted to have a corrupt system in the upper house will bring shame upon all of them.

That is the man who has a PhD in verbal overreach! This is the same Premier who referred to Liberal MLCs on this side of the chamber as terrorists; the same Premier who will crush and kill the COVID virus. Let us see how he crushes and kills the virus when the borders eventually open. He will be the only person on the face of the earth who can crush and kill the virus. That will not happen, I can tell members. Let us look at the ambulance ramping then and see where the problems are. This is the same Premier who refers to people in the other place as "morons".

Hon Darren West interjected.

Hon PETER COLLIER: Hon Darren West thinks it is funny. He is the Premier of Western Australia, and he calls people terrorists and he calls us corrupt. Apparently, we created this terrible corrupt system.

Let us investigate, shall we, where this current system came from, of this corrupt upper house, which members opposite are all part of and recipients of. According to the Premier, it was the terrible Tories who did it. Let us look, shall we. I will tell members where it came from. In January 2001, Richard Court went into the election saying there would be no electoral reform. Geoff Gallop, an honourable Premier, came out and said, "We'll go for one vote, one value; we'll reform the electoral system." That is what he did. On 1 August 2001, Hon Jim McGinty, then Minister for Electoral Affairs; Attorney General, introduced the Electoral Distribution Repeal Bill. To get one vote, one value, that bill would take two members out of Mining and Pastoral—reducing the numbers in the Legislative Council—reducing it from six to four; three out of Agriculture, reducing it from seven to four; and three out of the South West, reducing it from 10 to seven. Therefore, the metropolitan region would increase from 34 to 42 members and the regions would be napalmed. That was the one vote, one value system of Hon Jim McGinty under Hon Geoff Gallop. A deal was done with the Greens to have six members for each of the six regions in the upper house. This came from the Labor Party. Both the Liberal and National Parties vehemently and absolutely opposed that legislation because it was wrong and rorted. What happened next is that the Legislative Council's Standing Committee on Legislation—in those days the legislation committee did something and earned its money, not like the money for nothing from this mob because it will not refer a bill to it—produced a report, and I highly recommend that members opposite read that report. Let us look at the members of that committee to see how stacked its membership was. The committee started its report on the electoral system of Western Australia on 24 May 2001 and reported six months later, remembering that the Ministerial Expert Committee on Electoral Reform napalmed the current Legislative Council after calling for submissions within a month and reporting in two months. At least this committee gave the people of Western Australia some respect. Let us look at who was on the committee, shall we? Fancy these terrible Tories writing a bad report about the electoral system. Wait on! Hon Jon Ford, a Labor member, was the chair. Hon Giz Watson, the deputy chair, was a member of the Greens. Hon Kate Doust, the former President of this chamber, was also on that committee, as was Hon George Cash, an eminent former President of this place. Hon Adele Farina —

Hon Martin Aldridge: What happened to her?

Hon PETER COLLIER: I do not know what happened to her but she is no longer here. Hon Adele Farina was a Deputy President of this chamber. Other members included Hon Peter Foss, a former Attorney General, and Hon Paddy Embry, MLC. That is hardly the gentry of the Tories. It was a well-qualified and experienced group of people who looked at the electoral system. Members have to read this thing; it is full of pearlers. Let us look at what it said about the vote weighting of electoral regions. It states —

> The current system in the Legislative Council comprising Members representing regions within the state gives some guarantee that certain regions, particularly those that are remote from Perth, will always have some representation in the Western Australian Parliament, regardless of population. This is provided for by an electoral system that builds in substantial rural vote weighting, that is, a situation in which parliamentary seats have unequal number of electors, in favour of the non metropolitan areas of the State. There are 2.8 times as many voters per Member of the Legislative Council in the metropolitan area compared with the rest of the State. This is done primarily to ensure that rural areas are provided representation and that rural interests are not overwhelmed by the metropolitan interest which is numerically dominant.

Hear, hear! I could read this report all day—it is gold! It looked at various models—fancy doing that! The committee looked at a number of models. It was not told that it had to look at only one model, which says that everyone has to be in the one system.

Hon Darren West interjected.

Hon PETER COLLIER: I am not listening to you. I never listen to your interjections; you are full of rubbish. The report states —

> A number of models for the Legislative Council were canvassed during the inquiry. These and some others are examined. These are:
>
> … Status Quo or Current Model: Six Regions with either five or seven Members, proportional voting.
>
> … Proportional Voting with Equal Voter Representation Model.
>
> … Single Region Model: 34 Members, proportional voting.

It looked at it as an option —

> … The Greens (WA) Model: Six regions with six Members, proportional voting.

The government eventually accepted that —

> … Provincial Model: 17 regions of two Members, preferential voting, staggered elections.
>
> … Part Provincial Part Direct Election model: Part proportional, preferential in non metropolitan.
>
> … Abolition and Incorporation Model: Abolish Legislative Council and incorporate seats into the Legislative Assembly.

Look at that! It looked at seven different models to try to come up with the one that would be the best. How can that not be fair when all those eminent members—two former Presidents of this place, a former Deputy President, a former minister of the Crown and a former Attorney General—looked at it?

Six months later, with hundreds of submissions, the committee looked at the legislation. Let us look at what the committee said about the single region model, which is what we have now. It stated —

> 7.28 A single region model comprises one electoral district only encompassing the entire State, elected on a proportional system.
>
> 7.29 The Committee does not support this model.

I repeat —

> The Committee does not support this model.

The report states, in part —

> 7.40 The current structure of the Legislative Council provides equal numbers to city and country regions of seventeen each, although the six regions do not have equal representation. This system of regional representation has adequately represented regions, and provides a balance between wealth and agricultural production and individual franchise.

That is why we have the various representatives for the regions and why we have those for the metropolitan regions. It is because we are unique in Western Australia. The regions deserve special privileges and representation. That is why they have always had it. That is why this expert committee decided that the status quo should prevail. The report continues —

> 7.41 The regions as they currently exist are based on a set of criteria with a primary concern being community of interest. Community of interest includes general land-use practices. Community of interest was a principal concern for many submissions to the Committee. Community of interest should therefore remain the primary determinant in redistributions, and serve as the basis for any systems of qualitative regions.

That is not because the Premier wants to have it and says to the Attorney General, "Go off and do it", with a nudge and a wink because they got their thumping majority due to the COVID mandate. It continues —

> 7.43 The principle of representing qualitative regions regardless of their population numbers would be better served by equalising the representation across all regions. The simplest way to equalise the qualitative regions of the Upper House is to even out the current disparity between the North Metropolitan and South West Regions, with seven representatives each, and the five representing each of the other four regions.

It is saying, "Let us try to equalise the balance in the upper house." It is not saying we should get rid of them. It is saying we should equalise the balance. That is what we ended up with. That is how we ended up with the six by six. I very much doubt whether anyone on the government side will read this stuff. If anyone ever wanted a reason why we should not accept this bill, they should go and read this report. There is so much in this report. It continues —

> 7.57 As stated above, the current system in the Legislative Council comprising Members representing regions within the State, gives some guarantee that certain regions, particularly those that are

> remote from the metropolitan area, will always have some representation in the Western Australian Parliament, regardless of population.

Is that right? Regardless of population, they deserve representation. It continues —

> 7.58 Whilst the status quo will be broadly preserved in the Legislative Council, of major concern to many is the effect that the change to the distribution of seats for the Legislative Assembly will have on regional representation in Western Australia. The majority of submissions received from people in regional Western Australia vehemently oppose the legislation on the grounds that their parliamentary representation will be reduced.
>
> 7.59 Regional Western Australia's economic and social situation is currently strained and the fear is that reduced representation may result in a worsening of this situation. Shires and local councils of regional Western Australia who made submissions to the Committee stated that their major concern is that the increase in the number of politicians in the metropolitan area will mean that all decisions regarding the allocation of government services will be dominated by the metropolitan region, at the expense of the country.

Hear, hear! I continue —

> 7.63 As Mr Strange —

From the Pastoralists and Graziers Association —

> stated in an exchange with Hon Peter Foss MLC at the hearing in Bruce Rock:
>
> > *"**Mr Strange: …** Bruce Rock should join the twenty-first century next year and be connected to the mobile telephone service. Council had to contribute $80 000. In 1994, the principal of the Bruce Rock District High School wanted an extra classroom. The Education Department was not forthcoming, so the local community raised the money to build one with the help of the council. In 1995, the Education Department wanted all preprimary facilities located on the school grounds, but were only prepared to provide a transportable donga-type building. The local community raised the funds to build a high quality purpose-built facility. The perception that we have been advantaged by the current electoral system in the bush astounds me. The basic services such as roads, health, emergency services, education and telecommunications, which are expected or just happen in highly populated areas, have to be fought for in the bush and, if they are still not forthcoming, the locals pay. We feel that we are already disadvantaged by living in the country. Any further reduction in political representation can only lead to a further weakening of our position.*

Thank goodness this committee listened to the people of the regions. Another point made was —

> It is argued that even with the current system of vote weighting in Western Australia effective representation for the constituents that each Member jointly represents is reduced due to the geographically large regions that exist. Hon Mark Nevill, former Member of the Legislative Council, told the Committee, at the hearing in Fitzroy Crossing, of the difficulty in servicing the Mining and Pastoral Region. He informed the Committee that due to the size of the electorate remote areas are neglected:
>
> > *"If you look at those areas that are remote, they are rarely visited by politicians. … The massive electorates are not necessarily serviced by members."*
> >
> > *"I worked very hard to try to represent the federal seat of Kalgoorlie, even as a Labor Party member. We never had a sharing of the workload. People said that Tom Stephens looked after the Kimberley, Tom Helm looked after the Pilbara and I looked after the goldfields.*
> >
> > *… Members do not represent that whole area. Try as much as I could, and I enjoy visiting communities in the desert areas, I could never really properly represent the Pilbara area. I did a reasonably good job of the Kimberley, and a good job of the goldfields and Murchison areas, but a pretty miserable job of the Gascoyne and a pathetic job of the Pilbara. It was too much work getting around".*

A member of the Labor Party said that. It goes on and on, members. This is not a report from the terrible Tories; this report is from eminent members of the Legislative Council from across party lines. It goes on, but I have to move on. Let me tell members what the committee's findings were. The report states —

> A minority (Hon Giz Watson MLC) of the Committee is of the view that a regional system comprising six regions of six Members is the most desirable system for the Legislative Council.

That eventually happened because the government did a deal with the Greens, but what was the unanimous recommendation of this committee? It states —

> **The Committee recommends retaining the current balance between regions based on the metropolitan areas and non metropolitan areas in the Legislative Council.**

Go figure. The Legislative Council came up with this magnificent report after six months. It had hundreds and hundreds of submissions. Not one submission from the regions said that they wanted to change the system. They all supported it. Now, you guys will do it in two months, with one month for submissions, and you will napalm the Legislative Council and disenfranchise the regions. Make no bones about it, that is exactly what the government is doing. Let us look at the vote. The legislation went through. One vote, one value went through both houses, but the government did not have an absolute majority, which was not a legal majority. The then Clerk of the Legislative Council, Laurie Marquet, sent the matter to the Supreme Court to get a ruling to see whether Parliament had the authority to change the Electoral Act without an absolute majority. The Supreme Court ruled that the bill could not be given royal assent if it did not have a constitutional absolute majority. It was ruled out of order. The government tried to be too smart by halves, so Laurie Marquet, the then Clerk of the Legislative Council, sent it to the Supreme Court.

Hon Geoff Gallop, the Premier of the day, appealed to the High Court. I remember that vividly, because I chaired a Liberal Party committee called the Defence of Democracy Committee. We raised a couple of hundred dollars to help fund support for the case against the state government. We won. The High Court upheld the decision of the Supreme Court of Western Australia, so the legislation was ruled invalid. The government was trying every way it possibly could to get its legislation through. The Supreme Court of Western Australia ruled that it was invalid and could not move to royal assent. The High Court validated that decision. The government was back to square one. Then we had the 2005 state election. After the 2005 election, there was a window of opportunity for the government with the old Legislative Council. As we all know, the new membership took over on 22 May. In that window of opportunity of two months, the government had a member up here by the name of Hon Alan Cadby, who became an Independent. With the Greens, he then gave the government an absolute majority.

Hon Geoff Gallop made the one vote, one value legislation a priority ahead of the Address-in-Reply. He bulldozed it through—guillotined it overnight—then sent it here and it passed.

Hon Darren West interjected.

Hon PETER COLLIER: The member should listen to this. He is not going to like this. It is our fault, of course. The Premier said that, remember? This terrible report from the Tories actually was not from the Tories. Sorry; the Premier is wrong there. Hon Jim McGinty could not be a party to this because it was the Tories who did it; surely, it was the Tories who won the vote. On 5 April 2005, he stated in his response to the second reading speech at 2.26 am—they sat all day to get it through; they guillotined it—in part —

> I for one expected to be enjoying breakfast here tomorrow morning as the sun came up over the scarp. I think we will fall a little short of that and, in a sense, that is a pity. When in years to come members sit back and tell their grandchildren about the day that the legislation that finally brought democracy to Western Australia was passed, it would have made a nice little postscript to say that we sat through the night to do it and had breakfast as the sun came up over the scarp.

It almost sounds like Hon Jim McGinty supported this corrupt legislation. I thought we introduced that corrupt legislation, because that is what the Premier said in Parliament the other day. That cannot be right. Hon Jim McGinty continued —

> Thirdly, it sought to provide for a restructuring of the Legislative Council to add two seats to provide for a move towards greater equality of voting rights in the Legislative Council, but to retain the six regions that currently exist and reorient the regions in the city area.

The system that the Premier calls corrupt, which was in the legislation passed in 2005, is how everyone in this chamber got here. Hon Jim McGinty must have crossed the floor because apparently we are the ones who created it. We are the ones who corrupted the system. Let us have a look; I am going to name and shame those who voted for it. Who else crossed the floor with Hon Jim McGinty? This is not good enough, guys. Do not worry; I will take care of your moral fortitude! Let us have a look at who voted against it first. Twenty-three members voted against it and they were all Liberal. Thirty voted for it and there was only one who was not Labor—that is, Dr Elizabeth Constable. There were 30 members who voted for this corrupt electoral system; let us see who they were. Of those, most have left. Let us see who is still here. This is from *Hansard*. Mrs M.H. Roberts, the current Speaker of the Legislative Assembly; Ms M.M. Quirk; and Ms A.J. MacTiernan voted for this corrupt bill. Mr J.R. Quigley, the current Minister for Electoral Affairs, who thinks this system is corrupt, and Mr M. McGowan voted for the legislation. The man who stood in Parliament two weeks ago and called us corrupt for supporting a corrupt electoral system

voted for the exact electoral system that created the current Legislative Council. What an absolute load of nonsense to come in here chest-banging and carrying on about this corrupt system. Over and again we hear how terrible this corrupt system is and that we are supporting it, but the Liberal and National Parties voted against it in 2005. Every single Labor member, including the current Minister for Electoral Affairs and current Premier, voted for it. The electoral system that you guys are banging on about is of your creation. It is of your genesis. It is your baby. Let us not get too precious about that, everyone.

The other thing that the government goes on and on about is a comparison between our electoral system and other systems. In fact, the report itself referred to it at one stage. I cannot believe it did this; I mean, this was pretty bad. The report refers to whole-of-state electorates and states —

> It is the system used in NSW and SA for elections to the Legislative Council. In Federal Senate elections, the whole of WA is one electorate, and those elected are Senators "for WA", not for any district or region of WA.

That is garbage. That is like saying I am elected for the whole of the north metropolitan area and not for the areas of Warwick, Kingsley and Wanneroo. Of course I am elected for the whole of the North Metropolitan Region! The Senate is a national house of Parliament. Of course the senators are elected for their states, which I will get on to in a moment.

Let us look at the corrupt system upon which our system has been based. The Westminster system of Parliament is over 800 years old and was constructed fairly loosely on the Magna Carta. Apparently, that is a corrupt system; our bicameral system is based upon a corrupt system. Let us look at the British system to see how corrupt it is. That is exactly what the Premier has said; he said it is corrupt. The British system, of course, has about 650 members in the House of Commons, who provide local representation. The British system does not have a constitution. It has voluntary voting. It has first-past-the-post voting, which means that the most preferred candidate does not necessarily win. The British system has the House of Lords, which is a house of gentry. The House of Lords basically offers suggestions; it cannot block legislation. But does that make the British system corrupt? Why does the Premier not come out and call the British system corrupt? Why does he not say that? That is what our system is based on.

What about the American system? This is even better. The Americans looked at the Westminster system when they formulated their constitution after independence in 1776. Let us see whether the American system of government is corrupt. The American system of government has a written Constitution with a Bill of Rights. It has voluntary voting, so not everyone votes. It has a first-past-the-post system of voting, so the most preferred person does not necessarily win. It has a federal system of government, so it dissipates into regions like ours does in Australia. That is a great thing to have. But let us look at the American Congress—the equivalent of our Parliament—to see whether it has a system in which everyone is equal. I am sure most members already know where I am going with this. There are 100 senators in the United States—two for each state. Every state has two senators. California has a population of 39.5 million people; it is the most populated state. Texas has a population of 28 996 000 and Florida has a population of 21 477 000. Each of those states gets two senators. Let us look at the least populated states. Wyoming has a population of 579 000 people, Vermont has 624 000, and Alaska has 732 000. Each of those states has two senators as well.

Hon Dan Caddy interjected.

Hon PETER COLLIER: I am not taking interjections from you, I can tell you! Madam Acting President, I am not taking interjections.

The ACTING PRESIDENT: Order, members!

Hon PETER COLLIER: The United States has two senators for every state. The Premier is banging on about the fact that we do not have so-called one vote, one value here because the Mining and Pastoral Region has significantly fewer people than the North Metropolitan Region. The analogy is absolutely profound.

Hon Dan Caddy interjected.

Hon PETER COLLIER: I will wait for the member to have his say in a moment. He cannot read the paper in the chamber.

Government members cannot make that analogy and do it accurately. My point is that if members say that the Legislative Council in Western Australia is corrupt because we have more people in the North Metropolitan Region than we do in the Mining and Pastoral Region, they are on very, very shaky ground. Then we get to the Senate itself. The report talks about it. As I said, the report itself uses the Senate as an example. That is absolute garbage. The Senate was created as the states' house, in exactly the same way that the Legislative Council was created to look after the regions.

Hon Matthew Swinbourn: No, it wasn't. That's not right.

Hon PETER COLLIER: The current electoral system.

Hon Matthew Swinbourn: You said it was created for that. It was created in 1832.

Hon PETER COLLIER: The current electoral system was created to look after the regions. That is absolutely true. Members of the Labor Party stated it over and again, as has the report. If members opposite have not read their own report, perhaps they need to go and look at it.

The electoral system in the Senate is a perfect analogy. I remind members—I went through this briefly when we had another debate on it—that when the Senate was created, it was created in the federal system to ensure that the small states would not be disadvantaged, just the same as the regions would not be disadvantaged. The biggest issue in the 1890s in the Senate for the small states—Tasmania, South Australia, Western Australia and Queensland—was that they felt they would be completely disenfranchised. As we moved towards Federation, they fought tooth and nail to ensure that we had representation at least in the Senate. That is what they wanted, and the other states signed up to it. We were the last one to do that. We did not come through until 1900. The only reason that Western Australia signed up is that it saw that it would get equal representation in the upper house—the check and balance. That is what we wanted. We got six senators each.

Hon Dan Caddy interjected.

Hon PETER COLLIER: I am not taking the member's interjections.

There were six senators for each state, so we had 36 senators. As a result of the nexus section, over the ensuing 120 years the number of senators increased to 12 senators, but that has not changed the representation of the states. Every state still has 12 senators. The reason that we have done that is to ensure that the smaller states have representation. That is not unreasonable. That is not corrupt. We do not see the Premier out there carrying on about the corrupt system in the Senate. Of course he does not, because he has 12 senators from Western Australia, which is exactly the same number as Victoria and New South Wales. The whole reason for that is that it ensures the integrity of our parliamentary system. As a direct result of that, we now have senators who, ultimately—they will vote along party lines—look after the interests of Western Australia. If members take that analogy with everything that I have talked about with regard to the other two systems—the British and American systems—they will see that it is what is affectionately referred to as the Washminster system; that is, partly the Washington system and partly the Westminster system. We in Australia think that works.

I will finish on this: Australia has plenty of checks and balances. We have tremendous checks and balances, including compulsory voting, preferential voting, a federal system of government and a bicameral system of government.

In our bicameral system of government, we have a lower house, which looks after the states by population, and an upper house, which looks after the states in their entirety. That system has evolved over the last 200 years. It ensures that we as Australians do not feel that one state is more advantaged in terms of representation than another.

If we mirror that with the Legislative Council and the result, as I said, of an electoral system that has evolved over the last 100 and so years, we find we have a system that is working. We have a system that is a direct result of the decisions that were made by this Parliament. A raft of eminent members from all the major parties came to a decision that this system would better represent the regions. That is the system that we have now. That system will never be perfect, but at least under that system, people in the Mining and Pastoral Region do not feel completely disenfranchised because all the members who represent their region live in the city or are from metropolitan Perth. That has taken a long time, but it has worked. For the government to now come along and disingenuously decide that it will completely napalm that system, after one month of submissions and two months before a report is released, it does a complete disservice to the integrity of this Parliament.

Debate adjourned, pursuant to standing orders.