

**ELECTORAL AND CONSTITUTION AMENDMENT BILL 2011**

*Second Reading*

Resumed from 25 May.

**MR W.J. JOHNSTON (Cannington)** [3.02 pm]: I rise to speak on the Electoral and Constitution Amendment Bill 2011 on behalf of the Labor Party. I make the point that this is important legislation and we are pleased that the Liberal Party has changed its position on the question of fixed terms. In the former Parliament the Labor Party introduced legislation to provide for fixed terms in this house. Although the bill was passed by Parliament it was overturned on technical legislative issues regarding the vote of the President. The people who brought that challenge included members of the Western Australian Liberal Party. It is unfortunate that the Liberal Party, having opposed fixed-term elections in the Parliament, continued with its opposition to that arrangement outside the Parliament as well.

However, one way or another, the Labor Party supports fixed-term legislation. We have one very small disagreement with the government about this legislation; that is, the choice of the date on which elections will be held. Under the provisions of this legislation, the election will be held on a Saturday in March every four years. However, the Labor Party believes that the third or fourth Saturday in February would be a better date. We believe that because of the potential interaction between a federal election and a state election. If a federal election were held on the date nominated in this legislation, under this legislation the state election is automatically delayed because preference is given to the federal election. The dates for the Easter break, and Anzac Day, can lead to a potential issue over the day that the state election can be held. It is only a minor issue and the opposition will not proceed with its amendment. We moved a similar amendment in the other place and that was defeated. Although we believe that a Saturday in late February is a better choice than a Saturday in early March, it is a very minor issue only. The Labor Party is very supportive of moving to fixed terms.

I want to thank the Electoral Commissioner and his staff for providing briefings to the opposition on a number of occasions. I particularly want to comment on the provision in clause 7 of the bill to repeal section 71 of the principal act and to insert new section 71, including subclause (6), which states —

If in the case of a periodic election —

That is, a normal general election —

the Premier, with the agreement of the Leader of the Opposition in the Legislative Assembly, recommends to the Governor that the date to be fixed for the polling be postponed because of exceptional circumstances, the date fixed for the polling shall be the first Saturday after the second Saturday of March that is an available day on which polling is practicable.

Given that the Saturday described is the “normal” one, if something goes badly wrong in Western Australia, we can change the date of the election to a later time, but only with the agreement of the two main parties in the Parliament. It is not a consultation clause; it is an agreement clause. The government would have to get the agreement of the opposition to delay the election. It is interesting that in 1942 the Western Australian state election was delayed from the start of the year to the end of the year because of the Japanese attacks on northern Australia. It is one of the few Western Australian elections not held in the first quarter of the year—the others being 1996 and 2008. I cannot imagine that it will be a regularly used provision, but it is a sensible and well-structured provision.

We are very lucky in Western Australia to be well served by the Western Australian Electoral Commission in its operation of elections. The experience that Australians have of elections is much superior to the experience of people in other countries. The fact that the knowledge and experience that we have in conducting elections is being shared with a range of countries in the region is good. One of the issues there is the interchange between the federal commission and the state commission. The Australian Electoral Commission is a very strong organisation that provides excellent election services. The fact that we share information and experiences between the two commissions is very important; for example, the attempt by the state and federal commissions to harmonise polling locations so that people are familiar with a particular location. It cannot always happen, but the electoral commissions make a great effort to keep locations for federal and state elections consistent.

I wish to raise one very technical issue during this debate. It would be good if the federal and state electoral commissions could harmonise the naming of polling booths. A very small number of people—I am one of them, and I imagine that the member for Jandakot might be another—pore over the details of election results and try to data match. One of the problems of using geographic information systems for data matching is that the state Electoral Commission names the polling booth after the location. For example, in my electorate of Cannington, the Wilson polling booth is listed as “Wilson Community Hall”, but the federal commission just calls that booth “Wilson”. That is okay when there is only one booth in the suburb, but not if there are two. The state

commission names it after the actual location, but the federal commission will call it, for example, Jandakot north —

**Mr J.M. Francis:** Atwell North.

**Mr W.J. JOHNSTON:** Okay, Atwell North and Atwell South. It is actually a very, very minor issue, and it only affects probably 100 people in Western Australia who have that sort of inclination to do this sort of work. But it would be really good if the commission could think about keeping the name of the polling booths the same in all its records, because it would make it easier for data matching and the mathematics of elections can be followed.

I want to draw a couple of other things to the attention of the chamber, and the next one is other reforms that we could be looking at on election matters. There could be reform of disclosure arrangements following elections. At the moment, a political party that is registered under both the state and federal act—the Labor Party, the Liberal Party and the National Party are registered under both of those—has to provide its annual return to the federal commission; it provides a copy of that to the state commission, and that then forms its disclosure return under the state act. Obviously, that is administratively very easy. A party that is registered only under the state act prepares its return in a different format and submits it to the state commission. That is fine; I do not have any difficulty with that. But there is also an obligation under the state act that used to exist under the federal act to provide another return after an election. This is not about where a party gets its income from, but about what it did with its expenditure under large categories. It is not a return that will tell where this person got this amount of money from, but, rather, it will show, under the heading of “Advertising”, how much was spent. That return is quite difficult for parties to accurately complete. I always argue that it is better to have accurate rather than inaccurate information. There is a move around the country, and in other countries, to move to quarterly returns; I think it is probably appropriate now to move to quarterly or semi-annual returns. This return is done immediately—within a month after an election—but it does not tell where the parties got their income from, which of course is the most important thing in disclosure. If members read the debates about political disclosure, it fits under the category of “who pays the piper”, and it is entirely appropriate that political parties front up and admit where they got their resources from so that people can judge whether there has been any inappropriate behaviour. But, really, I do not see that where money has been spent is as important. It does not really add much to the political debate whether a party has spent its money on the category of advertising, the category of direct mail, or the category of indirect mail. I think that issue needs reform, and it does not reduce the amount of information parties provide regarding where they got their money from, because candidates and parties are not obliged to disclose from where they got the resources in that disclosure return; they must disclose only where the money went. I think that would be a useful reform.

I read with interest the review into the Western Australian Electoral Commission’s conduct of the 2008 state general election. I have noted the recommendations in that report, particularly the recommendation for fixed-term elections. The second reading speech for the Electoral and Constitution Amendment Bill 2011 highlights why we are debating this. There are also some technical issues about the conduct of the election that I think are worth noting.

People have often come to me and said, “I can’t believe it takes you a week to decide who forms government.” Of course, that was true at the 2008 state election and the 2010 federal election, but it was not actually any different from a normal election, it was just that there was a much narrower result. In the seat of Riverton the margin was 44 votes; in the seat of Forrestfield it was 70-odd votes.

**Mr A.J. Waddell:** It was 96 votes.

**Mr W.J. JOHNSTON:** It was 96 votes—it was a massive margin!

It is natural that it takes a long time, and it is appropriate in democracy to give people time for their ballot paper to arrive in the Electoral Commission’s office and be counted. Under the state act, I think it is a week after the close of the ballot that a ballot paper that has been mailed or transferred can be received by the commission; under the federal act I think it is 10 days. It is not actually a particularly long period of time. It happens at every election, but it is just that in these elections that are very, very close, there appears to be a delay in the decision of the result. I understand why people in the community would say that.

The issue I raise is that the way that the federal commission counts the ballot—this is a recommendation arising from the review—continues to give a notional idea of the two-party situation even before the final count is done. The state commission does the notional allocation of preferences on election night, and then no longer publishes that information after election night, so it is a lot harder for the media and the general community to get a picture of where the count in particular seats is going because of the way the information is published on the website.

**Mr J.M. Francis:** Unless you’re a scrutineer.

**Mr W.J. JOHNSTON:** Unless someone is a scrutineer, yes—one of the people inside the tent, member for Jandakot. I mean, we have enormous structures. But, again, if members look at the review, they will see that there is even some commentary about the way the count was conducted. I think that if the state commission, which is a very strong organisation—I do not want it to see this as a criticism of the state Electoral Commission—changed its procedures, it would be to the advantage of people in the state so that they could get a better picture of how the count is going as it is proceeding.

Another issue needs to be addressed. As I understand it, there was an 86 per cent turnout at the 2008 state general election, which is a bit lower than normal. Normally, we have about a 90 or 91 per cent turnout for elections in Western Australia; probably the fact that the election was held early contributed to that slightly lower turnout. But in some seats we have a very, very low turnout. In 2008 in the seat of Kimberley about 62 per cent of electors actually cast a vote in the election. I have looked at the seat of Kimberley over quite a number of elections, and it never gets above about a 66 per cent turnout. The seat of Pilbara also had quite a low turnout. As we get closer to the metropolitan area, that turnout goes up, and in the metropolitan area it is regularly well over 90 per cent.

We have a problem in Western Australia, and, quite frankly, an analysis of the federal results cannot be done in those seats in the Kimberley because of the way—properly—the commission does not want to tell people who votes and who does not vote, so only aggregates can be looked at. Because the aggregated federal seats are so much larger, we cannot actually tell what percentage of people are voting in federal elections in the Kimberley, but I imagine it is actually about the same—about that 62, 65 or 66 per cent mark. That is a problem because it means one-third of the electors in that district are not participating in the vote. That is wrong; we need to do something about that. One of the points that I raise on this issue is this question of mobile booths for remote Aboriginal communities. The same number of electors is casting ballots at these mobile booths in remote Aboriginal communities as is casting ballots at some of the fixed booths in the Wheatbelt. Quite frankly, I do not see why we are treating the remote Kimberley electors in a less favourable fashion than we are treating those in the Wheatbelt. That is no criticism of Wheatbelt voters—I think we are providing a proper service to them; I am just saying that I think we can do better in the Kimberley, the Pilbara and the remote areas in the eastern side of our state. It is not good enough that 38 per cent of registered voters in the Kimberley do not participate in the ballot. I know that the member for Pilbara has had a passionate interest in the question of enrolment in Indigenous communities. Again, I think the Western Australian Electoral Commission could do a better job on enrolment. Western Australia maintains a separate electoral roll. Victoria and Western Australia are the only two states that do that. However, the state does not deal with enrolments; that is done by the federal commission—the Australian Electoral Commission. Therefore, to a certain extent the state of Western Australia is dependent on the work of the commonwealth. Over the 10 years to 2007 in particular, the work done by the federal electoral commission, I feel, was inadequate to address the question of enrolments in remote communities. Perhaps there is work to be done by the state commission in helping with enrolments in remote communities, because that is an area in which we need to do better. Not only is there a low turnout, but also we need to carefully analyse that and allocate resources to ensure we get a higher turnout in the Kimberley. We also need to make a dedicated effort to ensure that people in remote communities and across regional Western Australia are on the roll.

There is also the question of harmonisation between the rolls, which has been discussed extensively in the report. There is a contrary view that says that it is to Western Australia's advantage to maintain a separate roll. Certainly one of the reasons there is a difference now is due to the process of enrolment. There is now a different procedure for going onto the federal roll compared with going onto the state roll, and that goes to the requirement to provide a driver's licence effectively to get onto the roll. People can get on the roll without a driver's licence, but that is the easiest way for someone to prove their identity to get on the electoral roll. That requirement does not exist for the state roll, so that if a person fills in the application form without a driver's licence number and gives it to the federal commission, the federal commission will not process it under the state roll but it will process the application and then hand it over to the state commission. The report on the review into the election highlights this increasing divergence. I believe before the last set of federal enrolment amendments that there was a difference of only 300 or 400 people between the two rolls; now I understand it is getting towards the thousands.

A review of the federal election is done by the federal Joint Standing Committee on Electoral Matters after every federal election. The federal commission is questioned and gives evidence to that committee and there are always questions about the issue of the integrity of the roll. The state commission has never asked nor said there was any need for these identification procedures. Quite frankly, it would be in the interests of democracy for the federal Parliament to bring the federal enrolment procedures back in line with the state enrolment, because that would then eliminate this increasing divergence between the two rolls. One of the problems for the federal commission is that, because there is a compulsion to enrol, the federal commission has an obligation to talk to

the people who are on our roll but who are not on the federal roll to ensure that they go on the federal roll. It is therefore a bit illogical the way things are happening at the moment.

I am agnostic about the question of whether there should be a single roll as there is in South Australia and New South Wales, where the federal roll is used at state elections. I am a bit agnostic on that, but there does need to be as small a difference as possible. If we go back to when the difference was only a couple of hundred, the lack of enrolment rights for prisoners was probably an explanation for the difference on the roll; whereas now the difference is getting very broad and needs to be addressed.

I will go on to one final issue and that is the question of one vote, one value legislation. We have now had one election under one vote, one value. The member for Jandakot and I, the member for Cannington, were very happy about that because the seats that we hold were created out of the redistribution. We have just had another redistribution in preparation for the next election. I think the Electoral Distribution Commissioners have got it pretty right. We can always argue about individual issues of one seat, one road, one suburb or another, but generally speaking I think that the Electoral Distribution Commissioners have done a good job. The fact that the issues debated in the process of introducing the one vote, one value legislation never come up any more in the general community shows that the community has endorsed the idea of one vote, one value. I do think, of course, that there is still a glaring problem with that—that is, the upper house.

**Mr J.M. Francis:** You were actually spared a call at one vote, one value when the member for Kimberley got elected on half the votes of the metropolitan area.

**Mr W.J. JOHNSTON:** The reason that system was introduced was that there was a strong argument in Western Australia, and the former Labor government accepted it, that people in the electorates very remote from Perth had a particular set of circumstances. Go and read the debate.

**Mr J.M. Francis:** If you didn't have it, you'd have a massive electoral allowance in regional Western Australia.

**Mr W.J. JOHNSTON:** That is right. There was a particular debate. Have a look at the comments of the member for the Mining and Pastoral Region and Leader of the Government in the upper house, Hon Norman Moore, about how hard it is to represent Assembly districts in those remote areas. I therefore think we all accept the need for this variation. The system was adopted from Queensland, which has the same procedure regarding large district allowances. That was not the issue I was going to raise, but I am happy to take that interjection from the member for Jandakot with no trouble at all.

I was going to raise the question of the upper house. I think that an odd number of people should be elected in each region of the upper house. I make the point that in the East Metropolitan Region the Labor Party got 2.9 quotas and had two people elected. In the South Metropolitan Region we got 2.95 quotas and had two people elected. On the other hand, the Liberal Party got fewer votes than the Labor Party and had three people elected in both regions. If there had been seven people elected to those regions, it would have resulted in three Labor members, three Liberal members and one Greens (WA) member. I think that would have been a more accurate representation of the desires of the community. It is not about trying to give the Labor Party an advantage or a disadvantage. It is just, given that 2.93 quotas were provided to the Labor Party, and I cannot remember but I think it was 2.6 or 2.5 for the Liberal Party, it was odd that the Labor Party ended up with two people elected and the Liberal Party ended up with three. That anomaly could be easily fixed. The other issue is the imbalance in country areas. I do not understand why there are six members in the Legislative Council representing the Agricultural Region when there are four members in the Legislative Assembly.

**Mr P. Papalia:** Are they less competent?

**Mr W.J. JOHNSTON:** There has to be some issue.

**Mr J.M. Francis:** You couldn't talk about senators from Tasmania, though, could you?

**Mr W.J. JOHNSTON:** We can talk about that, and I am happy to consider that issue. The member for Jandakot forgets that Tasmania has the smallest number of electors in federal seats in the Parliament. In fact the largest number of federal electors per seat is in the Australian Capital Territory, which has two seats. I think that is two and a half to nearly three times the number of electors compared with the five seats in Tasmania. That is because Tasmania as a federation state is guaranteed five federal members of Parliament. On a population share I think it is entitled to three but it gets five because it is a foundation state. However, we cannot defend one injustice by pointing out another injustice. The problem in Western Australia is that we have a system that delivers a disproportionate outcome, as the Agricultural Region in particular is way over-represented in the upper house. There is no proposal from the Labor Party to change any of that. In fact, the laws that I have just discussed were laws passed under a Labor government. I am not running away from the fact that those are the laws of the Labor Party brought into Parliament by Hon Jim McGinty, the former member for Fremantle, when he was the Minister

for Electoral Affairs. It is an issue on which I was consulted when I was secretary of the Labor Party. I said that the main game was the Assembly and if that was the deal being done, that was the deal he should do.

**Mr M. McGowan:** Wasn't it the Greens who demanded that?

**Mr W.J. JOHNSTON:** The Greens (WA) demanded the equal numbers—the six, not seven. It would appear that the Greens may have believed that they would win an extra seat in the Agricultural Region, but that did not come to pass.

I will just take three minutes to mention one other issue—that is, the question of further reform of campaign finances. The current disclosure of the limit under the federal act, which applies to political parties in Western Australia because we have the dual registration, is too high, at about \$11 000. We effectively know virtually nothing about who is funding the political parties. A \$1 500 disclosure arrangement is superior. I think the state act sets the limit at about \$1 700 at the moment, because it was indexed to inflation back to whenever the disclosure rules were made; therefore, I think the limit has gone up to about \$1 700 or \$1 800 now. I think it should be about \$1 500, but if someone said \$2 000, I would not have an argument with them.

Another couple of things need to be looked at. There are moves in other states by which political parties can no longer accept donations from property developers. In New South Wales, property developers can no longer make political donations. Property developers who operate in Western Australia and also operate in New South Wales will no longer make donations to political parties because of the New South Wales laws. That arose from a series of Independent Commission Against Corruption investigations in New South Wales about local councils. It is probably time that we looked at some form of reform in that area, because good planning decisions are not being made and bad planning decisions are being made because people do not want to be seen to be doing the “right thing” for organisations that have donated to political parties. Therefore, in New South Wales, those donations have been banned, and we should have a consideration of that.

The next aspect that is part of this financial reform is capping donations. I do not think capping donations works, because although the odd donor gives some extraordinary amount to a particular party, the reality is that most donations are quite modest, despite what might be seen in the media; they might be \$10 000, \$15 000 or \$20 000. There will not be a policy outcome for a donation of \$20 000; that is just ridiculous. There was a lot of controversy about one particular donation of \$5 000 when I was state secretary of the Labor Party. That was 1.3 per cent of the value of straight campaign donations that we received for that particular election campaign.

**Mr C.J. Barnett:** Don't you think that about \$5 000 would be a fair level of disclosure? I know you're talking about caps now.

**Mr W.J. JOHNSTON:** Premier, I am relaxed. I just think that \$11 000 is a bit ridiculous; I just think that there are so few —

**Mr C.J. Barnett:** Five's about right to me.

**Mr W.J. JOHNSTON:** When I was state secretary of the Labor Party, when it was a \$1 500 limit, I think we disclosed 60 or 70 transactions. The following year I disclosed seven transactions; it does not make any sense. If we want to have a completely opaque system, have a disclosure limit of \$11 000. If it is \$5 000, it will obviously be a significant improvement over the current arrangements; I would be quite relaxed about that. In the United States, of course, it is only a couple of hundred dollars. There is a different experience around the world. I will not die in the ditch. I would not accuse anybody of impropriety if they argued for a \$5 000 limit, Premier—I am quite relaxed about that—but I think the limit should be down, not up.

I am not personally in support of capping donations, although there are some very strong arguments for doing it; they do it in the United States. However, the problem with the United States is that instead of corporations giving the donation, all the employees give a donation and given that, effectively, even though it cannot be proved, we know that the donations are being reimbursed. It is actually possible to get around a donation cap and still end up with money politics, and anyone who thinks that the \$1 500 cap in the United States —

**Mr C.J. Barnett:** Do you think that could possibly happen within the union movement?

**Mr W.J. JOHNSTON:** It does not. Premier, there are a couple of things about that. Firstly, the union movement is basically irrelevant to the running of campaigns in terms of donations. There are one or two unions that give modest donations to our campaign, but they do not give much. They pay what is effectively a membership fee, and that is used for the operations of the Labor Party. People can have a look at our disclosure return and see what our expenditure is in the non-election years —

**Mr C.J. Barnett:** I'm actually agreeing with you; I'm agreeing with you that caps could work whether it is business or unions.

**Mr W.J. JOHNSTON:** Yes; I do not personally support caps, but I understand the concept. I refer to an idea from the United Kingdom that the former national secretary of the Labor Party, Tim Gartrell, was very strongly in favour of, and I think should be investigated—that is, the idea of an expenditure cap for election campaigns. The problem at the moment is that we have a race. Both sides want to raise as much money as they can. There is an incentive because we are talking about millions of dollars. There is always an incentive to get that extra little bit to pay for the last ad or the last direct mail-out, but if there was an expenditure cap, that incentive would disappear because the parties could not spend above that amount of money, and that would then take that arms race element out of election campaigns in Western Australia. I think that would be a good idea.

**Mr P.C. Tinley:** What about third party campaigns?

**Mr W.J. JOHNSTON:** The member for Willagee interjected about third party campaigns. That is actually a very important issue, and this next electoral cycle in the United States will be the first one in which third party campaigns will be a major issue because of the Supreme Court decision. Previously in America, corporations could not make political donations, but the Supreme Court ruled that they could run political campaigns as long as they were not endorsing a candidate. Therefore, that will be very interesting to see, because it is reckoned that of the \$70 million raised by Barack Obama in the last quarter in America, \$42 million is for his presidential campaign and \$28 million is for the non-political campaign. This will be interesting. It is truly an important issue, and I am not quite sure about it. As a result of the High Court of Australia decisions about people's right to free speech it will be very hard to work out a system to regulate that.

A final point I might mention to the Premier—he might want to give consideration to this—is that perhaps we should have a joint standing committee on electoral matters that only meets for the six months after an election to review it, in the same way that the Electoral Commission conducted the independent review after the 2008 election. It could be modelled on what happens in the federal arena in which there is a bipartisan group of people from both chambers who sit down and call in all participants in the election to see whether there are any particular lessons that can be learnt. The committee could look at issues like the low voter turnout in the Kimberly and the Pilbara, whether there is a particular spike in invalid votes, and allegations of fraud—whatever the issues happen to be. Those matters could all be reviewed. This would be a good way of thinking about how we conduct our elections here in Western Australia.

**MR D.A. TEMPLEMAN (Mandurah)** [3.07 pm]: I would like to make a brief contribution to the debate on the Electoral and Constitution Amendment Bill 2011. Any bill that seeks to amend our electoral system is obviously a very important bill and one that needs to be considered very carefully. The Electoral Act and our constitutional acts have been amended over time, and this bill, of course, proposes to set a fixed date for state general elections. The opposition, as has been highlighted by the member for Cannington, is supportive of this bill. Effectively, it means that on the passing and gazettal of this bill, Western Australians will go to the polls on 9 March 2013.

I wanted to make some brief comments on this bill as it relates to the recent redistribution process and highlight some issues of caution. From my perspective, and certainly from my electorate's perspective, we could have had a very interesting situation for seats like Mandurah or Dawesville had the Electoral Commission determined as it proposed. In the electoral review submission process, the Electoral Commission, as per the process, received submissions earlier this year from interested parties, including of course the political parties, a number of local government authorities and a number of individuals about how the electoral boundaries of the state should be drawn for the next state election. After that process, people had the opportunity to receive comments on the submissions; that is, anyone who had made a submission to the electoral boundary process could have their submission commented on. The Office of the Electoral Distribution Commissioners then issued proposed boundaries. Again, there was an opportunity for both public and stakeholder interest. In the last part of the process the electoral commissioners proposed, in relation to the Mandurah and Dawesville seats, the addition of two southern suburbs of the City of Rockingham to the seat of Mandurah. As everyone knows and as I remind everyone in this house consistently, the metropolitan region boundary—as determined by the Planning and Development Act 2005—with what is known as the Peel region by our determination, but the South West Region by the Electoral Act, is the City of Rockingham's southern boundary and the City of Mandurah's northern boundary.

The commissioners proposed to take two suburbs with a population of about 2 000 electors from the South Metropolitan Region and place them into the seat of Mandurah. Essentially, I did not necessarily oppose that as such, because when we talk to the people who live in those two southern suburbs of the City of Rockingham, we hear many of them comment on the common interests they have with the City of Mandurah in accessing facilities, schooling, employment et cetera.

**Mr C.J. Barnett:** Which suburbs are they?

**Mr D.A. TEMPLEMAN:** Golden Bay and Singleton are the two southern suburbs of Rockingham. The problem was that the commissioners proposed the addition of those two suburbs and then made a further

decision, which was an arbitrary decision made without considering the implications. The commissioners said that by adding two metropolitan localities to the City of Mandurah, they would then shift the whole seat into the South Metropolitan Region. My argument has always been that the metropolitan region as per the Planning and Development Act, an act of Parliament, has a clearly defined boundary and it does not include the municipality of Mandurah. Therefore, the proposal to add two localities from the metropolitan area and then to topple into the metropolitan area the balance of the seat of Mandurah—over 90 per cent—which sits within the South West Region under the metropolitan region scheme, was dangerous for two reasons. One, it was not logical based on the metropolitan region scheme boundary. Two, the commissioners proposed to leave Dawesville, which is the other half of the City of Mandurah, within the South West Region. Had the electoral commissioners determined the boundaries as per their proposal, half the municipality of Mandurah would have sat in the South Metropolitan Region and the other half—those areas comprising the member for Dawesville’s electorate, which includes areas of Mandurah Central and the southern localities of Halls Head, Falcon and Dawesville—would have sat in the South West Region. To me, the effective splitting in half of the City of Mandurah was very illogical. My argument is that if there is to be a debate—I have raised this on a number of occasions—about whether Mandurah is regional or metropolitan, it is not ultimately up to electoral commissioners to make that determination, as was proposed.

Some very good submissions were made by members of Parliament, the City of Mandurah and some of the political parties, including mine. Thankfully, the commissioners understood. We will probably have a problem in the future with where the City of Mandurah sits. I have only ever argued that before an entity makes an arbitrary decision we, as a community—people like me who live there—should have the capacity and the ability to be part of that debate. We should be invited to participate in that debate. One of the problems with the process was that the electoral commissioners gave no real indication that they were thinking of doing this, particularly of putting Mandurah in the South Metropolitan Region, until that final part of the process when their proposal was advertised. That was not canvassed at all beforehand. All that was canvassed was where populations might come from to constitute the seat. I particularly say this to the Premier and I invite members and ministers to consult with the local authorities in the Mandurah area before any decision is made to put us into the metropolitan region. I know that the Premier has said in this place that he considers us to be in the outer metropolitan area.

**Mr C.J. Barnett:** You are on the public rail system.

**Mr D.A. TEMPLEMAN:** Yes, that is how you justify it.

**Mr C.J. Barnett:** I take your point and I know what you are saying, but I think most people regard Mandurah as part of the metropolitan system in a practical day-to-day sense.

**Mr D.A. TEMPLEMAN:** I would say that we need to have that debate, because the arbitrary view that we are metro because we have a rail link is not consistent with other major metropolitan cities in Australia.

**Mr C.J. Barnett:** No, but the way the statistical division of the metropolitan area is defined, it includes some rural areas, unlike the way a US city may be defined.

**Mr D.A. TEMPLEMAN:** Point taken, but if we look in the Australian context, there is very strong argument from regional cities that are located within 100-kilometre radii of capital cities that they are certainly not suburbs of capital cities. There are examples of that in Australia.

Through very careful consideration of the submissions, the commissioners had the good sense to recognise the peculiarities, I suppose we could say, of addressing the boundary issue for the seats of Mandurah and Dawesville. I simply see a problem whereby the Electoral Act in this case could have been seen to override the Planning and Development Act, which determines the metropolitan area. Effectively, that is what would have happened. The electoral commissioners, through the Electoral Act, would have arbitrarily put the seat of Mandurah into the South Metropolitan Region without any consideration of the act that determines what is metropolitan. Until the government brings in the bill to amend the metropolitan region scheme and to say that we will now gazette the municipality of Mandurah under the metropolitan region scheme, I will continue to argue in this place that Mandurah is a regional city and is not part of the metropolitan area. It is as simple as that. I get lampooned by people on my side about that, as well as by people on the Premier’s side. However, if we look at the act of Parliament that determines what is metro and what is not, we can see that Mandurah is not in the metropolitan area.

**Mr C.J. Barnett:** I think there is a distinction there. If you describe “Perth city”, most people would take the central city and the surrounding suburbs. I agree with you; Mandurah is a regional city, it is not part of Perth city, but because of the way the metropolitan area has been defined, there are other towns that fall within it. To me it’s not of great consequence. I agree with you in the sense that I regard Mandurah as a regional city, but I think it is part of the broader metropolitan area complex, and transport planning and other issues bring it all in.

**Mr D.A. TEMPLEMAN:** To be honest, time goes on and the population grows. The planning document Directions 2031 highlights Peel as being a major corridor of population growth, and I think we have to have this debate internally, down in Mandurah. It is true that as the population of Perth grows, a significant proportion of that growth will be down in our area; I agree with the Premier. All I am asking is, please, before an arbitrary decision is made about our future, our identity and how we see ourselves—I am not saying that the Premier is making that decision—we should have the opportunity to be consulted on that.

I congratulate the Electoral Commission on its final determination. I would not have had a problem if it had done it the other way, although I think it would have caused a bit of a problem. If it had included Golden Bay and Singleton in Mandurah, but kept us in the South West, there may not have been a great problem. The argument would be that less than 10 per cent of the population sits outside the region.

**Mr P. Papalia** interjected.

**Mr D.A. TEMPLEMAN:** It could be, but I am going back to the boundary issue of what determines “metropolitan”.

If in future years I am lucky enough to be in this place and it is again decided to include Golden Bay and Singleton in Mandurah, they are good communities and, in fact, they could do with some royalties for regions support! We need a new rail station north of Mandurah and a police station to replace the one that was taken away from the people of Port Kennedy, Golden Bay and Singleton by the current government, but that is for another debate.

**Mr W.J. Johnston:** The difficulty with including Golden Bay and Singleton in Mandurah, and Mandurah in the South West, is that then Golden Bay and Singleton will be voting in the same upper house region as Albany, which really doesn't make any sense. My view—I know the commissioner is here—is that you can't have a boundary crossing the MRSA boundary.

**Mr D.A. TEMPLEMAN:** In the Electoral Commissioner's report, it is highlighted that there are difficulties in dealing with Mandurah. All I would say to the commission is that we in Mandurah have a very strong identity as a regional city, and we will fiercely protect our regional status until such time as a government of any persuasion determines that we are no longer within a regional boundary such as the South West and that we are, in fact, on the boundary of the metropolitan region.

**MR J.M. FRANCIS (Jandakot)** [3.53 pm]: I just have two points I want to make on the Electoral and Constitution Amendment Bill 2011. The first is the issue of fixed four-year term elections. I am a reluctant convert to the idea; I have always been a bit concerned that if we fixed elections for four years, we could be locked in and stuck with a government that the people do not really want, and there would be no trigger to do anything about it. However, having seen over the years political parties of all persuasions throughout Australia, at both state and federal levels, abuse the ability to call an election when they want for their own political advantage, I know how frustrating that can be for voters, and I guess that I am now erring on the side that a fixed term is definitely the way to go; it certainly provides clarity for the people about when elections are going to be held.

The other issue I want to briefly touch on in the time remaining is the integrity of the electoral roll. I think it is very important that we discuss these kinds of things—I am glad the member for Cannington showed some guidance and leeway in this debate—particularly abuse of the electoral roll and how we protect the privacy of the information that is contained on the roll. Do we bother at all, or do we just make it part of the public domain in its electronic format? This matter came to light last year, and I ended up writing to the Electoral Commissioner about it. Dave Kelly was at that stage the secretary of the then Liquor, Hospitality and Miscellaneous Union, the missos. He wrote a letter on LHMU letterhead to every single person in my electorate, using the state electoral roll. I know it was the state roll rather than the federal roll, because there were certain instances, such as my wife's maiden name, that were not in common with the federal roll; I know that the federal roll had one version of her name on it and the state roll had another. I looked at a number of samples and quite a few of my constituents rang up, quite angry that this information had been disclosed. I wrote to the Electoral Commissioner about this particular matter and said that none of the constituents who had contacted me could account for how the LHMU may have obtained their details, other than through the use of the electoral roll. I said that they were concerned that their personal information had come into the possession of the LHMU without their knowledge or consent. My understanding is that the use of the electoral roll is restricted by the Electoral Act 1907 and that electronic copies of the roll may be provided only to parliamentary parties, members of Parliament, government organisations or other organisations through the exercise of the commissioner's discretion under section 25B. Section 25E provides that parliamentary parties or members of Parliament may disclose information on the electoral roll only to other informational bodies for purposes permitted by section 25D, none of which appeared relevant to me in the correspondence sent out by Mr Dave Kelly. I had a conversation with the commissioner and, based on that conversation, I understand that he did not provide the

LHMU with a copy of the electoral roll through the exercise of his discretion. Clearly, the information in electronic format was provided by either the secretary of the Labor Party or a Labor Party MLC—or any MLC in the area; it did not have to be a Labor Party MLC. The problem, of course, comes down to a question of the integrity of the roll and the protection of the privacy of people's information. If it is good enough to give that information to a union in what is effectively a misuse for the purpose of campaigning for its own benefit, what is to stop someone from selling that information for commercial marketing gain? Absolutely nothing. In fact, the contents of the letter were so repulsive that I would argue it had absolutely nothing to do with state politics.

This went on, and I know that the commissioner referred it to the police, eventually, for investigation, and that at the end of the day, no-one 'fessed up as to how they got the roll or to giving someone the roll, and the police could not proceed with the investigation. This is an important issue, and I think that if we are serious about protecting the privacy of the people of Western Australia, we should all take a stand and say that misuse of the electoral roll by Dave Kelly and the LHMU was wrong and that the roll should be restricted to use by political parties. I am disappointed that no-one could actually find out how he got hold of the roll, and I am disappointed that he did not cooperate.

**Mr W.J. Johnston:** The police were unable to find evidence that he used —

**Mr J.M. FRANCIS:** No, where it came from; it takes two people. I had lengthy conversations with the police who were investigating this matter at the time. There was not enough evidence, and I accept that, but I know what direct mail looks like and I know when it has been generated by an electoral roll, and this had been generated by the state electoral roll for the seat of Jandakot. I can promise the house that I did not provide Dave Kelly with an electronic copy of my electoral roll from our feedback database! It is important that we address these issues. The fines for misuse are fairly minor anyway, but I would like some guidance on whether the Parliament is going to continue to allow discretionary releasing of electronic copies of the electoral roll, or if we are going to take a stand and say that this is not right, and that it is important and imperative that people's private data is restricted to those authorised to use it. If it is misused, someone should pay the price.

**MR P. PAPALIA (Warnbro)** [3.59 pm]: I make a brief comment on the Electoral and Constitution Amendment Bill 2011. I support fixed terms; I think it would be a good advance for Western Australia to have fixed terms. I wanted to comment on some of the contributions from the member for Mandurah. Both the electorates of Mandurah and Warnbro were impacted by the proposed changes to the electoral boundaries. My observation would be, not to contradict the member for Mandurah necessarily, that I think the greatest flaw with the way boundaries are determined is that the data utilised to frame the new boundaries or any proposed changes is old data. In outer metropolitan areas such as the seat of Warnbro or in seats to the north of the city—in northern parts of Mandurah for that matter—the growth in population is so rapid that the data utilised is incredibly outdated. One of the comments made by the member for Mandurah was that the suburbs of Golden Bay and Singleton, for instance, would be appropriate for a shift.

Debate adjourned, pursuant to standing orders.