ELECTORAL AMENDMENT (FINANCE AND OTHER MATTERS) BILL 2023

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 123: Sections 175LB and 175LC replaced —

Debate was interrupted after the clause had been partly considered.

Ms M.J. DAVIES: I do not recall the question that I asked before the break, so while the Attorney General is settling in with his advisers, I will move to proposed section 175LC, "Registered political party opting in and out of receiving higher reimbursement amount" of $4.40.

Can the Attorney General advise whether this proposed section was a recommendation from the Electoral Commission during his consultation or whether this was a government decision, and perhaps provide some context about why it has been included?

Mr J.R. QUIGLEY: Certainly. It was a government decision and it was based upon the fact that we did not want to give parties in this chamber or in the other place of Parliament the opportunity to attack the government for raising the amount to $4.40 and then, just before the election, elect to go into the scheme—in other words, criticise it over the next 18 months and then take the money. That sort of hypocrisy was at the forefront of my mind when I set this particular scheme. Parties will have 28 days to make up their mind about whether they want to be part of it. Later on, if they get criticised by their constituents or members, they can always opt out and go back to $2.26, but they will not, for the next 18 months, be able to criticise the government and then, at the last minute, change their mind and say that they will take the money.

Ms M.J. DAVIES: I thank the Attorney General; his frankness is welcome. If a party misses the opt-in period, will there be another opportunity prior to the election to do so? What will happen if a new party comes in? Will only those parties that are in existence now be subject to the 28-day period? Is there a clause that will allow current parties that do not opt in now to opt in later?

Mr J.R. QUIGLEY: I just have to find the new provision that is further in. No; it will be 28 days from the registration of the new party. The party will be in the same position as all of us. I am just trying to make it fair.

Ms M.J. DAVIES: Thank you for that clarification. Can the Attorney General advise what the request to be lodged will look like? It says that if the party opts in, a request must be made. Will there be a prescribed form? Will it be provided by the Electoral Commission or will it simply be a matter of the parties writing to the Electoral Commissioner and saying that they wish to opt in?

Mr J.R. QUIGLEY: To make sure that it is binding on the party, it will be an approved form. The member would not want any of her other state executives writing in on behalf of the party. It will be an approved form, with the authorised officer signing the form.

Ms M.J. DAVIES: Proposed section 175LCB, "Publishing information about who has opted in to receive higher reimbursement amount", to my reading, means that the Electoral Commissioner will have to publish the names of registered political parties and non-political parties that opt in. I think that the questions I have here probably go to the frank response that the Attorney General provided in answer to the rationale for opting in.

Mr J.R. Quigley: I wouldn't think that was your party!

Ms M.J. DAVIES: Let us say that the government has included political insurance in the legislation in the hope that the opposition will be unable to rail against public funding and then opt in! For the benefit of *Hansard* and those reading further down the track, I say that as an opposition we have no possibility of amending this bill. It will go through however it goes through. The legislation that comes out will be significantly more complex. We have already spoken about that and the disclosure system and management of candidate and party expenditure. There is a rationale for the $4.40, but it seems an interesting use of legislation to essentially thwart the opposition's ability or willingness to be able to raise those issues. I understand why it is in there; it is in there to protect the government so that all of us are tarred with the same brush, as it were, when we talk about political funding. Regardless of our position one way or the other, we will be subject to the provisions of this act because the government has the numbers to put it through. That is probably more of a comment than a question. I am happy to move to the next clause, unless the member for Cottesloe has any questions on this clause.

Dr D.J. HONEY: I have a further question. I am still trying to understand the logic of making it opt out versus opt in. There could be the same period of time. I wonder whether any other state has this sort of mechanism. Does a party have to claim opt out within a certain period of time, and if it does not, does that stick?

Mr J.R. QUIGLEY: I drew the legislation this way to say to everybody, "If you want the money, be honest about it—opt in" They do not have to take it and opt in. It is not a matter of forcing it upon parties. The opposition parties

can criticise the government for raising the reimbursement to $4.40 forever. A party might be in a better position to do that if it does not opt in. It is a matter for the party. We are trying to make it fair for everybody.

Dr D.J. HONEY: There is nothing dishonest or sneaky, if you like, about someone accepting money that is there. It just seems that it is sort of set up as almost a deliberate political wedge, rather than being a simple mechanism. I would understand if it was opt out and parties automatically got it. In every other state and federally, I understand that the party simply gets the money that is allocated for each vote. That is how it has worked in this state until now. In every other state, parties get the allocated amount of money for each vote automatically. Why would our legislation not simply be parallel? It seems to be a convoluted mechanism. The legislation could simply have an opt-out clause. It would be quite easy for parties to do that, and then they could live with that decision. Otherwise, the party would simply receive the money that is allocated for each vote.

As the minister knows, we on this side have not debated the amount of money allocated. I have said publicly that I think that donations, particularly certain types, can have a very corrosive influence on our whole Parliament.

The ACTING SPEAKER (Ali Kent): Is there a question, member for Cottesloe?

Dr D.J. HONEY: Yes. I asked a question at the start. I have got my minutes to talk.

Why did we not just stick with a situation that, as I understand it, would be the same as applies with other states and federally—that is, the party simply receives that amount and there could be a simple mechanism to say, "If you want to opt out, you can"?

Mr J.R. QUIGLEY: They can opt out of this. They can even not take the money and say, "We're out!", or if they decide to opt in, they can later decide to opt out. I am just trying to be fair. I do not know what the issue is.

Clause put and passed.

Clauses 124 to 127 put and passed.

Clause 128: Part VI Division 2B inserted —

Mr J.R. QUIGLEY: I move —

Page 247, line 24 — To delete "175LR." and substitute —

175LR, 175LS, 175LT, 175LU or 175LV.

Ms M.J. DAVIES: Perhaps the Attorney General would like to provide some context and explanation as to the amendments moved from the notice paper.

Mr J.R. QUIGLEY: Certainly. After the preparation of the bill, we were advised by Parliamentary Counsel's Office that it had missed out a couple of terminating events and what happens to the money in the state campaign account after the terminating event. As the member knows from the legislation, a terminating event might be someone saying, "That's it. I am not standing again. I've had my go." It is about what will happen to the money in the state campaign account. Other terminating events had been left out such as a group terminating event, which may include a group standing in the Council saying that it no longer wanted to be a group and the group is finished; a party terminating event in which a party may decide to fold or never run again and just wind up; or a third-party campaigner terminating event. These proposed sections were omitted when the bill was drafted, but the principle is the same. It is just about what happens when there is a terminating event. PCO identified a couple of terminating events that it had left out when pulling the legislation together.

Ms M.J. DAVIES: Thank you, Attorney General. Should we accept the amendment and then debate the full clause? That would be preferable.

Amendment put and passed.

Ms M.J. DAVIES: Thank you, Attorney General. I appreciate the clarification of the amendments on the notice paper to the bill. As we have briefly spoken to this clause of the bill, it deals with state campaign accounts. This is a new element to our electoral finance system for Western Australia. It is not novel, because other states have it. I am most familiar with the situation in New South Wales, but I understand that other state jurisdictions utilise state campaign accounts. I can see some of the technical challenges we will have, but I understand the intent and why they have been included to monitor the expenditure of political parties. We have just come off clause 123, which is about accepting or not accepting the additional $4.40.

Mr J.R. Quigley: The additional $2.26.

Ms M.J. DAVIES: Sorry, the additional $2.26 to $4.40—whatever it is. I do not think that any political party will be in a position not to opt in. We have not made the decision, but I cannot see that we will not because of the additional administrative burden that will come about as a result of some of the changes that will be made. To my mind, this will be how it is rolled out and the nitty-gritty of how it will work, effectively.

The Attorney General's explanatory memorandum states that every state except WA and Tasmania has commenced using campaign accounts. Could the Attorney General perhaps speak about some of the benefits of campaign accounts put forward by the Western Australian Electoral Commission and other electoral commissions during consultation, as opposed to other methods of tracking expenditure that might have been considered?

Mr J.R. QUIGLEY: The member is right in saying that other jurisdictions have state campaign accounts. In fact, every jurisdiction, apart from Western Australia and the smallest state of Tasmania, requires participants to establish state campaign accounts. It is an important mechanism for political finance transparency and accountability, and we have modelled our provisions on the Victorian provisions.

There will also be provisions for the transfer of residual funds from the state campaign account for terminating events. We have just dealt with that in the preceding proposed sections. If donations are given for a political purpose, the donors can have confidence that the residual funds in the campaign account will not be applied to illegitimate purposes. In the circumstances of a terminating event, the responsible person will need to determine an appropriate charity. We have had history in Western Australia of campaign donations being used for purposes other than selecting a member. By putting it in the state campaign account, it will be easy for the commission to audit the expenditure and make sure that no-one is overspending; that can be audited.

Donors will have confidence that what they are donating will go into a state campaign account for the election of members. In the unforeseeable circumstance that the Nationals WA collides with a terminating event, its donors will know that the residual money will not go to members but to a charity. Once again, we are trying to make this as transparent and as fair as possible to all participants, including the donors.

Ms M.J. DAVIES: I think we will come to the terminating events and work through the various proposed sections of this clause. Will the state campaign account be one account or could each candidate have a state campaign account? Is it envisaged that only the party will have a state campaign account? At the moment, as the member for Central Wheatbelt, I have a campaign account that is held by my branch or my electorate council, and donations are paid into that. Under the new legislation, is it envisaged that a political party will have only one state campaign account or it will be slightly different for an independent?

Mr J.R. QUIGLEY: It will be a state campaign account. It will not be able to include any federal funds or funds donated for a federal election; it will only be for a state campaign. Did I miss something? The Solicitor-General just texted me, saying that he is back in Western Australia, but we have moved on. I am sorry that I distracted myself by saying he is not needed at the moment.

Ms M.J. Davies: That is okay. The question was: will there be just one state campaign account or will candidates be able to have a state campaign account?

Mr J.R. QUIGLEY: Yes. There will be just one state campaign account for each party. I will give the member an example from our party. Some time ago, we moved to a centralised account. Each separate campaign has a ledger, but the state office controls my campaign. All receipts are issued by the party office and not by my office. It all goes into an account; it is labelled Butler, Baldivis and so forth, so we can identify what we are holding, but that is an internal mechanism not required by this legislation. The party will just have to prove that it does not overspend the cap in any particular district. When it is paying its bills, it will be able to allocate them to a particular district, but it will have just one campaign account.

Ms M.J. DAVIES: Thank you, Attorney General. I understand that the Labor Party has centralised accounts, but the National Party has a combination, so that will be a significant change for our organisation. Although the work will be difficult, I think that our state director will feel happier about having a line of sight on expenditure. I expect that it will come with significant administrative challenges for a party of our size.

Can the account be a general account that already exists? Will it need to be a new account? There is no suggestion that there will be restrictions on the type of account; it will just need to be a bank account with a financial institution.

Mr J.R. QUIGLEY: According to the proposed section 175LN to be inserted, it will have to be established at an authorised deposit-taking institution within a period of five business days "after the first participation day in relation to the political entity". Once the political entity gets going, it must have a state campaign account. It must be kept during the period in which the political entity engages in incurring electoral expenses. It must maintain the account during that period and must notify the Electoral Commissioner in a written notice, approved by the commission, within five business days after the first participation day of a political entity. The notice must state that the political entity has a state campaign account and that it can be used only for state campaigning purposes, and it must give the name of the authorised deposit-taking institution—the bank—and the account details required in the approved form.

We are largely copying the Victorian model for state campaign accounts.

Ms M.J. DAVIES: Thank you. Perhaps the Attorney General has shifted to 175LN.

I go to 175LO, "Money in State campaign accounts". Money is already held in political party campaign accounts. How will that be accounted for after 1 July, once the act is passed and commences? Money has already been raised; in my campaign account, I already have funds that were unexpended or were raised since the last election. If I want to put them into the designated ledger under the state campaign account in the central campaign, how do I account for them? If it is going into the campaign account, will we have to list all the incoming amounts from the bank account they were taken from so there will be visibility about where funding came from?

Mr J.R. QUIGLEY: The member would have already made disclosures in relation to those funds. But from 1 July, what is in the member's campaign account can be paid straight into the state campaign account so there will be no impediment—but she would want to do that before 1 July or whenever we get going.

Ms M.J. DAVIES: I want to be absolutely clear. Proposed section 175LO(2) states —

> The following may be paid into a State campaign account of a political entity —
>
> (a) a political contribution;
>
> (b) a subscription …
>
> (c) income that consists of a payment received under Division 2A;
>
> (d) other income received by the political entity;
>
> (e) … interest …
>
> (f) a payment of a kind determined by the Electoral Commissioner under subsection (5) as a payment that may be paid into a State campaign account.

My Central Wheatbelt electorate campaign already exists. When the new state campaign account is created, can I put that in and would it show up as a donation from Mia Davies because I have already accounted for that previously? We are not going to start with a zero-sum game as candidates or political parties.

Mr J.R. QUIGLEY: It does not matter how much money the member has now and it does not matter how much money is put into the state campaign account—so long as it is lawful.

Ms M.J. Davies: Yes, I can assure you it's all lawful; I have to think after 15 years!

Mr J.R. QUIGLEY: It does not matter, member, just so long as no expenses are paid other than from the state campaign account. The member can put her money into the state campaign account, but she will not be able after 1 July to pay any campaign expenses out of her existing account. It will have to be paid out of the state campaign account so that her electoral expenses can be audited.

Ms M.J. DAVIES: That is expenditure outside the prescribed period, not just the election campaign spend. That is for all time—pre the writs and also the prescribed period between the writs and the closing of the polls.

Mr J.R. QUIGLEY: In the member's annual return, which she already does, she would have to report on all electoral expenditure, and keep a close on eye on it during the capped period.

Dr D.J. HONEY: As a point of clarification, if a branch maintained a separate account, I assume that if it was going to use any of that money for campaign expenditure, it would have to be a separate registered entity, if you like. Could it be a separate registered entity if it was going to have a separate campaign account or must all affiliated branches comply with the state requirement?

Mr J.R. QUIGLEY: It depends on whether it is set up as an associated entity separately. In other words, if it does not come under party rules or any authority of the party, and it is an associated entity that the Liberal Party cannot control, then it will have to have its own state campaign account. If it is a Cottesloe branch that is affiliated with the member's party, it must go into the state campaign account and expenditure must come out of the state campaign account.

Dr D.J. HONEY: That is very clear. If it is an entity controlled by the party—our branches are and it is the same with the Nationals WA—it is any expenditure. Will they be able to receive donations into another account and keep that account separately?

Mr J.R. QUIGLEY: Let us take the 500 Club, for example, which is an associated entity. It could run its own state campaign account, but it will come under the whole party cap on expenditure.

Dr D.J. Honey: It is not an affiliated body with the Liberal Party or the National Party; it is a completely separate organisation.

Mr J.R. QUIGLEY: It will be a third-party campaigner if it is not directing funds to the member's party. If the Liberal 500 Club controls its own destiny and does not come under any rules of the Liberal Party, it would register as a third-party campaigner, create its own state campaign account and report on all donations over the limit. It would run as a third-party campaigner so long as it is not donating.

Dr D.J. HONEY: Just to explain, the 500 Club does not engage in any campaigns directly. It is a left-of-centre group that raises funds and disperses those funds to parties at election time. It gives funds to the National Party and the Liberal Party and it could give funds to other parties if it chose to.

Ms M.J. Davies interjected.

Dr D.J. HONEY: As long as they labelled themselves correctly.

In that case, would it be prevented from disbursing funds to the Liberal Party, the National Party or another right-of-centre candidate? I would have thought that as long as it records the source of the funds—it will have to have an account—and the Liberal Party records any funds donated to the Liberal Party that are used for the campaign, it would fall under the campaign cap. Can the minister please clarify that? That would be a fundamental issue for us.

Mr J.R. QUIGLEY: I am not privy of course to the constitution of the 500 Club or the Liberal Party for that matter so I cannot give a legal opinion about the interplay of the rules of each organisation under their respective constitutions. I can say that if, for example, a group like the Liberal 500 Club raised funds and the party did not have control over the management of that organisation, the group would, firstly, have to register as a third-party campaigner. It would have to be registered. Secondly, it would have to start a campaign account within five days. Any moneys that it paid or donated at that stage to other groups, be it to an individual candidate or to the party administration, would have to come out of the state campaign account. All the donations into the 500 Club's state campaign account over and above the amount that we accepted the member's amendment on would have to be disclosed by that organisation. Of course, either the recipient would have to be an individual candidate or the Liberal Party would have to disclose the donation.

Dr D.J. HONEY: Let us imagine that the 500 Club is flush with funds and decides to donate $1 million to the Nationals WA. It is not spending that $1 million on the campaign; it is simply donating $1 million to the National Party, and the National Party then decides that it will disburse those funds on the election campaign, which would obviously be subject to the campaign limit. Would that be prevented under this legislation?

Mr J.R. QUIGLEY: Yes, because that would be a gift by the 500 Club to the organisation. That is covered by the definition of "political contribution", which means an affiliate fee, a compulsory party levy or a gift. That political contribution would be a gift.

Dr D.J. HONEY: Would there be any limit on that amount? Would that be limited by a cap, given that the 500 Club was not spending it on an election campaign but was simply transferring it to another body that would then spend it on the campaign?

Mr J.R. QUIGLEY: It would still be a political contribution—a donation. We made a decision not to cap donations but to hit it at the other end and cap the expenditure. If you have $1 million, there is no limit. The money could be transferred out of the state campaign account to another organisation that could put the money into its state campaign account. I think the member for Central Wheatbelt has another problem.

Ms M.J. DAVIES: I want to clarify that because organisations like the 500 Club raise funds for political campaigns, but they also provide funding for general party administration, and have done so in the past. The provision of funding is entirely at their discretion. If the 500 Club raised funds and decided to sustain the administration of the National Party, the Liberal Party or another party on the conservative side of politics, that money would have to be put into a state campaign account. Would that mean that the money could not be spent on party administration for just general administration? There are expenses that relate to general administration that are not election related.

Mr J.R. QUIGLEY: Sure. It does not have to be put into the state campaign account. The party could put it into whatever it likes. But if it wants to spend any of it on campaigning, it must transfer all or part of it into the state campaign account. We are not trying to tether or smother parties from receiving funding.

Ms M.J. DAVIES: I have caught up! We can receive a donation as a political party from anywhere for whatever purpose and declare it through the annual return and decide to put it into the state campaign account. It can come in and go into the general administration account and, come election time, if we want to spend that money on the election, it must be put into the campaign account so that it would have to exit the state campaign account. Is that correct?

Mr J.R. QUIGLEY: That is right. I think we dealt with proposed section 175LO.

Ms M.J. Davies: Not yet. That is within this clause. That is where we are at right now.

Mr J.R. QUIGLEY: Right. Proposed section 175LO(2) states —

> The following may be paid into a State campaign account …

It is permissive. It may be paid into the state campaign account if it is to be used for the campaign.

Ms M.J. DAVIES: Thank you. If the funds are in the campaign account, presumably, the party will maximise its capped expenditure. What will happen if the party decides that it needs to shift some of that funding back into general administration or that it wants to spend the money on something else? Can the money come out of the account?

Mr J.R. QUIGLEY: No. It is to be spent only on political campaigning.

Ms M.J. Davies: So you have to be careful what you put into your account.

Mr J.R. QUIGLEY: If the party has lashings of it, yes. Bear in mind the previous clauses that we discussed about terminating events. The money cannot be transferred back to admin or whatever. When it is in the campaign account, it is locked down for campaigning.

Ms M.J. DAVIES: Does the Attorney General envisage that a political party will have donations coming in and then the party will transfer only the minimum amount of funds into the campaign account? The party would not want to be left with funds at the end of the campaign that it could not access for any other purpose. I do not know how the Labor Party works, but we are generally sailing pretty close to the wind.

Dr D.J. Honey interjected.

Ms M.J. DAVIES: Absolutely. Being able to manage those ebbs and flows, particularly around an election campaign, means that we account for all the money but that sometimes it is shifted around the accounts that we have. It is not illegal. We just try to make sure that we are maintaining payments to vendors while we are waiting for the electoral funding to come in, because it takes some time for the Electoral Commission to assess and then provide those funds. I do not think I am giving away state secrets when I say that we do not have rolling excesses to hold ourselves over in those periods. Just so we are absolutely clear: once it is in the campaign account, she ain't coming back out, so we have to be really careful about the funds that go into the campaign account. It might be a quick in and out, which will mean there will be visibility for the Western Australian Electoral Commission to see what has been spent, but there will necessarily be an administration account behind that that can provide the pool of funds that will be captured in the return anyway, so there will still be visibility there.

Mr J.R. QUIGLEY: The answer to the member's question is to be found in proposed section 175LP(2) on page 247, which states —

> The responsible person for a political entity must ensure that the political entity does not make a payment out of the political entity's State campaign account unless the payment is —
>
> (a) for electoral expenditure incurred in relation to an election by the political entity;

Or unless it is a terminating event.

Dr D.J. HONEY: It is not uncommon, and it certainly happened in the time I have been involved with the Liberal Party, that parties operate a campaign from an overdraft. We effectively borrow money from the bank and that money is used to spend on the campaign, and then at the end of the campaign we have to —

Mr J.R. Quigley: Used for?

Dr D.J. HONEY: It is used for campaign expenses. We use that money.

Is public money paid per vote able to be paid into a general party account or must it be paid directly into the campaign account?

Mr J.R. QUIGLEY: Firstly, I think the member's question might have had two propositions. One, if a party wants to use the funds raised through debt, they have to pour them into the state campaign account. The second part of the member's question was about —

Dr D.J. Honey: It was about public funding, where is that money —

Mr J.R. QUIGLEY: Public funds just go into the general account. We have discussed before that that part of fundraising is to cover extras.

Ms M.J. DAVIES: I have a question about this and then about the terminating event, and we can move on.

Is the information in the accounts to be audited in the form of the provision of a bank statement with accompanying receipts or invoices? What level of audit and proof is required to show the ins and outs of the state campaign account?

Mr J.R. QUIGLEY: It is a bit like the tax department. It is not as gruesome, I hope!

Ms M.J. Davies: That is your interpretation!

Mr J.R. QUIGLEY: Quite, member! I take the member's point!

When we claim an expense in our tax return, we just put it in there. We keep the documents in case we are audited but we do not anticipate that anyone will attach documents to their return. Proposed section 175LQ(1)(b) reads —

(i) a report for the financial year prepared by an auditor registered under the *Corporations Act 2001* (Commonwealth) Part 9.2 in relation to the accuracy of the matters stated in the document referred to in paragraph (a); or

(ii) a document for the financial year approved by the Electoral Commissioner under subsection (2) in relation to the accuracy of the matters stated in the document referred to in paragraph (a).

That provides the audit of the state campaign account. There would be a declaration form that is returned in a manner that is accurate and honest.

Ms M.J. DAVIES: Does the minister envisage that that prescribed document referred to in 175LQ(1)(b)(ii) will be available prior to the election and that the state directors or party agents understand what will be required of them?

Mr J.R. QUIGLEY: We have not prepared regulations in advance of the passage of the legislation, for obvious reasons, in case something comes up that we have to include, but they will definitely all be available.

Dr D.J. HONEY: I refer to proposed section 175LO on page 245. Could the minister please explain what subsection (1) means? It seems to talk to itself. Could the minister please explain the point of proposed section 175LO(1)?

Mr J.R. QUIGLEY: If we go to proposed section 175LO(2) first, it is permissive of what may be paid into the account. For example, a foreign donation could not be paid into the account. That would be illegal. That is permissive of what may be paid in. Proposed subsection (1) creates the offence of something being paid that is not permitted to be paid into a state campaign account.

Dr D.J. HONEY: I think I understand that. I am not trying to be tricky here, I am just trying to understand. Are there any examples of what those other payments may be? I saw that there is a mention of commonwealth by-election money or some such thing. The reason I ask is that if the money is for some other purpose, it cannot be used from that account and is trapped there for ever. It may build up over time!

Mr J.R. QUIGLEY: The member could moonlight at Parliamentary Counsel's Office because that is in the very next proposed subsection 175LO(3) on page 246 commencing at line 8. It reads —

(3) However, the following must not be paid into a State campaign account of a political entity —

(a) money to be used for a purpose related to an election or a by-election under the *Commonwealth Electoral Act 1918*;

(b) a foreign contribution.

They are prohibited. If donations have come for the federal election, they cannot be stuffed into the state campaign account.

Dr D.J. HONEY: What is likely to happen? Most significant parties will have, let us say, a minimum of three accounts. They will have a general account, they will have a state account and they will have a federal account. The minister may know, and especially given some of the declaration times and the hurly-burly of campaigns, what happens if a party accidentally makes a payment into that account. We are told that moneys can only be taken out of that account if it is for electoral expenses. But, for example, say that inadvertently the junior office clerk transfers $100 000 into the account all of a sudden—and it was a mistake by a party official and it should not have gone in there?

Mr J.R. QUIGLEY: There is a provision in the bill that we will come to in a moment to do with an innocent mistake. In that case, the Electoral Commissioner should be advised. It is not a hanging offence; everyone can make a mistake. In the administration of this, mistakes can happen. It is a bit like law. If money is put into the wrong account, the Legal Practice Board should be advised immediately to get thing rectified. If the same mistake has been made in this case, someone can go to the Electoral Commission and say a mistake has been made and money should have gone to a certain account, and the commission can audit that. We are involved in a very, very tough profession under lots of public scrutiny, and I am trying to make it fair and transparent, so if someone makes a mistake, it is not a hanging offence. They can tell the commission and correct the mistake.

The DEPUTY SPEAKER: Member for Central Wheatbelt.

Ms M.J. DAVIES: Deputy Speaker —

Mr J.R. QUIGLEY: Excuse me, member.

Ms M.J. Davies: I am just going to perch because I am getting a workout here!

Mr J.R. QUIGLEY: I should have followed the member for Cottesloe. I told him he was following the constructed path of PCO because it was in the very next proposed subsection (4), which reads —

> … if the responsible person or another person takes all reasonable steps to ensure the money paid into the political entity's State campaign account contrary to subsection (1) is withdrawn from the account within 5 business days after the day on which the person becomes aware that the money has been paid ….

And then the commissioner is notified. The thing has to be done properly; it cannot be left there for five months. After the responsible person becomes aware of it, they will have a working week to rectify it.

Dr D.J. Honey: So, it is after you become aware.

Mr J.R. QUIGLEY: They will not commit an offence if it is an error. If they find it, they will have five days.

Ms M.J. DAVIES: Is the member for Cottesloe comfortable with that?

Dr D.J. Honey: Yes, I am. It is going to define your office procedures.

Ms M.J. DAVIES: Yes, very much. The only other question I have on this clause is about terminating events, which I understand, and funds being left in a campaign account. What we have learnt to this point is that people will have to be careful about what they put in the state campaign account, because once it is in there, it must be expended on only the campaign.

Mr J.R. Quigley: Or the next campaign.

Ms M.J. DAVIES: Or the next campaign; correct. I have some funds in my campaign account, so that is a possibility. If a member of a registered political party is not running again but still has campaign funds, will the choice be that the funds will go back into the party's state campaign account or into a general administration account? If it is in a subset of the campaign account—for example, for Central Wheatbelt—will it have to go back into the party's central campaign account? I guess what I am trying to get to is that people will have donated to the member for Central Wheatbelt's re-election or election campaign. If those funds are not expended and there is a terminating event, will they go to charity? I would like to think that those funds would be retained by the National Party for other expenses. Is that possible?

Mr J.R. QUIGLEY: It will be possible, under proposed section 175LR. That proposed section provides that if a candidate terminating event occurs, the responsible person for a candidate must pay the amount remaining in the candidate's state campaign account to the group's state campaign account if they were part of a group, to the registered political party's state campaign account if they were an endorsed candidate of a registered political party, or to a charity. If the member for Central Wheatbelt holds fast to her decision—I hope not—and has residual funds, she may pay them to the National Party's state campaign account.

Ms M.J. DAVIES: Thank you, minister.

Mr J.R. Quigley: Or a nominated charity.

Ms M.J. DAVIES: Sure. I might need to go back a few steps. One of the first questions I asked was: will candidates have a candidate campaign account or will there be just one account?

Mr J.R. Quigley: No.

Ms M.J. DAVIES: So I have misunderstood, obviously. Will there be a candidate campaign account and a state campaign account? I am confused.

Mr J.R. QUIGLEY: Sorry; perhaps I confused the member with my previous answer. As I said initially, there will be one state campaign account for the National Party. The administration of the National Party, however, will have allocated in a ledger —

Ms M.J. Davies: It is a terminology thing; I understand. Thank you.

Mr J.R. QUIGLEY: Yes.

Ms M.J. DAVIES: My last question on this is: did the practice of donating to charity come from other jurisdictions or is it just a creative response to making sure that funds are not left floating in bank accounts to never see the light of day?

Mr J.R. QUIGLEY: That is right, because there is unlikely to be a terminating event for the National Party.

Ms M.J. Davies: I very much hope so.

Mr J.R. QUIGLEY: Not for the member, but for the party—there will not be a terminating event for the party. If the member terminates as the member for Central Wheatbelt, what is in her campaign account will end up in the state campaign account. However, there will be some minor parties for which that will not be true. Once the members go, the party will go—I am thinking of the United Australia Party or something like that—but it will still have a state campaign account. Those funds cannot go to the last sitting member; they will go to a charity. The donor never

intended his or her donation to personally benefit the candidate; it was to get the candidate elected. If that game is over, it will go to charity. Where else could we put it?

Clause, as amended, put and passed.

Clause 129 put and passed.

Clause 130: Section 175M replaced —

Ms M.J. DAVIES: I understand that this clause relates to the disclosure of political donations and other income. Proposed section 175MA relates to the timing of disclosure for donations. My reflection from the second reading debate and the reading that I have done is that it will need to be done every week outside the specific election period, and every day during the capped expenditure period. Essentially, this will put into effect real-time disclosure of donations and gifts during a campaign, which we have already discussed, and weekly disclosure outside the capped expenditure period.

Mr J.R. Quigley: And there will be a portal.

Ms M.J. DAVIES: That goes to my question about how that will practically work. As an extension of that, if donations will be reported on a weekly or daily basis, depending on the time period, why will an annual return be necessary when all that information will be with the Western Australian Electoral Commission?

Mr J.R. QUIGLEY: The member asked me about my own party yesterday and whether there had been discussions. This was one area of discussion, because I figured, I hope correctly, that if a party as big as ours and with as many members as we have could handle the reporting through a portal, then parties with fewer members should be able to. We discussed it with the commission and a portal will be created. The entry will need to be made on the portal within seven days of receiving the donation. That should not be too complicated. I was assured by our party secretary that if I put that in, although it will be extra work for them, if that was the government's decision, they could meet that requirement. If a party this big can meet the requirement, I think that everyone should be able to meet the requirement. Does that answer the member's question?

Ms M.J. DAVIES: Sorry; I am distracted. I have a bushfire in my electorate.

Mr J.R. Quigley: I'm sorry to hear that.

Ms M.J. DAVIES: I am getting advice from another minister on an evacuation centre.

Mr J.R. Quigley: Whereabouts?

Ms M.J. DAVIES: Corrigin—where it was before, so it does not look good.

This proposed section will also apply to multiple donations from the same donor so that they will get captured. How will the portal capture that? It will aggregate as the information is put into the portal. Will something pop up and say that the limit has been reached? Will that be built into the system or will it be the responsibility of the political party to manage? If we are trying to make sure that we are being helpful, open and accountable, will the system assist political parties to manage that?

Mr J.R. QUIGLEY: It is our intention to have that on the portal, so that if Quigley makes a donation in March, one in August and another one in November, they will aggregate. That aggregation may take the person over the disclosable amount. It will be an aggregation, but not to stop them making further donations.

Ms M.J. DAVIES: I note that under proposed section 175MC, there will not just be a portal; the Electoral Commission will publish this information, obviously. It is not just about collecting the information; it is about publishing it. Will all the information that is input by the political party or the candidate be publicly available or will it just be a summary? How does the Attorney General envisage that being communicated in a public sense?

Mr J.R. QUIGLEY: It will be published and public if it is over the disclosed amount, but it will not be if it is under the disclosed amount, and I think we went through that last week.

Dr D.J. HONEY: What information will be published? Before we went through the discussion of candidates, the government agreed to remove the requirement for the addresses of candidates to be reported. Will the home addresses of donors—it will be home addresses in the great majority of cases—be published, as well as the names and amounts?

Mr J.R. QUIGLEY: Under the act as it stands, the addresses of both the candidate and donor are published. I took advice from the commission as a result of the consultation on whether it was necessary to publish the name of a candidate during this time when protests have taken a very concerning turn—protesters entering people's houses and properties and the like. The commission said that, on balance, at the moment all the details of donors and candidates are published, but now the details of the donors will be published and there will be less information about the candidate. There has to be a contact point.

Dr D.J. HONEY: Does the Attorney General not think that the same logic might apply? I know that this was not raised by my colleagues, but I will say that I have been confronted by campaigners for the Voice referendum. I have never seen so much vitriol directed —

Mr J.R. Quigley: By?

Dr D.J. HONEY: — by the yes campaigners against the no campaigners to the extent that a number of people said that they would not display no posters in their yards because they felt that their homes would be defaced. I spoke to a person who had a no sticker on their car and two apparently reasonably well-off middle-aged women decided to start kicking in the panels on the side of his car because of it. It appears that we have entered a period when it is not just in relation to something like an environmental issue, but on a political matter such as the Voice campaign that people feel that they can take really extreme action against individuals. I appreciate that it is already in there, and maybe the horse has bolted on this one, but I am genuinely concerned that donors will get victimised by people because it seems that we are in a more extreme political period.

Mr J.R. QUIGLEY: I am sorry that the member has been harassed by yes voters. It is probably a little bit less traumatic than me being harassed by bikies.

Dr D.J. Honey: That is unacceptable, too.

Mr J.R. QUIGLEY: I am not saying it is acceptable; I am saying it is a little traumatic, but we are in public life and we are exposed to that. The incidents that the member is talking about are random; they attacked the house because it had a sign. It is unlikely that someone is going to look at the website of the Western Australian Electoral Commission to find out who has made a donation and then go around and attack them. It is pretty remote. It has not happened yet. We are dealing with a provision that exists already.

If the person is a silent voter, proposed section 175MC, "Publication of information in notices on Commission website", provides —

> (3) The Electoral Commissioner must ensure that the following information contained in a notice under section 175MA(1) or 175MB(2) or (4) is not published under subsection (1) —
>
> (a) information about a person's bank accounts or other similar financial details;
>
> (b) other personal information the Electoral Commissioner considers is not appropriate to publish …
>
> (4) If a person informs the Electoral Commissioner when giving a notice under section 175MA(1) or 175MB(2) or (4) that the person is a silent elector, or enrolled on a roll in the Commonwealth or another State or a Territory with equivalent status as a silent elector, the Electoral Commissioner must ensure that the person's address is not published …

We are taking those steps for safety. I can only say that in public life, people harass you sometimes, especially when you have a face that looks like mine, unfortunately.

Dr D.J. HONEY: Just to be clear on proposed section 175MC(3), I assume that a donor's bank account or other similar financial details will not be published on the website if they are not a silent elector. It seems odd. It states that the Electoral Commission must ensure that the following information contained in a notice is not published under proposed subsection (1), including a person's bank account or other similar financial details. I would hope that they would never publish it! It would be a scammer's delight!

Mr J.R. QUIGLEY: This is information that the party provides to the commission concerning its donors. It will have to provide the name and address, but not the financial details of the bank account and all of that. It will have to provide only the name and address of the donor. Silent electors must ensure that no bank account or any other personal information is published, for obvious reasons. The same will apply if they are a silent elector in another jurisdiction. It goes to ensuring that bank account details cannot go up. The member cannot argue that therefore, in every other case, bank details must go up. That is not the case. It is what the party will provide to the commission. They will be required to provide the name and address of the donor.

Clause put and passed.

Clause 131: Section 175N amended —

Ms M.J. DAVIES: This is about the annual return for political parties. I note that the next clause relates to associated entities. Political parties will have ongoing disclosure requirements—I think I asked about this in a previous question. Why is there a requirement to provide an annual return when there will be a continuous disclosure of received donations throughout the year? It seems like a double up to me, but I am sure there is other information that will be included in the annual return. I do not know.

Mr J.R. QUIGLEY: It will amend section 17N by amending the heading and deleting reference to "gifts" and inserting "political contributions". We have gone through before how an organisation may allocate some of its paid employees to the campaign. That would now be covered by the term political contribution. The provision has been amended to capture all political contributions, not just gifts. The ability to comply by lodging a return under the Commonwealth Electoral Act will be removed. It could be done under that act, but that is now gone. It will all be state based, and we will have total oversight.

Ms M.J. DAVIES: If someone donates a staff member, will that not be captured in the disclosure of donations and gifts? What I am trying to say is —

Mr J.R. Quigley: It will be. We discussed before that if it is a paid staff member, it will be the equivalent of what they are being paid.

Ms M.J. DAVIES: Correct. If we are disclosing that every week and then every day during the capped expenditure period, why are we then having to do an annual return? All that information is already with the Electoral Commissioner. It seems like a double up to me.

Mr J.R. QUIGLEY: A conjunctive word is used in amended section 175N. It states that political parties are to lodge an annual return of political contributions. They are covered by what the member has so far described. It also applies to "other income". The annual return goes further than political contributions. It picks up political contributions, but if someone is in the business of selling party headquarters and buying cheaper ones, they would make a profit.

Clause put and passed.

Clause 132 put and passed.

Clause 133: Section 175O amended —

The ACTING SPEAKER (Mr P. Lilburne): Member for southern wheatbelt.

Ms M.J. DAVIES: It is Central Wheatbelt, in fact! But I do cover part of the southern wheatbelt as well.

This is a pretty easy one. This clause will change the time for a candidate to lodge their return from 15 weeks to 12 weeks. What is the rationale behind reducing the amount of time and was it something that the Electoral Commission requested or was it a government or policy decision?

Mr J.R. QUIGLEY: Three months should be ample time. We had that in the 2020 bill. It did not seem to create any controversy so we held it.

Clause put and passed.

Clause 134 put and passed.

Clause 135: Section 175Q amended —

Ms M.J. DAVIES: As I understand it, this is a provision for third-party campaigners to lodge returns of gifts received during the disclosure period if they incur more than $500 of expenditure for a political purpose. It will insert a subsection that states that a third-party campaigner will not need to lodge a return under proposed section 175Q(1) if they are not registered on the third-party campaigners registers. I know I can deal with it under another section further along and we have touched on this before. How will we determine who has to be on the register? How will they know this? How will the Western Australian Electoral Commission determine those that are required to be on it but are not? I imagine that there are groups that will not be aware that they have to sign up to a register. Expenditure of $500 is not a lot. It might be a lot for a P&C, but for some groups, $500 is not a lot to spend. How will these groups know who has to be on the register?

Mr J.R. QUIGLEY: Prior to the next election, we will advertise that they must be registered. I agree that $500 is a modest amount, but local campaigns like "Save this tree"—there have been a lot of those in my electorate—use photocopied material, so that is fairly cheap. Once a group gets really serious and starts to spend money on advertising, even in local papers, they should be registered. We have come in at $500. Ms McDougall has refined my answer. It is not just campaigns to save a tree—I was giving an example of a local campaign. Rather, the expenditure must be incurred to get someone elected or to stop someone from being elected. Once they are in that category of expending over $500, they have to register to let everyone know about them—who their donors are and what their expenses are.

Dr D.J. HONEY: Let us go to a live example. The Australian Nursing Federation is running a campaign at the moment in which it is attacking the government. One could say that it is attacking the government for a political purpose that amounts to a campaign against the government of the day. Would the ANF fall under the category of being a third-party campaigner for the purposes of this legislation?

Mr J.R. QUIGLEY: The commission does not regard that sort of advertising as stopping a particular person from being re-elected. It is campaigning against a government's expenditure policy; it is not campaigning against me in

Butler or someone like that to stop us from being elected. It is a general campaign against government expenditure. All sorts of things that happen in our community could stand in the government's way of re-election. The bill is aimed at people who spend money to stop candidates from being elected or to support them to be elected.

Dr D.J. HONEY: I have had a couple of conversations with folk who are, let us say, wealthy individuals. They have not made a direct threat to me but have nevertheless told me stories that I took as stories to influence me. They boasted that they had run full-page advertisements in the paper that attacked the government or directly attacked a minister to harm their reputation. Would someone who deliberately tried to harm the chances of the government being re-elected or deliberately tried to harm the individual they target have to register as a third-party campaigner?

Mr J.R. QUIGLEY: That comes under the definitions that we are seeking to include by amending section 175. Page 310 of the blue bill states —

> **third-party campaigner** —
>
> (a) means a person who —
>
> (i) incurs, or authorises another person to incur, electoral expenditure in relation to an election;

There is no election afoot at the moment; it is not about stopping a vote here or a vote there. It has to be tethered to the event of an election.

Dr D.J. HONEY: What if it is not an election period and a person says, "In the forthcoming state election, you should not support this party" or "You should not support this person" or, vice versa, "You should support this party" or "You should support this person"?

Mr J.R. QUIGLEY: That is in relation to an election: "You shouldn't be supporting that person at the election." It might be before the writs are issued so it would be outside the capped period. If is it outside the capped period, they can spend what they like.

Dr D.J. Honey: But they have to register.

Mr J.R. QUIGLEY: Because it would be in relation to a forthcoming election: "Don't elect this person" or "Elect that person."

Dr D.J. HONEY: I take from that that if a person did that, they would have to register as a third party, if you like, and they would have to submit to these laws. What about within a campaign? It is not uncommon for an individual to get a rush of blood in a campaign period—they do not receive any donations and are somewhat of adequate means—and they take out a full-page advert in *The West,* which costs about $20 000 or something like that. If they decide to run an advertisement purely out of their pocket, without receiving donations, to influence the election, what would happen?

Mr J.R. QUIGLEY: They would be a third-party campaigner. Before they spend their money on the election, they would have to run down and register as a third-party campaigner, start a state campaign account and pay *The West* out of that account.

Clause put and passed.

Clauses 136 and 137 put and passed.

Clause 138: Part VI Division 3A inserted —

Dr D.J. HONEY: On page 277, proposed section 175SAB(3) refers to proposed subsection (2), which relates to foreign contributions. I will be direct up-front rather than eke out my concern. My concern is that this provision could allow a foreign donor to completely bypass the ban on foreign donors. I will go to the detail of why I say that. Proposed section 175SAB(3) states —

> Subsection (2) does not apply if the foreign contribution is made in a private capacity to the political entity or the responsible person for private use.

I will put a situation to the minister. If someone runs in a campaign and a foreign donor pays for that person's accommodation, living expenditures and all of their bills so that they can campaign full-time, would that be a banned foreign donation because the person would not be able to campaign and stand for office without that foreign donation? Of course, the other situation is one in which an organisation is campaigning and a foreign donor is paying all the administrative expenses of that organisation. None of the foreign donor's money is going to advertising or to direct campaign expenses, but it is sustaining the organisation whilst the members of that organisation campaign. I think the Attorney General can see what I am getting at. My concern is that this could allow someone to get around the foreign donation prohibition.

Mr J.R. QUIGLEY: They could get tricky, could they not? They could go to jail, because we have included an offence of coming into a scheme to circumvent the ban on foreign donations with a penalty of three years in prison—so they would be eating porridge for a while.

Dr D.J. HONEY: Sorry, Attorney General; where is that? It is a genuine inquiry. I believe that the Attorney General wants to stop foreign donors coming in and influencing elections. That is his intent.

Mr J.R. Quigley: I will dig up the section if you just give us a moment.

Dr D.J. HONEY: I am not doubting the intent.

Mr J.R. Quigley: I don't know whether you have any other questions not related to that that I can deal with while my assistant delves into that.

Ms M.J. DAVIES: I have one.

Mr J.R. Quigley: Excuse me; I think I have it.

Ms M.J. DAVIES: Take the time; it is fine.

Mr J.R. QUIGLEY: Yes. I was right about the length of time they would be eating porridge. It is proposed section 175SAF on page 281, which states —

> A person commits a crime if the person enters into or carries out an arrangement, understanding, course of conduct or other scheme, whether alone or with others, for the purpose of receiving a foreign contribution that is not permitted under this Division.
>
> Penalty: imprisonment for 3 years and a fine of $36 000.

Dr D.J. HONEY: I understand that, but if I look at that clause —

Mr J.R. Quigley: You are talking about proposed section 175SAB?

Dr D.J. HONEY: No, proposed section 175SAF, "Offence to enter scheme to receive foreign contribution not permitted under the Division". I will not go through the whole proposed section; the Attorney General has just read it out. Will paying administrative expenses for an organisation not be permitted under this division and, for example, will paying someone's living expenses or supplementing a person's wage while they campaign not be permitted under the division? I appreciate that if someone does something that is against what is allowed under this division, they will be in deep trouble, but it is not clear to me that those things are against what is in the division.

Mr J.R. QUIGLEY: It does not matter whether the money goes into the state campaign account or a general account. Proposed section 175SAB(2) states —

> The responsible person for a political entity —

That could be the member, if he were a director —

> commits a crime if —
>
> (a) the political entity or the responsible person receives a foreign contribution —

It does not say into the state campaign account —

> or the benefit of a foreign contribution; and
>
> (b) at the end of the acceptable action period in relation to the foreign contribution, acceptable action has not been taken in relation to the foreign contribution.

Under the act, "acceptable action" means to give the money back or give it to consolidated revenue. The penalty for the state campaign director who transgresses will be three years' imprisonment or a fine of $36 000. Proposed subsection (3) is permissive. That offence and those penalties will not apply if the foreign contribution is given for a private purpose. If someone overseas were to give me money to buy a new pair of glasses or whatever, it would be for a private purpose. We are not trying to shut down society; we are trying to stop foreign money coming into political parties.

Dr D.J. HONEY: We have sort of come around full circle. If money is paid to a person to sustain them whilst they campaign, is that a private purpose or a political donation? If money is paid to an organisation purely to sustain its administration whilst it devotes itself to campaigning, is that a political purpose? I think this is a good discussion, because we are narrowing down to the nub of what is private use. The Attorney General will probably be aware that sometimes, for example, some ambitious person wants to enter Parliament, but they have bills to pay and the school fees coming in, so they may be given a faux job in an organisation whilst they actually campaign full time. I have heard of that situation occurring. I am sure it occurs in a range of settings, whereby a foreign donor comes in and sustains an individual while they campaign—they are not putting any money into the campaign; they are

only sustaining that person's private expenditure—or sustains an organisation's ongoing running costs, such as rent and all those things, whilst it devotes itself to a campaign. That is where I am coming to. I am worried that this would be a way around the intent.

Mr J.R. QUIGLEY: No; this is not a get-out-of-jail card at all. We have already discussed this, with the greatest of respect; that is, providing employment while someone campaigns will be covered by the definition of "gift". Similarly, providing accommodation to allow someone to campaign somewhere will be covered by "gift", because it is in relation to their election. They are funds provided to assist that person in their election, however they are given, and they are accountable. We do not see this as a get-out-of-jail card for foreign donors.

Ms M.J. DAVIES: The member for Cottesloe was being hypothetical. I can give the Attorney General a real example. When I was the campaign director for the Nationals WA in the run-up to the 2008 campaign, I was working for an organisation. I am not sure what its foreign donor status was; I did not ask at the time. I was doing work for it, but I was also working for the National Party full-time. Essentially, whilst I was employed, I was working two nearly full-time jobs, being state director and campaign director and working for this organisation. The organisation was paying my wage; the National Party was not, but I was working for the Nats. It is not hypothetical; it is something that presumably could happen again. If that organisation were a foreign entity, would that preclude me, an individual, from taking a wage from it whilst I was essentially donating my time to the National Party?

Mr J.R. QUIGLEY: The member said two things. She said that she was working for the organisation and doing National Party work. That is covered by our brilliant Solicitor-General's amendment that we dealt with at proposed section 175AA—that is, for the purposes of this amount, it is the amount or value of gift for which an adequate consideration is provided. The member was providing consideration for her wages by doing the work. If, however, the position attracted a salary of $100 000 and that was equal to the value of the work that the member did for that company—that will always be a bit subjective unless the member is on an award—that would be given consideration and would not be included. If the member was working for the company part-time—only two or three hours a day—but was being paid a full salary, the gift could be calculated by the difference. I hope that is common sense. I am trying to get it to make common sense for all of us, not in my presentation, but in the bill!

Ms M.J. DAVIES: Thank you, Attorney General. I am clear on that scenario, albeit that under this provision we are speaking about foreign donors. If the organisation, or whatever it was, that was paying my wage was not an Australian company —

Mr J.R. Quigley: That is okay.

Ms M.J. DAVIES: Would that be okay?

Mr J.R. QUIGLEY: That would be okay, but we once again get down to —

Ms M.J. Davies: Would it be captured as a gift?

Mr J.R. QUIGLEY: It is the value of the gift for which adequate consideration is provided. If the member was providing adequate consideration for her wage in terms of her effort—a valuable consideration by the member's labours or whatever it was—that would not be a gift, because the member would be paid for the work that she was doing. However, if the company paid way over the market value for the work that the member was doing, the difference would be a foreign donation.

Ms M.J. Davies: I am very valuable, Attorney General!

Mr J.R. QUIGLEY: I think people in 2025 will find out that she is both in this chamber and wherever the member goes.

Dr D.J. HONEY: I thought that the situation the member for Central Wheatbelt explained was straightforward, as the Attorney General outlined. Someone could be doing a full-time job and being paid for it and also doing volunteer work on top of that. That situation would apply to most political volunteers. I will put this as an assertion, just to be clear, and the Attorney General can tell me whether I am right. If a foreign donor provided funding to a member or an organisation that either facilitated that individual or that organisation undertaking political campaigning, that would be regarded as a donation and would fall foul of this law.

Mr J.R. Quigley: Yes.

Ms M.J. DAVIES: There was a line of questioning when we dealt with the 2020 bill that Hon Mike Nahan pursued. This is not a regular occurrence in my electorate, but it might be a reasonable scenario in —

Mr J.R. Quigley: I cannot remember what Hon Mike Nahan said.

Ms M.J. DAVIES: I did my homework and read *Hansard*. It was riveting reading going back over the debate. I thought it was worth bringing back to this debate because Hon Mike Nahan—I do not know how to refer to past members. What do we say? The former member for Riverton. Is that what he is?

Dr D.J. Honey: Yes. The honourable former member for Riverton.

Ms M.J. DAVIES: The honourable former member for Riverton. What would happen if a member hosted a fundraising dinner to raise funds for an election campaign and charged a fee that was more than the dinner cost? I understand that in Riverton a number of Australian citizens, non-citizens and other residents may come as a cultural group to a fundraiser. The former member for Riverton explained that they would pass the hat around and people would make a donation to the candidate's re-election fund. We may or may not know who put $50 in the hat. In that situation, the attendees would probably not be asked for their documentation. My reading of the legislation and the *Hansard* from 2020 is that someone would have to reasonably ask whether anyone who put money into the pot was an Australian citizen or resident, otherwise the member would be in contravention of what was proposed. That is my first question on this.

Mr J.R. QUIGLEY: The member may not have made inquiries and, if they took the money, that would be an offence. However, if the member made an inquiry, they would have a perfect defence under the legislation. They would not have to interrogate everyone who attended. I can think of some of our members from other cultures, like Dr Jags Krishnan, who is not in the chamber. I went to a celebration at Crown Towers Perth for his daughter's wedding. There were hundreds of people, and I would not know whether they were residents —

Ms M.J. Davies: I think that was the point.

Mr J.R. QUIGLEY: That is right. It will be a defence that a member has made an inquiry and assured themselves that the person is not a foreign donor. We are not in the business of trying to pick up people as an unintended consequence. However, if a member took something from a company that was registered overseas or from someone who was notorious—I will leave it there.

Ms M.J. DAVIES: Thank you, Attorney General. From a practical point of view, I assume that at functions like that—that is the reality for members, and I imagine that it will continue—there would have to be some sort of disclosure at the event. There would have to be a register where people could tick a box. The member, as the acceptor of the said donation, would have to make sure that the member was adhering to the act. Is that the level of assurance that will be necessary to make sure that a member avoids prosecution in that sense?

Mr J.R. QUIGLEY: Sure. I would defend the member pro bono, because we have a good defence running here. Under proposed section 175SAB(5) —

> In proceedings against the responsible person for a political entity for an offence under subsection (2) it is a defence for the accused person to prove —
>
> (a) that before the end of the acceptable action period —
>
> (i) the donor affirmed in writing to the political entity or the responsible person that the donor was not a foreign donor; or
>
> (ii) the political entity or the responsible person obtained appropriate donor information about the donor to verify that the donor was not a foreign donor;

That is ticking it. It is covered. It is in writing. I was just thinking about what the Western Australian Electoral Commission said, which was that a cross did not count but that a tick did. If someone ticks that they are not a foreign donor, the member has indicated that to the party in writing, but there will be the obvious cases. We are trying to hold out big money from coming in, not the $20 tickets sold at a fundraiser or someone bidding for a rubber chook. We know what we are talking about. It is about companies and wealthy people coming in to influence our elections.

Ms M.J. DAVIES: I thank the Attorney General. The Attorney General spoke about the member for Riverton. He said that there could be quite big events at which one person hands the pot around and they are the ones who make the donation. I understand that there will be anti-avoidance offences, so someone could not say that they did not know because they knew the person who handed the money over. It will not be a defence to say, "But I don't know where that person got the money from", because some of that money might have come from people who were not Australian citizens or Australian businesses. If I am clear about this, there will be additional requirements when having these types of functions. We need to assure ourselves that the money did not come from non-Australian citizens or residents; is that correct?

Mr J.R. QUIGLEY: They will not be difficult steps. As the member said, it will be a tick of something on the ticket saying: "I'm not an Australian resident."

Ms M.J. DAVIES: I go to the other end of the scale, when the Attorney General said that we need to be really vigilant. Another line of questioning from the former member for Riverton was: what if a high-wealth foreign national gave a political lobbyist who has an Australian business half a million dollars to pursue their cause? Those funds would be sitting within an Australian business or with an Australian individual. How would that be viewed and how would it be dealt with?

Mr J.R. QUIGLEY: That could be a foreign donation. It could be bordering on a scheme to get around the foreign donor laws, which would mean they could face three years' imprisonment.

Ms M.J. DAVIES: I refer to proposed section 175SAD, "Recovery of foreign contribution". Proposed section 175SAD(2) states, in part —

> An amount equal to the value or amount of the foreign contribution may be recovered by the State as a debt due to the State by action …

Where will those funds go? Will they go straight into consolidated revenue, as we have discussed previously?

Mr J.R. QUIGLEY: They will reduce the state debt and go into consolidated revenue, member.

Dr D.J. HONEY: I have had some correspondence about foreign donations. Let us say a donor sustains an organisation up to the point of the campaign and then that organisation subsequently lives off the funds. That would not be captured under this foreign donor law. They are sustaining an organisation that is a general community organisation. A good number of these green-left organisations, as I have characterised them, receive foreign donations, particularly from the US; that is a significant source of their funding. It seems there are all sorts of people there who want to pour money into those sorts of things. If the donor is sustaining that organisation, but is not making any donations during the campaign itself, I assume that it will not be captured under this provision, even though that organisation enters the fray, if you like, during the election campaign.

Mr J.R. QUIGLEY: A donor who makes donations to a political party at any time will be captured.

Dr D.J. Honey: While you are on your feet, what about the Conservation Council, for example?

Mr J.R. QUIGLEY: What does the member mean by that? The Conservation Council would be a third-party campaigner because it spends more than $500. We do not control it; it is not part of us. It will be caught by the rules concerning third parties, the state campaign account and the prohibitions against foreign donations.

Clause put and passed.

Clause 139: Section 175SAG inserted —

Ms M.J. DAVIES: This was a bit of mental maths for me. Some time frames are provided in this clause defining the expenditure disclosure period for the purpose of an election return to the Electoral Commission. The explanatory memorandum states —

> The time frame may extend beyond the capped expenditure period so as to accurately identify all electoral expenditure that has been made by political participants in relation to an election.

I am just trying to get an understanding of how that might work practically. Will the Electoral Commissioner provide advice to parties? The capped expenditure period is defined specifically as finishing at the end of polling day. That is my first question.

Mr J.R. QUIGLEY: This will extend the disclosure period for election-related returns. Currently, the disclosure of electoral expenditure is required only for the election period, commencing on the issue of the writ and ending on polling day. This will be replaced by the new expenditure disclosure period, beginning on 1 July immediately before the election and ending on polling day. Political entities will be required to disclose all electoral expenditure incurred during the expenditure period within 12 weeks after the election. This will include some of the funds that the member for Cottesloe was talking about earlier—I think the member for Central Wheatbelt might have, too—in which a person could start campaigning in what I think of as that dead-water period between Christmas and Australia Day. They would still have to put in their return, but they will not be capped. Some bills relating to the election may not be invoiced until after polling day, so if someone puts out a flyer in the last week of the campaign, they might not be invoiced by their printer until after polling day the following week, so we are going to extend that period. All expenditure between 1 July and the election will be revealed, but it will be capped from the time of the issue of the writ.

Clause put and passed.

Clauses 140 to 148 put and passed.

Clause 149: Section 175W amended —

Ms M.J. DAVIES: As I understand it, this relates to the investigative powers of the Electoral Commissioner or the Electoral Commissioner's agent. I think we spoke at the beginning of consideration in detail, under the short title, about the resources that will be required for the Electoral Commission. I presume, as part of the Attorney General's submission to cabinet, that there was at least some indication of the resources that would be required to bring this bill into being. That will also include additional resources for the Electoral Commission for these purposes. Can the Attorney General give us a ballpark figure on what will be provided? As I have mentioned previously, there were concerns from the National Party, in particular after the 2017 election when issues were raised about voting anomalies. The Electoral Commission was very reluctant to investigate and said that it did not have resources to conduct those types of investigations. How will these investigative powers be provided with additional resources?

There are a lot of new responsibilities in this bill for political parties and third-party campaigners, and presumably the government would want to make sure that this is something that will be monitored, investigated and upheld, not just debated in this house and never thought of again. The question is: What additional funding will be provided to support the monitoring, policing and investigation of these requirements? If that is not specific, can the minister talk in terms of a ballpark figure, bodies on the ground or resources?

Mr J.R. QUIGLEY: I want to keep the bit about the Expenditure Review Committee fairly close to my chest. This is all subject to ERC. I have told cabinet what is coming and I got no pushback. I will not go past that. The commission knows that extra resources will be required. As the minister, I know that, and cabinet, in deciding to pursue this legislation, knows that. I think investigation was the primary object of the question. The WA Electoral Commissioner engages a contractor in accordance with the common-use arrangements to conduct investigations into electoral offences. The police are actually responsible for the decision to prosecute any offence. The investigators under the CUA can look at things and present their case, and it is up to the commissioner to decide whether the case is worthy of prosecuting.

Ms M.J. Davies interjected.

Mr J.R. QUIGLEY: I cannot wait. The member will interrogate me at the next estimates committee! She will go back to this!

Ms M.J. Davies: Someone will, but it will not be me.

Mr J.R. QUIGLEY: Next year it will be.

Ms M.J. Davies: Maybe, if you have got the resources all ready.

Mr J.R. QUIGLEY: I am sure the member will be here next year. There will be confidence.

I will not give a commitment on numbers in advance of the ERC. We know the resources required and they will be provided.

Clause put and passed.

Clause 150: Section 175X replaced —

Ms M.J. DAVIES: The original act would already have a section on this matter. I cannot imagine that it does not because incomplete disclosure documents have been provided to the WA Electoral Commission previously. Perhaps the minister could clarify what circumstances might lead to a political party or candidate providing an incomplete disclosure document to the WA Electoral Commission.

Mr J.R. QUIGLEY: This is the modernisation of language. This will now apply to the requirement to lodge a disclosure under part 6. Previously, it applied to the returns under divisions 3 and 4. We are giving this broader application but there is no other substantive change.

Clause put and passed.

Clauses 151 to 158 put and passed.

Clause 159: Section 187 amended —

Ms M.J. DAVIES: This clause will delete an existing subsection relating to the definition of "illegal practices" and a new subsection will be inserted. It refers to undue influence. I am trying to understand what this would practically mean. Is it a legal term? Is it a subjective judgement by the Electoral Commissioner? By whom and how will the determination be made? Is there any scope for review if the person or the entity accused of this does not believe the assessment is fair and appropriate?

Mr J.R. QUIGLEY: I am turning to the blue bill. The provision was there before. We have modernised the language and broadened the definition of "illegal practices" to specifically include publishing how-to-vote cards without the required details. The rest of it is substantially the same. I refer the member to page 411 of the blue bill. She will see that proposed subsection (1)(d) will define what illegal practices are and they will now specifically include publishing how-to-vote cards without stating the name and address of the person, political party or group authorising it on each side of the card. Originally, electoral offences were under section 179, which we will come to in 20 clauses' time, and that deals with offences generally. Proposed section 179 reads —

> To secure the due execution of this Act and the purity of elections, this Part sets out criminal and other sanctions for the following —
>
> (a) breach or neglect of official duty;
>
> (b) illegal practices;
>
> (c) electoral offences.

We will be there in 20 clauses. I was going to say what time, but I would not be so bold.

Dr D.J. HONEY: This will ultimately come under clause 164, but under this proposed section, could a person publish a card saying that if someone wants to vote for a true Liberal Party upper house candidate, this is how they should vote in the upper house—Bill Bloggs for example—but it is someone who purely wants to influence the outcome of the Liberal upper house candidate's election? As long as they complied with the authorised details, would that be allowed?

Mr J.R. QUIGLEY: Yes, as long they are registered with the commission and the commissioner approves it, it is not misleading, it complies with the legislation and it does not direct people to do anything other than comply with it—in other words, number each square et cetera.

Dr D.J. HONEY: I will put my question as an assertion. If the how-two-vote card purported to be an official Liberal Party card, I assume it would fall foul of the Electoral Commissioner's authorisation; however, if it purported to be "Liberals for Biscuit Makers" or whatever and it was clear it was not the Liberal Party, would that be acceptable? Let us say it is "Liberals for the Environment" or something, which identifies particular candidates that it thinks should be supported above others. Could that still be an authorised how-to-vote card?

Mr J.R. QUIGLEY: It is very hard to deal with hypotheticals. The Electoral Commissioner will exercise their discretion with the registration, to make sure that the cards are not misleading. I cannot answer every hypothetical at the margin, because it will be subject to discretion.

Dr D.J. HONEY: I do not think this hypothetical is too dramatic. I assume that if it is clear that someone is masquerading as a representative of an organisation, the Electoral Commissioner will strike that out. An example is the Liberals for Forests, which might identify candidates that it thinks are more inclined to protect the forests than others, so the party will put out a registered how-to-vote card focused at Liberal voters. Could that be authorised as long as it met all the identification requirements? I do not think it is a complex question.

Mr J.R. QUIGLEY: Really, the offence is the same as it was before. We are looking at the offences here. That would not be undue influence. What we are looking at is bribery, undue influence and publishing any of the following publications without publishing at the end of the publication the name and address. This is all to do with offences.

Clause put and passed.

Clauses 160 to 163 put and passed.

Clause 164: Sections 191B to 191D inserted —

Dr D.J. HONEY: Proposed section 191B is headed "Prohibition on distributing or publishing unregistered how-to-vote cards". Proposed subsection (1) states —

> A person commits a crime if the person distributes, or causes, permits or authorises the distribution of, a how-to-vote card within 100 m from a place to vote on a day on which voting occurs at the place unless it is a registered how-to-vote card.

What if someone hands out a registered how-to-vote card at 110 metres? At some polling booths, most how-to-vote cards are handed out probably 200 metres from the door of the polling place, or people might hang around the car parks and hand stuff out. Will they be able to hand out unregistered how-to-vote cards there? Will it be an offence only if it is done within 100 metres?

Mr J.R. QUIGLEY: When people arrive at my booth with how-to-vote cards from 100 metres away, I say, "I see you've got the wrong card there!"

Ms M.J. Davies: The car park rogues.

Dr D.J. Honey: There are lots in my electorate that are more than 100 metres away.

Mr J.R. QUIGLEY: I cannot think of many. A hundred metres is a long way from a polling booth and a lot of influence can happen between there and the polling booth. We have to bear in mind the High Court and interfering with political communication. People in our community are allowed to say anything or distribute anything. Where do we draw the line and say that the law can stop people from saying things or passing things around? If it is for an election, it has to be in proximity to the election.

Oh, my God! I thought Gary Glitter had entered the room; I thought he was in jail!

The ACTING SPEAKER (Mrs L.A. Munday): The Leader of the House is wearing glitter.

Mr J.R. QUIGLEY: Under section 191A, "Misleading or deceptive publication etc.", subsection (1) outlines that a person must not —

> … during the relevant period in relation to an election, print, publish or distribute, or cause, permit or authorise to be printed, published or distributed, any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the elector's vote.

We have to bear that in mind, too; that is an offence. Within that 100-metre circle, it will have the imprimatur of the commission.

Dr D.J. HONEY: Is that covered by proposed section 191B(2)? It states —

> A person commits a crime if the person publishes, or causes, permits or authorises the publication of, a how-to-vote card unless it is a registered how-to-vote card.

There is a $24 000 penalty for that. I can imagine a situation in which someone publishes a how-to-vote card and posts it or puts it in people's letterboxes. A lot of people—more and more these days—walk into polling booths with how-to-vote cards either in electronic form on their phones or that they received in the mail and they are in their pockets.

Mr J.R. QUIGLEY: That is why we have the word "publish" there, because it will be on people's phones. Members might have noticed at their polling booths that a lot people take nothing in with them now; they just enter the booth because they already have that information on their phones.

Dr D.J. Honey: In 2021 especially; it was remarkable.

Clause put and passed.

Clauses 165 to 170 put and passed.

Clause 171: Sections 206A and 206B inserted —

Ms M.J. DAVIES: We are very close to the end, from my perspective. To me, this seems like quite a significant clause and it appears to be all new. Could the minister perhaps explain why this is being brought in and where the advice has come from? Was it something that the Western Australian Electoral Commission raised with the government in terms of providing clarity and processes for it in relation to people with a mental impairment who may not have the capacity to vote? As I understand it, it will give the WA Electoral Commission the power to give written notice of the commissioner's intent to remove the name of the person from the register of electors. It will also allow that person to make a submission if they object to the removal. How often does the commission have to deal with this? This is either a big rework of something that existed or it is completely new.

Mr J.R. QUIGLEY: A lot of people—I cannot give the member the number—are removed from the roll because they lack mental capacity. As mentioned before, this most frequently happens with people in nursing homes, mental institutions and, sometimes, home care. A general practitioner will sign a note saying that the person does not have the mental capacity to vote and that will go to the commission, because their relatives do not want the person to be fined for not voting. In accordance with modern practice, there will be a right of appeal, so that someone cannot just be disenfranchised by a nurse at some home saying that this person cannot vote. I know that when my late father was 94 years old, he still had capacity. He died just before the election. I add this as an aside: he never lived in my electorate, so he never had to vote Labor, but when he became really old, I moved him to an Aegis nursing home there. I took him a change of enrolment form just before the 2008 election. He signed it and then passed away. He never actually did vote for me, as an aside.

Dr D.J. HONEY: I refer to page 335. Proposed section 206A(1)(b) states —

> a declaration is not in force in relation to the person under the *Guardianship and Administration Act 1990* section 111.

It has been put by someone who works in my electorate office that a guardianship for one of their parents has been issued to one of the siblings in the family, but the parent is perfectly mentally able to form their views. In fact, they have always had strong political views and they like to vote and the like, but one of the children is administering their affairs. If someone is under guardianship, are they automatically regarded as not eligible to vote, or could the minister otherwise explain the relevance of that proposed section?

Mr J.R. QUIGLEY: No, people can get guardianship for various reasons. Lack of cognitive capacity to run their life is one of those reasons, but there are other reasons a person can be under guardianship that do not strike at their mental capacity but, nonetheless, they cannot fulfil all requirements of daily life. The short answer is no.

Dr D.J. HONEY: Perhaps I could clarify with a further question. If someone is placed under guardianship, will they automatically have their ability to vote removed and have to apply to have it back, or is it the other way and their ability to vote has to specifically be excluded?

Mr J.R. QUIGLEY: I am sorry; I did not make my answer succinct enough. No, they are not taken off the roll because they are under guardianship. I was giving examples of other reasons why a person might be under

guardianship. They are only removed if they lack mental capacity. If they lack mental capacity and they are removed for that reason and they then recover and obtain mental capacity, they can make the application.

Clause put and passed.

Clauses 172 to 178 put and passed.

Clause 179: Part 9 Division 2 inserted —

Ms M.J. DAVIES: This is my last question. I do not want to belabour the point because we have talked about this. Under clause 179 are some transitional provisions. I want to talk about the mechanics of opting in. Presumably, when this bill commences, there will be 28 days. Will the parties receive a letter from the Electoral Commission saying, "You must opt in within this period"? Will a form be available that the state directors or party agents will have to find on the Electoral Commission's website and submit within the lodgement period?

Mr J.R. QUIGLEY: It will be the latter; otherwise, we would have to write to everyone who is thinking about standing for an election. The parties will know. Parties have all these obligations now to keep up the 500 discrete members, so the parties will be in communication regularly with the commission. They will know that others who want to stand and register will have to nominate what they want to do.

Clause put and passed.

Clauses 180 to 186 put and passed.

New clause 186A —

Mr J.R. QUIGLEY: I move —

Page 362, after line 14 — To insert —

186A. Section 4.30 amended

(1) At the end of section 4.30(1) insert:

Note for this subsection:

A person is enrolled under the *Electoral Act 1907* if they are enrolled under section 40A of that Act.

(2) In section 4.30(2) delete "an electoral roll under the *Electoral Act 1907* or" and insert:

the register of electors under the *Electoral Act 1907* or an electoral roll under

New clause put and passed.

Clauses 187 to 198 put and passed.

Title put and passed.

House adjourned at 6.48 pm