

ELECTORAL AMENDMENT (TICKET VOTING AND ASSOCIATED REFORMS) BILL 2019

Second Reading

Resumed from 21 March.

HON SIMON O'BRIEN (South Metropolitan) [10.09 am]: I rise on behalf of the Liberal Party to make our case in the second reading debate of this bill. I notice that the government does not wish to respond at this stage; however, we look forward to the government's response in due course and I hope that it takes all of the following on board.

I want to give a little overview about the whole nature of electoral reform and where it sits in this state at the moment. There are a lot of commentators, most of whom are from outside Parliament, who have a thing or two to say about the electoral system. I do not know what members collectively think about all that—some of that will be for a debate in due course—but much of the focus at the moment, interestingly, is on the Legislative Council, as is this bill. Much of the commentary about the Legislative Council has been occurring among a very small group of people who have been corresponding with me, and presumably others, about how something needs to be done about the terrible malapportionment in the upper house because it takes seven times more voters to elect me than it does to elect a member of the Mining and Pastoral Region, such as the Minister for Environment, for example, and how terrible that is. They never seem to make those comments about the place in which government is formed, which at the moment, with 41 per cent of the statewide vote—a real historical high!—the Labor Party got about 68 or 69 per cent of the seats. I am not grizzling about that, because that is the system. However, if we look at those statistics in another way, it simply means that the Labor Party managed to get more than 50 per cent of the vote and was able to win individual seats in that many districts. We are not complaining about that, because that is how the system works. However, if we were to take the same logic, we could say it was a terrible malapportionment. Either way, the one thing I agree with in that sentiment is that there are far too many Labor members in the Assembly, and in due course we will need to do something about that! I will be relying on the innate good sense of the Western Australian electorate to address that.

Conversely, before I get down to the bill, I would say to those people that this house is elected on several bases, the first of which recognises that in a state like Western Australia regional representation needs to be guaranteed. We need a system of proportional representation to make sure that as wide a body of interests and sentiments is represented in the Parliament as possible, even though the individual view of minor parties does not get a full seat in the Assembly. That is why I am not worried that it takes however many votes for the honourable minister to get elected in the Mining and Pastoral Region compared with how many I need to get in the South Metropolitan Region, because as far as I am concerned it is the same in a proportional system. We both have to get, through our masthead parties, 14.28 per cent of the vote. That is not a malapportionment.

If we compare the statewide distribution of members in this place with the vote that their parties get statewide, there is a far more accurate representation of the will of the people in this house than there is in the Assembly. For example, out of the 36 members here, four are members of the Greens, which roughly represents the proportion of the vote that they got, and the same can be said about our good friends in Pauline Hanson's One Nation and the ALP. This time around, the Liberal Party is probably a couple of members shy of what it could have been—that is just the way the numbers worked out. Again, they are the swings and roundabouts of electoral fortunes so I am not complaining about that. I think it is interesting that whenever someone comes to me and says we have to address this malapportionment, they also say, "By the way, we've done the figures, and you guys would pick up an extra couple of seats", as if that is going to tip us over the balance. The fact of the matter is that we want to see a fair, reasonable and decent system of electoral management here in Western Australia, and that is not what we have now. Hon Alison Xamon identifies that in her bill and it poses a real challenge to the government. The current system we have was cooked up by the unholy alliance of the then ALP government, its mates from the Greens and one other Independent.

Hon Stephen Dawson: Where was he from?

Hon SIMON O'BRIEN: He was from the wild country north of the river, and before that I believe he came from the UK, so they are unfortunate antecedents!

Hon Stephen Dawson: Was he a Liberal perhaps?

Hon SIMON O'BRIEN: Madam President, these unruly objections will take me off course and I might be forced to go down rabbit holes, and we would not want that!

The PRESIDENT: Member, would you like me to remind you of that person's name, just to assist you?

Hon SIMON O'BRIEN: On occasion, Madam President, even I have been tempted to interject from the chair, but I know you would frown on that and I am sure you do not want me to tempt you to do the same thing, but thank you anyway!

The situation we have in this bill is simple, and I am delighted to see it come forward. I have advocated strongly in support of this bill in the party forums available to me, and the Liberal Party supports this bill. We will support its second reading, and more than that, we want to see it progressed. The bill proposes in essence to do away with what has become known as the “registered ticket voting system”, whereby candidates or groups of candidates are able to lodge a preference distribution list with the WA Electoral Commission, and in the case of voters putting a “1” above the line in that group’s box, so shall their preferences be distributed in due course. This system has been in place in a number of other jurisdictions over the years. I think it appeared in New South Wales and then was done away with. It still exists in Victoria and, as recent results show, this is probably a case for doing away with it there is well. There was certainly a case for doing away with it with the Senate, and indeed the Senate did do away with it, and we have now had the benefit of observing the recent Senate half-election and, back in 2016, a double-dissolution full-Senate election under the system proposed in this bill. I understand that the drafting instructions given by Hon Alison Xamon to parliamentary counsel were to give us the same thing that the Senate has. I do not think I am over-generalising when I say that.

Hon Alison Xamon: No, that is correct.

Hon SIMON O’BRIEN: Okay; so no more, no less.

I understand that there is another side matter that came up during the examination of that task by parliamentary counsel, which was to also include a clause to prevent a candidate’s name from being included in more than one group. I would not have thought that that was a necessary provision. If I were a returning officer of the Electoral Commission and someone told me that they were nominating a couple of times for a couple of different seats, I would be inclined to say, “Just come over to this doorway here”! But apparently that clause seems necessary. That just shows the absurdity of things—that any of us, for example, or our opponents, could nominate multiple times for the same seat in different groups, and if we were part of the Druery mob, have our own preferences redirected against ourselves. If that does not show a system that needs some tweaking to restore its credibility, I do not know what does. But the more substantive part of it is about replacing the system that we currently have with the system as it operates in the Senate. I am enough of a boffin in these sorts of things to have reviewed them. I went through all the distributions in the Senate from 2016 with my staff—they are long-suffering people! I have swapped copious notes about these matters with Jeremy Buxton, who would be known to members here. I am satisfied that the system that has applied in the Senate in the last two elections delivers a fair and decent result, which more accurately reflects the will of the people. It does so by putting the allocation of preferences back in the hands of the voter, which is where it should be. The reasons for that have become manifest in recent elections, particularly the 2017 state election.

The problem that occurred was identified many, many years ago—I will refer to how that was created in due course. But I can recall having discussions with colleagues here years and years ago, in the lead-up to various elections, saying, “Who’s putting in? Is such-and-such a party putting in? It would be nice if it did. We’ll get its preferences.” Then people would say, “Wouldn’t it be a cheeky thing to put up a couple of people as a daylight saving group, who can give us their preferences. While we are at it, we can put up a couple of people as an anti-daylight saving group, and get them to give us their preferences. We can have a pro-marijuana party.” By now, everyone is joining in the conversation—the sex party, the celibate party. No, forget that; it would not get its deposit back! It is absurd, and everyone has a joke about it, and then it gets backed down, because, of course, people would not do it. They would joke about it, but they would not actually do it.

The trouble is that people are actually doing it. That is the problem. A range of entities, be they minor parties or would-be-if-they-could-be parties, have worked out that even though they are never going to get elected themselves, they have a tradeable commodity. Money is changing hands in connection with the allocation of preferences. That is absolutely outrageous. It should be made unlawful. It should certainly be made technically impossible or impractical, because at the moment that is how our system is weak, and it now stands condemned by the experience that we all observed in the 2017 election, when we had a bunch of minor groupings standing in their own right in some discrete area, such as the anti-fluoride party. It has been a perennial; a couple of people stand under the anti-fluoridation ticket. It will get a few hundred votes, but it will never get elected—well, it is up to the people to decide who gets elected. But if we had a whole bunch of those people, and invented a few others—fake groups, in effect—and had them all acting in concert to exchange preferences via a certain formula, we could seek to influence the outcome.

We saw this most recently in the election in Victoria, where there are eight multi-member electorates. Victoria has ticket voting, and there were hopes in some quarters that one of these minor candidates would be returned in each of the eight regions. Acting in concert, these odds-and-sods parties, or groupings, form another entity in each of the regions. They all then interact together through a so-called “preference whisperer”, and as long as they all go along with it, it can be engineered so that in one particular region, one group will get one member elected; in the next region, another group will get elected, and so on. For those groups that are separate entities, let us use anti-fluoridation as an example. In one region in Western Australia in 2017, an anti-fluoridation candidate was meant to be elected,

but the group had candidates in each of the regions. In the other regions, by definition, those other candidates were not genuine candidates; they were playing doggo; they were ticket vote fodder.

It is a disgrace to have a system that promotes that sort of behaviour. There is a bloke who was employed at some stage by Senator Derryn Hinch. His name is Glenn Druery, and he goes around the country organising these arrangements, for a fee. I understand that it costs \$5 000 for a group to play in each region. That is what is needed to get a place at the table. There is also a success fee—I digress, but remember that term from back in the 1980s?—of, I think, \$50 000 if a person is actually elected. However, the \$5 000 fee required to play the game—for each of 10 groups in this region, and the same 10 groups in that region, and the same 10 groups in another region and so on—is non-refundable. Am I the only person who can see that that disgraceful state of affairs needs to be corrected? Of course, I am not. We should all be able to see that. Hon Alison Xamon has brought this forward, and I congratulate her for doing that.

The detail of the bill needs to be examined closely. This second reading debate deals mainly with the policy of the bill, and so will I, but I will refer to the detail in passing, because this puts it back on the government of the day. The government of the day has a less than impressive agenda for electoral reform. I remember congratulating the Minister for Electoral Affairs on his recent elevation to the portfolio, and in doing so I asked him what he was going to do about things. Basically, he said the government had a tremendous agenda. It was bringing forward a bill, which was already in train, to introduce amendments to reduce the threshold for public disclosure of donations to political parties from \$2 500 to \$1 000 per financial year, or something like that. I do not have the actual *Hansard* record with me at the moment. He said that if anyone else in the chamber had any ideas, he would love to hear them. Some reformist agenda that is.

I was delighted—as we know, in opposition we must take whatever delight we can find, wherever we can find it—when a prominent member of the Greens WA, the sometime fellow travellers of the ALP, who all those years ago had joined in to bring us the system that we now have, confronted this government with the folly of its inaction by bringing forward this bill. It is to Hon Alison Xamon's credit that she has seen fit to move on this. In due course, the Liberal Party would have brought forward a bill that looked pretty much like this one, but I was delighted to see that it was the Greens, not us—the natural enemies of the ALP, if that is in fact the case. I will rephrase that—the Liberal Party is the traditional opponent of the ALP.

The Labor Party's enemies are perhaps closer to it than it thinks—in some back room somewhere! It is interesting that the move to do something and confront the government in this way has come from the left. I do not know what the government will do. The only information we have so far is that the government will do nothing, next to nothing, two-thirds of diddly squat, or however we want to characterise it. When the honourable minister eventually leaves this place and gets himself a proper job, perhaps it will be at Myer. If he does get himself a job at Myer, jeez, I hope they do not put him in charge of the Christmas decorations, because if his role in electoral reform is anything to go by, that would not be a happy experience. Imagine going down to Forrest Chase and seeing the enormous window of Myer done by the Christmas decorations expert, the former minister. What would it look like if he had that job? Going on what he is doing with electoral reform matters, I would say that we would probably see just one clapped-out old bit of tinsel with a bit of sticky tape up in one corner of the window and our good friend standing back and going, “Ta-da!” Sorry, but that is pretty underwhelming.

Hon Stephen Dawson: You've obviously never seen my Christmas tree, honourable member. Without having seen it, I would think twice about making comments.

Hon SIMON O'BRIEN: We will meet under the mistletoe on some other occasion.

Hon Stephen Dawson: I don't think so. Quite frankly, mate, you're not my type!

Several members interjected.

The PRESIDENT: Members, as amusing as this is becoming, I think we are deviating from the subject matter. Hon Simon O'Brien, I might remind you that you need to focus on the bill that we are dealing with and not disparage the valuable and highly regarded display work of retail workers in Myer.

Hon SIMON O'BRIEN: Madam President, many members, including Hon Martin Pritchard, and I value the efforts of people working in Myer and similar establishments, and that is why we do not want to see its customers disappointed by an inadequate display of second-rate tinsel. The problem is—just to keep the tinsel metaphor going; I will let the other one through to the keeper—in one corner of the window there is the dog-eared bit of tinsel and in the other corner there is another bit of tinsel that has been up there for years. It has gathered a lot of dust and cobwebs and looks awful, but it has been left there. That is the situation that the Minister for Electoral Affairs has to deal with. I do not know whether he is going to deal with it; all the indications are that he is not going to deal with it. He needs to tear down that discredited aspect and put up some proper provisions where they should be. It is plainly obvious that the existing ticket voting arrangements have had their day; they are discredited. I challenge any member to make a case for keeping the status quo. Members will have the chance to do that in the course of

this debate. Particularly, I challenge the government because it is up to the government to do this. I mentioned, in throwing this issue into the government's lap, that it is up to the government to attend to the detail.

The member has put up a very good bill. I think it is probably about right, without going into the real fine detail and workability of the legislation. Before now, this government should have said, "Right, we have a bill being second read into the house; what is our response?" It is up to government to do this. It is up to government to say that Hon Alison Xamon and others of like mind are absolutely right and that it is working, or will start to work, with the resources of government to provide the correct statutory mechanics to deal with the issue. What is more, acting in concert with Hon Alison Xamon, we will sponsor a bill through the house and will engage with the government. Members can come and ask me about it. I have told the minister and his predecessor that this is what we want action on, so the government knows it has us on board. There is an absolute majority here. The government itself can take the bill through another place, where it clearly has an absolute majority, as I observed in my opening remarks. That will deal with the matter. That would then stand to the credit of the government. Even if it takes Hon Alison Xamon's private member's bill to prod the government into action, at least we will get the action we need. However, that will not happen, because the government does not propose to do any such thing. It has no agenda to proceed along these lines—none whatever. We know that from a number of firsthand responses we have received.

I hope the government has some sort of Damascene conversion on this matter, but I do not know that that will happen. I predict that the government will probably try some tactic such as talking this out. If that is the case, I think this house perhaps needs to contemplate some other course of action, because this matter needs to be addressed. Our electoral system has been brought into disrepute. It cannot stay that way. It will be to this government's great discredit if it says, "Oh, no; she'll be right." Absurdly, government sources have said to me, "No, we're not worried about it; it's your problem; it affects you worse than it does us." I am not too sure that is the case. If Hon Aaron Stonehouse, who got a significant primary vote, which upset someone else's aspirations and what have you, had not been voted in, another Green would be in here. Members should think about how that would have changed the dynamics. The government reckons it is our problem. I do not think so. It is everybody's problem. It is the problem of everybody who votes in an election in Western Australia. They would not be happy with it. Between us, we represent every single one of those people. With all that in mind, we look forward to supporting the Electoral Amendment (Ticket Voting and Associated Reforms) Bill through its various stages.

HON AARON STONEHOUSE (South Metropolitan) [10.37 am]: I rise today to speak on the Electoral Amendment (Ticket Voting and Associated Reforms) Bill 2019. It should not come as any surprise if I indicate from the outset that I will not support this bill. However, I think a few things need to be clarified. I will talk a bit about the history of the current voting system in WA, the model this bill seeks to adopt, which seems to mirror the Senate voting reforms, and how we could go about making our electoral system fairer and more democratic. It seems to me that questions of that nature are more value questions—questions about the values we hold and what kind of democracy we want to see. I do not think those questions can be answered objectively. What do we prefer? Do we prefer direct democracy, representative democracy or a system of a trustee representative or delegate representative? I do not think we can answer those questions objectively. It comes down to what flavour of democracy, I suppose, we prefer. It is also worth remembering that democracy is not the end; it is merely a means to an end. Ultimately, we want a peaceful, prosperous and free society. Democracy is merely how we get there. It is how we ensure that checks and balances are in place so that we do not turn into a despotic regime. It decentralises power somewhat.

Before I jump into that, I would like to talk a bit about what this bill intends to do. Quite clearly, it is modelled on the Senate reform of ticket voting, which passed a couple of years ago. It seeks to remove the group ticket entirely and replace it with sort of optional preferential voting both above and below the line. Before I jump into some of my critiques of the technical detail and some of the value questions I posed earlier, I would like to point out some of what I think are really vague statements made in the debate so far that have not really been questioned yet. Quoting from the second reading speech, Hon Alison Xamon said, "Ticket voting has enabled parties to game preferences". What on earth does that mean? What is "gaming" preferences, as opposed to using them to a party's advantage, as every party does? I am not sure whether I understand the distinction between gaming preferences and merely using them. Is gaming preferences when they are used towards electoral success? It seems every party uses preferences towards electoral success, whether it is through a group voting ticket or through an optional preferential system via a how-to-vote card. I do not see that there is any real distinction. I challenge members to tell me what that distinction should be and how we would identify someone gaming the system as opposed to someone simply using the system, as the rules are laid out in front of us, and playing by the rules that have been in place for more than 30 years. When do I go from merely using the system that other people established long before I was even born to now being someone who games the system? I would like to know exactly how I am doing that, or how other parties have done that.

Quoting from the second reading speech again, it states —

This is clearly counter to the democratic principle of promoting greater voter say in who our elected members are.

That is all well and good, but it ignores the reason why the group voting ticket was originally introduced in 1987. I will go into more detail on the group voting ticket later, but it was introduced in Western Australia in 1987 to simplify the voting process and the ballot for electors as we moved to a proportional representation system that would ultimately result in more candidates' names on a single ballot. It is all well and good to say that it is counter to the democratic principle of promoting greater voter say, but it is not counter to the intention of the group voting ticket as it was originally stated when it was introduced in 1987. Of course, our group voting ticket was introduced following the federal Hawke Labor government's introduction of group voting tickets in the Senate in 1984, if I have the year correct. That was introduced for precisely the same reason: to simplify the voting system for electors. When there is a long ballot with what was then probably dozens of names—nowadays there are up to 60 candidates on a Senate or upper house ballot—it gets quite confusing, and the chances of informal votes are quite high. In fact, the number of informal votes was very high in the 1970s and 1980s. As a result of the Hawke government's 1984 group voting ticket reform, the rate of informal votes dropped quite drastically, but I will go into that in a little more detail in a moment.

The second reading speech talks a little bit about the situation in the 2017 state election. It states —

... when five micro-parties employed the services of a so-called preference whisperer ...

What is a “preference whisperer”? I think Mr Glenn Druery has used that expression; perhaps that is where that phrase comes from.

Hon Alison Xamon: He describes himself that way.

Hon AARON STONEHOUSE: Yes, I think this whole exercise actually serves merely to stroke the ego of Mr Glenn Druery and probably drive up his fee. But what is a preference whisperer, and how is that different from the staff who work for the Western Australian division of the Liberal Party or the Western Australian division of the Australian Labor Party who engage in those practices on a part-time or full-time basis, or on a retainer? These are people who look at preferences across the state and decide where preferences flow on their group voting tickets. Minor parties are not the only parties that use group voting tickets; every party in the state uses group voting tickets, and they all have their own people with their own expertise who decide where preferences should flow from electorate to electorate. Those people are not being called out in this legislation. They are not the nefarious backroom dealers that we are heaping scorn upon; it is merely the ones engaged by minor parties that we seem to be concerned about. I do not know why minor parties using these types of consultants draws the ire of major parties, while their use of these consultants, who perhaps are not freelancers, does not cause the same concern. That is also worth noting. Minor parties, such as the Liberal Democrats, the Shooters, Fishers and Farmers Party, Pauline Hanson's One Nation, the Australian Christians and the Australian Conservatives, do not have large party structures with full-time staff or even offices in Perth. Those things are rather expensive and those parties have to rely on the expertise of freelance consultants. They have to hire these people at the time of an election.

It is interesting that Hon Simon O'Brien in his contribution talked about money changing hands. I think the implication might have been that people were paying to get preferences. I am not aware of that practice, if that is the implication. I would like to see some evidence of that happening. It certainly sounds fairly corrupt to me. I understand that people paid to hire a consultant who understood how the preference system and group voting tickets work in this state. Again, I do not see how that is any different from a major party that already has staff who have that expertise.

The second reading speech goes on to say —

As the practice of gaming —

Whatever that means —

our ticket votes has increased, there have been instances in the recent past in which candidates have been elected after receiving less than one per cent of the primary vote because of these types of deals.

I have not had a chance to look at the primary vote data for the last state selection for every member of the upper house, but was anyone here elected on one per cent of the vote? I do not think anyone was. I know that a few people here were elected on a couple of thousand votes, thanks to the malapportionment of votes to the regions, and that might be of concern to some people, but, as far as I know, no-one was elected on one per cent in Western Australia. I was elected on a primary vote of a little short of four per cent, but no-one was elected on a primary vote of one per cent. I believe that is a reference to recent Senate voting outcomes of the 2013 election, and Victoria also still has a group voting ticket. However, it has not happened here that I am aware of. In fact, it is worth noting that the only member of this chamber I know of who engaged a spooky, nefarious preference whisperer was me. I am the only person here who engaged the services of Mr Glenn Druery, but I was not elected through the preference deal of Glenn Druery; I was elected because I received just short of four per cent of the primary vote. I then received preferences from the Australian Christians. The Australian Christians did not engage Glenn Druery. I would guess that the Australian Christians do not have any intention of engaging him in the future, but that party would have to talk about its intentions for future elections. I also received preferences from the

Shooters, Fishers and Farmers Party. Again, that is another party that did not engage the services of Mr Glenn Druery. So what in the heck influence did this preference whisperer have on the state election? I was not elected thanks to his preference deal with micro-parties.

What is also interesting is that my election did not hurt the Liberal Party. I did not steal a Liberal seat. Hon Phil Edman lost his seat at the last state election, but not because of me. He lost his seat to a new Australian Labor Party member, Hon Pierre Yang.

Hon Simon O'Brien: We're very happy to see you here; I mentioned that.

Hon AARON STONEHOUSE: Thank you; I appreciate that. I also did not cost the ALP a seat. The ALP picked up a seat in the South Metropolitan Region. Of course, Hon Kate Doust, the President, and Hon Sue Ellery, the Leader of the House, were re-elected and Hon Pierre Yang was elected. The person who lost her seat due to my election was Hon Lynn MacLaren. When I was elected and reached my quota, preferences from the Liberal Democrats and other minor parties that had preferenced each other above the major parties flowed through to the Liberal Party and resulted in the election in the sixth position of Hon Simon O'Brien. If I had not been elected—knocking out Lynn MacLaren—thanks to preference deals organised outside of Glenn Druery and based on mutual principles that are shared between the Shooters, Fishers and Farmers Party, the Australian Christians, a few other minor parties and me, it is unlikely that those preferences would have flowed to the Liberal Party and elected a Liberal member to the sixth position. In a swing against the Liberal Party in that state election, we would have probably seen the election of Lynn MacLaren and perhaps the Greens' preferences flowing to another Australian Labor Party member.

Hon Alison Xamon: Only because you got a high enough primary.

Hon AARON STONEHOUSE: Yes, because I got a high enough primary vote. The point I am making is that the concern that some kind of manipulation of our electoral system resulted in the make-up of this chamber as it stands right now is unfounded. The result of the state election and the make-up of the upper house now is more than anything a result of electors' primary votes and, then, mutually reciprocal preference deals organised between the various parties outside of whatever deal the preference whisperers may have organised.

The second reading speech goes on to state —

Furthermore, it is well understood that many micro-parties have been established expressly for the purposes of preference harvesting.

Hon Alison Xamon: That is true.

Hon AARON STONEHOUSE: Is it true? How does one actually prove that a party has been established purely for harvesting preferences? I do not know the registration process perhaps as well as others do, but if I am correct, an organisation has to have at least 800 members to register as a political party.

Hon Rick Mazza: It is 500.

Hon AARON STONEHOUSE: Sorry, it is 500 members to elect —

Hon Rick Mazza: To enrol.

Hon AARON STONEHOUSE: It needs to have 500 enrolled members. That is then audited by the Western Australian Electoral Commission, which contacts a sample of those people to verify their membership. To me, requiring 500 members seems already quite a hurdle to creating a political party in Western Australia, considering that some members of Parliament, thanks to the weighting of the country regions, are elected on a very small handful of votes—a couple of thousand votes in some cases. The need to have 500 members to register a political party is quite a high hurdle in a state of 2.5 million people. That is a pretty high bar to clear. If a person had the intention of creating multiple micro-parties to harvest votes, they would still need to register 500 members, which is no easy feat. Trying to register people for a political party is not easy. Anybody who has done any sort of phone banking work can attest to that. Getting people to get off their butts and be involved in the political system can be quite difficult at times. But even so, how would one distinguish between a party created solely for the purpose of harvesting votes—whatever that means; gaining votes from electors—and a party that has a genuine concern and a genuine platform? How does one distinguish between those two? The Daylight Saving Party was an example raised by Hon Simon O'Brien. Are there not people in the electorate who want daylight saving? I think there are. I disagree with them, but there are certainly people out there who want it. The Fluoride Free WA party would surely attract the vote from some alternative-medicine, anti-vax and anti-fluoride types perhaps, but again there are people who genuinely hold those beliefs. I think that that party is now defunct, but I met with one of its members not too long ago who had genuine concerns—I may not agree with all of them. However, a politically motivated person who has genuine concerns may want to create a party to affect change in the state, which is what our whole system is about.

Hon Simon O'Brien: But if someone votes for that because of their anti-fluoride beliefs, is it also right that that vote should be taken and given by commercial arrangement to some other candidate for whom the voter may have no inclination to vote? That is what happens

Hon AARON STONEHOUSE: What commercial arrangement is the member talking about?

Hon Alison Xamon: The one that is set up by a consultant who brings together disparate political parties solely for the purpose of exchanging preferences even though they may have diametrically opposed views, such as has happened in other jurisdictions.

The PRESIDENT: Order, member! You will have ample opportunity to reply at some stage, and you know that interjections are unruly.

Hon AARON STONEHOUSE: Thank you, Madam President.

A commercial arrangement to engage a consultant who can help parties navigate the complex system of preference deals does not sound particularly corrupt; it sounds fairly straightforward. As for parties making preference deals with other parties that may not hold their values, I think that is a different matter altogether. If people were to glance at some of the more socially liberal policies of the Liberal Democratic Party, they might think that it has nothing in common with a Christian party or a fairly conservative party such as the Shooters, Fishers and Farmers Party, but we agree on some matters. Even if we disagree on certain policy positions, the one thing that binds minor parties together more than anything is a distrust and distaste for the major party duopoly. It is not really a duopoly; I would now count the Greens as a major party as well. Minor parties have a distrust of and distaste for the current system of politics in which the Australian Labor Party, the Liberal Party, the Nationals WA and the Greens swap between government and hold the balance of power on a regular basis. Even if they have policy disagreements, most minor parties share at least that one common goal—that is, to dislodge major parties from our parliamentary system, break up their power a little bit and decentralise the power of Parliament somewhat.

The second reading speech and the explanatory memorandum lay out in a little more detail what the bill aims to achieve and its principal instruments. The second reading speech states —

Given that the structure of the Western Australian Legislative Council mirrors the Australian Senate, in that multiple members are elected to represent a number of defined regions, the amendments contained in this bill to change our voting system are modelled on the changes enacted by the Australian Parliament.

This bill will abolish ticket voting in Western Australia; introduce optional preferential voting above the line, with voters instructed to mark at least six preferences; introduce partial optional preferential voting below the line, with voters instructed to mark at least 12 preferences; prevent candidates from listing on more than one group; —

That is a reform that I think most people would agree with. It seems rather non-contentious to me. It continues —

and include savings provisions to ensure that a vote remains formal, including any vote above the line with a valid first preference and with all preferences counted, even if they fall short of the six specified, and below-the-line-votes will require only six valid preferences, saving the votes of voters who mistakenly used the above-the-line instructions for a below-the-line vote.

I wonder what point there is in instructing voters to vote one-to-six above the line if a simple “one” will do and the vote will be exhausted. It sounds as though this bill will have the potential to move us to a first-past-the-post scenario in which electors, if they are confused and think we are still using group-voting tickets, can vote with merely a one. I can guarantee members that will happen if we pass this reform. It will take some years until everybody is up to speed with the new system, and we may move to what is almost a first-past-the-post system in which votes are exhausted as electors simply mark a one above the line and do not number the other boxes to six.

Hon Alison Xamon: That hasn't happened in the Senate.

Hon AARON STONEHOUSE: It is hard to tell though, is it not? How many people does the member know —

Hon Alison Xamon interjected.

Hon AARON STONEHOUSE: What is the rate of informal voting in the Senate right now?

Hon Alison Xamon interjected.

Hon AARON STONEHOUSE: I would be interested to see that. I did not get a chance to look up that number when I was preparing my notes for today, but I would be interested to see that. In 1984, when group-voting tickets were introduced in the Senate, the number of informal votes decreased quite significantly. That was the policy intention of that legislation and it happened. The exhaustion of votes is a real concern that I have and I will talk about it more detail in a moment.

Another major component of this bill, which I have just mentioned, is informal votes. The second reading speech states —

Further, to minimise the risk of an increase in informal votes arising from changes to a voting system that has been in place for many years, the bill's savings provisions mean that a vote will remain formal even when voters have numbered fewer preferences than the voting instructions require.

The bill contains some instruments, and, if we progress to Committee of the Whole on this bill, I would like to unpick how those will work in practice. I have some concerns about affording greater discretion to Electoral Commission staff and vote counters. It seems to me that the greater the discretion in the system, the greater the potential for abuse. That is true in most areas of law—when government agents and officers are afforded discretion, there is greater potential for them to insert their own bias, will and desire into how they carry out the law. I will go into that in more detail later.

When I began to speak on this bill, I talked about values. The crux of this issue will ultimately come down to what flavour or system of democracy we prefer, democracy being not an end in itself but merely a means to an end. As I have said, that is not a question that we can necessarily answer objectively. I will explain that in due course. Part of the impetus or motivation for this bill is that apparently something was wrong with the outcome of the 2017 election. It is interesting that that has come around only now. The Liberal Party commanded a majority in both the lower and upper house for about eight years. However, it did not move to reform group voting tickets. The Liberal Party has not made any effort to reform group voting tickets in the 32 years since they were introduced in 1987. The system seems to have been working perfectly fine, apart from the vote weighting and malapportionment in regional electorates and the desire of the Labor Party to move to a one vote, one value system. I will talk about that in more detail in a moment, because it was brought up by Hon Simon O'Brien and is relevant to the discussion about electoral reform.

The current system seems to be working perfectly fine. In fact, last night, I spent some time looking through *Hansard*. It was quite difficult, because for any debate before 1995, we cannot do a key word search but have to go through the *Hansard* index year by year, search through that PDF document to find key words, and then search the individual pages. I am sure you are aware of this process, Mr Acting President (Hon Dr Steve Thomas). Therefore, in my effort to get a time line of how electoral reform has progressed in Western Australia, I had to do a bit of work and go back and forth to try to find the full story. A lot of that is lost in *Hansard* as well, because there was no video feed in those days. Therefore, it is a little difficult to follow what has happened just by reading the *Hansard* transcript. If there was reporting of what happened in Parliament at that time, it certainly has not made it to the internet yet. That might be a job for the Parliamentary Library. I hope that if, and when, we resume debate on this bill at a later day of sitting, I will have had the opportunity to ask the Parliamentary Library to do a bit of digging and research for me.

No party complained about the group voting ticket at the 1987 election.

Hon Alison Xamon interjected.

Hon AARON STONEHOUSE: It was not being gamed at that point. Again, what does “game” mean? The fact is that this system, the rules for which have been set by the major parties, has been used effectively by the minor parties for 30 years—it took 30 years to figure out how to use that system effectively. However, now, all of sudden the rules need to be changed. I will have a bit to say later in my remarks about what I think is rather cartel-like behaviour, if I can use that word.

However, to go back to values, when we talk about electoral reform, ultimately it becomes a conversation about representation and democracy. We will probably have to dive down a rabbit hole, and perhaps into a bit of philosophy—I am only an amateur on this, so bear with me—when we talk about the values that we seek to afford through our electoral system. For the benefit of those who cannot count, it is worth acknowledging the make-up of the upper house and how it functions currently. As a model for electoral reform, the bill proposes to adopt the system the Senate has adopted. The impetus for the Senate system was the Abbott and Turnbull governments' frustration with an unruly—I think the word “feral” was used from time to time—crossbench in the Senate. They were very frustrated in trying to get legislation through the Senate. That was the impetus at the time for reform of the Senate. Although there may be noble comments about altruistic intentions for electoral reform, and nobody here proposes one model over another out of self-interest of course—we are all altruistic—it is worth noting that there are difficulties in the upper house and no major party controls the balance of power. It is left up to negotiation and compromise and, at times, it is perhaps up to a feral crossbench.

Hon Stephen Dawson: They were your words, not ours. We would never use those words!

Hon AARON STONEHOUSE: Thank you, Hon Stephen Dawson. That is very nice of you—a gentleman as always.

The current make-up of the upper house is 36 —

Hon Stephen Dawson: Hon Simon O'Brien does not agree.

Hon Simon O'Brien: The crossbench does not have a monopoly on feral members in this place!

The ACTING PRESIDENT (Hon Dr Steve Thomas): Order, members! I would hate to start calling members to order and saying that calling each other “gentleman” is unparliamentary! Can we please return to the substance of the debate.

Hon AARON STONEHOUSE: As I was saying, there are 36 seats in this place. It is not unruly to comment on the make-up of this place. I will not reflect on any votes. The President of course does not vote, generally; so, in effect, there are 35 voting members of the Legislative Council. This is not for the benefit of members sitting here, who can do some basic arithmetic, but perhaps for members of the public or the press who might want to look at this situation and be fully informed on how it works. To pass a bill requires a majority of 18 votes. The Australian Labor Party has 14 seats and it has appointed one of its members as the President, as convention dictates, although there was some controversy earlier around how that might go. I will leave that for another day.

Hon Simon O'Brien: You can't always get what you aspire to!

Hon AARON STONEHOUSE: No. One day perhaps! I am a little insulted they did not approach me to be President. It would have been an interesting job.

Hon Peter Collier: I am surprised they did not ask you because they asked everyone else!

Hon AARON STONEHOUSE: I am offended! My feelings are hurt.

The ACTING PRESIDENT: Members!

Hon AARON STONEHOUSE: Therefore, the Labor government commands only 13 votes in its own right. The government needs to gain five votes to pass any legislation through the Legislative Council. It can obviously make up those votes by dealing with the Nationals WA and the Liberal Party. One Nation has three votes, I have one vote, the Shooters, Fishers and Farmers Party has one vote, and the Greens have four votes. It creates a rather dynamic situation. In years gone by, the Legislative Council was dominated by conservative MPs from the Liberal and National Parties; again, thanks in some part to the malapportionment of members to the country regions and the weighting of votes in country regions. Instead of a conservative Legislative Council frustrating the government's legislative agenda and not passing anything—perhaps with very good reasons, but causing a bottleneck or a gridlock in the upper house—a more dynamic situation exists in which compromises can be reached and negotiation can be achieved. Although there is often bipartisan agreement on most major bills, I think most of the good work in this place is done during Committee of the Whole House. It is a very dynamic situation in which members can be swayed to support an amendment by the persuasiveness of somebody's debate and argument. That is something that normally does not happen on a bill. Quite often, decisions are made in the party room behind closed doors, long before a bill is ever debated on the floor. The Committee of the Whole is very different. I think that dynamic situation is thanks to the make-up of this place and perhaps the passion and the intelligence of certain members who engage in that process in good faith, in a non-partisan way at times.

As we all know, the Legislative Council acts as a house of review; it is there to scrutinise government. I am giving a summary of how this place works because it is relevant to this debate. We are talking about changing the electoral system, which will undoubtedly change electoral outcomes and the make-up of this place if this bill passes. The Legislative Council is a house of review and it scrutinises government. It plays a very important role. It holds the government to account. Although the current make-up of the Legislative Council, with an unruly crossbench—or a feral crossbench at times, if that is not unparliamentary to say—may lead to some gridlock or bottlenecks, that is not necessarily a bad thing. That might be a controversial thing to say.

I am a big fan of American politics; I follow it. It is almost like a spectator sport nowadays. Some very interesting stuff goes on over there. At times, it is more interesting than Australian politics. I have always had an interest in the American Revolutionary War and the revolutionary period, and characters such as John Adams, George Washington and Thomas Jefferson—incredible people who achieved some really remarkable things. They were not perfect of course, but they achieved some incredible things for their time. Perhaps my favourite US President was Calvin Coolidge. He was not everybody's favourite US President. He was the thirtieth President of the United States. If we ask some folks on the left, they will probably think he was the worst.

Hon Simon O'Brien: Very taciturn he was.

Hon AARON STONEHOUSE: Yes, he was. He was a man who did not like the spectacle and pomp and circumstance of the office he occupied. He was much more at home behind a desk writing papers than in front of a crowd giving speeches. He almost reminds me of George Washington in that sense, who was a very humble man. He was a proponent of the free market, of course. He did not condone bailouts and government intervention at times of recession, which followers of the Austrian School of economics, or the Chicago School, to some extent, would certainly agree with. One of my favourite quotes from Calvin Coolidge is this —

It is much more important to kill bad bills than to pass good ones.

I think that is very important. We do not normally initiate legislation in this place; it is usually initiated in the other place, where the government commands that chamber. It is our job to scrutinise and amend, perhaps enhance at times, but also to block bad bills. If there is a gridlock or a bottleneck up here and it frustrates the government's legislative agenda from time to time because of the make-up of the crossbench, that is a very good thing. There are far too many laws on the books in Western Australia. This perhaps goes against the public sentiment. We probably all hear it from time to time. Politicians, especially those in government, are constantly criticised for doing nothing—for not doing enough. If there is a problem in society, the first cry of most people is, "Why hasn't the government fixed this problem? What is the government doing to fix this?" Funnily enough, it never occurs to people that perhaps they have the capacity to fix most of those problems themselves through voluntary or charitable organisations and so on. The idea that politicians should be doing something constantly, making some kind of progress and fixing things constantly, seems to be out there in the public. I do not think that is the right thing to do. Quite often doing nothing is better, especially when we consider the way legislation is currently drafted. The legislation that is drafted today is lengthy, very complex and written from the perspective of the executive government.

Legislation, in my experience and in the experience of some legal minds I have spoken to since I began this job, is not written for the average man. It is not written for businesses or the residents of Western Australia to easily comprehend; it is written from the perspective of the executive government out of expediency for the executive government. I do not know how long the Western Australian statutes are or how many pages of statutes exist in Western Australia—it would be a task to embark on to find out how many there are—but there are some laws that people have no idea exist. That is kind of scary. I read a story the other day—I cannot recall from which outlet—about a man who received a fine for passing change to someone who was washing his car windscreen at a traffic stop. Some people find those people annoying and some people are intimidated by them; I actually do not mind them. I think that they are okay. If I need my windscreen washed, I do not mind supporting someone who is down on their luck and trying to do an honest day's work. Maybe they will waste that money on alcohol or drugs, but they are out there working for it at least and not robbing somebody. That is perhaps not a bad thing.

Hon Martin Aldridge interjected.

Hon AARON STONEHOUSE: They probably are not, but what would the tax be for earning a dollar for washing a windscreen? I do not think it would be worth our trouble or the Australian Taxation Office's trouble to chase that. It is good work. In fact, to digress briefly—I will get back on point shortly, Mr Acting President—I had my very first job when I was eight or nine years old and was living in Caloundra. My younger and older brothers and I would go to the Franklins car park, which was like Dewsons here in Western Australia before IGA absorbed everything, with some window squeegees and washers and we would ask people who were parking their cars before going shopping whether we could wash their windscreens. When people asked us how much it was, our sales pitch, or our hook, if you like, was, "Well, you name the price. You give us however much you think is fair." Most people would feel an impulse to give us a little more than perhaps they would have otherwise. It was a very effective way of earning some change. We were not troublemakers. We were polite and nice, and we would wash the windows quite well. We would wait for them to come back from doing their shopping to get our change. We would then use that money to buy Nintendo video cartridges or lollies. It was the mid to late 1990s.

Hon Alannah MacTiernan: We used to sell beer bottles.

Hon AARON STONEHOUSE: Beer bottles—that is good! I cannot recall whether there was a recycling container deposit scheme in Queensland at that time. There might have been; I think there was. However, I digress.

I think that that kind of work is honest, as long as people are not threatening others. We certainly did not. We were only eight or nine and we did not threaten anybody, for goodness sake. It was honest work. However, an obscure law exists in the statutes, not prohibiting necessarily the window washing—it was not window washing that the man was fined for engaging in—but for handing money out of a car window for the purchase of a newspaper, for crying out loud. Who even knew that law existed? I am sure no-one here did. No-one in the media knew it existed; the driver did not know it existed. But the police officer somehow knew that that was a law.

Hon Jacqui Boydell interjected.

Hon AARON STONEHOUSE: It does, because it is relevant to the complexity of Western Australian statutes and the role that this place plays in ensuring that they are not expanded further or further complicated. The make-up of this place is determined by the electoral laws that we pass, and the make-up of this place and the outcome of the 2017 election was precisely the impetus for this bill.

Let me get back on course after that digression. Being ignorant of the law is certainly no excuse, but having complex statutes does not help. I think that is a role that the Legislative Council can play and why it is important to have a diverse Legislative Council with an electoral system that supports such outcomes. I am reminded of the Tacitus quote: the more corrupt the state, the more numerous the laws. That is a very good one, I think.

Moving on, the electoral system as it currently stands serves the purpose of ensuring that votes are not exhausted and avoids the first-past-the-post system. In my view, the major downfall of the first-past-the-post system is the tendency towards mob rule. A group voting ticket in a preferential system with proportional representation ensures that niche, minority views still have a voice and can be represented in this place, as opposed to the generic, broad-church views of the centre-left and centre-right parties, whichever way they go these days; I am not sure. That is incredibly important in acting as a check and balance to protect against autocracy and tyranny. It might be silly to think of tyranny arising in a liberal democracy such as ours, but then we look at the news of the last two days, with the raids on a News Corp journalist's house and the ABC offices, the appalling behaviour of the Australian Taxation Office and now even with the so-called Liberal federal government's prosecution of the ATO whistleblower, which is absolutely disgusting. But I digress. In a democracy there is always that risk, and this really gets to the heart of the electoral reforms we are considering today. There is always a risk that the majority will place its interests over those of minorities. It is not just the majority of electors placing their interests over the minority of electors, but I think it is also evident in places like this, where two major parties may collude to keep out other minor parties they do not like.

Hon Colin Tincknell: That never happens, as far as I know!

Hon AARON STONEHOUSE: Yes!

I will talk about that in more detail when I get to my comments on the Senate voting reforms, which are very relevant to this bill, because they are what these reforms are modelled on. That is exactly what happened with the Senate voting reforms in 2016. This kind of tyranny can happen in spite of having a democratic system. That is why I asked earlier what flavour of democracy we want. A direct democracy can easily lead to that tyranny of the majority. The reason we have representative democracy and countries like the United States have the electoral college system is precisely to avoid that tyranny of the majority. I am reminded of an excellent quote by Edmund Burke —

... in a democracy, the majority of the citizens is capable of exercising the most cruel oppressions upon the minority ...

I think that is very important to remember and very relevant to the debate we are having today. It was a sentiment shared by John Emerich Edward Dalberg-Acton when he said —

The one pervading evil of democracy is the tyranny of the majority, or rather if that party, not always the majority, that succeeds, by force or fraud, in carrying elections.

This is why I say again that democracy is not the end in itself; it is merely a means to an end. What we want is a free, prosperous society, and democracy is how we get there. We should really be concerning ourselves with what kind of democracy is most effective in achieving those ends. Regarding the fear of fraud, force or coercion to carry elections and take the majority of government, I can see that some people might fear that group voting tickets are a way for special interests or micro-parties to carry that out, but if we look at electoral outcomes here in Western Australia, that has not been the case. No-one has been elected on a so-called one per cent primary vote. No-one who engaged the services of preference whisperers has been elected as a result of those preference whisperings.

Hon Alison Xamon: Yet.

Hon AARON STONEHOUSE: Yet, perhaps.

I only have a short time left, but I will get to how I think we can reform our electoral system when we resume debate on this matter.

Debate adjourned, pursuant to standing orders.