

**STANDING COMMITTEE ON
ENVIRONMENT AND PUBLIC AFFAIRS**

LOCAL GOVERNMENT AMENDMENT BILL (NO. 2) 2006

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
MONDAY, 15 JANUARY 2007**

SESSION ONE

Members

**Hon Louise Pratt (Chair)
Hon Bruce Donaldson (Deputy Chairman)
Hon Kate Doust
Hon Paul Llewellyn
Hon Robyn McSweeney**

Hearing commenced at 10.57 am**PHILLIPS, DR HARRY****Parliamentary Fellow (Education), Legislative Assembly,
Parliament of Western Australia, examined:**

CHAIR: Good morning, Dr Phillips. Thank you very much for making yourself available to the committee. I know you are very familiar with these kinds of proceedings but I am obliged to go through the formalities. On behalf of the committee I would like to welcome you to this meeting. Would you please state the capacity in which you appear before the committee?

Dr Phillips: I am a Parliamentary Fellow, of which I am very proud, and I am an adjunct professor of Edith Cowan University and Curtin University of Technology, but for years I have had a very keen interest in electoral law in that my PhD was on Canadian electoral law. I have just written an article on proportional representation for the Constitutional Centre and I am doing a brief electoral law history for the Western Australian Electoral Commission. I have a very keen interest in electoral law, although I would not call myself an expert in local government, which I know some members of the committee are.

CHAIR: You will have signed a document entitled "Information for Witnesses". Have you read and understood that document.

Dr Phillips: Yes.

CHAIR: These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your evidence is finalised, it should not be made public. I advise you that premature publication or disclosure of your evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Would you like to make an opening statement to the committee?

Dr Phillips: I have been following the debates in the Parliament and I must say I was a little bit perplexed because when the second reading commenced, the minister spoke about "proportional preferential". I have looked at electoral systems for 30 or 40 years and proportional preferential seems to be a combination of two systems. There is preferential voting, which we have at state and federal level; it is often called preferential voting. A better term is probably "alternative vote", in which a voter casts preferences and, in a single-member constituency, the member who wins 50 per cent plus one of the votes is declared elected. That differs from proportional representation, of which there are two main forms: a list form and a transfer vote form. Essentially the general principle is that in a multimember constituency, the formula is determined so that representation is obtained from across the party spectrum.

As I have tried to read the minister's second reading speech - there may be changes that have subsequently taken place that I am not too sure of; and, of course, the regulations for the application of electoral law become almost as important as the debate - it seems to me the proposal is to have preferential voting, or alternative voting, for single-member local government districts and proportional representation for double-member wards. I understood that in many local government authorities one member was elected for a term and then another member was elected. However, for

any of the multiple-member constituencies, a system of proportional representation is proposed. The minister kept referring in the second reading debate to a system “like we’ve got in the upper house”. This is a problem, and I think we would have to decide whether we were going to have party lists - registered lists - beside the line, where a voter can tick or vote “1” for the party of preference, or whether it would be like the old John Stuart Mill system in the 1860s and 1870s where voters had a list of members, which may be alphabetical, or drawn by lot as we do now. Is it to be party-grouped? Mostly in local government the candidates are in non-party groupings. I am a little perplexed about how that list will be formatted for electors in constituencies where more than one candidate is to be elected.

Also, what will be the system for a by-election? If a candidate is elected under proportional representation, will we adopt the system in the Legislative Council and go to the next candidate if there is a vacancy? That is quite convenient in the Legislative Council because the next candidate is a party member. That is the way the formula works. We would have to have another count to see who was the next person elected at the last election. Are those same people prepared to stand for election, or do we have a nomination system whereby the local government authority decides which candidate is to take up the vacant seat in the event of a resignation or a death?

I want to say something broad about electoral systems. There is no perfect system. Every system has advantages and disadvantages, and to some extent we have to take into account the political culture of the constituency and what system operates in other jurisdictions of government - state and federal. All these things have to be taken into account to some extent. What is the history of the voting system in local government in particular? People come up to me and say, “Please give me the ideal system.” The point is that the system that operates at the state or federal level might not be perfect for local government. They are just a few opening points on which you might have questions.

CHAIR: I have some questions on which I would like to have your opinion. There is an argument that votes are wasted in the first-past-the-post voting systems and in preferential voting, and in some instances where it is relevant to the local constituency, a combination of preferential and proportional voting where more than one officer is to be elected. As you said, there is no perfect voting system. Do you have views about vote wasting and the different kinds of outcomes that are possible in an election because of the electoral system?

Dr Phillips: There is no doubt that there is vote wasting under the first-past-the-post system. The advantage, of course, is that it is simple and people understand it. As an aside, if we go to the version of proportional representation, which I presume is being proposed, a big educative process would have to be undertaken. I would prefer the old system, in single-member constituencies, of the alternative, or preferential, vote. However, there is a precondition: that does presume that the candidates across the board are well known. This is possible if there are three or four candidates in a local government constituency. Once the numbers are big, under plurality there is wasted voting but under alternative, or preferential, voting, there is “guess” voting. The last six preferences are cast very carelessly. When I vote in local government, I have to rely on the résumés that are posted and I distribute my preferences carefully, but there is no perfect answer. However, there is definitely wasted voting.

CHAIR: Many of the councillors putting forward views have said that the new system will encourage the use of factions and party politics in local government. If, according to the usual custom in this state, parties are not identified on the ballot paper and candidates are not allowed to run on a party ticket, is that a likely outcome?

[11.10 am]

Dr Phillips: This is where I bow to the people who have been in local government and have given wonderful service, I might say, because it is a bit soul destroying in some ways, and people are not given recognition for it. The extent of the party element seems to be mixed in various

constituencies. I think that if you introduce PR, you will provide an incentive for party listings to start to operate, because that is what we have at state and federal level. I know that possibly in the final countdown, the way the regulations will be cast is that there will not be listings of parties as we have at the moment, and the candidates will be all over the place on the ballot paper. However, I imagine that what will happen is that local candidates will start to coalesce and say, "Please vote for me." Probably what you will find at the end of the day is that they may be members of a party or they may not be.

CHAIR: It has also been argued that although these systems might minimise the number of wasted votes, they might also result in a higher error rate in completing the voting cards. As you have said, first-past-the-post is a simpler system. A preferential system might be slightly more informal, but overall more views are taken into account, because preferences are accounted for. Do you have a view about the different systems and the level of informality?

Dr Phillips: Under preferential, or alternative, voting, the informality increases with the number of candidates. To imagine what would happen if we had a PR election in double-member constituencies, we need look only at what happened in the federal system before we had lists. In the federal system before 1984 the informality rate was running at 10 per cent or 12 per cent - thousands and thousands of people - because people had to fill out as many as 72 preferences, and if they missed one, their vote was informal. That is why the federal Parliament introduced party lists. We then went to the other extreme. Of course under that system, the informal vote dropped so that it was no higher than in the House of Representatives under preferential voting. The number of candidates is the big factor with informality. Of course you also get a lower turnout at local government level.

CHAIR: That is right. As you have highlighted in your opening comments, each system has numerous pros and cons; there is no ideal system. Do you have any views on the pros and cons of the various systems?

Dr Phillips: I do not want to be evasive on this, but I believe that Australia already has one of the best systems in the world - partly because of the integrity of our Electoral Commission and our good enrolment procedures - because the lower house has preferential voting, and the upper house has PR. If we had to adopt one system, the New Zealand system of mixed member proportional works very well. What we doing here is combining two systems in one. It seems to me that the problem in Western Australia is that in 1995 we went to first-past-the-post. That came in overnight too, I might add. I thought we were going to have PR in 1995. That is what it said on the provisional bill.

Hon KATE DOUST: Was there a lot of kick-up about that change?

Dr Phillips: I stand corrected - I do not want to be found guilty of not telling the truth before a parliamentary committee - but I saw one draft of that bill that had PR on it. However, when that bill was published, it had plurality - first-past-the-post. I am not sure what happened in all that, but there is a big difference. When you go from PR to first-past-the-post, sometimes it is a constituency change, or a change in the number of members, that causes that to be introduced. The advantage with the present first-past-the-post system is that that does not matter, so you can also apply that to a second member, because you just give people two votes. The problem is that we have educated the local government constituency to use first-past-the-post. I have read the report of the Local Government Advisory Board. I took special notice of that report; it is a 400-page document. That board decided to go along with plurality, at least for a while, so I thought, "Oh well, that is what we will be having for a while." For single-member constituencies I would prefer a consistency with preferential, or alternative, voting if I really had to pass a judgment, but I would not like to do that.

CHAIR: As you have said, there are pros and cons for both systems. I want to reflect on your comments about the history of first-past-the-post voting. Clearly as elected officials we all have a vested interest in what kind of system is in place and our individual likelihood of being elected

under such a system. Do you have any comments on whether that view is valid? Do you believe that some sitting councillors may fear that a change to the system will change the outcomes in councils; and, if so, how do you think that kind of issue should be managed?

Dr Phillips: The voting system variable is a critical variable in politics. It does change the outcomes. If we changed the local government system tomorrow, some members would feel threatened - understandably - and some would be given a much greater chance. That is one of the most underestimated things in political education. Every child should go through this at 12, 13 or 14 years of age. It is not a complicated system to explain. However, PR is very complicated. That is one of the problems of going to PR. A lot of people will not be able to do that arithmetically. In the Legislative Council, a person might get 300 votes. You cannot do that in local government.

Hon KATE DOUST: The reason you possibly cannot do it in local government is that the voter turnout is so low. However, if some government in the future decided to introduce compulsory voting for local government elections, would that not make it easier to deal with the issue of a vote count of, say, 300?

Dr Phillips: It would possibly make it easier. That is another very big issue. I think we are better off in Australia with obligatory registration and obligatory voting, because then everyone can have a say. A few years ago I spoke to some American legislators. They said, "Harry, if we had that system, I would not have been elected." It worried me that through their registration and voting system they feel they can represent a small constituency. In Australia we need to allow everyone to be represented. Even though compulsory voting might make it easier to educate people about the voting system and might even make it easier for the voting system to function, it would be a big step for a government to introduce compulsory voting at the local government level. Even though 70 per cent of people might be in favour of compulsory voting for state and federal elections, I am not sure they would agree with that for local government elections. Therefore, that would be a difficult decision for legislators.

CHAIR: I have one last question, and I will then hand over to my colleagues. We have had a bit of a discussion about the fact that you know the system well, so you obviously understand it. Do you think it is surprising that many councils have spoken out against the proposed new system, even though the new system does have some good democratic principles behind it?

Dr Phillips: That may well be the case. A person who has been elected under the existing system will probably be a bit more comfortable with it than a person who has not been elected under that system. Any mooted change to an electoral or voting system is often of interest only to those who are already members of a legislature. The problem with voting systems is that about 80 per cent of the general public do not understand them. I am on the TEE examining panel for political and legal studies. Every year we put in a question on electoral systems - which partly comes from me - and it is avoided like the plague!

[11.20 am]

Hon PAUL LLEWELLYN: Do they have a choice about it?

Dr Phillips: They do not have to take it; they have a choice. The technicalities worry people.

CHAIR: I do not think I would have been able to answer such a question at that point in my life either.

Hon BRUCE DONALDSON: Harry, you talked about how we got to first-past-the-post voting. Two options went into the party room prior to that 1995 bill. There was a bit of confusion at the end of the time within that party room. At the end of the day, what came out was the first-past-the-post system, which surprised a lot of people. No doubt you would have been very surprised on the outside to learn of that as well.

Dr Phillips: Yes.

Hon BRUCE DONALDSON: In the ensuing 11 years, of course, local governments have become very comfortable with that particular type of election. The second point is that you talked about the regulations and asked whether it will be ticket voting or a list of members. Every one of us sitting here is elected under proportional representation, as you well know, and were number 1 or number 2 on the ticket, depending on the party. In my case I was number 1. I could have gone overseas for a holiday, come back, and after 20 minutes of voting, be elected anyway.

Dr Phillips: Yes.

Hon BRUCE DONALDSON: Typically, when you are number 1, you work harder at campaign time, naturally; so there is a problem. I was worried about the single-issue candidates to which the minister referred. Proportional representation could allow single-issue candidates a better chance of being elected. That worries me, because I don't believe a single-issue candidate really has much relevance in a community at the end of the day; I certainly would not like them around my table; I would like people with a broader vision across the board of all the different infrastructure needs. Having said all that, we are finding now under a one vote, one value type of philosophy that a lot of councils are slowly but surely scrapping their ward boundaries. There is greater pressure on a number of councils because of the drift away from the rural side of their particular communities. Under the one vote, one value philosophy, those people are not being represented, because it throws it the other way. I think more multimember-type elections will take place. I do not know the exact number now that have no wards, but it is growing, and there are more discussions with the Local Government Advisory Board to do just that. What we then get is, I believe, politics coming into it, but that is only my personal opinion. Under a first-past-the-post system, if you talk to anybody that has actually been supported by a political party, they find it is usually a poisoned chalice, because somehow along the line, people get to know and they tend to not vote for those particular people; however, that all gets hidden under proportional representation. You mentioned the three types: the proportional preferential voting; what you called alternative voting, which is preferential voting; and first-past-the-post voting.

Dr Phillips: In single-member constituencies.

Hon BRUCE DONALDSON: Yes, in single-member constituencies. You say that there is no perfect system, but which one is more democratic? Sorry to throw that one at you!

Dr Phillips: To some extent it depends a little on the history of those local government areas. If under alternative, preferential or first-past-the-post voting, a system has developed in which genuine people who want to have a go at being local government representing everybody, it works that way. However, in other constituencies, a history of partisanship tends to develop. Under that system, it is not clear whether you are better off with first-past-the-post voting, in which you have given people three votes - if there are three types - or whether you would go for PR, which would break that down and tend to result in representation from each of the, say, two or three major groupings in the community. It depends a little on the history of that local government area. I suppose most people would argue that PR is more democratic - if you read the literature - because it provides a broader representation than does first-past-the-post voting. The first-past-the-post system applied in the Senate at one time. The Senate has six seats, and people would have six votes. We had Senates that were made up of all Labor, and then there would be Senates that were all Liberal bar two. That was a very unsatisfactory situation. Since 1949 when we moved to PR in the Senate, we have had Senates that broadly represented the political spectrum. The problem is that when that is applied to local government, it does not work as neatly. In the Senate at the moment, half a Senate is six, a full Senate is 12, and there is a chance of a reasonable proportion of the vote unfolding.

Hon BRUCE DONALDSON: Could I also ask a question about the process? It is quite complicated in some form. At the moment the Electoral Commission said that it would have to draw up a new program to handle this particular proportional representation in local government. In proportional representation, I would imagine that local governments would have to go to the

Electoral Commission to run their elections, unless a program was put to a council for a council to run its own. I do not believe the councils have the ability to be able to push the button to actually transfer all those votes at the end of the time. Will there be a cost attached to this?

Dr Phillips: I would say yes. Remember, as I understand it, the government has indicated that it is moving from the inclusive Gregory to the weighted inclusive Gregory. I could not give a lecture on that arithmetically on a board at the moment. I would have to have the formula in front of me and I would have to make sure that I was not missing any steps. PR, I think, would have to be done by the Electoral Commission. It could not be done in a local government authority, although these days, with modern computers and programs, you might be able to push a button and get it done; I do not know.

Hon KATE DOUST: From memory, where there is a ballot to be conducted, local government ballots are managed by the Electoral Commission anyway.

Dr Phillips: Not all of them.

Hon KATE DOUST: Not all of them?

Dr Phillips: If they engage the Electoral Commission, they pay a price. Sometimes they say, "Oh, we haven't had an election; therefore, it's very unfair. The Electoral Commission has charged some money." When setting up an election, all the processes must be right even if there is no count. It would be a very big job for the Electoral Commission to administer 144 contests. Without jumping ahead, it would have to be funded for it.

CHAIR: We will ask some questions about that, too.

Hon ROBYN McSWEENEY: How is your mathematics? In a small community of, say, 2 200, if there are no ward boundaries, and six come up for election, does that mean that under proportional preferential voting, the first one must get nearly 400 votes? I just want you to give me some mathematical boundaries. I know that I was elected by preferential voting and then was knocked out by first-past-the-post voting.

Dr Phillips: You have 2 200 voters.

Hon ROBYN McSWEENEY: If there is a town of 2 200 and there is six up for election, what would we have to get?

Dr Phillips: You have to get 300, roughly.

Hon ROBYN McSWEENEY: Three hundred.

Dr Phillips: 300. A couple of candidates out of the six will get 300.

Hon PAUL LLEWELLYN: In their own right.

[11.30 am]

Dr Phillips: In their own right. The last two, or three or four, is where the surpluses are given away. After they are given away, the ones with the least number of votes are added into the total. An interesting situation arose in Australian federal politics with Family First and the Democratic Labor Party. The Democratic Labor Party got a member up in Victoria because the major parties gave away their surpluses to the parties that they thought had the least chance. In Victoria in the federal election it was Family First. In Victoria in the state election it was the Democratic Labor Party. They were playing a hard game - I notice there is a Greens member on the committee - of trying to keep the Greens member out. They did that, but they ended up with a candidate whom they did not bargain for. The big thing about this is that, in Albany, for example, a very popular candidate who is well known may need to get only 300 votes. However, he may get 720 votes. What happens is that you get your best colleague up - that is 600 votes - and you then have 120 votes to throw away. If you are not careful and if you are trying to keep somebody out - that is, if you are playing things strategically and you do not give the preferences genuinely - you may end up

with a candidate whom you did not bargain on. I can understand parties playing strategic games. These systems are worked out to give consistent ideological patterns of voting. However, people do not necessarily do that.

Hon ROBYN McSWEENEY: Now that you have made that calculation for me, tell me about preferential voting with those same figures; that is, take out the proportional preferential and just do straight preferential on those numbers.

Dr Phillips: Under that system, if we are talking about plurality, you would most likely get six members who are affiliated with you. However, in local government I think people would be prepared to swing their votes around quite a bit, because, as I understand it, a certain candidate might be in favour of, for example, a tennis centre here, or someone who is a good colleague might want a cricket centre. So there is a fair bit of splitting. I do not think people vote across the board in a -

Hon ROBYN McSWEENEY: No, and that was my reason for asking about the difference. I could set up proportional preferential voting if I wanted to -

Dr Phillips: Yes.

Hon ROBYN McSWEENEY: I could also set up preferential voting to a certain degree, but not as much as I could proportional preferential. That was my reason for asking about the two.

Hon PAUL LLEWELLYN: The committee's terms of reference are relatively tight. One of the terms of reference is to consider the impact that a change will have on the operational aspect of elections and, to some extent, the costs, so we have to deal with those specifically. You have said that it is almost certain that the Electoral Commission will need to become more involved in local government elections. However, it is equally likely that a specific computer program will be invented. Talk to us about the kinds of practical solutions you envisage for implementing a new voting system - the preferential system, and proportional preferential voting.

Dr Phillips: If we introduce proportional voting at the local government level, that will mean that local government authorities, in conjunction with the Electoral Commission, will need to work very hard to educate the voters. There will be quite a reaction when people suddenly find out that from May to October the votes will come under a new system. You would need to go through the standard Western Australian local newspaper. There would probably need to be some kind of public lectures. I recall that back in the 1980s I conducted a couple of public lectures on the federal voting system, for which I had about two or three starters, so we will not get thousands of people come along! Nevertheless, there is a duty to explain to people that there is a new voting system. For uniformity and for the sake of explanation it will not be easy for a local government body to conduct an education campaign for proportional representation. That will need to be done by the Electoral Commission. Once you start going into television campaigns and all that, it starts to get very expensive. You cannot explain that. A pamphlet would probably need to be distributed to everybody's letterbox. It would need to be carefully cast, because you have a duty to do that.

Hon PAUL LLEWELLYN: The interesting thing - this is what I was trying to flesh out - is that two things are happening. First, we have to run the mechanics of this, and people have to cast their votes. However, in the area of voter education and community awareness we may find that the costs will need to be borne outside of local government and by the Electoral Commission and the state. We must make the distinction that there are two quite separate processes that will need to take place, both of which have a cost because of complexity. It has to be worthwhile in terms of delivering a democratic outcome. In that regard, part of the discourse in the community has been based on a number of assertions. The Western Australian Local Government Association has been writing letters and publishing information. That is basically the public education and discussion that is going on. I will go through some of these. One letter that was sent to all councils states -

- Encourages the use of factions and consequently party politics in Local Government

There has been some discussion about that. I have placed a number of true or false boxes beside some of these statements. How true is it that proportional representation versus first-past-the-post is any more or less political? I refer to the politicisation of local government elections in the United Kingdom with the first-past-the-post system.

Dr Phillips: It is a “maybe” - we cannot be categorically sure. That is why I think it depends quite a deal on the history of the constituencies in that area. People in country areas in particular are very aware of the individual members, and they tend to vote on the basis of individual membership rather than parties at the local government level. It varies in various parts of the state.

Hon PAUL LLEWELLYN: The assertion is that the United Kingdom uses the first-past-the-post system, and it has highly politicised the local government level. Therefore, it is not a straightforward argument that first-past-the-post will depoliticise local government and preferential voting will politicise it, particularly proportional preferential voting. That is an assertion in the public domain that needs to be cleared up.

Hon ROBYN McSWEENEY: What you have just said is hugely different.

Hon PAUL LLEWELLYN: I am trying to follow that line of thinking, because you are saying that it is ultimately down to the characteristics of the electorate and the community -

Dr Phillips: And its history. There are a huge number of reports - I have some of them at home - on voting systems for the whole of the United Kingdom, for the new Scottish Parliament, and for local government. There is never satisfaction, because no one system fits all circumstances.

[11.40 am]

Hon PAUL LLEWELLYN: I am pursuing the kind of conversation that will need to happen to make this work. One statement here is that it is less understood by voters and, as such, is much more open to manipulation by candidates. I think this statement is referring to proportional representation and preferential voting. Let us look at that. Is it less understood by voters? Will people need to consider a more complex decision? Is it true to say that across Western Australia where preferential and proportional preferential voting occurs it is necessarily more complex and more open to mistakes?

Dr Phillips: I did some surveys last year. About half the voters feel they have a broad idea. However, basically, very few people could explain it in a focus group. I think the electorate has a bit of faith that, ultimately, if they vote broadly in accordance with the principle, the outcome will be fair.

Hon PAUL LLEWELLYN: That is really about the quality of democracy and people's understanding of and general agreement about whether the system will work in their interests.

Dr Phillips: Yes. That is why I think even the other components of it are very important in giving everybody the right to readily register and facilitate their vote and all those sorts of things. Voters get suspicious if they cannot register and if there are blocks. When they go into vote, they want it to be fairly easy.

Hon PAUL LLEWELLYN: I think you might have answered this already but I refer to the suggestion that it will result in higher error rates and thereby increase the capacity for there to be invalid votes.

Dr Phillips: I am sure that if we brought in PR for the next election for multiple wards, the informal vote would jump in those wards, depending of course on how it is cast. If the regulations require full expression of preferences but if, say, there is another format whereby it is necessary to express only as many preferences as there are candidates, that would be flawed because you might have put down your first six preferences -

Hon PAUL LLEWELLYN: Do you mean only as many as there are vacancies?

Dr Phillips: Sorry, as many as there are vacancies, but that would be flawed because you might give six preferences but certain candidates are still in the count when you would go out of the count. That of course is what happens with optional preferential voting in lower houses. There is no doubt that informal votes would increase under PR unless there is a “tick number 1 system” for groupings, and that would of course force coalitions.

Hon PAUL LLEWELLYN: The other suggestion was that it would potentially increase the cost of administering the voting system. We have talked about that. Almost certainly if the system is made more complex, there will have to be a very good reason for increasing the cost to the state and to local governments.

Dr Phillips: Yes.

Hon PAUL LLEWELLYN: It will potentially increase the cost of administering the voting systems, so it might become more complex. Alongside that there would need to be an educational program for us to make the change smoothly.

Dr Phillips: Yes.

Hon PAUL LLEWELLYN: That will be possibly an additional one-off cost as we introduce the system.

Dr Phillips: Yes.

Hon KATE DOUST: I think the system that existed prior to 1995 started in the early 1900s. Was it 1939

Dr Phillips: 1911.

Hon KATE DOUST: Thank you. Who managed the count there; was it managed by the Electoral Commission or the various local governments?

Dr Phillips: We did not have a proper Electoral Commission until 1987; We had a sort of electoral department. I am not really au fait with everything in local government. I think most of it was conducted almost solely by local government authorities.

Hon KATE DOUST: They would have been quite accustomed to managing a different form of voting.

Dr Phillips: They were using the same system as was used for the Legislative Assembly, and, of course, local government franchise did not become universal until 1984.

Hon ROBYN McSWEENEY: If I wanted to be a councillor under this proposed system, and I wanted to use my brains well, I would be a very smart councillor and have a ticket and make sure everybody who wanted to vote for me voted down the line so that I could set up what I wanted - to a certain degree.

Dr Phillips: If you were breaking in, you would really want to be in partnership, or in coalition so to speak, with what you thought would be a prominent candidate because you would want to be the beneficiary of the coalition’s surplus. You might get up in your own right without even trying too hard. I am presuming that if you are starting anew, you would have to work on your profile but you would need to be in alliance with someone who would get a good vote.

Hon ROBYN McSWEENEY: That is right.

CHAIR: If, for example, postal voting continues under such a system, it is not as though people will necessarily have a candidate’s recommendation for how they vote after they voted for the candidate, if that makes sense. Surely individuals will still be left, depending on what kind of campaigning is done around promoting a ticket - not a ticket as a registered ticket but distribution of the preferences according to how each person votes. I think in that sense, if my understanding is correct, the system is quite different because of that lack of ticket vote via which a surplus might be

distributed. It will be as though every person is voting below the line; therefore, that is how things will be distributed. Do you have a sense of the results for people who do their own preferences?

Dr Phillips: A critical thing will be whether the regulations will permit candidates to include their preferred preference distribution. I think postal voting is a very good notion. Voters can go through the candidates but at the moment, if I recall correctly, they are not permitted to say "Here is my voting slip". It will be very difficult under PR -

Hon PAUL LLEWELLYN: This is a registered voting structure. Is that what you are saying?

Dr Phillips: Yes. Are you going to permit a registration process that is not necessarily party registration whereby the candidate can indicate how he prefers voters to vote under PR?

Hon ROBYN McSWEENEY: The government probably will not come at that. I imagine that it will not do that but there is nothing to stop me as an individual from sending a letter to everybody saying this is how I would like them to vote.

Dr Phillips: No.

Hon ROBYN McSWEENEY: There is absolutely nothing, which is what they can do.

Dr Phillips: Under postal voting, all the details come from the council. That is another process. People can go to the local newspaper and get the preferred schedule, and that is what would happen in some cases, but they would have to know whether they have to give all their preferences across the board, which they are not used to doing at state, federal or local government level.

Hon BRUCE DONALDSON: One of the big tests is the public test; that is, the benefit to the system as we know it or the process of local government. I think the big question is how councils are elected. We must look at what public benefit would result from that change. Will it provide a better democratic representative or amount to "undemocratic swill" as some former commentators have said about the Senate? Many people talk about the Legislative Council in terms of wanting to get rid of us. I guess from that point of view, when people are being critical of the existing proportional representation of the Senate and the Legislative Councils, are they saying that the council and the Senate are unrepresentative because of that? Probably a prime example is how former Senator Harradine from Tasmania was elected. He won a very minimum primary vote, yet he was elected with the distribution of preferences.

[11.50 am]

Hon KATE DOUST: He always got a quota in his own right.

Hon BRUCE DONALDSON: Sometimes he did not.

Dr Phillips: He always had to have a major party support him. He was never completely on his own. He wielded a very big influence.

Hon BRUCE DONALDSON: That is what I am trying to get at. If the local government electoral system is changed, will it make it better for the average elector? Will it provide truer democratic representation?

Dr Phillips: I would like to be able to say either yes or no. It depends on how much people are educated about it. It depends also a little bit on how much the local government bodies support it. They represent local government. From what I have read in the newspapers, I am concerned that as an organisation local government is not in favour of it. It must have some good reasons for that. I will presume that it is thinking of the general betterment of local government. If the government is to say that it will introduce a new system that is more democratic and will work more effectively, it must put its case rather than just say it will be similar to the system in the Legislative Council. Proportional representation in the Legislative Council is a very good thing. As an observer of electoral systems, I believe that has been the core of the strength of the Legislative Council and the core of the strength of the Senate. That is why I said at one stage that voting systems are very

critical. Yet I am now in a dilemma about which way to go on the local government level. I know that the Local Government Advisory Board has said no. It has decided that the existing system is working all right. Without taking anything away from that body, it looked at 500 things. I am sure it would not have looked specifically at and had a detailed study of the electoral system, although it may have. This is a very big change. It is excellent that this committee is looking at this issue, because it is not easy to decide the big question of what is better for local government. The existing system would be best for some people but it would not be better for others.

Hon KATE DOUST: For which people would it be better? Would it be better for the people who run the local government or would it be better for the ratepayers?

Dr Phillips: I am looking at it from the point of view of the ratepayers. I am concerned with what will be the best system for Western Australia. Despite the crucial nature of electoral systems, I would not say that if we introduce PR for the whole of local government in Western Australia, it will improve local government by 15 per cent. That is particularly the case if there is dissent about the system. If it can be evaluated and if local governments can look at it and weigh it up and then decide that they want to go along with it after having consulted with ratepayers etc, who generally find this fairly difficult, and if the system can be introduced more slowly, it may result in a PR-type solution. However, I am a bit surprised by it, and I have read all the electoral literature that gets printed.

Hon PAUL LLEWELLYN: You mentioned the Local Government Advisory Board report. It contains about only half a dozen pages on this matter at the most. Although it concluded that it would be better to keep the existing system, it was quite inconclusive about the benefits of it.

Dr Phillips: I am not on the committee, but I know it comprises experts. The board probably felt that, by and large, the electoral system was not the major problem facing local government at the moment despite the fact that there are some anomalies in the results. At the local government level, where the educative impact is not that profound, the board probably thought -

Hon PAUL LLEWELLYN: That it was not important enough to mess around with.

Dr Phillips: The results are deemed to be reasonably understandable and successful in terms of the local government ratepayers who vote.

Hon ROBYN McSWEENEY: The board was given only a few months to do that report, which was probably not long enough to provide a detailed report.

Dr Phillips: That is what I am saying. It is not a specific analysis of the electoral system of local government. I am not too sure whether local governments have a right to decide to be multimember.

Hon BRUCE DONALDSON: The council has.

Dr Phillips: It is predicted that this feature will expand. That is another consideration that must be looked at by local government authorities. What is that percentage?

Hon PAUL LLEWELLYN: I want to finish on that because it relates to why this matter is before this committee. There is a strong consensus among local governments that they want to change the date of the polls. This particular proposal was skin-grafted onto the bill. I think there is a strong procedural concern. The sense I got was that although people are very strongly dissatisfied with the procedure and the way in which the new proposal was raised, they attached a lot of arguments to it that are ambiguous regarding the pros and cons of the first-past-the-post electoral system versus the proportional representation electoral system. The notion that it should be taken slower has some merit. There should be a bigger conversation in the community about this. In the end, we must make a decision. It will cost quite a lot of money to have this conversation and at the end of it we might not be any wiser. What type of conversation must be had? What community process would be appropriate for this?

Dr Phillips: It seems that there is agreement about the need to change the polling dates. If I were the Minister for Local Government, I would not introduce PR next year. I would put it on hold. Sometimes governments attempt to put things on hold because they do not want to make a decision. This seems to be a situation whereby the government is keen to make a decision but it is probably appropriate to have an extended examination of it and to find out what the real feeling is of all the local government bodies. They may have expressed their opinions. As I said at the start of the committee, when I read the second reading debate I found the reference to proportional preferential very confusing in light of all the literature I have read about electoral systems. People are asking whether this is PR. Is it an alternative vote? Is it a move away from the first-past-the-post system? Just how many local government elections ultimately gave bizarre results under the first-past-the-post system? There was the classic case of the election of the Lord Mayor of Joondalup.

CHAIR: What are your comments on that type of election with regard to achieving a democratic outcome?

Dr Phillips: That is a single-member constituency. Under a single-member constituency, it is easy to have preferences. That situation would not happen. That is what we have at the state and federal elections, and people are quite accepting of that. However, if there are only 10 bizarre results out of 144 elections multiplied by 10, and if people are generally satisfied with the simpler system, which is understood by all and which is working, then a case can be built that the common good seems to be well satisfied in local government elections. However, there is a feeling in many constituencies that there are heaps of unusual results. Of course, I have given two very unusual results with PR: the Family First election with less than two per cent of the vote, and the Democratic Labor Party election in Victoria with less than one per cent of first preferences.

[12 noon]

CHAIR: Surely, Dr Phillips, without a registered ticket vote that bypasses the individual, that problem is likely to be avoided.

Dr Phillips: Yes, it would be less likely. John Stuart Mill was in favour of all this PR business. In those days all the candidates were always in alphabetical order. However, we draw off all the names, and they are all over the place. At one election someone may be at the top up here, and at the next election he may be down there. It was called single transferable vote. PR was actually once expressed by some people in the literature as “personal representation”, although the principle was proportional representation, because it was voting for persons on multiple lists. The idea was that you could vote for your person for the whole of England. It was, in a sense, a non-party electoral technique. However, once the parties started to manage it and they got list systems, it made it a party proportional system.

Hon BRUCE DONALDSON: As you would be well aware, when the house refers a bill to a committee, the committee is seldom allowed to consider the policy of the bill once the second reading outlining the policy has been concluded, so the committee can look only at the clauses of the bill. That reminds me of the referral of the Biosecurity and Agricultural Management Bill to the Legislation Committee. The Legislation Committee is also considering the regulations to that bill, which is unusual, but the minister believes it is a good opportunity for that committee to look at the regulations, because that is the devil in the detail. You have mentioned the regulations. I wonder whether it might be worthwhile further down the track to ask the committee to also consider the regulations. That might alleviate some of the concerns, because that would ensure that we are not looking at possibly ticket or above-the-line voting, which could occur, but we do not know, because we have not seen the regulations.

Dr Phillips: That is why I have suggested that the regulations are often the essence of electoral legislation. It would be very valuable for the committee to have an opportunity to also examine the proposed regulations, at least for the first set of elections.

Hon KATE DOUST: In a number of the submission and letters to the committee, and in the local government advertisements that have appeared in local newspapers, and also in the discussions here today, comments have been made about the increased political activity of candidates in local councils. Has any research been done to look at party involvement or interference in local government elections?

Dr Phillips: I am not aware of much research. One of the problems with research is that experienced supervisors -this is wrong, but this is what happens - guide their students into doing something that they can finish with some certainty. The problem is trying to ascertain the degree of politics and partisanship in local government. It is very difficult to document what really happens. To give an aside; I remember a student who wanted to do a thesis on factions in the Labor Party, and I asked, "Are you interested in finishing it?" The problem with local government is that things are not documented. If you do surveys, people might say they are a member of the Liberal Party, the Greens or the Labor Party; however, they might not. You cannot really expect them to say. It is very difficult to know. Obviously, if anything is political there will be influences from political parties, and that is right and reasonable, because people have values and priorities. I think it is better without formal party labels in local government, but who am I to be adjudicating? The answer is that it is very difficult to get Western Australian research on it. There might have been certain studies in other states in which in some instances there are more party alliances etc.

Hon KATE DOUST: I am curious, because I deal with nine local government bodies in my electorate. I always find it amusing when local government bodies say that they do not have any party political people on them. I can go through most of the people in the local government bodies in my electorate and tag them, because many of them have had involvement in a range of parties. It is interesting to hear people say that they are becoming political, because I think they already are.

Dr Phillips: Just in the past week I have gone through the biographical register, which makes reference to people's experience in local government. In the old days people could not get into Parliament without taking the first step via local government to learn the system and much of the politics. Nowadays it is not quite as common, but, still, if you look even at our Parliament, there are people with that experience. I think it is probably a beneficial experience. Most of the people who have been in local government do say that it is a very beneficial learning experience. Of course, all those people probably have some party allegiance, although I think some of them may have even, through the process of local government, shifted their political position.

Hon BRUCE DONALDSON: During my time in local government I had to deal with people from a cross-section of political viewpoints. It was never talked about around the table in either the then Western Australian Municipal Association or the Country Shire Councils Association. We all knew the parties that we belonged to, but that was never raised as an issue and never became part of the decision-making process. It was political, but it did not overflow around the table.

CHAIR: Are members happy to wind up now? Thank you very much, Dr Phillips, for giving so generously of your time.

Hearing concluded at 12.07 pm
