Speech By

# Hon. Yvette D'Ath

## MEMBER FOR REDCLIFFE

Record of Proceedings, 16 October 2019

## LOCAL GOVERNMENT ELECTORAL (IMPLEMENTING STAGE 2 OF BELCARRA) AND OTHER LEGISLATION AMENDMENT BILL

## ELECTORAL AND OTHER LEGISLATION AMENDMENT BILL

**Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice) (3.30 pm), in reply: I would like to thank all of the members for their contribution to this cognate debate on what are important bills before this House. I would like to address the main issues that have been raised by the opposition members in this debate. I think that it is worthy of spending some time on these particular issues as the opposition has stated that, at the very least in relation to the prisoner voting amendments, it will be voting against those amendments in the bill.

As was observed by the member for Toowoomba South, the Electoral and Other Legislation Amendment Bill is an uncontroversial bill. However, that did not prevent some members from trying to create controversy. The member for Broadwater in particular was so desperate to create controversy that he tried to claim that Queensland was changing its prisoner voting laws beyond the Commonwealth's approach. You have to be pretty desperate to create controversy when you start creating your own facts. I know that the member for Broadwater was quite confused yesterday. He kept referring to me as the 'shadow' Attorney-General. I am sure he wishes I were, but I am not; I am the Attorney-General. In fact, he was getting quite mixed up in the comments that he was making.

**A government member:** A nerve got touched.

**Mrs D'ATH:** I take that interjection. I think a nerve got touched. Yesterday, the member for Broadwater said the 'shadow'—

... Attorney-General has mentioned that we are the only state that prohibits prisoners from voting. The—

and I will leave out 'shadow'—

... Attorney-General says that the changes bring us into line with other states.

Mr Crisafulli says further—

I make two points for the Attorney's consideration. Firstly, our changes in most cases exceed the minimum threshold set by other states by three times.

That is wrong—completely wrong. I will get to how wrong that is shortly. He went on to say—

I would question whether that is overreach.

It is not overreach when what he said is wrong in the first place. He said further—

The Attorney, in a well-researched and well-articulated point—

I thank the member for Broadwater. I quote again—

The Attorney, in a well-researched and well-articulated point, mentioned that the changes align us with federal laws. She did not mention the different length of time. We are proposing three times longer.

That is wrong. Yes, I was well researched and well articulated in my point. Unfortunately, the member for Broadwater was certainly not well researched and certainly not well articulated in his point. Clearly, it was flawed and I will tell members why. The reality is that the changes to prisoner voting, which will allow individuals serving a sentence of less than three years to vote, reflect the current state of affairs in the Commonwealth law. For the benefit of the member for Broadwater—

**Mr Bleijie** interjected.

**Mrs D'ATH:** I note the interjection from the member for Kawana. I am trying to clarify for one of his own shadow ministers the facts, because he has put on the record that what we are doing does not align us with the Commonwealth and that the Commonwealth allows only prisoners who are sentenced to one year or shorter to vote. That statement is completely false.

Section 93 (8AA) of the Commonwealth Electoral Act 1918 provides—

A person who is serving a sentence of imprisonment of 3 years or longer is not entitled to vote at any Senate election or House of Representatives election.

Section 4 of the Commonwealth Electoral Act provides—

For the purposes of this Act, a person is serving a sentence of imprisonment only if:

(a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and

(b) that detention is attributable to the sentence of imprisonment concerned.

Clause 27 of the bill amends section 106 so that it will then provide that a person who is serving a sentence of imprisonment of three years or longer is not entitled to vote. Section 106(4) of the Electoral Act 1992 also provides exactly the same as the Commonwealth Electoral Act. It states—

For subsection (3), a person is serving a sentence of imprisonment only if—

(a) the person is in detention on a full-time basis for an offence against a law of the Commonwealth or a State or Territory; and

(b) the detention is attributable to the sentence of imprisonment concerned.

The provisions are virtually identical. For the member for Broadwater to come in here and say that what we are doing has a threshold that is three times higher than that of the Commonwealth is, to my mind, clearly deliberately misleading. If not, it is sheer laziness to not simply look at the Commonwealth act and the provisions, or simply look at the Australian Electoral Commission website to find out this information. To go to the point of saying that my well-researched and well-articulated point is wrong is misleading. The member for Broadwater should come in here and acknowledge that and apologise for misleading this House.

Queensland only prohibited prisoner voting to align its laws with those of the Commonwealth, which moved to prevent prisoner voting in 2006. In 2011, the Commonwealth changed its laws as a result of the High Court case of Roach v Electoral Commissioner, where the High Court found that an absolute prohibition of prisoner voting was unconstitutional. This approach simply ensures that Queensland remains in conformity with the Commonwealth's laws in this area.

I should also clarify that Queensland is not an outlier in its conformity with the Commonwealth. Again, I go back to the words of the member for Broadwater. Yesterday he said in this House—

Our changes—

and I am glad he is owning these changes—

in most cases exceed the minimum threshold set by other states by three times.

Only two other states in Australia have a lower threshold—only two—and that is New South Wales and Victoria. Tasmania, the Northern Territory and the Commonwealth all have in their provisions three years, as we are proposing for Queensland. That would bring four jurisdictions in line with each other.

**Mr Hinchliffe:** He's using first-past-the-post.

**Mrs D'ATH:** I take that interjection. He is using first-past-the-post. New South Wales and Western Australia have one year. South Australia and the ACT allow all prisoners to vote. Victoria has five years. In fact, three jurisdictions have a threshold that is higher than ours. In other words, more prisoners can vote in their jurisdictions than is the case in Queensland. It is extremely misleading for the member for Broadwater to say that, in most cases, we have three times what other jurisdictions have when only two jurisdictions have less than three—only two.

I would also refer the opposition to other submissions that were made to this bill in the committee process. The Queensland Law Society said in its submission to the Economics and Governance Committee—

QLS welcomes the Bill's proposed amendment to prisoner voting. This aligns the Queensland position with the current Commonwealth position. As a representative democracy, the citizens of Queensland have the right to determine who governs through voting at an election for their electoral district.

Even if the member for Broadwater did not want to look up the Commonwealth act or did not want to look up the Australian Electoral Commission website, he could have just read the committee report and seen for himself that our provisions were directly in line with the Commonwealth provisions.

I also want to note the contribution from the member for Glass House regarding the enrolment of prisoners. The member for Glass House asked what the registered address of a prisoner serving less than three years would be. The member for Glass House does have Woodford in his area so I guess he is wanting to know if those prisoners can vote for him or not.

**Mr Bleijie** interjected.

**Madam DEPUTY SPEAKER** (Ms McMillan): Member for Kawana, you are warned.

**Mr Hinchliffe** interjected.

**Madam DEPUTY SPEAKER:** Member for Sandgate, you are warned.

**Mrs D'ATH:** I can advise the member for Glass House and all members of this House that amendments to section 64, which are spelt out in clause 13 of the bill before the parliament, set out the electoral district in which a person who is serving a sentence of imprisonment is entitled to be enrolled.

What can be seen from that section is that by default this will be the electoral district for which the person was enrolled immediately before they were sentenced or started to serve their sentence, the electoral district for which the person was entitled to be enrolled immediately before the person started to serve the sentence, an electoral district for which any of the person's next of kin is enrolled, the electoral district in which the person was born or, if none of the electoral districts mentioned above applies for the person, the electoral district to which the person has the closest connection. I guess, for the member for Glass House, unless that person has spent most of their time in Woodford so that is their closest connection or their next of kin are all there then more than likely they will be registered elsewhere and not at the actual prison address. I hope that answers the question for the member for Glass House.

In relation to the true source of gifts, as others have observed, although I am not sure if anyone from the opposition actually referred to this issue despite its importance, this bill also bolsters our ability to ensure the integrity of our political donation system. Although people have said this is uncontroversial and they have not spent much time in this debate looking at the electoral amendments as opposed to the local government amendments, they are really important amendments in this bill. There are integrity issues in this bill but there are also important operational and efficiency measures in this bill that will benefit all Queenslanders in streamlining the electoral process, streamlining the postal voting process and making sure people are getting postal votes and those postal votes are getting counted because they are being received in time and also, of course, changes around the initial scrutiny and the preliminary processes that the returning officers must go through to check declaration and postal votes before they can be opened and counted so that they can start being counted far quicker.

Recommendation 6 of the Belcarra report was that the definition of 'relevant details' in section 109 of the Local Government Electoral Act 2011 be amended to state that, for a gift derived wholly or in part from a source intended to be used for a political purpose related to the local government election, the relevant details required also include the relevant details of each person or entity who was a source of the gift. It also recommended that the equivalent provision regarding loans, section 120(6) of the Local Government Electoral Act, be amended and proposed amendments to the Electoral Act 1992 are to align with these amendments. This is really important.

Clause 59 inserts a new section 260B, which requires an entity that makes a gift or loan to a registered political party or candidate equal to or exceeding the gift threshold amount of $1,000 who is not the true source of the gift or loan to give the recipient notice of that fact and provide the relevant particulars of the entity that is the source. This requirement also applies to an entity making a gift to third parties who incur expenditure for political purposes to which section 263 of the Electoral Act applies. There is maximum penalty of 20 penalty units for failing to comply with this requirement to give notice.

The requirement for an entity to be the source of a gift or loan is contained in the proposed section 260A in clause 59. This section provides that where a first person or entity provides a gift or loan through an intermediary, referred to in this provision as the first recipient, with the main purpose of that

intermediary to make an ultimate gift or loan, the first person or entity is considered to be the source of the gift or loan. No longer can you set up a group such as the Fadden Forum, have all the money go into there, either at a local government or at a state level, and then it is that entity that is giving all the donations and that is all you get to see. We get to see who put the money into that Fadden Forum and then to the state branch.

**Mr Molhoek:** It has been like that since the early 2000s.

**Mrs D'ATH:** I take that interjection that that has been the case from the early 2000s. In fact, that is not what has been disclosed in the past when it comes to donors on the Electoral Commission system. The fact is that this bill before the House right now will ensure that we can see what the true source of those donations is, both at a local government level and at a state level. The people of Queensland have a right to know who is the original source of those donations.

**Honourable members** interjected.

**Madam DEPUTY SPEAKER:** Can we cease the cross-chamber chatter.

**Mrs D'ATH:** Clauses 60 to 65 amend provisions to require, if applicable, relevant particulars of the entity that is the source of a gift or loan in returns given by candidates, third parties and political parties to the ECQ. This type of transparency measure is particularly important in light of recent donations we have seen going into bodies like this and then that body declaring it and us not seeing the source behind that money. We have seen over $3 million disclosed in the last few days on the LNP's website. It is 18 months since the Supreme Court said you must disclose donations. It is six months since the High Court said you must disclose—and, by the way, the Commonwealth laws to try to circumvent all this are wholly invalid. We have real-time disclosure of seven days and it has taken a minimum of six months, and it may potentially have been donations going back 18 months that we are only just seeing now. These sorts of measures are really important so that the people of Queensland know who is donating, how much and to whom. These laws demonstrate the Palaszczuk government's commitment to integrity and accountability. Rather than talk about integrity, the LNP needs to lift its game and start complying with our laws.

Finally, some opposition members are persisting with claims that the postal voting deadline is in some way contrary to recommendations of the Soorley report or unfair to voters who may wish to vote by way of postal vote. That is not so. This is about making sure people are not disenfranchised because they think that their postal vote is being counted because they have put it in at 7 pm on the Wednesday before election day. The Electoral Commission has to get the postal ballot back out to those people, they have to fill their ballot paper in—we know many of these people have mobility issues, but if it is because they are travelling somehow this postal ballot in 48 hours has to reach someone interstate or internationally—and then they have to get their ballot back in the post by that Saturday.

The reality is that people could certainly be disenfranchised by what we have now, especially in the regions, because we are talking five to seven business days at least for turnaround of post now. In my area, something posted in one suburb can sometimes arrive two weeks later in the next suburb, so we cannot rely on this. My strong advice to all members of parliament is to encourage your constituents, if they are going to do a postal vote, to apply online so we are at least taking out that initial delay of them posting it, it being received by the ECQ days later—potentially a week or more later—then the ECQ sending it back and then the filled out ballot paper coming back again. That three-way postal system of sending it out, it coming back—

**A government member**: What if you don't have internet?

**Mrs D'ATH:** I take the interjection. It is for people who do not have internet that we are setting this up. The bill contains ways to assist people with voting in other ways, such as pre-poll and assisted phone voting. It depends on their particular needs. The people in the regions are at far greater risk of not having their ballot paper counted through a postal vote, because their application takes far longer to travel through the mail system. They know that and every regional member should know that. Their mail takes a lot longer to return. They ring up the ECQ and the ECQ posts an application. The application is posted back and the postal ballot is then posted out. The postal ballot is filled out and then it is posted back. In 26 days, four postings are supposed to happen. We want to encourage people to ensure that their vote is counted and that is why we are making these changes.

I am very proud of this bill. I am proud of the work that the Minister for Local Government has done with the local government bill. This creates greater integrity, transparency and accountability across state and local government elections. It builds on the work that the Palaszczuk government has done in electoral reform, transparency and integrity in this state.