

House of Representatives

Supplementary Order Paper

Tuesday, 4 December 2007

Electoral Finance Bill

Proposed amendments

Christopher Finlayson, in Committee, to move the following amendment:

New Part 2A

To insert the following new Part after Part 2 (after line 3 on page 98):

Part 2A
Chief Electoral Prosecutor

117A Chief Electoral Prosecutor

- (1) An office called the Chief Electoral Prosecutor is established.
- (2) The Chief Electoral Prosecutor is responsible for carrying out the function under **section 117B**.
- (3) To carry out the function under **section 117B** the Chief Electoral Prosecutor may staff the office of Chief Electoral Prosecutor as he or she sees fit.
- (4) The Chief Electoral Prosecutor will be appointed by the Governor-General on the advice of the Attorney-General and the Chief Executive of the Electoral Commission.
- (5) The Chief Electoral Prosecutor will be one of Her Majesty's Counsel or a Senior Counsel under the Lawyers and Conveyancers Act 2006.
- (6) The Chief Electoral Prosecutor will not be removed from office except by the Sovereign or the Governor-General, acting upon an address of the House of Representatives, which address may be moved only on the grounds of inability or misbehaviour.
- (7) The Chief Electoral Prosecutor may resign the office of Chief Electoral Prosecutor by notice in writing addressed to the Governor-General.

117B Chief Electoral Prosecutor responsible for prosecutions

The Chief Electoral Prosecutor shall be solely responsible for the prosecution of offences under this Act.

117C Powers of the Chief Electoral Prosecutor

- (1) In order to give effect to his or her functions under this Act, the Chief Electoral Prosecutor may by notice require a donor, the financial agent of any candidate, party or interest group or the Electoral Commission—
 - (a) to produce, for inspection by the Chief Electoral Prosecutor or a person authorised by the Chief Electoral Prosecutor, any such books, documents or other records relating to the income and expenditure of a candidate, party or interest group as may reasonably be required for the purposes of carrying out the functions of the Chief Electoral Prosecutor; or
 - (b) to provide the Chief Electoral Prosecutor, or a person authorised by the Chief Electoral Prosecutor, with such information or explanation relating to the income and expenditure of the candidate, party or interest group as the Chief Electoral Prosecutor may reasonably require, and to do so within such reasonable time as is specified in the notice.
- (2) The Chief Electoral Prosecutor, or a person authorised by the Chief Electoral Prosecutor, may—
 - (a) make copies of, or records of any information contained in, any books, documents or other records produced under **subsection (1)(a)**; and
 - (b) make copies or records of any information or explanation furnished under **subsection (1)(b)**.
- (3) A person authorised in writing by the Chief Electoral Prosecutor may, for the purposes of carrying out his or her function under **section 117B**, enter at any reasonable time premises occupied by a donor, the financial agent of any candidate, party or interest group or the Electoral Commission and having entered any such premises may—
 - (a) inspect any books, documents or other records relating to the income and expenditure of the organisation or individual; and
 - (b) make copies of, or records of any information contained in, any such books, documents or other records.
- (4) Where any records referred to in **subsection (1) or (3)** are kept in electronic form, then—
 - (a) the power of the Chief Electoral Prosecutor under subsection (1) to require any such records to be produced for inspection includes the power to require a copy of

- the records to be made available for inspection in legible form (and **subsection (2)(a)** shall accordingly apply in relation to any copy so made available); and
- (b) the power of any person (“the inspector”) under **subsection (3)** to inspect any such records includes the power to require any person on the premises in question to give the inspector such assistance as he may reasonably require to enable him—
 - (i) to inspect and make copies of the records in legible form or to make records of information contained in them; or
 - (ii) to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the records.
- (5) A person commits an offence if he or she fails, without reasonable excuse, to comply with any requirement imposed under this section.
- (6) A person commits an offence if he or she intentionally obstructs a person authorised under **subsection (3)** in the carrying out of that person’s functions under that subsection.

Explanatory note

New Part 2A is inserted to provide for an independent Chief Electoral Prosecutor to be responsible for prosecutions relating to electoral finance, rather than this responsibility being that of the Police. The Chief Electoral Prosecutor is to be appointed by the Governor-General on the advice of the Attorney-General and the Chief Executive of the Electoral Commission.
