SALARIES AND ALLOWANCES AMENDMENT (DEBT AND DEFICIT REMEDIATION) BILL 2017

Second Reading

Resumed from 5 December.

HON SIMON O'BRIEN (South Metropolitan) [3.10 pm]: I rise to speak on the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. It is heartbreaking sometimes when one has to pursue the thankless and hopeless task of trying to save members of Parliament from themselves, from Premiers and from governments and cabinets that do not have the guts to stand up to Premiers and say no. Once again, I find myself in the position of putting some remarks on the record so that I will at least be equipped to say, "I told you so." I get no pleasure from it. I cannot believe that we are contemplating this bill. The forces that have come into play to cause it to be so are beyond me. In contemplation of the failed motion to refer this bill to a standing committee, we heard that all sorts of things are wrong with the bill—indeed, they are. When, inevitably, members in this place buckle in sufficient numbers and the bill is second read, we will go through those problems with the bill in detail in the course of the Committee of the Whole stage.

We are going there anyway. Not least because the government, on the run, has proposed an amendment already. The amendment was promised in the other place before the bill had been dealt with and it has since appeared on our notice paper. Again, I disagree with the proposed government amendment. The people who drafted the bill for the government's stupid, ill-considered, pointless policy got it right. God knows what the government's instructions were, but the bureaucrats and the drafters of the bill got it right. Then, on the run, the Premier, flustered and not knowing what to do, said, "Heck, there must be a mistake in this. Don't worry; we'll fix it up with an amendment in the upper house." That is how we came to have a supplementary notice paper for this bill. Guess what? That amendment should not be supported, but we will come to that in due course. It is symptomatic of the hopeless approach to legislation taken by this government and the shallowness of the politicians who want to drag themselves down. What is wrong with politicians—the world over and certainly in this state—that they want to drag themselves down all the time and believe someone else's bulldust about how they are overpaid and not worth it? They go with the idea that politicians cannot possibly have a pay increase, because it seems to be the popular thing to do and they are worried that some media type might criticise them—ooh-ah! Members should have some guts and stand up for themselves!

I should not think any of this will find great favour with members across the house, so I will not go on in this vein at great length, not because I do not need to or I should not, but because it is pointless. Putting aside the fact that the policy is not being implemented properly and it is all over the place—we will come to that when we look at it at in detail no less—it reminds me of some things that I heard a very long time ago and some things I heard very, very recently. Just yesterday, we were starting to hear a lot of stuff—I do not know what the heck it had to do with this bill—about old superannuation schemes and whether people who are in the old superannuation scheme should be in the old superannuation scheme if they come back into Parliament.

Hon Alannah MacTiernan: I wonder whether it includes Hendy Cowan.

Hon SIMON O'BRIEN: He is not in Parliament. But what if he did —

Hon Alannah MacTiernan: What about what's-his-name? The former member for Dawesville—what happened with him? Kim Hames.

Hon SIMON O'BRIEN: Hon Kim Hames is a good example. He has now left Parliament for the second time. He would have been a member of the old scheme when he was first in Parliament, at the time of the Court government. He lost his seat, but he then stood again at a subsequent election and was re-elected and rose to even higher office in his second time around. He would have been required to be in the superannuation scheme on both occasions. It would have been suspended—it is not for us to speculate. But the point is that he would have been entitled, if pensioned, to have re-entered. He probably did not have a choice in the matter if that was the case, when he came back into the Parliament. But those rules applied when he was around and to other people who are in the old pension scheme. From constant repetition and questions from people, I understand that there are now five members in the old scheme. It is good to see the group growing. It shrank from about 10 to four last Parliament and now I understand that there are five—all of which has precious little to do with this bill, but it showed what a lot of carping and whingeing and small-mindedness we get from people when we mention members' entitlements. Is it not terrible that a scheme of which a lot of current members would like to be a part was closed off back in 2001, yet now this Parliament is about to put through the bill before us, which further attacks those current members' entitlements? Members are going to go along with it despite the faultiness of the rationale behind it. I will come to that in a moment.

I will tell members something: what makes members think that they are entitled to come grizzling to me in the future about any other superannuation or entitlement matter? Members want to attack people in the old

superannuation scheme, but they will not stand up for themselves now. They are as weak as water. Members need to be called out as such, particularly you lot in the Labor Party. I do not know what they do in their caucus meetings. Members need to stand up to the bloody Premier—excuse my French; stand up to the jolly Premier—who is trying to attack members and tell him to pull his head in, but members would not have the guts to do it, would they? A very wise man—he must be wise; he was my predecessor in South Metropolitan Region—by the name of Hon Clive Griffiths, AO, served with distinction and set some important precedents in South Metropolitan Region. He was certainly father of the house. At the time he told me the story I am about to repeat to members he was Chairman of Committees. He later went on to serve 20 years as President and, in total, served 32 years in this house. He then went on to be Agent General for Western Australia in London. As I say, he set some important precedents as a member for South Metropolitan Region.

For those who do not know him, he has a very dry, acidic, sarcastic, ironic sense of humour. When a subject like this came up, he repeated to me a story in these terms. He said, "You know, Simon, whenever you have a Premier"—I forget whom he was talking about; it might have been a Barnett, a Court, a Gallop or a Carpenter; I do not know who it was at the time, because I have seen a few of them—"who thinks it's the smart thing to do to interfere with the Salaries and Allowances Tribunal and say, 'Don't give members a pay rise', because he thinks it might give some sort of short-term popularity, make sure you kick him to the kerb." I said, "Well, that sounds like very sensible advice." He said, "No, be very careful about how you deal with them. Do you know, I still have people come up to me in the street"—this is Hon Clive Griffiths speaking—"and say, 'Mr Griffiths, you don't know us, but we're former constituents of yours, and we just wanted to say how much we appreciate the fact that you didn't get a pay rise in 1970", or whenever it was that he did not get a pay rise.

Obviously, he was dripping with irony when he said that because, of course, nobody comes up and says any such thing; nobody knows about it, and nobody cares. Yet Premiers get awfully uptight about it, and they send their people down to interfere with what goes on at the Salaries and Allowances Tribunal. They get messages down there from those overpaid fat cats that I did not think this Labor government liked—so it will probably produce a few of its own—and they are sent down to say, "Look, forget about your rules of independence. It's government policy that you don't give anyone a pay rise." That is what happens. I would have liked to have verified that, if we could have referred this bill for a standing committee inquiry, but this house, in its wisdom, decided to not do that. That is one of the things that are a pity—that we could not examine what is actually going on here. Maybe the house collectively does not want to know that truth.

Anyway, Clive made a very good point. He could remember back when pay rises for members of Parliament were awarded by the Parliament. What would happen, I should think, is that the government would obtain advice about what the appropriate level might be, with reference to the consumer price index or whatever other mechanisms they used in those dim, dark days. It was a scandal of the time—this was pre-Salaries and Allowances Tribunal—that it was almost the last item of business on the last sitting day of the year, at the eleventh hour, that this matter would be brought to the Parliament. Every year, it would be the same ritual. Every year it would go through very quickly, without any dissent, and every year the media would get out there and say, "Oh, isn't this disgraceful?" So the Salaries and Allowances Tribunal was invented to try to take that political nonsense out of the process so that it would not be an option for occasionally weak-kneed political groups to do this or not to do this. It was to put responsibility into independent hands. It was not to make recommendations to be put through the house at a minute to midnight on the last sitting day of the year; it was to make an independent determination so that political leaders could at least get out there and say, "Well, it's an independent process." Government members want to throw that all away. It is not just for themselves; it is for those who will follow them and for everybody else, in addition to members of Parliament, who will be caught by this bill. Ironically, a whole lot of people who have not been the subject of wage restraint and probably need to be will not be caught by this bill. But let us not let that get in the way of a good story!

The determination by this government and others is that it is a good idea to now interfere in an independent tribunal by giving it, in black letter law, a direction that it cannot get away from, and that is that this is the pay determination it shall have for all the classes of people covered by this bill: members of Parliament, the Governor, judges and a whole range of others. What a perversion of process that is, and the government is legislating for it! Another thing Hon Clive Griffiths used to say—he had some well-known sayings—about members of Parliament was that there are two capital offences in politics: one is saying something that is not true and the other is being stupid. In respect of the member in another place last week, he probably would have said that he should be hanged twice! The people who not only have proposed this bill, but also support it ought to consider how clever they are being by doing so. It is going to muck up systems that have been put in place to fix problems, and they are going to create them—and for what reason? Is a pay freeze, as people are wont to call it—of course, there is a little more to it than that—for members, judges and others warranted? In the case of members, the latest determination came down last Thursday, so that is that done for another 12 months. And guess what? There was no pay increase. What was the tribunal's response for members a year ago? It was zero—a pay freeze. What about the year before that? Does anyone remember? I seem to recall that it was zero as well, if my memory serves me correctly. Members are

already three years into their pay freeze without this dopey legislation. That means the system is working, presumably, yet they want to interfere with it in this way. What unforeseen circumstances are likely to result? The thing about unforeseen circumstances is that they are just that—unforeseen. I predict there will be plenty, because this policy has not been thought through. That has already been demonstrated in this house and in the public domain. Why on earth are we proceeding with it? It is pointless. The government wants to amend it because it thinks it has mucked it up. It will assert that it has mucked it up and it needs to be amended and then where do those amendments need to go? They need to go to another house that will not sit until February next year. The bill cannot proceed, and the rush for it was dealt with last week when this government could not manage to get its act together enough to get the bill through all stages.

The tribunal came down on this determination which, embarrassingly for the government, said "Zero increase", thereby obviously demonstrating that this is pointless, but it might be problematic. There is nothing in the Constitution of Western Australia that says that any law passed by this place has to make sense. Seriously, there is not; no such rule applies. It is a convention that we try to make it make sense, but there is no rule. This government has no safety net on this Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. If it wants to go through with this exercise in stupidity, it can. I certainly will not be voting for it. I do not know where my party landed on all of this. I think it decided that it had better go along with it a month or two ago. If I have any criticism that I have been letting out, it is directed to everyone who holds the weak-kneed view that we had better go along with it. Why? Because if we do not, we could be criticised. Gee, that is a good reason, is it not? I do not care if I am the only person standing on this side of the house when the vote is taken. At least I will be right. I have listened to a lot of members going on about how this bill needed to be referred to a committee because it is such a faulty bill, but if they want to vote yes to it, they should go ahead and do that, and then we will get on with the committee stage and have a closer look at it.

But let us go back to Hon Clive Griffiths and his old story about people coming up to him in the street and saying, "Thanks for not having a pay rise" back in 1970 or whenever it was when Charlie Court knocked it on the head. Of course, they do not do that. Does anyone here think that anyone has ever benefited from this sort of policy in the past? Probably the only person in the house that has is me, because the former Premier, the last one, and I know what regard you lot hold him in—almost as high as we do—managed to say, even when things were allegedly very good, "No pay rise." I think it happened during the late-2010 recommendation. A bit later on in the course of the following year when I was Minister for Commerce and also with responsibility for industrial relations, I had to get out at one media doorstop. The subject was why some public sector group or other was getting only the pay rise that we were offering and not what they were demanding. I remember that when Gareth or Dillon or whoever it was said, "Righto, Mr O'Brien, how much was the pay rise for members of Parliament last year?", I was able to look him in the eye and say, "Well, actually, it was nothing—zero." That got us away from an awkward line of questioning and they had to take another tack—there you have it! As far as I am aware, that is the only benefit any member of Parliament has ever got. I have derived that benefit that I did not need then and I do not need now. This debate must come down to not whether judges need to get a CPI pay rise or members of Parliament should get a CPI pay rise, but whether governments choose to interfere in the processes for which independent tribunals have been set up. This bill fails on every single count that I have mentioned, and then some. Looking at the supplementary notice paper courtesy of the government in the first instance, it actually wants to make it worse. I will describe that when we get to the relevant clause in the committee stage, unless I have convinced everyone otherwise. Hon Michael Mischin has some reasonable ideas to try to limit the damage, but we cannot make a silk purse out of this sow's ear. To remove any sense of doubt, I am not in favour of the second reading of this bill—I hope I was not in any way ambiguous about that! I hope all members have got the message loud and clear, because when the unforeseen consequences come through, I, at least—I do not know whether there will be anybody else—will be able to say that this was a dumb thing to do and I told members not to do it.

HON SUE ELLERY (South Metropolitan — Leader of the House) [3.35 pm] — in reply: I thank members for their contributions to the second reading debate on the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. I will take a bit of time, because a number of members raised a number of issues, and I want to deal with them. The first point I want to make is that the bill should not be viewed in isolation. It serves two purposes. Firstly, it is an integral part of the government's comprehensive attempt to achieve wages restraint across the whole public sector for the next four years to assist the government in budget repair and debt and deficit remediation. Some members have expressed the view in the course of the debate that saving $16 million alone is an insignificant amount. However, in the eyes of the community, which we serve, this is likely to be seen as a significant amount of money and, in any event, it is. Secondly, the bill sends an important signal to the community, the credit rating agencies and members of the public sector, who are also subject to wages constraint, that such constraint will also be imposed on the most senior members of government and the Parliament. To that extent, while the most recent decision of the tribunal is consistent with the intent of this bill, this bill remains a priority bill for the government because it sets the parameters beyond the immediate period in which the most

recent tribunal decision will apply, and it sends the message to the credit rating agencies and others that we are serious about budget repair and we are taking every step possible to make savings wherever we can.

Members raised questions about the forecast savings and the figure of $16 million. The decision to implement a wage freeze for positions determined by the Salaries and Allowances Tribunal for four years was originally estimated to save the general government sector around $20 million. The initial estimate was calculated at a global level and involved positions covered by the determinations for members of Parliament, the judiciary, special division and prescribed office holders, the Western Australian Industrial Relations Commission and the State Administrative Tribunal. The estimated savings reflect the difference between officers in these positions receiving a 1.5 per cent wage increase and no wage rise. I note that it did not include comparable positions in government trading enterprises, as their remuneration is yet to be determined by SAT. As part of the 2017–18 budget, the savings calculation methodology was applied to individual agencies using budget forecasts, resulting in a $16 million savings figure. That is lower than the originally estimated $20 million. The lower savings reflects the differences in the assumed 1.5 per cent escalation rates built into salaries budgets and the escalation for SAT positions built into individual agencies' budgets.

One of the key arguments raised by members in the course of the second reading debate is that this bill compromises the independence of the Salaries and Allowances Tribunal. The existing act—the parent act—does not refer to the tribunal's independence. However, it has long been accepted that the tribunal was set up as a body independent of Parliament, so that its remuneration determinations can be seen to be set independently of the political process or political influence. The Salaries and Allowances Act does provide a level of independence for the tribunal from the Parliament. For example, tribunal members are appointed by the Governor, the tribunal has the exclusive jurisdiction to determine or report on remuneration for officers within its jurisdiction, and the tribunal has the powers, rights and privileges of a royal commission and may inform itself as it sees fit. Although the tribunal operates independently of the political process of the government and Parliament, it continues to operate within the framework of the legislation set by Parliament. The Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 does not depart from that practice. The bill will place a fetter on the tribunal. Past examples of fetters placed on the discretions of the tribunal include, firstly, an amendment to the Salaries and Allowances Act, which was given effect by part 4 of the Workforce Reform Act 2014. That amendment inserted section 10A into the act and requires that when the tribunal sets remuneration for certain types of officers, it must have regard of government financial matters and the public sector wages policy statement. It is bound to consider those in making determinations. The matters it must take into account are fettered, were fettered, by Parliament three years ago. Secondly, the Temporary Reduction of Remuneration (Senior Public Officers) Act 1983 was passed by Parliament eight years after the tribunal was established. This act provided for a reduction in the remuneration of impacted office holders for 12 months, which bound the tribunal. Among other government positions, the reduction in remuneration applied to any person who held an office for which the remuneration payable was determined or recommended under the Salaries and Allowances Act, excluding judicial officers. Remuneration was reduced annually by 16.75 per cent for those who received an annual remuneration between $29 500 and $33 500; and, by 10 per cent for those whose annual remuneration was more than $33 500. Ministers and the Parliamentary Secretary of the Cabinet received a reduction of 12 per cent, and the then Premier received a reduction of 15 per cent per annum.

The bill before us today sets a time-limited fetter, and is a four-year budget austerity measure that the government has introduced as a result of the position of the state's finances. It is the government's intention to show credit rating agencies and others that it is willing to set an example of wage restraint from the top. The provisions of the bill that give effect to the pay freeze are a temporary measure that will conclude on 30 June 2021. During that period, the tribunal will continue to issue determinations as it sees fit, subject only to the parameters set by Parliament if it passes this bill that it cannot provide for increases in remuneration except when it is justified to do so by changing work values and when it re-classifies an office in the case of special division office holders.

Some members noted that when the tribunal makes determinations for certain officers impacted by this freeze, it must have regard for government financial matters, submissions and the public wages statement as a result of the fetter that Parliament placed on the tribunal three years ago. Those officers include ministers of the Crown; the Parliamentary Secretary of the Cabinet; a parliamentary secretary appointed under section 44A(1) of the Constitution Acts Amendment Act 1899; special division officers; prescribed officers; and executive officers of government trading enterprises if the GTE has been prescribed. However, it is not bound by those matters. This bill will bind the tribunal. In any event, I note that under the current provisions, when the tribunal determines the remuneration of members of Parliament, the Clerks and Deputy Clerks of either house of Parliament and judicial officers, it is not required to take into account government financial matters or the public sector wages policy. Members asked whether there are any instances in which the tribunal has determined or recommended to increase remuneration above the government wages policy. The need for the tribunal to consider government wages policy came into effect in 2014 as a result, as I said, of the Workforce Reform Act 2014. This requirement applies to only

the officers that I have already identified, not members of Parliament other than ministers, parliamentary secretaries, the Clerks and Deputy Clerks and judicial officers. Since the requirement was introduced, I note the following instances in which increases were awarded above government wages policy. In 2016, the government wages policy was that future increases in wages and associated conditions for all industrial agreements be limited to 1.5 per cent per annum. The tribunal was not required to take this into account for judicial officers, to whom it gave a 1.8 per cent increase in remuneration. In 2014, the government policy was that future increases in wages and conditions were to be limited to the Perth consumer price index as published by the Department of Treasury, which was 2.6 per cent. The Salaries and Allowances Tribunal was not required to take that into account for members of Parliament and afforded members a $5 585 flat increase to base remuneration, which amounted to a 3.8 per cent increase for members on the lowest salary. In 2006, the tribunal afforded a notable jump in remuneration after conducting a major review of special division work value and remuneration. As I have already noted, this pay freeze is a measure to make certain that the tribunal does not apply an increase in remuneration to the impacted office holders for its duration, and to signal to the community, ratings agencies and others the steps that the government is taking to address responsible financial management.

Hon Alison Xamon rightly identified that the Salaries and Allowances Tribunal was established in 1975 to ensure that remuneration for senior government officers would be determined by one body, rather than a number of different bodies, and to provide greater consistency in the remuneration determined for those officers. Although that was one of the fundamental reasons for the tribunal's establishment, both legislatively and in practice, there is not complete consistency or equity across its determinations. An example of that, firstly, in respect of practice, is that the tribunal issues a number of determinations for different kinds of office holders. The Salaries and Allowances Tribunal Act 1975 requires that most of those determinations be issued annually. By contrast, a determination for the Governor is issued only on appointment of a person to the office, which occurs every four years. That is one inconsistency that exists in the legislation. Secondly, the differences are reinforced by the provision that the minister may appoint different experts for each category of office to assist the tribunal in its inquiries. For example, the Public Sector Commissioner may nominate a person for special division officers, the Department of Treasury may nominate a person for executive officers of government trading enterprises, and the CEO of the Department of Local Government, Sport and Cultural Industries may nominate a person for local government determinations. Thirdly, although there may be, to a limited extent, some consistency in the tribunal's determinations, in practice, the tribunal does not necessarily use the same framework or comparisons to set remuneration for each different category of office. In fact, the tribunal often affords different increases in remuneration to different groupings of officers within its jurisdiction. I do not mention those to be at all critical of the tribunal. I am just noting what the practice has been.

Hon Michael Mischin: How's that relevant?

Hon SUE ELLERY: I am not sure whether Hon Michael Mischin missed it, but Hon Alison Xamon raised that issue, and I am responding to the issues that were raised in the course of the second reading debate.

Local government remuneration is set pursuant to the Local Government Act, which means that remuneration for local government CEOs and councillors may vary within bands that are set by the tribunal, subject to the discretion of local governments to set remuneration. The tribunal's determinations for local government councillors are not directly linked to remuneration for members of Parliament. In a similar way, remuneration for the Governor is not directly linked to remuneration for other kinds of office holders. Overall, the distinctions that the present bill makes between different types of office holders will be a temporary budget measure and will not greatly exacerbate the differences in remuneration that already exist between different kinds of office holders.

Government trading enterprises are covered by the bill. At present, remuneration for CEOs, who are referred to as executive officers in the Salaries and Allowances Act, is determined under the GTE's own enabling legislation by the board of management on the recommendation of the relevant minister. In line with government policy, ministers will not be recommending increases. Under the Salaries and Allowances Act, the GTEs that are listed in column 2 of schedule 2 of the act are brought within the tribunal's jurisdiction to determine remuneration when they are prescribed in the regulations made under the act. GTEs have not yet been prescribed. However, they will be prescribed during the freeze. Once prescribed, this means that when the current contracts for the CEOs of the government trading enterprises expire, their remuneration will then be determined by the tribunal during the freeze, in accordance with the provisions of the bill that is currently before us.

Questions were raised about remuneration for the chair of the Salaries and Allowances Tribunal in particular. A proposition was put that the chair of the Salaries and Allowances Tribunal is paid $325 000 a year and has the option of a government-provided vehicle. During her contribution, Hon Alison Xamon seemed to indicate that the Salaries and Allowances Tribunal sets its own salaries and conditions. There may have been a bit of confusion at that point and perhaps the Salaries and Allowances Tribunal was, for that purpose, being confused with the State Administrative Tribunal. In fact, the Salaries and Allowances Tribunal determines remuneration for

State Administrative Tribunal members as follows. Firstly, the Salaries and Allowances Tribunal determines remuneration for non-judicial members of the State Administrative Tribunal who are prescribed officers under section 6(1)(e) of the Salaries and Allowances Act. Senior non-judicial members of the State Administrative Tribunal are provided $327 486 in annual salary and a motor vehicle lease or allowance according to the Salaries and Allowances Tribunal's latest determination. Secondly, the State Administrative Tribunal Act 2004 requires the president of the State Administrative Tribunal to be a Supreme Court judge. This means that the president is remunerated in accordance with the Salaries and Allowances Tribunal's latest report on judicial remuneration, which recommends that Supreme Court judges are provided with an annual salary starting at $441 057 and a fully maintained motor vehicle. By contrast, section 5(6) of the Salaries and Allowances Act provides that the Governor determines the remuneration to be paid to members of the Salaries and Allowances Tribunal. The chair of the Salaries and Allowances Tribunal is paid $47 294 per annum and does not receive a government-provided vehicle.

Comments were made about judicious office holders. It is a fundamental principle of the Westminster system of government that a separation of powers is maintained between the executive arm of government, the legislative arm and the judicial arm. The judicial arm interprets the laws that are made by the legislature and the Westminster system emphasises that the judiciary, in performing this role, should be free from the influence of the politics of the executive and the legislature. That principle is relevant to the matter of how judicial remuneration is determined. After the introduction of the Salaries and Allowances Tribunal Bill into Parliament in 1975, the late Sir Charles Court emphasised in his second reading speech that in relation to judicial office holders, the tribunal would report on remuneration to Parliament rather than determining remuneration, as it does for other office holders. He noted —

> This approach preserves the long-standing constitutional convention that the Parliament fixes the salaries of the judiciary but in doing so the Parliament will, in future, have the benefit of the recommendations of the same tribunal which is to determine the salaries of Ministers of the Crown, officers and members of Parliament and other senior officials.
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> … consideration was given to the judges being subject to the same determination, but the judges, themselves, preferred —

Later he says that the judges were "most insistent" —

> that the final decision … be that of Parliament even though the tribunal will make the recommendation.

Since the tribunal was first established, it has consistently reported to Parliament on remuneration for judicial office holders within the framework of the Salaries and Allowances Act as passed by the Parliament. The Parliament has always had the final say in whether to accept the recommendation of the tribunal. The bill does not amend the existing overall process for the tribunal to report on judicial remuneration—that is, the report is gazetted and it is then a disallowable instrument. I note that the advice I have received is that no-one has ever moved a disallowance. This does not depart from the longstanding accepted practice.

Members also raised during the course of the second reading debate the notion of exceptions to the bill. The purpose of the bill is to place a cap on the remuneration that is paid on an annual basis to the impacted office holders. The exceptions that have been identified can be classified into two categories. The first category of exception from the ambit of the bill is local government chief executive officers and councillors, because their remuneration comes not from state revenue but rather from other sources, and members of public university governing councils, because their remuneration is tied to federal funding.

The second category of so-called exception extends to certain kinds or classes of remuneration. The bill was prepared on the basis that we are seeking to freeze the remuneration that is paid to the impacted office holders as part of an annual salary. Therefore, the bill has not picked up other classes of remuneration, such as redundancy benefits for members, which in the tribunal's determinations are referred to as resettlement entitlements. The provisions in the bill that enable the prescription of certain kinds or classes of remuneration as being outside the scope of the freeze are incorporated as a safeguard in case it becomes apparent during the freeze that there is reasonable justification to exclude certain kinds or classes of remuneration. It is anticipated that if this bill is passed and comes into operation, such kinds or classes of remuneration will include from the outset superannuation for all office holders except for members of Parliament whose superannuation is already excluded from the freeze, no matter which scheme they are paid under, and fringe benefits tax, as these kinds of remuneration are dependent on determinations of bodies external to the Salaries and Allowances Tribunal. Other kinds or classes of remuneration may be raised with the government and considered for exemption if justified in the circumstances. Amendments to the relevant regulations will be published in the *Government Gazette* and tabled in Parliament, and therefore will become a disallowable instrument. It is not intended that the ability to preclude certain kinds or classes of remuneration will enable exclusion of a category of office holder, as this would circumvent the intent of the pay freeze for officers whose remuneration does impact on state finances.

Another issue that was raised during the second reading debate is that the bill provides that the tribunal is not required to make a determination during the freeze but may do so if circumstances require. This is to ensure that during the freeze, the tribunal may still issue determinations when new offices are created; when the tribunal sees fit to reclassify a special division office based on significant changes in work value; and when the tribunal needs to vary its determinations to account for changes in office holders. The tribunal may also see fit to adjust the amount of remuneration it determines without increasing the overall remuneration provided to an office holder. This is a safeguard to ensure that the tribunal is not prevented from issuing determinations if needed. The tribunal will continue to do all these things during the freeze, as well as issue its annual determinations for local governments and public university governing councils. The tribunal will also need to issue determinations for government trading enterprises when they are prescribed and the contracts of their executive officers expire.

Questions were also raised about when it will be appropriate to return to the previous arrangements and how the four-year duration of the freeze was arrived at. The four-year period was a policy decision that we made to reflect the temporary nature of the freeze, but also to provide enough time for meaningful savings to be achieved. The bill itself envisages that at the end of the freeze, the tribunal will return to its normal functions, subject only to the constraints that are set out in clause 9 of the bill as proposed to be amended—that is, not to afford compensatory determinations, and not to take into account in future determinations any cost of living increases that occur during the four-year period of the freeze.

A question was raised about independence and about whether this is setting some kind of precedent for future political interference. I note that the Temporary Reduction of Remuneration (Senior Public Officers) Act 1983 was passed by the Parliament eight years after the Salaries and Allowances Tribunal was established.

Several members interjected.

The ACTING PRESIDENT: Members!

Hon SUE ELLERY: Honourable member, I note that I am trying, in a methodical fashion, to address all the issues that were raised, and no matter how amusing the member finds his own interjections, I will not be entertaining them.

Hon Michael Mischin: They are pointed interjections, rather than amusing. They are very sad, actually.

Hon SUE ELLERY: Deadly pointed.

The ACTING PRESIDENT: Minister, it does not help if you interact with them, so if we speak through the Chair, please.

Hon SUE ELLERY: I promise not to interact with Hon Michael Mischin.

That act provided for a reduction in remuneration, as I have already said, for impacted office holders for a period of 12 months. Among other government positions, the reduction in remuneration applied to any person who held an office for which the remuneration payable was determined or recommended under the Salaries and Allowances Act, excluding judicial officers. I have already set out the levels by which remuneration was reduced. It could be argued that that was where the precedent was set, noting that it took things a step further than the current bill in reducing remuneration by the percentages that I have already outlined. Then, more recently, the Workforce Reform Act 2014 inserted section 10A into the Salary and Allowances Act, requiring the tribunal to have regard to government financial matters and the public sector wages policy in respect of a specified set of officers, excluding members of Parliament and some others. That, too, placed a fetter on the tribunal's determinations.

I was asked some questions about the membership of the Salaries and Allowances Tribunal. The act provides for tribunal members to be appointed for a term of three years, with eligibility for reappointment, and that the Governor determines the fees and allowances to be paid to tribunal members. The Governor last increased remuneration for members of the tribunal in 2011. The remuneration, and date on which appointment expires for the current members of the tribunal are as follows—Mr Bill Coleman, AM, the chair, receives $47 294 per annum and his appointment expires on 24 February 2018; Mr Brian Moore, a member of the tribunal, receives $31 214 per annum and his appointment expires on 13 January 2018; and tribunal member Ms Cathy Broadbent receives $31 214 per annum and her appointment expires on 24 February 2018.

Questions were raised about the possible reduction in the workload of the tribunal. During the freeze, the tribunal will still be required to issue determinations for local government chief executive officers and elected council members, members of public university governing councils—the tribunal is yet to issue a determination on this category of office—executive officers of government trading enterprises, when the GTEs are prescribed, and when the current contracts of the executive officers expire, new special division or prescribed offices that may be created during the freeze, significant changes in work value for special division officers, as well as other matters identified as being outside the scope of the pay freeze. The tribunal also issues regular variations to its existing determinations

as required, for example, when a special division or prescribed office is vacant and is filled. There is also a role for the tribunal to continue to take submissions from office holders that may be taken into consideration in determinations it makes after the freeze. The tribunal may wish to issue determinations after the conclusion of the freeze.

A question was raised about whether consultation had been undertaken with Clerks and Deputy Clerks of both houses of Parliament. No, they have not been consulted, in the same manner that other impacted office holders have not been consulted. This reflects the importance of setting an example from the top on wages constraint.

An issue was raised about the proposed discrepancy between the government's proposed amendment to clause 9 and the second reading speech I gave when I introduced the bill to this place. The statement in the second reading speech relating to the tribunal's inability to make compensatory determinations continues to hold true. That is the way clause 9 is constructed. This is plainly set out in the explanatory memorandum that was tabled in Parliament at the same time as the bill was introduced. The government has considered it appropriate to have clause 9 go further than its original construction; therefore we arranged for the preparation of an amendment to clause 9, which I will move when we get into committee. When the proposed amendment is moved, I will talk in more detail about the proposal.

Questions were raised about superannuation. The Parliamentary Superannuation Act 1970 is referred to at section 6A of the Salaries and Allowances Act. Members opposite indicated that they consider the exclusion of the tribunal's determinations from the scope of the freeze is to benefit those members subject to the parliamentary pension scheme that is being phased out. This is not the case. It is the intention to exclude superannuation entitlements of all impacted office holders from the scope of the freeze, aside from the five members who have had their superannuation set under the pension scheme. There are minimum superannuation entitlements set at the federal level for other impacted office holders that the state legislation cannot impinge upon. It is therefore intended to identify superannuation as a kind or class of remuneration that is not subject to the freeze.

In summation, the bill is an important measure to show the community, the ratings agency and others that the government, including its most senior members, are sharing an important task of budget repair. It will achieve savings, and any saving towards budget repair is important, given our current financial situation.

I commend the bill to the house.

Division

Question put and a division taken, the Acting President (Hon Dr Steve Thomas) casting his vote with the ayes, with the following result —

Ayes (26)

Hon Martin Aldridge	Hon Sue Ellery	Hon Alannah MacTiernan	Hon Dr Steve Thomas
Hon Ken Baston	Hon Diane Evers	Hon Kyle McGinn	Hon Colin Tincknell
Hon Jacqui Boydell	Hon Donna Faragher	Hon Samantha Rowe	Hon Darren West
Hon Jim Chown	Hon Adele Farina	Hon Tjorn Sibma	Hon Pierre Yang
Hon Peter Collier	Hon Nick Goiran	Hon Charles Smith	Hon Martin Pritchard *(Teller)*
Hon Stephen Dawson	Hon Laurie Graham	Hon Aaron Stonehouse	
Hon Colin de Grussa	Hon Colin Holt	Hon Dr Sally Talbot	

Noes (4)

Hon Tim Clifford	Hon Michael Mischin	Hon Simon O'Brien	Hon Alison Xamon *(Teller)*

Question thus passed.

Bill read a second time.

Committee

The Chair of Committees (Hon Simon O'Brien) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Hon PETER COLLIER: I want to refer to a couple of points raised by the Leader of the House in her response to the contributions made by a number of members in the second reading debate. If anything, her response was pretty much about abolishing the Salaries and Allowances Tribunal. I have to be honest and say that if I were a member of SAT and I read that stuff that the Leader of the House read into *Hansard*, I would be very disappointed. I would feel very slighted if it was suggested that perhaps I was not doing my job. Let us make no bones about it, I think all members understand that. Members can say what they like about this bill, but it seriously undermines the autonomy of SAT. It is really a slap in the face for SAT. There is no doubt about that. It does not

matter whether members are on the government side of the chamber, on the crossbenches or over here, this bill undermines the authority and autonomy of SAT. It sends a very clear and unambiguous message to SAT that the government knows best and has no confidence in SAT to make a determination in line with government policy and decisions.

At one stage, the Leader of the House referred to the Workforce Reform Act and stated that members must have regard to government policy, as though that is somehow a precedent for this legislation. It is not a precedent for this legislation at all. Having regard to government policy is the bleeding obvious. Having regard to government policy means just that: having regard to government policy. It does not mean this is government policy and you will do this whether you like it or not. That is the big difference.

Debate interrupted, pursuant to standing orders.

[Continued on page 6618.]

Sitting suspended from 4.15 to 4.30 pm