

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

Second Reading

Resumed from 29 November.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [11.48 am]: Yesterday, when the debate on the Salaries and Allowances (Debt and Deficit Remediation) Bill was adjourned, I had touched on the manner in which this bill had its conception. The Premier has admitted that he does not like this bill and he does not agree with this bill, but Treasury has put the bill forward. It appears that our Premier is prepared to go along with any idea that Treasury puts forward, without regard to principle and without regard to a business case. Over the last eight months, the government has formulated and committed to a lot of ideas, at great public expense, without putting forward any business case or any cost-benefit analysis for those ideas, and without any debate about the pros and cons of those ideas, let alone any transparency in those debates. This bill is a Treasury idea that was picked up by the Premier, notwithstanding any questions of principle, which I will come to shortly, and without any examination of the pros and cons, or it seems from the drafting of the bill, any evaluation of how it will work and what the long-term consequences might be. Here is a couple of other ideas for Treasury; if Treasury wants to pick them up and run with them, it can have these for free. Let us see whether money can be saved by not having a parliamentary secretary to the cabinet at great expense to the public purse. The Premier said that was done back in the days of Richard Court. Yes, it was, but since then there has been a Commission on Government that recommended against it. Hon Darren West is grinning away, but the Commission on Government found it was not a good idea. Since then, there has not been such a position until it was dusted off in order to repay one of the comrades in the Labor Party at public expense. Even Premier Gallop said it was not a good idea. Our Premier, of course, had his apprenticeship under Geoff Gallop and Alan Carpenter. They did not think it was a good idea and the Barnett government did not do it. But the Labor Party will do anything to reward its comrades. What about a Treasury idea based on public perception that a few ministers who got a windfall, pay back the \$5 000-odd they got? That might help budget repair. Treasury can have that idea for free, too. Perhaps Treasury and the Premier might support it.

Hon Peter Collier: They might have to introduce a private member's bill.

Hon MICHAEL MISCHIN: Yes. Perhaps it could just be the five members who still have pension benefits and will not be affected by the freeze—a few things like that. We are not going *Back to the Future* like the series of wonderful movies in which someone gets thrown into the past and tries to find their way back to their time zone. Here we have *Forward to the Past!* We are turning back some 50 years of principle in the setting up of the Parliamentary Salaries Tribunal back in 1967. That was reaffirmed in 1975 when it consolidated, under the Salaries and Allowances Tribunal, not only members' salaries but, more importantly, their allowances, including electorate allowances, so they could be objectively assessed to be able to do their jobs as elected representatives of the community. We are turning the clock back by 50 years because the whole idea of that Parliamentary Salaries Tribunal and its successor in 1975 was to depoliticise the process. If one takes the trouble of reading the debates back then, they will see that the whole point was that, like half a century later, every time—whether it is by an independent tribunal or otherwise—allowances or salaries increase for members of Parliament, judges and other senior officers of the public sector, the newspapers and those who think we ought to pay for the privilege of being abused by members of the public, arc up and say, “Hey; they're getting a pay rise!” The whole point of the tribunal was to take it out of the hands of the government of the day, which might fall prey to public perceptions, which seems to be the governing principle for this so-called government. The tribunal would take it out of that cycle and put it in the hands of an independent tribunal that not only makes a dispassionate assessment of work value for salaries, but also takes into account economic circumstances and other factors to properly assess what additional allowances may be necessary to cover the costs of servicing one's electorate.

This government and this Premier have decided, in scratching around for every dollar that they can find to pay for election commitments, to turn back the clock by 50 years. That might seem to be something the Premier can get away with now because he can rave on about budget repair and ignore budget expenditure and other things. It may be that he can say our circumstances are so dire that we need every possible cent so that we can pay for parliamentary secretaries to the cabinet or parliamentary secretaries to represent ministers in their own chamber to reward his people. That might be the way to go. But, into the future, what precedent does it set? What will happen the next time a newspaper story reads, “Fat Cats Get A Pay Rise” or that members of Parliament have an extra 2c in their pockets? Will the government of the day come back and say that it has listened to public perceptions and misconceptions, and that it will legislate accordingly in order to curry favour with the ignorant? Will the government curry favour with the newspapers? I saw the honourable leader smirk a moment ago, but the fact is

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

that she said in her second reading speech that the legislation is to address misconceptions and give comfort to those who have misconceptions.

Hon Sue Ellery: But I didn't call people ignorant, which is what the member just did.

Hon MICHAEL MISCHIN: Is the minister saying there are no ignorant people? Some are, and there are some.

Hon Sue Ellery: You can dig you own hole, mate.

Hon MICHAEL MISCHIN: I did not call the public ignorant but the fact is that some people do make expressions of opinion and many of them are on the government benches—I can see Hon Darren West wants to claim credit for that—they express opinions without knowing what they are talking about, without getting the facts together.

Public perception, it appears—or rather, public misconception—is the foundation of this Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. How will it work into the future? Will it be that every time that the government wants to curry favour, grab a vote or avoid its own crises and mismanagement, it will put in something that interferes with a depoliticised process and politicise it again? Plainly, yes.

I recall that a couple of years ago a very strident debate was had in this place about the Workforce Reform Bill. What the government was trying to do was twofold, and one of the things it was trying to do was insert a mechanism to dispose of public servants who were floating around the system and could not be gotten rid of, for a variety of reasons, to improve the management there. Only a handful were covered by that. We had a very great debate on that. We were called “heartless” towards public servants. The government has now made an announcement that an arbitrary 3 000 public servants will supposedly voluntarily be offered redundancies, although all the anecdotal evidence I have is quite the contrary. People are being forced and bullied out of their jobs by the operatives of this Labor government. The other feature of the debate was that the government tried to introduce, and we did, eventually, after great resistance, a requirement that the Western Australian Industrial Relations Commission and the Salaries and Allowances Tribunal merely have regard to the fiscal position of the state and the government's wages policy at the time in making their determination—simply “have regard to”. That was distorted by the Labor Party as an argument that we were mandating it. It had to be bound to follow those policies. It was totally false. I remember Hon Ken Travers leaning across to me while I was at the committee table and saying, “I hate you people for your disregard of other people's rights.” Now look what has happened. The Labor Party is in government and what did it do? It is starting to mandate what an independent, depoliticised tribunal with a dispassionate analysis of the evidence and with regard to the government wages policy and the fiscal position of the state, as it has done in its last few determinations, can and cannot do. We have gone back half a century. Congratulations to the McGowan government for going back half a century. That is progress from a progressive Labor government. Politicise the public service, politicise independent tribunals, and listen to the policy creators in this government—namely, Treasury.

An element of principle is involved in this. What does this forebode? It seems to me that it can easily foreshadow an interference of like stature with the Western Australian Industrial Relations Commission. The government has already shown its political partisanship by allowing certain increases in salary in accordance with promises prior to the election to some segments of the public sector but not to others like police; they do not have any union muscle, like some do, and are not obvious supporters of the Labor Party. So what next? Will the Western Australian Industrial Relations Commission be told what it can and cannot do?

When I was in government and responsible for the industrial relations portfolio, Treasury came up with the idea that there be a cap on public sector salaries. I argued against that. I was all in favour of there being a policy that could be followed and mandated by government, but in terms of directing a cap—however superficially attractive it was—by directing and limiting the discretion of the Western Australian Industrial Relations Commission, I was opposed to that. I felt that was unfair. It is the independent arbiter, and we will live by its decisions. Not so, apparently, with the Labor Party.

This is the thin end of the wedge. I do not much like that analogy, but I cannot think of one better. If this is politicised in the fashion proposed by this Labor government for political expediency to address public conceptions or misconceptions, then where do we stop? What will happen, for example, if at some stage the Salaries and Allowances Tribunal or the WAIRC in the future makes a determination that this government does not like for political reasons based on public perceptions or misconceptions? Will it rush in a law next time to overturn it? Why not? That seems to be Treasury's proposals taken to their logical extreme, and it seems to be what our Premier—the statesman that he claims to be—is prepared to entertain.

This is a stunt. It is a stunt from the title of the bill; it is a stunt from the terms of the second reading speech; it is a stunt inasmuch as it politicises something that was, 50 years ago, deliberately depoliticised; and it is a stunt because the Premier will not even take responsibility for it but says, “Hey, it's not our idea, it's Treasury's idea; don't blame us.” It is a stunt because it is said to be urgent. It was first mooted in May and introduced on

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

12 October, not that it seems to have benefited from any thought in its drafting to eliminate anomalies. Even at the end of the rushed debate in the other place, the Premier said, "Oh, look, we'll be able to patch it up with another amendment." So much for what was five months' consideration of this legislation. I understand there have been no briefings to the National Party, or briefings of note to anyone. Even the advisers—all credit to them—were unable to answer some questions about its consequences and its operations.

There are unexplained limits. Why are redundancy payments exempt? Is that to benefit ALP members who will lose their seat at the next election? Is that the sop to them? Why are pension benefits not frozen as well? Why are certain other bodies and officers, like government trading enterprises, not covered by this? Why is our austerity Premier, who wants everyone to share the burden, not affected by this? Why is he flagging amendments even before it is introduced to this place—ones that he could have thought about in the Assembly, and should have?

That raises the other factor about how it works and its drafting. The current system is that the Salaries and Allowances Tribunal is charged with responsibility under the act to inquire into and determine the salaries of members of Parliament. Prior to 1975, judicial officers were covered by a separate tribunal. All those various bodies were brought together under the SAT back then, following the 1967 principle that these things be set separately. But to abide by constitutional requirements and the like, in the case of judicial officers at a certain level, theirs is not a determination. A report is prepared for the relevant minister and it is tabled before each house of Parliament. The report recommends a certain salary, and that recommendation can be rejected by the minister. It can also be rejected by each house of Parliament. So why is it necessary to interfere with judicial salaries in this fashion? I do not think our judicial officers are necessarily underpaid; that is an argument for another day. But if it were thought by the government—it certainly has the numbers down there to do it—that the proposed increase in benefits for judicial officers was excessive in the economic climate of the time, it can block it. It has the numbers to do it. Why will it not? Because it does not have the spine. It does not want to take responsibility for doing that. Instead, it wants to legislate by interfering with the tribunal's independence. That is the level we have reached: Treasury's idea; Premier reluctantly goes along with it—does not like it, but Treasury says so; it addresses public misconceptions and it conveniently handballs responsibility to someone else, rather than him having the spine to do it himself down in that chamber.

I would also like to know from the minister responsible for the bill up here how it will work in SAT determinations of members' salaries. The SAT is required to inquire into and determine salaries, and it does that by providing a determination it signs off on that is then gazetted. It is allowed, under the terms of the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017, but it is not required to make a determination any time in the next four years. What is all that about? What circumstances might require the SAT—"if the circumstances require it", the amendment reads—to make a determination in the next four years that in any event cannot involve any increase in remuneration? I think the chair of the SAT is being paid something like \$325 000 a year for doing his function. They have recently made their own determination, maintaining their salaries and conditions. They actually have the option of a government-provided vehicle, unlike MPs, curiously enough.

Hon Simon O'Brien: Ministers get them though.

Hon MICHAEL MISCHIN: Ministers get them though, yes. What a pity that that little loophole was exposed!

Nevertheless, what will SAT be doing for the next four years? How would circumstances require them to make a determination that is not supposed to make any difference anyway in terms of remuneration? Perhaps all that can be explained. What can it do?

Then there are the regulations to exempt people under proposed section 10D(9). Will these exempt ministers, perhaps, or members of the Labor Party or parliamentary secretaries? Will they exempt certain allowances that might benefit members of the ALP government? What sort of regulations could be made at the discretion of the minister? And how was the four-year period calculated? Why is it four years? The economic circumstances of this state might change radically in the next 12 months to two years, yet for the next four years and beyond the status quo will be maintained. The rushed amendment proposed by the government states that there will be no catch-ups, ever. How is that meant to work? Assuming that the government does not, for political expediency, try to extend the proposed period, the Salaries and Allowances Tribunal will sit down in four years' time to work out work value and, at the same time, what is necessary to serve the electorates that we are elected to support and represent; yet it will not be able to take into account any CPI increases over that time. How will it discharge its function? The Leader of the House will no doubt be able to tell us. How will it reconcile the fact that it is supposed to make an objective assessment of how costs have increased? Postage, petrol prices, electricity costs for our electorate offices and other things might all have increased. The demands on members might have increased. The Salaries and Allowances Tribunal will be required to take all of that into account and then ignore it. How is it supposed to function? No doubt the minister will be able to explain that.

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Why is this for four years? Why is it not for 12 months or two years? Is this just to carry this government through to the next election, again for reasons of political expediency and without regard to the economic circumstances of this state? The government knows full well the benefits of incumbency. Ministers can draw on the public purse and distribute largesse to their own members through things like the Local Projects, Local Jobs reptile fund—its little pork barrel. That will mean that government members will not need to draw very much on their electorate allowance. I can see that Hon Darren West is in agreement with me. It allows him to draw on public funds to make promises for his electorate, does it not, Hon Darren West? He does not have to draw on his electorate allowance.

Hon Darren West: They were received very well by the community.

Hon MICHAEL MISCHIN: I am sure they were. Santa Claus is well received by the community, too, but the trouble is that he does not draw on public funds. I am sure it has been taken into account that Hon Darren West and others on the other side of the chamber will have pressure taken off their electorate allowances, because they can just dip into the \$39 million, which, coincidentally, more or less matches the number of members of the ALP in the other house, to make election commitments around their electorate. I am quietly confident that before the next election, another Local Projects, Local Jobs fund will be set up for them to dip into. This is a sacrifice that everyone is bearing, except members of this government. I may be wrong about these things, but I think they are legitimate questions to ask. That is why, if there is to be interference in principle in this sort of thing and with these sorts of consequences, the bill ought to be looked at. I remind government members that the Workforce Reform Bill, which also came up for debate at about this time of year, was referred to a committee over the Christmas–New Year period to address the policy of it and manner in which it worked. The debate on that bill was extensive, and the Labor Party purported to act on principle in opposing it. The ALP wanted it to be referred to a committee. I think it was Hon Nick Goiran who moved the referral of the Workforce Reform Bill back in about 2012.

Hon Nick Goiran: I like bills going to committees.

Hon MICHAEL MISCHIN: The committee scrutinised the bill. It suggested some improvements to it, cleared up some anomalies in it, and examined the policy of the bill and its operation. I would be interested to know why this government is not prepared to do the same thing with this bill, given the bill's interference with the independence of a tribunal that was set up specifically to depoliticise this process, its potential consequences, the potential inadequacies in its drafting, and the fact that we are faced with an amendment that was promised at the last minute, before the bill even passed the other place, but could not be debated. Why would the government not agree that this bill be referred for proper scrutiny, given its almost rabid support for committee scrutiny in the last term? There would be ample opportunity to do it. Members will be working over the next several months in any event. This is an opportunity to examine these things and see whether there is any substance to the claims about how much money is supposedly going to be saved and whether that will go towards budget repair rather than to the pork barrel of Labor Party promises, which the government is scratching around trying to afford now. It is nothing to do with budget repair. If there were to be a motion—I understand there may be—I would support the bill being referred to a committee. As I recall, Hon Nick Goiran, who was then part of the treasury bench of the last government, moved the referral to the committee. I know that Labor Party members do not have any freedom of thought or initiative, so we cannot expect much from them in terms of independence in being prepared to sacrifice expediency for parliamentary process. Liberal members are accused of disarray, but at least we are allowed to speak and vote in accordance with what we believe is right.

If the government were to propose a referral to the committee, confident that the policy and execution of this bill would be supported by the dispassionate scrutiny of members, I would support that, too. In fact, I would welcome it. It would come as a pleasant surprise if that were to be the case, but as we have seen, there is very little preparedness by this government to have its policy initiatives, or should I say Treasury's policy initiatives, examined, as we saw with the royalties debacle. We still do not have the information on what formula underlies that. I would welcome a referral. It would be a good sign of this government trying to rebuild its reputation. Actually, that is putting it a little strongly: it would be a good sign of this government trying to build a reputation for honesty, transparency, adherence to principle or even regard for principle. The Liberal Party has taken a position on this bill. I do not agree with it. As I mentioned, we are able to vote according to our conscience. I have indicated my intention to do so.

It is my view that this bill cries out to be referred to a committee to examine the propositions upon which it is based, given that it involves political interference in an independent statutory authority that was established half a century ago and has been free of such interference. A committee should examine the interference in that body, the potential ramifications for other independent statutory bodies, and the policy considerations and justifications that underlie this bill, given that there have been no meaningful increases of the type that are the subject of misconceptions that this bill is intended to address. There will be ramifications for not only salaries—I can live with that—but also, more importantly, what else falls under the definition of “remuneration” in the Salaries and Allowances Tribunal Act, which the tribunal is meant to set in order to enable members to do their jobs for their

electorates. Under this bill, remuneration not only will be frozen for four years—coincidentally, past the next election date, so it will not disadvantage Australian Labor Party members—but also will never be allowed to be caught up. If this bill were referred to a committee—I hope it comes from the government—I would support that and I might change my view on the bill. If there is no referral to committee, as a matter of principle and on the basis of what we have before us, I will be opposing this bill. I think it is a shameful occasion for a government to start interfering with independent tribunals in this manner so soon after getting into office and for such little justification.

HON ALISON XAMON (North Metropolitan) [12.21 pm]: I rise as the lead speaker for the Greens on the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. This bill seeks to prevent any increase in remuneration paid to officers who are referred to in section 6 of the Salaries and Allowances Act. That will include members of Parliament, the Clerks and Deputy Clerks in both houses, and those in the special division of the public service—for example, the directors general of government departments. It will also incorporate the Governor, the judiciary, the Parliamentary Inspector of the Corruption and Crime Commission and the executive officers of prescribed government trading entities.

Increases will be prevented from the bill's commencement until 1 July 2021. I note that decreased remuneration will still be possible under this bill. The bill will not freeze any remuneration that does not impact directly on WA's debt and deficit, including remuneration for CEOs, elected council members of local governments and members of the governing councils of WA's public universities. That raises some issues in itself. I will speak further on that in my contribution. The bill will also not freeze MP travel that has been approved by the Treasurer, parliamentary superannuation determinations, MP redundancy benefits or the entitlements of former MPs. Again, that is an issue that I will speak on. Regulations may also prescribe the kinds of remuneration outside of the freeze. It is my understanding that the intention is that these will be the kinds of remuneration that are linked to external requirements, such as fringe benefits tax, superannuation guarantees, accommodation, and daily travel allowances, which are linked to determinations of the Australian Taxation Office. If the office of Governor is vacant when the freeze starts, the next office holder will be paid the same as the last Governor, whereas in the case of special division public servants, the next office holder will be paid at the 1 July 2016 rate if the office was filled on the date of the last CPI increase. Newly created positions or positions that were unfilled on 1 July 2016 will be paid at the same rate as comparable officers immediately before the freeze. After the freeze ends and the tribunal is scheduled to resume making determinations, it must not make any compensatory determinations, nor take into account any cost-of-living increases from the date of commencement until 1 July 2021.

I will make some general comments about this bill. Firstly, the Greens—like everyone—recognise the fiscal environment that the government is currently working within. CommSec's 2017 "State of the States" report on state and territory economic performance paints a very bleak picture of WA's current finances. WA continues to lag behind other states. Our annual growth rate is below the national average across seven of eight indicators surveyed. The trend of unemployment stands at 5.6 per cent, which is around 17 per cent higher than the 4.8 per cent normal or decade average unemployment rate. Only two economies had rates of construction work that were lower than a year ago. Construction in WA is down by 30.5 per cent and in the Northern Territory it is down 3.9 per cent. Construction work done in the June quarter was almost 39 per cent below the decade average. It is behind Queensland, where construction work was down by 17.7 per cent on decade averages. Wages in WA were up just 1.4 per cent on a year ago, compared with 2.1 per cent wage growth in South Australia and the Northern Territory.

The Greens are very well aware of the human face of the economic downturn and the impact it has had and continues to have on the community. We know that inequality is increasing in the community and levels of poverty are growing. Study after study has borne this out. Increasing levels of poverty will have significant and broad implications for our community as a whole. It has impacts on the health system, our justice system, our housing and our child protection system. That is just to name a few areas it will impact.

The Greens absolutely support action to overcome poverty and inequality within the community. I appreciate that savings have to come from somewhere in this tight fiscal environment. There are areas in which I suggest we could find a range of savings. We could start with our prison system. We are looking at an expansion of prisons, which will be incredibly expensive. It will certainly cost a lot more than the \$20 million over four years that is proposed to be saved by this budget measure. I want to be clear that the Greens in WA, and, indeed, nationally and globally, have never supported austerity measures as a way of achieving budget outcomes. The Greens do not support the cutting of important service deliveries and have always maintained that budgets exist to ensure the protection of the most vulnerable in our community. The Greens echo the view of the Western Australian Council of Social Service; that is, that hardline austerity measures that do not protect the most vulnerable in our community will only cause other systemic costs to flow. Such measures ultimately undermine the economy and further disadvantage marginalised people and those who are already vulnerable.

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

I recognise that people on low or moderate incomes should not have to bear the brunt of savings measures. We are talking about people who are already doing more than their fair share, and the public sector contraction that is currently occurring does not help the situation. As a principle, the Greens support, and have always supported, wage constraint, and I acknowledge general public concern about the level of CEO wages, not just within government, but also in the private sector. I also note that the general public has an expectation that if public servants are being asked to contribute to budget savings, those measures will include not only the rank and file public servants, but also, and indeed be focused on, those who are at the top. I recognise that it is not a good look if members of Parliament and senior public servants continue to get pay rises during times such as these. However, although the Greens are generally supportive of wage constraint, we have significant concerns with what this bill is proposing to do and the precedent it proposes to set regarding MPs setting their own wages. The issue of parliamentary salaries, allowances and entitlements has always, quite rightly, generated significant public interest and comment. The Greens have consistently held the position that parliamentarians should not have any direct involvement in setting their own pay or remuneration. A public servant setting their own pay is just not a good look and the general public have every right to expect it not to happen.

Hon Nick Goiran: The government does not agree with you.

Hon ALISON XAMON: I am aware of that.

Before 1967, members were in charge of determining their own remuneration. At the time, the situation caused such stigma that an independent committee was established to try to address this issue. This committee was the precursor to the Salaries and Allowances Tribunal. The Salaries and Allowances Tribunal replaced this committee in 1975, and was established as an independent body to decide the remuneration of senior public servants. I note the comments by Hon Peter Collier that there was extensive discussion reported in *Hansard* at that time. I also would encourage members to read that particular *Hansard* to see why it was deemed to be so important to finally establish this independent body in the first place. It is always instructive to look at why particular provisions were created in the first place.

This bill before us is now seeking to reverse that longstanding achievement of over 40 years and take us back to the time when MPs were in charge of setting their own pay. The *Hansard* of the debate when the tribunal was established shows that in establishing the tribunal, importantly, the government of the day also sought to address the discrepancy and inconsistency that had arisen through having different bodies determine salaries for different groups of senior public servants and officials. It was intended to try to bring together the different criteria by which people were having wages determined and make sure there was some consistency across government around how wages were being determined. Establishing this tribunal all those decades ago provided for a coordinated approach. The bill also sought to achieve equity and remove disparities between the salaries of public servants, the judiciary and members of Parliament. The tribunal has significant powers, akin to the powers of a royal commission, while undertaking inquiries in respect of its statutory responsibilities. The tribunal can inform itself as it sees fit and it invites public submissions. The members of the tribunal are appointed to these roles precisely because they are experts and they are paid to undertake this work. In making its determination, the tribunal, importantly, is required to take into account government financial matters. Section 10A(2) of the Salaries and Allowances Act 1975 states —

...

- (a) any Public Sector Wages Policy Statement, irrespective of whether or not the statement applies to a person or office in respect of whom or which the determination is made;
- (b) the financial position and fiscal strategy of the State as set out in the following —
 - (i) the most recent Government Financial Strategy Statement released under the Government Financial Responsibility Act 2000 section 11(1) and made publicly available under section 9 of that Act;
 - (ii) the Government Financial Projections Statement;
 - (iii) any submissions made to the Tribunal on behalf of the State government.

At the heart of our concerns about this bill is the issue of integrity of government. I am extraordinarily disappointed about being here discussing legislation that seeks to undermine the independence of an independent statutory body. It does not reflect well on the government's integrity. Even if it is for reasons that we would otherwise support, the Greens believe that it is vital to maintain the independence of the tribunal and to separate its decision-making from political processes.

I want to spend some time talking members through the issue of integrity of government, because it is something that the Greens feel very strongly about and have always had a strong and consistent position about. Government integrity demands more than just general expressions of goodwill. It also demands more than just personal

Extract from Hansard

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

integrity, although, of course, this is always an essential component. Government integrity is dependent on our structures, our processes, the checks and balances, and the safeguards that ensure transparency and ethics in the operations and decisions of government. If an independent tribunal has been created and then Parliament seeks to direct that tribunal how to act, it is compromising the fundamental integrity of the process.

I draw members' attention to the changes that have occurred over the years. One of the important things to note is that the sorts of changes that have occurred have simply been to incorporate more and more public servants into the legislation. There has been an understanding that far from needing to wind back the provisions of this very important separate tribunal, there has been a need, a desire, to ensure that we are taking a more and more arms-length approach to who is covered by this legislation. The sorts of amendments that have occurred over the last few years have included the Parliamentary Inspector of the Corruption and Crime Commission, the CEOs of local governments, and presidents and judges of courts and the appeal court, making sure that more people, more categories of employees, are included within the legislation. This is the direction in which we have been taking this tribunal over the last 40 years, making sure that we have more and more hands-off independent determinations, not fewer. This is the first time that we are seeking that sort of direct intervention to wind back those hard-fought reforms. Quite simply, this bill absolutely fails the integrity test, not because it seeks to do something fundamentally wrong, but because of the way it seeks to do so. Quite simply, the end does not justify the means. Again, I understand that there is significant support for the principle of the freezing of the pay of politicians and senior officials, including from the Greens, but this is not the right mechanism by which we need to attempt to achieve that outcome. I note that the latest determination that has come down from the Salaries and Allowances Tribunal only a matter of minutes ago has, unsurprisingly, determined that there will be a freeze on the salaries of members of Parliament. This is not surprising to me, and I will get to this more in the future.

When populist politics and polling take precedence over principle and expedience takes precedence over ethics, there is the potential that we will seriously undermine trust in not only the individuals involved, but also, I would suggest, the entire process of democracy. The Greens have consistently fought for government transparency and accountability, and a resilient democracy is absolutely dependent on that level of integrity. Establishing the Salaries and Allowances Tribunal contributed significantly to the public's perception of integrity in government and has been the understood consensus for over four decades. With its act there was increased transparency and accountability of how members of Parliament and other senior public officials were remunerated. The decisions by which the salaries were determined were transparent. Very importantly, it created more consistency in a whole range of different areas. To now take away the power of the tribunal to independently make these decisions does nothing for integrity of government and nothing to promote public trust in government. This government is basically saying that it does not trust the tribunal to do the right thing in this economic climate, and, clearly, based on the decision that has just come down, it is wrong. This is a completely misguided and problematic assumption to bring into this place. In fact, this bill undermines the confidence and trust in the whole system, because it implies that the Salaries and Allowances Tribunal is incapable of getting it right even though it is an independent body. For members of Parliament, it is especially important not only to have integrity, but also to be seen by the media and the public to have integrity. Although, again, we appreciate that there is a good reason to want to ensure that there is a freeze on salaries, it does not mean that the mechanism by which this is being attempted is appropriate, because quite frankly it is not. Taking control of their own salaries is not something that other salary earners can generally do. They do not have that power. Therefore, it is very easy to cast what is happening here as, effectively, pretty shonky behaviour that is lacking in integrity, even if that is not the intention now or in the future. Integrity is closely connected with trust and I think we would all agree that as politicians we want people, our constituents and the WA public more broadly, to have trust in us, the decisions we make and what we do.

I will quote from the Organisation for Economic Cooperation and Development "Government at a Glance" publication from 2013. I quote —

Trust in government represents the confidence of citizens and businesses in the actions of government to do what is right and perceived as fair. It is one of the most important foundations upon which the legitimacy and sustainability of political systems are built. Trust in government is essential for social cohesion and well-being as it affects the government's ability to govern and enables government to act without coercion. Consequently, it is necessary for the fair and effective functioning of public institutions.

In effect, trust is necessary for government to function well. Trust is what drives limited public confidence in government's ability to perform tasks, and I would say that the sorts of core tasks we are talking about are issues around welfare, combatting illegal and dangerous drugs, managing things like water restriction, and developing infrastructure in our health system and the economy. In the day-to-day of trying to do our job well, it is easy to forget the cynicism with which MPs as a group are regarded by the public. Unfortunately, people's trust in Australian politicians is very low. Australian survey data consistently indicates low levels of trust and respect for politicians and political institutions. In June this year, the ABC reported on the results of a survey by the University

Extract from Hansard

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

of Canberra that found that trust in Australian politicians and our political system is at its lowest level in 20 years. Only 42 per cent of people reported being happy with the way democracy works and, frankly, I am surprised it is even that high. The Scanlon Foundation in its 2013 social cohesion survey found that in the ranking of trust in institutions and organisations, Australian federal Parliament was at seven per cent and political parties at three per cent, which is last, after hospitals, police, public schools, employers, the legal system and television news. Only seven per cent of people surveyed indicated that they trusted a great deal that government leaders would tell the truth regardless of how complex or unpopular the issue. A lack of trust in politicians, however, does not have to be a given. We can do things that will improve people's trust in us. According to the historian Professor Andrew Markus, the sorts of factors that determine approval above the base level of trust—I think members could benefit from hearing this—include engagement, which is listening to needs and feedback and communicating frequently and honestly on matters of national significance; integrity, which is the ethical conduct of MPs and legislative policies that are seen to be ethical; ethical administrative practice that takes responsible action transparently and openly, and this bill breaches that; purpose, which is addressing social need and protecting and improving the environment and programs that positively impact on the community; and operation, which is highly regarded and widely admired top leadership and delivering consistently on policy undertakings.

The legislation before us is not going to increase public trust in MPs, and, as I have said already, it does not pass the integrity test. Why do we need this legislation? This is the question that I am asking. Is it true that the tribunal is doing a bad job, which is clearly what is being said by this bill? I am going to go through a bit about the determinations made by the tribunal, because I am not sure I share the implied criticisms of it that, clearly, this government has. The briefing I received on the bill indicated that the tribunal is not failing to be reasonable and conservative in its determinations, that it has been operating according to the relevant wages policy and, importantly, that it is already open to advice. The tribunal considers remuneration only, but does not necessarily increase it, as illustrated by the decision made today. I am briefly going to summarise my understanding of some of the tribunal's more recent determinations. I will come back to the determination that has just come down, but I will go back from the last one. The current determination, which up until today members of Parliament have been operating under, was the second of 2016 and effective from 12 March 2017. There was no change to salary or electorate allowances. The entitlement for the provision of a motor vehicle was replaced by a motor vehicle allowance, and that was because the government effectively wanted to get out of the business of providing cars. Fair enough; I will not argue whether that was a good or bad decision. But, to be very clear, it was not about extra money; it was simply about changing the way that motor vehicles would be provided. The charter transport allowance was limited to air charter expenses. Allowances were generally adjusted to reflect changes to electorate boundaries. I would consider that to be a sensible move. The tribunal would want to make those sorts of decisions. The postage allowance for certain office holders was abolished. Again, the parliamentary travel allowance was replaced by an annual allowance. It was just a change in the way it was done. We are not talking about increases; in fact, we are talking about a loss of some entitlements. They are the sorts of decisions that the Salaries and Allowances Tribunal makes. There has been some necessary tweaking around the edges to make sure that the sorts of allowances that are made available are reflective of electoral boundaries. Again, would that not be a sensible thing for the Salaries and Allowances Tribunal to do?

I note that this determination was varied on 18 May 2017 to prevent ministers and certain office holders from accessing the motor vehicle allowance because, under separate arrangements, they were already provided with a vehicle. I want to make some further comments about that. I have not made any comments in this place about this issue but I will do so now. I note that when this discrepancy of the double dipping became known—fortunately, journalists were addressing that and keeping on top of it—it was the subject of immediate intervention by the Premier and was immediately addressed by the Salaries and Allowances Tribunal. What I take from that experience is that, firstly, the Salaries and Allowances Tribunal is very quick to rectify if it sees any problems emerging. Secondly, it took a journalist to find out about these issues. Those ministers who received both allowances at no point thought to bring that to the attention of anybody else and say that it was a bad idea and question whether it was something they should be entitled to. It probably would have been a good idea to raise it at the time. Thirdly, I cannot for the life of me understand why those ministers who have not returned that money have not done so yet. If it were me, I absolutely would have returned that money. I would have been embarrassed to continue to hold onto that money.

Several members interjected.

The ACTING PRESIDENT: Members! We are listening to Hon Alison Xamon. I will have no interaction across the chamber.

Hon ALISON XAMON: Office holders, such as those representing regional areas, may apply to the tribunal to receive the allowance for use predominantly in their electorate. Again, that was the second determination of 2016.

Extract from Hansard

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Prior to that determination, the Salaries and Allowances Tribunal determined in 2016 that there would be a salary increase of 1.5 per cent and no changes to allowances and entitlements. Again, this was varied on 24 October 2016, allowing regional ministers to take the cash in lieu allowance instead of an electorate vehicle. That was a pretty moderate increase and not inconsistent with the government wages policy of the day. The determination prior to that was on 23 June 2015. Again, there was no change to salary. There were changes to the electorate allowance, which were the first since 2013, there was a reduction in the transport allowance and there were accommodation and resettlement changes. The determination prior to that was on 24 June 2014. The salary was increased by \$5 500 and the postal allowance was increased to reflect the increased prices of Australia Post. I would think that would be only fair, because it was a pretty massive increase, although I note that we no longer have it. This was varied on 22 September 2014 to provide clarification about accommodation allowances following a taxation determination by the Australian Taxation Office.

The determination prior to that was on 9 August 2013 and there was no change to salary. The base electorate allowance increased as per the Perth consumer price index to reflect a significant increase in the average number of electors per electorate for the year ended 30 June 2013. I point out to members that the increase reflected the increase in the number of people who needed to be reached and the increased costs. No extra money came in; it just reflected the increased expenses that we were expected to wear. An additional electorate allowance was paid to regional members. It was increased by the Perth CPI for the year ending 30 June 2013 of 2.5 per cent, rounded to the nearest \$50. That reflected the increased costs for regional members, as opposed to members in the metropolitan area. There was a change to the motor vehicle allowance, with an increase in the whole-of-life lease value to \$25 000 per annum. The charter transport allowance also increased by 3.8 per cent, rounded to the nearest \$50, to reflect increases in fuel costs associated with charter transport services. There was also a change to the metropolitan expenses of country members. There were no changes to telephone and postal costs. There was reimbursement of expenses for parliamentary travel, which was not available during election campaigns, totalling \$27 000 over the four-year term of a Parliament. What I have just listed was varied on 24 September 2013 to provide for the remuneration of the then recently appointed National Party Whip in the Legislative Assembly. I note that the Greens Whip does not get that, but the National Party Whip does.

The determination prior to that was on 27 June 2013 and was consistent with emerging trends in economic indicators and the degree of caution that had started to be demonstrated by economic commentators generally. Remuneration increased by 2.6 per cent effective from 1 July 2013 for public office holders within its jurisdiction. The determination prior to that—I remind members that this was when we had a lot of money floating around in the state—on 10 August 2012 was for a 3.25 per cent increase in base salary. There was no change to the salary relativities of parliamentary office holders. There was a two per cent increase in the base electorate allowance, which was equivalent to the Perth CPI, plus additional costs. I was a member of Parliament at that time and I remember there were significant additional costs in our electorate offices. There was a two per cent increase in the additional electorate allowance for regional members, rounded to the nearest \$50. There was no change to the motor vehicle allowance. There was a five per cent increase in the charter transport allowance, rounded to the nearest \$50. There was no change to the telephone and postal service allowances. There were additional variations around resettlement that made it clear that it applied only to former members of Parliament who were transitioning back to private life, not to MPs who resigned to stand for another seat.

For the judiciary, the current recommendation is dated 31 May 2017. Again, there was no change to the remuneration. The recommendation prior to that on 21 June 2016 was for a 1.8 per cent adjustment to the remuneration paid or provided to judges, District Court judges, masters of the Supreme Court, magistrates and the Parliamentary Inspector of the Corruption and Crime Commission. The recommendation prior to that was on 23 June 2015. Once again, there was no change to the remuneration paid. Motor vehicle entitlements were amended to allow for new leases to be entered into. The recommendation prior to that on 24 June 2014 was for a 2.5 per cent increase in remuneration from 1 July 2014.

In each of these recent examples, the tribunal has demonstrated a conservative and restrained approach and, importantly, has been transparent in how and why it makes its decisions. People cannot wonder why the tribunal has made particular decisions because it is all spelt out independently without having to worry about a lack of integrity in the decision-making processes.

Sitting suspended from 1.00 to 2.00 pm

Hon ALISON XAMON: Before the lunchbreak I was going through the previous determinations of the Salaries and Allowances Tribunal, which demonstrate that there is a pattern of the tribunal being very conservative and considered in its deliberations and that any concerns that people might have that the tribunal might indulge in some exorbitant pay increases or changes to entitlements are completely misguided. I draw the attention of members to the most recent determination, which came down while I was on my feet in this chamber and with

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

which I have now had a chance to familiarise myself. It is very telling, and serves to further illustrate how completely unnecessary this piece of legislation is. The media statement attached to the determination states —

The Western Australian Salaries and Allowances Tribunal has issued its annual Determination in relation to Members of Parliament.

The Tribunal has determined that there will be no increase in remuneration or allowances provided to Members of Parliament.

In reaching this conclusion, the Tribunal's overriding consideration was the state's current economic circumstances.

I will now go to the determination itself, because I think it is very important. There is a significant amount of preamble and discussion of the economic context in which this determination has been given. Unsurprisingly, the Salaries and Allowances Tribunal goes through exactly what I went through in the beginning of my contribution to this debate. It outlines the economic situation in which we find ourselves, although it makes the point that there is a sign of economic growth in the forward years and potential improvements to our unemployment rates. I will quote from the determination, because I think it is really pertinent. The conclusion states —

- (14) In recent years, the Tribunal has restrained the increases in remuneration provided to Members of Parliament due to the difficult economic conditions that have emerged.
- (15) In conducting this inquiry the Tribunal has considered existing remuneration of Members of Parliament within the context of wage and salary rates applying generally in the community.
- (16) At the time of this Determination, there is proposed legislation that will operate to cap remuneration provided to certain offices within the Tribunal's jurisdiction, including Members of Parliament. However, as the legislation has not yet been enacted, this Determination is issued under the Tribunal's existing statutory duty.
- (17) Notwithstanding the full discretion available to it, the Tribunal considers that the current economic challenges, and the measures to address them, have significant implications throughout the public sector and the community generally.
- (18) The Determination provides no increase to remuneration and allowances provided to Members of Parliament. The Tribunal will continue to monitor Members' allowances to assess whether the costs of effectively servicing an electorate are reasonably met.

Effectively, all the concerns that have been raised about why we need to take this extraordinary measure to override our independent tribunal would appear to be completely and totally pointless—absolutely unnecessary. I note with concern particularly the last paragraph of the conclusion, which refers to the opportunity to assess whether the costs of effectively servicing an electorate are reasonably met. This bill will deny that opportunity. This is not about salaries; this is about our capacity to do our jobs as members of Parliament and to service our electorates. The provision that the tribunal has flagged as an issue of concern that it needs to keep an eye on has been completely denied us for the next four years. I will have a bit more to say on that in time. Once again, we have further evidence that there is just no need for this piece of legislation and, indeed, the precedent that is set by introducing this bill is highly problematic in terms of the integrity of government.

A fundamental concern with the integrity of government is not the only issue I have, and I will briefly outline a number of my other concerns, which I think all members should share. Firstly, the bill provides for the circumvention of the act's own measures, causing inconsistency across groups. I remind members that one of the reasons the Salaries and Allowances Act 1975 was introduced all those decades ago was precisely to ensure that there would be no disparity across various categories of public servants. The bill proposes to amend section 8 so that the tribunal will not be required to make an annual determination or report under sections 6(1) and 7(1) before 1 July 2021, but the tribunal is not prevented from doing so if it considers that the circumstances require it. Proposed section 10C provides that the Governor's remuneration is not to be increased before 1 July 2021, but the regulations may prescribe a kind or class of remuneration to which this section does not apply. The Governor's current determination is dated from 2014, and the regulation process intrudes the government into this process in a way that attracts less parliamentary scrutiny than a bill. A regulation applies unless and until it is disallowed, unlike a bill.

Proposed section 10D provides that remuneration of those to whom section 6 applies is not to be increased before 1 July 2021, but public university board or senate members, or council members who fall under section 6(1) are exempt. The explanatory memorandum says that this is because that does not affect debt and deficit remediation. However, the main reason for the Salaries and Allowances Tribunal's establishment was to coordinate and deliver consistency in remuneration across different groups of people, including this group. Exempting any group goes directly against this principle. The regulations may prescribe a kind or class of remuneration to which this proposed

section does not apply. Again, this is intruding the government into what up until now has been an independent process, in a way that attracts less parliamentary scrutiny than a bill; a regulation applies, again, unless or until it is disallowed, unlike a bill. Proposed section 10E provides that judicial remuneration is not to be increased before 1 July 2021, but that “the regulations may prescribe a kind or class of remuneration to which this section does not apply”. Again, this is intruding the government into the independent process in a way that will attract less parliamentary scrutiny than a bill and, again, the regulation will apply unless or until it is disallowed, unlike a bill. Proposed section 10F states that the remuneration of certain executive officers of government entities is not to be increased before 1 July 2021 but that “the regulations may prescribe a kind or class of remuneration to which this section does not apply”. Again, this is intruding the government into the process in a way that will attract less parliamentary scrutiny than a bill and a regulation will again apply unless or until it is disallowed.

In the event the tribunal makes a first determination for a newly prescribed government entity, it can also make subsequent determinations if it considers the circumstances, but it is not required to do so. Secondly, some groups are omitted from the bill, which will also now cause further inconsistency across groups. The bill does not amend the tribunal’s determination of MPs’ redundancy benefits; the tribunal’s determination of entitlements and benefits of former MPs; the tribunal’s determination of remuneration of local government CEOs; or the tribunal’s determination of fees and allowance of local government councillors. Again, the main reason for the tribunal’s establishment was to coordinate and deliver consistency in remuneration across the different groups of people, including this group, so exempting any of these groups is going directly against that.

Thirdly, the superannuation differences cause internal inconsistency with how MPs are treated. Under the Parliamentary Superannuation Act, the tribunal has certain functions including determining the contributions that, if not paid by the state as remuneration, are deducted from the salary. It also has the ability to change the scheme. Section 6A of the Salaries and Allowances Act enables the tribunal to carry out those functions. The bill does not amend section 6A, so those functions of the tribunal will continue despite the tribunal’s inability to increase MPs’ remuneration; thus MPs might find that their salaries are reduced if the tribunal decides to increase the superannuation contribution deduction, which is going to further increase the discrepancy between MPs’ salaries and other groups’ salaries.

MPs elected before 2001 are on pensions and those elected afterwards are on superannuation, but as the latter is salary based, this creates inconsistency internally within the MP group in addition to the above inconsistencies between groups. Do not think that it has escaped my attention that we have effectively two classes of MPs when it comes to wages and entitlements. I suggest that if this government and this Premier were serious about wanting to look at budgetary measures and constraints, one thing that they might have considered was looking at the parliamentary pension scheme and perhaps the overly generous requirements that exist within much of that. It is very easy for the Premier to call for wage restraint when he knows that upon leaving this place he will receive a really generous ongoing amount of money from the parliamentary pension scheme, something that the rest of us, bar five, will not receive. I also say that I think it is quite rich—I use that word very deliberately—for someone currently on a salary of \$355 000, which is not the same as what everybody in this place is on, to start talking about restraint.

Lastly, I will also talk about the problematic provision for no compensatory determinations after 1 July 2021, which is contained within the proposed amendments. That amendment states that after the freeze is over —

- (2) The Tribunal must not make a determination ... or a report ... which —
 - (a) has the effect of providing for the payment or provision of remuneration on the basis that the remuneration was not paid or provided before 1 July 2021 by reason of the operation of ...

The bill —

or

- (b) takes into account any increase in the cost of living that occurred between commencement day and 1 July 2021.

The intention is to prevent catch-up compensatory payments for any remuneration foregone. This will permanently preserve inconsistency across different groups in the future, despite decades of trying to ensure that we had parity and consistency, and contrary to the purpose of the tribunal’s establishment.

I also want to talk a little about electorate allowances. I do not know about other members in this place, but I spend every single cent of my electorate allowance and, indeed, some of my personal wage running my office. In fact, because I do not have enough in the way of staffing arrangements—I am going to speak a bit about that as well—I employ a woman a few hours a week, as much as I can afford, out of my electorate allowance to assist in the capacity of my office. This bill will effectively mean that I will have to freeze her wage for the next four years because I am not going to have any sort of consumer price index increase that is reflective of the increased costs associated with the running of my office. That means she is never going to see an increase despite the fact that she,

Extract from Hansard

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

as a regular citizen, is likely to be subject to increased costs over the next four years, particularly as all the predictors are that the economy is getting back on track. Effectively, I am going to go backwards in my capacity to run my office because of increased costs, but without any increases in wages to be able to hold on to that.

I have long maintained that perhaps there is a need to look at the way our offices are funded. I, for one, am concerned about it appearing as though individual members are taking their electorate allowances and pocketing them. I have to say, what a luxurious position to be in. I do not know how others can do that, but I am most certainly not in a position to take any of that money for myself. As I say, in order to perform my role effectively I already have to cut into my personal wage, my family's wage, to make sure that I am performing my job effectively. I am very concerned that that particular provision is not even able to be independently assessed any further. Perhaps there is a need there. I would have preferred the opportunity to have been able to put a submission to the Salaries and Allowances Tribunal to talk about not only the associated increased costs of the electorate allowance that will be needed in the future, but also perhaps different ways that that could be treated and managed if indeed there is a problem with individuals treating it like a wage. If members are treating it like a wage, I reckon they are not really doing what they are meant to be doing in this place. That is another issue. However, I am going to presume that people are not doing that. I am going to presume that people are using the electorate allowance for the purposes for which it is intended, and in that case there really is no justification for freezing it when we know that we need to be able to perform our jobs and to perform them to best effect.

Alternatives to this bill could have been considered. As noted earlier, the Greens recognise and even have some support for the intended outcome of this legislation, which is to ensure that people who are in a position to afford it—I would suggest that is members of Parliament—are playing their part in wage restraint, and right now there is a good economic argument for why it is important that wage restraint could be exercised particularly by people on comparatively generous wages. I think that is particularly the case because everyone recognises that we are in the midst of an economic downturn and there is a strong argument to be made that it is important to ensure that people are bearing the burden of addressing that proportionally. However, there are other ways of achieving this without infringing on the independence of the Salaries and Allowances Tribunal. Again, I suggest that today's determination only demonstrates that more and more. We know already that the tribunal takes into account—in fact, must take into account—the wages policies of the day as well as the economic circumstances at the time. That is clearly what has happened in this determination as it has happened in previous determinations. Certainly, nothing at all was preventing this government from ensuring it put in a submission to the tribunal containing the recommendation to freeze the remuneration. Previous governments have done exactly that and, clearly, they have been taken into account. Nothing was preventing this government from doing that. The tribunal would then have the authority to inform itself as it sees fit. It can take written and oral statements that serve that exact purpose.

From the briefing I received, I understand that government has in the past made submissions and, again, the tribunal has taken them into account, as seen by its determinations. For example, on 9 August 2013, the tribunal noted the following in making its determination —

... the Tribunal has considered the submissions it received; the state of the economy reflected in movements in a range of economic indicators and current use of entitlements.

This is what the Salaries and Allowances Tribunal already does; we do not need to start messing with its independence to achieve that outcome.

I would like to say also that if we want to talk about significant savings, let us start talking about capping staff numbers. One of the things the Greens have long argued—in fact, in correspondence going back since 2001—is that we believe staffing arrangements for members of Parliament should be prescribed by the Salaries and Allowances Tribunal. It should be independently determined. It is part of what allows us to do our job—or not, depending on whether staff have been withheld from us. We believe it is very important it be independently determined. It is no surprise to members in this place that at the beginning of every single term of government, since 2001, the Greens have written to whatever the government of the day is, cap in hand, to beg for some additional resourcing capacity to enable us to fulfil our job in this place. Every single time it is subject to discussions and negotiations going back and forth. Sometimes we have been successful in getting additional staff and sometimes we have not. My parliamentary colleagues in the thirty-ninth Parliament were certainly unsuccessful in garnering any additional support to enable them to do their jobs. I am happy to say that we have managed to get some in the fortieth Parliament, just as we were in the thirty-eighth and thirty-seventh Parliaments but always with a different number of FTEs. What concerns me is that it is pretty much up to the whim of the government of the day—we have had to deal with both sides of politics in these negotiations—to determine whether it is prepared to give us that additional resource, or largesse, to enable us to do our jobs. We believe this to be a highly unsatisfactory arrangement. In fact, this pretty much blew up as an issue in 2010 when a former member for Fremantle, upon becoming an Independent, came to an agreement with the government of the day for additional staffing arrangements in return for their guaranteeing supply. At the time, the Greens lost their minds!

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Several members interjected.

Hon ALISON XAMON: I have them, polished and twice as good as ever!

It highlighted at the time just how problematic it was to have arrangements around staffing being determined by the government of the day. That was the problem. It reinforces for us how important it is to have that independently determined. I think that if that is independently determined and we can take the politics out of it, the Greens would end up with more staff because we could demonstrate without a shadow of a doubt that we punch above our weight in terms of how much work we do in this place and how much work we deliver. Also, importantly, if the Premier is serious about this, let us start talking about the number of staff who are employed out of the Premier's office and ministerial offices and whether they are really all necessary. Do ministers need a staff member to manage their Twitter account, another to manage Facebook and another to manage Grinder or whatever? Do they need that many spin doctors at their disposal? Do they need to be paid the sort of money they get? Is that really a good use of taxpayer dollars? Is that something that is responsible? I suggest that the number of staff employed out of the Premier's and ministers' offices should be subject to closer scrutiny. Also, it would be better off being independently determined. I would rather, after people have put in their submissions, that the Salaries and Allowances Tribunal independently determine what a genuine workload is and what the community's reasonable expectations are about what people genuinely need. The tribunal should then decide whether it is reasonable to employ people to do particular roles.

A minister in charge of an extraordinarily large department perhaps has a really good argument for having a greater number of staff to perform their roles, particularly if there is a large array of policy areas to cover. They could make that case. The point is that it would be transparent and people would know exactly why people are employed in a certain way. Those are the sorts of things we should be looking at adding to the tribunal's role, not taking away its power. Although the Premier has been very good at preaching austerity, I do not think he has been good at putting his money where his mouth is and has not demonstrated any restraint in the appointment of ministerial staff. In fact, an analysis in *The Australian* in June revealed that WA was second only to South Australia in the number of ministerial staffers and the ratio of staff to ministers. This is despite our current economic situation. We are clearly not showing any restraint in that area. Instead of the legislation before us, which seeks to restrict the independent decision-making of the Salaries and Allowances Tribunal, consideration should have been given to extending the tribunal's remit to include determination of ministerial and MP staffing levels so that that process is undertaken in an ethical and transparent way. Let us see that sort of amendment. The Greens would be happy to support that. That would be great.

No future increase has been granted because, as I have said, the Salaries and Allowances Tribunal already takes into account its concerns about the economy and the need for restraint. But if it happens that there is some sort of significant improvement in the economy in the next four years and the tribunal, as an independent entity, saw fit to deal with the consumer price index or something like that by giving members of Parliament a pay increase, the members of Parliament who are so affronted by it have the right to return it. If they really feel that strongly about a pay increase, they could give the money back. That measure is potentially available to them.

The Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 is a significant diversion from current policy. It sets a dangerous and extraordinarily disappointing precedent, one that I am not particularly comfortable with. The bill takes an issue that was previously separated from the political process—quite rightly and necessarily so—and politicises it. It is unlikely that the media and public will miss the fact that MPs, under the guise of sharing wage restraint, are stealing the opportunity to create a precedent and take control of their own salaries rather than adopting an alternative mechanism to achieve the same end. Similar to many Western Australians, the Greens do not like cheap stunts and this bill absolutely has the air of a cheap political stunt. The government should be looking at other strategies to promote and achieve equity across the public sector. We need a strategic direction, an evidence-based approach and the political will to tackle the significant issues facing the state. We do not need these sorts of stunts, which set such distressing precedents.

As elected representatives, we are in the service of the public and we are funded by taxpayers. Integrity is not something that we get to put aside when it does not suit us. Although the Greens absolutely support wage restraint, actions such as this undermine public confidence in government decision-making. Again, politicians should not determine their own wages and entitlements. This bill will set a precedent that I am extraordinarily uncomfortable with, and the fact that it is being done for reasons that I might otherwise support does not mean that the end justifies the means. The government previously acknowledged that the tribunal has been doing a good job, so quite simply, if it is not broken, why fix it? We do not need to start down this slippery slope. Trust is important for effective governing and it is important that we take every opportunity to demonstrate integrity in government. I strongly believe that the desired outcome can be achieved without ousting the discretion and independence of the tribunal.

Extract from Hansard

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

I will make some comments in response to one of the contributions about the bill in this place. I think in many ways it is one of the saddest contributions I have heard in the last four and a half years. I refer to the argument about the need to keep the freeze going until such time that the budget finally gets into surplus—if, indeed, it ever gets into surplus. I will explain why I am saddened by that. I am saddened because one of the arguments that was made is that members only ever advocate for their own self-interest and if wages are directly attached to the possibility of bringing us into surplus, that would somehow change the way we argue our positions in this place and it would change our practices in this place. Not all of us are wired that way. Not all of us feel the need to argue for self-interest. Some of us are here because we believe in a greater good. Some of us here will continue to argue for the things that we believe in, even if it means that the state always has a certain deficit. I am the first to say that the state's deficit is too large. I am personally disappointed that we lost our AAA rating and we need to move towards that. That is really important. I am personally supportive of trying to take measures that will achieve a better budgetary situation but I do not necessarily concur that that automatically means that we need to get to a surplus at all costs.

I tell members that regardless of what happens to my wage—it can be dropped down to 20 per cent or 10 per cent; hell, it could be nothing—it will not change how I advocate in this place. I will still advocate for upfront investment in mental health services and appropriate levels of mental health services. I will still advocate for appropriate suicide prevention programs that are well funded and help to save people's lives. I will keep pushing for more investment in alcohol and other drug services regardless of what that means for short-term budgetary implications because people's lives are at stake. The community is demanding it and the community needs it. I will continue to push for a well-funded National Disability Insurance Scheme. It is really important that this critical reform is appropriately funded and that we recognise that part of the greater good is that the government has a significant role in improving the lives of people with disability. I will still talk about making sure that the community is more accessible and welcoming, has appropriate levels of services and appropriate built environments for people with disability—and all that costs money. That will stand in the way of us achieving a surplus but I will still advocate for it. I will still advocate for appropriately funded child protection services so that children at risk receive intervention immediately so that they do not die on our watch, so that they are not traumatised on our watch and so that they are okay. That means continuing to invest in family services to make sure that we have services to address issues of family and domestic violence and have intervention services for families at risk. All these things cost money. Funding all these things will stand in the way of us immediately leaping to a surplus. We need to ensure that we have prevention services for people at risk of offending and intervention services when people are offending. Do I believe in the long term that that will save us money? Yes, I absolutely do. Prisons are really expensive. If we invest in those services now, it will cost more money and will take us away from achieving a surplus.

We need to address foetal alcohol spectrum disorder. I am not interested in seeing cuts to education; I do not want that. I want to make sure that our teachers are doing well, and I support teacher assistants. I do not want a winding back of psychologists and other specialists working in the public education system. I want us to continue to try to have the best education system we can—and that costs money. I want us to turn TAFE around. We could easily ensure that everyone pays full fees to attend TAFE, but I am not interested in TAFE being the exclusive province of a very few; I want TAFEs to be accessible to as many people as possible so that they can be trained, and that costs money. We need to provide services for our ageing population and we need to address elder abuse. I think that that is the sort of obligation the government has. We need to start seeing housing as a right. We need proper public transport, and that includes Metronet as well as other provisions in public transport. But that is an expense. We need to create liveable cities. I do not think any money should be spared ensuring worker safety and the saving of workers' lives. If that means that we have to put extra money into government services, frankly, that is money well spent. Workers have the right to go home safe and alive at the end of the day. We need to invest in environmental protection. I say all this because I will not resile from any of that advocacy. I will not resile from any of it, as evidenced by my time outside this chamber. These are the things that I have always advocated for and I will continue to advocate for them whether I am inside or outside this chamber. Trying to tie our wages into whatever is happening with the budget, whether there is a surplus or not, is a rather cynical exercise. I, for one, will not be changing what I advocate for simply because of self-interest about whatever my wage may or may not be. I think that would be incredibly sad.

My final issue is that if ever there was a bill that deserved to be referred to a committee, it is the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. This bill has many unforeseen consequences in terms of disparity across the public sector and its impact on the integrity of government. It is so problematic that it is the breaking of a political consensus that has stood for over 40 years, for nothing more than a stunt. I want to move a motion to refer this bill to the Standing Committee on Legislation.

Discharge of Order and Referral to Standing Committee on Legislation

HON ALISON XAMON (North Metropolitan) [2.40 pm] — without notice: I move —

- (1) That the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 be discharged and referred to the Standing Committee on Legislation for consideration and report by no later than Tuesday, 20 March 2018; and
- (2) the committee has the power to inquire into and report on the policy of the bill.

HON SUE ELLERY (South Metropolitan — Leader of the House) [2.41 pm]: For a while there has been some discussion that Hon Alison Xamon was going to move this motion, so it is not surprising. I would not mind getting a copy of it when one is available.

The government will not be supporting the referral. It is entirely possible for us to examine the bill in detail when we go into Committee of the Whole. Indeed, when we were last sitting—I think it was on 7 November but I will stand corrected—I wrote to the leaders of each of the parties and said, “This is the list of the government’s priority legislation. I’m happy to give members as much time as they need to go through the detail of each piece of legislation and there are some ways in which we can generate some extra time to do that. I welcome your feedback on how we might achieve that.” The aim was to give everybody as much time as they needed in the house to consider the detail of all the legislation and to meet the objective of getting that legislation through by the time we rise next week. We have been able to reach agreement behind the Chair about how we might do that. An agreement has been reached that we can examine the bills in all the detail that people need to, and I respect the right of people to do that, in the committee process of the bill that is before us now.

The argument put by Hon Alison Xamon is essentially about the core policy and whether a person believes it is—I do not want to put words in the honourable member’s mouth—distorting or in some way destroying the integrity of the power of the Salaries and Allowances Tribunal to make an independent decision. A person either accepts that position or they do not, and because that is a subjective decision, I am not sure that consideration by a standing committee would actually achieve an outcome. Members are entitled to hold their point of view but the government will not be supporting the referral motion.

I asked members, through their respective leaders, to tell me how much time they thought they needed to deal with the detail of this bill in the course of our proceedings leading up to next Thursday, and an agreement has been reached on how we do that.

HON AARON STONEHOUSE (South Metropolitan) [2.44 pm]: We have heard some very compelling arguments from both the opposition and Hon Alison Xamon. This matter is something that needs our careful consideration. As pointed out, the Salaries and Allowances Tribunal has effectively been independent for the last 40-odd years, so I do not make any of these decisions lightly. The independence of the SAT is counterbalanced by the consideration of balancing of the budget. The Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 has been presented and pitched to us as a budget repair measure. I take very seriously my responsibility as a member of this place in being a steward for public funds. I also recognise the incredible tax burden that has been lumped on the Western Australian taxpayer, which is weighing on my mind at the same time. I heard a very compelling argument by Hon Michael Mischin during this debate on the electorate allowance that members of Parliaments are afforded, and how that is affecting their capacity to serve their electorate. It is worth noting that members of this place, whether in opposition or on the crossbench, are elected by our electorates to serve our electorates, and the electorate allowance is there for us to carry out that function. We do not work for the government of the day. That being said, again, the balance of this crippling state debt is on my mind at the same time.

It should be noted that this is not a beat-up on politicians or MPs. I do not see it as that. There may be accusations that this is a populist move by the government, and perhaps that was its motivation. However, I do not see this as a beat-up on politicians. Indeed, if we were not given our generous salaries, many of us would not be here. I do not come from a wealthy background. If I was not earning a decent salary, I would probably still be at work. I would not be able to put four years of my life on hold and represent my constituents here. It should be noted as well that as we look around the chamber, we see lawyers, doctors, veterinarians, businesspeople and, heaven forbid, even some union representatives. Aside from that exception, they are otherwise very talented, qualified people who need adequate compensation to enter public life. I am sure that there are many people here who would be earning far more money in the private sector than working in public life. They would probably be far less stressed and they would not be a punching bag for either the public or the press. I do not see this as an opportunity to beat up on politicians but, again, it is budget repair.

I stated previously in my contribution to the second reading debate that \$20 million, which is a figure that I have seen thrown around, is peanuts. It is not a lot of money. If this was indeed a suggestion from Treasury on how to balance the budget, I predict, as I have told some other members outside this place, that it would have been at the

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

very end of a long list of suggestions from Treasury. However, in these times every cent counts, and \$20 million is nothing to be sneezed at. It is still a lot of money. It is more money than most people will see in their lifetime.

Hon Simon O'Brien: How much will be recovered over the next 12 months in view of the determinations that have come out this afternoon? Not one cent.

Hon AARON STONEHOUSE: Yes, and that is a good point. I will agree that that figure of \$20 million diminishes quite significantly. At the end of the day, even if it is a few hundred thousand dollars, I would still be inclined to support that measure. It is still saving us some money somewhere, otherwise we have seen very little genuine effort to save any money from this government, and an increase in debt at the same time. At this point, I will take any opportunity I can whereby the Treasurer is willing to make a savings measure.

Hon Alison Xamon talked about my comments in the second reading debate about political incentives. I would like to clarify what I said. When I say that politicians are self-interested, I do not mean to attack anyone's integrity. It is merely an honest observation that we are human, just like anyone in the private world. We have the same motivations and incentives. In our pursuit of happiness, we might find happiness in serving others and in helping our community with charitable work, but our incentives are still the time. We are still the same human beings whether in private or public life. That was the point I was making during my contribution to the second reading debate.

On the balance of the arguments for the independence of the Salaries and Allowances Tribunal and the observations that this probably will not save much money, if any, in an effort to repair the budget or get any savings at all from this government, I am inclined to not support the motion. I spoke to my fellow members on the crossbench and although we have different views on the role of government or the incentives that may be used for politicians to do the right thing, they also take budget repair very seriously and they also will not support the motion. We see this as an opportunity to not only potentially save a bit of money in the public coffers, but also to send a message to our electorates that we take budget repair seriously. We are willing to work with government to save a bit here and there wherever we can get it.

HON SIMON O'BRIEN (South Metropolitan) [2.52 pm]: I am a bit concerned about what I am hearing this afternoon about the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill. I want to offer some things for members to contemplate. We have just heard Hon Aaron Stonehouse talk about some decisions that he has made in responding apparently on behalf of other parties in the chamber. I hope that it is not too late for them to contemplate some of the things that I am going to offer them, because quite clearly they have not been considered. The Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 before us is one of the most faulty, ill-conceived, poorly constructed, disingenuous and potentially problematic pieces of legislation that I have ever seen. I think any decision to say, "No, we do not need to look at this in detail through one of our standing committees" is one that we need to perhaps reserve until I have acquainted members of the crossbench with a few facts of life.

I invite members to read the bill in the first instance and contemplate the second reading speech that goes with it. If members think they have already, I do not know whether they had the right document in their hands because I cannot see how anyone acting objectively could contemplate this bill and the material that has been provided with it and come to the decision that it is not only okay and at worst harmless, but also worth supporting. I urge members to do that and take a bit of time to contemplate the things that I will tell members—perhaps others might comment as well—before deciding that the government is right on this. I am addressing these remarks through you, Mr Acting President (Hon Matthew Swinbourn), to the crossbench, which as recently as yesterday has been awfully big on standing up for principle and what is right, but, most importantly, has been very big about not being bulldusted by this government. It has been very big on whether the government is trying to be too tricky.

Do we have to do some extraordinary things on the run with standing orders as some sort of risk mitigation strategy? Do we have to throw some Westminster tradition out the window on a whim because we are concerned that this government is so tricky? That was the crossbench's attitude within the last 24 hours. Now it will have us believe that it supports holus-bolus the government's spin on this bill now before us. We accept that it is about budget repair and everyone pulling their weight and doing the right thing, because this is Mark McGowan and the Labor government. If we cannot trust them, who can we trust? That is a Damascene conversion of literally biblical proportions. That is what leads me to think that just maybe members have misread or misinterpreted some of the matters and members might find it helpful if I were to draw the following to their attention.

The bill before us has some uncertain origins, but it appears—we heard some things about this from Hon Michael Mischin earlier in the debate—most likely that the source of this was something from Treasury as a suggestion. It said that a possible way to save a bit of money is to freeze the salary increases and other increases for a lot of people in the public sector, including judges, members of Parliament, all sorts of senior executives and whatnot. That is as I understand it. Hon Michael Mischin referred to some comments attributed to the Premier.

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Hon Michael Mischin: Yes, it was in the debate in the other place.

Hon SIMON O'BRIEN: In the other place, he gave it away that this was not some idealistic pure motive thing. It was from one of those grab bags of ideas that Treasury comes out with. I have seen these sorts of lists behind closed doors and what Treasury comes out with over the years and, believe me, it comes out with all sorts of things. Someone somewhere must have seized on this and said that it is probably a good idea. I understand that the Premier, speaking in the other place on 12 October, said, in part —

Treasury proposed this to us as one of the early budget savings measures, and although it raises \$16 million to \$20 million, as one of the early budget savings measures it was a good way to show the public sector workforce that those people at the top were setting the right example. It was not something that the government dreamed up. Treasury came to us with this idea.

How altruistic of Treasury and how opportunistic of the government! We have just had by way of an interchange between me and the previous speaker a pretty good demonstration of how much will be realised from this bill or this policy if it gets through in the next 12 months, the first year of this four-year program. What is the net gain if we have just discovered that the tribunal's attitude is, given the current environment—I will shortly come to how it might have arrived at that decision—that there should be a zero increase? The tribunal has laid down a wage freeze in its determination for members of Parliament. The net saving that would be achieved for the next 12 months with this legislation is zero. We know it is. Hon Aaron Stonehouse knows that is the case. It is zero dollars. It is not \$5 million, \$4 million or tuppence ha'penny but zero dollars. How do we know that? For one thing, the determination has already come down saying zero and, therefore, there will not be, in all likelihood, another determination over the next year in the absence of this bill. With this bill, will that make any difference? No. But it will have some implications in the future. I will come back to that as well because that is when we will start to get into some potentially very hot water in this matter.

So what was Treasury's motive? What is Treasury trying to do when it brings forward documents for a committee of cabinet in its budgetary considerations, particularly if the order has gone out to find the savings and reduce the bottom line? I imagine Treasurer Ben Wyatt would have been pretty keen to not have an increasing deficit, which is what we have in the current budget. He would want to at least minimise it, would he not? Let us not give the government too much credit with this "budget repair" nonsense. If it is increasing debt and deficit and failing to show any strategy for bringing either down, we cannot call it budget repair. I think members understand that; we simply cannot call it that, so we should be very wary about adopting the government's wording of "budget repair" when it is not that.

I should think that in the government's Expenditure Review Committee considerations, Treasury and perhaps other agencies will come up with all sorts of ideas and say, "Here's how you could shave some money off our bottom line." I have spoken before about the dark arts of Treasury and I am going to push the curtain back just a little more; I hope I do not frighten anybody. Yesterday during debate I pointed out how an incoming Labor government would show how it could afford the unaffordable; I think I used the Mandurah railway line as an example. If it had a billion-dollar project it could push out off the bottom line for a year or two, would we still have to pay it? Of course we would, but it is in the time frame. Does it make this year's budget bottom line look better? Of course it does. Does it really matter, or is it just figures on a page? Well, it has some importance, but it is largely figures on a page.

Why is the government so insistent on this pointless bill going through? Mr Acting President (Hon Matthew Swinbourn), you will notice that I am addressing the motion to refer this bill to the Standing Committee on Legislation; I am actually not debating the policy of the bill.

Hon Sue Ellery: Now you are.

Hon SIMON O'BRIEN: Do I have to digress to discuss the nature of introductory remarks, Leader of the House?

Hon Sue Ellery: You like digressing.

The ACTING PRESIDENT: As long as it is relevant, it will be okay.

Hon SIMON O'BRIEN: I will ignore that unruly interjection, then, from my friend opposite.

Hon Martin Aldridge: I thought you were going to say from the President!

Hon SIMON O'BRIEN: No; I would never ignore the President!

This relates to the debate very directly. I am going to advance some further arguments in support of this bill being referred for examination by the, I think, Standing Committee on Legislation.

Hon Alison Xamon: Yes, that's correct.

Extract from Hansard

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Hon SIMON O'BRIEN: Coincidentally, I am on that committee; good idea! This is a good motion. I am in favour of it, if I have not said that already!

The government is not in favour of that; it wants this bill passed. Why? What is so blinking urgent about it? We have been told it is urgent. We got the second reading speech through, which I do not think was changed at all from the speech delivered in another place, and reference was made to how the bill was to be treated urgently. It states, in the concluding paragraph of the version of the second reading speech read in the other place —

It is the government's intention to declare the bill urgent and deal with it expeditiously to ensure no offices captured by this bill are granted a pay increase before the bill comes into effect.

Does the Leader of the House remember reading that? It is so urgent and is being dealt with so expeditiously that here we are, at the eleventh hour before the house rises for the year, to deal with it now. If it was so damn urgent, why was it not done earlier? Perhaps the government thought it would just go through; maybe not. The reason for the urgency was to make sure no offices captured by the bill would be granted a pay increase before the bill came into effect. That has not happened, has it? Did any judges get a rise? Did any public servants fall under this? I do not think so. Have members of Parliament? We know they have not. Again, year after year there has been zero increase. They are obviously a pretty soft touch. I am sure that the crossbenchers, though, are not a soft touch. We will find out in a minute.

Why, then, is the government so keen to deal with this bill by taking it through all stages? Why does it object to it going to a standing committee for examination and report? The Salaries and Allowances Tribunal is not going to go giving out any pay rises to any of these offices. It will not do that; it has made it abundantly clear, so why is the government flatly refusing to contemplate sending this to a committee? I will tell members why. There are several reasons.

One reason relates to the \$16 million to \$20 million in savings that are notionally available through this policy. I am sure that has been incorporated into the budget. I do not have the budget in front of me, but I will bet that is the case. That being the case, the government is concerned about its so-called savings remaining in place and that somehow they will come under threat if this legislation is not enshrined. As we all know, it is a hollow gesture. Those savings are not going to accrue, but the extra expenditure is not going to accrue either. What will happen in years 2, 3 and 4? We do not know, but judging from past experience, probably much the same thing. I will come to another reason for why the bill needs to be referred rather than being dealt with in Committee of the Whole here.

Is there an element of pride at work? I do not know. Is the government incapable of backing off from this pointless course? I do not know. Is there some other reason beyond the financial aspect that I have alluded to? It is part of the financial aspect—as the previous speaker pointed out—that is, let us face it, peanuts in the scheme of things. I would say that it is less than peanuts, but it is certainly not going to make any difference to the overall bottom line. That needs to be examined, and could be examined. What difference will it make to the bottom line? That is the sort of thing that might be useful to find out, and crossbench members in particular could then decide whether they trust this government, after all the demonstration of distrust that was exhibited by them yesterday.

The other general reason this bill should be referred to a standing committee, and particularly the Standing Committee on Legislation, is the construction of the bill itself. We have already seen from its less-than-happy passage through another place that it has not been very well thought out. Apparently, some fatal error was detected during the course of previous parliamentary proceedings and the government's response was not to say, "Hang on, let's have a closer look at this; maybe we're rushing it a bit with our urgent bill." No, it said, "Oh, we'll get the upper house to fix it up. Send it off to the upper house to fix it up." What a cavalier approach. Sure, it fits the government's claim that the legislation is so urgent that it must get through, but the urgency is now gone and the faults remain.

How do we know that there are faults in this bill? The Premier himself has said so, in another place. The government has admitted that this is a bill that it is not actually happy with, and it looks like it has mucked it up in the drafting. There are unforeseen consequences and it will have to fix it up. The government will not hold it up in the Assembly and fix it there; the good old upper house can fix it up. Is that not the sort of thing that requires examination by one of our committees? Does anyone seriously think that we can achieve the level of scrutiny and contemplation required at the table of the house? Of course, we cannot. We need some other advice. I would certainly like to see people involved with the office of the Salary and Allowances Tribunal, and find out about some of their processes. I would like to evaluate some of the claims that have been made in this house—that for 40 years the Salary and Allowances Tribunal has been completely independent. Sir Charles Court said in 1975 that the key point was about the tribunal being independent, and the words he seized on were that the tribunal would have the ability to determine the outcome of its contemplation of salary and other matters. That does not just mean to recommend to the government; it means to determine it, and what the tribunal says goes. That is independence. There are no appeals in these processes. That is what Sir Charles Court said 42 years ago, and we have been reminded about that in the course of this debate. I am not sure that that independence has not come under attack,

probably by successive governments and for some time. I want to get to the bottom of that, and members here should support any move to get to the bottom of that, either to satisfy themselves that that concern is unwarranted or, most particularly, if that concern is warranted, to uncover it.

The bill contains a range of provisions. There is already a supplementary notice paper containing not only an amendment proposed by the government but also one proposed by Hon Aaron Stonehouse. The house would benefit from contemplation and inquiries by a committee about all that as well before the bill enters into its own Committee of the Whole stage. I could go on about a range of other matters, but my purpose is not to pick holes in this bill. If I ever get around to making a second reading contribution, I may do so then, but I would like to be informed by a Standing Committee on Legislation report about the bill. What I can say about this bill is that it contains a number of undesirable potential circumstances. Already the government has admitted to some. I actually think it is wrong. The media, the opposition in another place and the government in another place have got it wrong. Hon Alison Xamon alluded to this.

Not only is the government seeking a four-year wage freeze for all these various offices, which it looks like we will get anyway, but it will become black-letter law that, for all time after that four-year period, that four years of consumer price index will be offset permanently because it will never be caught up. I think that is what the government is proposing. That is bizarre, and it is certainly outside the remit of the Salary and Allowances Tribunal as it was conceived, and as it has been operating, or should have been operating, and beyond our understanding. Does the house want to make that black-letter law, so that some future Parliament has to come and legislate to undo it? Do members seriously think it is a good idea to make that into black-letter law, because some boffin from Treasury said that we could make the bottom line look a bit better in the budget, and someone in the Treasurer's office or the Premier's office said, "Here is a PR thing we can use to show that we are all in it together"? On that basis, is the house seriously going to contemplate making black-letter law that will last forever, or until it is overturned by an amending or repealing bill? It will affect all the offices that are captured by this legislation, not just members of Parliament, who would all do it for nothing; we have heard about that today. It will affect every judge and senior officer we have. Do members want it to become a laughing stock, because that is what we will end up with? Of course, it will be repealed in due course, and people will ask what on earth the 2017 Legislative Council was thinking. Did its members actually have a look at this bill? Hon Alison Xamon has suggested that we get one of our standing committees to have a close look at this bill in a way that cannot be done on the floor of the house. The answer is now awaiting the collective decision of the house. I would put to members who do not think that we need to refer this bill that they really need to think again.

The idea is that we legislate to tell an independent tribunal exactly what it must do, when that tribunal was set up specifically to avoid politicians, who are captured from time to time by populism, people from Treasury desperate to balance the budget, and the oh-so-smart media types in the ministerial offices who can see a good press release. Do members want to take those sorts of motivations ahead of the motivation of preserving the independence of the tribunal specifically set up to take politicians and directly self-interested parties out of the equation? I cannot believe that I am even having to ask the question. Clearly, this bill needs a standing committee inquiry. I can tell members that every single one of them, in their heart of hearts, know that this bill needs to go to a committee. That is if the house wants to proceed with it. I think the whole bill ought to be kicked to the kerb. Like Hon Michael Mischin before me, I have already advised my leader and my party room that I will not support the bill if it comes to the second reading. I will not support it even if Hon Michael Mischin and I are the only ones on this side of the house with Hon Alison Xamon. What a powerful combination we are building up there! I want to know who is likely to join us, because I think there are only two options—either kick this bill to the kerb or, if the house really wants to go through some more motions with it, at least do what the house of review is meant to do and send it off to the committee inquiry it so desperately needs. The committee will be able to call witnesses from the tribunal and other quarters, get to the bottom of what this bill is all about, and inquire into any other unforeseen consequences of turning this bill into a statute on our books. The authors of the bill have not considered or contemplated that. They have demonstrated and admitted it. They have said, "Hell, yes! We didn't realise it was stuffed, but it looks like it's stuffed. If you say it is, don't worry. We'll get it fixed up. Pass it through all stages of the Assembly." On those undertakings from the government, crossbench members are prepared to say, "No, no, no. No need for an inquiry; let's just get on and refer it. We don't want to make Sue cross."

Hon Sue Ellery: What was the first bit?

Hon SIMON O'BRIEN: I am not talking about me. I am talking about a third party making the Leader of the House cross—and we would not want that now, would we?

Hon Sue Ellery: No, not a third party.

Hon SIMON O'BRIEN: I certainly would not want to do that either.

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

From what I have heard, I do not think it is good enough. Again, I am addressing my remarks to crossbench members rather than to other members. From their initial reaction, which I am asking them to perhaps have another think about, I think the government's recommendation in this respect is not worth a hell of a lot. Why do I say that? I say that because it has already tapped the mat and said, "This bill is not up to scratch." The remedy for that, I have just put to members, is to grossly distort a distorted situation further, but the only thing is, it will be in black-letter law, so it will not be easily undone. However, if crossbench members think that this does not need any closer examination—I hope they do not think that, because if they did, I think they would be wrong—I would prefer that they said, "Hang on, perhaps he's got a point", rather than saying, "You can tell us I told you so in a few years."

The Leader of the House has said that she and the government are confident that they can deal with any inquiry about this bill in the Committee of the Whole stage. Is she serious? Does anyone seriously think that that would be the case? Talk about rose-coloured glasses, Mr Acting President. I think sufficient comment has already been made in the course of this debate, both within this house and without, to throw serious doubt on that. Members must know that. If they think that we can deal with it on the floor of the house, I hope that they have brought their sleeping bags and toothbrushes.

Hon Jim Chown: Even the Premier knows it.

Hon SIMON O'BRIEN: Yes.

I think that Hon Alison Xamon's motion to discharge this bill and refer it to the Standing Committee on Legislation merits support. It will certainly do no harm. It will make no material difference. It may well stop this house from failing in its duty. I hope its duty has been clearly pointed out. It is no skin off the government's nose to refer this bill to the legislation committee—none whatsoever. It is not going to make any difference to the financial outcome. Heck, it will even save them a whole lot of time in the last week of the sitting year and they will be able to get on with some other bills that are apparently so important as well.

With all that in mind, I support the motion to refer this bill to a committee. I think other members will hopefully now have had a little opportunity to contemplate and weigh up what I have said. I respect our crossbench colleagues very much indeed. However, I must admit that I was a little bit dismayed when I first heard that they were not prepared to contemplate the referral of this bill to a committee. I am doubly concerned to hear them say that we do not really need to do it. I hope they are able to contemplate what I have had to say and perhaps concede that I have a point. With those remarks, I support this referral motion.

HON PETER COLLIER (North Metropolitan — Leader of the Opposition) [3.34 pm]: I do not intend to take up too much of the house's time with my comments. I spoke during the second reading debate of the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 for about an hour and a half yesterday and I think my views on the bill are quite clear. On numerous occasions during my contribution, I identified flaws within the bill. Suffice it to say, I think the bill is fatally flawed. It is nothing more than a gimmick and it desperately needs to go to the Standing Committee on Legislation for scrutiny. Without a shadow of a doubt, this is one of those bills that needs the full scrutiny of a parliamentary committee.

As I said, I will not go over all the points I raised in that debate because I know that a number of other members want to make some comments and I do not want to take up their time. I am rising on behalf of the Liberal Party to say that we will be supporting the referral.

Hon Sue Ellery: Did you say you are supporting the referral?

Hon PETER COLLIER: We are supporting the referral, yes.

Having said that, I will make a couple of points. First of all, referring the bill to a committee, of course, means that the committee will look at the substance of the bill—the bill itself—and the policy of the bill. There is still a cloud hanging over the substance of this bill with regard to government trading enterprises. Remember that GTEs, particularly in the energy sector, were a construct of the previous Labor government. One of the biggest issues we have had with GTEs and the salaries of the executive officers of GTEs is that they are frequently out of kilter with the rest of the community. I went through that at length in my contribution yesterday. Apparently, that matter is not covered by the content of this bill, as mentioned in the explanatory memorandum, but it is certainly something that could be given a significant amount of scrutiny by a standing committee. It is something that desperately needs to be assessed and identified.

Hon Simon O'Brien: That is probably included in the \$16 million to \$20 million notional savings, but then they found out they could not do it.

Hon PETER COLLIER: That is spot on. That was my very next point. When we flippantly talk about that \$16 million to \$20 million, it does not take into account GTEs, as far as I understand the EM.

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Hon Simon O'Brien interjected.

Hon PETER COLLIER: That is right. We have absolutely no idea where that \$16 million to \$20 million comes from. In this instance, a committee would provide the perfect opportunity for members to nut out those issues. I take on board the comments of the Leader of the House that we could do that during the Committee of the Whole. That is not the point. The only way to scrutinise what happens with GTEs and their control over salaries is to bring in the chairs of the GTE boards and ascertain exactly why they are making decisions about the salaries of their executive officers. We are not going to get that, with all due respect and deference to the Leader of the House, during the committee stage. That is simply not going to be possible. A standing committee would give us a perfect opportunity to do that, and it is only one of a multitude of reasons why this bill needs desperately to go to a committee.

Another issue I raised and one that needs to be addressed is the separation of powers. It is a valid issue because, as I said yesterday, we have a properly established and constituted autonomous body, the Salaries and Allowances Tribunal, which was established over 40 years ago with bipartisan support, that can investigate salaries, as opposed to politicians doing so. That will be taken away and, in doing so, we will precariously be stepping on the age-old adage of Montesquieu—that is, the separation of powers. It is there and it is only something that a standing committee can investigate in this instance. We are certainly not going to ascertain exactly what the judiciary thinks about this issue from the minister sitting at the committee table. The judiciary is sacrosanct; it is a clear element of the separation of powers of the legislative executive from the judiciary. Here the executive is making a decision on the judiciary. Let us make no bones about that; that is exactly what is happening in this instance, the executive is making decisions for the judiciary. In that instance, as I said, I can say quite categorically that—I will repeat what I said yesterday—the judiciary is filthy about this. It really is. I remember when we were talking about mandatory sentencing, which is a dirty word for members opposite.

Hon Alison Xamon interjected.

Hon PETER COLLIER: I am referring to the government, not necessarily the Greens in this instance. In that instance we copped it relentlessly from members opposite. All of a sudden, we have a bit of a double standard. The only way that can be properly scrutinised is through a committee. I would love to know what the Chief Justice thinks of this and what the judiciary thinks of it in a formal capacity. Perhaps the former Attorney General can enlighten us about the capacity of members of the judiciary appearing before parliamentary committees.

Hon Aaron Stonehouse: If a Parliament passes a bill, how is it executive over-reach? It is the legislature passing a bill.

Hon PETER COLLIER: Can I just explain to the member that we have an act of Parliament that established the Salaries and Allowances Tribunal. That gave full autonomy to an independent body called the Salaries and Allowances Tribunal. We are seeking to remove the responsibility of the Salaries and Allowances Tribunal to make a determination on the salaries and allowances of the judiciary. That is exactly what is happening. That is exactly what members will be voting for very shortly—make no bones about it.

With regard to doing the right thing, we had a very impassioned and, dare I say, rather self-righteous lecture yesterday from the Leader of the House about what is right in terms of the Parliament. I say again, we have here double standards. This is an example of a significant proportion of the upper house desperately wanting to scrutinise this legislation and the Leader of the House is seeking to hinder the process. If there are question marks over SAT, they can be properly scrutinised only through the establishment of a committee to investigate this bill, not, as I said—I say this with due respect to the Leader of the House—with her sitting at the committee table for hours on end.

With regard to the process of legislation, I say to the Leader of the House, yes, we sat around with the leaders of the respective parties of this chamber and determined that we would get through a prescribed set of legislation by the end of next Thursday. That is agreed and nothing has changed in that respect. To make a veiled suggestion that somehow we are renegeing on that is disingenuous. It is not the case at all. We are fully entitled to have this debate today about referring this legislation to a committee.

Hon Alison Xamon: Which I always said I was going to do.

Hon PETER COLLIER: Precisely. Hon Alison Xamon has been totally up-front and transparent about that. If anyone had asked me, I most definitely would have said the Liberal Party was always going to support the referral. To suggest that somehow there is something sinister about that is again very disingenuous; it is not the case. I remind members that when I was leader of this magnificent chamber for over four years and sat opposite, we would sit there and listen to second reading debates for hours on end. I have a list in my desk here. I remind members that when we did that, we sat through hour upon hour of debate on a second reading speech. Right at the end, when every single member had spoken, we thought: at last, we have come to the end of this nonsense, because most of it was filibustering, with all due respect —

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Hon Michael Mischin interjected.

Hon PETER COLLIER: That is right. The very last speaker would stand up and, do members know what would happen then? The member would propose a referral motion to a committee—right at the end. Then we would start again. Sorry, guys, this is what we endured the entire time we were in government. I remind members that the second reading debate on the Perth Market (Disposal) Bill went for seven hours, 41 minutes. Members have not heard the best of it. We then debated it for another six hours and three minutes on its referral to a committee. We spent 14 hours on that bill. Let us go on. We spent 12 hours and 23 minutes on a Criminal Code bill, so there was plenty of scrutiny. Right at the end, the opposition stood up and moved a referral motion. We spent another five hours and 52 minutes on its referral to a committee. I could go on and on because we have all the records of this. What goes around comes around, guys. To stand up and suggest that we had an agreement to somehow prevent us from referring this bill to a committee, as I said, is completely disingenuous. I say to the Leader of the Opposition that I recall another little bill called the Workforce Reform Bill. At the end of the previous two parliamentary sessions, we sat in this chamber for 24 hours. We refused to buckle and sat right through the night. For hour upon hour we sat there and listened to that rubbish. We finally reached agreement for the Workforce Reform Bill to go to the Standing Committee on Legislation at exactly the same time as we are sitting now. We sent it off to report back after the Christmas period. That is all we are asking here for a bill about which we have some serious misgivings—some major flaws. We are not being in any shape or form unreasonable about this request. All we are asking is that the government refer to a committee a bill that we have serious concerns about. If members have been listening carefully, it will fail to get across the line—at the very most on my reading of the numbers—by about one vote, so close to 50 per cent of the chamber want it and the government will not allow it, yet it is prepared —

Hon Sue Ellery: It happens to me every day.

Hon PETER COLLIER: Welcome to government. Let me tell you something —

Hon Sue Ellery: I'm not complaining about it. I'm saying that's a fact.

Hon PETER COLLIER: As I said, Leader of the House, when we sat on that side—I repeat, we had a thumping majority—we had to sit and listen to your nonsense for hour upon hour, then one of your mob would stand up and refer it to a committee.

Hon Sue Ellery: Honourable member, the fact that —

Hon PETER COLLIER: I am sorry if you do not understand the rules of the chamber. The rules are that the member on his or her feet has the call. I have the call. Rather than yell over me, if you say very politely, “Would you mind taking an interjection”, I will consider it.

Hon Sue Ellery: I did, but you couldn't hear me because you were yelling at me.

Hon PETER COLLIER: Well, let us try again. Off you go.

Hon Sue Ellery: The point I was —

Hon PETER COLLIER: You have not asked if I will accept an interjection yet.

Hon Sue Ellery: I did, honourable member, and you didn't hear me.

Hon PETER COLLIER: Try again.

Hon Sue Ellery: The point I was making was that the minister had made the point that his assessment of the numbers in the house would be that if the referral failed, it would be by one. That is the point you made—about one.

Hon PETER COLLIER: Yes.

Hon Sue Ellery: The point I was making was, yes, and that happens to me nearly every day. That is the point I was making.

Hon PETER COLLIER: My comeback, which I thought was pretty appropriate, was—welcome to government!

Hon Sue Ellery interjected.

Hon PETER COLLIER: I will create a scenario. Let us have a history lesson by doing to these guys what they did to us. Shall we give that a go? Shall we all talk for an hour on the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill, after which time the Whip, who will be our last speaker, will stand up at the 44-minute mark of his 45-minute speech and move a referral motion, and then we will start the process all over again. I think that would be good and then we would really have groundhog day.

I do not mean to trivialise this, but my whole point is that the Leader of the House commented on the agreement behind the Chair. We adhere to that agreement. I have no problems with that; indeed, we always have and always

Extract from Hansard

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

will adhere to those agreements. We will not go back on any agreement; I assure the Leader of the House of that. But that is not a reason for the bill to not go to a committee. It is absolutely not a reason for it to not go to a committee. If that is the best defence that the Leader of the House can provide, I am sorry, but that is a very flawed argument.

This bill is nothing more than a cosmetic stunt and it is flawed. As I said yesterday, it is like a piece of Swiss cheese with holes all through it. We have serious questions about the integrity of the bill, particularly as it relates to the judiciary. It turns on its head the whole concept of the autonomy of the Salaries and Allowances Tribunal. The bill is a clear slap in the face to the Salaries and Allowances Tribunal because it says that it cannot do its job, so we will do so for it. Today, yet again, SAT adhered to government policy—that is, no increase in the salaries of the cohort of members of Parliament and public servants that is captured under its umbrella.

We on this side of the house, particularly the Liberal Party, are very supportive of the bill being referred to a committee. If there is one bill that has been brought into this chamber thus far this year—there have been parlous few—that deserves to go before a committee for scrutiny, it is this one. That is why the Liberal Party will enthusiastically support the referral motion.

HON MICHAEL MISCHIN (North Metropolitan — Deputy Leader of the Opposition) [3.42 pm]: I rise to indicate and confirm my foreshadowed support for any motion to refer the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 to a committee, and express my grave disappointment with those who oppose this referral. I can understand it from the government's point of view. The government has come up with this idea and claimed in the other place that it was an urgent bill that needed to be dealt with expeditiously. Those were the Premier's words. Why? Because he wanted to ensure that it was passed by 30 November. The reason he claimed he wanted it passed by 30 November—although I do not think we can give much weight to anything he says—was to prevent a determination that would increase remuneration. By that I mean not only salaries, but also all other remuneration that comes within our ability to do our jobs. Of course, SAT made a determination today and indicated that there will be no increase, for the same reasons that seemed to be troubling Hon Aaron Stonehouse—namely, scratching up a bit of money from here and there, at whatever the expense, whatever the detriment, whatever abrogation of principle into the future and regardless of whatever the consequences might be. He does not know about them because he is not interested in finding out through a parliamentary committee. Likewise, the government does not want to know because a committee will expose problems with the legislation. There are problems; there have to be problems, otherwise why did the Premier rush the bill to us knowing that he wanted to put in an amendment that he could not articulate at the time so that we would fix it up somehow? We are faced with that. I take with a pinch of salt any suggestion by those who oppose the referral that a parliamentary committee address a bill to see whether the policy holds up, whether it will do what it has been claimed it will do and whether it has any consequences or motivations behind it in the future. If they do not support it, so be it. It will be on their heads. They can go away and say that they contributed to sending a message as though they are some kind of media officer for the Premier's office. They may have sent a message to the community, but in the future I do not want to hear them refer to the importance of parliamentary committees examining flawed legislation, which this bill obviously is—likewise the government. The leader can sit there smugly and think, "We got this one through all right." In the past, of course, when government members were on this side of the chamber, they complained about numbers rather than principle when legislation was passed. Good luck; well done. But I will hold the Leader of the House to two things. The first is her claim that any questions regarding this bill can be answered in the Committee of the Whole. What I have noticed so far—I particularly stress this to those on the crossbench who have paid attention to what has been going on here in the last seven months—is that ministers seem incapable of answering questions about their bills.

An opposition member: The FHOG bill.

Hon MICHAEL MISCHIN: The First Home Owner Grant Amendment Bill being one. Will the Leader of the House be able to answer questions about why there are certain exclusions in this bill? Will she be able to answer questions about the policy and how it came about? Will she be able answer questions about the figures and the basis for the estimations of Treasury that between \$16 million and \$20 million will be saved? Will she be able to answer any questions about what the regulations will include? Hon Aaron Stonehouse seems to think that it will not do it: where is the executive overriding the legislature or the separation of powers? Have a look at proposed section 10D(9), which reads —

The regulations may prescribe a kind or class of remuneration to which this section does not apply.

Certain exemptions can be made. I look forward to Hon Aaron Stonehouse telling me the scope of that, because he does not need a committee to tell him. If he is right, none of the crossbench, it appears, need a committee to tell them. I look forward to him enlightening us if the Leader of the House cannot. If the Leader of the House thinks that because of some agreement we will rush this through, that I will hold back on asking questions about issues

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

that concern me—questions that she claims can be addressed in the Committee of the Whole—she has another thing coming. I will not abrogate my responsibilities.

Hon Sue Ellery: You can't do it, mate; you can't, and I know you can't.

Hon MICHAEL MISCHIN: Cannot do what?

Hon Sue Ellery: Hold back.

Hon MICHAEL MISCHIN: I will take that as a compliment. The Leader of the House can giggle away, but she has claimed that any questions about this bill can be answered in the Committee of the Whole. I will hold her to that. I do not want to hear like I heard during the debate on the dangerous sex offenders legislation, "I'm sorry, I can't help you there. I don't know the answer to that. You'll have to ask someone else in the Labor Party about it."

Hon Simon O'Brien: That first home owners bill went through pretty smoothly, too!

Hon MICHAEL MISCHIN: Yes! The government had all the facts at its fingertips with that one, did it not? If that is an indication of how the Leader of the House will approach this, we will have a great time ahead. But I think that she will believe that because of the agreement, the bill will get through by the end of next week. We will sit however long it takes to do it and she will just fob off questions by saying, "We've got the numbers. We'll get it through. Who cares about the consequences?" Members on the other side of this chamber will have to take responsibility for any unforeseen consequences of this bill simply because the Premier picked up on some Treasury thought bubble that he thought would make him look good. Like I say, he is not a Premier; he is the packaging of a Premier.

The other thing that is interesting about this matter is the timing of it. We were told that the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 is very urgent. The basis for the urgency has not been explained. I look forward to the minister explaining that. If her response to the motion is an indication of the sort of information that we are going to get in the Committee of the Whole, we are in for a pretty thin gruel because this bill can be dealt with—scrutinised, analysed, considered properly and improved—over the Christmas–new year period, as we did with the Workforce Reform Bill.

Hon Alison Xamon: The other place can't deal with it until February anyway because it's going to be amended.

Hon MICHAEL MISCHIN: Exactly. That is absolutely right, Hon Alison Xamon.

But what we have not heard from the Leader of the House when she said the government would not support the motion, and what we have not heard from Hon Aaron Stonehouse, is why this bill needs to be passed this week. Why does it need to be passed this week without consideration? An amendment is going to be made that is not going to get through today. That amendment will not even be considered by the other place until February next year, yet it has to get through this week. Why? What message is that sending, other than the fact that this government considers debate on this bill to be far more important than the Coroners Amendment Bill 2017? We are halfway through my address on that bill. That bill was trumpeted by the Attorney General as being a great, necessary and urgent reform to allow cases to be dealt with more quickly to add comfort to those who are bereaved. He said that our government had not done anything in that area, which, of course, was a fib. All he has done is pick up on the work that had been done over the last several years and was going to be part of a package of reforms, but that is an argument for another day. That bill was trumpeted as some great initiative by this government that was going to relieve the pressure and the harm caused by delays in the Coroner's Court. But what has happened to it? We have not seen it since the debate started, but, apparently, this message that is being sent out is far more important than that, which could have been knocked off in the time that we have wasted on this piece of nonsense. Hon Aaron Stonehouse also thinks that it is more important that we spend time on this bill rather than sending it off to a committee to come back with advice—still, that is how he sees his job.

What other things does this bill take priority over? When the Health Practitioner Regulation National Law (WA) Amendment Bill 2017 was referred to the Standing Committee on Uniform Legislation and Statutes Review, it was resisted by the Parliamentary Secretary to the Minister for Health because of her concerns that it would not be dealt with in September and we thus form part of a national scheme that would enable the inclusion of five or six more health professions for regulations purposes, and that we would be out of kilter with the rest of the country. Where is that bill? It is right at the end of the weekly bulletin list of statutes. Is it one of the essential bills that this government wants to get through? September has passed and we delivered our report on time; where is it?

Hon Sue Ellery: Sorry, which bill are you talking about?

Hon MICHAEL MISCHIN: The Health Practitioner Regulation National Law (WA) Amendment Bill 2017.

Hon Sue Ellery: We are going to try to get that through.

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Hon MICHAEL MISCHIN: They are going to try. Yes, that legislation is less important than this bill. Is that what the Leader of the House is saying?

Hon Sue Ellery: No, it is just that it was added after I had already given the Leader of the Opposition a list of the bills.

Hon MICHAEL MISCHIN: As I have said, the Leader of the House came up with the priority legislation for this government to pass before the end of the year. She determined which were the important bills to pass, and that one was not on her list to start with, was it?

Hon Sue Ellery: No.

Hon MICHAEL MISCHIN: No, and that is less important than this bill.

Hon Sue Ellery: No. If the member—look, anyway, you keep going.

Hon MICHAEL MISCHIN: No, please go ahead. I am prepared to take the interjection and hear the explanation.

Hon Sue Ellery: There is no point. It was an accident. It was not deliberate, but given that I'd already given the list to the Leader of the Opposition, I took the position of saying that if we can get this one through, it would be great. I appreciate that I didn't give you this when I first gave you the list. I have tried to be polite—so, sorry, condemn me.

Hon MICHAEL MISCHIN: No, I find that far more enlightening and thanks for that. It was an accident that the Health Practitioner Regulation National Law (WA) Amendment Bill was left off the list of important legislation that needed to be passed this year. Instead of the Leader of the House saying, "Look, can we swap one bill for another —

Hon Sue Ellery: Seriously? Are you having a holiday over Christmas —

Hon MICHAEL MISCHIN: The Leader of the House just said that it was an accident.

Hon Sue Ellery: — because I think you need one.

Hon MICHAEL MISCHIN: No, she just told us that it was an accident that it was left off the list.

Several members interjected.

The ACTING PRESIDENT: Members!

Hon MICHAEL MISCHIN: The Leader of the House might like to trivialise this.

Hon Sue Ellery: I think you need a break.

Hon MICHAEL MISCHIN: No, I think she does. I think she needs a touch of reality.

Hon Sue Ellery: I need a break from you!

Hon MICHAEL MISCHIN: Now you hurt me! I might have to run off to the radio station and tell them about how offended I am.

Hon Sue Ellery: I tell you what: let's trivialise that, shall we?

Hon MICHAEL MISCHIN: Let us rush off. I find that objectionable.

Hon Sue Ellery: Let's trivialise your attitude to women, shall we?

Hon MICHAEL MISCHIN: I find that objectionable and I probably need a bit of time to rest.

But getting back to matter, the Leader of the House has said that it was an accident to leave that bill off the list—so be it. Instead of coming along and saying, "Hey, look, that actually is important because it fits us into a national scheme of regulation of five new professions in the medical profession, and it keeps us on track. The Minister for Health wanted it passed in September and I know that we have exceeded that, but wouldn't it be a good idea if we actually got it through before we rose until March? Let's swap it for the SAT bill and refer that bill for consideration and that will allow it to get through when Parliament resumes", that bill took a lesser priority. Perhaps she can explain why that was not an option. No doubt, she will be able to answer that question in Committee of the Whole.

There are other bills, initiatives of this government, that, importantly, take second place to this bill that achieves nothing other than to interfere with the independence of a non-political tribunal by saying that for political purposes, we will say what it cannot do. Let us have a look at those bills. The Courts Legislation Amendment Bill is apparently not important enough. The Leader of the House wants the Dangerous Sexual Offenders Legislation Amendment Bill through before we rise, and we have a long way to go on that one. That bill was supposed to save the community from our flawed laws last year. What has happened to that? That is a lower priority than this bill. The Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill is another one of the

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

Attorney General's great initiatives that will allow the Mr Bigs of the drug industry to be held to account and to have all their property taken away. It will combat crime, which is part of the Labor Party's election commitment to combat ice trafficking in Western Australia. Where has that one gone? It is not on the list of important legislation to pass, and it certainly has not got priority over this bill. The Animal Welfare Amendment Bill is not here. The Tobacco Products Control Amendment Bill is, again, part of a national scheme and really important to save the lives of kiddies so that they do not get addicted to cigarettes that taste like strawberries. What has happened to that one? That was referred to our committee as well. We dealt with it, we returned a report and made some minor recommendations about it and it has gone nowhere. That is less important than this piece of showmanship. We have heard a lot over the last eight years about how neglectful the Liberal government has been on occupational safety and health. We have the Occupational Safety and Health Amendment Bill that is supposed to be part of this government's great campaign to fix up the laws on this subject. Where is that bill?

Hon Darren West: Are we debating a referral?

Hon MICHAEL MISCHIN: Yes, I am, and Hon Darren West might be able to contribute some ideas.

An opposition member: Did you just wake up?

Hon Darren West: No, I just wondered if we were debating a referral or something else.

Hon Peter Collier: He was having a snooze.

Hon Sue Ellery: He's the one who sleeps in the chamber.

Hon MICHAEL MISCHIN: I do not sleep in the chamber. That is another falsehood on your part.

Hon Sue Ellery: I watch you.

Hon MICHAEL MISCHIN: You try to send me to sleep; I resist it.

Hon Peter Collier: Do you have an infatuation?

Hon MICHAEL MISCHIN: I am that kind of a magnet. I know that.

The ACTING PRESIDENT (Hon Laurie Graham): Hon Michael Mischin, address the Chair, please.

Hon MICHAEL MISCHIN: What makes you think I was not!

The ACTING PRESIDENT: Everything that has been going on!

Hon MICHAEL MISCHIN: Anyway, the Occupational Safety and Health Amendment Bill seems like a worthy reform. What has happened to that bill? What has happened to the Mines Safety and Inspection Amendment Bill 2017? That is less important than this bill. What has happened to the Sentence Administration Amendment Bill, the no body, no parole bill? A report was delivered the other day—not quite enthusiastic about the government's approach to it, but there we go. It is important to give comfort to those who have been bereaved through homicide. That is not important enough to get through in this session. We might get to the School Curriculum and Standards Authority Amendment Bill. Again, that is not very important compared with this bill. The Corruption, Crime and Misconduct Amendment Bill about being able to examine MPs for corruption is a very worthy initiative in the circumstances, but that one is not important enough to get through in this session. Nothing seems to take priority over this piece of nonsense.

However, we have the minister's assurance that any questions about the bill will be answered in the Committee of the Whole. If the Committee of the Whole exposes problems with the bill, what action will be taken? Will it mean that the government will defer consideration of the bill or will the minister simply say, "I can't help you there. We'll have to get back to you later. I don't have the information. I don't have a clue about it this. Ask us a question, FOI it", or whatever it happens to be. That will not be good enough. Whether she can assure us that she has all the facts at her fingertips and is able to answer all the questions in a satisfactory fashion in the same manner that a committee of this house would be able to deal with these questions, we will see. But I very much doubt it because she has not been able to answer too many questions about the dangerous sexual offenders legislation or a number of other matters that have been raised in this place.

As I said, I am disappointed with the approach of members who think that this seems like a good idea, they do not want to hold it up, and they will let it through, notwithstanding the problems that have been identified and the matters of principle that it erodes and the sorts of precedents that it sets for the future. Frankly, I consider it an abrogation of their responsibility to this place and also their communities, because there are consequences to this. Hon Simon O'Brien has indicated some of the reasoning that seems to be behind it. We have had no sensible debate about the detail of the bill in the other place. We have had no sensible debate about it here or explanation from the minister, when she had the opportunity, about why it needs to be passed and why the government will

Extract from *Hansard*

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

not agree to it being scrutinised by Parliament. Rather, she said that she will not agree with the referral and she will answer questions in Committee of the Whole. That is hopeless. I am sorry that we are in this position.

The time over Christmas and new year before Parliament resumes may very well confirm a sensible set of amendments to this bill to achieve the end that Hon Aaron Stonehouse and other members of the crossbench claim they want that would make it work properly. That opportunity is being passed by. I hope that the crossbench reconsiders its position because this is a very important matter and we are, as Hon Simon O'Brien has indicated, making law for the next four years or until sufficient flaws are exposed in it. The government has even moved to try to fix it, but I can guarantee one thing about this government: if those flaws work to the detriment of those who are not on the government benches, nothing will happen. The government's behaviour to date has been one of disregard, if not contempt and animus, to anyone who is not one of theirs.

I reiterate my support that I had foreshadowed earlier for the referral of this bill to a committee of this house to examine the policy behind it and the manner in which it is being executed. Perhaps we will not have at the last minute the Leader of the House getting up and saying, "Oh, I hadn't thought of that one. Hold on and we'll rush off another amendment that can be dealt with in the other place to fix it", such as has been done by them to us. But if it does not get referred to a committee and the approach that was taken by our side when we were in government several years ago to the Workforce Reform Bill is not followed—that too is a precedent and something that I will long remember—when this Labor Party is next time in opposition, we will see whether it takes the sensible approach that has been taken by Hon Alison Xamon and by us on a number of occasions so far to refer matters to a committee at an early stage, rather than filibuster and delay and frustrate the legislative program.

In the time available to us, we could deal with other legislation that benefits the community. But it appears that we are going to spend time on this instead. That in itself is a condemnation of this government's attitude to everything other than their own media cycle and their own spin. I urge members to support the referral, to reconsider their position, and to do what I think is the right thing in this place. Have this bill looked at and if the policy behind it rather than the headline behind it has merit, that will be confirmed. The best way of going about it will be crafted by that committee, because this is the last chance. If this goes through and sits around until March next year, nothing will be achieved and we will be bound by the result for the next four years. We will not be able to fix it because this government has the numbers in the other place and has shown itself incapable of looking beyond headlines and immediate gratification. This is Parliament's last chance to get this done properly. It can be dealt with. It is not going to get anywhere before March next year anyway. Take that opportunity.

HON JACQUI BOYDELL (Mining and Pastoral — Deputy Leader of the National Party) [4.09 pm]: I, too, rise to speak on the referral motion and indicate that the National Party will support the referral motion this afternoon. I look at this request by the Premier, as he flagged in the other place in debate on this legislation, that there was already an issue with this bill and that the Legislative Council should do its job, amend the bill, and send it back. In the same breath, the Premier asked the Legislative Council to do its job for him, and I am happy to do it while we have the opportunity, because referring the bill to the committee will not delay its impacts any further. Further aspects of the bill should be looked at, apart from the amendment already flagged by the Premier. On the one hand, the Premier is happy to ask the Legislative Council to do its job and scrutinise and review legislation, but on the other hand, when he does not like something, he says, "Recognise my majority in the lower house; I have a mandate to rule, and don't get in my way."

The Premier cannot have it both ways. The role of the upper house is to scrutinise legislation. There was some concern before 30 November, when the Salaries and Allowances Tribunal's decision was still pending. When this bill was first introduced, there was an understanding that it could be reasonably argued that it was priority legislation and that the house should consider it as quickly as it could before SAT handed down its decision. That time passed today, during our debate. I congratulate SAT on doing the job it is appointed to do, which is to be the independent umpire when setting the salaries and allowances of the judiciary and members of Parliament. SAT has done its job in taking into consideration the political environment and the wishes of the government of the day, and it has followed through and done its job as an independent umpire.

When we seek to change a process that independently assesses the salaries and allowances of public officials, which is what this bill seeks to do, members of the Legislative Council have a responsibility—especially given that we have the time to do so—to ensure that it is the correct change to make. Referral to a committee could be a good thing for the government, because the committee may find some more savings. If that is a motivation for the crossbench to support the bill without sending it to the committee, the flipside is that there could be more to gain. Referring bills to committees is not always a bad thing for the government.

I said a number of times during debate on the increase to the gold royalty rate that if the Premier is going to suggest that his government is the gold-standard of transparency, he should allow that to happen. That is what the Legislative Council is delivering for the government, and that could be of benefit to government members because

Extract from Hansard

[COUNCIL — Thursday, 30 November 2017]

p6343b-6369a

Hon Michael Mischin; Hon Alison Xamon; Hon Sue Ellery; Hon Aaron Stonehouse; Hon Simon O'Brien; Hon Peter Collier; Hon Jacqui Boydell

they would be backing up, through their actions, what they set out to do. Without allowing that process to happen, the government cannot have gold-standard transparency. That gold star was tarnished a fair while ago, but this would actually knock it off the blackboard entirely. It is ridiculous to suggest that this house should not refer this bill to the committee when we have the time to do so. It is no longer a priority, and SAT has done its independent job.

I want to address some of the comments made by the Leader of the House. There have been conversations behind the Chair about how we manage the priorities set out by government in the last two sitting weeks for 2017. It arose in those conversations that it is the right of government to set priority legislation, and I have no issue with that. I also do not have an issue with members of the Legislative Council being allowed enough time to do their job; otherwise we might as well all pack up and go home. I recognise that the government has priorities, but my job is to scrutinise those priorities and hold the government to account. If the government does not want a particular piece of legislation to be sent to a committee, it should do its job in the first place and bring to the house quality legislation that is going to get the support of the house. That is the job of government. I know that is hard, but the government is rushing through something it thinks is a great idea and will make a great headline. The Premier is saying, "Okay, what can we throw together? Oh, but by the way, before it has passed our house, I've already recognised a problem."

Debate interrupted, pursuant to standing orders.

[Continued on page 6381.]

Sitting suspended from 4.15 to 4.30 pm