

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

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Laurie Graham) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Debate was interrupted after the clause had been partly considered.

Hon PETER COLLIER: Prior to the interruption for question time, I had made the comment that this bill, in essence, diminishes the role of the Salaries and Allowances Tribunal—if anything, it is a slap in the face for the Salaries and Allowances Tribunal. I said in my contribution to the second reading debate that the government is saying to the Salaries and Allowances Tribunal that it does not have confidence that it will adhere to the government’s wages policy. I had also referred to the Workforce Reform Bill. That was in response to the comment by the Leader of the House that determinations from the Salaries and Allowances Tribunal need to have regard to government policy. The Leader of the House is using the Workforce Reform Bill as a precedent and is saying that because our government did that back in 2015, the government can do it now. The Workforce Reform Bill is different from this bill. This bill seeks to provide a mandated salary for parliamentarians, the judiciary, senior public servants and so on. The two bills are completely different. The government’s lack of confidence in the Salaries and Allowances Tribunal is quite profound. I want to make that very clear. There is no beating about the bush with this one; this is exactly what that is all about. Had we not had an election, I would suggest that there is absolutely no way on God’s earth that we would be debating this bill now. We would not do it. This was purely and absolutely cosmetic, as we know. The government has spoken relentlessly, in questions, comments and media statements, about the parlous state of the books, and that this is one of the solutions. As I stated in my nearly two-hour contribution a couple of days ago, that has become so tiresome that it has gone beyond boring. This is just one of those examples of the government trying, yet again, to put the boot in and claim that it is seeking to implement debt and deficit remediation. We already know, as we have been told in the second reading speech, that we are looking at \$16 million to \$20 million in savings. In anyone’s language that is a minuscule part of the overall budget.

Having said that, we need to look at a couple of areas, firstly the government trading enterprises. It was very interesting that the minister stated that the GTEs will be captured by this legislation once the contracts of the executive officers in those GTEs come to fruition. Did I understand that correctly?

Hon Sue Ellery: I said, once they have expired.

Hon PETER COLLIER: Yes, once they have expired. There is potential for the chief executive officers of the GTEs not to be captured at all, particularly the board chairs, if they have signed contracts for five years. As far as they are concerned, that would be completely redundant on their part. I appreciate the comments of the Leader of the House, and I think her explanation was quite comprehensive, but at the same time she missed a number of areas, and this is one area that she missed. Make no bones about it—there is potential that the chief executive officers of GTEs will not be captured by this bill at all. I would be interested to know whether there has been a flurry of re-signing of contracts in the GTEs, particularly in the energy sector—firstly, whether that is possible and secondly whether it has occurred. I suggest that it could be, because I can tell house now that, when I was Minister for Energy, one of the things I always used to fight about—I am sure the current minister will be having the same fights—was that the boards and the chairs of the boards get on very well with the senior officers of the GTEs, and will always be trying to find ways to increase their salaries and bonuses, or work out some way of improving their lot. That was something I had constant issues with, because it was always out of kilter with community expectations.

The other thing I would like to speak about is the very consistent commentary throughout the second reading speech about how we all need to do our bit, and it is only fair that we, as members of Parliament, also contribute, and so on. It talks about community confidence, and makes it clear that members of Parliament are not exempt from this important task. There is one area that the Leader of the House did not touch on, and that is the double dipping of the car allowance. It is a recommendation from the Salaries and Allowances Tribunal, and a number of members brought it up. It is a very valid issue, because it is not just the double dipping of cars. What needs to be remembered here, if we are all going to do our bit, is another ruling from SAT about our imprest allocation. Is everyone aware of that? The imprest has now changed. Now, we do not get an imprest allocation per term; it is embedded in our income. Is everyone aware of that? Whereas previously, if we travelled on government business or to do research, we would claim on our imprest account. That is now embedded into our salaries. I would love to know whether any minister will use one cent of their imprest over the next four years. They will not. I did not;

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and no-one will. I am saying that it is an addition to our salaries. Let us make no bones about it: it is not the \$25 000 that ministers have already got; it is another \$25 000.

The DEPUTY CHAIR: Member, are you going to ask a question?

Hon PETER COLLIER: I do not have to.

The DEPUTY CHAIR: Do we not have to?

Hon PETER COLLIER: No.

The DEPUTY CHAIR: The staff are advising me that you do at some point.

Hon PETER COLLIER: This is clause 1, is it not?

The DEPUTY CHAIR: Yes, this is clause 1.

Hon PETER COLLIER: Okay, I will ask a question at the end of my speech, but thank you for the direction, Mr Deputy Chair!

Having said that, this is valid and we did not get a response. The reason I am raising this point is that we did not get a response on this in the Leader of the House's reply to the second reading debate. If we are all going to do our bit, there is that \$5 500, which I think eight or nine ministers have now pocketed, and we also have another \$25 000 from imprest that will not be used. I assume that that the ministers are not going to return that \$25 000 and will pocket that as well. If we are talking about all doing our bit, we need an explanation for that. I and, I have to say, a number of members on both sides of the chamber, have brought that up. As I said, it is all good and well to take a high moral ground on this issue and to do so not only relentlessly through parliamentary questions and in the media et cetera, but also actually embed it in the second reading speech of this legislation. However, if that is the case, I think we need an answer. If we are going to do our bit, I would be interested to know whether the minister is aware of any ministers who have decided to forfeit the amount from their imprest account. That is a valid point.

Hon Sue Ellery: Not in this bill.

Hon PETER COLLIER: It is a valid point, because if someone does not use it —

Hon Sue Ellery: People have their own personal financial arrangements, how would I know that?

Hon PETER COLLIER: That is why I am asking. The Leader of the House can speak personally regarding her \$5 500 from the double dipping. I am saying that if we talk about this, we cannot talk about the public—the mums and dads and the public servants et cetera—doing their bit for the state with \$1 000 a year, and at the same time get the \$5 500 from double dipping on the cars plus not use the imprest amount. That imprest amount is there exclusively for members to expand their horizons, but ministers do not need it because they get everything paid for. The minister has just been to China and back and I am sure it was in business class. I do not begrudge her that; I did the same. That is one of the privileges of being in office. Is a minister in office who gets the privileges of being a minister, including travelling all around the state in a jet and flying interstate and internationally in business class, and who also gets their imprest, really doing their bit for the budget and the state's finances? Probably not.

Hon SUE ELLERY: The honourable member made a number of assertions at the beginning of his comments—none of which I accept—that this legislation undermines or in some way is an expression of the government's lack of confidence in the Salaries and Allowances Tribunal. I do not accept those assertions at all. The argument the member made towards the end of his contribution about SAT decisions that, for example, incorporate into everyone's salaries of what used to be available only by application—that is, the amount of money of the imprest—sets the argument of why from time to time it is a good idea to provide fetters on SAT about how it makes its decisions. That is what this bill is. It is the third time that a government has fettered the capacity of the Salaries and Allowances Tribunal. It does not mean that the government does not have confidence in SAT or that we are seeking to undermine it at all.

Hon MICHAEL MISCHIN: I was astonished with the supposed explanation given by the Leader of the House in her second reading reply to the various matters that were raised about the bill. The very idea that this is not something that interferes with the independence of a statutory tribunal that was established to depoliticise the setting of remuneration—I am talking about not only salary but also other necessary remuneration for MPs to do their jobs and to serve their communities—by putting a cap on what the tribunal can and cannot do for four years strikes me as an absolute admission of the lack of principle and trustworthiness of this regime. The government is showing a willingness to set restraint from the top, by telling a depoliticised tribunal that it cannot remunerate judicial officers, senior public servants and, more importantly, MPs by a sufficient amount to do their jobs. To say

that that is not political interference and that does not compromise independence is a lie. It cannot be put any other way. It cannot be possible.

Withdrawal of Remark

Hon SUE ELLERY: I take objection to the honourable member characterising my response as a lie.

Hon MICHAEL MISCHIN: I am categorising the government's position in this as a lie.

Hon SUE ELLERY: That is not what you said. You were talking about my response.

Hon MICHAEL MISCHIN: You were simply reflecting the government's position, minister; the position of a government that says this is not an interference in independence.

Hon SUE ELLERY: Mr Deputy Chair, I raised with you my objection to the language that was used to describe my response.

The DEPUTY CHAIR (Hon Laurie Graham): I am sure the honourable member will not repeat that language directly to you.

Hon SUE ELLERY: No. Mr Deputy Chair, I am going to ask that perhaps you seek some advice. The standard practice is that he be asked whether he will withdraw the comment. I ask you to consider that.

The DEPUTY CHAIR: Member, would you withdraw the comment?

Hon MICHAEL MISCHIN: If it is ruled that in fact that comment is a breach of parliamentary convention, then I shall. What I am pointing out is —

Hon Sue Ellery: That is not unqualified—no.

The DEPUTY CHAIR: You have not indicated that you will withdraw.

Hon SUE ELLERY: If I may, Mr Deputy Chair, I have expressed objection to the language. The normal practice when I do that is that you ask the honourable member whether he is prepared to withdraw. Normally, if he intends to withdraw, it is an unqualified withdrawal.

The DEPUTY CHAIR: Honourable member.

Hon MICHAEL MISCHIN: To move the debate on, if the member considered I was referring to her as a liar, then I withdraw.

Hon Sue Ellery: Thank you.

Committee Resumed

Hon MICHAEL MISCHIN: The thesis upon which this bill was built is a lie. It is built on the false premise that somehow—I will repeat it—telling a statutory independent tribunal that it cannot do things for four years, that it cannot fulfil its function, is not interference. It shows an intellectual dishonesty and a lack of principle on the part of this government.

To say that a fetter was placed on the tribunal three years ago is, again, false. There was no restraint placed on the tribunal three years ago, which is what a fetter is. What was placed on the tribunal was simply an obligation to consider the very things that supposedly are motivating this government to take this step—namely, things that it was considering before but is now formalising, and that it take into account the fiscal position of the state and the government's wages policy. The minister might like to comment in due course on what a howl she and her compatriots in the Labor Party put up when they were sitting over here, and how that interfered with the independence of the tribunal and how simply requiring the Western Australian Industrial Relations Commission to consider those things was a dreadful mandating of interference in those tribunals.

The minister might choose to forget it, but we had a very lengthy debate, without any agreements behind the Chair on getting the legislation through, in which members opposite were quite content to sit as long as possible to grind down the bill. They hypocritically claimed that it was an unacceptable interference with independence, when all it was was a requirement to consider certain factors. The minister now sits there and tells us, with a straight face, that this bill does not affect the independence of a statutory tribunal. It is absolutely astonishing! This government is saying—the crossbenchers might like to ponder this because of their position of not wanting to even look at this bill and examine it—that any government of the day in the future, if it claims it is necessary and expedient to do so, is justified in interfering with an independent tribunal in order to “send a message”. I expect this from the Labor Party. We have noted the precedent that was set as an example of principle back in 1983 or '84 under that illustrious Burke government. The government is now repeating, over 30 years later, that this is justified. What is being done here should not be underestimated. The next time any government comes before this place and says,

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“Look, we’ve got a terrible financial situation. We think we ought to interfere with something”—perhaps the Western Australian Industrial Relations Commission will be next—I trust there will be no complaint from those on the other side of this chamber because they will not be able to stand there with any spine or principle and say, “Hey; this is wrong.” They have acquiesced in this, and I expected that to come from a caucus of Labor people who have no principle and simply rely on expediency for political purposes. That is fine. I am disappointed about members who have come into this chamber and are prepared to be the voice trumpets of this government. They say they stand up for principle—they say they are not professional politicians and they will have regard for principle—yet, without even examining this legislation, they have chosen to march in step with this government. So be it; that is their choice. Again, they need to consider what they are doing, but it is a bit too late now. They will have to live with it.

Hon Simon O’Brien: We’re still on clause 1; it’s never too late!

Hon MICHAEL MISCHIN: We are still on clause 1; that is true. We can still look at this properly. I am comforted by the minister’s assurances that there is no need to refer this bill to a committee because the Committee of the Whole will answer all our questions in the same fashion. The minister said there is no need for a committee to examine this bill because she will answer all questions. We will see how far that goes and whether there will be a few, “I can’t help you there”, “I don’t know”, “You’ll have to ask someone else”, “I’ll have to ask the Premier, whose bill this is”, or, “I’ll have to ask someone in the Labor Party.” That is not the way that committees work. We can examine the theses that underlie legislation, but the minister has said otherwise. We will see how we go. The minister might wish to start by telling us why this bill is so urgent that the government has pushed out, in this last sitting week of Parliament, all the other legislation that would have some practical benefit to the people of Western Australia, including the Health Practitioner Regulation National Law (WA) Amendment Bill 2017, which we were told needed to be passed in September if it was at all possible. Why is the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017 so urgent that it cannot be properly considered by a parliamentary committee over the Christmas break?

Hon Sue Ellery: That’s already been determined.

Hon MICHAEL MISCHIN: There was no explanation of that, other than that the government would not support a referral —

Hon Sue Ellery: The house has already made a decision on that.

Hon MICHAEL MISCHIN: — and that all questions would be asked in the committee. I again ask what has made this bill so urgent from the point of view of the government?

Hon SUE ELLERY: I am glad that the member made reference to what he thinks the minister said in response to how the debate will be conducted during the committee, because I think I was verballed on several occasions during the course of the second reading debate. I have in front of me an extract from *Hansard* of what I said in this place on Thursday, 30 November, as part of my response to the referral motion. I said —

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 will correct myself now: I think it was actually 8 November —

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.

...

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.

That is what I said.

In respect of the commentary provided by the honourable member, as with my response to the commentary of the Leader of the Opposition, I do not accept the assertions that he made. I think he referred to the very idea that it

does not interfere with the independence of SAT—I do not accept the proposition that the member put. The member says “obligation”; I say “fetter”. The member said what his government did in 2014 was not to impose a fetter; it was to impose an obligation. That is the word I just wrote down that the member said. In the context of what we are debating now, I get that the member’s argument is that he takes objection to the nature of the obligation or the fetter we are putting on the Salaries and Allowances Tribunal by way of this legislation, but I think the two words are interchangeable in the context of what we did. The Salaries and Allowances Tribunal exists as a function of a piece of legislation created by the Parliament of Western Australia. It is a product of the Parliament of Western Australia. It is within the rights of the Parliament of Western Australia to change from time to time the parameters, the obligations or the fetters—the member can use whichever word he chooses. It is within the rights of the Parliament of Western Australia to do that. The Salaries and Allowances Tribunal exists as a creation of the Parliament of Western Australia. I understand the depth and strength of feeling of those who see this as an undue interference; I understand that. I have heard that argument and I understand it. I do not accept it, but I understand the point that the member is making. I reiterate what I said when I started in my response to the member. I invite members to look at the *Hansard* of 30 November as to the commitments I set out to the Parliament, and if members opposite are going to quote at me the commitments I have given, please go and check what I actually said.

The DEPUTY CHAIR: Minister, before we continue, I would just like to make a statement. A member of the Legislative Council speaking to clause 1 of the bill may make points that are pertinent to the various other clauses of the bill, so long as the remarks do not effectively amount to a second reading debate speech. I am sure that in the first two sessions that is where we have been, so if we could go back, the conclusions are obviously recorded in the parliamentary notes.

Hon MICHAEL MISCHIN: Thank you, Mr Deputy Chair. We will take it piece by piece.

Does the minister accept that the requirement of several years ago for the Salaries and Allowances Tribunal and the Western Australian Industrial Relations Commission to take certain matters into account was a requirement of the legislation—yes or no?

Hon SUE ELLERY: If I understand the question, the member had used the word “obligation” but he is now using “requirement”. If the member is saying the same thing, then yes.

Hon Michael Mischin: I’m not quibbling about words. It was required under the changes made back then that those two bodies consider matters.

Hon SUE ELLERY: Correct.

Hon MICHAEL MISCHIN: Does the minister accept that nevertheless they could disregard those considerations in the exercise of their discretion?

Hon SUE ELLERY: My understanding and recollection of the changes is that they were required to take them into consideration. That was the extent of the obligation and of the requirement. I take no issue with the fact that the requirements, the obligation or the fetters are different—that is not a matter of dispute—but I say that it is a fetter, an obligation or a requirement. We disagree about the extent to which they go and whether it is a reasonable thing to do or not.

Hon MICHAEL MISCHIN: I am not using the word “fetter”. We will not argue about semantics. So the answer to that question was: yes, they could disregard those factors after they had taken them into account. Does the minister accept that with this legislation, on the other hand, there is a limitation on what SAT will be able to do notwithstanding taking into account those considerations?

Hon SUE ELLERY: I thought I had made this clear already. Yes, there is a limitation. We disagree about whether we think that is reasonable or not. But, yes, this legislation will set an obligation, a fetter, a requirement, a parameter—whatever word the member wants to use. There is no disagreement that that is what we are doing; the disagreement is whether it is a reasonable thing to do or not. The argument the member put, which I understand, is that he thinks that this is unreasonable political interference. I understand that that is the member’s argument, but I disagree with it.

Hon MICHAEL MISCHIN: Thank you, minister. Whereas under the previous legislation, which the minister said is a fetter, if the SAT or the WAIRC had come to the view that notwithstanding government wages policy and the state’s fiscal condition some increase in remuneration was just and necessary, those bodies could increase remuneration—yes or no?

Hon SUE ELLERY: I will determine how I answer the question.

Hon Alannah MacTiernan: That’s right.

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Hon SUE ELLERY: Thank you very much.

I will determine how I answer the question. I have already answered it.

Hon MICHAEL MISCHIN: Does the minister accept that under the previous legislation, if those bodies, taking into account the “fettters”—as the minister says—that were placed on them, nevertheless came to the view that an increase in remuneration was necessary and just, they could increase remuneration?

Hon SUE ELLERY: I am not sure that I can answer that question in any other way or more explicitly or more clearly than I have already.

Hon MICHAEL MISCHIN: The minister can, by simply saying yes.

Hon Sue Ellery: I’ve got nothing further to say on that.

Hon MICHAEL MISCHIN: I will take that as a yes then.

Hon Sue Ellery: You shouldn’t take that as anything other than me saying that I have nothing further to say on that.

Hon MICHAEL MISCHIN: This is going to take some time, is it not, because we cannot get out anything other than weasel words and speeches?

Hon Sue Ellery: You’re the one talking.

Hon MICHAEL MISCHIN: I take it that the minister cannot disagree that under the previous changes in 2014, which the minister regards as fettters, if the Salaries and Allowances Tribunal or the Western Australian Industrial Relations Commission came to the view that notwithstanding these fettters an increase in remuneration was necessary and just, they could increase remuneration? I do not hear any argument to the contrary. Can the Leader of the House argue to the contrary? No. However, in this case, if the Salaries and Allowances Tribunal came to the view that remuneration, whether by way of salary or electorate allowance or any other sort of allowance, is necessary and just, is it able to increase that remuneration—yes or no?

Hon SUE ELLERY: I explained in the course of the second reading debate, and I think I have already done it in the course of the Committee of the Whole stage, that I understand the differences between the changes that were made in 2014 and the ones being made now. The policy of the bill has already been settled by way of the second reading, and that policy is that there are constraints on what the Salaries and Allowances Tribunal can do, and those were articulated in the course of the second reading debate. The policy has been set and, as a consequence, the answer to the honourable member’s question is that there are constraints on what the Salaries and Allowances Tribunal can do. I am not hiding from that. That is the policy of the bill and the house has determined that. I am not sure what further I can do to satisfy the member that that is indeed the policy of the bill.

Hon MICHAEL MISCHIN: Would the Leader of the House accept that it interferes with the independence of the Salaries and Allowances Tribunal doing its job?

Hon Sue Ellery: I have nothing further to say.

Hon MICHAEL MISCHIN: It is pretty obvious what has happened. It is simply because the minister cannot get around those factors in the same way as the good old Burke government set the precedent back in 1984, I think it was. It is not simply a matter of a difference of degree. It goes to the heart of the function of the SAT. What does the minister regard as the function of the SAT?

Hon SUE ELLERY: What I regard as the function of the SAT is irrelevant. The function of the SAT is set out in the legislation that created it. If the honourable member is unsure about what those functions are, I suggest that he read the act, because it quite clearly sets out the functions. I am not sure whether that question progresses us in respect of the changes we are seeking to make as a result of the bill before us now.

Hon MICHAEL MISCHIN: It goes right to the heart of it because it affects the manner in which the SAT is to discharge its functions, particularly in respect of some clauses that come later that are the subject of amendment. I am traversing the function of the SAT to point out that what is proposed is contrary to not only the principle and the whole point of its being established, but also the manner in which it can satisfactorily function. If I put it to the Leader of the House that the Salaries and Allowances Tribunal was established to take out of the hands of Parliament—leave aside the government of the day, which might have a majority—the setting of remuneration for parliamentarians and senior officers of Parliament, would she agree with that; yes or no?

Hon SUE ELLERY: I appreciate the member’s advice on how I should answer the questions that he puts to me, but I reiterate that I will choose how I answer the questions the member puts to me.

The functions of the SAT are clearly set out in the act. I have made the point already that the tribunal is a function that exists. The tribunal exists as the result of legislation of the Parliament of Western Australia. It is within the

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purview of the Parliament of Western Australia to change that legislation, and that is what we are doing today. As I said in my reply to the second reading debate and in my second reading speech, we find ourselves having to do this to address the state of the finances and to send a clear message to the community and to the credit agencies that we have a clear plan and path for reining in expenditure and for taking serious steps to address the financial mess we inherited.

I understand the argument put by the honourable member—that he thinks the method by which we are seeking to do that is unreasonable, and he characterises it as political interference and a step too far. I understand that argument; he has put it several times. I am not sure I have any other way of answering his questions about whether or not I am going to accept his argument, because the short answer is: no, I am not.

Hon MICHAEL MISCHIN: So the minister does not accept the proposition that the Salaries and Allowances Tribunal was set up to take out of the hands of Parliament the setting of remuneration for members of Parliament and others? Is that correct?

Hon Sue Ellery: Why don't you finish your contribution and I'll see if I can add anything?

Hon MICHAEL MISCHIN: Does the minister accept that this puts back into the hands of Parliament the setting of remuneration for members of Parliament?

Hon SUE ELLERY: We continue to talk at cross purposes here. I understand the arguments being put by the honourable member. I understand that he holds his convictions strongly, and I respect that, but we disagree. I cannot accept the premise of many of the assertions he has made to date. There is no way he can express them that will persuade me to accept the premises of what he is suggesting. I respect his point of view and the conviction with which he holds it. I respect that he has taken action to vote in a different way from some other members of his party, and that is not an easy thing to do. I respect all of that, but I cannot accept the assertions he has made and I do not accept that this is undue political interference.

The CHAIR: Members, I think I might be able to offer some assistance from the Chair, if members would resume their places, because otherwise the debate will possibly become tediously repetitive. That is one thing, but more to the point, this is not a clause 1 debate.

Several members interjected.

The CHAIR: Order, members! It is good to see that there is plenty of goodwill in the chamber at this time of year, when things can sometimes get a bit ratty!

Let me just remind members now that the short title debate is intended to do no more than give an opportunity to range over the clauses of the bill, to foreshadow amendments and to indicate, consistent with the policy of the bill, how it might be improved. Clause 1 can, in itself, be defeated, and that would see the disposal of the bill, but that does not mean that the clause 1 debate becomes a re-run of the second reading debate, which has already been had and decided by the house. While recognising that if members do not want the bill to proceed, they can vote against it at clause 1, the clause 1 debate does not give us another crack at the second reading debate. I think everyone involved knows that, but I thought it might be useful to restate it in simple terms so that we can make some progress.

Having said all that, the short title debate also contemplates a number of forms that it can take, so I am not seeking to artificially constrain members, but I will insist that we have a genuine clause 1 debate from here on in, which I know is what members want.

Hon MICHAEL MISCHIN: Thank you, Mr Chair; I am obliged for the reminder on the scope of the debate. Just to recap, I understand that the Leader of the House takes a different view. It is not a question of due or undue interference. I take it that she does not accept the premise—she has said that she rejects the premise—that the Salaries and Allowances Tribunal was established to take out of the hands of Parliament the question of remuneration for parliamentarians and she rejects the proposition that putting a restraint on its ability to increase remuneration, notwithstanding its independent assessment of it, is not an interference with its independence. That makes it clear for any future arguments about this and other independent statutory tribunals.

I turn to the difference in the manner in which the act operates and has operated to date and the manner in which other tribunals and the like operate. There is talk about sending messages and so forth about restraint in remuneration, but of course public servants are faced with a very different position. There may be a wage policy, but it does not mean that they have to accept that policy; and, if there is an argument, it can always be resolved by the Western Australian Industrial Relations Commission. If there is an agreement by way of negotiation between the public sector unions and the government, it is for a limited period—two or three years. There are some differences in the manner in which this regime has been set up. Firstly, there is no negotiation. It is not a question of accepting things on any particular terms. A decision of the Salaries and Allowances Tribunal is imposed. There

is no appeal and there is no review. Some might consider that to be a good thing and some might consider it to be a bad thing, but there is a distinction in the messages that are being sent out. Secondly, there is no question of it being for only a negotiated period—either good or bad. This review takes place every year statutorily. However, it raises a question about why the period that has been selected is four years. Perhaps the Leader of the House can clarify that, because it underpins the nature of the legislation we are dealing with. Why is there an imposition of four years? What business case underpinned the bill that might have informed whether this was a good idea or whether there will be any significant savings? Is the Leader of the House prepared to put forward the business case? I make the point that if this were being examined by a committee of this house, it would be the sort of thing that the government would be obliged to answer questions about and actually produce materials on so that a committee could examine it. We do not have that opportunity, but I am sure that the Leader of the House will be prepared to help out as much as she can on this.

Hon SUE ELLERY: There was not a business case in the sense that a business case is developed for the consideration or implementation of a particular policy. I do not think I have ever seen a business case prepared for the preparation of a bill. Maybe the member did in his time in government, but I did not see one when I was a minister the last time we were in government, and I certainly have not seen one in the last nine months. There was not a business case and I am not sure that that is the process by which a bill would normally be put together. I am sure that the member is familiar with the process of drafting instructions from cabinet and then approval to print from cabinet.

On the matter of the four years, we wanted to do it on a temporary basis; we did not want it to be ongoing. We wanted to generate savings. The position was reached that that was a reasonable period to achieve some savings and we put an end date on it so that it was not an ongoing measure and it was true in the sense that it was a temporary measure to deal with what we trust will be a temporary set of circumstances with the state's finances.

Sitting suspended from 6.00 to 7.00 pm

Hon NICK GOIRAN: I am pleased to have an opportunity to ask a few questions about this matter. I indicate to you, Mr Deputy Chair, and also for the benefit of the minister, that I have a few questions about clause 1. I will also have some questions about clauses 2, 7, 8 and 9.

With regard to clause 1, is the minister able to advise whether the policy of the bill includes a freeze of remuneration paid to members of Parliament?

Hon SUE ELLERY: Indeed, it is included in the policy of the bill that we just determined in the second reading debate.

Hon NICK GOIRAN: Has the minister had an opportunity to read the determination issued by the Salaries and Allowances Tribunal on 30 November?

Hon SUE ELLERY: I have not.

Hon NICK GOIRAN: Is the minister aware that that determination orders that no increase be provided to members of Parliament?

Hon SUE ELLERY: I am aware of that.

Hon NICK GOIRAN: In light of that, why is the bill necessary?

Hon SUE ELLERY: My reply to the second reading debate specifically addressed this very point. The point is that, although it is certainly the case that the tribunal's most recent determination for members of Parliament is completely consistent with the government's policy on this bill, the bill is still necessary for a couple of reasons: first, it sets the policy beyond the immediate term of the determination just made by the tribunal; and, second, we think it is important to send a message more broadly, in particular to the ratings agencies and the community, that the government is serious about having a plan made up of a number of different elements to address the finances of the state.

Hon NICK GOIRAN: Apart from the bill being necessary, as the minister said, to set the policy for future years and to send a message to other external bodies, is it also the government's position that the bill is necessary because the determination on 30 November applied to only members of Parliament, whereas the government's bill deals with other officers?

Hon SUE ELLERY: I addressed these issues in my reply to the second reading debate. I indicated all the people that this bill's remuneration arrangements will capture and I made the point that it will set the parameters beyond the immediate period covered by the most recent decision.

Hon NICK GOIRAN: Does the minister agree that the policy of the bill is wider in its application than just members of Parliament?

Extract from *Hansard*

[COUNCIL — Wednesday, 6 December 2017]

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Hon Peter Collier; Hon Sue Ellery; Hon Michael Mischin; Deputy Chair; Hon Nick Goiran; Hon Martin Aldridge

Hon Sue Ellery: There's no question about that. I said that in the second reading speech and the second reading reply as well.

Hon NICK GOIRAN: I just wanted to confirm that. Does the policy of the bill include a freeze of remuneration paid to the Clerks and Deputy Clerks of the Legislative Council and the Legislative Assembly?

Hon SUE ELLERY: Yes, it does. Again, I make the point that I set this out in my response to the second reading debate.

Hon Nick Goiran: The minister mentioned the Clerks and Deputy Clerks?

Hon SUE ELLERY: I did.

Hon Nick Goiran: The minister did?

Hon SUE ELLERY: Yes.

Hon Nick Goiran: Okay. That is great.

Hon SUE ELLERY: I mentioned all the classifications that will be captured.

Hon NICK GOIRAN: That is wonderful. I thank the minister for confirming that. Which of those clerks was consulted about the bill?

Hon SUE ELLERY: Again, I specifically addressed this issue in the second reading reply. I said none.

Hon NICK GOIRAN: Why were none of those clerks consulted about this bill?

Hon SUE ELLERY: None of the officers who will be captured by the policy of the bill were consulted. It is not normally the practice to consult widely with everybody who will be captured by a bill of this nature. Nothing was unusual about that, but we did not do it.

Hon NICK GOIRAN: The minister has said that it is not normally the practice to consult on those things but, in itself, this bill is not normal. In her reply to the second reading debate, I think the minister indicated that this had happened —

Hon Sue Ellery: This is the third.

Hon NICK GOIRAN: This is the third time? Is the minister saying to the chamber that the other two times there was or was not consultation with the people who were —

Hon Sue Ellery: With due respect, I wouldn't know.

Hon NICK GOIRAN: The minister does not know?

Hon Sue Ellery: I wouldn't know.

Hon NICK GOIRAN: I understood that just moments ago the minister said that it was not normal for these stakeholders to be consulted on the bill. To me, "normal" would indicate that this happens from time to time. The government of the day seeks to tell the tribunal what it can and cannot do and that normally there would not be consultation with these stakeholders. It seems to me that there is no normal here and that what we are doing is abnormal. I do not think that it is quite right to give the impression to the chamber that it is routinely the case that we do not consult with people about these bills, because we really do not have any proper precedent to base this on.

Hon SUE ELLERY: I guess I was talking in a more generic sense about whether government consults with everyone who will be affected by a piece of legislation. I was not limiting my comments to this bill. The point that the member made is a point that I reiterated in my second reading reply; that is, officers who will be captured by the bill were not consulted with.

Hon NICK GOIRAN: That would, of course, include judges, District Court judges, the master of the Supreme Court, and magistrates?

Hon SUE ELLERY: In my second reading reply, I specifically addressed this issue because someone—it may even have been the member —

Hon Nick Goiran: Did the minister mention them by name?

Hon SUE ELLERY: I specifically listed the classifications that will be captured by the legislation because someone—it might have been the member—raised this very issue.

Hon NICK GOIRAN: The minister may well have mentioned that. I do not recall that. I appreciate that I was not here for the entirety of her reply, but I watched it elsewhere when I had the opportunity. I had some other urgent parliamentary business to attend to. Nevertheless, without even having to check *Hansard*, I would be very

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confident that the minister would not have mentioned registrars of the Supreme Court and District Court. Can I ask why that was the case?

Hon SUE ELLERY: They are captured in a special division of the public service. I did refer to the special division.

Hon NICK GOIRAN: The minister referred to the special division but she never mentioned registrars of the Supreme and District Courts.

Hon Sue Ellery: Correct.

Hon NICK GOIRAN: The special division is officers of the public service holding offices included in the special division of the public service. The minister is indicating that they are captured by this bill. We now know, either through the minister's reply to the second reading debate or through her comments now, that these people were not consulted. Can the minister indicate to the chamber who those officers are?

Hon SUE ELLERY: Does the member want the list of officers in the special division?

Hon Nick Goiran: Yes. Please do not say you do not know.

Hon SUE ELLERY: Honourable member, it is quite a lengthy list. It is set out in the document that I have in my hand, titled "Salaries and Allowances Act 1975: Determination of the Salaries and Allowances Tribunal for Clerks and Deputy Clerks of the Parliament, Public Service Office Holders included in the Special Division of the Public Service and Persons Holding Offices prescribed in Salaries and Allowances Regulation Number 3". I do not have a spare copy, but I am sure we could get a copy made for the member and I would be happy to table it. It is a publicly available document in any event, but I am sure that we could arrange for the member to get a copy tonight if he needs one.

Hon Nick Goiran: I definitely want a copy.

The DEPUTY CHAIR: Are you tabling it now or are you getting a copy?

Hon Nick Goiran: The minister could get a copy and I will ask some more questions.

Hon SUE ELLERY: Okay; we will get the member a copy, because this is the only one at the advisers' table tonight.

Hon NICK GOIRAN: While we wait for that to arrive, for the benefit of members, I understand that according to the provisions of the act, the freeze the government will impose will also apply to the Parliamentary Inspector of the Corruption and Crime Commission. I will not ask the minister whether that is the case, because I know she will tell me that she has already told me this during the second reading reply. Is the minister able to advise the chamber of the current remuneration of the Parliamentary Inspector of the Corruption and Crime Commission?

Hon SUE ELLERY: I do not have the number available right now. I have an adviser with an iPad. If the member wants us to look it up, we could find it. It is publicly available information, so it would not be hard for the honourable member to find it himself. If he wants us to look it up, we will do that.

Hon NICK GOIRAN: While we wait for the answer to that question, I note that the government's bill will freeze the Parliamentary Inspector of the Corruption and Crime Commission's salary for the next four years. That is the policy of the bill, it is the government's intention, and it is the policy that has been agreed to by the house during the second reading. This person's unknown remuneration, which we will find out in a moment, is going to be frozen. Is the minister able to advise the chamber whether this person is paid on a full or part-time basis?

Hon SUE ELLERY: The salary paid to the Parliamentary Inspector of the Corruption and Crime Commission is \$176 422. That information is provided from the Salaries and Allowances Tribunal schedule titled "Report on the Remuneration of Judges, District Court Judges, Masters of the Supreme Court, Magistrates, and the Parliamentary Inspector of the Corruption and Crime Commission: Remuneration Arrangements, Incorporating Recommended Alterations". This report tells me that that rate is correct as at 1 July 2017. I am advised that it is possible for that position to be held part-time, but I cannot confirm whether it is currently.

Hon NICK GOIRAN: I thank the minister; that is very helpful. I am happy to indicate to the chamber that it is the case that the Parliamentary Inspector of the Corruption and Crime Commission is remunerated on a part-time basis, hence the figure is \$176 422. The reason I want to know and have that confirmed is that the intention of this bill is to freeze this person's salary for the next four years. Does the government still intend to empower the Corruption and Crime Commission to make unexplained wealth applications?

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Hon SUE ELLERY: Bear in mind that the responsibility for that bill is not mine; it rests with the Attorney General. Nothing in this bill changes the functions of the parliamentary inspector. I am not sure that I can give the member any more information than that.

Hon NICK GOIRAN: Is the minister, as a member of cabinet, able to advise whether the government intends to pursue what the Attorney General has said publicly—namely, to empower the Corruption and Crime Commission for the first time to make unexplained wealth applications?

Hon SUE ELLERY: The honourable member would be well aware that I cannot talk about what is said in cabinet. I am not saying that because I am trying to hide something. I am saying that because I genuinely do not know. That might have been canvassed, but I do not know.

Hon NICK GOIRAN: I draw the minister's attention to the *Daily Notice Paper*, which lists as order of the day 15 the Corruption, Crime and Misconduct and Criminal Property Confiscation Amendment Bill 2017. The *Daily Notice Paper* is very useful, because listed next to the bill is the government member who has carriage of the bill. In the case of order of the day 15, the minister who has carriage of the bill is the Leader of the House representing the Attorney General. If the minister is not already aware, the purpose of that bill is to give the Corruption and Crime Commission the capacity to make unexplained wealth applications. I am simply asking whether the government still intends to give the Corruption and Crime Commission that power.

Hon SUE ELLERY: Yes, that bill is on the notice paper. The member prefaced his remarks by asking me whether cabinet has given any consideration to doing anything different. I have said that I cannot answer a question that starts with that premise. I cannot tell the member whether something has been considered in cabinet. I am not the Attorney General. If the member is asking me a question in this place in my capacity as minister representing the Attorney General, I would seek advice from the Attorney General. I have no reason to believe that cabinet has any intention to do anything other than proceed with the legislation as it is listed on the notice paper.

Hon NICK GOIRAN: That being the case, minister, has the government consulted with the Parliamentary Inspector of the Corruption and Crime Commission about whether he is agreeable to taking on the new functions that the government will be giving him as a result of the bill listed as order of the day 15 when his pay will be frozen for the next four years?

Hon SUE ELLERY: I am struggling here, because I am not the Attorney General. If the member were to ask me that question in question time, he would do it with some notice, and I would get an answer from the Attorney General. I am not able to provide the member with an answer about a matter in a portfolio for which I have a representative capacity. I am not trying to be difficult. I am not in a position to provide an answer to that question.

Hon NICK GOIRAN: Can the minister indicate to the committee when she might be able to get an answer to that question?

Hon SUE ELLERY: I could certainly ring the Attorney General in the morning and seek an answer for the member.

Hon NICK GOIRAN: The problem I have is that I understand that there is some enthusiasm on the part of the government for this bill to be concluded this evening. Unfortunately for me, I am not going to be able to get an answer to the question that I have until tomorrow morning, when the Leader of the House is able to ring the Attorney General. This troubles me, because, as a result of this bill, we will freeze the salary of the Parliamentary Inspector of the Corruption and Crime Commission. Hon Michael Murray, QC, is a very honourable man. He has not been consulted on this bill. We already know that, because the Leader of the House has confirmed on multiple occasions, as I understand it, that there has been no consultation with this honourable gentleman. He has no capacity to have a say on whether his salary will be frozen over the next four years. At the same time, we know that this government intends to give him new tasks to do. He is remunerated at the moment only on a part-time basis. He is given \$176 422, according to the evidence provided by the Leader of the House. For a lot of people in Western Australia, \$176 000 is a lot of money, but he is a retired Supreme Court judge, who is used to earning over \$400 000. It troubles me that this is just one of numerous office holders who are having their remuneration frozen as a result of this provision by the government, and we are not able to get the information this evening. Nevertheless, I understand and I agree with the minister that she is not trying to be troublesome whatsoever. She has been most accommodating this evening, so I will move to the next area. However, I indicate to the minister that I will not be happy to move off clause 1 until such time as I am able to get an answer on the issue of the parliamentary inspector.

I understand that it is also the intention that this bill will impact “persons holding other offices that are prescribed for the purposes of section 6(1)(d)”. Can the minister indicate who those persons are?

Hon SUE ELLERY: I am advised that this refers to the office holders in the determination, of which the member has been provided a copy.

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Hon NICK GOIRAN: I am obliged to the minister, because she tabled this document earlier.

The DEPUTY CHAIR: I do not think it was tabled.

Hon Sue Ellery: I do not think I formally did. I got it copied and given to you.

Hon NICK GOIRAN: I have been provided, very helpfully, by the minister, whether tabled or otherwise, with a copy of this document. I wonder whether it should be tabled for the benefit of other members, but I will leave that to the minister to determine in due course. If the minister still has a copy in front of her, the version I have lists, at table 1, “Special Division CEOs”, and then it goes on to list, at table 2, “Prescribed Office Holders”. Are they the people the minister is referring to?

Hon SUE ELLERY: Yes.

Hon NICK GOIRAN: It is quite an extensive list; I count 33 prescribed office holders. Is the minister able to confirm that none of those 33 prescribed office holders was consulted about the freezing of their salary for the next four years?

Hon SUE ELLERY: That is correct. I have said it before: none of the officers who are captured was consulted.

Hon NICK GOIRAN: Along the lines of what I said earlier about the Parliamentary Inspector of the Corruption and Crime Commission, is the minister able to advise the chamber whether the government has any intention to give any of these 33 prescribed offices any additional duties during the next four years?

Hon SUE ELLERY: I am really not in a position to answer that question at all.

Hon NICK GOIRAN: That causes a problem, because how am I to know whether these people are being told that their pay is frozen for the next four years and the government is about to double their workload? The minister has indicated she does not know the answer to that, which is fair enough. If she does not know, she does not know; but if she does not know, I do not know. Yet I am being asked to agree to the minister’s proposal that we freeze these poor people’s salaries for the next four years without any consultation with them and no indication of whether their workload will be increased. That seems a little unfair, does it not?

Hon SUE ELLERY: I am not sure that it is unfair. If the member knew that he was going to go down this line of questioning, there were other ways he could have sought information, bearing in mind that he knew that the minister dealing with the bill was not, for example, the Attorney General or the minister with responsibility for the public sector. I am here in a representative capacity. The member knew that he would be asking me questions about the things that matter to him. He is entitled to prepare his line of questioning as he wants, but perhaps he could have asked a question on notice. Nevertheless, I am here and I am going to endeavour to answer the questions to the very best of my ability, but I do not think it is unreasonable that I am not able to give a detailed answer to the question the member has asked about whether I or my advisers are aware of any intention to change any of the duties of any of the 33 officers listed on that piece of paper.

Hon NICK GOIRAN: At the end of the day, it is the minister’s responsibility to have the answers available in the chamber to the questions we have. I understand that the minister does not know the answer, and that is fine, but it is not unfair for me to be asking the question, especially, as I indicated to the house yesterday, that it was not my understanding that this matter would not be referred to a parliamentary committee, where I would have asked all those questions. It is news to me that the matter is now going to be considered at length here this evening. Now I am asking the questions because this is my opportunity. Nevertheless, I take the member’s point that she does not have responsibility for all those office holders, but guess what? One of them is the director general of Education, so perhaps the minister could advise us about that.

Hon SUE ELLERY: I would be happy to. I certainly have no intention of changing the duties of the director general of the Department of Education. I hope she goes nowhere. I hope she stays exactly where she is for the duration of my term as Minister for Education and Training. I think she is an outstanding director general.

Hon NICK GOIRAN: According to this schedule, the director general of Education is in band 1, the office holder is S. O’Neill and her salary is \$441 406. Is the minister advising the chamber that there will be no change in her duties over the next four years?

Hon SUE ELLERY: What I just said was that I have no intention of changing her duties and I hope that she goes nowhere and she stays exactly where she is right now.

Hon NICK GOIRAN: Is the minister able to inform the chamber whether it is currently permissible for any of these people I am referring to to send a submission to the tribunal before a determination is made? The minister has indicated that she is not sure about the other ones; we have talked about the director general of Education, but she cannot help us with the others, including the Parliamentary Inspector of the Corruption and Crime Commission.

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Hon SUE ELLERY: There is no restriction on them making a submission.

Hon NICK GOIRAN: Does the tribunal have the capacity to consult with those people before they make any decision about their remuneration?

Hon SUE ELLERY: I am advised that they certainly have the power to consult. Whether or not they do, I am not sure, but they certainly have the power to.

Hon NICK GOIRAN: The minister is not sure, but can someone advise us whether the tribunal currently routinely seeks submissions from these people? Is that normal practice for the tribunal?

Hon SUE ELLERY: I am advised that it is usually the case, but it has not always been the case.

Hon NICK GOIRAN: If it is usually the case that the tribunal seeks submissions from people before it decides to decrease, freeze or increase someone's pay, why has the government not done that on this occasion?

Hon SUE ELLERY: There are two separate bodies. The member was asking how the tribunal conducts its normal business, and I have answered that. I have already answered the question about why the government chose not to consult. I accept that the member may not appreciate the answer, but I have already answered that question.

Hon NICK GOIRAN: The problem is that the government is quite happy for the tribunal to routinely consult with these people before it freezes their salaries, but when the government decides to do that on behalf of the tribunal, to usurp the power of the tribunal, the government says that it does not need to consult. There is a principle of natural justice here. Before restricting someone's remuneration, before the tribunal imposes its will on them, the tribunal does the right thing—it consults. It invites and takes submissions, but this government does not. This government says that it does not need to consult. When I asked the question, the minister said that she had already answered the question. That is very disappointing. As I indicated earlier, people like Hon Michael Murray, QC, are currently being asked to fulfil a job on a part-time basis. He would normally, routinely, get to put a submission to the tribunal. In due course, the government is going to shiftily move to order of the day 15 and give him extra work to do, and say, "By the way, Mr Murray, guess what? We've just frozen your salary for the next four years." I suspect that if any member in this chamber were put in that position, they would be most upset, but that is what seems to be happening.

I have a range of further brief questions on clause 1, but my colleague has other matters to pursue at this point.

Hon MICHAEL MISCHIN: Thank you, Hon Nick Goiran. I would like to raise a couple of questions about the bill generally, but it strikes me that there has been consultation with one group, has there not, and that is the ministers?

Hon SUE ELLERY: Does the member mean because, as members of cabinet, we have to approve the drafting of legislation? Is that what the member is referring to?

Hon MICHAEL MISCHIN: No; I am referring to it on a number of levels. Firstly, the decision had to come from somewhere. Whether it would be a viable policy and whether it would affect certain people more than others, and what those effects might be, had to be debated. Finally, it had to be the subject of a cabinet submission, and drafting instructions approved by cabinet, and there would have been cabinet approval to print and, of course, a decision whether to pursue it in the caucus room and to get the approval of members of the Labor Party. Would that not be right?

Hon SUE ELLERY: I think the member has just answered his own question. That is the process by which legislation is prepared for the house.

Hon MICHAEL MISCHIN: Ministers, at any rate, had an opportunity to weigh up whether they would be unduly benefited or prejudiced by any freeze on their salaries and electorate allowances for the next four years, whether they would be able to discharge their responsibilities, not only in the case of ministers, but also with all the additional resources at their availability, and whether it would affect their ability to service their electorates. Would that not be right, minister?

Hon SUE ELLERY: In his previous question, the member outlined how legislation is prepared for consideration in Parliament. As a former minister, the member would be well aware that I am restricted in what I can say about the process within cabinet. The process that the member outlined whereby cabinet makes decisions about legislation is correct.

Hon MICHAEL MISCHIN: I take it that I am correct there was a debate about this; the minister does not have to tell me what it was. Ministers had the opportunity to be consulted about this proposal and whether it was a good idea from their point of view. Presumably, as part of that consultation process, they would also manage to chip in their ideas about whether they thought they would suffer from it. Would that not be right, minister?

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Hon SUE ELLERY: I am not sure that I can say this any other way; I am restricted in what I can say about cabinet. I have answered the question already. The member has outlined the normal process by which legislation is prepared for Parliament.

Hon MICHAEL MISCHIN: Were there no discussions about this informally, outside cabinet, between the Premier and his closest advisers amongst the ministerial team?

Hon SUE ELLERY: Not that I can recall.

Hon MICHAEL MISCHIN: Maybe the minister is not part of the inner circle. I will move on to the question of what cost–benefit analysis has been carried out. The minister has indicated that it would be unusual to do so in this sort of case but, as I understand it from what the Premier told the other place, this was not the government’s idea; it was Treasury’s idea. It was put up very early in the piece as a means of cost-cutting and saving some money. Was a cost–benefit analysis conducted or requested? Was any material taken from Treasury to weigh up other alternatives to simply a freeze over a period of time?

Hon SUE ELLERY: The process by which legislation is prepared for Parliament includes information being provided by an agency, through a minister, to cabinet. I am not sure that I can add anything more. The member understands that I am restricted in what I can say about the cabinet process. I am not sure that I can take my answer any further than I have already.

Hon MICHAEL MISCHIN: I can assist the minister there because there was advice to the Langouant inquiry on what materials come within public interest immunity as cabinet documents. It drew a distinction between those that are prepared for cabinet and those that are prepared simply by a department for the information of a minister or as part of a business case that will not necessarily go to cabinet. Given that the minister is representing the Premier, is she able to tell us whether he explored any alternatives to simply a blanket remuneration freeze over four years, which is imposed as a fetter on the Salaries and Allowances Tribunal? Or was some other alternative explored, and why were they not explored?

Hon SUE ELLERY: A range of budget measures have been put in place —

Hon Michael Mischin: I’m not talking about budget measures generally; I’m talking about alternatives to this proposal from Treasury.

Hon SUE ELLERY: The place where that would have been considered, if it had been considered, is the place that I am restricted from talking about. I am not sure that I can take my answer much further, but this is one of a whole suite of measures that the government has put in place to address budget repair. That is an ongoing process. Regarding what was considered or not considered in the course of cabinet making a decision about whether to adopt this legislation, I do not think I could add anything more to that.

Hon MICHAEL MISCHIN: I think the minister can. While the minister is sorting out the answers to Hon Nick Goiran’s questions, she might want to ask the minister she represents—namely, the Premier—before he submitted this matter to cabinet, what alternatives to a simple blanket freeze were proposed by Treasury, which would “send a message” and satisfy the ratings agencies. For example, did he consider an alternative proposal, because of the step being taken, to simply amend section 10A of the Salaries and Allowances Act to specifically require the Salaries and Allowances Tribunal to take into account government wage policy and the fiscal position of the state? That was the sort of proposal that caused howls from the Labor Party when it was proposed by us three years ago, but it was rather less extreme than the one we are now faced with and did not interfere with the ability of the SAT to make an assessment based on merit, but simply to inform itself and to take things into account. Was that explored? If the minister does not know the answer, I can understand that, but I am sure the Premier will be able to tell the minister overnight. Would the minister be prepared to find that out and inform us?

Hon SUE ELLERY: I am happy to give the member an undertaking that I will contact the Premier in the morning and ask him what he is able to provide. I am not sure, though, so I do not want to give a commitment that I and the Premier cannot meet. If the answer to the member’s question lies within cabinet, the member will not get an answer to his question. I will get the *Hansard* and raise with the Premier the issues the member has raised. If I am able to give the member any more information than I already have, I give an undertaking that I will. But I put the caveat that I am not sure I will be able to.

Hon MICHAEL MISCHIN: I just want to make it clear so that I am not making it difficult for the minister—in fact, I am making it easier. The minister does not have to worry about what cabinet considered or what was put to cabinet. I am asking about what was put to the Premier or what the Premier asked advice about before he made his cabinet submission seeking approval to draft. So, what he dealt with with Treasury, which he claimed came up with this idea that he was reluctant to agree to—he does not like the idea—but it was one of Treasury’s ideas that has been translated into legislation. I would like to know whether he considered, before he made his cabinet submission seeking approval to draft, alternatives that would not go so far as a four-year blanket, one-size-fits-all

cap on the remuneration of judicial officers, members of Parliament, Clerks and others, and whether he considered the prospect of an expansion of section 10A to cover those officers. All right?

Hon Sue Ellery: I will get the *Hansard* and consult with the Premier in the morning.

Hon MICHAEL MISCHIN: Okay. I thank the minister.

The short title of the bill is the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017. The minister has mentioned that part of the “message” being sent out is not just to the community, which has or may have misconceptions as to levels of remuneration, as the second reading speech states, but also to ratings agencies. I note that neither the minister nor the Premier in the Assembly made any mention of ratings agencies as being the recipients of this communication—this telegraph. But what has been repeatedly mentioned is debt and budget repair, and debt and deficit remediation. The minister has said that a figure of about \$16 million has been somehow calculated, but the minister does not have a business case for it. Is the minister prepared to provide a breakdown of how Treasury came to the conclusion that there would be that level of savings? Is there a spreadsheet we can have a look at that shows the assumptions to determine whether it is realistic or sensible and the premises upon which that assessment is based? Because it is not much of a message to the ratings agencies if the figure is significantly lower than that. Can that be right?

Hon SUE ELLERY: In my second reading reply, I described the methodology and how originally there were forecast savings of some \$20 million, but that that was revised down to \$16 million. I am not able to provide the member with any modelling, because I do not have Treasury officials sitting here at the table, but I provided the answer I was able to. The member raised this issue in his contribution to the second reading debate, and I specifically provided him with an answer in my second reading reply.

Hon MICHAEL MISCHIN: Might I take it from that—fuzzy as the figures are—that we are looking at a saving of roughly \$4 million a year over the four years—or is it \$5 million?

Hon SUE ELLERY: It is correct that it will result in a \$16 million savings figure over the four years.

Hon MICHAEL MISCHIN: We started off with \$20 million over four years. Now the minister has revised that down to \$16 million. That is a reduction of \$4 million. The minister said that she mentioned there was some methodology used, but we have not been able to see it. Is the minister prepared to produce the methodology tomorrow? If this were before the legislation committee, the minister would no doubt be asked about this and be prepared to provide it. It must be available, somehow, to underpin the calculation of \$20 million over four years, which has now gone down by \$4 million. How was that calculated? Why was it reduced by \$4 million, for example?

Hon SUE ELLERY: Honourable member, with the greatest respect I actually spent some time spelling this out in my second reading reply and I will do it again. I specifically addressed how the \$20 million dropped to \$16 million, and I will do it again for the member now. The original decision was estimated to save the general government sector around \$20 million. The initial estimate was calculated at a global level and involved positions covered by the determinations for members of Parliament, the judiciary, special division and prescribed office holders, the Western Australian Industrial Relations Commission and the State Administrative Tribunal. The estimated savings reflected the difference between officers in these positions receiving a 1.5 per cent wage increase and no wage increase, noting that it did not include comparable positions in government trading enterprises as their remuneration is yet to be determined by the Salaries and Allowances Tribunal. As part of the 2017–18 budget, the savings calculation methodology was applied to individual agencies using budget forecasts resulting in a \$16 million savings figure. The lower than previously estimated savings reflects the differences in the assumed 1.5 per cent escalation rates built into salaries budgets and the escalation for SAT positions built into individual agency budgets.

Hon MICHAEL MISCHIN: So, there is every prospect that the savings will be considerably less than \$16 million over the years to 2020–21. Treasury got it wrong this time around when it looked into it more carefully. Is there a prospect that the savings figure of \$16 million might in fact be a whole lot less?

Hon SUE ELLERY: I guess that is a question about Treasury forecasting generally. This is a forecast by Treasury based on best endeavours at the time. That is the information that I am able to give the member. The member asked me to second-guess or to presume whether that figure will be solid across the four years. That is Treasury’s forecast. That is what the budget figures included and were based on. The member knows from his own experience that forecasts can be wrong, forecasts can be right, forecasts can be up and forecasts can be down.

Hon MICHAEL MISCHIN: Thank you. That is hardly a basis for taking the step that the government is taking, is it? It is hardly comforting to know that the figure might be \$20 million, but, in fact, probably will be \$16 million. It might be \$16 million, but it might not be anything like that at all; yet the government thinks it is proper to take a one-size-fits-all blanket step such as this when it is not prepared to, or able to, provide any more robust material, such as the calculations prepared by Treasury that underpin this legislation. Is the Leader of the House able to do

that? Tomorrow morning will she provide and table for us the calculations and reviewed calculations from Treasury?

Hon SUE ELLERY: No, member, I will not. The honourable member is well aware, having been through several budget processes himself, that Treasury forecasts are what Treasury forecasts are. Sometimes they are above. Sometimes they are below. Mostly they hit the mark. These are budget forecasts prepared by Treasury and tabled in the house as part of the budget process. The member is well aware from his own time in government and previous budgets how the process works and how the forecasts are prepared and provided. I am unable to provide the member with any more information than that which I have just given.

Hon MICHAEL MISCHIN: Essentially, the Leader of the House is saying that this is necessary legislation because it will save \$16 million to \$20 million over the next four years. In fact, that was at least 20 per cent wrong because it is only \$16 million now and it might—because the government cannot produce any methodology or calculations—be less than that and this will be a waste of our time. It would have cost more debating this over the last couple of days than we are going to save, but, as a matter of principle, the Leader of the House thinks that this legislation sends a message to the community and rating agencies. Is that a fair summary?

Hon SUE ELLERY: It is the member's summary. I have said it a couple of times: the difference between us is that I do not accept some of the assumptions behind the member's thinking. I understand his point of view and the strength with which he holds it, but I do not share the same assumptions.

Hon MICHAEL MISCHIN: My assumptions are based on analysis. The Leader of the House's assumptions are based on figures for which she cannot produce the calculations.

Hon Sue Ellery: That is your judgement. I disagree.

Hon MICHAEL MISCHIN: Produce the figures, please.

Hon SUE ELLERY: I have explained the methodology, honourable member. I am unable to explain it any more.

Hon MICHAEL MISCHIN: I would like the document that influenced the Premier to create a cabinet submission seeking approval to draft. That is not subject to public interest immunity. He must have had something in front of him, surely, before he decided on this step. Treasury came up with the idea. Presumably, Treasury came up with the reasoning and the calculations for it. He must have had something, surely. Would the Leader of the House be able to confirm that and produce it?

Hon SUE ELLERY: Honourable member, with respect, I have explained the methodology that has been used. I have given the member an undertaking to find out whether the Premier, prior to it going to cabinet, considered an alternative or variations along the same theme. I have given the member an undertaking that I will ask the Premier for that information in the morning. Beyond that, I am unable to give the member any more information on the forecasting of the savings generated. I have explained to the member the methodology. I can agree with the member that sometimes Treasury's forecasts do not hold. Most of the time they do, but sometimes they do not, and governments of both persuasions have had experience of that.

Hon MICHAEL MISCHIN: When this legislation has passed, will the government go out publicly and say that it has sent a message that it does not know how much money it will save by this legislation, but it is a good message anyway?

Hon SUE ELLERY: The member is saying that we will go out with that message. We will not go out with that message.

Hon MICHAEL MISCHIN: The government will be saying to the public something it cannot sustain by any calculations produced by the body that was responsible for proposing this legislation.

Hon Sue Ellery: That is the member's judgement. I disagree with the member.

Hon MICHAEL MISCHIN: Am I wrong? Where am I wrong with that?

Hon SUE ELLERY: I really do not think I have anything more to add on that.

Hon MICHAEL MISCHIN: No.

The DEPUTY CHAIR: Member, I think you might ask the question a number of ways and still get the same answer, so I invite you to move on.

Hon MICHAEL MISCHIN: I agree. The minister is not capable or willing to provide the information that supports the second reading speech claims underpinning the policy of the bill. I accept that.

Where is the money going, given that this is a debt and deficit remediation bill? Are these savings notional or being hypothecated into any fund that will reduce debt or go towards the deficit as opposed to simply less money

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being drawn out of consolidated revenue? Is it going into the fund that the Treasurer indicated he wanted to set up to squirrel away money for debt reduction and so-called budget repair?

Hon SUE ELLERY: It is certainly not hypothecated. It will go into doing all the things that governments need to do like schools, hospitals, police, roads and public transport.

Hon MICHAEL MISCHIN: There is \$39 million for the Local Projects, Local Jobs fund, is there not? Will it go in there?

Hon SUE ELLERY: I think most of that has already been paid for, so I doubt it, but if there is anything outstanding, I guess it could. It will go to all the things that governments normally do.

Hon MICHAEL MISCHIN: To say then that this is debt and deficit remediation is strictly not true, is it? It may sound like a good slogan, but this is not going towards paying off debt; nor is it going towards being set against the deficit. The amount that is being saved is simply less of a draw on consolidated revenue so that the money can be spent on schools, roads, hospitals, nurses, doctors, grants, and election promises by Labor members of Parliament. It can be spent on other grants, another overseas trip by the Minister for Tourism—his second or perhaps third in the last few months—to China —

Hon Alannah MacTiernan: Oh, my god! Tourists should stay at home!

Hon MICHAEL MISCHIN: Maybe as a tourist, he should stay at home.

Several members interjected.

The DEPUTY CHAIR (Hon Matthew Swinbourn): Order! Order, minister!

Hon MICHAEL MISCHIN: It can be spent on Hon Alannah MacTiernan's visits to the local races and to Albany—all those sorts of things. Will the government move an amendment —

Several members interjected.

The DEPUTY CHAIR: Order! Can we just focus on what we are doing, please.

Hon MICHAEL MISCHIN: How can we be confident at all that any of this is going towards debt reduction, deficit remediation or budget repair as opposed to a bit of extra money in consolidated revenue to spend on whatever the government thinks is a good idea, like funding the election promises of its members?

Hon SUE ELLERY: Everything ministers of this government do every single day is targeted at trying to identify ways of dealing with the financial state we inherited and the consequences of decisions made within the first few months of the year by organisations such as the Commonwealth Grants Commission. There are also the consequences of the change in iron ore revenue. A combination of things happened in the first couple of months of the year that resulted in nearly \$400 million in revenue reduction. Everything we do, every day, is targeted at continuing to address debt and deficit, while at the same time honouring our election commitments and providing the ongoing business of government that has to happen every day across the state.

Although this legislation does not have a component that specifically hypothecates where the money will go, it is all directed at doing those things: addressing debt and deficit every day, making sure we get on with the business of government, and delivering the things that the people of Western Australia want us to deliver.

Hon MICHAEL MISCHIN: Can I draw comfort from the fact that the savings to consolidated revenue will also help fund the \$5 500 that certain ministers got as a double dip on their car allowance?

Hon SUE ELLERY: I am not sure what it would take for the honourable member to draw comfort—I really am not sure.

Hon Michael Mischin: Can we, should we, draw comfort?

Hon SUE ELLERY: The member can draw comfort how, from whom and where he chooses. I am happy to answer the questions that I am able to about the elements of the bill before the chamber. I am pleased to get on and do that, but I am not sure that I can answer that particular line of questioning in any other way.

Hon MICHAEL MISCHIN: I am just curious, because this fundamentally underpins the bill. It has been said that it is about budget repair. The Leader of the House told us that it does not necessarily go towards debt reduction or deficit remediation; it goes towards having money—just a little bit of extra money—available in consolidated revenue that can fund all sorts of things. One of the things that the taxpayer has had to fund is the windfall that certain ministers managed to obtain through not only getting a car allowance permitted by the Salaries and Allowances Tribunal, but also having a ministerial vehicle available. When the Leader of the House says that everything the government does every day is targeted around debt and deficit reduction, does that include that additional windfall?

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Hon SUE ELLERY: I am not sure that I can give the member the answer. I know the answer that he wants and I am not in a position to give it to him.

Hon Michael Mischin: I just want an answer.

Hon SUE ELLERY: Does he? I am doing my very best to provide him with the information I can about the bill, and I am happy to keep doing that. I am not sure I can provide him with any more information about that line of questioning.

Hon MICHAEL MISCHIN: It just seems to me that some of the debt and deficit reduction might be assisted by a little bit of a sacrifice from the ministers who seem to have profited quite well out of that. I can see Hon Alannah MacTiernan is very disturbed about the idea that people are being asked to tighten their belts, but certain ministers have profited —

Hon Alannah MacTiernan: I was wondering whether we could do a value-for-money analysis of your time as Attorney General.

Hon MICHAEL MISCHIN: I would be happy for that.

Several members interjected.

The CHAIR: Order! Members are allowing themselves to become a little bit distracted. The question before the Chair is that clause 1 be agreed to. Let us not get beyond the scope of that question, because I can tell members that, just lately, the committee has. Let us draw it back.

Hon MICHAEL MISCHIN: I am just dealing with judicial salaries. The Leader of the House has indicated quite rightly that there is a different process there. There is no need for a blanket cap, because judicial salaries that are recommended by a report presented to the relevant minister then come before houses of Parliament and can be disallowed, can they not? In that case, there is already a process for Parliament to put a cap, if you like, on those. Why is it thought necessary that a new procedure be set up to say that those reports cannot be made and any increase provided for?

Hon SUE ELLERY: This is not a replacement; this is additional to. The tribunal can still make a report to Parliament. What it includes in that report is subject to what is in the bill that we are debating now.

Hon MICHAEL MISCHIN: So what is the point of the tribunal providing a report stating, “We’ve looked at judicial salaries and we’ve taken into account current economic circumstances, the fiscal position of the state and the government wage policy, but we think that the salaries or allowances for judicial officers ought to increase by such an amount but we’ve been told that we can’t recommend an increase”? What is the point of that exercise?

The CHAIR: I am going to offer the call to the minister if she wants to take it, but it occurs to me that matters of such detail are best reserved for consideration in clause 9. It seems that members are canvassing the entirety of the bill in consideration of the opening clause. I will allow it so far if the minister wishes to respond.

Hon SUE ELLERY: Thank you. There is nothing that prohibits the tribunal from making a report. The bill does not contemplate changing that arrangement. However, as I said, the bill sets parameters around what the tribunal might include in that. Whether the tribunal chooses to make a report is up to the tribunal.

I am in your hands, Chair, and I welcome your advice. If members are relaxed and want to move on to the detail of the bill, I am happy to go clause by clause. If there are more questions along those lines that fit better into consideration of clause 9, I am happy to deal with them then.

Hon NICK GOIRAN: I cannot agree to that course of action because, of course, I am not yet clear about which people will be impacted by this bill. Before we get to that, the minister indicated earlier that she had a document that she was getting photocopied. Is it the minister’s intention to table that document?

Hon SUE ELLERY: If the member is referring to the document that I gave him a copy of, yes, I am happy to table that. If I were to physically hand it over to be tabled, I would have to get another copy because only one copy is here, but for the purposes of Hansard, I will identify it. The document is titled “*Salaries and Allowances Act 1975* Determination of the Salaries and Allowances Tribunal for Clerks and Deputy Clerks of the Parliament, Public Service Office Holders included in the Special Division of the Public Service and persons holding offices prescribed in the Salaries and Allowances Regulation Number 3”.

[See paper 986.]

The CHAIR: That document is deemed to be tabled. Perhaps I could ask chamber staff to make a couple of copies for interested members.

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Hon NICK GOIRAN: Can the minister advise the house what the appropriation is for the tribunal for each of the next four years?

Hon SUE ELLERY: Can we get some clarification of what the member is seeking? He said he wanted it for the tribunal.

Hon Nick Goiran: Yes, its appropriation.

Hon SUE ELLERY: The total appropriation?

Hon Nick Goiran: Yes.

Hon SUE ELLERY: We do not have the budget papers in front of us, which, of course, are publicly available, but I am advised that it is about \$1 million.

Hon NICK GOIRAN: It is about \$1 million for each of the next four years; I will take that. Is that consistent, approximately, with each of the past few years?

Hon SUE ELLERY: I am advised that broadly, yes, it is.

Hon NICK GOIRAN: In the next four years, the tribunal will not have to do the same amount of work that it has done in the last four years, so why are we appropriating \$1 million for the work of the tribunal?

Hon SUE ELLERY: I addressed this question in my reply to the second reading debate. I think the honourable member who is asking the question now raised it in his contribution to the second reading debate. I provided an answer about the kind of work that the tribunal will continue to do over the next four years for the duration of the freeze.

Hon NICK GOIRAN: The minister did; I heard that and I made some remark at the time. The minister listed, quite rightly, a range of tasks that the tribunal will have to do over the next four years, but it already has to do that, and had to do that in previous years, all with a budget of \$1 million. Now, for the next four years, we are asking it to do those things, but we are also asking it not to do a range of things: “We really don’t want you to do a determination for MPs, judicial officers or the Parliamentary Inspector of the CCC et cetera, but we are still going to give you \$1 million.” My question is: why?

Hon SUE ELLERY: I am not aware of any proposals to change the budget, but I advise the member that we are of course about to go into the period of preparing the next budget, which is anticipated to be around the normal time that budgets come down every year—in May. There is not much time left in the existing budget cycle before we start crunching the numbers on the next one. There is every possibility for that amount of money to be reconsidered as part of the budget process, but I am not aware of the detail of any consideration on that.

Hon NICK GOIRAN: If we were to pass this bill, including agreeing to clause 1—which is a precondition to considering any further clauses—it will tell the members of the tribunal that we want them to, in effect, be part-timers for the next four years. Those are my words, not the minister’s, but it is the only reasonable conclusion to draw from everything that we have heard from the minister. They are going to do some work for the next four years, but there is a whole range of things that we are telling them not to do. We are still going to give them \$1 million. I take comfort from what the minister just said because, apparently, a process will be undertaken in the near future. I read from that that we should expect significant savings, because the tribunal is going to have its budget allocations slashed by this government for at least the next four years. At the end of the four years, it can have its money back because it will have to do a full range of work—the members will have to be full-timers again. This \$1 million—I seem to recall the minister saying earlier that the chairman of the tribunal gets about 40–something thousand dollars.

Hon Sue Ellery: It is \$47 000 or so.

Hon NICK GOIRAN: That is one person.

Hon Sue Ellery: The other two get around \$30 000.

Hon NICK GOIRAN: That is right. What is the rest of the \$1 million spent on? There are only three members.

Hon SUE ELLERY: I would imagine that it is spent on providing them with technical and administrative support, and having an office and the equipment that an office needs.

Hon NICK GOIRAN: Does that include staff?

Hon Sue Ellery: It may; I would presume so.

Hon NICK GOIRAN: Can the minister advise the house whether the tribunal has any staff?

Hon SUE ELLERY: I am advised it has three.

Hon NICK GOIRAN: Which of those three will be losing their job as a result of this bill?

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Hon SUE ELLERY: I consider that to be a cute question. I am not in a position to advise whether any members of staff of the tribunal will be losing their jobs.

Hon NICK GOIRAN: This has become rather interesting. Three tribunal members will become part-timers. As I understand it from the minister, the chair will still get his \$40 000-plus a year. The two members will still get their \$30 000 a year for their part-time work and the three members of staff who provide them with assistance are going to play solitaire. They are going to twiddle their thumbs—not all the time; not on a full-time basis. They are not going to be full-time professional solitaire champions, only part time, because of course they still have to do some determinations with regard to local government and certain other things as per the list that the minister gave earlier. They would normally spend time investigating and taking submissions. Remember earlier that the minister told the house that it is customary, routine practice for these three tribunal members and their three staff to take and invite submissions from the judiciary, members of Parliament and all those 33 office holders that I heard about before. They are not going to do that for the next four years. When they would normally do that, instead they are going to play solitaire! That just strikes me as odd; I cannot imagine that that would be the case. These would be very professional public servants. They would want to be doing something with their time and I am interested to know from this minister what the government's intention is for these people's valuable time over the next four years?

Hon SUE ELLERY: I think it is unfortunate to characterise hardworking public servants as playing solitaire. I do not think that is a fair characterisation to make.

Hon Nick Goiran: Tell me what they are going to do, then. Answer the question.

Hon SUE ELLERY: I am answering the question.

Hon Nick Goiran: I will listen with interest.

Hon SUE ELLERY: I am advised that the staff are employed by the Public Sector Commission, so the Public Sector Commissioner himself could make decisions about how he allocates work to them. As I have indicated, we are going into the process of setting the new budget, and I am sure these things will be considered as part of that process.

The CHAIR: Members, as much as these matters are of great interest, the fact of the matter is that the policy of this bill was decided at the second reading vote, and that is not something that we can revisit. If we allow questions to spread to a very wide field, we are in effect doing just that. I ask members to be a bit more focused and to address their questions to the clause 1 debate, which may canvass the whole bill and how it is to be implemented, but should not be a free-ranging debate about anything remotely connected with, in this case, the Salaries and Allowances Tribunal. The question is that clause 1 be agreed to.

Hon NICK GOIRAN: Thank you, Mr Chair. We know as a result of the debate on clause 1 that the minister and the government consider this bill necessary. We have had that discussion. We also know that there has been no consultation with the people who will be affected by this bill. That is relevant, because the chamber is about to make a law that will freeze the salaries of these people, without any consultation. Had there been consultation, some of these stakeholders might have identified problems with the clauses of the bill. I would then have been able to ask the minister what problems have been identified by the stakeholders. However, because there has been no consultation, we are not able to advance that any further. The debate has been most profitable in that respect. We also know that the government is content to progress with this bill on the basis of a double standard. The government routinely has the Salaries and Allowances Tribunal consult with people before it makes decisions. However, this government has not done any consultation. We also know that the government currently provides the tribunal with about \$1 million to do its work. If this bill becomes law, the tribunal will become a part-time tribunal and the members of the tribunal will do other work. The explanation from the Leader of the House has been useful, because it is clear that the Public Sector Commissioner intends to shift those three workers to do other work for the commission. If that is within the lawful remit of their employment, the commissioner is entitled to do that. However, we need to be clear that that is what we are agreeing to at this time.

Earlier, the minister tabled a document that I understood was her response to my question about the prescribed officeholders who will be impacted by this bill. I have had the opportunity to look at that list. The minister was very quick to say that she was unable to tell me about a range of people in that list, because it does not fall within her direct portfolio, and she would need to consult with other ministers, such as the Attorney General. I note that the list includes the director general of Education. We have discussed that point. Interestingly, the list also includes the director general of Education Services. Does that position still exist?

Hon SUE ELLERY: The position may technically still exist. However, as a result of the machinery-of-government changes that took effect from 1 July this year, no person is currently holding that position. The three education agencies—the School Curriculum and Standards Authority, the Department of Education Services and the

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Department of Education—have effectively been amalgamated and one director general now has responsibility for the functions that were previously performed across those three separate agencies.

Hon NICK GOIRAN: When I asked the minister earlier to tell the house who are the officers of the public service holding offices included in the special division of the public service, she indicated to me that they were contained in this list. Is the list correct?

Hon SUE ELLERY: I am advised that the document I tabled earlier provides a comprehensive list of all the positions that were captured, in the positions described in the title of the document, as at 30 June. The honourable member will note that, when I first read it in, I read out that date. The machinery-of-government changes took effect from 1 July 2017.

Hon NICK GOIRAN: Minister, can we have an updated list?

The CHAIR: Minister, do you have a document you wish to table?

Hon SUE ELLERY: I might, but I am not sure whether it will help the honourable member. There is not a comprehensive, single document. I have a second document that is a variation to the document that I have already tabled, and the variation is effective on and from 1 July 2017. I am happy to table that, but there is not one physical—here tonight—comprehensive document. I am told one is publicly available, and I think it is on the website, but physically, here in the room tonight, there is the original document and this variation.

Hon NICK GOIRAN: If we collate those two documents, will it be readily apparent to members of the Legislative Council, before they pass this bill into law, which offices will be impacted by this law, the people who currently hold those positions, and the remuneration that those people are receiving at the moment, which will be frozen the instant this bill receives assent?

Hon SUE ELLERY: If the two documents are read together, they give the title of the office, the department or agency, the band, the office holder and the salary. The information that may not be before the house is if, in the variation document, an office holder position was vacant at that date and has subsequently been filled. I do not have that information in front of me now, but in terms of the positions, yes.

Hon NICK GOIRAN: For example, the document I have in front of me lists director general, Department of the Premier and Cabinet, band 1, vacant, salary, dash. Does the minister's document have something different about the director general of the Department of the Premier and Cabinet; and, if it does, what is the name of that person, and how much is that person going to be getting that will be frozen for the next four years?

Hon SUE ELLERY: The position for Department of the Premier and Cabinet is listed here. The band number is listed here. As at 1 July, that position was vacant. The dollar figure is not listed, but I know that I have provided information to the house. Thanks to the wonders of technology, I can advise the member that that position, band 1, with office holder, D. Foster, has a salary of \$441 406.

Hon NICK GOIRAN: I thank the minister for that additional information. That is not in the document that I have, which the minister tabled earlier. It is not in the document that the minister has available, which I hope she will table shortly. It will be in some third document that we will then have to collate. We will have to collate three documents to properly understand and reconcile them. Would it be possible, with the resources of government, that sometime before the house rises this week, we could be provided one comprehensive, simple list with all the people impacted by this bill, their band, their name and their salaries that will be frozen for the next four years?

Hon SUE ELLERY: Yes. I table this document. If the honourable member proceeds to ask a series of questions about this document, I will need to get a copy before I table it.

[See paper 987.]

Hon MICHAEL MISCHIN: I have a few more questions on this. This comes back to the consultation point. Is the minister able to help us know whether the chief of staff to the Premier was involved in any of the discussions about this bill and whether he was consulted about the political ramifications and the desirability of this legislation and the formulation of the title of the bill regarding debt reduction, budget remediation and the like?

Hon SUE ELLERY: Just to be clear, is the member asking about the Premier's chief of staff?

Hon Michael Mischin: Yes.

Hon SUE ELLERY: The Premier's chief of staff would be involved in consideration of matters going before cabinet, but beyond that I am not able to give any information about what role he may or may not have played in respect of the title of the bill.

Hon MICHAEL MISCHIN: It seems to me that the people who have been consulted about this bill are the ones least affected by it. Just dealing with the question of the setting of the cap for a period of four years, the minister

mentioned that four years was considered to be a reasonable period to effect savings. Was any lesser period considered and why is a lesser period allowing for a sensible review of the merits of this proposal not thought proper? It is no secret that I have foreshadowed an amendment that provides for, firstly, a review of the operation of this proposal to be able to see whether it has any unforeseen circumstances or consequences that might be undesirable, and, otherwise, amendments that shorten the period from four years to two years. Can the minister indicate the government's view on those two matters and why they are not acceptable?

Hon SUE ELLERY: We have canvassed this before. I think that the first thing that the member requested information on—that is, whether the Premier considered a shorter period—is captured in the question that the member effectively put on notice in asking me to check with the Premier in the morning about what other things he might have considered before the bill went to cabinet. I think that information is probably captured in that and I am not able to answer that tonight. I have addressed the question of why we chose that period. I flag now that we will not support the amendment in the notice paper in the honourable member's name. The effect of his amendments would be an 18-month freeze and we are looking for it to go longer in order to save the additional amount of money we have already identified. I have already addressed that issue in my second reading reply and in a series of questions tonight.

Hon MICHAEL MISCHIN: Could the minister indicate why that is? I am flexible about whether it is two or three years, or any other time, but could it be some reasonable period of time to assess whether the legislation is actually achieving a worthwhile saving for “budget repair”, whether the consequences are such that they are undesirable, or, indeed, whether the circumstances might change over that period of time? Would anything less than four years be negotiable with or considered by the government at any stage, or is it so critical that it be four years that the government can provide me with some material to support the time criticality of it, or is it just an arbitrary figure that has been picked by the Premier and will be inserted for public relations purposes, or is there some other reason why it is four years and carries over past the next election?

Hon SUE ELLERY: With the greatest of respect, the policy of the bill has been set, and the policy of the bill includes a four-year period. I have explained that already in my second reading reply. I understand that the member does not agree with the four-year period and would like the opportunity to shorten it. I understand that. That is not the policy of the bill, as has already been determined by the chamber in the second reading debate.

Hon MICHAEL MISCHIN: This touches on the operation of the legislation generally, but it is a totally separate issue and one that, of course, does not interfere with the policy of the bill. Is the government prepared to accept a review clause, as proposed in my amendments? That will not affect the policy of the bill, but it will allow an assessment, will it not, about whether the bill will operate effectively or whether any problems will be exposed by it? Surely, that cannot be a difficulty.

Hon SUE ELLERY: It is quite a short period of time in any event. The prospect of inserting a review period into the middle of what is a relatively short period of time—I know the member does not accept this—means that we would effectively be starting to conduct the review when there was limited time to consider any unintended consequences, if that is what the member is referring to. We would then have limited time to make any changes, if that is what we wanted to do. We are not talking about a piece of legislation that is ongoing, which, I agree, it would be perfectly reasonable to insert review clauses into to make sure that we tweak something. This is a time-limited measure and, for that reason, we do not think it is practicable to insert a review provision. But I note that there is an amendment in the member's name and I will be happy to have the debate about that when we get to that.

Hon MICHAEL MISCHIN: I do not want to argue the amendment, but, again, I am curious about this. The minister says that it is only a short period of time, but four years is four years—it is a term of government. If economic circumstances change, as they have been known to do in the last four years, the effects could work to a significant detriment or a significant advantage.

The minister has mentioned already how the estimates of savings have been revised by something like 20 per cent just between when the minister delivered the second reading speech and now. She mentioned that the figures are fuzzy and that we cannot have any confidence that they are sufficiently robust.

Hon Sue Ellery: That's your description, honourable member, not mine.

Hon MICHAEL MISCHIN: The minister has mentioned that Treasury estimates can be up or down, or somewhere in the middle. The minister has mentioned that she cannot provide any figures or methodology that we can rely on; they are just estimates. All sorts of things could happen in 12 months. The figures have changed over the last couple of months. Since the minister is talking about not only salary remuneration—I will get back to it—but also the ability of members to do their jobs, why is 12 months too short a period to be able to look at whether problems need to be addressed? As for the time to fix them, the Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill has been declared urgent. It will not come into law by any stretch of the imagination

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before next year, yet we are spending considerable time on it now. The government can deal with it within a fairly short time, particularly if all parties in this place have the information and the government is willing to address these problems. I will get back to it: why is it so time critical that it has to be four years, and why is it so time critical that any review of the bill's operation is against the policy of the bill and will not be entertained by government? We have inserted review clauses on numerous occasions in the past. When we were in government, they were proposed all the time, and we would introduce them unless there was very good reason not to. Why can we not on this occasion?

The CHAIR: The honourable member has canvassed possible new clause 11, which will presumably be considered in due course. The time to get down to the sort of detail that is being entertained at the moment is when we come to the consideration of that proposed new clause, unless the minister wishes to entertain further comment at this point?

Hon Sue Ellery: I don't, Chair.

The CHAIR: Then we will canvass that a bit later. We are still on clause 1. I give Hon Nick Goiran the call.

Hon NICK GOIRAN: Minister, I am still trying to get to the bottom of the list of people who will be impacted by this bill. The minister has kindly indicated that she will provide a comprehensive list by the end of the week, or before we rise. I might get a bit more specific about that in a moment, but the second document that the minister tabled a little earlier refers to the director general of Communities. It states the position is band 1, and that the office holder is vacant. The salary is represented by a dash. I do not know what to make of a dash; it is not really nil. I would like to know whether that means that the salary for the director general of Communities is frozen at nil for the next four years. I think the minister's trusty advisers are about to tell her to refer the member to clause 10 of the bill, at which the government is looking to insert proposed new section 10D(4). It states —

- (4) If an office referred to in section 6(1)(d) or (e) was vacant immediately before commencement day, unless subsection (6) applies, the remuneration determined by the Tribunal to be paid or provided in respect of the office must not be more than the remuneration paid or provided to the last person to hold the office before commencement day.

In other words, if the position is vacant, we should not worry about it; the starting salary is whatever the previous person had. When I go to the earlier version of the bill from 30 June, there is no director general of Communities. What do we do if there is a vacant office and no-one held the office previously, so there is an inaugural office holder?

How does the bill deal with the frozen salary for that person for the next four years? It is a bit of a mess.

Hon Sue Ellery: No, I'm looking at a different document than you are looking at.

The CHAIR: The minister has the call.

Hon SUE ELLERY: Sorry to hold up the committee. I am advised that because it is a new position post machinery of government, the tribunal will be within its powers to assess the position and make a determination, and, in doing so, the act provides that it will take into account comparable positions.

Hon NICK GOIRAN: Minister, are we referring to a particular provision in the bill? Maybe the minister can take me to the —

Hon Sue Ellery: It is proposed new section 10D(6).

Hon NICK GOIRAN: Proposed new section 10D(6)?

Hon Sue Ellery: We are finding it. Let us find it in the bill, my friend.

The DEPUTY CHAIR (Hon Martin Aldridge): The minister has the call.

Hon SUE ELLERY: We are referring to proposed new section 10D(5), which reads —

Subsection (6) applies if —

- (a) an office referred to in section 6(1)(d) or (e) was vacant immediately before commencement day, and the last person to hold the office before commencement day was not in office on or after 1 July 2016; or
- (b) the Tribunal has not previously determined the remuneration to be paid or provided in respect of an office referred to in section 6(1)(d) or (e), for example because it is a new office.

Hon NICK GOIRAN: The second document the minister tabled—the determination variation—lists the director general of the Department for Communities' position as vacant but no salary. Is that because the tribunal has not yet made a determination?

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Hon SUE ELLERY: Yes.

Hon NICK GOIRAN: The minister indicated that she would provide us with an updated list of people who would be impacted by the legislation. When will that be provided to the house?

Hon SUE ELLERY: Is the member referring to the consolidated version?

Hon Nick Goiran: Yes.

Hon SUE ELLERY: The consolidated version consists of the two documents I have tabled already and anything else that might exist that I do not know about. I will endeavour to get that list to the member by the time the house is currently scheduled to rise at about 5.20 pm tomorrow.

Hon NICK GOIRAN: This is getting a bit messy. There are two problems. The chamber is not aware of who will be impacted by this bill and that is on the list, but we will only be provided with that list when the house rises tomorrow, which, I presume, is a time by which the minister would like the bill to have passed. We are expected to pass a law to freeze people's salaries, but we do not know who those people are. We know who some of them are, because we can, sort of, piece it together, but we do not have a list of those people. The chamber is not aware of who they are. That is particularly important because, as I identified earlier, we know that Hon Michael Murray, QC, will be affected by this bill. Hon Michael Murray currently fulfils part-time responsibilities as the Parliamentary Inspector of the Corruption and Crime Commission. We know that the government intends to give him more work in the near future and that it would like to freeze his salary for the next four years. Members, that is patently unfair. Whatever members think about this bill, it is unfair to say to Hon Michael Murray, an esteemed retired Supreme Court judge, that we will freeze his salary for the next four years. Everyone has a different reason for supporting or not supporting this bill, but we will freeze Hon Michael Murray's salary for the next four years in full knowledge that the government intends to give him more work to do, and that is patently unfair.

My problem is that the minister is telling me that she will provide the list to the house by 5.20 pm tomorrow, but, for all I know, there could be more Hon Michael Murrays buried in that list. I do not know whether or not there is because I do not have the list. This is a real problem. It is a real mess. I am happy to debate the other clauses, but can we consider deferring clause 1 until we have the list?

The CHAIR: Before I ask the minister whether she wishes to respond, clause 1 of any bill is not the sort of clause that can be deferred. The short title has to be agreed to before a bill can proceed.

Hon SUE ELLERY: Perhaps I can clarify: the chamber has a list of all the office positions in the two tabled documents. The additional information that I will get the officers to provide by the end of tomorrow is the names of positions that have been filled and are currently identified on that document as vacant because the document was dated, I think, 1 July. I will be able to give members the names, but the chamber already has before it in those two tabled documents the office holder positions with each of the officers captured.

Hon MICHAEL MISCHIN: There is an alternative to this, of course, as I am awaiting some information, too. I am told that the minister will endeavour to get that information to me by tomorrow morning. I can continue to ask questions relevant to clause 1, but I do not want to waste the chamber's time. The minister scoffs, but as I recall it, the Workforce Reform Bill took an awful lot longer than this, and to less purpose. That problem was solved by referring the bill to a committee. That is something that the government did and it was supported. It is something that this government is afraid to do even though this bill cannot pass into law until next year. All this could have been cut short if the government had been less intransigent and had been unafraid of having the bill scrutinised. The Leader of the House can scoff as much as she likes, but this is the government's decision.

Hon Sue Ellery: It is the house's decision.

Hon MICHAEL MISCHIN: The Leader of the House ordered the business of this house and she has the chance to change the order of business. I understand that the government is anxious to have other legislation passed before we rise, including the payroll tax legislation, which perhaps arguably goes towards budget repair and debt reduction—not to mention a disallowance motion and other legislation also have to be dealt with today. The Dangerous Sexual Offenders Legislation Amendment Bill still needs to be debated and completed. I leave it to the government. We can, of course, adjourn this debate until tomorrow morning and resume and, in the meanwhile, do something productive; the government can get its act together and provide the information or at least endeavour to find the information that it claims it might have that supports elements of the bill that have caused concern. I ask the minister to entertain that, or is she just going to try to bludgeon her way through it? I thought that there were better ways of using the house's time. It will not prejudice the government at all. The matter will be dealt with. The government will have the opportunity to show that it supports the bill and its bona fides. It would show the government's good faith and also allow us to get on and deal with things that are apparently not as important as this bill, which will not become law until next year, and that, according to the second reading speech and the

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headlines, might protect people in the community from dangerous sex offenders. We could also deal with the payroll tax matter that is supposed to be critical to budget repair, rather than debate the zero to \$16 million that might be saved by this measure. I invite the Leader of the House to consider that prospect. It is a win-win, as far as I can see.

Hon SUE ELLERY: I thank the member for his very kind invitation, but I graciously do not accept it. The honourable member started his contribution by referring to the fact that he was awaiting some information that I have given an undertaking to provide.

Hon Michael Mischin: That you would try to provide.

Hon SUE ELLERY: Yes, and I will. That information is not on any of the clauses in the bill before us. The member has asked me to find what else the Premier considered when he decided whether to proceed with this bill. It does not go to any of the detail about which the house needs to make a decision tonight. It does not go to any particular clauses. It does not go to any technical information. It is about whether the Premier considered other variations before he decided to send this legislation to the house. I am not sure how that holds up the consideration of the detail of the bill, which is what we are doing in Committee of the Whole right now.

Hon MICHAEL MISCHIN: It is clause 1. If I can just expand and assist on that —

The CHAIR: Order! The question is that clause 1 be agreed to, and the Chair has allowed a fair bit of latitude as is our normal practice in all of this, but I feel that now we are getting to a stage at which we are going to have to come down and focus a little more narrowly. Hon Martin Aldridge, are you seeking the call?

Hon MARTIN ALDRIDGE: Yes.

The CHAIR: You have it.

Hon MARTIN ALDRIDGE: I was driving to Parliament this morning and I heard on the wireless a news report about the Premier reaffirming his commitment to make senior public servants accountable to their salaries and their performance through revised key performance indicators. If I recall correctly, I think I heard him say that there would be an up to 20 per cent reduction in their salaries if they do not meet their KPIs.

Can the minister tell me how those provisions might operate in the context of this bill, if passed? I assume most of the senior public servants that the Premier is targeting with this policy would have their salaries determined by the tribunal.

Hon SUE ELLERY: I am happy to provide the member with some information about that, but it is not captured within the bill that is before the house now. The Premier's comments this morning related to the service priority review, which was released today. It sets out a range of recommendations. The Premier has indicated that the government will work through those recommendations, which broadly accept the recommendations of the report, and will work through how they need to be implemented. But the recommendations about key performance indicators and linking achievement of KPIs to remuneration is not captured within the provisions of the bill that is before the house now.

Hon MARTIN ALDRIDGE: It is my understanding that when the tribunal issues a determination on officers' salaries, as well as other things, those salaries need lawfully to be paid. If the policy that the Premier is talking about were to be enacted, would it mean the chamber at some future time considering another amendment to this legislation? Is that correct?

Hon SUE ELLERY: That may well be the case. The government has yet to consider how it will proceed to implement the recommendations of the service priority review. It may be the case that it requires an amendment to the Salaries and Allowances Act, but it may require other things as well.

Hon MARTIN ALDRIDGE: When we received a briefing on this bill from the government we were provided with a four-page briefing note titled, "Briefing Note for Opposition: Salaries and Allowances Amendment (Debt and Deficit Remediation) Bill 2017", and it appears to have been authored by the Public Sector Commission on 11 October 2017. Was this document authorised by government and is it still current?

Hon SUE ELLERY: The member might have to give me a copy of it, because I do not know which document he is talking about.

Hon MARTIN ALDRIDGE: Mr Chair, I table the briefing note.

The CHAIR: Will it do if we just pass it over?

Hon SUE ELLERY: I am advised that the document was prepared by the Public Sector Commission and the final paragraph of the document—which is conveniently highlighted—would change if the house were to accept the amendment standing in my name on the supplementary notice paper.

Hon MARTIN ALDRIDGE: In respect of the final paragraph that I conveniently highlighted, I understand that the bill in its current form was introduced into the Legislative Assembly on 11 October. Has there been a policy change by government in the time between the issuing of this briefing note and the introduction of this bill and now, which has led to the amendment foreshadowed by the minister in this place?

Hon SUE ELLERY: It is only in respect of the amendment that is on the supplementary notice paper in my name. That is an amendment that is endorsed by government.

Hon MARTIN ALDRIDGE: To be clear, it was the government's intention—it was not a mistake, it was not an error and it was not a matter that needed clarification—to introduce a bill that would provide, as the briefing note suggests —

... the Tribunal can take into account changed economic circumstances since the freeze commenced. For example, if CPI were to increase by 5 percent in total over the freeze period, the Tribunal could provide for remuneration of 5 percent to be applicable from 1 July 2021 onwards.

Was that the policy that was signed off by cabinet that then caused the drafting of the bill, which was then approved by cabinet and introduced into the Legislative Assembly, or was it not?

Hon SUE ELLERY: I am somewhat restricted in what I can say about cabinet. I can tell the member that the amendment on the supplementary notice paper in my name is there because it will close off what might otherwise be considered a mechanism that I think was not intended. I am kind of restricted when the member asks me a question about cabinet doing X, Y or Z. I can tell him that we believe that the amendment on the supplementary notice paper in my name makes it absolutely explicit what the tribunal can and cannot do.

Hon NICK GOIRAN: I have only two final questions on the short title that may assist in facilitating its progress. The Leader of the House is aware that I have a concern about the impact of this bill upon the Parliamentary Inspector of the Corruption and Crime Commission. She has advised the chamber that she will speak to the Attorney General about my earlier question about whether the parliamentary inspector is agreeable to overseeing the new functions that are proposed by the government while his pay has been frozen for the next four years. She is going to speak to the Attorney General tomorrow morning and let us know. It would assist me if she could indicate which clause in the bill impacts upon the parliamentary inspector. If she can identify that clause, I can desist from asking about this matter until we get to that particular clause. Secondly, it would also assist if she could provide that comprehensive list of the office holders that will be impacted by the bill before we sit tomorrow rather than at 5.20 pm.

Hon Sue Ellery: I am sorry but I can't. There's a proposal that we sit from nine o'clock. I have to let the officers go home and I do not think I could get it before nine.

Hon NICK GOIRAN: I am just indicating what would assist in the expedient passage of the bill. Firstly, which clause freezes the parliamentary inspector's salary for the next four years? Secondly, is there any prospect of getting the list earlier than 5.20 pm tomorrow; and, if there is, what time would that be?

Hon SUE ELLERY: In respect of the provision within the bill, essentially it is proposed section 10E. I cannot give the member that commitment to provide him with that information any sooner. I can say that I can try, but I cannot give him the commitment that I can give it to him before nine o'clock in the morning.

Hon NICK GOIRAN: Is the minister saying that proposed section 10E, "No increases in judicial remuneration before 1 July 2021", will freeze the salary for Hon Michael Murray, QC, the Parliamentary Inspector of the Corruption and Crime Commission, who is no longer a judicial officer?

Hon Sue Ellery: I am sorry. I was listening to my adviser.

Hon NICK GOIRAN: I was just clarifying things. The minister has indicated that it is proposed section 10E, titled, "No increases in judicial remuneration before 1 July 2021". However, my question is about the Parliamentary Inspector of the Corruption and Crime Commission. He is not a judicial officer; he used to be but he has retired now. Are we really sure that it is proposed section 10E?

Hon SUE ELLERY: I am advised that that process is dealt with under section 7 of the current act and proposed section 10E will change the relevant bit of section 7 where he is captured.

Hon Nick Goiran: Okay, I agree.

Hon MICHAEL MISCHIN: I have nothing further that I can usefully explore with clause 1 via the information that has been given to date. What has become apparent, however, is that the title of the bill is, at best, questionable if not false. It has nothing to do with debt and deficit remediation other than to provide additional funds, by way of not paying them, to consolidated revenue that allows the government to spend money that it otherwise would

not have. This bill has nothing to do with debt remediation. No money is set aside for state debt. No reduction can be calculated to say that it has dropped by \$1 million, \$2 million or \$16 million; it is just additional money to spend. This bill then has absolutely nothing to do with budget repair as claimed in the rhetoric, the media releases and the second reading speeches both here and in the other place. There is no repair going on. This bill just allows a little bit of extra spending money.

Secondly, we have learnt that the minister is not in a position or not willing to answer certain questions to a level of detail that is desirable. She is not able to, for example, answer questions and provide the methodology. She has mentioned methodology but is not able to provide any of the documentation or calculations by Treasury or whoever's idea this was to allow us to have any confidence that the estimates, which have already been proved wrong by some 20 per cent by admission of the government, had any substance. The minister is not able to provide any information—she said she will try—without breaching any cabinet confidence. We do not even know if alternatives were considered that might have been more effective in achieving the ends that the government claims it is trying to achieve through this bill or that might achieve better ends in a way that is more effective and more measured rather than interfering with, through Parliament, a body that was specifically set up to take these issues away from Parliament. We do know, from what the Premier has said elsewhere, that it was Treasury's idea. The government does not like it but it is going to go along with it; that is as much as we know. Some of the assumptions underpinning it, if they came from Treasury, have already been proved wrong. There is no suggestion that any of the principles of independence et cetera and the history of this tribunal have been even considered by Treasury, let alone weighed in the balance against political expediency and what might be no specific savings at all and without considering what the consequences might be.

The CHAIR: Order, member. I am hoping that you are going to relate this to clause 1 and not engage in a second reading debate mark II, because that is what I am hearing at the moment. Please relate this matter to clause 1, because that is the only opinion we have at the moment.

Hon MICHAEL MISCHIN: Very well, Mr Chair. What I was leading into and providing, I suppose, was my speech in advance to renew the motion made by Hon Alison Xamon that this bill be discharged from the notice paper and referred to the Standing Committee on Legislation for consideration and report by no later than Tuesday, 20 March 2018; and the committee have the power to inquire into and report on the policy of the bill. I have already explained my reasons for that. If there is a bar to that, then so be it, but it does seem to me from everything that we have heard that this bill is flawed, the premises underlying it are flawed and we are not going to get the information we need.

The CHAIR: Members, I am unable to entertain such a motion in my role as the Chair of the Committee of the Whole House. It is a matter for the house to contemplate the motion that the member raised. It is possible, via report from the Committee of the Whole House to the house, to propose such a motion, but that would have to be initiated from the committee table.

Clause put and passed.

Clause 2: Commencement —

Hon NICK GOIRAN: The minister will note that clause 2 includes a provision that the rest of the act will commence on a day fixed by proclamation, and different days may be fixed for different provisions. Why is that?

Hon SUE ELLERY: The honourable member would be aware that is a fairly standard clause to include in bills. I am advised that there is no intention at this point to split the days of commencement. It is anticipated that all the provisions of the bill would apply from the same date of commencement. The wording of the clause, though, is a fairly standard one provided by Parliamentary Counsel.

Hon NICK GOIRAN: Minister, that is not quite right, is it? From time to time Parliamentary Counsel includes a provision like this, but equally there is plenty of legislation that would state that it commences the day after sections 1 and 2 receive royal assent. There is more than one way that Parliamentary Counsel can draft this. Indeed, this is a matter that is regularly considered by the Standing Committee on Legislation and the Standing Committee on Uniform Legislation and Statutes Review. Indeed, I note that as recently as the thirty-fourth report of the Standing Committee on Legislation, chaired by Hon Dr Sally Talbot, the committee stated on page 18 —

Commencement of legislation by proclamation is increasingly common, and should be avoided unless absolutely necessary. It is an issue that often confronts the Standing Committee on Uniform Legislation and Statutes Review of the Legislative Council, which pointed out as recently as October 2017 that where commencement by proclamation is provided for in legislation, this leaves the Executive to determine commencement dates, potentially eroding the sovereignty of Parliament. It is conceivable that a proclamation may never be made and the will of the Parliament, in passing the Bill, would be frustrated.

Therefore, minister, it is not quite right to say that this is at the feet of Parliamentary Counsel. I know the government is very keen for this freeze to come in as soon as possible. I ask whether the minister would entertain

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an amendment to clause 2 so that it would read that the rest of the act comes into operation on the day after sections 1 and 2 come into operation.

Hon SUE ELLERY: If the member were to check what I said when I responded to his first point, I said that this is a fairly standard clause by Parliamentary Counsel. Therefore, I am not able to agree to an amendment in respect of that. I can tell the member that I have been advised that it is anticipated that the commencement date will be the same for each of the provisions. However, the government wants the flexibility that has been provided by Parliamentary Counsel. In one sense, the honourable member is right—this is an ongoing tussle between Parliamentary Counsel and the Legislative Council, no matter who is in government. We anticipate that all the provisions will come into effect on the same date. Therefore, I am not able to entertain an amendment to change the commencement date.

Hon NICK GOIRAN: The government is keen for this bill to be expedited this week. I suggest that clause 2 would be expedited very quickly if the minister were to agree to that very simple amendment. That amendment would cause no trouble to the government whatsoever—it will mean that the government’s wonderful freeze legislation will start even sooner. The minister probably has the Premier on speed dial on her phone. I suggest that the minister has a quick chat to the Premier overnight and says, “This annoying guy, Nick, is referring to other reports that have been done by Hon Dr Sally Talbot, and he is going to start quoting from Hon Adele Farina, who likes talking about these kinds of things, too, and that is before Hon Michael Mischin even gets started. We can make things go very quickly tomorrow if we can sort out clause 2.” I reckon there is a reasonable prospect that the Premier would say, “Just do it and get this bill done.” We will then be able to get clause 2 through in about five minutes tomorrow. Unlike the debate on clause 1, which apparently we could not defer, would it be possible to defer the debate on clause 2 to enable the minister to have a quick chat with the Premier overnight and deal with that clause tomorrow?

Hon SUE ELLERY: I will be talking to the Premier about other matters, so I am happy to raise it with him. Mr Chair, given where we are this evening, because there are two other matters that the house has to deal with before we rise tonight, including a disallowance, I think the best thing I can do is ask that you report progress.

Progress reported and leave granted to sit again, on motion by Hon Sue Ellery (Leader of the House).