

**MACHINERY OF GOVERNMENT (MISCELLANEOUS AMENDMENTS) BILL 2005**

*Second Reading*

Resumed from an earlier stage of the sitting.

**HON HELEN MORTON (East Metropolitan)** [5.14 pm]: I was talking about the five Cs of socialist government, and was in the middle of talking about the need that this government has for conformity. I want to demonstrate this through some requirements that were placed on the public sector for jobs advertised in newspapers. For members' information, I am holding up a page of 44 government jobs advertised in last Saturday's *The West Australian*. I think on average they each comprise about five lines. I am referring to jobs in a highly competitive employment market. I will choose a couple of examples. The Department of Indigenous Affairs is looking for a government services coordinator; the salary range is between \$64 000 and \$71 000; the location is Beagle Bay, 120 kilometres north west of Broome; and the job application package is online. Somehow that advertisement is intended to capture the imagination of somebody who wants to take on that job, and live and work at Beagle Bay, 120 kilometres north west of Broome. I actually think that that would be a fantastic place to live. However, this approach to advertising is about conformity and getting rid of any innovation, creativity, words or any other sign that might enthruse, encourage and develop some passion in people to consider a job such as this. The Department of Industry and Resources is looking for an organisational change and development coordinator; the salary range is between \$64 000 and \$71 000; it is in East Perth; and the job package is online. As I said, 44 jobs across a lot of government departments have been advertised, and there is the "golf ball" stuck up in the corner of the page - not one departmental logo. Departments are not even allowed to put their own logo on job advertisements now, let alone develop some creative excitement about the jobs they are offering; there is just that ghastly little golf ball. Before I go to a comparison of these advertisements, I will give members another example of the same sort of thing in the Department of Health. On one page there are advertisements of four or five lines for jobs across the entire health sector. Nowhere is there any description of how fantastic it would be to work at Royal Perth Hospital, or what an innovative place Armadale Health Service is, or how fantastically well people would be looked after if they worked at any of those places; there is just pure information without any logo or sign of anything that would attract people to work at those places.

In comparison, the Australian government has advertised a vacancy for a workplace relations services group senior workplace relations adviser. The advertisement commences -

help us support  
strong employment growth  
and a productive Australia

People would immediately feel enthusiastic about that job. The advertisement goes on to refer to some benefits of working in that sort of organisation. I am talking about working not only within the public sector of either government, but also the private sector. Another example is an advertisement for a job with a salary range between \$51 000 and \$71 000 with the Australian Security Intelligence Organisation. It is colourful and exciting and is headed "Another successful day at the office." That is a bit better than five lines on a piece of paper. How about this one, which I would actually love if it were an advertisement for a job in health services: it is headed "A life . . . in balance." and refers to a range of jobs at "BHP Billiton Ravensthorpe Nickel". What a difference! These advertisements were all in last Saturday's newspaper. Another colourful, innovative and creative caption is headed "I feel I can go anywhere." and reads -

I'm at my best when I'm involved in every aspect of the project. Now I'm in charge of the most complex and hands-on project of my career.

Where else would I find that kind of challenge?

The public sector is not allowed to say that. It is no longer allowed to have passion or to be creative or innovative. It is suggested that the conformity required by this government is to save a few measly dollars. We can see what has happened administratively: the government has just blown way out. That sort of conformity is supposed to attract new employees into the public sector compared with the kinds of opportunities that are operating in the private sector and other states. Gone is the opportunity to be creative or innovative to attract people to government organisations. This was supposedly to save money in the advertising area. Conformity in the public sector comes at the expense of innovation, and will serve to dull down the public sector.

The next C is for compliance. I have felt - others have told me that it is getting worse, not better - that this government is deliberately developing a culture of fear, intimidation and victimisation if a public servant dares to

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step out of line. This is sure to further dull down the public sector. Why would a government seek compliance, a culture of enforcement, rather than commitment, a culture of working together for a common purpose? It was Henry Mintzberg who said that an organisation without human commitment is like a person without a soul: skeleton, flesh and blood, able to consume and excrete, but there is no life force. The government desperately needs a life force. Compliance is a very mechanistic approach: cogs and wheels moving in a synchronised manner but completely soulless. Compliance encourages a focus on internal or political matters, maintaining process standards and controlling inputs. Traditional lines of authority and highly regulated processes are necessary in a compliance culture to ensure that few mistakes are made because the culture is punitive; it is one of blame. This government's culture is producing a dulled-down public sector characterised by learned helplessness. Again, it is a soulless and mechanistic public service with an unhealthy dependence on rules and an unwillingness to take risks. In an organisational sense, learned helplessness develops when the majority of people who work in an organisation believe that there is no point in trying to improve their circumstances or that they will be punished for trying. They feel fearful and powerless and have given up trying to improve the situation in which they feel futile.

A report prepared for the Department of the Premier and Cabinet titled "People Making a Difference: The Public Sector" reinforces concerns about indecision and learned helplessness. The group that facilitated the discussion groups with Western Australian public sector employees made it clear that the constant restructuring had resulted in a culture of learned helplessness. The culture of "can-cannot do" day to day is with managers. They need learned optimism, retraining to be courageous and support in their decision making. This is the opposite of what they get in a centralised system. Our public sector's concerns about the backlash in a culture of control and compliance were evident in the two consecutive surveys undertaken by the Office of the Public Sector Standards Commissioner. Research indicated in 2004 that there was a real fear of retribution or negative response if an individual raised issues that contravened public service ethical codes. Only 50 per cent of the respondents to the survey believed that people who reported wrongdoing were protected from victimisation or harassment, and 21 per cent indicated that they were aware of an occurrence of unethical behaviour but that they were not going to report it. The commissioner reported in 2005 that the situation had got worse. When reporting about public servants feeling that they would be protected from victimisation or harassment, she stated that this was a drop of five per cent compared with the previous year and that if the trend continued, the commissioner would need to investigate and report to Parliament on what factors contribute to the decline in confidence. The commissioner was asked at a public meeting how long was necessary and to what level the decline would need to continue before a trend was evident. The commissioner indicated that the 2006 trend is already evident and is of further concern. I could save the commissioner some time and money. The factor that contributes most to the decline is the increasingly punitive culture associated with the government's centralisation, control, conformity, compliance and city-centric approach to the public service, coupled, of course, with the increasing politicisation of the public service.

I will talk a little about politicisation and what it does. One of the ways that a government attempts to bring about a culture of control, compliance and conformity is to concentrate political power in the higher echelon of the public service. All around the metropolitan region, boards, commissions, committees, authorities and agencies with political appointees are making and recommending policy to government. Section 2.1 of the report prepared for the Department of the Premier and Cabinet titled "People Making a Difference: The Public Sector" states -

- f) There was a fairly consistent view that the service is a politicised environment and that advice without fear or favour is not the norm. Participants held the view that public servants gave the advice they believed was the advice wanted by political drivers. This perception was generally reported as being more evident in the higher levels of the sector.

Not only does this dumb down the public sector with imbalanced policy advice that lacks rigour, but also the political appointees act as the public sector's political police, identifying and seeking out more forms of retribution for those public servants who do not pay homage to the chief executive officer or the minister. The current catchcry is: "Look after your minister's ego and look after your job." The Commissioner for Public Sector Standards has also noticed this insidious problem. In her last annual compliance report, she commented on the issue of political impartiality of public servants emerging as a matter requiring some attention. The commissioner went on to say that she would revisit the public sector codes of ethics and provide guidelines to assist public servants to resolve the tensions experienced in the practical delivery of goods and services and in supporting ministers. The commissioner is so concerned about the manner in which ministerial officers are attempting to politicise the public service that she has stated that there is a need to clearly spell out acceptable boundaries between the roles of ministerial officers and those of permanent public servants. In this environment the commissioner has shown remarkable courage to make these public comments about the politicisation of the upper echelon of the public service and the frightful trend of public servants being increasingly fearful of

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victimisation and recrimination, and, sure enough, she has been repaid. She has been downgraded financially and her role has been devalued by the latest Salaries and Allowances Tribunal review, which granted increases of up to \$66 000 a year to the new fiefdom kings. The tribunal's actions are of concern in that three independent statutory officers who report directly to Parliament have had their classifications downgraded, and no specific reason has been given for this. The WA Inc royal commission recommended the establishment of both the Information Commissioner and the Commissioner for Public Sector Standards. These positions are vital to protect our democratic system of government and to make sure that we do not repeat the mistakes uncovered by the WA Inc royal commission. Maintaining seniority and status for these independent officers is important to maintain an ethical public sector, and a reduction in their classification sends a message about devaluing the roles recommended by the WA Inc royal commission. Does this mean that ethical conduct in the public sector is now not as important as it was previously? Will this government openly allow this position to be devalued? From whom does the Salaries and Allowances Tribunal get its advice about work values for these positions, which report directly to Parliament? It gets its advice from the Director General of the Department of the Premier and Cabinet. The Commissioner for Public Sector Standards has stated that such advice cannot be seen to be impartial but, worse, it can easily be seen as a threat to the independence of the office and to government accountability. I look forward to reading the report later this year following research by the independent officers who report directly to Parliament into whether a better model is warranted to determine their classification and remuneration levels.

I will now speak a little about whistleblowers. The issue of whistleblowers was referred to at length when this bill passed through the other place. Public servants have become increasingly fearful of victimisation, intimidation or recrimination, irrespective of the Public Interest Disclosure Act 2003. It now looks as though the Commissioner for Public Sector Standards has been nobbled too. People are concerned about the emerging punitive culture of the public sector. Perhaps the best way to outline this culture is to reiterate the situation of one public servant, Mr Chris Read. Many people have worked with, represented and lobbied for Chris. His issues have been discussed on radio and reported in the print media. *Hansard* is full of references to Chris's situation over the past four or five years. Hundreds of thousands of taxpayers' dollars have been spent by government agencies trying to resolve the matters relating to Chris Read. I commenced working with Chris mid-last year when I became the opposition's spokesperson for public sector management. In a nutshell, Chris was a substantive level 6 employee of the Western Australian Industrial Relations Commission. For various reasons, he was seconded to the Ombudsman's office in June 1993, where he worked diligently. He was awarded two three-year contracts while he was there, and in 1997 he was reclassified to a level 7 position. He finished his work at the Ombudsman's office in June 2000. However, during the time he was with the Ombudsman's office, he noticed irregularities in the manner in which the Ombudsman was recruiting and engaging subcontractors to develop and implement substantial computer software programs for the office. Despite bringing these concerns to the attention of people in the Ombudsman's office, it continued and eventually Chris took them to a higher authority.

Following an investigation by the Auditor General, it was found that the Ombudsman had indeed breached the public sector standards and he resigned and moved on. During his three years at the Ombudsman's office, Chris had achieved positive performance reviews, the last one of which resulted in a pay increase only three weeks before he was told his contract would not be renewed. However, more importantly, he applied for and was awarded a reclassification to a level 7 position in 1997. At the time it was considered by all in the Ombudsman's office that this was a substantive reclassification, even though formal agreement was not obtained from his considered substantive employer, the Industrial Relations Commission. No-one thought to bother about that as Chris had been at the Ombudsman's office for nearly seven years, and, as far as everyone was concerned, this would continue. However, only three weeks after blowing the whistle, Chris was told his position at the Ombudsman's office was to be terminated on the basis of personality differences with the Ombudsman. However, at the time the Auditor General had not undertaken a review of the Ombudsman's office, which subsequently confirmed Chris's concerns. The arrangement was that Chris was expecting a transfer to the Department of the Premier and Cabinet at a substantive level consistent with his level 7 position at the Ombudsman's office. In fact, he was put on salary maintenance and gradually given a level 6 position. So frustrated was he that he had been punitively manipulated into this position, that Chris commenced his fight to get his salary reinstated to the level 7 position. He was unwilling to accept the injustice, victimisation, intimidation and recrimination resulting from his whistleblower actions. As a result, he became quite ill and he is on ongoing medication, his marriage has broken up and, as some would say, he has become somewhat obsessed with getting justice. I do not blame him. At first, all he wanted was to be reinstated to the Ombudsman's office, but that has even passed and all he wants is reinstatement to a level 7 position. He has not worked for four years, but continues to be paid by the Department of the Premier and Cabinet at level 6. He has

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not taken sick leave, annual leave or other accrued leave. He has been involved in a return-to-work program for a long time, working with rehabilitation counsellors, psychologists and psychiatrists at taxpayers' expense.

Chris is not a young man; I think he is in his 50s - I am not sure. People who knew Chris prior to these events say that he was a very different person; he had a wonderful sense of humour and was very outgoing. It is difficult for me to see Chris this way. He is bitter, suspicious and distrusting of the public sector institutions. The new legislation was meant to prevent this from happening. However, it was not retrospective and, therefore, could not help him, although morally, one would expect a government that introduced the legislation to apply the principles in the legislation to a case under consideration.

Having reviewed all the material I could lay my hands on and spending considerable time with Chris, I formed the view that he had indeed been dealt with unjustly and it would not be difficult to rectify this if there were a will to do it. At my early meetings with the Director General of the Department of the Premier and Cabinet and his staff, I was assured that they would be happy to pay Chris the level 7 salary, if only there was a legitimate way that did not breach public sector standards. One of the ways we decided that this could happen was if Chris would agree to take the matter to a hearing in the Industrial Relations Commission; that is, a hearing with the public service arbitrator. This was problematic, because Chris was not in a union and was unable to pay for legal representation and, as far as I am aware, the Department of the Premier and Cabinet would have brought the might of the State Solicitor's Office and any other agency of its choosing down on him.

I negotiated a situation whereby the Director General of the Department of the Premier and Cabinet agreed that he would not seek advice or representation, but would rely on his human resources staff to represent him with only the documentation in the department's files. The same documentation was to be made available to Chris. At the first meeting, the deputy registrar listened to the two cases collectively and then spent time individually with Chris and with the Department of the Premier and Cabinet representative. I was with Chris as his support person. The deputy commissioner put a clear position to Chris. She told him that if he could produce documentation to support the proposition that he was reclassified while at the Ombudsman's office, this would all be over. After six years, Chris went back to the Ombudsman's office and asked for the information. Therefore, here it is in black and white that the reclassification took place. These documents are faxed copies of letters from the Ombudsman's office. A letter dated 17 April 2000, signed by the Deputy Ombudsman, Alex Errington, who took over from the Ombudsman when he resigned, and addressed to Mr G. Moore, the manager of the human resource services branch of the then Ministry of Premier and Cabinet reads -

Initially he was paid by the Commission but when funding and a FTE was provided in our 1994/95 Budget he was appointed for a three year term with effect from 1 July 1994. . . . In June 1997 he was reappointed for a further three year term - also by way of secondment. That appointment expires on 30 June 2000.

. . .

The background to this aspect is that when Mr Read commenced duty in this Office in 1993 he was a Level 6 officer. He continued to be paid at that level until 17 October 1997 when he was advanced to Level 7. Copies of the papers which led to that reclassification are attached. In my view Mr Read should be treated as a Level 7 officer for all purposes.

I understand that any reluctance to recognise Mr Read as being substantively a Level 7 officer rests on the reasoning that on return to a Public Service post from secondment an officer should do so at his or her pre-existing level. . . . However, I see the situation in question being sufficiently different from the norm to warrant the approach which I recommend:-

1. In this case the period of secondment / loan has been more than seven years. This puts it in a different category than say a one or even two year secondment.
2. Mr Read was a Level 6 officer when he came to this Office in 1993 and had he remained in the mainstream Public Service or actively sought Level 7 vacancies in the Public Service he might well have obtained a Level 7 during the last four or five years, either by promotion or reclassification.
3. This Office and Mr Read regarded his 1997 reclassification to be of a permanent nature. His submission was assessed by a panel which included an external consultant . . . .

Further letters from the Ombudsman to Mr Moore refer to approval of the payment of salary increments to Mr Read to level 7 year 1, level 7 year 2 and level 7 year 3 over a period of two years. I also have a letter from the parliamentary commissioner, which states -

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In response to discussions at a staff meeting held on 8 October 1997 Mr Read submitted the attached request for a review of his salary. . . .

In respect of Mr Read's application the panel agreed that he had established a case for advancement to Level 7 and recommends for your approval that he be advanced to Level 7, first year, . . . .

It is signed by the Ombudsman. The rest of the documents relate to the position that he sought. That all came from the Ombudsman's office. Further correspondence was sent from the Department of the Premier and Cabinet. I will quote from a letter from Mr Ken Jones, who is an acting manager in the human resources office there. He gives a bit of background on how Chris Read came to be in this position. The letter states -

At no time was the industrial Relations Commission consulted or advised of this action.

It should have been, even though he had been there for seven years. The letter further states -

Recent discussions with Mr J Spurling show that they were not aware of any change in "classification" and would not be amenable to accommodating Mr Read should he be required to return.

I will talk later about the reasoning behind that. The letter continues -

Therefore, whilst it would be theoretically possible for the Industrial Relations Commission to ratify the classification -

As his substantive employer seven years ago -

in my opinion it would be unreasonable to expect them to do so . . . . Therefore it appears that the only other option is to seek your assistance in determining whether a personal classification might be granted to Mr Read given the circumstances.

This is an officer in the Department of the Premier and Cabinet providing two opportunities for the director general of that department to approve the level 7 position. However, things then start to go a bit wrong. A letter from John Spurling, acting chief executive officer of the Western Australian Industrial Relations Commission, to Mr Greg Moore of the Department of the Premier and Cabinet, refusing to approve the level 7 position despite the fact that Mr Read worked there seven years previously, states -

In relation to the classification level for Mr Read, I can only advise that he was classified at level 6 when he left this department to be seconded to the Ombudsman's office.

The Deputy Ombudsman has put to you a range of reasons why a higher level should be recognised because of events that have occurred since Mr Read's departure but they are matters beyond our knowledge or competence to answer.

Basically, the chief executive officer of the Western Australian Industrial Relations Commission is saying that he does not know; he has not seen this guy, who has not been around for seven years, and therefore the CEO is not in a position to state whether he should be given a level 7 position. An e-mail from Greg Moore to Ken Jones of the Department of the Premier and Cabinet attaches an e-mail from John Spurling, and states -

. . . although maybe it does add some comment to long term secondments. I have chosen to ignore it.

Mr Moore then wrote more formally to Mr Spurling stating -

If it were held that the chief executive officer of the Industrial Relations Commission is Mr Read's employer, in my view the employing authority would need to determine the level of Mr Read's classification.

Here we see two very senior levels of government toing-and-froing about this man's level of employment, when he had not worked with the Industrial Relations Commission for seven years. There is a heap of information here, but it basically goes on to show that, despite the director general telling me to my face that where there is a will there is a way, the will is not there. There is definitely a desire not to give Chris Read the level 7 position he so obviously required.

All the documentation from which I am reading was presented at a second hearing with the deputy commissioner, and then a very strange thing happened. It was then stated that it made no difference that he was reclassified while he was at the Ombudsman's office as he did not get it approved by his substantive employer, the Industrial Relations Commission, and whatever went on inside the Ombudsman's office was of no consequence, because staff are not appointed to the Ombudsman's office as public servants, but rather as appointees of the Governor. We see this amazing situation in which this guy only wants his level 7 reinstated, while the bigwigs around town are ganging up to make sure that it does not happen, for a very particular reason.

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**Hon Barbara Scott:** What did he do wrong?

**Hon HELEN MORTON:** He blew the whistle on one of their mates.

I again discussed the situation with the director general of the Department of the Premier and Cabinet. I reiterated that if he wanted to find a legitimate way to pay the level 7 salary, there was documentation to support it. Really it boiled down to whether the director general wanted to pay it or was looking for a way to avoid paying. His response nearly made me drop the telephone. I asked him whether he would meet with Chris and me to discuss this matter. He said that he would not, because he was offended by some things Chris had said about him at the meeting with the deputy commissioner. In particular, he was offended that Chris had said that the representative of the Department of the Premier and Cabinet was just acting as the mouthpiece of the director general and was not there in her own right. Here is the director general of the Department of the Premier and Cabinet, one of the most powerful and highly paid public servants in this state, earning in excess of \$300 000 a year, personalising and internalising comments made by an ill level 6 public servant who feels frustrated and traumatised by the system.

**Hon Barbara Scott:** For the parliamentary record, could you name this person?

**Hon HELEN MORTON:** It is Mr Mal Wauchope. It was unbelievable to me that this decision maker was unable to detach himself from a mildly offensive remark. It was also abundantly clear that the cup, in relation to Chris Read, was half empty and certainly not half full, as I had been hoping for, in the attitude of the director general towards a level 7 payment. At this point I advised the director general that, in the absence of a further discussion to finalise the matter with him, Chris had been advised to get representation. I asked whether the director general could get an agreement from the State Solicitor that it was in the public interest to ensure that Chris was properly represented at the Industrial Relations Commission. That was about five weeks ago and the response was a resounding no. The advice from the State Solicitor's Office did not support the provision of financial assistance or legal support to Chris Read.

I am raising this matter as an example of the reasons the public sector has no confidence in the Public Interest Disclosure Act 2003. Public servants do not believe that they will be supported because, right at the top, despite the legislation, the attitude has not changed. There should be a full and independent inquiry into this matter. At the very least, Chris Read should be given access to comprehensive legal representation to have the matter of his remuneration level argued in the Industrial Relations Commission.

I had a similar experience with a bullying chief executive officer of the Metropolitan Health Service Board swearing and yelling abuse at me, intimidating me with his finger pointing at my face about a centimetre away from my nose, and pulling sexually explicit jokes off the Internet and passing them around the group in which I was the only female. Many of my colleagues suggested that I do something about this as it had got out of hand. I was advised to get advice from the Department of the Premier and Cabinet, and the person I went to see at the time was a lady by the name of Deirdre Willmot. Her advice was that I had the best case that could be imagined, with plenty of witnesses etc. However, she said that I should be very clear about one thing. If I tried to take on anybody of the stature of the chief executive officer of the Metropolitan Health Service Board, that person would be able to pull in the full weight of the State Solicitor and every other government department and I would be on my own. I might have the best case in the world but I did not have anybody supporting and representing me, unless I was a member of a union that could bring in some legal advice. I weighed up the advice that was given to me and decided that I would live with the treatment I was getting. At the time I did not want to be distracted from completing my job, which was a \$60 million redevelopment of the Armadale Health Service. I was managing the job and it came in on time and on budget.

I am convinced that there is a decline in the principles of merit, equity and probity, and that the integrity of the public service is under threat from a government that seeks to centralise services, focuses on control, demands compliance with the preoccupation with rules and regulations, and seeks conformity. In essence, it is a dumbing down of the public sector. I would rather see a housekeeping bill designed to praise and value a great many brilliant and dedicated public servants, one which will ensure that a principles-based approach to human resource management is embraced in the public sector; build loyalty as a core rather than compliance; encourage an entrepreneurial spirit with greater creativity to achieve outcomes; improve and maintain accountability and transparency; support thinkers and risk takers within the public sector; give public servants the tools, power and support to provide Western Australia with an innovative and smart public service; and value integrity. Without these things the Leader of the House will not be able to achieve his stated aim with this bill; that is, to establish a properly structured and modernised public service with the objective of rebuilding the pride and capacity of the public service. The Leader of the House will go a long way to restoring that integrity if he were to support me in a direct approach to the Premier to obtain assistance for Chris Read. I was very disappointed with the outcome of the prolonged interaction that I had with Mr Mal Wauchope. Initially it appeared to me that we had

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agreement regarding Chris, that a level playing field had been created in which Chris's grievances could be resolved and that some goodwill, which was indicated by a willingness on the department's part to see some possible merit in Mr Read's position, had been established that would provide a fair and reasonable outcome. Instead, the matter has followed its previous path with the officers of the Department of the Premier and Cabinet clinging to a position predicated entirely on narrow legal technicalities with no regard for the merits of Mr Read's position and the gross inequity of the way that he has been victimised for doing the right thing. At times I find myself leaning towards the view that certain officers in the Department of the Premier and Cabinet have displayed personal animosity towards Mr Read and that that has affected the department's handling of this matter.

The deputy registrar of the Industrial Relations Commission clearly stated in my presence that Mr Read does not have a hope if he appears without representation. The massive scope of the matter would clearly make meaningful advice prohibitively expensive. This is not the level playing field I sought and for which I obtained agreement. It is also apparent that the commission's process focused almost entirely on legalities. The broader focus of public interest that underpins Mr Read's position appears to carry no weight in this jurisdiction.

I will raise a couple of points about the legislation. Unfortunately, they are so amazing that I have to ask these questions. I suppose the Leader of the House is aware that 109 acts will be amended by this bill. Being the diligent member of Parliament that I am, I actually looked up most of those acts to see what will be amended. There were times when I found it really difficult to follow the legislation. For example, I refer to the community development area at page 23 of the bill. It is unclear to me why we are trying to amend an act that was repealed in 2004; that is, the Child Welfare Act 1947. Equally, it is unclear that somehow this translates into the new act. As I am a new member of Parliament, the Leader of the House may be able to explain the reason. I could not follow the amendments in this legislation because under division 3, at page 26 of the bill, reference is made to the Community Services Act 1972, which was repealed in 2004 and replaced by the Children and Community Services Act.

From before page 26 to page 34 of the Machinery of Government (Miscellaneous Amendments) Bill 2005, reference is made to acts that are no longer in existence. The Welfare and Assistance Act 1961 is another act that will be repealed by this bill, yet it no longer exists. Therefore, all the work that has been done for this bill at pages 31 and 32 and the transitional provisions at page 33 seems to be almost irrelevant. I cannot understand why we are dealing with legislation that amends acts that have already been repealed. When I get to that part of the bill dealing with consumer affairs, 10 references are made to officially obtained information to remain confidential. I will be interested to hear the Leader of the House explain why one part of this legislation, the consumer protection area, has 10 such references. I know it relates to 10 different acts, and that that is probably the reason; however, is this an area in which information is being loosely used and thrown about? Does every single act require a reference to information remaining confidential written into it? Are those requirements already written into every one of the 109 acts or is there some reason that it is written into consumer protection?

**Hon Kim Chance:** Only where it is relevant.

**Hon HELEN MORTON:** Does it not apply to health and transport?

**Hon Kim Chance:** One hopes other relevant legislation will obtain a similar clause.

**Hon HELEN MORTON:** When we reach the committee stage, I will ask the Leader of the House the same question as we deal with each act.

**Hon Kim Chance:** Some of those acts are not covered in this bill.

**Hon HELEN MORTON:** Do acts like the Disability Services Act 1993, for example, need a provision about confidentiality of information?

**Hon Kim Chance:** The generic answer will be that it will have it if it is required. It is not our place in dealing with this legislation to question the intent of the Parliament in relation to other legislation.

**Hon George Cash:** If it is a relevant question, we may have to move an amendment.

**Hon HELEN MORTON:** That is right. I hope the Leader of the House has every piece of relevant legislation in front of him because I will ask a similar question on each point. When we get to energy and the Energy Coordination Act, I will be interested to know why we need a Coordinator of Energy.

**Hon Kim Chance:** You will need to read the second reading speech of every piece of legislation. This is not an opportunity to ask those questions.

**Hon HELEN MORTON:** I thought this was an opportunity - it is in the bill.

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**Hon Kim Chance:** It is, but that is the answer you will get.

**Hon HELEN MORTON:** Why is a conservation and land management executive board necessary?

**Hon Kim Chance:** You should go back to the second reading speech of that legislation.

**Hon HELEN MORTON:** I have read the second reading speech. As I said, I have been diligent on this matter.

**Hon Kim Chance:** What did that inform you?

**Hon HELEN MORTON:** I will move on because I do not have that information in front of me.

When I get to health, there is reference to another act that has been repealed. However, the government could be forgiven for not realising that because it was repealed only recently; in fact, the legislation repealing that act, the Tobacco Control Act 1990, was assented to today. The Leader of the House may want to take the opportunity to amend that part of the bill.

**Hon Kim Chance:** We do have some amendments, as you are aware.

**Hon HELEN MORTON:** I have not had time to look at them because they were delivered to me while I have been on my feet.

Part 11 of this bill deals with housing and works, and heritage and one of the areas about which I am very concerned deals with the Country Housing Authority. The opposition will move amendments to remove the Country Housing Authority from the proposed merger within the housing and works area. I feel strongly about that matter. One of the reasons that is important is that the authority's annual report, at page 24, looks at the quality of the Country Housing Authority. It undertook a measurement of customer satisfaction in May 2004. One hundred applicants were surveyed and the response rate was 50 per cent, which is not bad, compared with response rates of 52, 58 and 61 per cent in the out years - namely, the four previous years. The result showed that 98 per cent of the applicants who responded were very satisfied or satisfied with the services provided by the Country Housing Authority. Why would the government want to merge an organisation that specifically focuses on country housing needs by trying to get those people to line up against the housing needs applicable to the metropolitan area, when the authority received a 98 per cent satisfaction rating? It is ludicrous that the government is allowing legislation to go through on the basis of some philosophical desire to merge and create larger centralised systems.

**Hon Kim Chance:** This has been raised by Murray Criddle. Would you like a briefing on that component? I ask that because I will get one myself on that issue.

**Hon HELEN MORTON:** That may be useful, but I will table amendments this evening about removing the Country Housing Authority from that merger.

**Hon Kim Chance:** I am hoping to get that briefing tomorrow.

**Hon Murray Criddle:** I will enjoy being there.

**Hon HELEN MORTON:** On page 184 of the bill, reference is made to the Metropolitan Region Town Planning Scheme Act 1959, which was repealed and replaced by the Planning and Development Act 2005. It is hard for me to properly look at the issues around that. Similarly, on page 186, it is proposed that the Western Australian Planning Commission Act 1985 be repealed and replaced by the Western Australian Planning Commission Act. There is so much in this document that is hard to follow and it makes no sense. I look forward to the committee stage where we can go through the 240 pages of the bill line by line.

*Sitting suspended from 6.00 to 7.30 pm*

**Hon HELEN MORTON:** I was getting relatively close to the conclusion of my remarks, but I will recap briefly. I said that the machinery of government bill is not a harmless housekeeping bill; in fact, that is an insult to housekeepers. It is a bill that is very much about the five Cs of socialist government. The first is centralisation, in which the effect of major fiefdoms being organised out of the existing public service has raised the salaries of people at the top of those fiefdoms. Also the following three levels of people have had significant salary increases because they are now part of an organisation that encompasses a higher budget and a higher number of public servants; however, they do not necessarily produce more work. We have also found that not only do those public servants have higher wages, but also the number of public servants has increased by 18 000 in that time frame. They are not all nurses, doctors or police officers, as has been suggested by the government. The number of people earning in excess of \$100 000 a year has doubled, and the number of people earning in excess of \$150 000 has trebled. I cannot recall the exact figures, as I have given my notes to the Hansard staff. However, the number of public servants earning more than \$200 000 a year has increased by five times. Those extra 18 000 public servants are not employed as nurses, teachers or police officers; they are employed in the



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upper echelon of public service agencies. Centralisation, therefore, has not brought us better outcomes in terms of the efficiency or effectiveness of government.

Another one of the five Cs of socialist government is control. The government has sought to put in place a whole lot more rules and regulations. The control aspects of working in a large organisation mean that those organisations are overly administered, their red tape has become enormous and the preoccupation with rules and regulations deprives people of the opportunity to be innovative and to work at a strategic level. The requirement for public servants to conform under those arrangements is evidenced significantly by the issues around using the government logo in preference to the logos of the individual organisations, and the terrible dulling down of the public sector evidenced by the hopeless five-line advertisements in *The West Australian* for particular jobs. How on earth does the government expect to attract good people into the public service through an advertisement that provides no opportunity for innovation or creativity?

The areas around compliance are of great concern because of the overall feeling that people in the public sector have about victimisation and recrimination. That is borne out by the survey that was undertaken by the Commissioner for Public Sector Standards, which for three years in a row now has indicated that people are becoming less confident that they will be protected if they raise issues under the commonwealth Information Disclosure Act; they do not believe that the act has any benefit for them at all.

The fifth of the five Cs is about this government being very city-centric in its approach. The example I give for that is an agency called the Country Housing Authority, which for five years has conducted a survey on customer satisfaction. It has always had an 80 to 90 per cent customer satisfaction rate, with the last survey returning a 98 per cent rating for customer satisfaction. Why would the government want to merge the housing requirements of that organisation with those of the Government Employees Housing Authority? This is a quite sinister bill. It is not merely a harmless housekeeping bill, as it was referred to; it has much more dire consequences.

I also raise the issue of the politicisation of the public sector and some concerns that I have, which have been acknowledged by the Commissioner for Public Sector Standards to the point at which she is now required to undertake a comprehensive survey of the code of ethics for public servants and ministerial staff in an effort to eradicate the problems of politicisation of the public sector, especially at the higher echelon level.

Finally, I have raised issues about the whistleblower legislation. In particular, people believe the whistleblower legislation will not protect them. Their confidence in it has actually decreased in the past three years, so much so that the Commissioner for Public Sector Standards is again saying that, given the level of the decline in confidence of public servants, she will need to undertake a special review of that issue. It is almost pointless wondering why middle-level staff do not feel comfortable with the legislation when a very senior level of government refuses to embrace an attitude consistent with the whistleblower legislation. I gave the example of Chris Read, with whom I have been working now for nearly 12 months. I will quickly run through the chronology of events again regarding Chris Read.

He was a member of the Western Australian Industrial Relations Commission on a level 6 salary. For various reasons, he was seconded to the Ombudsman's office in 1993. He advanced through two three-year contracts, and was promoted to a level 7 position during that time. In 1999 he submitted a formal internal grievance about a wasteful computer project. He reported the waste to the former Anti-Corruption Commission after he had attempted to deal with it through the internal grievance process within the Ombudsman's office. He told the Ombudsman in November 1999 that the project needed to be referred to the Auditor General. In December 1999 he was approved for advancement to level 7/3, which became effective from October 1999 after an informal review with the Ombudsman and a deputy. Also in December 1999, Jim Meneely from Contract Management Services was briefed by the Ombudsman to report to him about the project. In January 2000 the Deputy Ombudsman informed Chris Read that the Ombudsman would not renew his contract in July when his last three-year term came to an end; that is, one month after he had started the proceedings to have the grievance investigated he was told his contract would not be renewed. Jim Meneely reviewed the Ombudsman's Statistics and Complaints Automated Register project, which was considered to be a bit of a whitewash. He said that it was unfortunate and there were overruns, but that in the scheme of things in the real world, the outcome was not unreasonable. The next day the Ombudsman told Chris Read that Meneely had vindicated his management, and that he was unlikely to renew the contract for Chris Read mainly because of his unwarranted criticism. He also suggested that his performance had been unsatisfactory, but that was within a month of approving his final increment to level 7/3. Chris Read lodged a grievance about this unsubstantiated allegation of poor performance, from which the Ombudsman resiled in February 2000. In March 2000 the Department of the Premier and Cabinet started to talk to him about moving back to the department at level 6. Naturally, at that stage Chris started to feel that that was a punishment. In April 2000 the Deputy Ombudsman wrote to the Department of the Premier and Cabinet arguing strongly in favour of his redeployment at level 7/3. In June 2000 he was directed to

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have informal discussions with Les Smith, the former Electoral Commissioner, as Smith may have been able to use his contacts to informally facilitate an appropriate placement. On 23 June the Ombudsman finally decided not to extend Chris Read's contract, and the reason given was his unwarranted criticism. Reference has been made that this complied with the advice from Les Smith. The decision to redeploy him at level 6/4 was made on 26 June. He also accepted a transfer to the Department of the Premier and Cabinet in June on the basis that he maintain his level 7/3 salary.

In July the computer project that was being developed at the Ombudsman's office was scrambled into production. In August Chris Read reviewed his personal files and revealed a 25-page report from Smith, the former Electoral Commissioner, who found that his criticism of the OSCAR project was unfounded and invalid. At that stage Chris Read was unaware that the 25-page document had been produced and he had no input to it whatsoever. The recommendation that he be removed from the Ombudsman's office was predicated on that assessment. The removal took place, and the letters that I have read out demonstrate the toing-and-froing about the salary level he should have been paid.

In March 2001 the director general of the department wrote to advise that Chris Read's salary level would be maintained at and linked to the Ombudsman's office level of 7/3. He espoused the principle of no disadvantage, but that is exactly what happened, because Chris Read's salary was maintained and did not go up to level 7/3. Mr Read made a fatal mistake in June 2001 when he was interviewed by Liam Bartlett on ABC radio. Things started to go badly for him at that stage. The subsequent reports from the State Supply Commission and the Commissioner for Public Sector Standards, which were tabled in Parliament, confirmed his allegations that the Ombudsman had failed to follow procedures, and in September 2001 the Ombudsman resigned. There are many other issues, but I am just picking out those that I think are important. In February 2002 he had a long meeting with the Acting Ombudsman, the former Deputy Ombudsman, Errington, who was strongly opposed to Chris returning to the office because it would embarrass various people. He had the opinion that Chris's allegations would cause considerable harm to the office, although they had been upheld. I find this difficult to understand when we have supposedly produced legislation to ensure the non-victimisation of people who blow the whistle.

In May 2002 the Ombudsman advertised a vacancy for a level 6 senior investigating officer in the Ombudsman's office. Chris applied for that job, but, inexplicably, redeployment failed to match this vacancy with his skills. When he pursued the issue and got an interview, who did the new Ombudsman turn up with to assist him in the interview process? It was none other than Mr Robert Cock, QC. By mid-2002 Chris was suffering severe stress and depression and he was unproductive. The Department of the Premier and Cabinet had no idea what to do with him and was concerned about the workers' compensation risk, so he was told to stay at home and await directions to return to work. That is what he has done from that day forward and he has been paid a full salary by the department. From July 2002 to this day that man has received a salary but has stayed at home waiting to be told what to do.

There are a number of other issues, but I will mention one matter so that members get a sense of how all the people at the top of the public sector are involved and intertwined. Mr Murray Allen, the then Ombudsman, resigned from the office, but I am not sure on what date. He was appointed as a member of the commonwealth Administrative Appeals Tribunal and later became a senior member of the State Administrative Tribunal. He has been well looked after, if members like to think of it that way. I have not met the gentleman, but I understand he is doing a good job. He also works with the Mental Health Review Board. In the meantime, Chris Read, who is at the bottom of the heap, has experienced nothing but trouble, illness and controversy. He is having great difficulty trying to get his case heard fairly and getting representation. My appeal to the Leader of the House is for a bipartisan position, whereby we ask the Premier to make it possible for Chris Read to have a fair hearing. I do not care in what jurisdiction that fair hearing is held, but if it is a legal jurisdiction, he must have legal representation. It is unfair to expect a person in his position to represent himself, when the government has the resources of the State Solicitor's Office and all government departments to represent its case. This is a salient reminder that public servants are not protected in that sort of environment in the public service at the moment, and I have mentioned my own experience of that environment.

I started to go through all the legislation and I noted some areas that I was confused by. It appeared to me that through the Machinery of Government (Miscellaneous Amendments) Bill 2005, we were trying to amend legislation that had been subsequently repealed. I could not follow the legislation very well because some of the acts are not listed on the Parliament web site. I did not know whether the bill would amend an old act or a new act. I felt entirely confused. Nevertheless, I am prepared to listen to the comments of the Leader of the House about that matter because I am sure that he has it under control.

I will conclude by saying that I have a disk that contains more than 130 of the latest annual reports of these various organisations. It makes good reading if members do not have anything better to do. I seek clarification

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from the Leader of the House about how each of these organisations will be improved by the passage of the machinery of government bill, because I expect that that might not occur.

**HON MURRAY CRIDDLE (Agricultural)** [7.48 pm]: Hon Helen Morton has provided a good overview of the bill. This 217-page bill contains 519 clauses and its contents list is some 20 pages long. The Machinery of Government (Miscellaneous Amendments) Bill 2005 is described as a bill for an act to amend various acts to facilitate the efficient and flexible organisation of the public sector, to amend various other acts consequentially and for related purposes. I note also that the bill contains no definitions, so questions might be asked about the various clauses and what some of the terms mean. The bill amends a range of legislation, including the Fish Resources Management Act. Clauses 274 to 291 cover a range of changes to fisheries. The Minister for Fisheries knows better than I do that a team of people is examining the Fish Resources Management Act but this bill will also amend it. I hope this legislation and the review by that team are not at cross purposes. I presume the review of the Fish Resources Management Act will mean that the Parliament will revisit the legislation for further changes. It appears that it is one of those areas that are being duplicated. The bill also includes amendments under the heading "Environment" to the Department of Conservation and Land Management Act. I read a letter the other day that refers to changes to CALM. I have not had an opportunity to check whether they are recently recommended changes to CALM that are included in this bill. Those are the sorts of amendments that are sometimes duplicated.

The other issue mentioned by Hon Helen Morton is that of efficiencies in the public service. I understand that the objective of this bill is to increase efficiencies. There has been a huge blow-out in spending in the public sector although, initially, the government reduced the number of ministerial portfolios and government departments. However, there has been an enormous cost blow-out in the public sector. I am not sure whether that has benefited the community of Western Australia. In fact, I am of the view that communication with various areas of the public sector has been a real problem. Whichever party is in government must watch that area very closely because public sector contact with the community is very important. We must ensure departments are efficient. We heard earlier today that someone had tried for half an hour to contact the health service. That sort of thing should not happen. I have tried to phone the Department for Planning and Infrastructure about licensing and been kept waiting for some time. I timed it one day and the wait was for a quarter of an hour, so I hung up because I thought that was enough, and called back later. That sort of inefficiency causes people to lose contact with, and confidence in, the public sector, and that should not happen.

I have spoken to the Leader of the House about the Country Housing Authority. I think I have an arrangement with the Leader of the House concerning clauses 339 to 388, which cover housing authorities, including the Country Housing Authority, other than the clause on heritage, which is not included. Clauses 460 and 461 amend the Public Sector Management Act and clauses 475 and 476 amend the Financial Administration and Audit Act. I hope that we can move past those clauses and deal with this after we have had our briefing with the appropriate people on the Country Housing Authority.

The Country Housing Authority has served Western Australian rural areas very well. Anyone who has been to the shows and field days held in country areas will know that the personnel involved do a wonderful job in communicating the benefits of the Country Housing Authority to the general country community.

**Hon Kim Chance:** They have done an excellent job.

**Hon MURRAY CRIDDLE:** The Leader of the House is acknowledging that. If the Country Housing Authority comes under the housing authority itself, it could well lose that pool of funding. I want to see that confidence maintained to ensure that the Country Housing Authority is assured of funding. The board was very good in acknowledging the needs of country people. I think Ian Taylor is the chairman of the authority. He understands the issues very clearly and is respected by everybody in regional and rural Western Australia. Those are the issues I wanted to discuss. This is a huge bill, as I said at the outset. I have some concerns about the superministries and the superportfolios that the legislation will create. The efficiencies that people talk about in those areas have not come to fruition. That is a point of view I hold with which other people do not agree. Performances must be watched very closely for the sake of the general community right across WA. I understand the minister will arrange a briefing so that we clearly understand the issues. It is paramount that the funds that are available for the Country Housing Authority and the representation from the board are protected.

**HON BRUCE DONALDSON (Agricultural)** [7.57 pm]: This bill has been canvassed very well by Hon Helen Morton so I will not go over all the issues she has raised. I endorse her remarks and those of Hon Murray Criddle about the Country Housing Authority. We talked about the project officer, Mr Murray Harrison. Hon Murray Criddle and Hon Kim Chance meet him at all the rural shows they attend, at which he does a tremendous job.

**Hon Kim Chance:** He used to be my electorate officer.

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**Hon BRUCE DONALDSON:** There you are. He does a terrific job representing the Country Housing Authority at every show. Wherever we go, Murray is always there; he is a great ambassador for the Country Housing Authority.

**Hon Kim Chance:** He certainly is.

**Hon BRUCE DONALDSON:** The Country Housing Authority has a proven structure under the Country Housing Act 1998. Since its inception seven staff have been based in Perth and it has operated as a lean, mean machine. The beauty of its operation is that it does not receive funds from the consolidated fund. It is a self-funding statutory authority, and that is not bad in this day and age in any government circle. The Country Housing Authority 2004-05 annual report lists the board members. As Hon Murray Criddle has indicated, we have very high regard for Hon Ian Taylor, who is chairman of the authority. The deputy chairman is Joan Cameron, with whom I was involved in local government. She is a former Deputy President of the Shire of Plantagenet, a farmer and grazier. She has been involved in many community organisations and advisory committees to governments. Other board members are Mrs Mary Nenke, a director of a small business based in the country and Rural Woman of the Year in 2000; Mr Ken Smith, assistant director of agency resources in the Department of Treasury and Finance; and Mr Graham Stephens, acting director of the Office of Aboriginal Economic Development. Under the authority's charter and provision of services it has a number of programs. Its client base includes local authorities that wish to provide housing to a business or service provider within their district; rural employers, including the self-employed; farmers; pastoralists; and retired farmers who have transferred their total interest in the family farm to another family member. The housing finance access program is a major country housing service program. In 2004-05, 123 farmers and businesses had loans totalling approximately \$13.5 million approved under the housing finance access program.

Another program is the rural area power scheme. In March 2002 the Country Housing Authority extended assistance for the installation of renewable energy systems to replace unreliable and high-cost diesel generators. This initiative supports the commonwealth and the state governments' renewable remote power generation program. During 2004-05, 17 applications were approved, with loans totalling approximately \$1.3 million. Another program is the housing development incentive program. The benefits of this program include employment opportunities, facilitating exports, value adding, regional development, community development, provision of a service or product not available in the town, and better use of existing infrastructure and services. During 2004-05 the authority approved \$1.24 million in grants to shires and community groups through this program. In the previous financial year, this money was sourced from the state government's regional investment fund. A further initiative of the housing development incentive program is the natural disasters program. Fortunately in 2004-05 it was not necessary to provide assistance under this program. That obviously meant there were no natural disasters for which that financial assistance was required.

At the commencement of 2005 interest rates were about 7.25 per cent. From 1 June 2005 they were 7.5 per cent. The authority does not charge application or loan management fees, and no penalties are applied to early payout of loans or for lump sums or extra payments on standard loans. The authority's funded loan portfolio of 514 loans is valued at \$36.4 million. The report indicates that only a handful of local government authorities in the state have not accessed finance from the Country Housing Authority at some time. Between 1998 and 2005, 645 applications were made under the housing finance access program, for a total of \$59.236 million; 47 applications were made under the housing development incentive program, for a total of \$9.468 million; and 90 applications were made for housing development incentive program grant funding, for a total of \$4.49 million. The total number of approvals was 782, and the total funding was \$73.195 million.

It is interesting to note that in 2004-05 the Country Housing Authority made a net profit of \$486 000, so it is not reliant on consolidated revenue. The budget forecast for 2005-06 - I do not know whether it achieved that - was that it would make a net profit of \$741 000. The Country Housing Authority has been a tremendous asset to country people. Big is not necessarily beautiful. Many good statutory organisations have been swallowed up into the so-called bigger picture. One could not get a more streamlined approach to administering services than what the Country Housing Authority has been able to achieve. The last page of the report details the expenses of the authority. For example, employee costs were \$649 000, interest expenses were 1.137 million, and grants and subsidies were zero. The total expenses from ordinary activities was \$2.383 million, and the total revenue from ordinary activities was \$3.124 million. That reminds me of the old saying, "If it ain't broke, don't fix it." I hope the employees of the Country Housing Authority will not be disadvantaged by being placed under the senior executive service. Hon Helen Morton has been working very diligently with the government's legal counsel on proposed amendments to ensure that will not be the case. The last thing any of us would wish to do is disadvantage these people who have given such tremendous service to the rural and regional communities of Western Australia. I understand that is achievable. Irrespective of the briefings that we have received, I assure the house of my total commitment to keep the Country Housing Authority as it is. It has a proven track record.

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If it did not, it could perhaps be subsumed into the wider picture. This authority has been doing a tremendous job since 1998. The work of the board and the staff is of very high quality, and they understand the needs of rural and regional people. However, they get very little money for doing that work. The board meets about 12 times a year. I intend to support the amendments proposed by Hon Helen Morton. I hope commonsense will prevail and we will allow this group of people to get on with the job that they been doing so successfully for a number of years.

**HON PAUL LLEWELLYN (South West)** [8.06 pm]: It was a toss-up between Hon Giz Watson and me as to who would be the Greens' spokesperson on the Machinery of Government (Miscellaneous Amendments) Bill, but it ended up being me, because the bill is so large! In an attempt to learn more about why the bill has been constructed, I have read the report of the Machinery of Government Taskforce, chaired by Stuart Hicks. I worked in the public service during the 1980s. Since that time I have been working in the countryside of Western Australia. During the process of reading the Hicks report I learnt a lot about how the philosophy of the public service has changed during the past 10 or 15 years. The major change is the way in which we have corporatised our organisations.

In outlining the Greens' perspective on this bill, I will look first at the purpose of the bill. The purpose of the bill is to streamline and rationalise government departments. To some extent that is a good ideal. Who could argue against the need to improve and have an orderly, efficient and more people-friendly and responsive public sector that is based on integrity? The bill will decrease the number of ministers, and approximately halve the number of departments. The intention is to establish a properly structured and modernised public service that will deliver a cost-effective and high-quality service with the objective of rebuilding the pride and the capacity of the public service. Having listened to Hon Helen Morton making her speech, it seems to me that we want to build pride, respect and integrity into the public service. Hon Helen Morton was possibly asserting that, through the Machinery of Government (Miscellaneous Amendments) Bill, the opportunity to do so was lost. However, that was the original intent. It is a matter of looking at how we, as a society, undertake governance. We would hope that a review of government structures and the public service would result in a more open, human-scale, fair, responsive and personal public sector. That would be a fair outcome, because that is what it is there for.

When there is a disparate organisation that has sprung up in a very young country over only a couple of hundred years of civil service development and which has hundreds of different arms and small authorities, it is always tempting to say that we want to rationalise all and centralise some of those functions. To some extent, there are good reasons for doing that. However, the heart and soul of the public service should not be lost in centralising those functions. It is possible to have a more streamlined and, to some extent, centralised public service that also has a commitment to decentralising and devolving decision-making and powers outwards to other branches.

I will talk later about the old chestnut that we have to deal with in Western Australia of the small size of our population and the very large areas that we have to cover. It is not so much that we will have centralisation at the expense of the quality of democracy; the question is how can centralised and efficient structures be created while maintaining the quality of democracy and a responsive public sector? We cannot talk about change in government structures without seeing how we arrive at this point in 2005; that is, how the process is slow, how government organisations lag behind fashions in organisational structure, and how they lag behind in corporatising their images. The government's current process of corporatisation and streamlining of the public sector closely reflects what happened in the free market component of the economy. That is exactly what happened. Businesses have become bigger, more centralised and less friendly, and our government structures are basically mimicking or copycatting what has happened in the corporate sector. We make a stand for small-scale business and small enterprise in respect of where we want to go with our market economies but the global reality is that we are centralising control, capital, power and decision making. In spite of the myth that we hold, that the whole economy is driven by small-scale business, it is not. The private sector has really set the standard in making the distinction between big business and big government; the model of corporate development in the private sector has set the standard; the model of accounting has set the standard. We will start to see the public sector look very much like the private sector, not least with its exorbitant executive salaries. That is a feature of big business. It is also becoming a feature of our government. That is a sad case, because we should be able to arrive at a streamlined, well-organised, responsive public sector without mimicking that really unfortunate characteristic of the private sector - exorbitant executive salaries and big payouts. Members will know what I am talking about in the context of current debates.

That is because, for better or worse, we live in a market economy in which public servants are expected to compete with someone on an executive salary to run a very large public sector service. We are caught between a rock and a hard place. We have a clash of philosophies with regard to whether it is big business or big government but, in fact, they are flipsides of exactly the same coin. Each successive government feels compelled to restructure and reorganise according to their own philosophy. With no disrespect, Hon Helen

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Morton says that the Liberal Party will undo this as soon as it gets in. To some extent - I do not wish to misquote anybody - I think that statement could be construed as being symptomatic of the problem; that is, we feel compelled to make changes because they do not fit some ideological mould or look right to us.

We ought to be looking for where the public good lies in the restructure of our organisations and whether it is possible to have global organisational structures - we need to have global structures because we have created global problems - that still maintain corporate democracy, grassroots democracy, commitment to service and service delivery and, in fact, a flow of information from the ground back through the organisation. I think that it is possible to do so without throwing the babies out with the bathwater. There are quite a few babies here and quite a number of baths, as far as I can see.

This organisational failure is systemic. It is the nature of things. Our organisational failure in the public service is mirrored by the failure of the free market economy. As we get bigger, we corporatise. The market economy fails to act in the public interest, and that is called market failure. It fails to protect the commons; it fails to protect common land. It fails to protect the underprivileged generally. It does not have to, but it generally fails to protect the most vulnerable people in our society.

So how do we find a solution that will streamline and corporatise, streamline and globalise or streamline and end up with a golf ball corporate logo, but maintain a human face? That is what is actually at stake; it is about how we maintain the human face and is not necessarily a debate about whether the structures are right or wrong. We know that as a result of the ad hoc development of institutional structures in Western Australia, we have ended up with myriad public bodies, statutory authorities, boards and so on. I have some sympathy with the intent of the Hicks report and the machinery of government bill to clean those up; however, I am of the "If it ain't broke, don't fix it" school of thought on the matter of the Country Housing Authority, for example. Murray has also been to my door, and he is a very good representative. In spite of that, let us not be sentimental about this bloke who rocks up and says, "We have a great organisation and it will be lost in this bureaucratic machinery", because the Greens (WA) see a stream of these issues flowing through and that is just one of them. What do we do? Do we fight a red-eye action for every outpost? No. In actual fact, in spite of the structures, we have to jointly respond to the failure of government and the failure of democracy. We must respond to the quality of democracy. When we talk about governments in Western Australia and Australia in general we cannot have this conversation without dealing with our geography and population. Historically, when transport and communications were much more difficult, we did extraordinarily well to deliver services into the bush and throughout this vast country. Now we do not have those things and we need to embrace the capacity to improve communications, the quality of our democracy and the quality of decision making.

That brings me to the next conundrum; that is, now we do not have less information, we have more. Now government departments are very spread out and have a bulk of information. In fact, democracy and quality of service are getting lost and buried in information. We need to confront that. Governments could well look at including an efficiency condition on the amount of information that is sent out. We want good quality, reliable information. We do not need the gloss and hype and expensive spin doctors. In some ways that is looking at how we have a well-managed decentralised but streamlined organisational structure. I suppose the assertion I am making is that that should have been the focus of the machinery of government inquiry, not how we restructure them. There needs to be another inquiry into how, having cleaned up some of the structures, we attend to democratising and making the public service more accessible to people, because it is about service. We may end up with 600 independent organisations.

Provided there is a unifying philosophy about where we as a society or community are going, it is all right to have decentralised organisations, but there must be concordance in the way in which we organise. That does not mean setting corporate agendas and mission statements. I refer to the mission statements of the state housing strategy. I am inevitably coming to the Country Housing Association because Murray came to visit me a few months ago. On the front cover of the Housing Strategy WA it states -

Our vision is a responsive housing system in Western Australia, -

We cannot argue about that -

that meets the changing needs, aspirations and choices of all citizens in a sustainable way.

I love that. We do not want to argue the toss about that statement; we cannot argue with it. However, we have to work out how successive governments, and governments will come and go, will work towards unifying that vision and not just knock things. It cannot be argued that that should be a proper mission statement for a housing strategy. We could add other things to that mission statement; for example, words such as affordable, fair and equitable. Instead of arguing the toss about the restructuring, let us transform the conversation from one about cleaning up some of these structures and recognising the pitfalls of overweight middle management into one

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about how we democratise our public sector. I suspect that the way that will happen is to simplify it a bit by ceasing to mimic global corporations because, until now, they have provided a bad model.

Hon Bruce Donaldson said it all and other members have said it; that is, the Country Housing Authority is a very good example of a decentralised responsive personalised service delivery. It is so personalised that we know the guy's first name and that he attends every country fair. I also have the statistics on its operations. I will not repeat what Hon Bruce Donaldson said, but I will go to the bottom line. Not only did all the board members attend most of the meetings, which I thought was very good, but also the authority's mission statement is to contribute to the social and economic development of rural and remote Western Australia through the provision of flexible finance for housing where options are limited. Now I will go to its bottom line; that is, that the statement of its financial performance is that its total revenue from ordinary activities was \$2.8 million, not \$7.9 million; its total expenses was \$2.471 million; and it had a net profit of \$408 736. It can be proud that, as a small-scale decentralised instrumentality that is responsive to the community, it returned a profit and delivered a service.

The Greens wrote to the minister pointing out that it had serious concerns about the Country Housing Authority. The Greens then found that, a few weeks ago, the minister abolished the housing advisory committee. I will quote from a letter that the Greens wrote to Hon Kate Doust representing the Minister for Housing and Works.

**Hon Kate Doust:** You made a mistake.

**Hon PAUL LLEWELLYN:** I will not go there. We sent the letter on to Hon Michelle Roberts. The letter states -

The Greens will oppose amendments relating to abolition of the Country Housing Authority, the Government Employees Housing Authority and the State Housing Commission unless we are satisfied that there are acceptable alternative mechanisms in place that provide a proper level of community input into housing matters.

I do not know whether we will get briefings about this. I do not know whether the proper mechanism is to retain the Country Housing Authority exactly the way it is or whether there is an alternative mechanism to get the information and service delivery that is required. I suspect there must be. I understand that not a lot changed in the dissolution of this authority. It is to be amalgamated into the State Housing Commission. This is the fear of big government. It is disappointing to the Greens that immediately upon coming into this role, the Minister for Housing and Works has abolished the community based advisory committee. A number of small organisations will also be abolished. That is a good example of not only corporatising and streamlining, but also losing the mechanisms to achieve quality democracy. The conversation that the Greens will have on this is how we can build the democratic purpose back into the machinery of government bill if the Country Housing Authority must be used as a model. We will insist that a clear and robust mechanism for community involvement in housing is put in place, because that is very important to each citizen.

It was a very ambitious task to take on the reorganisation of the machinery of government. It was done by very competent people. I do not want to bring personalities into it, but for all intents and purposes Stuart Hicks is a very competent civil servant and academic. It was done with the best intent. How do we take the structures and maintain the intentions? At stake are the good intentions and the quality and personal aspects of governance.

**HON SIMON O'BRIEN (South Metropolitan)** [8.32 pm]: The house owes a debt of gratitude to Hon Helen Morton for drawing to members' attention to a range of matters contained within this bill that are clearly not as straightforward as we were led to believe. That is the role of an opposition member who is charged with the management of a bill, and it is a role that the member has fulfilled very conscientiously. She has drawn to members' attention a number of matters of concern. This is not a simple omnibus tidying up type of bill that contains a large number of tidying up provisions. Indeed, it contains 519 clauses in 20 parts that amend dozens of acts. Some of those amendments are as they were presented to us; that is, they are straightforward, non-controversial and pedestrian. However, Hon Helen Morton has drawn to my attention and that of other members, not only in the house but also outside of it in other forums, that some of these clauses appear to contain anomalies. The anomalies fall into two categories. Firstly, and perhaps embarrassingly, the bill seems to attempt to amend a number of acts that have already been repealed by this government through other legislation. The absurdity of that would not be lost on anybody, least of all the government. I noticed that when Hon Helen Morton raised these matters, the Leader of the House paid close attention and referred to his copy of the bill, as one would expect him to do. It appears that the government may need to revisit some of the clauses and perhaps delete them.

**Hon Kim Chance:** I think the amendments in the supplementary notice paper cover that. I hope they do.

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**Hon SIMON O'BRIEN:** Let us hope they do. When a member, on behalf of other members, brings these types of matters our attention, we must ensure that all the bases are covered. I suspect that the committee stage might be a little more detailed than would otherwise have been the case. I certainly hope it will not take too long. I suspect that the vast majority of these clauses are quite straightforward. Nonetheless, we will have to look at them quite carefully.

The second matter of concern that Hon Helen Morton brought to our attention is the consequences of some of these amendments in specific cases. That will have to be picked over and looked at in detail during the relevant part of the committee stage, which is fine. I do not intend to talk on those matters now except to point out that when these types of bills - in this case, the Machinery of Government (Miscellaneous Amendments) Bill - are presented as general tidying up bills, they are not the appropriate vehicles in which to bury or to include controversial provisions. The reasons for that are well established. There is an old cliché, not that I ever resort to clichés -

**Hon Kim Chance:** Heaven forbid! We would be on the horns of a dilemma if the member did.

**Hon SIMON O'BRIEN:** Bear with me. Members will just have to suck it and see! An omnibus or miscellaneous amendment bill is not the right place to include controversial matters.

**Hon Kim Chance:** Not when all is said and done, no!

**Hon SIMON O'BRIEN:** The Leader of the House is incorrigible, but I suppose I might have tempted him to interject in some way!

This is not the type of bill in which to insert some clauses that could turn out to be controversial in the midst of hundreds of other measures which, with the efficiency of government and the processing of legislation in mind, rightfully go into such a bill and which this house can appropriately deal with with considerable despatch and in large volumes; I will not say rubber stamp them. When a controversial matter finds its way into such a bill - it might not have been recognised as potentially controversial by the architects of the bill; I do not know - it slows down the business of the house because members must look for other controversial matters. On some occasions like this, it might be more convenient to refer such a bill to a committee. I do not believe that the bill's predecessor was referred to a committee.

**Hon Kim Chance:** Not that I am aware of.

**Hon SIMON O'BRIEN:** No, although I guess it is still open to do so in the same way as we refer statute review bills to the Standing Committee on Uniform Legislation and Statutes Review. I hope I am not making work for myself in going down this line! However, the point is made. The cliché that I was about to use before the Leader of the House temporarily scared me off, although I will not be put off, is about throwing the baby out with the bathwater. That is a risk we take if we find a controversial element somewhere in the midst of 500 clauses; and if it is a controversial and serious element that we oppose, we may have to oppose a bill that contains mostly inconsequential elements in order to defeat the serious element that we wish to oppose. That is something that both the government and the opposition want to avoid. Hon Helen Morton did us a favour during the second reading debate in bringing those issues to our attention, although it remains to be seen whether the government regards it as a favour. However, we will look at those concerns during the committee stage and establish how serious they are. Perhaps the government will come to the view that if there are controversial matters, they will need to be put to one side or we may need to split the bill or do whatever else is necessary to make progress.

**Hon Kim Chance:** I intend to defer all matters that refer even obliquely to the Country Housing Authority until such time as we have had our briefing, as I am still to have a briefing on that matter. After we have had the briefing, we can make up our minds whether the bill continues to be controversial. It may or may not be, but we do not have to deal with that matter now.

**Hon SIMON O'BRIEN:** I thank the Leader of the House for the interjection. The bill is apparently now producing a couple of embarrassments in that it seeks to amend some acts that have been repealed. That has happened because this large bill that we are currently dealing with actually had its genesis back in - what, 2003?

**Hon Kim Chance:** I think it was 2003.

**Hon SIMON O'BRIEN:** Okay; that was three years ago in the previous Parliament. The bill amends many other acts, and obviously other events and time have overtaken some aspects of the bill. Those observations are my contribution to the second reading debate. I make the point about the need for miscellaneous amendments to bills to be about real miscellaneous amendments that, although important, are not necessarily of any great controversy or do not have a far-reaching impact. We will see how the bill progresses. I am beginning to think, though, that it is the sort of bill that should be referred to a committee from the point of view of managing the



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house's time. I can make that suggestion - although I am not moving along those lines - and raise that possibility in what should be a non-contentious bill, simply to point out to the house that it is an opportunity to save some plenary session time. I think it could save quite a lot of time, but that is in the hands of the government to decide what it wants to do, as it manages the house's business. Hon Helen Morton has certainly done us a favour in her contribution to the second reading debate on behalf of the opposition, as opposition scrutiny of any bill introduced in this house is an important part of our overall process; I am sure the government recognises that as well.

**HON KIM CHANCE (Agricultural - Leader of the House)** [8.44 pm]: I thank all honourable members for the contributions they have made, and made in such a diligent fashion. Clearly, honourable members saw much more in this bill than was intended. I will deal primarily with the most recent issues raised by the acting Leader of the Opposition. I have marked up my copy of the bill as far as I possibly can with the proposed amendments, and I believe that the matters dealing with legislation that has been repealed since the bill was first introduced have been covered. I hope that as we work through the committee stage, my confidence in that belief will be rewarded.

I will now refer to controversial matters. Although I accept the broad thrust of what Hon Simon O'Brien has said, generally speaking we would not expect to see controversial matters in an omnibus-type bill. Indeed, the government's response, on being alerted to a controversial clause in an omnibus bill, should always be to withdraw that clause; that has been the practice of this house for many years. However, although this bill has the feel, touch, smell and style of an omnibus bill, it is not technically a bill of that category. It is a broad-ranging bill, but is, in fact, a bill that represents an expression of the Machinery of Government Taskforce led by Stuart Hicks, as honourable members and particularly Hon Paul Llewellyn pointed out. The flow of amendments reflects the flow of the Hicks report and as a result of that, yes, there are matters in the bill that are, if not contentious, at least contestable. Most particularly, among those, as the point was very strongly made by Hon Murray Criddle and Hon Bruce Donaldson, the matters concerning the Country Housing Authority need to be thoroughly tested. However, I do not propose to canvass that issue much tonight. I look forward to my briefing tomorrow and to making sure that the four members that I am aware of who have indicated they also want a briefing have had that opportunity. It is therefore not my intention to deal with those clauses. I think I have marked out all the clauses that touch even remotely on the Country Housing Authority, and as we reach those clauses I will seek to defer their consideration until the end of the bill or until we are satisfied that we have the information that we require to deal with them.

As to the rest of the bill, I must say something, notwithstanding that I know Hon Helen Morton has been very diligent as the lead speaker for the opposition on this matter by cross-referencing it back to the parent legislation. On a number of occasions, while Hon Helen Morton was speaking on the matter, I had to go back to the notice paper to check which bill we were dealing with. Hon Helen Morton was actually speaking to the Public Sector Management Act. All the matters that Hon Helen Morton raised were matters concerning the Public Sector Management Act. It is true that this bill deals at a very superficial level - I believe in only a couple of clauses - with matters concerning the Public Sector Management Act. I am sure that Hon Helen Morton was most sincere in raising those matters, and I know that the matters concerning the public servant who some seven to eight years ago seems to have been very badly treated were genuinely felt, but they are just not relevant to this bill, and I would be breaching the standing orders if I were to comment on them. Hon Paul Llewellyn also covered areas that were more in keeping with the policy of the bill. However, again, he spoke more about issues related to the Public Sector Management Act. It is a very important act. I am certainly not being critical of people for raising issues about the management of our public sector. However, to the extent that this bill touches on the management of the public sector, it does so in an uncontroversial and superficial way. The bill will tighten the way in which our public sector is managed, and that is consistent with the terms of reference and the outcomes of the Hicks review. Specifically, this bill does not touch on public sector employee numbers. It does not touch on public sector employee salaries, or if it does -

**Hon Murray Criddle:** It certainly has an impact.

**Hon KIM CHANCE:** I wait with bated breath to see which part of this bill touches on public sector salaries.

**Hon Helen Morton:** Read your second reading speech again.

**Hon KIM CHANCE:** The second reading speech did not say very much at all. The second reading speech was three paragraphs long.

**Hon Helen Morton:** It referred to the improved efficiency of the public service.

**Hon KIM CHANCE:** Yes, and these matters go to efficiency because they will eliminate some areas of archaic duplication. However, the bill does not touch on salaries. It certainly does not touch on numbers. The

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observation has been made that the public service has grown. Yes, it has. Who is surprised that the public sector has grown?

**Hon Murray Criddle:** In view of your government's statements, it is to some extent surprising that the numbers have grown because you put in place efficiencies that, by and large, were going to cut down the numbers.

**Hon KIM CHANCE:** Yes, and we have reduced the number from 42 government agencies to 22 government agencies.

**Hon Murray Criddle:** I grant you that.

**Hon Helen Morton:** But you have increased the numbers in each.

**Hon KIM CHANCE:** Yes. However, when we came to government, we said that we would increase public sector employee numbers, particularly the number of police, nurses, teachers, carers and community workers. Only the other day we spoke about how stressed and over-employed community workers are.

**Hon Helen Morton:** Do they get paid \$200 000 a year?

**Hon KIM CHANCE:** I do not know.

**Hon Helen Morton:** Because that has increased by five.

**Hon KIM CHANCE:** I am sorry; I do not know what the member is talking about. Those are the areas in which we have increased the number of people. Apart from anything else, our economy has grown. I do not know whether members have grasped this concept. Our economy is about one-third bigger than it was when we came to government. This is a huge economy.

**Hon Murray Criddle:** I am very aware of it, minister, and I would love to have the opportunity to use some of that money to great advantage.

**Hon KIM CHANCE:** The economy has a capital works budget over the forward estimates of frightening proportions. This is about investment in our state's future. Of course we need people in the public service to try to manage all of that. I do not think anybody should be surprised that in times like these, the public sector will grow somewhat.

**Hon Anthony Fels:** What will you do when it slows down?

**Hon KIM CHANCE:** That is a good question and a very intelligent question. Indeed, that goes to precisely what members will see in the budget on 11 May. The government is setting out to ensure that what we have done while we have been fortunate enough to have an economy running at levels such as it is now will enable us to have something to carry on with beyond the boom. Everybody knows the boom will end sometime, but we might differ about when.

**Hon Anthony Fels:** We should have our debt paid off by then.

**Hon KIM CHANCE:** Is paying off debt a major issue? The important point is whether we have the infrastructure to allow us to do the things that we want to do. Did we take the opportunity, for example, to put in place the kind of infrastructure in ports and hospitals -

**Hon Murray Criddle:** You borrowed all the port money. Let's not get carried away. All that port money was borrowed and it will be paid back by the users.

**Hon KIM CHANCE:** The member is talking about the port of Geraldton. The same applies to any infrastructure.

**Hon Murray Criddle:** Of course it does. I am not arguing with that, but you should not say that it is coming out of the budget.

**Hon KIM CHANCE:** It comes out of the economy. It is the way in which the economy directs itself. An economy can direct itself in a number of ways. We can deliver on the benefits of the economy, whether it be recouped from -

**Hon Murray Criddle:** You could have used a better example than ports.

**Hon KIM CHANCE:** - port users, for example, which are financing a large part of the Geraldton port infrastructure, from direct investment by government or from borrowings, because all capital works basically run on borrowings or surpluses, or a combination of the two.

**Hon Anthony Fels** interjected.

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**Hon KIM CHANCE:** That is exactly how infrastructure is paid for. There are exceptions. The private sector gets involved as well, because it pays fees for rail and port use and contributes to the construction of facilities. However, generally speaking, infrastructure is provided by a mix of the use of surpluses. That is what surpluses are for. Surpluses are spent before they are announced. They are already committed to infrastructure; that is what surpluses are used for and they are funded by debt. It is not unusual to see debt rising in a boom economy, because the very factors that cause the boom economy suck in more and more investment requirements. That is precisely the situation we have in Western Australia now. The more the iron ore price rises, the more new iron ore producers come on and the more demand there is for railways and ports. Oakajee will be exactly the same.

**Hon Murray Criddle:** It will be a private port.

**Hon KIM CHANCE:** Oakajee will be funded entirely by the private sector and so, hopefully, will a large amount -

**Hon Murray Criddle:** They should have built at James Point if it was to be privately funded. The only problem was that the minister would not tick off on it.

**Hon KIM CHANCE:** No, I do not think that is quite accurate.

**Hon Murray Criddle:** I signed the memorandum of understanding that gave them the opportunity to do it.

**Hon KIM CHANCE:** Yes, but it still had to get Environmental Protection Authority clearance and the proponents had to proceed beyond that. I am not sure that that happened.

**Hon Murray Criddle:** I think you had better check that.

**Hon KIM CHANCE:** I already have. I think the member should check that.

**Hon Murray Criddle:** I will.

**Hon KIM CHANCE:** That is the process. As an economy grows, it needs more investment. However, how well we have invested in our future determines how well our economy will run post the boom. It is an interesting subject to work through. I am always amazed when I hear people cry out for the benefits of the boom economy, the surpluses that are generated, to be frittered away in tax cuts. I think that is absurd.

**Hon Anthony Fels:** They are not frittered away.

**Hon KIM CHANCE:** While there is a boom, there is capacity to make an investment in the future. If the whole surplus is spent on tax cuts, it will be gone. Even if half of it is spent on tax cuts, it will be gone. It is exactly the same with wage demands. Unless the state can keep control over wage demands, the boom will be gone and the surplus will be gone, and there will be nothing at the other end of the boom. Tax cuts are exactly the same. It is a matter of exercising restraint.

Several members interjected.

**The DEPUTY PRESIDENT (Hon Ken Travers):** Order, members! The Leader of the House is giving his response to the second reading debate. As members interject, they raise new matters in the debate, which we should not be dealing with at this stage. I am sure that the Leader of the House is seeking to wind up his remarks in response to the earlier comments of members.

**Hon KIM CHANCE:** I thank you, Mr Deputy President. That sums up the situation. The way in which we manage the economy requires an effective public service. Sometimes when the government competes against the private sector in wages to get quality people, it does have to pay more. That is one of the pressures that the government faces. However, in net terms there is also more work for the public sector to do as a result of the growing economy, and that leads to more public servants. In a population of some 2.2 million dollars -

**Hon Bruce Donaldson:** You mean 2.2 million people, not dollars.

**Hon KIM CHANCE:** Yes, sorry. In a population of 2.2 million people, the size of our public sector is not by any extent -

**Hon Bruce Donaldson:** You were thinking of your bank account!

**Hon KIM CHANCE:** I wish. It is not excessive by any stretch of the imagination - not to compete with Hon Simon O'Brien. I encourage members to work through the committee stage of this bill diligently. I think it can be done quite quickly. The vast bulk of it is housekeeping. There are contestable areas but I think they can be deferred, at least until the briefing has been held tomorrow.

Question put and passed.

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Bill read a second time.

*Committee*

The Deputy Chairman of Committees (Hon Ken Travers) in the chair; Hon Kim Chance (Leader of the House) in charge of the bill.

**The DEPUTY CHAIRMAN:** Amendments are contained in supplementary notice paper 17, issue 1. Further amendments to this bill will be circulated some time tomorrow.

**Clause 1: Short title -**

**Hon HELEN MORTON:** The only amendments I will seek to move have not been circulated. They all refer to the Country Housing Authority.

**Hon KIM CHANCE:** I have spoken to Hon Helen Morton about this. I understand that the clauses referring to the Country Housing Authority are subject to dissent on one hand and amendment on the other. I intend to seek leave of the committee to postpone each clause relating to the Country Housing Authority. I had them marked in my copy. We should be able to deal with all of them at the end of the committee stage, and that will give the committee adequate time to consider all of Hon Helen Morton's amendments.

**Clause put and passed.**

**Clauses 2 to 8 put and passed.**

**Clause 9: Section 65 amended -**

**Hon MURRAY CRIDDLE:** This clause refers to "any other moneys lawfully received, made available or payable to the Protection Board". In the context in which I understand that the Department of Agriculture and Food receives the funding, what will be the impact of that on the protection board? I fully understand that most of the budget is managed by the minister's department.

**Hon KIM CHANCE:** This is somewhat difficult to deal with without having each of the parent acts in front of me.

**Hon Murray Criddle:** I am happy for the minister to provide an explanation some other time.

**Hon KIM CHANCE:** I think it relates to the Treasury fund. This will crop up quite often in this process because the Treasury fund, as described, no longer exists, but I will certainly check that.

**Clause put and passed.**

**Clauses 10 to 33 put and passed.**

**Clauses 34 to 41 -**

**Hon KIM CHANCE:** I move -

Page 11, line 14 to page 14, line 15 - To delete the division.

As has been discussed, this amendment relates to an act that has since been repealed; namely the Children's Court of Western Australia Act 1988.

**Hon HELEN MORTON:** This amendment refers to page 14, line 15. On page 11, from line 10 to four lines below, it reaches the middle of the table. Perhaps the lines in the table are not counted as lines in a bill. Can someone clarify that for me please?

**The DEPUTY CHAIRMAN:** The minister has moved to delete the division. The "Children's Court of Western Australia" will be the first line, and the amendment refers to page 14, line 15. It will delete clauses 34 to 41. The amendment will delete the whole division.

**Hon HELEN MORTON:** Is that amendment as it is written correct using line 14 on page 11, or is the numbering incorrect? We must move what is on the amendment page. Either the numbering down the side of the bill is incorrect or table lines are not counted, in which case I am unaware of that.

**The DEPUTY CHAIRMAN:** I understand the point the member is making. It is confusing because the table becomes effectively one line. That still does not make the numbering run correctly. However, if we follow the left-hand side as indicated on the bill it is clear that we are dealing with division 2. That commences with "Children's Court of Western Australia Act 1988". I am sure the Clerks will ensure that that is the way the bill is interpreted and we do not delete half the table. I understand the point the member is making.

**Hon HELEN MORTON:** I am sorry to be pedantic, but I want to know what is right.

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**Hon Kim Chance:** It will delete division 2.

**Hon HELEN MORTON:** I know that is what the amendment will delete. I want to know whether the lines in the bill are numbered incorrectly.

**Hon Kim Chance:** That seems to me to be correct.

**The DEPUTY CHAIRMAN:** For the sake of clarity, the line with the word "CEO" is 10, the line with the word "Table" is 11, the line commencing with the word "Note" is 12, the line commencing with the words "by deleting" is 13, and the line commencing with the words "Division 2" is 14. That is how it has been counted for the purpose of the amendment. The table is treated as one line. The question is that clauses 34 to 41 - which is all of division 2 - be deleted.

**Amendment put and passed; clauses 34 to 41 thus deleted.**

**Clauses 42 to 45 put and passed.**

**Clauses 46 to 48 -**

**Hon KIM CHANCE:** I move -

Page 16, lines 1 to 19 - To delete the division.

The reason for this amendment is the same as for my last group of amendments; namely, that the act concerned - in this case the Community Services Act 1972 - has been repealed since this bill was first printed.

**Hon MURRAY CRIDDLE:** I do not understand. It is headed "Family Court Act 1997".

**Hon KIM CHANCE:** It is under the heading "Family Court Act 1997", but it refers to actions taken under the Community Services Act, as outlined in line 14. I am seeking to repeal all of division 4. The reason for the repeal is the fact that the Community Services Act has been repealed.

**Hon MURRAY CRIDDLE:** It refers to the Family Court Act, so it is confusing.

**Hon KIM CHANCE:** I believe I can explain that. The amendments in the division were originally proposed to have been to the Family Court Act.

**Hon Murray Criddle:** That is not what it says.

**Hon KIM CHANCE:** Yes. Clause 46 states -

The amendments in this Division are to the *Family Court Act 1997*.

The amendments would have had the effect of giving the word "Director-General" the same meaning as is given to the word "CEO" under section 3 of the Community Services Act. However, that act no longer exists, so we cannot refer to it.

**The DEPUTY CHAIRMAN:** My understanding is that the correct way to deal with this matter is that I will put the question that clauses 46 to 48 stand as printed. If the Leader of the House and other members wish to delete those clauses, they will vote against them. That will mean that division 4 will drop out, because there will no longer be any clauses in that division. The question is that clauses 46 to 48 stand as printed.

**Clauses put and negated.**

**Clauses 49 and 50 -**

**Hon KIM CHANCE:** In line with amendment 3/D5 I ask members to vote against clauses 49 and 50.

**Clauses put and negated.**

**Clause 51 put and passed.**

**Clause 52: Second Schedule amended -**

**Hon KIM CHANCE:** I have a problem with this clause, Mr Deputy Chairman, because I want to delete subclause (2), but I want to leave subclauses (1) and (3) in place. I therefore request that we deal with these subclauses separately.

**The DEPUTY CHAIRMAN:** If the minister moves his amendment, and it is agreed to, those subclauses will be deleted from the clause, and I will then put the question that the clause, as amended, be put and passed.

**Hon KIM CHANCE:** Thank you very much, Mr Deputy Chairman. In that case, I move -

Page 17, lines 24 to 29 - To delete the lines.

**Amendment put and passed.**

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**Clause, as amended, put and passed.**

**Clauses 53 and 54 -**

**Hon KIM CHANCE:** In line with amendment 5/D7-

**The DEPUTY CHAIRMAN:** Again it looks as though the minister is seeking to delete division 7, so we will deal with clauses 53 and 54 together.

**Hon KIM CHANCE:** That is correct. It is complicated, because the amendments in the supplementary notice paper do not have the clause numbers on them. In line with amendment 5/D7, I ask members to vote against clauses 53 and 54.

**Clauses put and negatived.**

**Clauses 55 to 59 put and passed.**

**Clause 60: Schedule 1 amended -**

**Hon KIM CHANCE:** Clause 60 is the first clause that refers to the Country Housing Authority. It is my intention to move to defer the consideration of clause 60 until after our consideration of clause 519.

**Further consideration of the clause postponed until after consideration of clause 519, on motion by Hon Kim Chance (Leader of the House).**

**Clauses 61 and 62 put and passed.**

**Clauses 63 and 64 -**

**Hon KIM CHANCE:** In line with my amendment 6/D12, I ask members to vote against clauses 63 and 64.

**Hon MURRAY CRIDDLE:** I want to check on what the Leader of the House is indicating.

**Hon Kim Chance:** It is all of division 12.

**Clauses put and negatived.**

**Clauses 65 to 94 -**

**Hon KIM CHANCE:** Do we deal with it clause by clause or part by part?

**The DEPUTY CHAIRMAN (Hon Ken Travers):** We can put clauses 65 to 94 unless any member wishes to speak to one of those clauses.

**Hon KIM CHANCE:** In that case, I ask members to vote against clauses 65 to 94 inclusive.

**Hon MURRAY CRIDDLE:** I ask the Leader of the House to give a brief explanation for the reason to vote against these clauses. It is a massive change to this bill.

**Hon KIM CHANCE:** I thank Hon Murray Criddle for inviting me to do that because it is a very large change to the legislation. The primary reason is that the Children and Community Services Act 2004, the relevant provisions of which came into operation on 1 March 2006, very recently, has replaced the Community Services Act 1972 to which we have referred previously in this context and also the old Child Welfare Act 1947. It relates to very new legislation or the provisions of same.

**Hon RAY HALLIGAN:** Is the Leader of the House asking members to vote against clause 77?

**Hon Kim Chance:** I am asking members to vote against 77 as well.

**Clauses put and negatived.**

**Clauses 95 and 96 put and passed.**

**Clause 97: Sections 39A to 39E inserted -**

**Hon HELEN MORTON:** I will start with a question I raised during my contribution to the second reading debate. I am still interested in why every act that will be amended in the consumer protection area has an element written into it about the information officially obtained in the relevant acts to be confidential. This phrase has not been included as an amendment to any other act in other parts of this bill. Has it something to do with the way that information is dealt with under consumer and employment protection?

**Hon KIM CHANCE:** It is an interesting answer. I am glad the honourable member asked the question because I was not aware of the answer until I received advice. The intention that has flowed from the recommendations of the Hicks report is that there should be standard powers of delegation and confidentiality of information

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provisions within all of the acts within this portfolio area as they relate to consumer protection. Some of the acts that fall within this portfolio area are, for example, the Associations Incorporations Act, Builders Registration Act, Business Names Act and the Chattel Securities Act. The oldest of these is a 1939 act - the Builders Registration Act. It is required that all of these acts have the same security of confidentiality of information provisions, so that we do not have to go from one act to the other and run the risk of picking up different confidentiality provisions. It only exists within the consumer affairs portfolio area. That was the recommendation and this is the most effective way of applying that.

**Clause put and passed.**

**Clauses 98 to 121 put and passed.**

**Clause 122: Sections 15 to 17 replaced -**

**Hon HELEN MORTON:** I am really interested in proposed section 17(3). This relates to the power of the Commissioner for Fair Trading to publish warnings about any unsatisfactory or dangerous goods or services. We raised some concerns during our briefing about how free the commissioner is to make and publish a decision about a good or service. I do not understand how somebody can appeal that; it could have quite a significant impact. Somebody might have some goods or offer some services that he does not believe are dangerous, but the commissioner could make a determination that they are dangerous. Is there is an appeal process available to people before the decision is published?

**Hon KIM CHANCE:** The Commissioner for Fair Trading will from time to time deal with issues raised with him by consumers. Proposed section 17(3) limits the power of the commissioner to make a statement. I must obtain more information for the member; it is beyond me to explain why, but I will do my level best to do so from logic. While it is incumbent upon the commissioner to protect the public interest, it is also a reasonable thing, I think, for legislation to require that he does not make statements that could be prejudicial to a person's interests unless it is in the public interest to do so. That is only my guess. We will have to get back to the member on that matter. However, there should be a limitation upon the power of a person - a retailer, for example - who has sold goods that somebody claims might catch fire. It would clearly be in the public interest for the Commissioner for Fair Trading to say that he stopped chain store A from selling goods B because they might catch fire if a child got near a heater. However, there may also be occasions when he may consider it not in the public interest to make that disclosure. For example, the retailer had seen the problem and quickly withdrawn goods for sale, or the goods involved were not the kind of goods that could cause injury to people. There may be a number of reasons he would not want to besmirch the name of a trader who had done all the right things. In that case, it would be open to him or her to not make the decision public. If the legislation made it mandatory for him to go public, that could deter traders from doing the right thing. That is the best guess I can provide to the member, but we will get back to her with more detail.

**Hon HELEN MORTON:** I am asking whether there is a way in which a person might be able to appeal the commissioner's decision before he publishes the warning in any way so that the individual has an opportunity to put his case forward in some way.

**Hon KIM CHANCE:** The right of appeal would be subject to the general scrutiny of the court; in other words, it would be appealable in the Supreme Court.

**Hon MURRAY CRIDDLE:** What provisions are in place now? We seem to be putting in place something that I would think was already covered in other areas. It seems to me that these sorts of things are already dealt with.

**Hon KIM CHANCE:** That, again, is a very good question. I will do my best to explain what the situation is now so that the member can make a comparison with what is proposed. Part III of the Consumer Affairs Act 1971 reads -

- (d) to receive complaints of fraudulent or deceptive practices in relation to matters that affect or are likely to affect the interests of consumers and to make such investigations and inquiries and to take such other action in respect of those complaints as seems proper to the Commissioner;

Those words "as seems proper" seem to be a little open to me and I think Parliament should insist on tighter wording, which is effectively what is provided for here.

**Clause put and passed.**

**Clauses 123 to 148 put and passed.**

**The DEPUTY CHAIRMAN:** The Leader of the House's amendment on the supplementary notice paper indicates that he will seek to defeat clause 149.

**Clause 149 put and negatived.**

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**Clauses 150 to 206 put and passed.**

**Clause 207: Section 52 amended -**

**Hon KIM CHANCE:** It is my intention to vote against this clause.

**Clause put and negatived.**

**Clauses 208 to 216 put and passed.**

**Clause 217: Part 1A inserted -**

**Hon HELEN MORTON:** In my contribution to the second reading debate, I indicated that I would ask the Leader of the House to explain why we need a Coordinator of Energy and all of the staff and the work that goes along with the establishment of that position. The Leader of the House referred me to the explanatory memorandum; I have looked at it, but it did not seem to answer the matter either. I wonder whether -

**Hon Kim Chance:** Did I do that?

**Hon HELEN MORTON:** Yes, the Leader of the House did, but that is okay. I do not mind. I am interested to know why we need a body called a Coordinator of Energy. Is that a new government service or public sector agency? What is it and why is it necessary?

**Hon KIM CHANCE:** The simple answer is that there is a requirement to separate the commercial and the safety side of energy regulation. We have already appointed or adopted the role of the Director of Energy Safety and the Coordinator of Energy. Those two roles already exist. This amendment gives effect to the recommendations of the machinery of government report, which noted there were synergies between the consumer and the occupational safety operations within the Department of Consumer and Employment Protection and the specialist safety functions of the Western Australian Office of Energy. It is a recognition that there is a commercial arm to be considered as well as an area of synergy and specialist occupational safety. The Coordinator of Energy is quite separate from the safety area. The point is to delineate it as a commercial role.

**Progress reported and leave granted to sit again, pursuant to sessional orders.**