INDUSTRIAL RELATIONS AMENDMENT BILL 2012

Second Reading

Resumed from 20 June.

MR R.H. COOK (Kwinana — Deputy Leader of the Opposition) [4.00 pm]: I rise to speak briefly on this bill. It is a very important bill because it goes to the principles and the heart of many of the values that the Labor Party represents. The important aspect of this bill is that it provides dignity, respect and justice for people who work in those very important public sector services that we value so very greatly. The reason this is such an important piece of legislation is that it provides an appropriate and robust process and forum by which people who have grievances in the workplace can seek justice and remedy for the circumstances and situations they believe they face.

Mr V.A. Catania: So why didn't you support my private member's bill six months ago when it was on the notice paper?

Mr R.H. COOK: Member, I think your integrity speaks for itself, and I find it very difficult to support anything you put up.

Mr T.R. Buswell: Where were you last week?

Mr R.H. COOK: I do not know. Which bed were you, Treasurer, sleeping on last week?

Mr T.R. Buswell: Busselton; Perth.

Mr R.H. COOK: Anyone's couch last week?

Mr T.R. Buswell: No, no.

Mr R.H. COOK: Or have you remedied those issues?

Mr T.R. Buswell: All remedied now.

Mr R.H. COOK: Good work! Sorted out your claims in relation to that?

Mr T.R. Buswell: All remedied, thank you.

Mr R.H. COOK: Made sure you have not claimed for nights you should not have claimed?

Mr T.R. Buswell: No. All remedied, thank you.

Mr R.H. COOK: Good work; it is good to see.

Mr T.R. Buswell: Thanks for your care and interest.

Mr R.H. COOK: I care about you greatly, Treasurer, because we know from time to time you are subject to needing greater care, and I think it is important that we all in this place pull together to make sure that we can maintain the reputation and status of this chamber.

Mr T.R. Buswell: So you weren't on holidays last week then?

Mr R.H. COOK: No.

I rise, as I say, to speak upon important issues associated with the justice that employees from time to time seek in the workplace. Indeed, justice is an important component of any employment situation. Currently under the Public Sector Management Act it is true that public sector employees do not have access to remedy at the Industrial Relations Commission for grievances and other issues that they may wish to raise with their employer. Because of that, they are curtailed in their ability to seek redress for issues that they believe have impacted upon them. There is no reason why we should necessarily pick out public sector workers for a lower level of justice and remedy in the workplace from other workers. It is because of that that we believe this is an important piece of legislation and one that we bring before the chamber for consideration.

Members will be aware that currently, in the event a member of the public sector has a grievance or an issue that they wish to have addressed, they have only the public sector arbitrator as a forum to which they can appeal. As we know, that is a very cumbersome process. In particular it is one that does not actually provide for remedy or redress of a grievance specific to the concerns of that employee. In particular it can address only those issues around those impacting upon the employee or public sector worker in relation to the systems that are in place. That is, if there is a grievance with a manager or something of that nature, it is only the process by which that particular employee has been impacted that the public sector arbitrator can consider, not the specifics of the grievance itself. That, in itself, therefore does not provide a proper form of justice for people who are working in that employment position.

This bill goes to the heart of a number of WA Labor values that we believe need to be protected. It goes to the heart of justice in the workplace. It is important that anyone in an employment situation has a series of independent and fair systems of arbitration. This particular amendment to the legislation will allow a member of the public sector to appeal to the WA Industrial Relations Commission to have their grievance heard. As I said, it impacts on those justice issues. However, as a political party that believes that public sector services are at the core of a government's function and at the core of a government's mission to ensure that people in the community receive fair and targeted services, it is important that we have a public sector system and a public service that is valued and has the capacity to deliver those services, and that the people within that public sector feel that they are valued in the role that provide.

Yesterday outside Parliament we had a very good example of public servants who felt that they were not valued in their workplace. Nurses from right across the metropolitan hospitals gathered on the steps of Parliament House to protest about the increase in parking fees and the impact they are having upon their workplace. It was interesting to watch some of the debate in the other place last night, which spoke volumes for the values represented on the other side of this chamber, and indeed in the Liberal Party generally. That is, the response from the government was: "We are talking about a handful of cents. These increases are only about a very small increase in people's parking fees. What are you worried about? Any nurse worth their salt should be able to afford these increases." On face value that may or may not be true. I believe a lot of those nurses out there yesterday were saying to the Barnett government: "Why do you value us so lowly? Why do you value us so poorly as public servants that you penalise us for choosing to work in the public sector, for choosing to work in public hospitals, working under very trying conditions, providing very important services? Why do you penalise us? Is that really what you think of us and is that how you value us?"

Governments therefore have an obligation to ensure that people at any level of their profession and in any part of the public service feel valued in their role and validated in their decision to work in the public sector. One of the important ways we can do this is to not rub their nose in daily fees and charges just simply for the choice they have made to work in the public sector. Another way we can do this is to provide rewarding, fair environments in which they can work, and one of the important aspects of that task is to make sure that systems are in place so that when they feel that they are not being highly valued or they feel mistreated or have a grievance in the workplace, they have an appropriate remedy for that grievance and can seek to have that grievance addressed.

If we specifically target public sector workers to not have access to the Western Australian Industrial Relations Commission, what are we saying about those people? We are saying that we do not, as their collective employer, value them properly and that we are not prepared to provide for them an avenue, a capacity and a forum in which they can have their grievance heard, arbitrated or adjudicated on, and addressed. As I said earlier, the public sector arbitrator cannot look at individual grievance situations; they can look only at the circumstances or the systems that give rise to that grievance and, as such, rule as to whether those systems were in place or properly administered for that particular employee. They cannot address the specific concerns of that employee and therefore bring forward creative and fair solutions to that employee's situation.

This bill is of itself fairly straightforward. It is fairly short. It amends a single section of the act—that is, section 80E(1), (6) and (7). It is small in its stature, it is small in its volume and size, but it is very powerful in its intent and in its outcome. In its intent, we have the government and Parliament assembled saying to these workers that we value them as public sector employees, and we want them to feel fulfilled and protected in their workplace so that grievances, when they occur, are addressed in a fair, open and transparent forum.

We are saying that we believe we should deliver justice to them in the workplace, and that in the workplace they should feel protected and that they have a forum to go to in the event that they feel aggrieved by their situation. Obviously, we want to empower managers in any workplace to resolve these issues before they become problems and before they need to be brought before a tribunal such as the Industrial Relations Commission. Obviously, we want people to not have these circumstances in the first place, but in situations that give rise to these grievances, it is only fair that people who work in the public sector have the same opportunity to have access to the Industrial Relations Commission as do other members of the WA community.

At the heart of this legislation is WA Labor's commitment to democracy in the workplace; at the heart of this legislation is WA Labor's commitment to justice in the workplace; and at the heart of this legislation is WA Labor's heartfelt value of public sector employees in the workplace so that they can feel protected and appreciated. It is important that we have a system of integrity, that we have a forum which has integrity and which is open and transparent, and that people can live by its word, so that when they hear about rules and regulations and when they hear people make commitments on their behalf, they can stand by those commitments because those people have integrity. When those people stand and say they represent one thing, they should not

turn that around simply because of the fact that they are ambitious, conniving, unprincipled and simply gratuitously self-indulgent. Those employees want to see a system that is robust and has justice at its core and fairness in its outcomes. That is why this is an important piece of legislation, and that is why any members with integrity should support it.

MR W.J. JOHNSTON (Cannington) [4.15 pm]: I rise to support the Industrial Relations Amendment Bill 2012 which has been proposed by the Labor Party and which provides that public servants can have access to the Industrial Relations Commission. This is a very important commitment of the Labor Party that demonstrates our interest in the working standards of public servants. Although it is only a simple bill with few provisions, it provides a very important additional protection for public service employees. To understand what the bill provides for, we have to understand the arrangements for public servants and the arrangements for private sector employees in this state at the moment. Private sector employees who are covered by a state industrial arrangement can access the Industrial Relations Commission for an industrial matter, and "industrial matter" has a very wide definition. For example, if a workplace has a dispute between an employee and their employer regarding rostering arrangements, that is an industrial matter, and they can take that dispute to the Industrial Relations Commission and get the advantage of conciliation and arbitration in the resolution of that problem. However, public servants are restricted in what they can take to the industrial tribunal. They cannot take the same sets of matters to the industrial tribunal that can be taken by private sector employees. Therefore, this bill seeks to complete those recommendations of various reviews over the last number of years so that that can take place in future.

Why is that an advantage? The Industrial Relations Commission has as its members people with extensive industrial experience who are available to try to resolve disputes. The best of the industrial commissioners are exceptional. Through the process of conciliation in particular, they can resolve a matter that seems to be intractable and clear up disputes in which there are misunderstandings. They can get to the nub of the real problems, rather than what people might necessarily think are the real problems, before they get to the tribunal. What often happens is that a person or a group of employees will have a dispute with their employer about a particular issue, but when we dig underneath the simple facts of the dispute, we find that something else is at play. It might be bullying by a supervisor or some other interpersonal issue between the employees and their direct supervisor or a manager in a particular workplace. The conciliation process is very good at peeling away the layers of a dispute to get to the real issues involved. Through the conciliation process we often find that people do not need to go any further because the problems that have become the source of disputation can be resolved at that level. Disputes can be fixed without going any further. Issues that may have been causing angst and disputation in a workplace can be resolved through the conciliation process with the commissioner's assistance. Issues that seemed insurmountable—that is, there was no common ground and the people involved in the dispute on either side felt they were far apart—can be cut through and the parties brought together when they are involved in the conciliation process.

It is always interesting when looking at the history of industrial relations in Australia that we go in cycles. When I first became a full-time union official in 1989, the employer associations and advocates, and the academic writers who were putting a position on behalf of the employers, were always telling us that what we needed for industrial relations in this state and in this country was the common law. In fact they wanted a common law system to get the tribunals out of the way so that it was a matter of employees and employers negotiating directly with each other. It is very interesting to see, as that has developed over the past 20 to 25 years, that the position of employers has changed dramatically. Now employers are asking for extensive intervention by the state on industrial relations matters and are trying to get the common law out of the way. An example of that is secondary boycotts. The common law actually provides for and permits secondary boycotts. In a country such as the United States of America, secondary boycotts are a standard part of industrial relations processes. Secondary boycotts have not been permitted in Australia for 20 years because they are specifically outlawed by the Trade Practices Act, or whatever it is now called.

Dr A.D. Buti: The Trade Practices Act.

Mr W.J. JOHNSTON: It is still that; thank you, member. One never knows when names of acts have changed.

It is not because the common law says we cannot have a secondary boycott, it is because there is a specific act of Parliament that prevents a secondary boycott. The former federal Liberal government's WorkChoices had a very extensive set of arrangements for industrial relations. It was actually the opposite of the common law. Most of the provisions were about inserting regulation of the law into the industrial process. Of course it was on behalf of the employer rather than on behalf of fairness and equity, but that is a minor detail.

The Office of the Australian Building and Construction Commissioner is probably the ultimate example of the insertion of the state into industrial relations arrangements. There might be 100 different reasons to support what

the former government did, but it cannot be argued that it was about the common law. I always find it interesting to note, when reading commentators on these issues, how they have changed their approach to what is needed for industrial relations. It is funny, too, when looking back at the 1950s, that the communist unions used to argue in favour of common law arrangements against centralised wage fixing, and then by the 1980s the communist unions were arguing in favour of centralised wage fixing against the common law. It is interesting to note that the position advocated by the pro-Moscow unions in the 1950s was the position advocated by the industrial relations HR Nicholls Society types in the 1980s and 1990s. It is interesting, too, to see how these things keep changing.

Two Australian Prime Ministers have been defeated in their own seats in an election. Both of them were defeated for the same reason—they had tried to get rid of the centralised wage-fixing system. For over a century now—since the Harvester decision in 1904—Australians have supported a system of wage fixing that recognises not just the economic issues involved in industrial relations but also the social equity.

Mr T.R. Buswell: Was that Stanley Bruce?

Mr W.J. JOHNSTON: Yes; and John Howard.

Mr T.R. Buswell: I knew the second one.

Mr W.J. JOHNSTON: Over the winter recess I read a very interesting book called *The Australian Moment*. The book encouraged Australian governments to grasp the nettle of continuing the reform, even when there are losers in society for those reforms. The book actually made the point that Australians do not agree with going too far on industrial relations. The book was very extensive. It covered many, many different issues. Part of the argument of the author, George Megalogenis, was that John Howard had gone further than Australians would allow on industrial relations reform. I encourage members to read that book. It properly identified a range of issues that confront Australia and our future, and the need for us to continue to have reform.

One of my shadow responsibilities is Energy. The Labor Party supports continuing market reform in the energy sector. We supported market reform in government and we delivered market reform. It is interesting that the current Premier opposes market reform. I make the point that although we can have high and growing productivity, we can still have a centralised wage system that recognises the needs of workers, who are more than just economic units. There is a lot of debate about whether minimum wages in Australia are too high. I do not believe they are.

I do not remember the name of the study, but I remember reading a study about the comparison between types of employment over the 12 years of the Reagan and first Bush administrations in the United States of America. There was a clear comparison between states about what happens on minimum wages. Over those 12 years, the federal minimum wage in America was not adjusted. Pennsylvania, which had a Republican state administration, also did not adjust the state minimum wage, whereas next door, New Jersey, with a Democrat state administration, continued to adjust the minimum wage. Classic economic theory says there would be more low-paid employment in Pennsylvania than in New Jersey, but when the academics reviewed those two states, it was found that the reverse was true—there was a higher level of low-wage employment in New Jersey, which had a higher minimum wage than in Pennsylvania, which is across the river alongside New Jersey. That study advocated against keeping minimum wages low.

It is interesting, too, when looking at the current issue of productivity, one of the industries that has had a remarkable decline in this state is the resources sector. There is a very simple reason for that. Over the past 10 years of expansion in the resources sector, the number of employees in the industry has increased exponentially because there is a very, very large construction workforce. That means the output per employee has fallen over the past 10 years, not risen. Now that a number of those expansion projects are concluding, and the employment numbers in that industry look like they may fall over the next few years, that means productivity will go up in that industry. When considering the national debate on productivity, we actually have to go behind the headlines to try to examine what is really happening. Rather than just worry about the glib throwaway lines, we need to actually look at and consider what is happening underneath that. It is also interesting to note that wages in the resources sector are extremely high, yet unionisation rates are quite low. In the private sector in Western Australia, I understand that 81 per cent of people are not members of a union. When there is a debate about productivity, I love the fact that the unions are always on the top of the list of people to complain about, and yet 81 per cent of people in the workforce are not members of a union. Guess what? How can unions be holding back productivity when they are not involved in that 81 per cent of employment relationships? It is an extraordinary thing. In fact, from my own background as a retail union official, I know that the highest productivity is from unionised retailers. The unionised retailers have a much higher level of productivity than the non-unionised retail sector, and every study in Australia of retail productivity continually demonstrates that. So, I support an effective minimum standard for employees because it is in the interests of employees, and that is a

good thing, but I also argue in favour of it because I think it is in the interests of the economy as a whole. I think that when the labour market is properly regulated, society benefits and I do not have any problem saying that is my position. We do not have to be opposed to business to support employees. We do not have to be opposed to the free market while at the same time saying that there are minimum standards that could be applied to people in their working lives. I do not think that it can be said that labour is just another service to be traded like any other. I do think that there are some unique issues involved in industrial relations and that is why I very strongly support effective government regulation. That does not mean that I am asking to go back to the 1950s, because clearly the Australia of the past does not exist anymore. The book *The Australian Moment* clearly goes through and identifies how the reform of Australia started with the election of the Gough Whitlam government in 1972, and the book clearly argues that not just this social reform of Australia, but also the economic reform started with Gough Whitlam. It goes through in detail how the cuts to tariffs in the 1970s, which the book argues were done in response to inflationary pressures, nonetheless started Australia down the road to moving away from the old-fashioned Australian compact as described in Paul Kelly's book *End of Certainty*. It was about allowing Australia to be an open and engaged country, engaged in all economic activity. A few minutes ago I had a meeting with some people talking about investing in Australia and some people we were meeting with were from mainland China.

[Member's time extended.]

Mr W.J. JOHNSTON: During that meeting they raised with me comments made by Tony Abbott about Chinese investment. They said that in China at the moment his words about opposing Chinese investment are running around and they are being very closely looked at and considered. I think that the sort of fortress Australia approach, which I would call a very 1950s approach, is the wrong approach. Australia is a country that needs capital. We have a large current account deficit whilst we have a trade surplus. We have had a current account deficit for many years. There used to be a theory called—what is it Treasurer?—the double deficit theory. The idea that if there was a budget deficit —

Mr T.R. Buswell interjected.

Mr W.J. JOHNSTON: The Treasurer is the economist, not me!

Ms M.M. Quirk: He was a prize-winning economist!

Mr W.J. JOHNSTON: He was prize winning?

Anyway, there is this theory —

Several members interjected.

Mr T.R. Buswell: It was not the best year they have ever had!

Mr C.J. Barnett: Barely a touch short of a Nobel prize!

Mr W.J. JOHNSTON: Yes, that is it!

Mr T.R. Buswell: I will tell you something interesting. That prize was named after a chap called Salter.

Mr W.J. JOHNSTON: Sorry, what was his name?

Mr T.R. Buswell: Salter.

Mr W.J. JOHNSTON: Salter.

Mr T.R. Buswell: I think it was the W.E. Salter or the W.G Salter memorial prize. But he went overseas and passed away at a young age with his potential unfulfilled. I found out after his parents lived in Augusta —

Mr W.J. JOHNSTON: Augusta?

Mr T.R. Buswell: — and they donated that money to the university in memory of their son. My old mate Ray Petridis told me that.

Mr W.J. JOHNSTON: That is a very good story.

All I was getting at is that there used to be this theory that if there was a budget deficit, there would be a current account deficit and if there was a budget surplus, there would be a current account surplus. Of course, Australia has run very large budget surpluses for many, many years. We have a structural surplus in Australia despite the fact that John Howard gave away $314 billion during the boom, which was the largest ever fiscal stimulus in our history. That was done at the height of the boom, which was the most ridiculous economic policy in the history of the nation over 110 years. We still have a structural surplus and yet we still have this very large current account deficit. That current account deficit means that we have to accept foreign investment, because if we do not accept foreign investment, we will have lower living standards in Australia, we will have higher interest

rates, we will have fewer houses and we will have less activity in the economy. So, it is very important to us that we accept foreign investment. It does not mean that we have to accept every single example of foreign investment, but it does mean that we need to be very careful about the language we use in dealing with the foreign investment issue, and I do not think Tony Abbott has done that, and I do not think the current debate about Cubbie Station in Queensland is helping at all either. I think that we can easily support the dignity of employment and the need to have a good set of minimum conditions of employment, and still support high productivity, high growth, free markets and minimum government intervention in business activity, and that is why I happily support the rights of public sector workers to have the same capacity to access the Industrial Relations Commission. I do not believe—the second reading speech on the bill makes this clear—that there is any intention that a large number of cases will come to the Industrial Relations Commission, but it is appropriate that there be opportunities for people to properly access the jurisdiction to which they currently do not have access. When we look at the history of how these arrangements are developed, it is interesting to note that that has been a missing step in the industrial relations system in this state for some time.

Mr F.M. Logan interjected.

Mr W.J. JOHNSTON: Yes.

It is also interesting to think about what sort of things are regulated by industrial rules. The private sector in Australia has generally had what are called minimum rates awards. That is different from the public sector where we have generally had what are called paid rates awards. For a person like me who is used to dealing with industrial matters, I understand instantly what is meant by those two terms, but for people who are not as directly involved in industrial relations, they are probably the sorts of terms that glaze the eyes and confuse the mind. Basically minimum rates awards mean that in the private sector all that needs to be done is to set up the basic standard and then people can negotiate above that standard for themselves. As long as the package and their conditions are no less than the award, that can be done. Years ago I was giving evidence to the Senate committee that was looking at the original Howard industrial relations laws when Peter Reith was the industrial relations minister. I was asked by a Liberal senator how many people in the retail sector—I was giving evidence on behalf of the shop assistants union, the Shop Distributive and Allied Employees Association—had individual employment agreements. The answer to that of course was 100 per cent, because every single employee has an individual employment contract between themselves and their employer. It is a common law contract, because an award is not a contract; it sits alongside an employee's contract of employment to specify minimum standards that cannot be gone below. A lot of people do not even realise that an award is only a minimum standard. However, in the public sector, there is a very different set of issues. There is what is called a paid rates award, which actually specifies the specific payment the person is eligible for.

It must be asked: Why is there a difference between the two? Why does one group have much more flexibility than the other? There is an easy answer to those questions. The private sector deals with private employers who make their own decisions on behalf of their own capital whereas in the public sector decisions are made on behalf of the taxpayers, not individuals. A public sector supervisor or manager is not entitled to play favourites. They cannot give a person a benefit for reasons unrelated to productivity and specified employment relationships. The public sector needs to ensure that there is no unfairness in the workplace. That is the system that is used so that a manager cannot give a benefit for an improper reason to one employee over another. Sometimes, of course, there is a question of interpretation about what this set of rules means. There are arguments about the rights an employer has to do something and whether a dispute is about capriciousness or a proper management prerogative when making a decision. In the private sector those sorts of disputes are easily dealt with because there is a specific right to take all those industrial matters to the Industrial Relations Commission and have a conference to try to resolve the dispute through the union with the employer in front of the commissioner. Of course, if there is no possibility that the dispute can be resolved, it is referred to arbitration and is subject to the rules that govern the tribunal and a decision can be made on many, many different matters under the heading of an "industrial dispute". The public sector has not had the same opportunities to go to the Western Australian Industrial Relations Commission. We are ensuring that the commission will have the proper jurisdiction to deal with these types of matters so that a broader range of issues can be dealt with by the commission.

I want to conclude by making reference to a particular dispute I handled when I was an industrial official of the Shop, Distributive and Allied Employees Association of WA. At that time we had some members in the private sector. We did our best to give away all our private members. In the health sector we gave them to what is now called United Voice. In the balance of the public sector we gave them to what was then the Civil Service Association but is now the Community and Public Sector Union–Civil Service Association of WA. One group of 60 or 80 blokes were working at the education department warehouse in Belmont, which ended up being privatised. The SDA got all its members back even after we gave them to the CSA. We had a dispute at the

warehouse and thought it was about to be privatised. We were not encouraging the guys to go on strike, because we wanted them to stay at work for as long as possible, but the guys themselves thought that going on strike was the best thing to do, and that is what they did. We ended up in front of the Industrial Relations Commission because they were waged employees rather than salaried employees and therefore even though they were public sector employees, we still had access to the tribunal. By consent, we took the matter to arbitration. It was a relatively minor matter and the arbitration went for maybe two days, but it took 18 months for the commission to make a decision and by the time it came down all the guys were working in other jobs; there was not a single guy from the case left working at the workplace by the time the decision came down. Although I think that the tribunal is a good body to make decisions —

Mr A.P. O'Gorman interjected.

Mr W.J. JOHNSTON: We lost the case, which probably made it easier for the tribunal to make a negative decision. When the decision came back, it was one line that said the application was dismissed. I think the reason for the decision was only about three sentences long. It was a bit late to appeal by then and the commissioner had retired. The decision was handed down on the day the commissioner retired! Notwithstanding that anecdote, the Industrial Relations Commission does a great job in bringing the parties together and cutting through the nonsense that often develops in any workplace about personal relationships and all the he-said, she-said type of disputes. It gets to the real issues involved and makes it easier rather than harder to settle disputes. That is why the industrial tribunal is good for all workers in this state, including public sector workers. I know the member for Nollamara would agree with me that it would be good also to extend the commission's jurisdiction to include disputes related to workers' compensation. The member for Nollamara, the member for Cockburn and I have regularly been to that tribunal as union officials and know that it is a dog's breakfast. Recently in this place we made a series of amendments to the legislation to try to improve it, but it would be really good to give the expert conciliators at the industrial tribunal a broader role not only in the public sector, but also in settling those other types of disputes.

MR F.M. LOGAN (Cockburn) [4.45 pm]: I rise to support the Industrial Relations Amendment Bill 2012 and to congratulate the Leader of the Opposition on bringing this legislation into the house. It is a very small change to the Industrial Relations Act 1979, but it is a very, very important change that will impact on tens of thousands of public sector employees across Western Australia. It is a critically important change that has been needed for some time.

Mr V.A. Catania: Why didn't you support it when it was laid on the table for six months?

The DEPUTY SPEAKER: Member for North West! Carry on, member for Cockburn.

Mr F.M. LOGAN: I will not rise to the —

Mr V.A. Catania: You had 10 years in government.

Mr F.M. LOGAN: What did you do when you were in the Labor Party?

The DEPUTY SPEAKER: Members!

Mr F.M. LOGAN: You did nothing but act as a traitor, you little rat. You rat!

The DEPUTY SPEAKER: Order, member for Cockburn! Member for North West, I am not going to ask you again to let the member for Cockburn carry on.

Mr F.M. LOGAN: I hope he does. I have a few more things to say about him as well.

Mr V.A. Catania: You're tough.

Mr F.M. LOGAN: Tougher than you, mate; a lot tougher than you!

This is a critically important change and I encourage all members to support it. I will certainly be watching how the member for North West votes on this matter. I presume that he will vote in favour of the bill, given that he has talked at length about it and with the unions about bringing forward these changes to the Industrial Relations Act. That has not occurred over the whole length of the time when those discussions took place between the member and the public sector unions. Nevertheless, the amendments are now before the house and the member for North West can put his money where his mouth is and vote in support of this amendment to the act. I know that the member will support this amendment—I certainly hope he will—because it is a very important amendment that will, as I said earlier, benefit tens of thousands of public sector employees across Western Australia.

What does the bill do? The Leader of the Opposition has already been through the changes and the impact that it will have in his second reading speech. The legislation will have a very simple impact on the Industrial Relations

Act. It basically deletes section 80E(7) insofar as it excludes the right of public sector employees to go to the Western Australian Industrial Relations Commission over a whole series of provisions that impact on their employment. Those provisions relate directly to public service standards. The way in which the bill is framed is interesting. I am referring to the bill, or the amendment. The bill seeks to delete in section 80E(1) of the Industrial Relations Act "and (7),". Clause 4(2) seeks to delete from section 80E(6) "but subject to subsection (7)," and clause 4(3) seeks to delete the whole of section 80E(7), which provides those exclusions. Section 80E(7) of the Industrial Relations Act reads —

> Notwithstanding subsections (1) and (6), an Arbitrator does not have jurisdiction to enquire into or deal with, or refer to the Commission in Court Session or the Full Bench, any matter in respect of which a procedure referred to in section 97(1)(a) of the *Public Sector Management Act 1994* is, or may be, prescribed under that Act.

That effectively excludes access to any part of the Western Australian Industrial Relations Commission by those elements referred to in section 97(1)(a) of the Public Sector Management Act. Section 97(1) of the Public Sector Management Act 1994, which is referred to in the Industrial Relations Relation Act 1979, which I was just referring to, is "Commissioner's functions under Part 7", which is the provision referred to in the Industrial Relations Act, and it reads —

> (1) The functions of the Commissioner under this Part are —
>
> (a) to make recommendations to the Minister on the making, amendment or repeal of regulations prescribing procedures, whether by way of appeal, review, conciliation, arbitration, mediation or otherwise, for employees and other persons to obtain relief in respect of the breaching of public sector standards;

Those are the exclusions that have been referred to many, many times by public sector unions—the Community and Public Sector Union–Civil Service Association of WA, United Voice, the WA Prison Officers' Union and many others—whose members are excluded from having their disputes determined by the Western Australian Industrial Relations Commission. The public service standards are determined by the Public Sector Commissioner and are also influenced by the government of the day. It is a very unusual situation in which the employer, being the government, can, with the Public Sector Commissioner, set out a series of standards that have a dramatic impact on the day-to-day working lives of employees. It can do that by legislation but is unable to give the employee any right whatsoever to challenge the impacts on their conditions or have those conditions reviewed, conciliated or arbitrated or have any right of appeal against a determination of either a senior manager or, indeed, the Public Sector Commissioner. That is a very, very unusual situation for any employee in Western Australia—or in Australia generally, I might add. It has come about because the employees in question are public sector employees.

This amendment to the Industrial Relations Act will overcome that exclusion and allow those critical issues that go to the employment conditions of people working in the public sector to be dealt with in the same way as any other employee in Australia; that is, for public sector workers in Western Australia to have access to the Western Australian Industrial Relations Commission. Obviously, all other workers in Australia have access to Fair Work Australia. When I talk about the impact on people's working conditions, I am talking about a wide range of issues covered by the public service standards. I will give a couple of examples to highlight how this provision impacts on the daily working lives of public sector employees. The first is transfers. The movement of public servants from where they usually work to another place of work is covered by the industrial agreement between the public service and the public service unions, particularly those restricting transfers up to 50 kilometres from the existing place of work. Nevertheless, there is the ability under those public sector standards to ask public sector workers to rip up their working life and transfer to another part of metropolitan Perth or another part of the state at the whim of the employer, with no real ability to challenge that. Issues such as transport to and from the new place of work become an industrial issue for that employee or group of employees, but it cannot be conciliated by the Western Australian Industrial Relations Commission because of this exclusion in the Industrial Relations Act. It is literally in the hands of management within government—the public service. The ruling by, for example, the director of a department or the CEO of an agency is the final decision. There is no appeal process. Is this real for the people? Of course it is. For example, the Fire and Emergency Services Authority is moving its office from central Perth to Cockburn Central.

Ms M.M. Quirk: God's own country.

Mr F.M. LOGAN: It is God's own country, but —

Mr T.R. Buswell: How do you know?

Mr F.M. LOGAN: I know very well. I spend a lot more time in my electorate than you do in yours. Do you want me to name the constituents who complain about you?

Mr T.R. Buswell: Yes.

Mr F.M. LOGAN: I will.

Mr T.R. Buswell: Go on then.

Mr F.M. LOGAN: Not only that; when are you going to live in your electorate?

Mr T.R. Buswell: I do, when I can.

Mr F.M. LOGAN: No, you do not.

Mr T.R. Buswell: Yes, I do.

Mr F.M. LOGAN: No, you do not.

Dr A.D. Buti interjected.

Mr T.R. Buswell: Yes.

Mr F.M. LOGAN: Half the time you spend your life on the couch of the upper house member claiming the living away from home allowance.

Mr T.R. Buswell interjected.

Mr F.M. LOGAN: Yes, you do, and when you get caught, you pay it back.

Mr T.R. Buswell: No, no.

The DEPUTY SPEAKER: Members!

Dr A.D. Buti interjected.

The DEPUTY SPEAKER: Members!

Mr F.M. LOGAN: I want to know when you are going to visit your electorate and when you are going to live in your electorate.

Mr T.R. Buswell: I'll be back there on Friday.

Mr F.M. LOGAN: Oh, yes. Fly in, fly out, are you? That is basically what you do—another fly in, fly out member. We have another one over here—the Leader of the National Party.

The DEPUTY SPEAKER: Member for Cockburn!

Several members interjected.

The DEPUTY SPEAKER: That is enough. Member for Cockburn, get back to the point, please.

Mr T.R. Buswell: You live in Swanbourne.

Mr F.M. LOGAN: I do; that is right. Where do you live? You live in Leederville.

Mr T.R. Buswell: No, I don't.

Mr F.M. LOGAN: Yes, you do.

Mr J.M. Francis interjected.

The DEPUTY SPEAKER: Member for Jandakot!

Mr F.M. LOGAN: Yes, you do. This time you live in Leederville; before, it was South Perth; then it was Subiaco. I notice you like all the nicer suburbs.

The DEPUTY SPEAKER: Member for Cockburn, come back to the point, please.

Mr F.M. LOGAN: I am up there saying it; you are not. You are just lying!

Mr T.R. Buswell: I am not lying at all.

Mr F.M. LOGAN: Yes, you are.

Withdrawal of Remark

The DEPUTY SPEAKER: Member for Cockburn, please withdraw that.

Mr F.M. LOGAN: I withdraw.

Debate Resumed

The DEPUTY SPEAKER: Come back to the point.

Mr F.M. LOGAN: I will come back to the point.

Mr T.R. Buswell: I live in Busselton; if you're nice to me, I'll let you come down.

The DEPUTY SPEAKER: Member for Vasse!

Ms M.M. Quirk: You don't want to move because you have got such a good local member.

Mr F.M. LOGAN: I know. That is why I want him to come down and live in Cockburn. Come and live there, mate; you will have such a great local member!

I will give FESA as an example—that is, the movement of FESA from central Perth into Cockburn Central. There is a significant movement of public servants who work at FESA headquarters in Perth and who will be required to go to their new place of work when it opens at Cockburn Central. That is one example. There have been many other examples in which —

Mr T.R. Buswell: How does it work for that person to appeal that? Is there an appeal that they do not want to move, and does that stop FESA moving?

Mr F.M. LOGAN: No, not at all. As I said earlier when the minister was thinking up ways to irritate me, there are a number of issues.

Mr T.R. Buswell: I wasn't irritating you; I was stating a fact.

Mr F.M. LOGAN: So was I.

Mr T.R. Buswell: No, you were wrong. Your fact was wrong.

Mr F.M. LOGAN: I wish the minister would admit it here in Parliament, though.

The issues for employees are things like housing, schooling and transport. People live in particular areas —

Mr T.R. Buswell: What is the appeal mechanism going to deliver to them?

Mr F.M. LOGAN: They might seek to transfer to another department or area of FESA, and the employer might say, "No, this is where you are going", and it then becomes an industrial dispute.

Mr T.R. Buswell: Where would they go in FESA?

Mr F.M. LOGAN: FESA is an example.

Mr T.R. Buswell: I do not understand what you are saying. If everyone in FESA moves to Cockburn Central and someone does not want to go, what are they going to do?

Mr F.M. LOGAN: They could either transfer within the public sector to another department or —

Mr T.R. Buswell: Why would you transfer out of FESA with their superannuation scheme?

Mr F.M. LOGAN: I have no idea. It may well be because of the placement of the minister's housing. The point I am making for the member for Vasse is that industrial disputes arise out of a whole series of things, and I gave one example.

Mr T.R. Buswell: What happens if a private sector business moves?

Mr F.M. LOGAN: Does the minister think that people do not have disputes over that and that they do not go to the commission? Of course, they do!

Mr T.R. Buswell: When? Give me an example.

Mr F.M. LOGAN: The minister can look at any number of issues in Fair Work Australia, or before that in the Australian Industrial Relations Commission, or in the Western Australian Industrial Relations Commission.

Mr T.R. Buswell: Give me an example.

Mr F.M. LOGAN: There are plenty of examples!

Mr T.R. Buswell: Just give me one, then.

Mr F.M. LOGAN: The example of when mines shut down or move.

Mr T.R. Buswell: Mines move? How do you move a mine?

Mr F.M. LOGAN: Do not be stupid, member for Vasse. It is where one area of a mine finishes and another area of a mine opens. For example, the minister should know about Alcoa and the closure of the Del Park mine. There is an example for the minister.

Mr T.R. Buswell: What was the basis of the dispute?

Mr F.M. LOGAN: That ended up in dispute, and those are the types of things that I am referring to. I ask for an extension, given the fact that I am being interjected on.

[Member's time extended.]

Mr F.M. LOGAN: I am trying to explain to the acting minister with responsibility for handling this legislation why this is such important legislation; it is so that employees can have those matters dealt with before the Industrial Relations Commission. The minister is probably not going to agree with that because his view of the world, being a very small business man, and a small-minded businessman with it, is, "I've got the right to tell employees exactly what they should and shouldn't do, and no third party should tell me what to do or interfere with what I am doing." That is the view of the member for Vasse. That is in his small mind, and that is how he believes that work should be determined in the place of employment. Members on this side of the house do not agree with the member for Vasse—and never will. That is why people are in trade unions and why trade unions argue for the right to represent people so that their rights can be protected and individual cases can be put forward and conciliated and arbitrated on so that their personal issues can be taken into consideration in their place of employment in such things as transfers. So, instead of it becoming a major industrial issue or a point of industrial issue, it can be referred off to be conciliated and arbitrated by the Industrial Relations Commission.

Another example is people acting in higher positions, which goes to the issues of fairness and equity. That occurs a lot in the public sector because of the number of people who move around in the public sector, the number of people who hold temporary positions and the number of people who have not been given permanent positions within the public sector. There are plenty of examples of people being asked to act in higher positions. When a person is asked to act in a higher position, obviously it is the choice of the employer, and that in itself may be a bone of contention that could become an industrial relations issue because of the reasons and the way in which the choice has been made. People who have been in an agency longer or who have higher skill levels may feel they have been overlooked et cetera. That issue of acting in a higher position is another example of an issue that would come under the public service standards and would then be excluded from being dealt with by the Industrial Relations Commission as per section 80E(7) of the Industrial Relations Act. This proposed amendment to the act would allow the union and the employee to have a matter dealt with by the Industrial Relations Commission—for example, transfers or acting in a higher position, which are just two examples, and there are a series of others I could give that could lead to industrial disputation—rather than being left to be determined at the whim of a director general as it is at the moment. That is no different from being treated as equal to private sector employees who currently have that right.

One of the major concerns, I presume, of the government, which no doubt will be highlighted by the member for Vasse, is that this will lead to a proliferation of matters being trotted out to the Western Australian Industrial Relations Commission as public sector employers get access to having those matters conciliated and dealt with. That will never be the case. If a public sector union, which has always evaluated the cases, is not going to take the case, the individual will take the case. If the individual wanted to go through the process of going to the Industrial Relations Commission to argue their case, there would be a very low likelihood that they would have any chance of winning their case, given that they would be up against professionals from the industrial relations branch within government. When an issue comes before the Industrial Relations Commission for conciliation and arbitration brought by a public sector union, in nearly all cases those issues are genuine issues and they have already been assessed and dealt with in discussions between the union member and the union before the matter has been brought before the Industrial Relations Commission. Why is that? It is because the unions themselves do not have the resources or the time to bring any case before the Industrial Relations Commission; it is not worth their time or money to simply have silly or inappropriate matters being dragged before the Industrial Relations Commission.

As in the private sector, the process is self-regulating. The matters that go before the Industrial Relations Commission are normally—I am not going to say it is always the case—genuine matters that deserve to be heard by the commission. Public sector employees deserve the right to have their day before the commission if they believe the matter is so grave that it cannot be dealt with at the workplace and needs to be either conciliated or arbitrated. That provision has been denied to public sector employees for a significant time, since it was changed in 1993 by the previous Liberal government. Madam Acting Speaker, you will remember that public sector employers originally had the right to go to the Industrial Relations Commission to have their matters dealt with in the same way as private sector employees. That right was taken away by a Liberal government in 1993, even

though the Commission on Government advised that the right of employees to have their matters heard before the industrial commission should not have been taken away.

Mr C.J. Barnett: Why didn't you put it back in place during your eight years in government, if it was such a travesty?

Mr F.M. LOGAN: That is right. I cannot answer that, Premier. I was not responsible for it, but that is a good question. Maybe you should ask the person who was responsible.

Mr T.R. Buswell: Weren't you industrial relations minister for a while?

Mr F.M. LOGAN: No. You are not getting much right, are you? Somebody over here suggested I was the Minister for Water. I might be the Minister for Water, but not at the moment.

Mr T.R. Buswell: You're going to have to battle too many rising stars.

Mr F.M. LOGAN: Unlike your side!

As I say, the right to go to the Industrial Relations Commission was taken away by a previous Liberal government. Two inquiries have recommended that that right be reinstated: the Commission on Government and the Fielding inquiry. The matter is now before Parliament. I hope that the government will support this legislation. I doubt that will be the case, but I certainly hope that others who have given indications to public sector employees that they will support this legislation carry out their promise. I hope fervently that this piece of legislation passes the house.

MS J.M. FREEMAN (Nollamara) [5.13 pm]: I also rise to support the Industrial Relations Amendment Bill 2012. Despite many of my colleagues coming up to me and saying, "You'd be really familiar with this, wouldn't you?", I can say that in my time at United Voice, even though we represented workers who worked in the public sector, they were not covered by the Public Sector Management Act. For those workers we dealt with who had issues such as those raised by the member for Cockburn, we had access to the Western Australian Industrial Relations Commission. For example, the member for Cockburn indicated that when someone in education assistance, for example, was unilaterally transferred to another school and not able to get public transport there or had a child at the original school and therefore needed to stay there for family reasons and caring reasons, they could debate the merits of the matter. The Public Sector Management Act took away from public servants the capacity to debate the merit of the matter. It provided that if the process was done correctly and in a particular way and if the person was informed, that person had no recourse and no capacity to argue the merit of the matter and give a perspective on the issues.

As outlined by the member for Cockburn, prior to 1993 public servants in WA had access to all the functions of the Western Australian Industrial Relations Commission. This was taken away primarily because people wanted to not have to question anything other than the process. Public servants—we know this ourselves, because we deal with public servants—have some inherent view that if the process is correct, it will be fair. That is not the case. We know, for example, that although there is a process, it may in itself involve substantial inequities that have an impact on people. People should have a capacity to argue. Just because there is a process and a person thinks that the process fits them as a white Anglo–Saxon male in the public service, it does not necessarily fit the rest of those processes. In fact, it may, on the merits of the matter, on the basis of the arguments, be actually quite unfair and harsh. People should have the capacity to argue that. This is what is before us today—the capacity to argue that before the commission.

The imposition of the Public Sector Management Act in 1994 caused confusion and inequity and unfairness, but the confusion meant that many people had prolonged periods when they were in dispute with their employer. One of the things a person learns at a very early stage in an employee–employer dispute is that they want to make it as short as possible. They want to resolve it very quickly, and they want to solve it at the core. Once it gets into a dispute, and once it evolves into something else, it feeds off itself. It becomes a dispute almost about the dispute and how someone is treated in the dispute, and how things are dealt with in the dispute. Part of that process is the capacity to go to the commission and have all the issues laid out on the table in front of a commissioner so that someone can conciliate the issue by listening to that employee's side of the issues, hearing the employer's side of the issues, so that the employee can also hear them, and finding some middle ground, which is usually what happens. Eighty to 90 per cent of all disputes that go to the commission get resolved at the conciliation stage. They do not go to the next stage of a hearing and presenting evidence. It is an amazing dispute resolution process.

This confusion has been around since the Fielding review in 1996. Fielding, who was an industrial relations commissioner, reviewed the act. He criticised the public sector code of ethics, which we now think of as the public sector standards and regulations, as unenforceable. There was this whole aspect whereby someone could

say, "You did not follow that code" and people would say, "Oh, well, we would just put the procedure in better next time." But that individual had no relief. That individual had no capacity to pursue an equitable outcome—an outcome that recognised that those public sector standards were not applied properly and correctly.

Cawley referred to the Public Sector Management Act in her 2003 report. Whilst it was not part of her remit as such, she said that while the reform of the Public Sector Management Act was not a matter that fell directly within the terms of reference for her paper, problems for the effective functioning of the commission as a result of the apparent conflicts between that legislation and the act was relevant. The chief commissioner also drew attention to the problem in his annual report for the year ended 30 June 2002. As he put it —

> … the issue of conflict between the Industrial Relations Act 1979 and the Public Sector Management Act 1994, commented on in last years Annual Report, came to light again. That conflict often means that while the Arbitrator has power and jurisdiction to deal with certain matters related to Government officers, that power is often confused by the terms of the two pieces of legislation. Further, because of the terms of the Public Sector Management Act 1994, the Arbitrator is often left without power to resolve some matters which were traditionally industrial matters.

Cawley went on to recommend that consideration be given to the problems of conflict between the Public Sector Management Act 1994 and the powers of the commission to deal with matters within its jurisdiction. This has been a longstanding issue. We have had criticism here that we have not dealt with it for a long time. That is not to say that we should not be dealing with it now. We should be dealing with it now. Yes, we did not deal with it in the past.

I will refer in some detail to some of the other comments made by the chief commissioner in various annual reports over the years since that time. However, I understand this bill came about as a result of the deletion of section 99 from the Public Sector Management Act, and the member for North West should be rightly proud of his role in this. The deletion of this section will ensure that public sector employees have the same right of access as private sector employees have to the Western Australian Industrial Relations Commission. At the time of deletion of section 99 of the Public Sector Management Act, the Premier acknowledged that a change would be needed to the Industrial Relations Act for the removal of section 99 to have effect. In *Hansard* on Wednesday, 23 June 2010 he said —

> … repealing section 99 will not have any effect. If we wanted to give public servants access to the Industrial Relations Commission, there would need to be a series of amendments to the Western Australian Industrial Relations … Act.

It is very important that by agreeing to that deletion of section 99, we come back now and have a look at the act and deal with it in a manner that will ensure that we deliver the commitments that we have made to public servants by passing this bill through Parliament.

The apprehension in this whole issue is that somehow grievances or major issues that should be dealt with by employers in the public sector will get out of hand and be poorly dealt with by the Western Australian Industrial Relations Commission. I think the apprehension that public servants should take their grievances and disputes only to the Public Sector Commission is wrong. When there has been a breach of standards, which I referred to previously, and when there has been unfairness and the process has not been substantially equitable and fits only into certain criteria, employers will have access to remedy from the independent umpire of the Western Australian Industrial Relations Commission. The member for Cannington outlined very eloquently how adept and skilled the commission is at processing these disputes, such that the merits and other aspects and facts in the dispute the member for Cockburn raised with the Treasurer would be delved into by the commission in more detail. Neither party would be disadvantaged by that process; in fact, both parties would be greatly advantaged by the process.

The current specific exclusion in the Industrial Relations Act that we are seeking to delete means that nothing covered by a public sector standard can be dealt with by the Western Australian Industrial Relations Commission. Members can imagine that one of the ways of not dealing with a dispute is to deal only with a jurisdictional issue. How many times have people walked into the commission in a matter like this and had what is called a jurisdictional argument? A worker watching advocates—whether they be union advocates or other advocates—having what is called a jurisdictional dispute suddenly finds himself very much enmeshed in a greater and more serious way in the dispute. The prospects of resolving the dispute so that the worker is able to be a productive member of staff are reduced because of the enmeshing and the use of jurisdictional aspects to undermine good outcomes for workers. That leads to harsh and unfair consequences, as the Public Sector Commission can, as I have said, find only on procedural matters and impact only on future procedures, not on the procedures that have gone by, and does not enable any relief for the worker unless the employer agrees. So, if

the employer agrees to some relief, the worker is fine. If the employer does not agree to any relief, there is no capacity, as I understand it, to pursue that any further.

Again, I preface my remarks by saying that I was fortunate enough not to have to deal with this murky, grey area of not being able to go to the Industrial Relations Commission. In United Voice if we had a dispute, we went to the commission, it was dealt with on an individual basis and it was sorted out. As I understand it, if an individual complaint is made to the Public Sector Commissioner, the commissioner can examine the complaint and make recommendations to government departments to fix their process to ensure that any flaws in their system are remedied. The commissioner has no power to either reverse a decision or provide any other form of remedy to the individual. There is also limited capacity in this process to give consideration to the merits or fairness of the employer's actions. That is unfair. That is not something that should occur to workers who give good public service to the people we represent. These are people who are good employees of the state government and who deliver services to our community that we appreciate and value.

In 2006 the chief commissioner's annual report highlighted the issue. He actually said in the last four annual reports that the issues of the conflict and confusion caused by the complexity of the interrelationship between the Industrial Relations Act 1979—the IR act—and the Public Sector Management Act 1994 have been raised repeatedly. He also referred to the artificial delineation between the jurisdiction of the public service arbitrator and the Public Service Appeal Board and the commission in its general jurisdiction. I can confirm that this bill will have no impact on the Public Service Appeal Board, but it will have an impact on that interrelationship and conflict.

The chief commissioner then went on to quote a case in which this particular issue arose—Director General, Department of Justice v Civil Service Association of Western Australia Incorporated [2005] WASCA 244—in which the Industrial Appeal Court dealt with the issue of arbitrators and the Public Sector Standards Commissioner's powers. He refers in particular to how that issue played out. However, when I looked at further reports, I could see that what he put in his report was actually quite unprecedented. He quoted quite a large chunk of the case in his report. He said that their Honours Justices Wheeler and Le Miere, when talking about this interaction between the Public Sector Standards Commissioner, said —

> One can see in the circumstances of this case why the CSA, —

He underlines this sentence —

> on behalf of Mr Jones, chose to approach the Arbitrator, rather than invoke the regulations. The Arbitrator has power to make decisions which will give effective relief to claimants. The regulations, by contrast, plainly contemplate that as a result of a somewhat lengthy process, it will ultimately be open to the public sector body to determine that nothing whatever will be done to assist the claimant. If that result is considered by the Commissioner to be unsatisfactory, the Commissioner may well refer to it in a report pursuant to s.21 of the PSM Act, but there is no power in the Commissioner to order a different result. While those drafting the regulations no doubt expected that relevant bodies will act in good faith and will genuinely attempt to resolve a matter, one can see why an aggrieved claimant would often prefer that the final decision rest with an independent body.

However, that does not happen because of the interplay and because of the current situation in which people must have gone through the Public Sector Management Act and not had recourse from an independent umpire. We need to think about that. The commissioner then went on —

> As the Office of the Public Sector Standards Commissioner notes in its "Ten–Year Review" report at page 2, the role of the Commissioner for Public Sector Standards is "to report on compliance or non compliance to Parliament" rather than to "provide any process to provide individual redress".

What we have here therefore is a system through the Public Sector Management Act that is ill-fit to be able to deliver decisions to individuals and to claimants and groups of claimants that need to go to the Western Australian Industrial Relations Commission.

One question that has been asked is why the previous government—although I was not a member of that government—did not act on this issue in its time. The member for Balcatta actually commissioned a report by Mr Noel Whitehead. He consulted very widely and came up with a model. This is a contentious issue and an issue that public servants do not want to lose control of; they do not want every case going to the Industrial Relations Commission. They like to set the process and they think that the process is fair. They think that if anyone complains about the process, their complaint is not justified and they should not have to deal with it in any other way. They think that if the process is properly in place, that is all that needs to occur. Mr Whitehead suggested a gateway model. He said that this gateway model would enable the natural course of processes that govern the way in which government agencies operate, that they could still proceed but that there would be

recourse to the commission. The commission came back and said in the chief commissioner's annual report that all that would occur would be greater delays, and delays are the death of dispute resolution. The Community and Public Sector Union–Civil Service Association of WA, the union representing workers in this area, also said that this was not going to resolve the issue.

[Member's time extended.]

Ms J.M. FREEMAN: That was never enacted, because whilst it was trying to balance two opposing forces, it was not a workable idea. The intent to try to resolve this matter was certainly there and certainly the goodwill was there. From looking at the situation and being around at that time as a union advocate, I believe that the goodwill was there to try to resolve this issue for workers in the public sector, acknowledging their good work and knowing that they needed to be able to resolve disputes. What happened was that public servants wanted to convince government that maybe the process still needed to be kept in that manner because that seemed to be a safe bet to ensure that they protected their best interests in process-orientated aspects.

In summing up, I will just say that I also looked at two subsequent chief commissioner reports in 2008 and 2009. It seemed to me that progressively this difficulty between how the commission operated and how the Public Sector Management Act operated continued to be raised. In 2007, the commissioner said —

> Issues also continue regarding the question of whether the claim of the employee or union relates to a breach of a Public Sector Standard and is thus excluded from the Arbitrator's jurisdiction …

It was also noted that a number of matters had gone before the arbitrator in respect of significant delays that were caused by not knowing where people should apply to. Should they apply under the Public Sector Management Act or should they apply to the commission? In some cases this disadvantaged workers because of the time periods. Anyone who has been involved in those jurisdictions will know that there are time periods within which people have to put in their applications.

This is a matter that has been ongoing for some time and it needs to be resolved. It needs people to move away from the fear of thinking that this is some sort of undermining of good process-orientated public service. If we are looking at just process, we are not looking at equity and fairness. However, we have to give people the right to be able to argue the merits of the matter, and they have to be able to present a full case. Honestly, sometimes when that happens, the employer says, "Oh, fair enough; I didn't get it from that angle. I had written a process that goes down to my level 4 admin person. That level 4 admin person is applying that process, but, yes, you are right. In applying that process, there are substantial inequities, and harshness and unfairness, and the relief for that is that that process should be amended or should not be applied to you, and various other forms of relief can occur." I have given some examples of that, and the member for Cockburn raised the issue of transfers.

I commend this very short and concise bill to the house. This issue has been researched through the Ford review, the Fielding review, the Cawley review and the Whitehead review. I am sure that if some of my colleagues from the CPSU–CSA were here, they could talk about a few other reviews. Now is the time to act. We have acted previously by deleting section 99. This is simply part of the process of what we did and have already put in motion. We need to follow through on that and to support this bill.

DR A.D. BUTI (Armadale) [5.34 pm]: As the member for Nollamara said, it is time to act, so I do not intend to speak for very long and just repeat what other speakers before me have said. We should act to begin that process by voting on the Industrial Relations Amendment Bill 2012 that is before us. As we have been told by numerous previous speakers, this bill seeks to amend the Industrial Relations Act. It is a quite simple amendment. Basically, it deletes a portion of section 80E to allow the arbitration jurisdiction of the Industrial Relations Commission to also apply to certain public sector matters. It really comes down to an issue of equity and equality. Basically, public sector employees and unions should be able to be treated in the same way as private sector employees.

Before I look at some of the specific consequences of the bill, we should note, as we are discussing this bill, that it deals with, as the title states, industrial relations. Industrial relations is an incredibly important area that is often neglected in academic studies and even in the political sphere. Industrial relations is very important to the economy and the productivity of the nation. Yes, public sector productivity also feeds into the productivity of the nation. It is not an argument to say that the productivity of a nation is completely bound to the private sector and therefore public sector employees should be treated differently. That is, of course, incorrect, because if we do not have productivity in the public sector, it will affect the economic development of a nation. Also, as the name suggests, industrial relations deals with employment and the workplace. It is an incredibly important part of not only the economic position of a nation, but also the economic position of individuals and families, and the social being of families. We should not spend the amount of time that we do at work, but most people spend more time

at work than they do with their families. If we spend as much time at work as we spend with our families, or more time at work than we spend with our families, we should ensure that we seek to develop a system that is as harmonious as possible. It will not always be possible for it to be harmonious, because sometimes the interests of the employers and the employees will differ, but we should try to ensure that the interests of the employer and the employee do not differ. They are both on the same page, they both want the same thing, and they will both benefit by having a harmonious position. Of course, sometimes people may have the intention to have a harmonious position, but it may not always come about.

If we look at the history of industrial relations, we will see that some early exponents of industrial relations did not believe that we should have a harmonious relationship between employers and employees. Some people did not believe that we should even think about a human element in the industrial relations system. For instance, Taylor was one of the first practitioners of industrial relations theory. He did not see the worker as a human being; he saw the worker as purely an economic cog in the wheel and that there was no need to consult or communicate with or consider the interests of the worker. They did not have intelligence and they did not have wisdom; they were there purely as a mechanical part of the overall system. Thankfully, other people such as Douglas McGregor, with wiser heads and a much more humane approach, developed a management system that put the human element at the centre of the industrial relations enterprise. As a result, we have developed over time the need for workers and employers to create a harmonious system. Consequently, legislation has come into play. As the member for Cannington mentioned, the common law deals with the master–servant relationship—the employer–employee relationship—but that common law approach cannot deal with all elements of that relationship, and that is why legislation has become important in that field. It is not just Labor governments that seek to legislate for industrial relations; as the member for Cannington mentioned, conservative governments have probably legislated more in the field of industrial relations than have Labor governments.

Legislation is important. The Industrial Relations Act is very important. By this bill, we wish to allow public servants to become more integrated into the industrial relations system of Western Australia and into the legislative framework that governs industrial relations in WA. That is why we seek to delete section 80E(7) of the Industrial Relations Act 1979 so that certain public sector standards can be included in the jurisdiction of the arbiter of industrial relations. As has been previously mentioned, in a report that was commissioned a few years ago, Commissioner Gregor—a former chair of the Commission on Government, who was also a Commissioner of the Western Australian Industrial Relations Commission—was not in favour of public sector employees being outside the industrial relations system, nor was Commissioner Fielding. Commissioner Fielding was also an industrial relations commissioner. As the member for Nollamara said, it is not sufficient to just talk about processes. Under the system at the moment, whereby public sector standards are not included in the jurisdiction of the Industrial Relations Act, we can deal only with an ex post facto situation that may change the process in the future but does not deal with the individual complaint that could be brought before the arbitration system of the Industrial Relations Commission. Therefore, the particular dispute that an individual public sector employee may have cannot really be dealt with on an individual basis. The merits of that case cannot be dealt with properly. The process can only be dealt with and recommendations made for the future, which do not have legally enforceable strength to them. What is the point of that? There is no point. That is why we need to bring public sector employees into the industrial relations system, which this bill seeks to do.

As the member for Nollamara repeatedly stated throughout her contribution, this amending bill is about equality. This is about treating public sector employees in the same way that we treat private sector employees and unions in regard to the jurisdiction of the Industrial Relations Commission. Public sector standards dealing with redeployment, grievances, performance management, transfer, recruitment, secondment or acting secondment are important issues that affect not only an individual employee's economic wellbeing, but also their social wellbeing and future employment prospects.

Our bill has confirmation at the highest level—confirmation by practitioners and by Commissioners Gregor and Fielding. I am sure members will find this bill will receive support from many industrial relations lawyers in Western Australia. As I stated, I was going to make only a short contribution, as I would like this bill to come to a vote. It is about equality, it is about common sense, and it is about an efficient industrial relations system for public sector employees.

MR V.A. CATANIA (North West) [5.43 pm]: The member for Armadale's speech is probably the most commonsense speech that we have heard on the Industrial Relations Amendment Bill 2012. Well done to the member for Armadale on that.

I put on record that I cannot believe the situation that we are in. Pure politics is being played here. Members and the public ought to know that the Industrial Relations Amendment Bill 2010 was first introduced by me two years ago but was not supported by the Labor Party. It sat on the table for six months after repeated

conversations with the opposition Labor Party members asking them to support it. They would not come to the party and support my amending bill, which is exactly the same amending bill that we see today. Is the Labor Party really concerned about workers? Is it really concerned about making sure workers have a fair go in the Industrial Relations Commission? The answer is obviously no. Not only did the Labor Party have over six months to support my amending bill, which the Community and Public Sector Union–Civil Service Association of WA lobbied every Labor Party member of Parliament on, but also no-one came forward to support the bill. No-one approached me. I approached many Labor members to say, "Will you support my amendment?" but I got no response. Whether that is because Labor Party members are annoyed that I left the Labor Party, I do not know, but I would have thought that this is a bigger issue than that. Obviously it is not. Members opposite are really only concerned about playing politics. If the Labor Party was concerned about workers, it would have grabbed the 2010 amending bill and supported it, which it did not. More importantly, when the Labor Party spent over eight years in government—a lot of members have said here tonight that the Labor Party is here to look after workers—why did it not introduce an amending bill? Why? It has taken me to cross sides and introduce an amending bill after getting no support from the Labor Party.

I want the membership of the CPSU–CSA to understand that this is pure politics. How can anyone support an opposition that actually has no care whatsoever, apart from people such as the member for Armadale? I think he is a good bloke. He really does represent his people and means what he says. His was the best speech out of everyone's.

Several members interjected.

Mr V.A. CATANIA: When I have asked the question, "Why did you not support the amending bill that I introduced a long time ago?", all the Labor opposition can say is, "Rat! You're a rat!" That is the only thing that comes out of their mouths. You know what? I am happy to be a rat because that has enabled me, as a member of Parliament and as a member of the National Party, to ensure that key service workers in regional WA now have a fair opportunity to live their lives. We ensured there was an increase in the district allowance. When the National Party came into government, the district allowance in the north west was $3 000 to $5 000 per annum. Now we are looking at well over $15 000 per worker. That change has prevented people leaving the police force, for example. It has kept people in their chosen profession because they are now being remunerated according to the cost of living in regional WA. Add to that, over 400 houses have been built in regional WA for key service workers.

When we look at that, it has taken a so-called conservative government—the National Party—to deliver the key outcomes needed for attraction and retention in regional WA. All I can say is, "Your words mean nothing, opposition. Your words mean nothing, Labor Party." The Labor Party has had opportunities. Members opposite sit there smugly and say, "We're the party for the workers." What has the Labor Party actually delivered for the workers? It has had opportunities. Now Labor Party members want to come here and play politics and try to puff their chests up. All I can say is that members of the CPSU, people in regional WA and people in Perth can see right through that. If the Labor Party wants to run a campaign to ask why the National Party will not support this amending bill, we can stand tall, put our heads up high and say, "I think we've actually delivered in regional WA. We've delivered for your members, CPSU." We have delivered to ensure that people are properly remunerated for living in regional WA, in the most hard-to-staff areas like the Pilbara and the Kimberley. We have ensured that the work of CPSU members, members who campaigned very, very hard at the last state election to get recognition for living in regional WA places like the Pilbara—the economic powerhouse of the nation—is properly reflected. That is now happening.

It is not even just saying that we have increased it from $5 000 to $15 000; it is also indexed. It is reflective of the cost of living of that day. It was not looked at for over 10 years; the district allowance was not looked at under a previous Labor government. Now it is being reviewed, correct me if I am wrong, Minister for Regional Development, every two years and the review looks at the cost of living. Therefore, the district allowance more than likely will go up in places like the Pilbara and the Kimberley, and sometimes it will go down, but the main thing is that it reflects the cost of living that the Community and Public Sector Union members, public service workers, have to live with. I can stand in this place proud as a member of the National Party and proud as a member of this government, because we have been able to deliver, which is important. We have not stood up in this chamber and just given some spiel, like the Labor Party does, that we care about workers. It is perhaps important that this issue starts to be looked at, because we cannot put all governments in the same basket. The best thing unions can do is to disaffiliate themselves from political parties and when it comes to unions like the CPSU, I do not think the hierarchy should include members of political parties. I think the executives of unions need to get the best deal possible for their members and they need to negotiate and bargain with governments of all political persuasions. It is remiss of them, if they use this campaign—the CPSU or anyone else—to have a go at the National Party or this government. Their membership should look very hard at whether it is worth being a

member of that union, because if we look at who has actually delivered over a very short space of time, we see that the National Party has done so through royalties for regions, delivering district allowances, delivering brand-new houses and ensuring we have key service worker accommodation around this state. I know where I would pay my dues.

I hope that every union sends this speech out to its members, because I think it is important to know that the members opposite use cheap words. They are faceless, they have no backing whatsoever and they have delivered nothing for regional WA. There have been 60 years of neglect, if not longer, in regional WA by both major parties. It has taken a National Party to make everyone talk about regional WA. There is only one party that can make sure we deliver in regional WA and that is why I sit on this side of the fence. It is absolutely and utterly important that the people of Western Australia, and more importantly the people I represent in regional WA, know exactly —

Mr M.P. Whitely interjected.

Mr V.A. CATANIA: Laugh, member for Bassendean. Laugh. This is typical of the Labor Party, which is a city-centric party—laugh. I am passionate and I am making sure that my community gets the benefit from the only party that represents regional WA. I think the Labor Party has got a hell of a lot of walking and talking to do, because it is definitely not washing with the community. The Labor Party has shown that it talks it, but that it does not deliver. Like I said, the amendment bill that the Leader of the Opposition has introduced, and which I, the member for North West, introduced in 2010, lay on the table for probably six months after I introduced it. Constant conversations trying to get the Labor Party to support that amendment bill were in vain. But now suddenly, the Labor Party supports it. In eight years of being in government, there was no movement whatsoever when it came to this industrial relations reform. There was no movement on the district allowance. The district allowance has now gone up by over $10 000 in regional Western Australia. There is also the issue of key worker housing. Through the amount of houses we have been able to build for key workers in regional WA we are providing the tools necessary for attraction and retention of workers, and to grow communities, to grow Pilbara Cities, to grow the Kimberley, to grow the Gascoyne and to grow every other town in regional WA.

Members opposite, I think that the people will see through this. I think that the CPSU membership will see through this. And it is disappointing that the Labor Party would play politics over this issue. I am not in this place to play politics, I am in this place to make sure that I can deliver, and I will not stand here and support an opposition, a Labor Party, that stands for nothing, that will say it will do everything, but that will not actually do anything when it comes to be in government. Its track record proves that. To members in this chamber tonight and to those guests in the public gallery—I see the secretary of the CPSU—all I can say is: go back and look who has delivered for your membership. Go back and see who has delivered for service workers in the state. I can honestly say that this side of the fence has done it. Can the opposition say it over on that side? I was a member of that side, but now I have been able to stand on this side and deliver something that the politicians on that side would never, ever do.

Mr M.P. Whitely interjected.

Mr V.A. CATANIA: You city-centric members of Parliament are unbelievable and I cannot believe that the member for Bassendean is still there. But anyway, that discussion is for another time.

Mr M.P. Whitely: It is because I believe in something bigger than me.

Mr V.A. CATANIA: I believe in delivering for my community; I believe in delivering for our workers in the north of the state, and I have been able to do that. Can the member for Bassendean say that? No, he cannot.

Members, all I can say is that I cannot support the Leader of the Opposition and the Labor Party on something that they do not believe in. If they did, they would have used the opportunity of having my amendment bill lying on the table for six months. They had the opportunity during eight years in government to be able to make these changes, but no. How can these people be supported? My view is that we need to provide as much as possible for our workers and I think we have done that. We have been able to do that through royalties for regions. Labor Party, have you?

Question put and a division taken with the following result —

Ayes (19)

Ms L.L. Baker	Mr M. McGowan	Mrs M.H. Roberts	Mr P.B. Watson
Dr A.D. Buti	Mr M.P. Murray	Ms R. Saffioti	Mr M.P. Whitely
Ms A.S. Carles	Mr A.P. O'Gorman	Mr C.J. Tallentire	Mr B.S. Wyatt
Mr W.J. Johnston	Mr J.R. Quigley	Mr P.C. Tinley	Ms J.M. Freeman *(Teller)*
Mr F.M. Logan	Ms M.M. Quirk	Mr A.J. Waddell	

Noes (22)

Mr P. Abetz	Mr T.R. Buswell	Mr B.J. Grylls	Mr C.C. Porter
Mr F.A. Alban	Mr G.M. Castrilli	Dr K.D. Hames	Mr D.T. Redman
Mr C.J. Barnett	Mr V.A. Catania	Mr A.P. Jacob	Mr T.K. Waldron
Mr I.C. Blayney	Mr M.J. Cowper	Mr W.R. Marmion	Mr A.J. Simpson *(Teller)*
Mr J.J.M. Bowler	Mr J.H.D. Day	Mr J.E. McGrath	
Mr I.M. Britza	Mr J.M. Francis	Mr P.T. Miles	

Pairs

Mr P. Papalia	Mrs L.M. Harvey
Mrs C.A. Martin	Dr G.G. Jacobs
Mr E.S. Ripper	Mr R.F. Johnson
Mr J.N. Hyde	Mr A. Krsticevic
Mr D.A. Templeman	Dr M.D. Nahan
Mr J.C. Kobelke	Ms A.R. Mitchell
Mr R.H. Cook	Mr M.W. Sutherland

Question thus negatived.