WORKFORCE REFORM BILL 2013

Consideration in Detail

Resumed from an earlier stage of the sitting.

Clause 11: Section 63 amended —

Debate was adjourned after the clause had been partly considered.

Clause put and passed.

Clause 12: Section 67 amended —

Mr D.J. KELLY: This clause provides a similar amendment to the amendment in clause 11, except that it applies to section 67 of the Public Sector Management Act, "Vacation of offices", which refers to "The office of a public service officer (other than an executive officer)". I refer to the stated main driver of this bill, which is to allow the government to offer involuntary severance to apparently 80 redeployees. My first question to the member is: how many of the 80 public service officers will fall within the category of "public service officers"? We have already established that there are no executive officers within that group and the Premier said that, in all likelihood, there are none covered by United Voice. I suppose that narrows it down a bit. Under this clause, we are dealing now with public service officers. How many of the 80 are in that category and, of those employees, have any of them been offered redeployment to other positions and been refused? If so, what other action has been taken to find them positions? I am trying to narrow down exactly what this new bill will bring to the table for dealing with people in the public sector who, for some reason, the government has determined—to use that expression again—to have fallen through the cracks. I am trying to narrow down the numbers and find out what else has been done under existing provisions, which have obviously failed and now require the new provision for involuntary severance to be applied.

Mr C.J. BARNETT: I am advised that the majority of the, say, 80 are public sector officers.

Mr D.J. KELLY: Is the Premier able to tell me which departments they are from?

Mr C.J. Barnett: They are across a range of agencies.

Mr D.J. KELLY: A range?

Mr C.J. Barnett: Spread fairly wide, yes.

Mr D.J. KELLY: How many of those have been offered suitable alternative employment under the current provisions of the act? Presumably all those people have refused an offer of suitable alternative employment. What has been done subsequent to that and why are they still on the redeployee list? The Public Sector Management Act brought in by Richard Court, which the Premier quite rightly alluded to in his reply to the second reading debate, has some significant procedures to deal with people who are surplus to requirements or whose positions have been made redundant. I am trying to drill down to find out what has been done with this group of workers who have fallen through the cracks and, therefore, generated the need for this new bill, which has caused so much concern among the wider public sector. If the majority of them are public service officers, I would like to know how many have been offered suitable alternative employment. Presumably, they have all refused suitable alternative employment. What subsequent steps have been taken under the existing provisions of the act to find them a mutually beneficial home within the public sector?

Mr C.J. BARNETT: It is a bit of a moving feast, as people come and go; that is the flavour of it. Forty-two public servants have been successfully redeployed since 1 January 2011. The longest period a public servant has been on redeployment is seven years and two months. I do not imagine that is a very satisfying experience. A number of staff have been on redeployment for one month or less, which is fairly recent, obviously. Fifty per cent of public servants currently on redeployment lists have been on redeployment for between one and 15 months. It is a moving feast but that tends to be the number as people come and go. It is significant that 42 people have been redeployed.

In answer to the member's question about whether they have been offered other employment, every effort is made to find people employment. I do not doubt in any sense the genuine efforts of the Public Sector Commission and of agencies to do that. Of 138 000 people, statistically, there will always be a residual group. There they are. This bill will allow them to be dealt with in a stronger sense. I do not want to repeat what I said before, but there is always a number of people who, despite the best efforts, have not been successfully redeployed into another agency, whether it relates to the person, their skills or the lack of position. There is a

whole host of factors, but a small number continue to be on redeployment. I think it is quite a despairing situation for one public servant to be on redeployment for seven years and two months.

Mr W.J. JOHNSTON: I am interested that we are amending section 67(d) to include the extra words "or under regulations referred to in section 95A". Why is that necessary, given that in 67(c), "The office of a public service officer … becomes vacant … if that public service officer is dismissed". Clearly "dismissed" has a very wide meaning, which will include redundancy, so why is there a need to have a specific power referring to section 95A? I note that section 79(3) is the provision for effectively terminating an employee for misconduct at the end of a disciplinary process, so I am wondering why there needs to be a separate power when the power to dismiss is already listed at 67(c).

Mr C.J. BARNETT: I think that if it was not there, a person could be dismissed from the public service, and that might be for incompetence or for disciplinary reasons. This recognises the fact that now, if this bill passes, people could be dismissed effectively through an involuntary redundancy process. It is just closing the gap and making sure that both of those types of termination are recognised. Otherwise, if someone is made involuntarily redundant, they do not need to be, in a sense, deemed to have been dismissed, which would imply disciplinary reasons.

Mr W.J. JOHNSTON: The word "dismissed" has a common meaning and I think everybody in industrial relations understands the word "dismissed". Dismissed includes redundancies, there is no question that that —

Mr C.J. Barnett: There is a different flavour to it.

Mr W.J. JOHNSTON: I am just telling the Premier the way it is. I understand why there is a provision that refers to section 79(3), because that is the end of a disciplinary procedure. Clearly, the word "dismissed" in paragraph 67(c) is not referring to the arrangements that will lead to a disciplinary matter, which as I said, are dealt with in section 79(3). I am trying to understand why redundancy, which is one form of dismissal and clearly is covered by the words in section 67(c), needs to be covered again here, when clearly it is not related to section 79(3), which is about discipline. If the Premier is saying that it is a specific procedure and he wants to refer to that, why would he refer to it in a section that otherwise deals with discipline? Why did he not include this provision at section 67(c) rather than section 67(d), which is the general dismissal provision?

Mr C.J. BARNETT: It may be a matter of semantics, or maybe I do not have the knowledge on industrial relations that others have, but I would think that if an individual is dismissed, in most cases that certainly implies either a disciplinary matter or incompetence or the like. Maybe there is an element of stigma attached to that. I think that if someone is made redundant, that is far more palatable and acceptable to an individual than being dismissed. In this case, if someone is found to be made involuntarily redundant, that is because the job is not there or there is not a position for them. I think that has a very different meaning from "dismissal", which typically relates to a disciplinary proceeding.

Mr D.J. KELLY: Getting back to the pool of approximately 80 who will be affected by this clause, the Premier said that the majority of them are public service officers. We have heard from the Premier's previous answers that there are no executive officers in that group and it is extremely unlikely that there is anyone in the United Voice's area of coverage in that group. I am trying to narrow down who that leaves. There seems to be a significant percentage, somewhat less than 50 per cent, who fit somewhere else in the public sector. I can only think that if they are not public service officers, they are public sector workers who are not under the coverage of United Voice. Rather than me speculate, can the Premier describe those workers in some way? Are they Health Services Union or Australian Workers' Union members? The reason that I ask—I know that the Premier may find this line of questioning a bit annoying—is that I am trying to narrow down exactly who has created the need for this bill. My first question is: who are the other people in the group of 80? My second question is: from the number that the Premier has given—I think 43 people out of that group of 80; it may have been public service officers—how many people have been redeployed since 1 June 2011? That gives me an indication that there is a reasonable amount of churn in that group. In a public sector workforce of over 138 000, on any one given day there will always be people on the redeployment list. I would agree with the Premier that for a person to be employed on that basis for seven years is an appalling situation both for the individual and the department. I would ask the human resources department responsible for that person what on earth it has been doing for seven years! The problem may be multifaceted. Can the Premier give me more information about the somewhat less than 50 per cent of people who make up the group of 80 and who are not public service officers, are not under United Voice's coverage and are not executive officers? If we take the issue of natural churn out of that group, how many hardcore problem cases—if I can put it that way—are in that group of 80, which has necessitated this bill being introduced?

Mr C.J. BARNETT: They are all public servants. They are most likely members of the Community and Public Sector Union–Civil Service Association of WA. They do not include staff from government trading enterprises.

As to the composition—the member used the word "churn"—that would vary from time to time but, basically, that is who they are.

Mr D.J. KELLY: Can I then ask how many of those people in that group are currently on redeployment and have been for more than a year? Someone on the redeployment list for one month, two months or three months who may have specialist skills in the public sector that are not readily transferrable would not be that unusual. However, once someone has been on the redeployment list for a year, one may start to wonder what is going to happen with that person. Once again, my reason for asking is that I have a nagging concern that the numbers we are talking about within this group that are not being dealt with properly by Richard Court's legislation is not 80 and is actually much smaller than that. How many of that group have been on the redeployment list for a year or more, and within that group how many people have been offered suitable alternative employment and knocked it back?

Mr C.J. BARNETT: I am advised that of the redeployment group somewhat over 50 per cent have been on redeployment for over a year. I do not have the other information. This is consideration in detail of the bill, not question time.

Mr D.J. KELLY: I appreciate that, Premier. This bill is a pretty big deal for a lot of people because it goes to the issue of their job security. A lot of people who I represented in my former role work in the public sector because they love the work that they do, but they do not get greatly remunerated for it and struggle on a week-to-week basis to make ends meet. From a financial sense, one of the only positives about working in the public sector for a school or the Department of Health is that there is some employment security. The Workforce Reform Bill 2013 brings into question whether those people will continue to have job security. I completely understand the frustration the Premier would have if a large number of people in the public sector were sitting around twiddling their thumbs and getting paid with no real work to do. I know that if that was the case, they would not be working at a school or a hospital because most of those people are really hard-pressed to actually complete their duties before their shift ends. I understand the frustration the Premier might feel, but the more information that comes out about who the target group is for involuntary severance —

Mr C.J. Barnett: There is no target group.

Mr D.J. KELLY: In a public sector of 138 000 people there is always going to be a group of people on the redeployment list at any given time. As to the 80 people the Premier has talked about, the maths is boggling; it is not one per cent, it is not 0.1 per cent, it is not 0.11 per cent, it is not 0.111 per cent, it is 0.1111, I think. It is really a very small catchment, and for the angst the Premier is causing through this bill I just do not understand it. If it really is a target group of 80, the Premier is using a sledgehammer to crack a nut, to use a cliché. If there is some other agenda for the Premier wanting to get these provisions in under the guise of dealing with 80 but really he is going to broaden it out to a whole bunch of people when privatising things in disability services or health or whatever, then I urge the Premier to be honest with me. The problem is that the more we go into the numbers, the more it does not make sense to introduce, on the face of it, such a dramatic change for a lot of people when the scale of the problem that the Premier has articulated is small. Whoever that person is who has been on the redeployment list for seven years, for heaven's sake someone speak to their manager and get them to sort it out. I cannot believe that that sort of case is the basis for introducing involuntary severance into the system.

Ms S.F. McGurk: They have never been directed to take a job.

Mr D.J. KELLY: Presumably; I thank the member for Fremantle for that interjection. Her earlier comment was that under the existing North Korean—Richard Court provision, that person could be directed to take a job, but based on the Premier's earlier comments it has never happened. That provision is there; I am not suggesting that is what should be done because I do not know the person's individual case. It just seems to me that the Premier is kicking up a whole lot of dust and dirt that is sticking in people's throats, when if he walked gently through he could resolve the issue of people falling through the cracks and the rest of the public sector could get on and do the work it is paid for.

Question to be Put

MR C.J. BARNETT: I move —

That the question be now put.

Division

Question put and a division taken, the Acting Speaker (Mr I.M. Britza) casting his vote with the ayes, with the following result —

Ayes (31)

Mr P. Abetz	Mr J.H.D. Day	Mr A.P. Jacob	Dr M.D. Nahan
Mr F.A. Alban	Ms W.M. Duncan	Dr G.G. Jacobs	Mr D.C. Nalder
Mr C.J. Barnett	Ms E. Evangel	Mr R.S. Love	Mr D.T. Redman
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.M. Britza	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr G.M. Castrilli	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr V.A. Catania	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*
Ms M.J. Davies	Mr C.D. Hatton	Mr N.W. Morton	

Noes (14)

Mr R.H. Cook	Mr F.M. Logan	Mrs M.H. Roberts	Mr B.S. Wyatt
Ms J. Farrer	Mr M. McGowan	Ms R. Saffioti	Ms S.F. McGurk *(Teller)*
Mr W.J. Johnston	Mr M.P. Murray	Mr C.J. Tallentire	
Mr D.J. Kelly	Ms M.M. Quirk	Mr P.B. Watson	

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mr R.F. Johnson	Mr D.A. Templeman
Mr J.M. Francis	Dr A.D. Buti

Question thus passed.

Consideration in Detail Resumed

The ACTING SPEAKER (Mr I.M. Britza): The question is that clause 12 stand as printed.

Division

Clause put and a division taken, the Acting Speaker (Mr I.M. Britza) casting his vote with the ayes, with the following result —

Ayes (31)

Mr P. Abetz	Mr J.H.D. Day	Mr A.P. Jacob	Dr M.D. Nahan
Mr F.A. Alban	Ms W.M. Duncan	Dr G.G. Jacobs	Mr D.C. Nalder
Mr C.J. Barnett	Ms E. Evangel	Mr R.S. Love	Mr D.T. Redman
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.M. Britza	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr G.M. Castrilli	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Mr V.A. Catania	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*
Ms M.J. Davies	Mr C.D. Hatton	Mr N.W. Morton	

Noes (14)

Mr R.H. Cook	Mr F.M. Logan	Mrs M.H. Roberts	Mr B.S. Wyatt
Ms J. Farrer	Mr M. McGowan	Ms R. Saffioti	Ms S.F. McGurk *(Teller)*
Mr W.J. Johnston	Mr M.P. Murray	Mr C.J. Tallentire	
Mr D.J. Kelly	Ms M.M. Quirk	Mr P.B. Watson	

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mr R.F. Johnson	Mr D.A. Templeman
Mr J.M. Francis	Dr A.D. Buti

Clause thus passed.

Clause 13: Section 94 amended —

Mr D.J. KELLY: I suppose it is a relatively simple clause. This clause introduces the notion of a "registrable employee" in new section 94(1A). In the existing substantive act "registered employee" means someone who has been registered or prescribed under section 94(1), which is by regulation. It then introduces the concept of a "registrable employee". I want the Premier to go through that for me, as I have not quite managed to get my head

around the difference between a "registered employee" and a "registrable employee" in the scheme of the act and why it has been deemed necessary to create this different category of "registrable employee".

Mr C.J. BARNETT: I am advised the term "registrable employee" will happen at an agency level. As they go into redeployment, they will become a registered employee.

Mr D.J. Kelly: Sorry, Premier; I cannot hear you.

Mr C.J. BARNETT: Concentrate.

Mr D.J. Kelly: I am concentrating.

Ms M.M. Quirk: Articulate!

Mr C.J. BARNETT: The member for Girrawheen has articulated quite a bit already.

The term "registrable employee" relates at the agency level and, as I understand it, as they move into redeployment list of category. They become a registered employee and the Public Sector Commission may seek to find redeployment outside that agency across the public sector.

Mr D.J. KELLY: If I can just get this right, someone is a registrable employee —

Mr C.J. Barnett: At the agency level.

Mr D.J. KELLY: — at the agency level if someone has become surplus to requirements or had their post abolished or is an employee in a category prescribed by the regulations. Can I ask the Premier about that last category?

> **registrable employee** means —
>
> (a) an employee who is surplus to the requirements of a department or organisation;

That is pretty easily understood. It also means —

> (b) an employee whose office, post or position has been abolished;

That is pretty well understood. The bill then has a third category —

> (c) an employee in a category prescribed by the regulations.

Again, we do not know what the regulations will be, but that is a very broad bit of drafting. It might be an employee who is not surplus to requirements who is in a position, post or office that has not been abolished but who for some reason has fallen within a category that is prescribed by the regulations. People will read this legislation and wonder whether it is a threat to their job security. They will think: I have a job not surplus to requirements and my post has not been abolished, so this will not affect me. However, they will read proposed section 94(1A)(c) and think they could be in a category prescribed by the regulations. I cannot see that this bill provides for what those categories might be. I hate to go back to these examples, but if someone works for the Disability Services Commission and the government announces that at some point in time some of the positions will be put out to tender or outsourced or privatised or whatever, does that mean that even though that person is still working in that position and there is no clarity yet about whether their position will go, they are suddenly in a category prescribed by the regulations? Everyone knows Swan District Hospital will close. It just seems that having such an open-ended catch-all provision such as proposed section 94(1A)(c) will potentially cause people concern that may well be completely unnecessary and unfounded. If the Premier can give some indication of what that paragraph is meant to achieve and whether elsewhere in the bill there are limitations on what those categories might be, I would appreciate it.

Mr C.J. BARNETT: The term "registered employee" already exists and people could come under review through the WA Industrial Relations Commission. The new category of "registrable employee" occurs, as has been acknowledged, at the agency level and is also subject to review for an individual before the WA Industrial Relations Commission. It provides a greater level of protection, if you like, for the employee. The other way I guess we could look at it is the agency will deem someone to be registrable, as I said, so they can be reviewed at that stage. That is a step that may ultimately lead to them being a registered employee along the lines that currently exist. I think it is fair to employees, although the member for Bassendean may not. It allows review by the WA Industrial Relations Commission to occur at both the agency level and a more general public sector level.

Mr D.J. KELLY: I am sorry, but I do not feel as though the Premier is answering the question. If I can take the Premier to the clause, it inserts new section 94(1A)(a), (b) and (c). Proposed paragraphs (a), "surplus to requirements", and (b), "office, post or position has been abolished", are pretty self-explanatory. I want some explanation of proposed section 94(1A)(c). I am grateful for the Premier's explanation of whether someone is a

registered employee or a registrable employee being placed there is reviewable by the WA Industrial Relations Commission, but the question is: what is proposed section 94(1A)(c) there for? It states —

> … a category prescribed by the regulations.

It would be ridiculous, but anyone who has blue eyes, if that is what the regulations state, will fall into proposed section 94(1A)(c) and, therefore, become a registrable employee. I am sure that is not the intention, but I have not seen anything to explain what "a category prescribed by the regulations" is intended to capture that is not already captured by proposed sections 94(1A)(a) and (b). I want some clarification of that.

Mr C.J. BARNETT: I am advised that the most likely example would be someone who has lost their qualification. For example, if a doctor loses his medical registration, for whatever reason—malpractice or whatever it might be—they could fall into this category of a registered employee because without their registration, they can no longer do the job. At another level, if someone's occupation requires a driver's licence and they lose their driver's licence, that could be another example of where someone, for whatever reason, cannot perform their duties.

Mr M. McGOWAN: I refer to proposed new section (1A)(c), which states that a registrable employee means —

> an employee in a category prescribed by the regulations.

One of the things that concerns me—maybe other members have the same concern—is that this is a very broad definition. I saw the Premier on the television saying it would be narrowcast and relate to a very narrow group of people and the like but when we look at the legislation as opposed to what he said on the television, the category is one prescribed by regulations. We have not seen those regulations. There is no restriction on what will be in the regulations inside the head act. We all know that regulations come through this place with incredible rapidity and volume and very few of us ever see or learn of them. I suppose our concern is that this is a very broad categorisation. If the Premier's argument that there was a need to expand upon the existing definitions contained in the Public Sector Management Act passed by Richard Court and Graham Kierath in the 1990s held weight, why would the Premier not provide at least some proper legislative oversight of the category rather than something as broad as this?

I am asking: first, why did the Premier not specify in the legislation who he was talking about; and, second, is it not the case that this is a very broad category that does not give proper parliamentary oversight to who he is talking about, bar his statements outside the house? It may well be that the Premier has the best of intentions but his successors may not. Therefore, I am concerned that he is creating categories of people who can be arbitrarily dismissed, and the category could be incredibly broad. That is why we have difficulty with this clause. As I said, the Premier might have the very best of intentions but his successors, whoever they may be, may not have that intention or may not have that respect for the public sector and perhaps for the individual people working within it. Therefore, I think this is an incredibly broad categorisation and he should have provided greater detail in the head act than what is provided here.

Mr C.J. BARNETT: I do not consider that the categories will be broad. Any regulations or any issue concerning the individual can go to the Industrial Relations Commission under provisions provided. To the extent that they are broad, there could be circumstances that are not anticipated. I gave the example of a doctor losing his registration or someone losing their driver's licence. There may be other reasons such as criminal convictions or whatever else. It is not intended that they be wide; they will simply deal with what will occur, and other circumstances are not anticipated at this stage.

Mr M. McGOWAN: Surely, therefore, if the Premier is concerned about people incurring a criminal conviction or people losing their qualifications or if he is concerned about some of those categories that I think are already covered, because someone cannot be directed into another job, they can be dismissed under the Richard Court–Graham Kierath laws. If they are the categories that the Premier is referring to, why did he not list them? I think he can define some of the categories. They are the only two that he can think of. If he has a concern about 80 or so people on the redeployment list, he could probably look at their circumstances and codify them.

As I said before, very few of us ever see the regulations. We rely upon a parliamentary committee to review literally tomes of regulations—thousands upon thousands of them. We do not see them in this place. In effect, we are taking them on trust. Had the Premier codified the categories and provided us with that assurance as to what categories of people he is looking at, it would have provided an assurance for the workforce. People from the workforce—indeed, people in this building—have raised this issue with me. I am aware of the sensitivities of people in the workforce due to the broadness of the categorisations in this bill. As I said before, he may have the best intentions but I am not sure that his successors would.

Ms S.F. McGURK: I wish to ask the Premier a question about redundancy. If a person is made redundant under this or any clause in the bill before us, will that position be abolished?

Mr C.J. Barnett: Yes.

Ms S.F. McGURK: Yesterday the Minister for Police was answering questions about the nearly 200 positions that will be abolished within the police department. She said that they would examine afterwards whether those positions would be filled. Will those positions be redundant under the terms of this bill?

Mr C.J. Barnett: You would expect those positions to be abolished in almost all cases.

Ms S.F. McGURK: I have looked at the uncorrected *Hansard*. That is not quite what the police minister was saying, but I would be interested to see how that would fit within this bill. Would people who are made redundant under this bill be given tax advice? What sort of advice would they be given in accordance with their severance packages?

Mr C.J. BARNETT: The bill does not do that but the regulations may well include provision for financial counselling, support or whatever else in the composition of the involuntary redundancy package. That would be part of it. There is no desire to simply arbitrarily get rid of public servants but this does add a bit more rigour to the employment conditions of public servants. This government intends that people be treated fairly and properly.

Mr D.J. KELLY: I have one more question relating to this clause, which proposes to delete section 94(1) and insert a new section 94(1). Proposed new subsection (2A) states that the regulations —

> must specify which parts of the Public Sector must comply with the regulations …

It seems that it is contemplated that there may well be different regulations for different sections of the public sector. I am sure the Premier's advisers would correct me if I am wrong, but I understood that the current regime applied uniformly across the public sector. Is this regime intended to introduce different regulations for different parts of the public sector? If that is the case, why would that be the case and in what ways might the regulations, in the Premier's view, be different for different parts of the public sector?

Mr C.J. BARNETT: That allows some flexibility but I am advised that the regulations today do not apply uniformly across the public sector in any case.

Mr D.J. KELLY: In what way are they not currently uniform and what sort of flexibility does the Premier want to maintain in this new regime?

Mr C.J. BARNETT: I am advised that there are different provisions in the regulations for permanent employees as distinct from fixed-term contract employees. This provision is in place because it might be required. We will get some peculiarities across such a vast workforce and a wide range of occupations and jobs. This allows, like most legislation, for the capacity to deal with those situations through regulation.

Mr D.J. KELLY: In the example the Premier has used, the regulations currently apply differently if one is a temporary, permanent or casual worker. I understand that. I just read this proposed new section to mean that the regulations could apply differently depending on which agency one is in, whether it be Health or another agency. The proposed new section states —

> must specify which parts of the Public Sector must comply with the regulations …

That seems to be a reference to a geographic difference. If that is not the case, I seek clarification.

Mr C.J. BARNETT: The intention is that the regulations prevail universally, but this allows for the exception.

Division

Clause put and a division taken, the Acting Speaker (Mr I.C. Blayney) casting his vote with the ayes, with the following result —

Ayes (30)

Mr P. Abetz	Mr J.H.D. Day	Mr R.F. Johnson	Mr D.C. Nalder
Mr F.A. Alban	Ms W.M. Duncan	Mr R.S. Love	Mr D.T. Redman
Mr C.J. Barnett	Ms E. Evangel	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr J.E. McGrath	Mr M.H. Taylor
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	Mr T.K. Waldron
Mr G.M. Castrilli	Dr K.D. Hames	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*
Mr V.A. Catania	Mr C.D. Hatton	Mr N.W. Morton	
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Noes (14)

Mr R.H. Cook	Mr F.M. Logan	Mrs M.H. Roberts	Mr B.S. Wyatt
Ms J. Farrer	Mr M. McGowan	Ms R. Saffioti	Ms S.F. McGurk *(Teller)*
Mr W.J. Johnston	Mr M.P. Murray	Mr C.J. Tallentire	
Mr D.J. Kelly	Ms M.M. Quirk	Mr P.B. Watson	

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr J. Norberger	Mr P.C. Tinley
Mr T.R. Buswell	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mr A.P. Jacob	Mr D.A. Templeman
Mr J.M. Francis	Dr A.D. Buti

Clause thus passed.

Clause 14: Sections 95A and 95B inserted —

Mr D.J. KELLY: It should not be any surprise to the Premier that I want to ask him some questions about this clause. From my perspective, if there needed to be a show stopper, this clause is it. This is the clause that introduces proposed section 95B, which provides that these provisions override existing awards or agreements. As I said to the Premier during the second reading phase, I cannot believe that prior to the election the Premier of this state signed industrial agreements, particularly with my union, that contain provisions that preclude involuntary severance, and he has now walked into the Parliament and is overriding them. To me, it simply beggars belief that with a straight face, before the election, the Premier could go to a huge section of his workforce and say, "All right; I'm going to sign industrial agreements. I'm going to end an industrial dispute", and six months after the election he walks into the Parliament and says he is going to override them. I cannot believe it, Premier.

The education assistants' agreement covers education assistants in our schools. When the Premier gave the committee that negotiated that agreement what he called its final wage offer, the committee did not think it was flash. Most of these people earn less than $40 000 a year, so they are desperate to get every cent they can get, but they accepted the Premier's wage offer because one of the wins they had in those negotiations was that there is a provision in that agreement—I took the Premier to that in the second reading debate—that precludes involuntary severance. They specifically said that the money may not be flash, but at least they were getting a semblance of job security. I can tell the Premier that one of the issues that was discussed around the negotiating table was, "Can we trust the Premier? We can do a deal with the Premier, but can the Premier be trusted?" The Premier confirmed in his reply to the speeches in the second reading debate that this legislation does in fact override that agreement and one that covers our health members.

I know the Premier is getting some advice, but I told him in my second reading contribution about one of the people who was on the negotiating committee—a woman called Christie Powers. She works at Durham Road special school, which may be in the seat of Morley—I am not sure—or it may be in the seat of Maylands. She deals with kids who have extreme behavioural problems. She was stabbed on the job not that long ago. What I did not tell the Premier in my second reading contribution is that she considers herself very lucky to have been stabbed, because in the course of that treatment it was discovered that she had cancer, so she is now a cancer survivor. She lives in a Homeswest house. I was in her place not that long ago and we discussed this and a number of other matters. Her view of the agreement, because I remember it at the time, was that the money is not flash, but at least it gives her some sense of security that she will have a job at least for the next three years. By coming into this Parliament and introducing legislation that retrospectively breaks an agreement that the Premier signed off on just before the election, the Premier is taking away from her one of the key reasons why, on the negotiating committee, she voted to accept the deal.

I said to the Premier before that in this business, if a person's word is not their bond, they are worth nothing. But that is not a concept that is new to industrial relations. I am sure that if those who spout their business skills have to rely on just legalities and people cannot trust them, people will not do business with them. This is a question of the Premier's integrity; he signed up to an agreement. Cabinet ministers as well went through this before the election. In respect of this education and health agreement I also referred to, the Premier is overriding an agreement he signed up to about 12 months ago. He is kicking sand in the face of those workers. Because he would not do it to business, he would not it to the mining sector, he would not unilaterally change every pastoral lease —

Ms S.F. McGURK: I am interested in what the member for Bassendean is saying.

The ACTING SPEAKER: Member for Bassendean.

Mr D.J. KELLY: The Premier would not do that to other sections of the community because they would not put up with it. He walked into this Parliament and attempted to unilaterally change the terms of every pastoral lease —

Point of Order

Mr C.J. BARNETT: I am happy to debate the bill; however, I do not need to debate pastoral leases under an industrial relations act.

Mr P.B. Watson: It's going to the trust of the Premier.

Mr C.J. BARNETT: It is not relevant to the bill, whatever you think.

Several members interjected.

The ACTING SPEAKER (Mr I.C. Blayney): Members! Member for Bassendean, it is a fine line but I am going to let you continue.

Debate Resumed

Mr D.J. KELLY: The Premier would not bring legislation into the house that unilaterally, retrospectively and without consultation amended every pastoral lease in the state because the leaseholders would go ballistic. He would back down in a week. The Premier would not do it to state agreements, or to people in the mining sector, but he is doing it to workers in the public sector. The other agreement that I drew the Premier's attention to, which he signed up to just prior to the election, is the WA Health—United Voice—Hospital Support Workers Industrial Agreement 2012; that covers about 5 000 workers in our public hospitals. Those workers were not that overjoyed about the pay increase, but they accepted that agreement on the basis that the non-compulsory redundancy provision in it was of value to them. I told members about Mark Hayward who is a patient care assistant at Royal Perth Rehabilitation Hospital at Shenton Park; that is a hospital that will be closed. Its services will be moved to Fiona Stanley Hospital. He is worried about whether he will have a job because he does not want to work for Serco.

People at Royal Perth Shenton Park rehab, in particular, have worked previously under contractors. They would like to stay with the public sector. He works in a team at Shenton Park rehab with a bunch of other medical professionals providing incredible care to people who have horrendous injuries. He is in a bind. He lives with his mother because he cannot afford to purchase his own home; therefore, he struggles from week to week on the wages he receives. Yet the agreement that the Premier and his cabinet colleagues approved before the election has a provision in it that precludes forced redundancies. The Premier acknowledged in his reply speech made during the second reading debate that this legislation overrides these United Voice agreements. I just cannot believe that he would trample on those agreements, particularly so soon after having been elected with a fantastic majority, which he has told us about a number of times.

Several members interjected.

Mr W.J. Johnston interjected.

Withdrawal of Remark

Mr D.C. NALDER: A point of order. I think it was pretty obvious.

The ACTING SPEAKER (Mr I.C. Blayney): Member for Cannington, I ask you to withdraw your remark; it was not parliamentary language.

Mr W.J. JOHNSTON: I withdraw.

Debate Resumed

Several members interjected.

The ACTING SPEAKER: Member for Albany, that is inappropriate.

Mr D.J. KELLY: The answer to this problem is pretty simple; that is, the Premier can amend the amendment he is putting into the bill so that this legislation will not affect existing awards or agreements; it will be prospective instead of retrospective. It is pretty simple. Then the agreements that the Premier signed up to, along with his colleagues behind him, will stand for as long as those agreements are in place. He will not then be put in the position from this day forward of being someone who cannot be trusted; someone who is prepared to sign up for a deal to get elected, and then for the lowest paid in the public sector, take away from them a key provision of that agreement. The Premier said in his reply speech during the second reading speech debate, "This has been done before. You know, Labor did it in 2002 with some workplace agreements."

Several members interjected.

Mr D.J. KELLY: I think in 1993 members opposite were in government. Labor went to the election in 2001 with a platform and then implemented it; this is the absolute reverse. The Premier went to the election having done deals and now will personally override them. I have raised this question with the Premier, probably half a dozen times since I have been in this house; namely, will he honour those deals or will he, for no good reason, trample on the agreements that he signed with the lowest paid in the public sector? I want to know what the answer is to that question.

Mr C.J. BARNETT: Already, under the Public Sector Management Act, regulations override awards or orders issued by the WA Industrial Relations Commission; that is the case. This amendment relates only to the area of involuntary redundancy. This clause ensures that all agreements are treated in the same way and that all public sector employees are treated in the same way; that is what it does.

Mr W.J. JOHNSTON: I want to clear up a confusion that was created by the Premier's second reading reply speech; that somehow what he is doing with this provision in proposed section 95B is the same that occurred under the Labor Party in 2002 with workplace agreements; that is completely false. There is no analogy. When workplace agreements were introduced by the Liberal Party in 1993, the act specifically said that a workplace agreement was not a contract of employment. What that meant was that every person who signed a workplace agreement had a separate contract of employment. When the Labor Party came in, it did abolish workplace agreements in 2002 but it specifically, in the act, protected every single employment contract of every worker with a workplace agreement. That meant all the provisions of the workplace agreements continued so long as they were superior to the common law awards that applied to those workers. That provision specifically saved the benefits that employees enjoyed under those agreements, while eliminating the harsh and unjust features that many of those agreements included. To compare this provision with the provision in 2002 is completely and utterly untrue. The Premier made that comment in his second reading reply last night, but now that I have explained the enormous difference and that what he said last night was in fact in error, we can dispense with that nonsense.

The next thing I want to raise is this idea that somehow it is not okay to be bound by an agreement. The Premier says there are other provisions of the Public Sector Management Act that override industrial agreements. It would be interesting for the Premier to explain which provisions they are, so that we can see whether it is to override a superior provision or to override an inferior provision because that will be very relevant to the provision that the Premier is encouraging us to support.

On this particular issue about whether the government should set aside industrial agreements, I want to make the point that the government freely entered into all those industrial agreements that include a no compulsory redundancy provision. If it was so bad that compulsory redundancy is so important, why was it that cabinet was derelict in its duty? Why did it sign up to those agreements? The member for Bassendean was howled at by members opposite when he pointed out that the government would not do this to a state agreement act. That is right, because this sort of arrangement in which the government uses the sovereignty of Parliament to override an agreement that is freely entered into would be called a sovereign risk if it was done with an investor in the state. Therefore, I do not understand why the government thinks that having sovereign risk so that it is not bound by its own employees is somehow or other expected to be acceptable behaviour.

There is one final issue I want to have clarified. The Premier has told us that none of the provisions of this act are intended to impact on the obligations under section 30 of the principal act. I want it confirmed that CEOs and chief employees will continue to be bound to operate in accordance with any binding award, order or industrial agreement, despite the provisions of proposed section 95B; that is, that although we may be changing the words in the act, we are not changing the effect of the act. As the Premier explained previously, section 30 of the principal legislation will not be affected in any way. Therefore, I want it confirmed that CEOs and chief

employees will continue to be bound to operate in accordance with any binding award, order or industrial agreement, and that this is not an attempt to redefine what a binding award, order or agreement is.

Mr C.J. BARNETT: All CEOs and directors general are expected to behave in accordance with, and comply with, the Public Sector Management Act.

Mr W.J. JOHNSTON: The issue is that section 30 provides that they are bound to comply with any binding award, order or industrial agreement. I specifically asked the Premier, when we were dealing with section 29, which is to be amended by clause 10, whether anything in this bill will change the obligations as at today for CEOs and chief employees under section 30 of the principal act, and the Premier's answer was no. The Premier is now trying to redefine what he said earlier. It was a pretty simple question, and I got a pretty straightforward answer. The Premier is now trying to redefine what those obligations are. Are CEOs and chief employees obliged to apply a binding award, order or industrial agreement to people where there is a no compulsory redundancy provision, or is the Premier now trying to reinterpret what he told me earlier when we were debating clause 10? Is the Premier now saying that clause 14 does change the effect of section 30 of the principal act? The problem with this rushed process that we are going through tonight is that there is no opportunity for proper debate and interrogation of the procedures, and we are getting conflicting answers. We need to know whether the Premier is now saying that the answer that he gave to me when we were debating clause 10 was wrong, and he is now giving a different answer in respect of clause 14.

Question to be Put

Mr C.J. BARNETT: I move —

That the question be now put.

Mr D.J. Kelly interjected.

The ACTING SPEAKER (Mr P. Abetz): Order, member for Bassendean!

Mr D.J. Kelly interjected.

The ACTING SPEAKER: Member, I am on my feet.

Mr D.J. Kelly: You're a gutless Premier! That's what you are!

The ACTING SPEAKER: I call you, member for Bassendean.

Mr D.J. Kelly interjected.

The ACTING SPEAKER: I call you for the second time, member for Bassendean.

Withdrawal of Remark

Mr J.H.D. DAY: Mr Acting Speaker, the member for Bassendean needs to withdraw. That is unparliamentary language.

The ACTING SPEAKER (Mr P. Abetz): I did not actually hear it, because I was sitting down here. But if it was unparliamentary, I ask the member for Bassendean to withdraw.

Mr D.J. KELLY: I withdraw that, Premier. You're not gutless.

Mr V.A. CATANIA: Mr Acting Speaker, the member needs to withdraw unconditionally. He is not prepared to follow parliamentary procedure.

Several members interjected.

The ACTING SPEAKER: That was a point of order. I could not hear it. Could the member please repeat it.

Mr V.A. CATANIA: The member for Bassendean has shown that he does not know parliamentary procedure. He should withdraw without any reservation whatsoever.

The ACTING SPEAKER: That is correct. Member for Bassendean, you are simply to say "I withdraw" and not make any further comment. I ask you to simply withdraw.

Mr D.J. KELLY: I withdraw.

The ACTING SPEAKER: Thank you.

Debate Resumed

The ACTING SPEAKER: The question is that the question now be put.

Division

Question put and a division taken, the Acting Speaker (Mr P. Abetz) casting his vote with the ayes, with the following result —

Ayes (30)

Mr P. Abetz	Mr J.H.D. Day	Mr R.F. Johnson	Mr D.C. Nalder
Mr F.A. Alban	Ms W.M. Duncan	Mr R.S. Love	Mr D.T. Redman
Mr C.J. Barnett	Ms E. Evangel	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr J.E. McGrath	Mr M.H. Taylor
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	Mr T.K. Waldron
Mr G.M. Castrilli	Dr K.D. Hames	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*
Mr V.A. Catania	Mr C.D. Hatton	Mr N.W. Morton	
Ms M.J. Davies	Dr G.G. Jacobs	Dr M.D. Nahan	

Noes (15)

Mr R.H. Cook	Mr D.J. Kelly	Ms M.M. Quirk	Mr P.B. Watson
Ms J. Farrer	Mr F.M. Logan	Mrs M.H. Roberts	Mr B.S. Wyatt
Ms J.M. Freeman	Mr M. McGowan	Ms R. Saffioti	Ms S.F. McGurk *(Teller)*
Mr W.J. Johnston	Mr M.P. Murray	Mr C.J. Tallentire	

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mrs L.M. Harvey	Mr D.A. Templeman
Mr J.M. Francis	Dr A.D. Buti

Question thus passed.

Consideration in Detail Resumed

The ACTING SPEAKER: The question now is that clause 14 do stand as printed.

Division

Clause put and a division taken, the Acting Speaker (Mr P. Abetz) casting his vote with the ayes, with the following result —

Ayes (30)

Mr P. Abetz	Mr J.H.D. Day	Mr R.F. Johnson	Mr D.C. Nalder
Mr F.A. Alban	Ms W.M. Duncan	Mr R.S. Love	Mr D.T. Redman
Mr C.J. Barnett	Ms E. Evangel	Mr W.R. Marmion	Mr A.J. Simpson
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr J.E. McGrath	Mr M.H. Taylor
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	Mr T.K. Waldron
Mr G.M. Castrilli	Dr K.D. Hames	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*
Mr V.A. Catania	Mr C.D. Hatton	Mr N.W. Morton	
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Mr W.J. Johnston	Mr M.P. Murray	Mr C.J. Tallentire	

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mrs L.M. Harvey	Dr A.D. Buti
Mr J.M. Francis	Mr D.A. Templeman

Clause thus passed.

Clause 15: Section 95 replaced —

Mr D.J. KELLY: I understand this provision allows matters to be referred to the Western Australian Industrial Relations Commission for review. However, when an employee's employment has been terminated, the question

of the actual termination is not reviewable by the commission, which seems to be completely counterproductive. The Premier has told us that it is quite a long process before anyone is made involuntarily redundant, which would take place only at the end of the process. I am not sure whether we can take the Premier's word on face value, but for the sake of this argument let us say we can. If the process is long, and each step is reviewable by the commission but the final decision to terminate is not, it will encourage people going through the process to appeal to the commission when ordinarily they would not. They will know that if they want a particular outcome, once they get to the end and they are made involuntarily redundant their ability to have the matter reviewed by the commission ends. If an employee, or even a negotiator, sees that their position may be under question, they would take each step of the process to the commission in an attempt to wear down the other side and to get the settlement that they want. There are plenty of lawyers around town who would give an employee exactly that advice. If an employee goes through the process and waits until the employer makes a decision to terminate on the grounds of involuntary severance, the employee then has no right of appeal to the commission. However, an employee can ask the commission to review whether they are correctly designated a reviewable employee or a registered employee; or whether the job they have been offered is suitable alternative employment. From my reading of the legislation, each of those questions is reviewable by the commission, but the final decision is not. Why is the final decision not reviewable by the commission when everything else is, or have I misread that? If the final decision is not reviewable, the Premier will run the risk that people will be running off to the commission earlier than would otherwise be the case just to protect themselves in the process. Rather than having a more efficient process, it will be more drawn out. It would be much easier for the whole process to be reviewable by the commission, rather than creating artificial blockages because the last avenue is not reviewable. Have I correctly understood the WAIRC's role in this process; and, if I have, why not make the whole process reviewable, particularly what is potentially the most important step of the process?

Mr C.J. BARNETT: This proposed section will allow for the retention of existing rights of review to the Industrial Relations Commission. If someone is going through involuntary termination and considers that the process has not been fair or correct, they can go to the commission. If they think their payment is not correct, they can go to the commission, and the commission can determine those matters. The commission does not have the ability to reinstate someone, but it can review the process, the payment and any other conditions attached to it. I understand the exception is a contrived or constructed dismissal, which is clearly not appropriate in any sense. In those cases, the commission could stop the termination going ahead, but that is a restricted case and I would not expect that to occur.

Ms S.F. McGURK: Under this bill, can someone go to the commission and test whether their position is genuinely redundant?

Mr C.J. BARNETT: They certainly could. If an employee considered it was a contrived dismissal of some sort, they could certainly go to the commission. That is the one situation in which the commission could say that the employee's employment cannot be terminated. I do not expect that to happen, but one never knows in this world; it could occur in a situation between an employer and an employee. This clause retains the existing provisions, but it does not allow the commission to reinstate someone if the process has been done properly and fairly. The commission does not have the capacity to do that, and that remains with the Public Sector Commission.

Ms S.F. McGURK: If a person was not genuinely redundant, would that person be able to be reinstated?

Mr C.J. Barnett: They could argue the case.

Mr W.J. JOHNSTON: These are complex provisions that have been written in a very complex way that does not provide the arrangement that the Premier is hoping for. When the Premier says that an employee cannot be reinstated, regardless of whether that person's employment has been terminated and even after the person's employment is terminated, if an application is made to the commission, it can then review whether the procedures that were used to determine the person's eligibility for redundancy can be dealt with by the commission. It also appears that section 44 of the act could be used to deal with the matter. I rarely took unfair dismissal cases to the commission under section 29; they were under section 44. Like most union officials, I argued that there was a dispute about the termination and that is the industrial matter we were dealing with, and then the commission used its general jurisdiction under section 44 to make orders, which are very broad. It can still be treated as an industrial matter by the commission, and indeed the dispute itself would still be treated as an industrial matter under the act because it could easily be between the representative organisation and the employer, and not the employees and the employer. It would still be capable of being dealt with.

Referral to Public Accounts Committee — Motion

MR W.J. JOHNSTON (Cannington) [8.29 pm] — without notice: I move —

> That the Workforce Reform Bill 2013 be referred to the Public Accounts Committee for inquiry and report.

Tonight the Premier has given us answers about one provision and contradicted those answers on another provision. We heard the member for Bassendean point out on the last provision about which the Premier had given his word to employees and then introduced legislation in this chamber to set that aside.

Mr C.J. Barnett: This is a joke! No wonder you could never make a decision.

Mr W.J. JOHNSTON: There is a lot of confusion about this bill.

The ACTING SPEAKER (Mr P. Abetz): We are no longer in consideration in detail; therefore, I understand that the advisers must leave.

Mr W.J. JOHNSTON: There is a lot of confusion around this bill and the reason for that can be summed up in one phrase; namely, the Premier of Western Australia. It is important for us to do our job in this chamber. The government has been guillotining the debate without answering questions that are relevant to the bill. In urging the chamber to support this resolution, I will quote the words of the Premier of Western Australia of 16 October 2003 when he said —

> I remind the minister that in this House he is just one of 57 members. While he is in this House, he is no more important than any other member. The Bill has now come before the Parliament, which is where the minister is subjected to scrutiny on this legislation. That scrutiny does not occur earlier. It does not happen through public consultation, letters to the editor or questions without notice. The minister is accountable when the Bill comes to this place. How dare the minister try to limit my right to question him …

That shows a clear direction from the Premier of Western Australia to properly scrutinise legislation in this chamber. That the Premier will not answer straightforward, reasonable, responsible questions from the opposition is why the opposition has to move that the bill be considered by a committee of the Parliament. These are important issues. The fact that the Premier will not be accountable in this place, as he said a minister should be, means we end up in the situation I find myself in right now. These are my own notes of the words said last night; when the final *Hansard* is out, there might be some difference in the words, and I am not trying to put words in the Premier's mouth but I understand that he said last night that a piece of law will, in a technical sense, override an enterprise bargaining agreement. He went on to say that it has happened under Labor and Liberal administrations. I make the point that that is not correct. I pointed out earlier, but the Premier did not explain himself on this issue, that when the Labor Party cancelled workplace agreements, there was a specific provision in that legislation to ensure that the contract of employment continued with the conditions that existed in the workplace agreement. That is a very important issue because in its 1993 legislation the then Court government specifically said that a workplace agreement was not a contract of employment and that an industrial agreement and an industrial award were not contracts of employment; contracts of employment exist separately to those constructions of the commission. The Labor government protected people's rights under those workplace agreements. As I explained in my comments, which the Premier chose not to respond to, if a provision was below an award, the contract of employment was improved to include those higher arrangements, but if the workplace agreement contained provisions that were in fact superior to an industrial award, the employee retained those superior provisions. With this bill the government is seeking—there is confusion because the government has not explained itself concerning section 30 of the principal act—to give a lower standing.

These are the sorts of issues that the committee needs to examine. It needs to look at why there is a difference between what the Premier said in answer to questions on these matters concerning one part of the bill and then a different answer on another occasion. The committee also could examine whether 138 000 employees will be covered by the provisions of this legislation or only 80 employees will be. The Premier says that only 80 people will be affected by this legislation and that the opposition saying that more people might be affected is a scare campaign. We therefore need an opportunity to have that issue examined, given that the government will not allow us to have it explained in this chamber. As the Premier made his point in 2003, these things should be explained, so we will have to get a committee to look at those matters to properly determine whether these matters are as they have been explained or are different from what has been explained. For people deciding whether to support the resolution I have moved, I make the point that there is a difference between what the Premier said prior to the election and what he said after the election. I draw the chamber's attention to the *Hansard* of 20 November when the Leader of the Opposition was speaking on this legislation during the second reading debate and said —

> I want to take members up-front through what was said in the lead-up to the state election. On 27 September 2012 in this place, I asked a question of the Premier. In *Hansard*, this is what the Premier said —
>
> > I make it very clear that there are no cuts, proposed or planned, for staffing within the public sector—none at all, and that was made very clear by the Treasurer —
> >
> > …
> >
> > … No-one is going to be losing their job, no-one is going to be laid off, but there will be flexibility in it because there will be some initiatives that will require that.

The Public Accounts Committee should properly look at why there is a gap between what the Premier said on 27 September 2012 and the provisions of this bill. I think that would be an important issue for the committee to get to the bottom of, given we have not been provided the opportunity in this chamber to hear the proper answers when we have asked these questions.

Mr M. McGowan: Good point.

Mr W.J. JOHNSTON: The debate has been cut short eight or nine times on individual clauses. That is perplexing when the Premier made it clear in 2003 that this is the place where ministers are accountable. Given the Premier is not giving us the opportunity in this place for that accountability that he said was so essential, we will have to delegate to the Public Accounts Committee to look at these important issues. I urge the chamber to support this resolution. I again draw members' attention to what the Leader of the Opposition said on 20 November —

> That is what the Premier said a few months before the state election when this issue was current. When the issue of whether there would be forced redundancies in the public sector was current, that is what the Premier said in this place. That was reported as the Premier's comments. Anyone who was out there before the state election heard from the Premier of the state that there would be no forced redundancies. That is what they heard, yet we find after the election that that position has changed. What did the Premier say after the election? In this place on 6 August 2013, he said —
>
> > Public servants are secure in their employment unless they put up their hand for a voluntary—I stress "voluntary"—redundancy. I compare that with the situation in the private sector. We have seen the mining industry come off a peak, and in the mining and mining services sector, several thousand jobs have gone. Industry is not in recession, but it has certainly contracted. We are seeing people in the private sector who have been told their pay is frozen or cut, and many, many people have been told they do not have a job. I say to the public servants and those in the gallery that you do have a job, and unless you choose voluntary redundancy, your employment and your wage level is protected.

That was on 6 August 2013. The committee could properly examine why there has been such a rapid and total change between what the Premier said only a few months ago and the legislation we have before us now. I will quote from that *Hansard*. The Leader of the Opposition quoted "The Liberals' Public Sector Management Policy"; he said —

> … a policy document released by the Liberal Party in the lead-up to the state election, states —
>
> > The Liberals recognise the need for a strong and productive public sector …
> >
> > …
> >
> > • Maintain a wages policy that provides public sector employees with fair and reasonable remuneration and benefits and safe working conditions

Further in this document, it states again —

> If re-elected, the Liberals will:
>
> • Maintain a wages policy that provides public sector employees with fair and reasonable remuneration and benefits and safe working conditions

The committee could also look at that, given that we are not going to be able to do that properly in this chamber. Despite the Premier's urgings in 2003, we are not being allowed to properly examine the legislation in front of us.

Mr J.H.D. Day: It was supposed to have been only going for a week.

Mr W.J. JOHNSTON: Minister, I did not choose to bring this flawed legislation to the chamber in such a poor state, with internal contradictions and no proper explanations. That was the government's decision, and if the government had chosen a proper path, then we would not be in the position we find ourselves.

Mr J.H.D. Day: If having debate for over a week is not a proper path, what is?

Mr W.J. JOHNSTON: With respect, Leader of the House, I am not the one moving the gag. I am not the one preventing simple answers to simple questions. I do not understand why it is that the government is so afraid to explain the provisions of its own bill, but that is what we have had. We had a week in which we went home early, and now we are having a week in which we cannot get home.

Mr J.H.D. Day: If the work is here, we do it; if it is not here, we do not do it, obviously!

Mr W.J. JOHNSTON: Given that it is the minister who chooses when this legislation comes forward —

The ACTING SPEAKER (Mr P. Abetz): Please speak through the Chair.

Mr W.J. JOHNSTON: Thank you very much; I was very disturbed and disrupted by the faint urgings of the minister from the back row over on the other side of chamber.

Mr J.H.D. Day: I am as close to you as I want to be, don't worry!

Mr W.J. JOHNSTON: There we go, minister! What was that? I did not hear the minister!

If we are minded to refer this legislation to the committee, it could take note of what the Leader of the Opposition said later on 20 November 2013. I again quote from *Hansard*, and the Leader of the Opposition said —

> This is what Richard Court, the then member for Nedlands, the then Premier, had to say in the second reading speech of the Public Sector Management Bill on 30 September 1993 —
>
> > At the moment there are Government agencies which do not have disciplinary powers, other than the power of dismissal, or mechanisms available to them for dealing with staff who commit minor misdemeanours or whose work is substandard. This is unfair to employers and staff. The provisions which currently apply only to public servants will be capable of being extended in due course to other agencies to ensure consistency. Prior consultation will take place. This will achieve more equitable results for employers and staff.

I make the point that when we had our debate on clause 10 guillotined, I was not able to ask the question of the Premier about the obligation on the Public Sector Commissioner to consult before he makes his directions. I make the point that the then Premier, Hon Richard Court, in introducing the legislation in 1993 specifically discussed the issue of consultation. I actually had a question I wanted to ask the Premier on the issue of the obligations on consultation that applied to the Public Sector Commissioner, but I was not able to ask it because the debate was truncated. It would have been interesting for me to get that answer, and given that we have not been able to ask that question in this chamber, we do not know the answer to it and the committee would be able to have a look at that and ensure that we have the answer to what happens with that consultation.

I will read further from the Richard Court quote that the Leader of the Opposition read out. He said —

> Part 6 of the legislation provides a legislative base for redeployment and redundancy arrangements.

The Leader of the Opposition then said —

> These are the North Korean laws we are talking about. The second reading speech continues —

The Richard Court quote continues —

> Whereas the current industrial and administrative arrangements have generally been effective, this legislation will eliminate inconsistencies in their application. The legislation will enable regulations to be issued for redeployment, retraining, and redundancy for employees who are surplus and will specify which parts of the public sector must comply with those regulations.

The Leader of the Opposition then said —

> The power is currently there in Richard Court's and Mr Barnett's laws.

The committee would be able to examine why the current laws are inadequate, because that case has not been made by the government. In only August of this year, the Premier said there was no need to deal with these

provisions, and now he is asking for them. Given that we have not been able to have a proper answer from the Premier on those issues, we could have those questions answered.

I again quote the member for Rockingham quoting Hon Richard Court —

> The power to make regulations in clause 94 has been expanded to ensure that adequate specific powers are provided in the Bill to allow redeployment/redundancy arrangements to be set in place to meet the Government's objectives where restructure of the public sector is necessary. This Government will deal with its employees in an equitable and fair manner in such circumstances.

We have not been able to get a proper answer as to why the government thinks these particular arrangements are required to override the arrangements introduced by Hon Richard Court and the Premier's recent own words. I will remind the Premier of what he said on 14 September 2004 —

> … if someone says something on behalf of a political party and then does the opposite in the most blatant and crass way, that is a political lie. That is my standard.

The committee could look at why we had the words prior to the election saying that there would not be forced redundancies, and then we come into this chamber and find the government asking for a power to do forced redundancies. The committee could properly look at why that is and draw its own conclusions about whether that was a political lie or whether it was some other issue.

I quote the current Premier from 11 November 2004 —

> The people will remember the great lie of the election …

I will continue the quote slightly lower down the page —

> The Premier told a lie on public television.

That is again something the committee could look at and make a decision about whether those words relate to the current Premier, because he did say something in only August of this year and yet now is bringing this legislation to us that says something different from what he said at that time.

Again, I look to the words of the Premier on 23 September 2004 when he said —

> It was either a lie or a massive broken promise. I do not care—the Premier can make his choice. Did he lie to the public or did he break his promise to the public?
>
> ...
>
> It is a fair request. The people of Western Australia need to know.

The committee could look to see whether there was a reason. The committee could examine whether those words of the Premier in 2012, and as recently as August 2013, are relevant to what is happening here, because it gives the appearance that the Premier's words from 2004 are relevant to what we are finding ourselves in at the moment.

The Premier spoke about the question of ethics of this piece of legislation. We think that the Public Accounts Committee could quite rightly look at the question of the ethics of this legislation because, when the Premier talked about the question of ethics in *The West Australian* on 6 November 2013, he said —

> The bar is too high now.

The Premier thinks that the question of ethics in politics is now set too high. That could be an issue that the committee examines and reports to us on when it looks at the questions around the Workforce Reform Bill 2013.

Another thing the committee could look at is the question of the gap between the 138 863 employees in the public sector identified by the "State of the sector report 2013" of the Public Sector Commission and the Premier's view that roughly only 80 people will be affected by this legislation. It could also look at this issue of trust. The Premier talked about trust in *The Weekend West* of 9 November 2013. In reference to asset sales, the Premier is quoted as saying —

> "They have to trust the Government. The deal, once it's completed, will be made public.
>
> "There may be some confidential aspects to any agreement … this is a big commercial negotiation and the public will have to trust this Government and have to trust me.

That is what is happening here; we are being asked to trust the government on the question of these reforms because we cannot get proper answers when we ask reasonable and appropriate questions in the consideration in detail stage. We either get no answer, half answers, answers that are subsequently contradicted or the question is put and we do not get to hold the Premier to account. As I said, that is an extraordinary position because, as the

Premier said in 2003, this is where the scrutiny occurs. It does not occur in the newspapers or through media release; it occurs in this chamber. We are surprised that the Premier does not want to explain himself and simply asks us to trust him even though he will not give simple answers to simple questions. We have to look at all these issues and just trust him. That issue needs to be examined by the committee because we cannot do it here in the chamber, which is unfortunate, but that is the position in which we find ourselves.

The "State of the sector report 2013" from the Public Sector Commission tells us that only 54 employees were identified as being subject to a substandard performance process. It makes the point that nine public sector bodies had not made that information available to the commission. However, this bill is about not only redundancies and forced redundancies, but also a range of issues. As I pointed out to the chamber, we are including the term "termination of employment" a number of times and that is a broader issue than just redundancy. The committee will be able to examine the issue of the 54 people who are subject to performance review as reported by the Public Sector Commission. The commission's view is that 54 employees is a small number and much smaller than it expected. Given that we are dealing with the question of termination and not only the question of redundancy, the Public Accounts Committee will be in a position to also look at those issues. It will be able to call in people to give evidence on these important issues. The committee will be in the unique position of calling in agency heads, the Public Sector Commissioner and learned people from the industrial relations system to see what advice they can give us.

One of the issues that the committee should look at is the question of why the government is attempting to give itself a power that does not exist in the private sector. The government says that all it is doing is bringing in private sector arrangements to the public service, yet—I will go to this in a little while—that is not what is occurring. This act will give powers to the public service that do not exist in the private sector. Private sector employees would be jealous of that, including this idea that the government can declare classes of people to be redundant regardless of any other issue and that it can override agreements that it has made. The Public Accounts Committee could look at that question of the government's capacity to override agreements freely entered into by the state in respect of other matters that come before Parliament and whether there is any implication for the Parliament in passing this legislation in other agreements entered into by the state.

I want to particularly remind the chamber of the questions that I was raising about section 29 and 30 of the principal act and the interaction with the changes proposed by this bill. Mr Speaker, you will probably remember that I asked quite a number of questions on section 29 of the principal act, clause 10 of the bill, regarding the functions of the CEOs and chief employees. I received an assurance that it was not being attempted to change any of the obligations that fall to the CEOs and chief employees. I attempted to get a clear answer on the interaction between section 30 and the provisions of this bill. I must say that I thought I had a clear answer on that issue until later in the debate when the Premier contradicted the answer he had given me on clause 10. The Public Accounts Committee could properly examine the actual effects of the legislation in respect of those section 30 obligations that apply to section 29.

We could also look at the delegation of powers of the commissioner because the principal act allows the powers to be delegated by the Public Sector Commissioner. The Public Accounts Committee could examine how those existing delegations will interact with the provisions of the bill before us. Again, we have not even been able to ask that question, much less get an answer on that issue during the debate that we have had so far.

We also need to allow the committee to call in the WA Police Union of Workers so that it can explain its understanding of the bill. I will quote again from *Hansard*. If the chamber is of a mind to refer this matter to the Public Accounts Committee, I would invite the Public Accounts Committee to look at this issue because it is quite important. On 19 November 2013, the member for Midland asked a question of the Minister for Police. She asked —

> I refer to the government's Workforce Reform Bill 2013.
>
> (1) What restrictions currently apply to access by police officers to the WA Industrial Relations Commission?
>
> (2) Does the minister support the inclusion of police officers in the provisions of the Workforce Reform Bill?
>
> (3) What has the minister done to ensure that police officers are not unfairly affected by the Workforce Reform Bill?

The minister replied —

> I thank the member for the question.

(1)–(3) The Workforce Reform Bill is a work in progress. Members of this place have probably heard me —

Mrs M.H. Roberts: No, it's actually before the house. It's not a work in progress.

The SPEAKER: Member for Midland!

Mrs L.M. HARVEY: I will reframe what I said, Mr Speaker. The Workforce Reform Bill is in process in this house. Police are not part of that legislation at this moment in time. There is not a concerted effort of the government necessarily to exclude police from reform. Members of this house would probably have heard me talk ad nauseam about the police reform project in which we are looking at various aspects of police and ways to reform the way police do business. In the context of that, I expect further down the track that there will be significant changes to the way police do business. In that context, it would be premature to include police in this package at this moment in time.

The member for Midland said —

I have a supplementary question. Can the minister clarify what she means when she says that police are not included in the Workforce Reform Bill and that there is not a process to exclude them?

The minister replied —

We are dealing with them separately from the Workforce Reform Bill.

That is the position of the Minister for Police. I now wish to quote from a letter that the chamber should consider in deciding whether to refer this matter to the Public Accounts Committee. It is from the WA Police Union of Workers, dated 18 November 2013 and addressed to me. It is signed by the president, George Tilbury, with the tag line "Strength in unity". In part, Mr Tilbury states —

We are concerned at the recently tabled Workforce Reform Bill, the deleterious impact that it will deliver to the wider public sector workforce and the adverse effect it will have on our Members.

It is also our view that there are sound reasons why police officers should not be subject to the WA Government Public Sector Wages Policy.

We find the new wages policy to be an oppressive and highly restrictive framework which does not give sufficient consideration, or capacity, to explore the potential merits of any claim brought by employees or agencies and in its current form, will not assist our Members with obtaining fair and reasonable wage outcomes.

Further, the provisions of the Workforce Reform Bill which mandate the wages policy into considerations of the WAIRC will likely impede the delivery of satisfactory arbitrated outcomes for public sector workers, and when combined to the content of the wages policy itself, the ability to settle negotiations and/or arbitration in a timely manner is improbable.

The letter continues on the next page. Under the heading "Why police officers should not be subject to the WA Public Sector Wages Policy", it states —

Police officers' working conditions are unique and different to other public sector employees, including other emergency services employees in the following areas:

1. Police officers, police auxiliary officers and Aboriginal police liaison officers are the only occupational groups in the WA Public Sector which have restricted access to the WAIRC.

   Police officers are the only group of WA Public Sector employees who are agents of the Crown. As such, members of WA Police are never off duty, due to their oath of office and common law responsibility as a constable of police to uphold the law. As the holder of the office of constable there is a responsibility to uphold the law at all times and there is a community expectation that where police intervention is needed, whether on or off duty, members of WA Police would come to the aid of those requiring assistance.

   Further, as agents of the Crown they are also subject to removal under the loss of confidence provisions in Section 8 of the Police Act.

2. Unlike other State and Federal police a member of WA Police is only covered by the Workers Compensation and Injury Management Act if he or she suffers an injury and dies as a result of the injury.

3. Police officers are covered by WA OSH Legislation, however, unlike other emergency service workers in WA, and members in every other Police jurisdiction in Australia, who perform similar dangerous duties and who can exercise their right to refuse dangerous work, Police officers in WA are not able to use Section 26 of the Act to refuse to perform dangerous work when involved in covert or dangerous operations.

For these reasons, police officers should not be subjected to the Public Sector Wages Policy. To achieve this outcome, we encourage you to support the following actions:

a) The Government adds the following rider to the policy statement:

"This policy does not apply to the employees appointed under the Police Act and covered industrially by the WA Police Union of Workers".

b) The Workforce Reform Bill be amended to seek an additional sub-clause in Schedule 3 — Police Officers of the Industrial Relations Act to ensure that the WA Industrial Relations Commission is not restricted by the Public Sector Wages Policy when dealing with claims relating to police officers.

To achieve this we suggest the Workforce Reform Bill be amended to include the following additional sub-clause in Schedule 3—Police Officers:

2.(4) "Despite any other provision in this Act the provisions of Section 2(A), 2(B), 2(C), 2(D) and 2(E) shall not apply to police officers, police auxiliary officers, Aboriginal police liaison officers or special constables appointed under the Police Act".

The point I am making here is that the committee could look at why the WA Police Union of Workers is telling every member of this chamber that the Workforce Reform Bill applies to police officers, yet the Minister for Police is telling us that it does not. This is a very serious issue, Mr Speaker, because as you know it is your deep responsibility to this chamber to make sure that we all act in accordance with the standing orders and our obligations under the code of conduct for members of Parliament, and the Minister for Police has not returned to this chamber to say that she had inadvertently misled the Parliament. We must assume that what she said was true. Mr Speaker, I know that you must take your obligations very seriously in this matter, yet the WA Police Union of Workers has written to every single member in this chamber to say that the provision of this bill does apply to them. It is very interesting for us to try to work out why the WA Police Union of Workers is wrong in this matter. That could be something the committee could look at. The Minister for Police cannot be wrong in this matter because she said those things in this chamber in question time on 19 November 2013. I make the observation that you were in the chair at the time, Mr Speaker. She said those things and has not corrected the record. She has not come back in here to say that she was in error, so she must have been telling the truth, because I am sure that she would not abrogate her responsibilities.

Mr C.J. Barnett: "The minister", not "she".

Mr W.J. JOHNSTON: Okay, Mr Premier, "the minister". I am sure that the minister would comply with her obligations to this chamber, so that if she has made a mistake, she would come in here and correct the record. She has not done that, so the only conclusion there can be is that the WA Police Union of Workers must be wrong, because if it is contradicting the minister in that the minister has told us in this chamber that the police are not covered by this legislation, we have an issue that needs to be resolved. Surely we cannot allow this situation to continue of the honourable member, having said these things in the chamber —

Mrs M.H. Roberts: And her answer conflicts with the answers the Premier has given in this chamber as well.

Mr W.J. JOHNSTON: Even more importantly. Therefore, there must be an answer to why the minister has not come in here and corrected the record. The Public Accounts Committee could go away and work out the reason for her not having corrected the record, or, alternatively, it could investigate why the WA Police Union of Workers has written this letter that says that in fact the minister was wrong in the chamber. Surely, if the minister was wrong, she would comply with her obligations under the standing orders and the code of conduct and come back to this chamber and correct the record, yet that has never happened. We have this conflict that we cannot resolve in this chamber. The Public Accounts Committee could properly investigate that matter and see how we could resolve the clear contradiction in this issue with the minister, because it is not acceptable—I know that you would agree with me, Mr Speaker—to have a minister being contradicted in public by the WA Police Union saying that she was wrong in the chamber and that the bill applies to the union. It is causing some confusion for me too, because when I read the plain words of the bill, it appears to me that the bill certainly does apply to the WA Police members, and that in fact the WA Police Union of Workers is 100 per cent correct in its assessment of the impact of the bill on its members. That leads to confusion because the minister perhaps has not followed her obligations. I do not know, but it would appear to me that she perhaps has not complied with her

obligations under the standing orders and under the code of conduct that she is obliged to correct the record if she has made a mistake.

I am sure that the Minister for Police could provide a proper explanation to the Public Accounts Committee, and the Public Accounts Committee could have a conversation with the WA Police Union of Workers and come to a conclusion on that matter. The committee could also talk to the other public sector unions about their views. I note, as I already have, that the Public Sector Commissioner is obliged, in his functions under the principal act and under the provisions of the amending bill, to consult with relevant people. I imagine that if the Public Sector Commissioner gave evidence to the Public Accounts Committee, he could outline for us, because we have not had it outlined to us by the Premier in the consideration in detail stage of the bill or at any other time, what consultations will occur arising under the obligations that we are imposing on the Public Sector Commissioner under this bill.

I make the point too that referring the matter to the Public Accounts Committee would relieve the Premier of the need to be here dealing with these matters in the consideration in detail stage. It seems to those of us on this side of the chamber that the Premier does not actually like being here for this consideration in detail and that he is certainly not providing to us a proper and detailed explanation of the provisions of this bill, and he is not answering the questions posed. One only needs to have a cursory glance through last night's blue. I am not quoting from it, but anyone who reads it will clearly see how ill-tempered the Premier was during the debate. Given that the Premier does not want to do the things that he is obliged to, I will remind you of the quote, Mr Speaker, when the Premier said back in 2003 that this is where these things happen. It states —

> I remind the minister that in this House he is just one of 57 members. While he is in this House, he is no more important than any other member. The Bill has now come before the Parliament, which is where the minister is subjected to scrutiny on this legislation. That scrutiny does not occur earlier. It does not happen through public consultation, letters to the editor or questions without notice. The minister is accountable when the Bill comes to this place. How dare the minister try to limit my right to question him …

Never a truer word spoken when we look at the conduct here.

There is no question that many of us on this side of the chamber spent many, many years representing working people, and did so very proudly. The member for Mirrabooka, the member for Bassendean, the member for Fremantle and I, very proudly, were union officials. What is a union official? It is a person who looks after the interests of working people. That is the job we did. Every single one of us represented workers in the public sector. I had very limited exposure to the public sector. My union was 98 per cent private sector coverage, so I am very, very familiar with the demands of the private sector. I know that my colleagues all represented unions that worked in both the private and public sector, and none of us had fear of the demands of the private sector, but also we have very great knowledge and understanding of the provisions of the Workforce Reform Bill 2013 and its interaction with the principal act that it seeks to amend. It may be hard for the Premier. If I were in his position, I imagine I would find it hard, with no particular background in these industrial relations matters, to come into the chamber and have to answer questions from people who have a very detailed knowledge of these issues. As I said, I am not surprised that the Premier gets tetchy on these things. I would too if I were in his position, but that does not relieve the Premier of the obligation to provide answers to the chamber. The fact that we still cannot get answers to very important issues is a problem for all of us.

When making up our minds about whether we should get the committee to look at this bill, we must bear in mind the effect of clause 4. What is the difference between what is proposed by clause 4 and the ordinary obligations of the commission in any case? If we refer it to the committee, the committee could get in experts who could explain the fact that the obligations that are proposed in this legislation are probably being exercised by the commission anyway. Therefore, we could look at whether it is really worthwhile trying to limit the powers of the commission. If the government's answer is that these powers are not limiting the commission, what is the purpose of these provisions? The government likes to tell us that it is not into unnecessary red tape, but if that is exactly what we are doing by this provision, why would we engage in that? A proper examination of clause 4 would be able to work out whether this provision is required. If we choose to refer the bill to the committee, the committee could also look at the question of what is wrong with arbitration and whether arbitration is in fact a preferred method of dealing with negotiations. As an industrial practitioner it was always pointed out to me that arbitration is simply a formalised process of negotiation. Why be afraid of having an arbitration system that allows that? Does clause 4 prevent the commission exercising its powers to do shotgun arbitration, a rarely used provision in the Industrial Relations Act? I am sure you, Mr Speaker, being a lawyer, would understand the term "shotgun arbitration". It is where two sides put their proposals and the commission chooses one side or the other. Shotgun arbitration is provided for in the Industrial Relations Act. We would have to see whether the provisions that are presented to us through the committee continue to allow shotgun arbitration to occur. Shotgun arbitration

is sometimes a good way to give final resolution to matters, particularly when the issues in dispute are narrow and the commission is able to listen and come up with a final solution.

Clause 9 could also be reviewed. The opposition has not been given a proper explanation of why, if the government argues that this bill is solely about involuntary redundancy, clause 9 includes this question about termination of employment. Why is that being included? I would not have expected the Premier to have covered that in the second reading speech, but I do think that he should have been able to provide an answer in the consideration in detail stage. Yet when I asked a question about it, I did not get an answer. No proper explanation was given for that provision being included. It may well be a very good provision to include, but we cannot vote knowing it is a good provision because we have never had an answer to that question. That is something the committee could properly examine and decide whether it is something that we should or should not support.

Again in clause 10, which amends section 29 of the Public Sector Management Act, we were not able to get to the bottom of the question about termination of employment. If it is only about compulsory redundancy, why is a broader power being placed in the bill? Mr Speaker, you may remember that when we were dealing with other clauses of the bill, I went to the question of termination of employment and why it was being included as a separate power.

I turn now to clause 11, which amends section 63(1)(f) of the Public Sector Management Act. Section 63(1)(d) of the Public Sector Management Act already provides a provision for termination of employment, which, in fact, uses the word "dismissal". Why were the words "regulations referred to in section 95A" specifically included on their own when a provision already allows a chief executive officer to deal with dismissal? The committee could look at this matter. The Premier seems to suggest that the term "dismissal" only applies to a person who is being dismissed because of some failure to perform; yet that is not possible from the construction of that section of the act, because section 79(3) is the specific power in section 63(1)(f) that we are adding to by inserting the additional words referring to section 95A. Section 79(3) is actually about dismissing an employee arising out of a discipline procedure. That does not add up. We still do not know exactly what was meant by the provision because, again, the debate on the clause was cut short—it was truncated—and we were not able to get to the bottom of it. We do not know what that means, so when these matters end up in court, even though the questions have been raised, no proper answer has been given to what was intended by those words.

Again, the Premier's behaviour in the consideration in detail stage has led to this confusion. A simple reference such as the one I have suggested to the Public Accounts Committee will allow the Parliament to be properly informed before it is asked to vote on the bill. We are not properly informed now because the Premier has not answered these very relevant and apposite questions. It was not about wasting time or any of those things; it was about trying to get the actual meaning to the words in the bill. That is what was occurring in the consideration in detail stage. The only members participating in the consideration in detail from the Labor side were members who had detailed knowledge and understanding of the issues being debated. There was no irrelevant questioning and no attempt to improperly deal with any of the provisions of the bill. Members of the opposition were simply trying to get to the actual words and their meaning, yet we were prevented from doing so.

The committee could also look at clause 13 and the question of what a registered employee is. No proper answer was given to the question about registered employees during the consideration in detail. What were the limits being placed on the legislation? Could we simply declare registered employees to be everybody with blue eyes, because there is nothing in the act that explains why that could not be done? It may well be that the Premier could have provided a proper explanation about what a registered employee is, but we were not able to get to that. We were not able to have that properly answered in consideration in detail and that is why we need to look at these matters in a committee. We could have a review of clause 14 of the bill. This is the bus driver's clause, because here the Premier is providing the opportunity for the Industrial Relations Commission to drive a bus through the legislation because the Industrial Relations Commission might interpret it in particular ways. We could look at all these things in a committee.

Question to be Put

MR J.H.D. DAY (Kalamunda — Leader of the House) [9.30 pm]: I move —

That the question be now put.

Division

Question put and a division taken with the following result —

Ayes (32)

Mr P. Abetz	Ms W.M. Duncan	Mr R.F. Johnson	Mr D.T. Redman
Mr F.A. Alban	Ms E. Evangel	Mr R.S. Love	Mr A.J. Simpson
Mr C.J. Barnett	Mr J.M. Francis	Mr W.R. Marmion	Mr M.H. Taylor
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr J.E. McGrath	Mr T.K. Waldron
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	Mr A. Krsticevic *(Teller)*
Mr G.M. Castrilli	Dr K.D. Hames	Ms A.R. Mitchell	
Mr V.A. Catania	Mr C.D. Hatton	Mr N.W. Morton	
Ms M.J. Davies	Mr A.P. Jacob	Dr M.D. Nahan	
Mr J.H.D. Day	Dr G.G. Jacobs	Mr D.C. Nalder	

Noes (16)

Mr R.H. Cook	Mr D.J. Kelly	Mr M.P. Murray	Mr C.J. Tallentire
Ms J. Farrer	Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson
Ms J.M. Freeman	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr W.J. Johnston	Ms S.F. McGurk	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr J. Norberger	Mr P.C. Tinley
Mr T.R. Buswell	Mr J.R. Quigley
Mrs L.M. Harvey	Mr P. Papalia
Mr M.J. Cowper	Dr A.D. Buti

Question thus passed.

Motion Resumed

The SPEAKER: The question now is that the motion moved by the member for Cannington be agreed to.

Division

Question put and a division taken with the following result —

Ayes (16)

Mr R.H. Cook	Mr D.J. Kelly	Mr M.P. Murray	Mr C.J. Tallentire
Ms J. Farrer	Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson
Ms J.M. Freeman	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr W.J. Johnston	Ms S.F. McGurk	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*

Noes (32)

Mr P. Abetz	Ms W.M. Duncan	Mr R.F. Johnson	Mr D.T. Redman
Mr F.A. Alban	Ms E. Evangel	Mr R.S. Love	Mr A.J. Simpson
Mr C.J. Barnett	Mr J.M. Francis	Mr W.R. Marmion	Mr M.H. Taylor
Mr I.C. Blayney	Mrs G.J. Godfrey	Mr J.E. McGrath	Mr T.K. Waldron
Mr I.M. Britza	Mr B.J. Grylls	Mr P.T. Miles	Mr A. Krsticevic *(Teller)*
Mr G.M. Castrilli	Dr K.D. Hames	Ms A.R. Mitchell	
Mr V.A. Catania	Mr C.D. Hatton	Mr N.W. Morton	
Ms M.J. Davies	Mr A.P. Jacob	Dr M.D. Nahan	
Mr J.H.D. Day	Dr G.G. Jacobs	Mr D.C. Nalder	

Pairs

Ms L.L. Baker	Mr S.K. L'Estrange
Mr P.C. Tinley	Mr T.R. Buswell
Mr J.R. Quigley	Mr J. Norberger
Mr P. Papalia	Mr M.J. Cowper
Dr A.D. Buti	Mrs L.M. Harvey

Question thus negatived.

Consideration in Detail Resumed

The SPEAKER: The question now is that clause 15 do stand as printed.

Mr M. McGOWAN: I am a bit confused about what this clause will do.

Several members interjected.

Mr M. McGOWAN: It would be good if members of the government actually read some of the legislation that comes before the house, because then they might not sit there in the perpetual state of confusion that they seem to be in.

Several members interjected.

Mr M. McGOWAN: Okay. There is one clause that I might not be totally across.

Mr F.A. Alban interjected.

The SPEAKER: Member for Swan Hills, I call you to order for the first time.

Mr W.J. JOHNSTON: Could the Premier explain what effect section 44 of the Industrial Relations Act would have on this provision?

Mr C.J. Barnett: I have nothing to add.

Mrs M.H. ROBERTS: Does the Premier not know what the effect of section 44 would be, or is he just not prepared to say?

Mr C.J. Barnett: I have nothing to add.

Mr D.J. KELLY: I refer the Premier to —

Mr C.J. Barnett: That is the only member on your side who has done any work on this.

The SPEAKER: Let us continue, thank you.

Mr D.J. KELLY: I am sorry, Mr Speaker, but I was being interjected upon.

Proposed section 95(3) reads —

> A referral under subsection (2) must be made within the period after the making of the decision that is prescribed under section 108.

Section 108 sets out the regulations that can be made. Even though we have not seen the regulations that will go with this bill, the Premier has, in quite some detail, outlined what the processes under those regulations will be. This provision says that there will be prescribed times for people to go to the Industrial Relations Commission if they want various aspects of the decisions that are made under section 94 to be dealt with by the commission. Obviously, it is of considerable importance that affected employees be given adequate time to exercise their rights under this amended act. I know that the regulations have not yet been written. But to date the Premier seems to have been able to polish the crystal ball and look into the future and tell us what those regulations will contain. Can the Premier advise the house of the time limits under those regulations for affected people to access the Industrial Relations Commission?

Mr C.J. BARNETT: The time limits will be set by regulation. They will be fair and reasonable and in the interests of state government employees.

Mr D.J. KELLY: I am not sure that is really a good enough answer; for example, under the Industrial Relations Act, unfair dismissal applications have 21 days or 28 days—I forget what the legislation says—there have been some moves in some jurisdictions to truncate the time frames. I think under the federal legislation for a period —

Ms S.F. McGurk: It was 14 days.

Mr D.J. KELLY: The member for Fremantle is quite right, under the federal legislation a person had to make an unfair dismissal application within 14 days, which created more problems than it solved. Employers thought that if the time was truncated, fewer people would make application and therefore the life of business would be improved.

Mr C.J. Barnett: What do you think is a fair and reasonable number of days?

Mr D.J. KELLY: Given 14 days was such a short time in which to make an application, when people were dismissed and sought advice, rather than whoever was giving them advice having the time to look at the claim, make a reasonable assessment and say, "You don't have a claim, don't worry about it, move on with your life", they were advising people to get the claim in because they had 14 days to beat the deadline. As a result, a lot of claims were made that would not otherwise have been made. One of the difficulties is that once a claim has gone in, it is very difficult for a worker to then be advised that it was not a claim that would have much merit and therefore it might be taken out. People think that once their claim is in, they might as well go for it. My concern, Premier, is that if there is a mood in government when making these regulations to provide short time frames for people to access the commission, a lot of frivolous claims will be made; whereas, if there is time for proper advice, cooler heads will prevail and unnecessary claims will not be made. As the Premier knows, when people perceive that they are staring down the barrel of involuntary severance, it is a very emotional time; people are very anxious and seek advice. If the person giving the advice says, "The legislation allows for only seven days to make an application to the commission to deal with this aspect of the process, so you better get it in", people will make the application, and once it is in the system it is very hard to withdraw it. If the Premier has any views about time limits, I ask him to share them with us. I appreciate that under this legislation multiple steps will be reviewable by the commissioner. It would be useful if the Premier could give some guidance on what his government believes are the sorts of time frames that will be allowable under this legislation.

Mr C.J. BARNETT: The member quite rightly pointed out that there can be multiple steps and we would not want a situation to build upon itself and become so slow as to be almost dysfunctional. However, in terms of the major step—that is, to make a submission for review or complaint to the commission, I agree. I think seven days or 14 days will be too short. Maybe 21 days will be about right. That will be considered, and when those regulations are drafted I will take note of what the member said.

Mr D.J. KELLY: I thank the Premier for that clarification and I wait to see those regulations.

I ask the Premier about proposed section 95(1), which states —

> In this section —
>
> > ***section 94 decision*** means a decision made or purported to be made under regulations referred to in section 94 (other than a decision which is a lawful order by virtue of section 94(4)).

It has been a long-established principle in industrial relations in this state and I think in every other jurisdiction in Australia that a lawful decision is not necessarily an unfair decision. I suppose the most common example is when an employee is terminated. Employers have a legal right to terminate employees under many circumstances, but that does not prevent an employee arguing at the Industrial Relations Commission that that termination was unfair. That is why it is called an "unfair dismissal" as opposed to an "unlawful dismissal".

Mr W.J. Johnston: It could be unlawful.

Mr D.J. KELLY: The member for Cannington points out that in some jurisdictions there is the ability to take to the commission what is called an "unlawful termination". In the federal jurisdiction there are two distinct things. The first is an unlawful termination, which breaches a statute of some description. In the federal jurisdiction, for example, terminating someone because they are pregnant would breach a specific provision of the Fair Work Act and therefore the affected employee would have the option of pursuing an unlawful termination. The other is an unfair dismissal. In Western Australia if a person wants to claim their termination was unfair, they are not required to prove their termination was in breach of a statute, whether it be the act, the regulations, the award or the agreement. My concern with proposed section 95(1) is that, by excluding a decision that is a lawful order by virtue of section 94(4), there is the potential to significantly reduce the ability for people to have decisions reviewed that in their view are unfair and not necessarily unlawful.

I am seeking clarification from the Premier about the purpose of seeking to have those decisions excluded from the commission's jurisdiction and what sorts of decisions he sees can be excluded because they will be lawful by virtue of an order under section 94(4)?

Mr C.J. BARNETT: The commission is already prevented from doing that.

Question to be Put

Mr C.J. BARNETT: I move —

> That the question be now put.

Division

Question put and a division taken with the following result —

Ayes (32)

Mr P. Abetz	Mr J.H.D. Day	Mr A.P. Jacob	Mr N.W. Morton
Mr F.A. Alban	Ms W.M. Duncan	Dr G.G. Jacobs	Dr M.D. Nahan
Mr C.J. Barnett	Ms E. Evangel	Mr R.F. Johnson	Mr D.C. Nalder
Mr I.C. Blayney	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr I.M. Britza	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr G.M. Castrilli	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr V.A. Catania	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Ms M.J. Davies	Mr C.D. Hatton	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*

Noes (16)

Mr R.H. Cook	Mr D.J. Kelly	Mr M.P. Murray	Mr C.J. Tallentire
Ms J. Farrer	Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson
Ms J.M. Freeman	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr W.J. Johnston	Ms S.F. McGurk	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mrs L.M. Harvey	Dr A.D. Buti

Question thus passed.

Consideration in Detail Resumed

The SPEAKER: The question is that clause 15 stand as printed.

Division

Clause put and a division called for with the following result —

Ayes (32)

Mr P. Abetz	Mr J.H.D. Day	Mr A.P. Jacob	Mr N.W. Morton
Mr F.A. Alban	Ms W.M. Duncan	Dr G.G. Jacobs	Dr M.D. Nahan
Mr C.J. Barnett	Ms E. Evangel	Mr R.F. Johnson	Mr D.C. Nalder
Mr I.C. Blayney	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr I.M. Britza	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr G.M. Castrilli	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr V.A. Catania	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Ms M.J. Davies	Mr C.D. Hatton	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*

Noes (16)

Mr R.H. Cook	Mr D.J. Kelly	Mr M.P. Murray	Mr C.J. Tallentire
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Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mrs L.M. Harvey	Dr A.D. Buti

Clause thus passed.

Clause 16: Section 101 amended —

Mr D.J. KELLY: This clause will amend section 101 and insert new subsection (2), which reads —

> Subsection (1) does not apply in relation to compensation payable under —
>
> (a) the *Industrial Relations Act 1979* section 23A(6); or
>
> (b) regulations referred to in section 94 or 95A if those regulations provide for a higher amount of compensation.

I am just wondering, commissioner —

Ms M.M. Quirk: Why don't you call him the oberführer of all of us?

Mr D.J. KELLY: No, I will not call him that.

Mr W.J. Johnston: Old habits die hard.

Mr D.J. KELLY: They do; old habits die hard.

We know the regulations have not been written or presented to the chamber, but again the Premier has shown a deep understanding of what those regulations may include. Paragraph (b) leaves open the option for higher rates of compensation than currently provided in the act. Can the Premier tell us the circumstances that may result in higher compensation, and what range of compensation would the Premier include in those regulations?

Mr C.J. BARNETT: As the Public Sector Management Act currently applies there is a cap of six months on unfair dismissal payouts, and a cap on 52 weeks more generally. This clause will remove that restriction on what might apply, for example, to involuntary redundancies. I think that would be in the interests of the individual, and the payout would be a matter for the government of the day. This clause simply removes the restriction, and if the government chooses to provide a more generous offer in terms of involuntary redundancy, then it can be offered. I note that under the current voluntary redundancy program, payments can be up to 72 weeks, which is an example of a generous government.

Mr D.J. KELLY: When I read this, I thought those amounts would be prescribed in the regulations. Is the Premier saying that the effect of this will be that it will be open to the government to award higher levels of compensation without recourse to the regulations, and that it is simply a matter for government?

Mr C.J. BARNETT: That is correct; those amounts would be prescribed. Indeed, there was some debate within government as to whether the involuntary redundancy package on offer at the moment was too generous. Some thought it was too generous, some thought it was not generous enough; I consider it to be generous. It will be up to the government of the day to set whatever level of compensation it wishes, particularly in this area.

Mr W.J. JOHNSTON: I just have one question, Premier. The Premier has implied—it may be that I have taken that implication incorrectly—that the voluntary severance package will be higher than the involuntary severance package. That is contrary to the normal industrial practice. The normal industrial practice is for the involuntary amount to be higher than the voluntary amount. I wonder whether the Premier would provide some clarification on that issue.

Mr C.J. BARNETT: There is at the moment, of course, no involuntary package. That has not been determined, but I would imagine that the voluntary severance package would be more generous than an involuntary severance package, and in most jurisdictions that is the case.

Mr W.J. JOHNSTON: I do not want to labour this point, but that is not right.

Mr C.J. Barnett: You're the expert!

Mr W.J. JOHNSTON: In almost every jurisdiction I can think of, the involuntary redundancy is higher than the voluntary redundancy for the very reason that it is voluntary. I cannot imagine a circumstance when a person would be given no option and lower pay than when a person is given an option.

Mr C.J. Barnett: I can.

Mr W.J. JOHNSTON: It is contrary to ordinary practice, and certainly would not be awarded by —

Mr C.J. Barnett: It is not contrary to commonsense or good management.

Mr W.J. JOHNSTON: It is not ordinary practice. I do not understand. It is completely contrary to every decision of every tribunal in the country.

Mr C.J. Barnett: It provides an incentive for people to go on a voluntary basis—all goodwill—shake hands and part company.

Mr W.J. JOHNSTON: This is the point: every time there is a voluntary package, it is less generous than the involuntary package. That is just the way it happens.

Mr C.J. Barnett: This government will do it the other way around.

Mr W.J. JOHNSTON: A voluntary package is voluntary; that means the person has agreed. An involuntary package is about compulsion. This is the reverse of every industrial practice.

Ms J.M. Freeman: It is a constructive involuntary package!

Mr W.J. JOHNSTON: Yes.

Mr C.J. Barnett: It is good; we believe in the market.

Mr W.J. JOHNSTON: Clearly, the Premier does not believe in the market because otherwise he would not be introducing this legislation that gives the government powers that no private sector employer in the country has. If he wanted the government to have the same rights as a private sector employer, he would not have this bill. He would have another bill that gave the government those rights and it would be QED for the Labor Party because all the Premier would be doing is giving us the same provisions that every other worker has, but that is not what he has done. He has come in here and introduced these other provisions that have nothing to do with what happens in the private sector. The private sector does not have these powers. This is a different procedure from the procedure that is used by the private sector. When an involuntary package is negotiated in the private sector, it is always higher than the voluntary package; it is just natural. I do not understand what the Premier's reasoning is for the suggestion that by regulation the government will choose to give less to the person who has no choice than to the person who has a choice. It does not make sense and it is certainly not what happens in the private sector.

Mr C.J. BARNETT: It is not for me to question the wisdom of the member for Cannington, but I take the Australian government as a proper example—involuntary payments up to 16 weeks and voluntary up to 48 weeks.

Clause put and passed.

Clauses 17 and 18 put and passed.

Clause 19: Section 10A inserted —

Mr W.J. JOHNSTON: Proposed section 10A(2) states, in part —

> In making a determination under section 6(1)(a), (ab), (d) or (e) …

However, the other subparagraphs of that section are not included. I want to know why the public sector wages policy will not apply to the other subsections of section 6(1) of the Salaries and Allowances Tribunal Act 1975. Would the Premier mind also making those classifications clear to the chamber?

Mr C.J. BARNETT: The same principle of a strong guide for the WA Industrial Relations Commission is also applied here for the Salaries and Allowances Tribunal, which makes determinations on wages and conditions across a range of areas of employment. There are some principles here, and one of those is independence. Therefore, this requirement does not apply to members of Parliament. That should not be read to mean that MPs will get higher rates of increase, but otherwise MPs would, basically, through government, set the wages policy for themselves. That takes MPs out of it. It is similar to the separation of powers; the judiciary is also taken out of it because otherwise we would have MPs setting the remuneration of JPs. For the same reason, Clerks of Parliament are also separated. It is applying principles of good governance. It is straightforward.

Mr D.J. KELLY: My understanding of the practical import of what the Premier has said is that there will now be two systems; a bunch of people in the public sector will have this new regime applied to them and there will be a small group of people dealt with by the Salaries and Allowances Tribunal who will not be subject to this new regime.

Mr C.J. Barnett: Some will and some will not.

Mr D.J. KELLY: The Premier referred to MPs as not being subject to it.

Mr C.J. Barnett: On base salaries, not ministerial allowances.

Mr D.J. KELLY: The base salary will not be subjected to this new regime. I can see how some people may see that there is an inequity created by having two systems—one that applies to the broader public sector and another system that applies to MPs. I think many people would say that if we are introducing a new system for nurses, teachers, cleaners, education assistants, and the like, which will be perceived—I understand this is probably the last time I will get my chance to be on my feet in this regard. It is quite an important issue.

Mr C.J. Barnett: I am listening to you. You're the only one I'm listening to, but I am listening to you.

Mr D.J. KELLY: The perception will certainly be that the new system is tougher for nurses, teachers, education assistants, cleaners and the like. The other regime, which will apply to MPs, is a more generous test. Does that not leave it open for people to say to the Premier that if the government is introducing a tougher test because it needs people in the public sector to tighten their belts, it is a bit hypocritical for it to not also apply to MPs? The Premier said in his explanation that to do otherwise would be a separation of powers issue as MPs would be setting their own wages policy and their own wage increases. The Premier has said that the wages policy is not binding on the commission. In this case, the Salaries and Allowances Tribunal just has to consider it; it is not binding. It is not as though government wages policy is X and, therefore, that is what MPs will get. Is it not a fairly flimsy argument—which, quite frankly, no-one in the public sector will believe—that this is being done to

protect some principle, albeit one as important as the separation of powers? Does the Premier not leave himself open to being told by every cleaner, every teacher and every person in the public sector who works their rear end off and who has been told that they have to tighten their belts that it is all very well, but the Premier is looking after his MPs on a different regime? By reflection, all of us will be looked upon less favourably by the community. The Premier has said that ministers will be treated differently, but is that not also deceptive because ministers' remuneration is set as a percentage of base salaries of MPs in most cases? Is there not a danger that ministers will pick up wage increases that MPs get? Is the government setting up the Premier in particular, and by reflection the rest of us, to look as though we support one system for the less paid in the public sector and another system for people in this place?

Mr C.J. BARNETT: I certainly understand that that view could be formed and we gave consideration to that in drafting the bill. However, the principle of keeping independence to members of Parliament is important, as it is with the judiciary and the parliamentary officers. I understand the member's point and I am sure that someone will write an article along those lines, but I think the principle matters and that is why we have done it this way.

Mrs M.H. ROBERTS: The Premier will recall that during the second reading debate I certainly referred to the date of 1 November 2013. It is mentioned in clause 19 with respect to the public sector wages policy statement. Despite the answer I received from the Minister for Police to my question, who told me that this bill did not apply to police officers, the Premier has since confirmed —

Point of Order

Mr C.J. BARNETT: This clause relates to the Salaries and Allowances Tribunal. The Salaries and Allowances Tribunal does not have jurisdiction over police.

Mrs M.H. ROBERTS: Are we dealing with clause 19 or not?

The SPEAKER: Yes.

Debate Resumed

Mrs M.H. ROBERTS: Clause 19 states, in part —

> **10A. Tribunal to have regard to government financial matters**
>
> (1) In this section —
>
> **Public Sector Wages Policy Statement** means —
>
> (a) the Public Sector Wages Policy Statement 2014 issued by the State government that applies to industrial agreements expiring after 1 November 2013;

The Premier told me that this would apply to police officers; in fact, all those people employed under the Police Act.

Mr C.J. Barnett: SAT has a role with the Commissioner of Police as a senior public servant but not the police in general.

Mrs M.H. ROBERTS: Is the Premier now saying that the date of 1 November 2013 in the context of clause 19 has no application to the EBA of police?

Mr C.J. Barnett: It is not part of clause 19; it is irrelevant.

Mrs M.H. ROBERTS: It is pretty interesting that the Premier would say that.

Mr C.J. BARNETT: This has nothing to do with wage determinations for serving police officers. This clause relates to SAT. We dealt with that part of the bill long ago. Maybe the member was asleep.

Mrs M.H. ROBERTS: I think it does apply to the police commissioner.

Mr C.J. Barnett: You had to be told that; you didn't know. It's true; it just happened 30 seconds ago.

Mrs M.H. ROBERTS: Mr Speaker, I am finding the Premier to be exceedingly ill-tempered this evening. I find this contradictory. My usual understanding of consideration in detail is that members on this side ask questions. We do not necessarily know the answers. The Premier does not necessarily know all the answers either; that is why he has two advisers sitting with him and that is why I heard him listening to advice that they were giving him.

Mr C.J. Barnett: Of course, but you should at least be able to work out which clause you're talking to.

Mrs M.H. ROBERTS: The Premier can attempt to belittle me if that is what he wants to do as Premier, if that is how he wants to occupy his time tonight and suggest that I do not know what I am talking about.

Mr C.J. Barnett: You haven't had a good two or three weeks, have you? You've had a shocking couple of weeks.

Mrs M.H. ROBERTS: Perhaps the Premier might like to look in the mirror at how red-faced he has been.

Point of Order

Mr C.J. BARNETT: I am happy to be abused in this house, as happens every day, but this is consideration in detail and I suggest we stick to clause 19, which relates to the Salaries and Allowances Tribunal.

Mr W.J. JOHNSTON: I was very illuminated by the contribution of the member for Midland because she is addressing the very words on pages 15 and 16 of the bill in front of us, which relate to clause 19 of the bill. I do not understand how the Premier can even raise a point of order when the member is quoting the words that are in the bill.

The SPEAKER: Member for Midland, the Premier has said that this clause does not apply to the police, and you are saying that it does apply to the police. I do not know how much further we can take it. You can speak again if you so wish.

Debate Resumed

Mrs M.H. ROBERTS: The fact is that the Premier did not like some of the things that I was saying. He has directed some very personal interjections to me while I have been attempting to speak.

Mr C.J. Barnett: Look at what you guys said last night. Read the *Hansard*.

Mrs M.H. ROBERTS: The Premier is interjecting on me again. He is behaving like a petulant child.

Several members interjected.

The SPEAKER: Members! Member for Midland, you have the call. Now you talk and then the Premier, if he wants to say anything further.

Mrs L.M. Harvey interjected.

The SPEAKER: That is enough, Minister for Police, thank you.

Mrs M.H. ROBERTS: Proposed section 10A(2) states —

> In making a determination under section 6(1)(a), (ab), (d) or (e) the Tribunal must take into consideration the following —
>
> (a) any Public Sector Wages Policy Statement, irrespective of whether or not the statement applies to a person or office in respect of whom or which the determination is made;
>
> (b) the financial position and fiscal strategy of the State as set out in the following —
>
> (i) the most recent Government Financial Strategy Statement released under the *Government Financial Responsibility Act 2000* section 11(1);

In answer to the member for Cannington when he inquired about proposed section 10A(2) and he referred specifically to section 6(1)(a), (ab), (d) or (e), the Premier stated that it excluded officers of the judiciary, MPs and the Clerks of the House, and he gave some reasons for that. The WA Police Union of Workers believes that it should not apply to its members either. It has put a case that they are officers of the Crown and that they are not employees as such; they are officers and there have been a lot of rulings in the Industrial Relations Commission over the years about the status of police officers as independent officers of the Crown. They are on duty 24 hours —

Mr C.J. Barnett interjected.

Mrs M.H. ROBERTS: Is the Premier interjecting again?

The SPEAKER: Carry on, member for Midland.

Mrs M.H. ROBERTS: It is a reasonable point. The Premier can be as indignant as he likes about the fact that I am asking a question, but put personality aside and answer the question on behalf of the police officers of this state.

Question to be Put

Mr C.J. BARNETT: I move —

> That the question be now put.

Division

Question put and a division taken with the following result —

Ayes (32)

Mr P. Abetz	Mr J.H.D. Day	Mr A.P. Jacob	Mr N.W. Morton
Mr F.A. Alban	Ms W.M. Duncan	Dr G.G. Jacobs	Dr M.D. Nahan
Mr C.J. Barnett	Ms E. Evangel	Mr R.F. Johnson	Mr D.C. Nalder
Mr I.C. Blayney	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr I.M. Britza	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr G.M. Castrilli	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr V.A. Catania	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Ms M.J. Davies	Mr C.D. Hatton	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*

Noes (16)

Mr R.H. Cook	Mr D.J. Kelly	Mr M.P. Murray	Mr C.J. Tallentire
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Mr W.J. Johnston	Ms S.F. McGurk	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mrs L.M. Harvey	Dr A.D. Buti

Question thus passed.

Consideration in Detail Resumed

The SPEAKER: The question is that clause 19 stand as printed.

Division

Clause put and a division taken with the following result —

Ayes (32)

Mr P. Abetz	Mr J.H.D. Day	Mr A.P. Jacob	Mr N.W. Morton
Mr F.A. Alban	Ms W.M. Duncan	Dr G.G. Jacobs	Dr M.D. Nahan
Mr C.J. Barnett	Ms E. Evangel	Mr R.F. Johnson	Mr D.C. Nalder
Mr I.C. Blayney	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr I.M. Britza	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
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Pairs

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Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mrs L.M. Harvey	Dr A.D. Buti

Clause thus passed.

Title put and passed.

Third Reading

MR C.J. BARNETT (Cottesloe — Premier) [10.23 pm]: I move —

That the bill be now read a third time.

MR M. McGOWAN (Rockingham — Leader of the Opposition) [10.23 pm]: I am happy to make a third reading speech on the Workforce Reform Bill 2013 and, indeed, many of my colleagues are happy to make a third reading speech because we are loving it here, and I am looking around —

Several members interjected.

The SPEAKER: Members!

Mr M. McGOWAN: I am looking around—hang on; I will put my glasses on—and I am seeing a lot of pretty rough looking heads on the other side of the house at this hour of the night. The fact is that we are loving it because members on this side of the house have been able to comprehensively make numerous speeches pointing out the deficiencies and the broken promises in this legislation.

During the committee stage, the Premier petulantly gagged debate as the bill went along and was unable to answer the most basic of questions put to him. I think there is a lesson there for the Premier: if he has a complex piece of legislation, he should let someone else handle it; let someone else do it for him. He should get the Leader of the House, the member for Kalamunda, way back in the distance there, out here to handle the legislation, because obviously at this hour of the night, the Premier is not at his best. We saw that last night, we saw this evening, and I have seen it for the last 17 years; he is never at his best as the night wears on. His performance gets more and more ratty and more and more erratic.

I would like in particular to congratulate the member for Cannington for his 57-minute long exposition on why this legislation should be referred to a committee for further consideration. That was once again defeated by the government, using the gag, but we managed to point out a whole range of issues that I do not think had been sufficiently dealt with.

There are two issues in particular that have not been sufficiently dealt with, and the Premier did not answer questions about them during his reply to the second reading debate. One is the fact that the Premier said certain things before and after the last state election, but now he is saying something contrary. Before the state election, the Premier promised two things. He promised that there would be no forced redundancies in the public sector and gave that assurance to 138 000 public sector workers across Western Australia. He also gave an assurance, prior to the election, of fair wages and conditions for public sector workers in Western Australia. There was no mention of this legislation prior to the state election or, indeed, after the state election, when public sector workers came to Parliament to seek that assurance.

What did we then find? This bill came forward, and it broke that fundamental promise the Premier had made to public sector workers across Western Australia. Even tomorrow, we will have people out the front of Parliament protesting forced council amalgamations, unhappy with another broken promise, but we will no doubt have further discussions in relation to that tomorrow.

That is the first broken promise—the fact that —

Mr J.H.D. Day interjected.

Several members interjected.

The SPEAKER: Members!

Mr M. McGOWAN: He is a cute little fella, is he not? Look at him over there!

Mr P.B. Watson: You can't get cross with him!

Mr M. McGOWAN: I cannot be angry with him! He is like Mini-Me! I could not be angry with Mini-Me!

That was the commitment made both before and after the state election, and it has been broken.

The member for Bassendean also spoke about the WA Health—United Voice—Hospital Support Workers Industrial Agreement 2012 and the Education Assistants (Government) General Agreement 2013. I heard what the member for Bassendean had to say, and I agree with him. These agreements were both signed in the lead-up to the state election. There were clauses in these agreements, signed off on by the state government, to provide that no employee would be required to accept alternative employment in the private sector, and no employee would be required to accept a redundancy. They were the clauses in the two agreements. The government might not like those clauses, it might think they are wrong, and it might think they do not fit with whatever standard it wants to adhere to, but they form part of an agreement, and guess who the agreement was with? It was with the government; the government signed it. These are the government's agreements, so if the government did not want those clauses in the agreements, it should not have put them in there.

These people signed an agreement with the government, which impacted on what they claimed in terms of wages in particular, because conditions affect what the wage outcome might be. I might add that tens of thousands of

Western Australian workers are represented by these two pieces of paper. They signed these two agreements, with an assurance in relation to the security of their employment. Those workers signed that agreement with the state government and they trusted the state government, but what did they find? They found that not only had the agreement been broken, but also it had been broken by laws passed by the state—and the Premier admitted it. He said that he was just changing the law to get out of an agreement signed with a group of Western Australian employees. That should not be done with state agreement acts. State agreement acts are sacrosanct. As we learned recently, we do not do that with contracts. The government tried to do that with contracts that families had signed; it tried to rip them up. We saw that in the state budget when the state government tried to rip up contracts it had with 75 000 Western Australian householders, but then the sanctity of the contract came through and the government thought that perhaps it should not rip up those contracts. It should not do that to householders or with state agreement acts, but the government is doing it with this bill. How is that right? It is not right. If the government did not like the clause, it should not have put it in there. If the government is really intent on passing this legislation and wants to show some integrity, it should put in the bill a provision that states that it does not apply to existing agreements signed by the state. The government did not do either of those things. The integrity of the government has been shown up on that, as pointed out most effectively by the member for Bassendean, who was much complemented by the Premier. The Premier picks his favourites over time and tonight his favourite is the member for Bassendean. I suspect that will not last. Member for Bassendean, this is the high point; he should savour the moment.

Mr D.J. Kelly: He has just betrayed an agreement.

Mr M. McGOWAN: Yes; this is not a laughing matter. The Premier openly admits that this legislation betrays these two agreements. If the Premier did not like them, either he should have made it plain before the agreements were signed that that clause would not be included in the agreements, or he should not make the legislation apply to the agreements that have already been signed. That is a simple solution. But, again, the government has ripped up another contract with a group of Western Australian employees.

The Premier's answers to every question have been glib and short. That is a lesson for the new minister. Did members see him at the table? He was giving virtually monosyllabic answers. That is his way of getting through these things. That is his way after 23 years in this place. I personally think that if he were to treat the Parliament with the respect that it deserves, he would answer the questions put to him and be across the legislation that comes in here. He should not sit there, not knowing anything about it, and then have a short answer put in his ear by his adviser that he repeats and refuses to answer any other questions. My view of Parliament is that it deserves a bit more respect than that. The Premier has given glib answers to these important questions.

I will go through some of those glib answers. The government's new wages policy contains three inhibiting factors in relation to a pay deal that a group of employees might want to receive. The first is that the government wages policy, which will come into place on 1 November, will be given the authority of the act. The second is the financial position of the state government entity for which the employee works. The third is the state government's fiscal strategy. Those three factors will be inserted in the act and will apply to the wages outcomes of people who work in the public sector. Even if the Premier thinks that is the correct position to take, in my view he should not make it retrospective.

The Premier's answer last night was that this new provision will apply to any agreements that will expire between now and 1 July 2014 when this legislation is expected to commence operation. So, on 30 June next year, if the state Industrial Relations Commission is hearing a matter, on 1 July, the next day, in the middle of the commission's consideration of the outcome, this new wages policy will apply. To me, that is retrospectivity. That is applying a new set of rules to an old issue. That is retrospective operation of the laws. Even if Liberal Party members agree with the tenets that are contained in that new wages policy, how can they agree to that position being applied retrospectively to agreements that have already expired or agreements that are currently under active arbitration by the Industrial Relations Commission? That is retrospectivity, and members opposite should not support it. I do not think that is fair. That is the first glib answer that the Premier gave on this matter.

The second glib answer is that the Premier has not explained how it is fair that a certain set of rules will apply to people who work in the public sector but not to people who work in the private sector. How can the Premier insert into the industrial relations laws of this state a certain set of criteria in relation to what the Industrial Relations Commission must consider with regard to the pay of people who work in the public sector but not apply the same criteria to people who work in the private sector? How is that fair? The Premier always implies that he is more supportive of the private sector than the public sector. If that is the Premier's philosophy, it would fit within his philosophy that he would apply a harsher set of industrial arrangements to public sector workers than to private sector workers. In my view, there should be one rule for all. We are all Western Australians. No matter where we work, there should be one rule for all of us. There are all sorts of

inconsistencies here. There is one set of rules for public sector workers and another set of rules for private sector workers.

We also have the redundancy provisions, which is the second leg of these laws. On the redundancy provisions, the Premier again gave glib answers. The member for Alfred Cove made a speech on this part of the bill. It was a good speech, except for the fact that he had not read the existing laws and he does not know what the existing laws are. Maybe he should have listened to what we had to say during the second reading debate. He does not know what the Public Sector Management Act says, and he does not know what the rules are in relation to making members of the public sector redundant. He does not have a clue about any of those things. He thought he could compare it with some bank that he has worked in. Do the existing laws provide for redundancy for public sector workers? Yes, they do. The implication from the speeches of the one or two members opposite who spoke on this bill—I thought it was only the member for Alfred Cove, but there might have been another member of the government —

Several members interjected.

Mr M. McGOWAN: The member for Churchlands, was it? He talked about socialists and communists. That is right. That was not his finest hour. I have not actually seen his finest hour yet, but that was certainly not it. He talked about socialists and communists and all that sort of stuff—when they are the guys who are merging Synergy and Verve, and when they are the guys who called Richard Court and Graham Kierath —

Ms R. Saffioti: North Koreans!

Mr M. McGOWAN: Yes, North Koreans!

Mr D.J. Kelly: Maybe the Premier really did have a point about the member for Churchlands.

Mr M. McGOWAN: Maybe he did. I like Kate Lamont. You will be interested in this, Mr Speaker. When Kate Lamont was passed up by the Liberal Party for the seat of Churchlands, I made a public offer that she could run for us in Churchlands if she chose to do so. I get on well with Kate Lamont.

The SPEAKER: Leader of the Opposition, come back to the third reading debate, please. We have heard enough about Kate Lamont.

Mr M. McGOWAN: I want to talk more about the communists and socialists because I think they infest the government! I think there are a few sleeper agents over there, as the Synergy–Verve legislation proves! As the Treasurer was saying —

Mr R.H. Cook: The member for Riverton is the sleeper.

The SPEAKER: Members!

Mr M. McGOWAN: There are some American communists out there. He escaped the McCarthy era and ended up here and now look where he is.

The SPEAKER: Leader of the Opposition, come back to the bill.

Mr M. McGOWAN: Thank you, Mr Speaker.

We heard the speeches of the member for Churchlands and the member for Alfred Cove. It was not the member for Churchlands' finest hour talking about socialists and communists. When I suggested that perhaps he should read the Public Sector Management Act, he said, "I'll have to look at that at some point in time." I think it shows he had not done his homework. What did the member for Alfred Cove have to say? He showed that he had not looked at the existing laws. If he had done so and read Richard Court's second reading speech made when the existing laws were passed, he would have seen that there was capacity in the legislation to make people in the public sector redundant in three circumstances. First, people can be made redundant if their job no longer exists or is abolished. None of the members opposite seem to understand that. They seem to think jobs cannot be changed. We used to have lift attendants, but we do not have them anymore. Members opposite do not understand that. Under the second criterion passed in the 1990s by Richard Court, Graham Kierath and the current Premier, if a position is outsourced and the person in the position does not go with that position, they can be made redundant. We can even make sure they have a lower pay rate if they are sent to that position. That is the existing law. None of the members opposite seem to understand that. The third criterion covers all the areas surrounding any sort of breach of discipline as it is so called—a person contravenes a public sector standard, commits an act of misconduct, is negligent or careless, disobeys or disregards a direct order or commits an act of victimisation.

The Premier seemed to indicate that the Public Sector Commission employs people whom it cannot deal with. I think that is more a failure of management and direction rather than a failure of the law as it stands. Given the Premier said to the people of Western Australia before the election, and even after the election, that the current

arrangements would stand, why should we support him breaking his word? All these capacities already exist. The Treasurer has indicated that somehow Western Australia will recover from its loss of the AAA credit rating and save billions of dollars because 80 people are on the redeployment list that the government has not properly dealt with. What a joke! All that North Korean talk was apparently because of 80 people. I would have thought there was already the scope under the existing laws to deal with virtually every one of those people. What does the Premier then do? As one member said, he comes in with a sledgehammer to crack a walnut. He created a set of criteria around redundancy, and I asked the Premier what the criteria would be. The wording is, as I heard the Premier on the telly say, "The group of people will be very narrow and quite defined; no-one needs to really worry too much." What is the group? It is in proposed section 94(1A)(c) under clause 13, "an employee in a category prescribed by the regulations". How broad is that? That is as broad as the entire public sector, perhaps with the exception of the people sitting in this room. It is all right for us, but what about them? The Premier can create categories of whatever sort he likes. I begrudgingly think that maybe in some part of the Premier's brain, when he is not wildly angry, he does not intend to have a wide category of employees subject to this provision. But I certainly do not trust the Treasurer. I think in the Treasurer's heart of hearts, he thinks that most people who work in the public sector are lazy bums. I can sense it coming through. He has a bit of contempt for people —

Mr J.H.D. Day: When's he ever said that?

Mr M. McGOWAN: I am sorry; we cannot take the Leader of the House's interjections anymore. He will have to get a megaphone and a cushion!

I think the Treasurer does not have much respect for people who work in the public sector. That is what I think his attitude is. I can sense it. It might not be a direct statement, but I can read him.

Mrs L.M. Harvey: How do you know that?

Mr M. McGOWAN: I have known him a lot longer than the Minister for Police; I can read him.

Mrs L.M. Harvey: You're certain of that, are you?

Mr M. McGOWAN: I am absolutely certain that I have known him a lot longer than the minister. I can read what he thinks. I think that is what he thinks. I think he has very little time for people who work in the public sector. He might come into the chamber and dispute it, but I doubt he would. He would probably crack a gag. That is what I think.

That is the second strand of the legislation. I do not think the Premier provided sufficient explanation about it. He just said that categories will be prescribed by regulation. When he was questioned about that, he said that there might be a doctor who is struck off or a bus driver who loses their licence. It was something of that nature. Were they the two categories?

Mr D.J. Kelly: It was a doctor who had been struck off and had lost his licence.

Mr M. McGOWAN: Maybe there are 80 of them in the public sector, but I doubt it. If they are the best examples that the Premier can come up with—if the justification is a doctor who has been struck off and has lost their licence or a driver in the Government Garage who has lost their licence—I do not think that is sufficient to justify that clause, particularly considering the nature of some of the people opposite. For instance, I was in Parliament when Graham Kierath was here. Even though the existing laws are the laws he passed, I suspect that if he were still here, he would be itching to get rid of a large number of people in the public sector. In any event, that is the second strand.

The third strand deals with the Salaries and Allowances Tribunal. The Premier had his explanation for why there are different rules for different people. I would like to have asked him a question about why there are different rules for different people, because I think it needs a bit more explanation. For instance, local government CEOs are not covered by these changes to the wages policy. I would like to have asked a question about that. It is not just judges, Presiding Officers, members of Parliament or ministers; it is local government CEOs and the Governor. I would like to know why, if they are covered by the decisions of the Salaries and Allowances Tribunal, they are not covered by this provision. It would have been an interesting question. There is a reason I did not ask that question—we were gagged for probably the twentieth time today.

Mr C.J. Barnett: You should have been here for the debate; you were missing for most of it.

Mr M. McGOWAN: He is back and he is in fine form.

Mr C.J. Barnett: I have got a bit to say tonight.

Mr M. McGOWAN: He does? Excellent. He will be saying it some considerable hours from now. I would like to have had the opportunity to raise all those questions with the Premier.

Mr C.J. Barnett: You should have been here for the consideration in detail stage.

Mr M. McGOWAN: I was.

Several members interjected.

Mr M. McGOWAN: It is true that I left the chamber for a little while, I came back and then I left the chamber for a while. We have matters of public interest every week and the Premier barely sits in here for one. The Premier sat in this place here for one last week; he did not sit in today.

Mr C.J. Barnett: That's your business; this is legislation.

Mr M. McGOWAN: No, that is hardly a distinction, Premier.

Several members interjected.

The DEPUTY SPEAKER: Order, members. The Leader of the Opposition has the floor.

Several members interjected.

Mr M. McGOWAN: The Premier is obviously back in this place and wildly angry. He knows no press are here at this ungodly hour, so his true nature can come forward. The werewolf can burst forward. The angry nastiness can come out, so everyone who gets up now to speak will be subject to the angry nastiness that the Premier exhibits so often of an evening in this place.

The DEPUTY SPEAKER: Leader of the Opposition, can you please confine yourself to the bill. We are at the third reading stage.

Mr M. McGOWAN: We have expressed our position on this and informed ourselves of the laws in front of us, and we will make sure that people across Western Australia who work in the public sector understand the broken promise contained within these laws. We will make sure that they understand the discriminatory nature of the laws towards them. I think the Premier has a case to answer on these things, and the Premier has answered barely any of the questions that have been put to the Premier by members of this house. I am sure some of my colleagues will have additional statements to make, and I hope the Premier allows for the proper operation of the Parliament for third reading contributions to be made by members here to take place. I do hope the Premier does not engage in the petty shutting down of this Parliament and the petty shutting down of this legislation as he has done —

Mr C.J. Barnett: What about the stunt you tried with the attempt to send it off to a committee? It wasted an hour; it was a complete stunt!

Mr M. McGOWAN: It was a good speech.

Mr C.J. Barnett: It was a complete stunt! It was rubbish and everyone knows it was rubbish. It was complete rubbish—repetitive nonsense.

Mr M. McGOWAN: It was an excellent speech, I thought.

Mr J.H.D. Day interjected.

Mr M. McGOWAN: What did the minister say?

Mr J.H.D. Day interjected.

The DEPUTY SPEAKER: Order, members! Leader of the Opposition.

Mr M. McGOWAN: I will listen intently to what my colleagues have to say. I hope the Premier listens and I hope he actually answers some of the questions posed to him in this stage of the debate.

MR D.J. KELLY (Bassendean) [10.52 pm]: I rise to make my third reading contribution to the Workforce Reform Bill 2013. Every time I think things have gone as low as they are going to get, the bar in this place seems to get pushed a little lower. The passage of this bill through this house by the government is something I did not think I would see. The Premier is shaking his head—do not give me that. Before I entered Parliament, when I was the secretary of United Voice, I took part in negotiating those agreements I have referred to. United Voice does not represent highly paid people, so it has a responsibility to make decisions that best protect some of the lowest paid in our community. When we sit down and take on the government—the government is pretty powerful and it can pretty much do what it likes on most occasions—we think about what we can do to protect people's incomes. I take the Premier back to a meeting we had—I will not give it to him word for word—when

we said we are not going to get much money out of this government because it was putting the screws on and threatening people with disciplinary action for taking industrial action.

The DEPUTY SPEAKER: Order, member for Bassendean. This is your third reading contribution; can you please confine yourself to the bill.

Mr D.J. KELLY: I will.

The DEPUTY SPEAKER: Thank you.

Mr D.J. KELLY: I am talking specifically about the provision of the bill contained within part 3 that overrides the two agreements referred to by the member for Rockingham. That provision overrides two agreements: one covers education assistants and one covers hospital support staff. When we entered into those agreements we had to make an assessment on whether we would accept the lower pay rate. However, in doing that, the question was asked: will the government actually abide by them? We knew that the government could sign those agreements and then come into Parliament, amend the legislation and override them. We made an assessment that not even this government with this Premier would be that low. We were wrong. We were absolutely wrong, Premier. The Premier has shown tonight that he is prepared to act in exactly that way: to make an agreement prior to the election and then come into this Parliament and override it. Now, he walks out!

Several members interjected.

Mr D.J. KELLY: It is a bit of fun and it is a bit of a joke and all that sort of stuff, but I did not think that the members of this government, despite our disagreement on various policy issues, would actually be this contemptuous of the bargaining process: to enter into an agreement and then introduce this legislation and override it. The Premier is fond of saying that he is a man who does what he says he is going to do. In actual fact he is a man who does not do what he says he is going to do. Not only is the Premier unable to do what he says, but also he has a cabinet that is prepared to back him up and he has a bunch of backbenchers who are prepared to back him up. I would have thought that there would be people in the cabinet, those who were part of the decision to approve those agreements, who would have said when this matter came to cabinet, "Look, seriously, we've just entered into those agreements. The ink is hardly dry. Are we seriously going to override them?" But no; apparently in cabinet they all fell in behind the Premier. Then we have the government backbench. Each member of the government backbench would say that they are decent people. They would say that their word could be relied upon. But here they are, the member for Perth, the member for Ocean Reef, the member for Darling Range, the member for Belmont —

Mr M.H. Taylor: The member for Ocean Reef is not a backbencher.

Mr D.J. KELLY: He trashed this agreement when he was in cabinet. All of the government backbenchers think they are decent people and that their word is their bond, but —

Point of Order

Mr M.H. TAYLOR: I would ask the member to stick to the content of the third reading.

Several members interjected.

The DEPUTY SPEAKER: Member for Bassendean.

Debate Resumed

Mr D.J. KELLY: I am referring to part 3 of the bill. I would have thought all the government backbenchers individually would have said that they could be relied upon when they gave their word. This government gave its word. Even the member for Scarborough as a member of cabinet signed off on those agreements. I would have thought that some voices, even the smiling member for Ocean Reef, would have said, "Look, Premier, you just can't do this." The Premier is rolling his eyes. It is not me who is living from week to week. It is the people who clean our schools who are living from week to week. It is the people who care for people with serious injuries at Shenton Park rehab centre who are living from week to week. The people to whom the Premier gave a guarantee that there would not be a forced redundancy during the period of that industrial agreement are the people to whom the Premier is really breaking his word.

It is therefore incredibly disappointing that we have a Premier, a cabinet and a backbench who collectively say they are decent people —

Point of Order

Mr C.J. BARNETT: This has nothing to do with the content of the bill. It is simply a political speech. If the member wishes he should do it during private members' time. This is not about the bill at all.

Mr W.J. JOHNSTON: On the point of order, the bill has a provision that the member is referring to in his speech and all the member is doing is highlighting the effect of a specific provision. As I am sure you

understand, Madam Deputy Speaker, the obligation on the member is to talk about the actual words in the bill. Given that that is precisely what the member is doing, I am not quite sure what the foundation of the Premier's point of order is.

Mr C.J. Barnett: All he is doing is hedging.

The DEPUTY SPEAKER: Can the member for Bassendean direct his remarks to the bill.

Debate Resumed

Mr D.J. KELLY: I am very happy to. The provision of the bill that I am talking about is new section 95B, which is introduced by clause 14 and which overrides existing agreements, existing awards and existing contracts of employment. I know the Premier does not like hearing it, but I will not just stop talking about this today. I will talk about this as often as I get the chance to while I am in this Parliament.

I take the opportunity to move onto a different aspect of that clause. There are two ways that clause can be read. One way is what the Premier has said; that is, that this provision and the introduction of involuntary severance is directed at a very small group of employees and it will be narrow. The Premier has said that about 80 employees will be affected. That is who this provision is intended to apply to. The other way of reading this bill is that involuntary severance will be used—if not immediately, then in the future—generally throughout the public sector, so it will impact upon people covered under those two agreements to which I have referred. The version the Premier has put forward, which is that the provision applies only to approximately 80 people, becomes more and more implausible the more information we get about those 80. In consideration in detail the Premier told us that those 80 people are on the redeployment list. In the public sector of 130 000, there will always be some people on the redeployment list. I think the Premier said that since 2011, 43 people had been in that group and have been successfully redeployed. Therefore, of that 80, some people would have been on the list for only a week, a month or six months, but there are people, inevitably with churn, who would be placed. From the information we got, very few people had been on the list for an extended time. Under questioning by the member for Fremantle, the Premier acknowledged that none of the 80 people had been directed to take a job under the existing provisions. In those circumstances, is this bill really about cleaning up those 80? They could be dealt with now, or at least a large proportion of them, by simply applying the existing provisions that find them suitable alternative employment. They can be retrained if necessary. An agency can be required to take on one of these redeployees in a job that is deemed to be suitable alternative employment. Those people can be given a direction. I am honestly staggered that none of those people have gone through that process under the existing legislation. I gave the example during the debate about what happened to United Voice members when their jobs were made redundant. Heaven and earth moved! A bus came at them through the human resources department making sure they did not sit around getting paid to do nothing! In the group of 80, none are United Voice members I should hasten to point out. We do not—we—United Voice members —

Mr T.K. Waldron interjected.

Mr D.J. KELLY: The member is laughing. I still am a member of the union and I am very proud of it—absolutely. Our members do not end up in that group, other people do, and for some reason they do not have the existing provisions applied to them.

The Premier has been in government for five years. Why did he not simply pick up and implement the existing Public Sector Management Act that was introduced by Richard Court? If the Premier had come into this place and been able to say that in the past five years the government had gone through this process and at the end of it the government just could not shift 10, 50, 100 or 500 people in the public sector, he might have had an argument, but there are 80. That includes people who have been on the redeployment list for only a week or a month. It just does not stack up that the Premier would put in place provisions that, on the face of them, can apply much more widely than to only those 80 people. Heaven knows, people in the Premier's department are paid handsomely.

These new provisions are causing great anxiety to a large number of people, and the Premier is paying a price for it because he is breaching agreements that the government signed up to prior to the election. I find it absolutely staggering that the government would put itself in this position. We do not judge people by the way they treat the wealthy or the most powerful; we judge people by the way they treat the people who have the least power in the community. The people with whom the government has broken an agreement are not the most powerful and they are certainly not the wealthiest. The government has broken its agreement with the least powerful people in the community, such as a cleaner at a public school working 15 hours a week who may be working two jobs trying to make ends meet. How often does the government stand up for them? Certainly, this government does not. It said that this would not apply to other sections of the community, but the Premier and each and every member opposite are doing that tonight.

Mr C.J. Barnett: This government is respectful to its employees, unlike Labor.

Mr D.J. KELLY: How can the Premier say that he respects people when he signs an agreement with them before the election and comes in here and breaks that agreement after the election? I thought that the Premier was better than that. We might disagree on a few important matters of principle, which is why he is on that side of the house and I am on this side, but I did not think that the Premier would so readily be seen to be breaking his word. I will not go on any more on that point. There is a point at which we feel as though our words are falling on deaf ears.

I want to address other matters in this bill, such as the provision that attempts to put new obligations on the Industrial Relations Commission when it deals with an arbitrated wage claim. I suppose it really does not matter if I say this is the worst piece of legislation I have seen in the house because I have not been here that long, but it is a pretty odd provision. Clause 4 inserts new subsection 26(2A) into the Industrial Relations Act, which requires the Industrial Relations Commission to consider a whole number of matters when dealing with what is called "a public sector decision". I will go to the most ridiculous first. This clause provides —

> (2A) In making a public sector decision the Commission must take into consideration the following —
>
> …
>
> (iii) any submissions made to the Commission on behalf of the State government;

Anyone who is involved in the industrial relations system or anyone who has any idea how any tribunal works, whether it be the Industrial Relations Commission or SAT, would know that if a tribunal has a party before it and that party makes submissions on a matter, that commission has to consider those submissions. One does not have to be Perry Mason to realise that. If the commission does not consider those submissions, the decision will get turfed out on appeal. That is law 101; it is tribunals 101. The government has put a requirement in this bill that the Industrial Relations Commission consider any submissions made by the commission on behalf of the state government. That is just ridiculous. What do members think goes on at the Industrial Relations Commission or SAT or any other tribunal? Do they think people come along and make submissions and the members of the tribunal do not even think about it and say, "Oh, well, we don't know what those people were talking about so we're not going to consider that"?

In recent times the government has gone on about cutting red tape and repealing obsolete statutes and the like. It is just about to put more statutes in place. That provision, for all intents and purposes, is meaningless. What will happen when this bill passes, if the government goes ahead and passes it? The first time it has one of these arbitrated matters, the parties will have their legal team and they will try to make sense of what that provision means. Some well-paid lawyer will put forward a submission that that provision actually changes the situation somehow. Lawyers will litigate anything; they will argue that black is white and whatever. Members of this government should know that we do not put into law the bleeding obvious. That is what the government is doing with that provision.

The government wishes to put a range of provisions in place that basically state that the commission has to have regard for the financial capacity of the employer and the state of public finances. The commission already does that. It sends along someone from Treasury—someone with lots of degrees and lots of experience who quotes the budget papers—and the commission then considers it in great detail. I am staggered that the government is putting this stuff into the legislation. It could say that it is the same as already goes on, it does not matter and it will not make a difference to the way these things are done. This provision will be litigated up hill and down dale while people try to figure out what it means and whether it somehow supports their case. The government will send people from crown law down to argue why this supports the government's view.

I wish to say something in general about why this provision is bad. The government is working on the assumption that it is in its interests to make the wage outcomes out of arbitrated enterprise arrangements more in line with what it wants. If it screws down the commission, it will get the outcomes it wants. I do not think the Premier has considered the fact that if there is an industrial dispute under the Industrial Relations Act, he cannot just say that since it has not been resolved with the union, he will take it to arbitration. In most cases we have to get the other side to agree to arbitration. If the government has a dispute such as industrial action being taken and a public campaign going on, it cannot just say, "This is all too hard, we want this arbitrated" and then get the result it wants because of this legislation. The government has to actually convince, in most cases, the other side to consent to arbitration. If the government stacks the pack in respect of the arbitration, it is less likely that the union it deals with will consent to arbitration. I suspect that the first time the government deals with a union and is in a dispute that it cannot resolve and it wants to go to arbitration, the union involved will say, "Yes, well, maybe, but you've put those new amendments into the Industrial Relations Act that say the commission has to consider all this stuff." That is going to weigh negatively in people's minds on whether to consent to arbitration.

Arbitration is the mechanism put in place in the Industrial Relations Act to enable another way of resolving disputes, rather than having the employer and the union involved punch the living daylights out of each other in the workplace. In the public sector, that often means industrial action that disrupts public services. If the government makes the option of arbitration less attractive to the union that it is dealing with, it increases the likelihood that the union's members will say, "If we go to arbitration, we're just going to get"—I was going to say a certain type of sandwich, but I cannot say that in this place—"an outcome that is not what we want. It's better that we box on with our campaign of industrial action." Therefore, the government might think it is clever and that it helps in dealing with these matters to stack the pack in its favour for when matters get to arbitration, but in doing so, the government may have shot itself in the foot because unions will less likely be prepared to consent to arbitration. I just wonder whether the Premier has thought about that.

Another point I wanted to ask the Premier about in consideration in detail and I never got the chance to sneak it in before he gagged the debate —

Mr C.J. Barnett: You had the chance on every single clause.

Mr D.J. KELLY: There was so much to ask because there are so many holes in this legislation; there were some questions that I simply did not get a chance to ask. Maybe the Premier will respond in his third reading speech.

Proposed section 26(2B) states —

> ***Public Sector Wages Policy Statement*** means —
>
> (a) the Public Sector Wages Policy Statement 2014 issued by the State government that applies to industrial agreements expiring after 1 November 2013; or

Importantly —

> (b) if any Public Sector Wages Policy Statement is issued in substitution for that statement, the later statement.

There is a "Public Sector Wages Policy Statement 2014"; we have seen it, the government has issued it and we know what it is. However, the Workforce Reform Bill envisages that wages policies will be issued subsequent to that. I am concerned because until now the public sector wages policy has just been a policy statement issued by the government that comes out of Treasury, the Department of Commerce or the Premier's office. It does not really matter, it just appears and we know that is the government's statement of what it wants the wages outcome to be. However, the government has now defined it in this legislation, so it actually matters what that document is. The bill does not state which minister will issue public sector wages policy statements, how often they can come out or what they can include. If I wanted to be mischievous, I could suggest that the Premier may have a public sector wages policy in place. A union might start bargaining, and things may not go the way the Premier wants. He could just issue another one. He could do it. It could be the existing one. The Minister for Health thinks that is quite funny. We may be having a dispute with the nurses, the doctors or the cleaners, and we realise that the public sector wages policy that we are dealing with is too lenient and will get us into trouble if we end up in arbitration. What do we do? We just issue another one.

One of the issues I would like the Premier to explain in his third reading reply is exactly what that statement is. Who will issue it? Are there any restrictions on how often a new one can be issued? Can the Premier issue a new one when he is in the middle of a bargaining process with a union? Will it have the same status as the one the Premier has just superseded? The bill does not provide answers to all those things; it does not, Premier. I suspect that is the sort of question the Premier has not even turned his mind to. He just thinks, "It's a good idea. We'll elevate the public sector wages policy to some higher plane in the legislation. We'll make the Industrial Relations Commission adhere to it. We won't actually say that because that would look bad. We'll put in a whole lot of stuff, they'll read the tea-leaves and it will achieve what we want." I really do not think the Premier has thought this through. He has not thought through the consequences of what happens when unions look at this legislation and say, "On the face of it, it does not look like it is much different from how the Industrial Relations Commission currently operates, but, hell, we're not going to be the first to go into arbitration under these new provisions. Apart from anything else, we'll have to get special counsel to argue against the special counsel that the Premier will inevitably have." It is not too late for the Premier to amend this bill; it is not too late for the Premier to honour the agreements that he has signed. He can speak to his friends in the other place.

Mr J.H.D. Day: Will you repeal it if you get into government?

Mr D.J. KELLY: I cannot hear the Leader of the House; sorry. He will have to come a bit closer.

Several members interjected.

Mr D.J. KELLY: Sorry; I do not want to take any more interjections. I am in my last minute.

It is an opportunity for the Premier. He can honour the agreements he has made. I encourage the other members of the cabinet to make sure that this Premier's government does not go down in history as the government that ratted on agreements it entered into so recently, and immediately prior to the election.

Question to be Put

Mr J.H.D. DAY: I move —

That the question be now put.

Division

Question put and a division taken with the following result —

Ayes (32)

Mr P. Abetz	Mr J.H.D. Day	Mr C.D. Hatton	Mr N.W. Morton
Mr F.A. Alban	Ms W.M. Duncan	Mr A.P. Jacob	Dr M.D. Nahan
Mr C.J. Barnett	Ms E. Evangel	Dr G.G. Jacobs	Mr D.C. Nalder
Mr I.C. Blayney	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr I.M. Britza	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr G.M. Castrilli	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr V.A. Catania	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Ms M.J. Davies	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*

Noes (15)

Mr R.H. Cook	Mr F.M. Logan	Ms M.M. Quirk	Mr P.B. Watson
Ms J. Farrer	Mr M. McGowan	Mrs M.H. Roberts	Mr B.S. Wyatt
Mr W.J. Johnston	Ms S.F. McGurk	Ms R. Saffioti	Mr D.A. Templeman *(Teller)*
Mr D.J. Kelly	Mr M.P. Murray	Mr C.J. Tallentire	

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mr R.F. Johnson	Ms J.M. Freeman

Question thus passed.

Third Reading Resumed

The SPEAKER: Members, the question is that the bill be read a third time.

Division

Question put and a division taken with the following result —

Ayes (32)

Mr P. Abetz	Mr J.H.D. Day	Mr C.D. Hatton	Mr N.W. Morton
Mr F.A. Alban	Ms W.M. Duncan	Mr A.P. Jacob	Dr M.D. Nahan
Mr C.J. Barnett	Ms E. Evangel	Dr G.G. Jacobs	Mr D.C. Nalder
Mr I.C. Blayney	Mr J.M. Francis	Mr R.S. Love	Mr D.T. Redman
Mr I.M. Britza	Mrs G.J. Godfrey	Mr W.R. Marmion	Mr A.J. Simpson
Mr G.M. Castrilli	Mr B.J. Grylls	Mr J.E. McGrath	Mr M.H. Taylor
Mr V.A. Catania	Dr K.D. Hames	Mr P.T. Miles	Mr T.K. Waldron
Ms M.J. Davies	Mrs L.M. Harvey	Ms A.R. Mitchell	Mr A. Krsticevic *(Teller)*

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Mr D.J. Kelly	Mr M.P. Murray	Mr C.J. Tallentire	

Pairs

Mr S.K. L'Estrange	Ms L.L. Baker
Mr T.R. Buswell	Mr P.C. Tinley
Mr J. Norberger	Mr J.R. Quigley
Mr M.J. Cowper	Mr P. Papalia
Mr R.F. Johnson	Ms J.M. Freeman

Question thus passed.

Bill read a third time and transmitted to the Council.

House adjourned at 11.30 pm