

WORKFORCE REFORM BILL 2013

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Brian Ellis) in the chair; Hon Michael Mischin (Minister for Commerce) in charge of the bill.

Clause 18: Act amended —

Committee was interrupted after the clause had been partly considered.

Hon SALLY TALBOT: I should perhaps provide one further piece of clarity to contextualise the comments I was making when we stopped for question time. The amendment to which I am speaking is 8/18 on the supplementary notice paper. It is minority committee recommendation B to simply oppose clause 18, but it needs to be taken jointly with final amendment 9/19 on the supplementary notice paper, which is also minority committee recommendation B. Members who have read the report will know that recommendation B was to oppose the part, which of course now has been split into two clauses for the purposes of the chamber. I will finish my comments by noting that the point I made before we went into question time was that this is really just a stunt on the government's part. I should draw the minister's attention, lest he be slightly bewildered by my comments, to the fact that my comments are addressed specifically to the relevant section of the Salaries and Allowances Act 1975 referred to in lines 18 and 19 after the words "in making a determination under", which is section 6(1)(a), (ab), (d) or (e). The broader reason for our opposition to this clause is that we opposed the equivalent clause that amended the Industrial Relations Act. All the arguments that were canvassed in great detail earlier in this debate relating to clause 4, inasmuch as they apply equally to part 4 of the bill—that is, the amendments to the Salaries and Allowances Act—remain in force.

Hon MICHAEL MISCHIN: Hon Sally Talbot uses the words "stunt", "trickery" and "theatre" very readily. They roll off her tongue frequently. It speaks to the opposition's broader reason for opposing this clause and this part. In fact, if one looks at the minority comments in the committee report, the only reason for opposing this clause and this part was because it was asserted by the minority that it was so akin to the equivalent clauses earlier in the bill dealing with the Industrial Relations Commission that there was no certainty in the documentation that was to be referred to and also that it bound the Salaries and Allowances Tribunal to a course of action, both of which propositions I have demonstrated to be false and misleading. For Hon Sally Talbot to suggest that as one of the reasons this clause is being opposed and that it is the foundation of the minority committee recommendation B that appears in the supplementary notice paper is, again, false and misleading. At no stage is that mentioned in the relevant parts of the committee's report. This has been a fabrication since that report was made. She has done a lot of reading and reading and reading but plainly has not understood what she has read or the way it relates to the operations of the Salaries and Allowances Tribunal. For her to say that it is somehow deceptive on the part of the government to propose this amendment, an amendment that requires the Salaries and Allowances Tribunal to have regard to government wages policy but does not require the tribunal to come to a particular decision, is somehow inappropriate when, in the same breath, she also suggests that the original clause bound the tribunal to come to a particular view; it is just a nonsense.

I see Hon Sally Talbot is grinning over there but I challenge her to say where in the minority recommendations on pages 34 and 35 there is any mention of the construction of the clause that was referable to the distinction between members of Parliament and the considerations that the Salaries and Allowances Tribunal comes to in considering ministerial salaries. I challenge her to show me. She cannot because this is something that she has made up since as a makeweight to her objection to this clause.

It quite simply works like this. The Salaries and Allowances Tribunal makes a determination. It is true that as part of its determination, it will consider things like the state of the economy and appropriate remuneration and the like—the sort of considerations that are considered by the Industrial Relations Commission but in a different context and a different format. In respect of ministerial salaries, the Premier's salary, the salary of the Leader of the Government in this place and various other parliamentary officers, including the Leader of the Opposition and the Deputy Leader of the Opposition, yes, a percentage of the base remuneration is applied as a supplement to reflect the additional responsibilities and duties and so forth. But that is a percentage that is also set by the Salaries and Allowances Tribunal. The Salaries and Allowances Tribunal can reduce that percentage of bonus remuneration. One of the things that this proposed clause will do is require the Salaries and Allowances Tribunal to consider the same material that is to be considered by the Industrial Relations Commission in determining what, if any, increase in salary ought to be granted. So it is quite open to the Salaries and Allowances Tribunal to have regard to not only the base salary of members of Parliament, but also government wages policy and other considerations in determining what percentage increase is provided for by way of the additional remuneration for officeholders.

The complaint of the majority of the committee, when it was considering the bill, was that there was insufficient specificity as to the documentation that needed to be considered. It was on that basis that the minority recommendation, which appears as recommendation B, was formulated at page 35 of report 22. That criticism will be dealt with in the amendment standing in my name at 21/19, which will reflect the provisions that have already been enacted in respect of the Industrial Relations Commission in earlier provisions in the bill.

Hon SALLY TALBOT: I will leave my remarks on these two amendments on the supplementary notice paper by noting that Hon Michael Mischin's style in this house is a living example of that fact that the strength of his argument can be gauged by the level of antagonism he meets in the way that he frames his arguments. I have always said that he has never quite grasped the transition that has to be made between the court and the Parliament. We are clearly supposed to be debating points. I can find a number of different reasons for opposing this part of the bill, just as honourable members on this side have found innumerable reasons for opposing every clause of this bill. We can stand here and go through those for as long as the minister likes, and I assure him that it will take a lot longer if he maintains that tone. I will leave my comments on this part of the bill there.

As one of the members of the committee, along with others, who put in hours of work preparing the report, it is appreciated that the government has to a certain extent taken on board the committee's concerns about the poor drafting of this section of the bill and the other section that relates to the IR act. The amendments proposed by the minister are something of an improvement to one of the sloppiest pieces of drafting that has come to the attention of most members of this place during their time here.

Hon KEN TRAVERS: In light of the debate that we have had over the past few hours on this bill in this chamber, can the minister explain why, when making a determination under section 6(1)(a), (ab), (d) or (e) of the Salaries and Allowances Act 1975, (b) and (c) are not included?

Hon MICHAEL MISCHIN: It is a recognition of the doctrine of the separation of legislative, executive and judicial powers. It has been considered inappropriate for executive government policy potentially to constrain decisions about remuneration for the judiciary and officers and members of Parliament. Accordingly, decisions by the tribunal with respect to parliamentary and judicial salaries and entitlements will not be subject to specific consideration of the government's wages policy or its fiscal circumstances and strategies. That limitation does not extend to members of Parliament, ministers and parliamentary secretaries who form part of the executive.

Hon KEN TRAVERS: In light of the fact that the Salaries and Allowances Tribunal only needs to have regard to it—which is the point the minister has been making throughout the debate—is the minister saying that the government does not expect the Salaries and Allowances tribunal to have regard to the state wages policy when setting the salaries for members of Parliament and officers of the Parliament?

Hon MICHAEL MISCHIN: It specifically does consider those matters. The concern of the government was to not give any suggestion that it was dictating to the Salary and Allowances Tribunal what ought to be the relevant considerations. Currently, the tribunal determines the matters that are of relevance in its determinations pursuant to the principles that it states in its determinations.

Hon KEN TRAVERS: Can the minister advise the house whether the original draft that went to the Liberal Party room did include paragraphs (b) and (c)?

Hon Helen Morton: You have to be joking! You are just a joke! No wonder you are at 22 per cent!

Hon MICHAEL MISCHIN: I should explain some things by way of background. Firstly, I am not going to comment on the deliberations of my party room, in the same way that I would not expect any member of the opposition to comment on the deliberations of its caucus. Part of our practice is that legislation is passed through our party room and is the subject of debate and discussion, and what may enter the party room and be considered by the party room may be different from what ultimately emerges from the party room and is the subject of a bill that is introduced into Parliament. That is part of the general political process, and nothing can be seen to be objectionable about that. I am sure the same thing happens with private members' bills that are considered by the opposition caucus. I am sure also that when the Labor Party was in government, bills were the subject of caucus consideration in a similar way. Secondly, I do not have any recollection—because I was not the minister responsible for the carriage of this bill at the time; I have assumed that responsibility since—of any debate on this bill in the party room; and, even if I did, I would not reveal what that debate was. However, I have made certain inquiries, and, based on those inquiries, I can say that the bill that entered the party room, was considered by the party room and emerged from the party room is the same as the bill that was introduced into the other place.

Hon KEN TRAVERS: In light of all the comments the minister has made throughout the passage of this bill about how the Industrial Relations Commission and the Salaries and Allowances Tribunal are not bound to do these things but only have to take them into consideration, I cannot see why we are exempting members of Parliament. I think that sends completely the wrong message. The government is trying to argue for restraint

within the public sector, while at the same time it is increasing fees and charges on low-paid workers on a daily basis. The minister is then trying to exempt those two bodies from being required to consider the state wages policy. I am confident, and the minister has just confirmed, that the Salaries and Allowances Tribunal does consider these matters. That says one of two things: either these clauses are a nonsense, and the government just wants to be seen to be doing something about implementing its wages policy, and this bill will make no real difference to what is happening currently; or this bill will make a difference, in which case the arguments the minister has been putting to us over the last few weeks are completely at odds with what will be the practical implications of this legislation. That is the situation.

Hon Michael Mischin: That is what you say. But that does not necessarily mean it is so.

Hon KEN TRAVERS: I am more than happy for the minister to explain which one of those is not correct or why they are both not correct.

Hon Michael Mischin: I have been through it all.

Hon KEN TRAVERS: The other issue that arises is WA Police. If the minister accepts that members of Parliament and officers of the Parliament are a special case, the minister also needs to accept that police officers are a special case and should be treated differently. At page 21 of the committee report, there are a number of paragraphs that deal with the concerns of the Western Australian Police Union of Workers. The committee report then refers us, at page 24, to the advice of Ms Maria Saraceni, the barrister from whom the union sought advice, which is that these bodies only need to give consideration to these matters. If the government wants to maintain separation of powers and the like, I would have thought that the employment relationship of police officers more closely resembles that of members of Parliament than it does public servants. If that is the case, we should include in this bill a new clause that replicates part 4 of the bill and makes it clear that police officers should be treated in the same way as members of Parliament. That is because—as the police union made very clear in its submission—police officers do not have the opportunities that are given to other employees in the public sector.

In my view, the government is showing significant hypocrisy when it comes to this clause. I have absolutely no doubt that the end result of this process is that the Salaries and Allowances Tribunal will give consideration in its future determinations to what is contained in the government wages policy. That has clearly been the case in the past. I am not sure whether this government has done this, but I am sure other governments in the past have put submissions to the Salaries and Allowances Tribunal along those very lines, if not in a formal sense, in an informal sense, because the Salaries and Allowances Tribunal often has interviews with people. It would be extraordinary to see anything to the contrary. I suspect that if that did occur, there would be a political storm and people would want to know why members of Parliament are treated differently from people in the public sector who are on the lowest wages. I add that there is no provision for redundancies, because that is not possible. I make it very clear that I believe this clause is either a nonsense and will make no real difference to what will take place; or, if it will make a difference, we are kidding ourselves by not including paragraphs (b) and (c). I would say also that if this clause is of any meaningful nature, provisions similar to those in this clause should also be included for WA Police.

Division

Clause put and a division taken, the Deputy Chair (Hon Brian Ellis) casting his vote with the ayes, with the following result —

Ayes (19)

Hon Martin Aldridge
Hon Ken Baston
Hon Liz Behjat
Hon Jacqui Boydell
Hon Paul Brown

Hon Peter Collier
Hon Brian Ellis
Hon Donna Faragher
Hon Nick Goiran
Hon Dave Grills

Hon Nigel Hallett
Hon Alyssa Hayden
Hon Col Holt
Hon Mark Lewis
Hon Rick Mazza

Hon Robyn McSweeney
Hon Michael Mischin
Hon Helen Morton
Hon Phil Edman (*Teller*)

Noes (10)

Hon Robin Chapple
Hon Alanna Clohesy
Hon Stephen Dawson

Hon Kate Doust
Hon Sue Ellery
Hon Lynn MacLaren

Hon Ljiljana Ravlich
Hon Sally Talbot
Hon Ken Travers

Hon Samantha Rowe (*Teller*)

Pairs

Hon Simon O'Brien
Hon Jim Chown
Hon Peter Katsambanis

Hon Adele Farina
Hon Darren West
Hon Amber-Jade Sanderson

Clause thus passed.

Clause 19: Section 10A inserted —

Hon MICHAEL MISCHIN: I move —

Page 15, after line 9 — To insert —

Government Financial Projections Statement means whichever is the most recent of the following —

- (a) the most recent Government Financial Projections Statement that is —
 - (i) released under the *Government Financial Responsibility Act 2000* section 12(1); and
 - (ii) made publicly available in the budget papers tabled in the Legislative Assembly under the title “Economic and Fiscal Outlook” or, if the regulations prescribe another part of the budget papers, that other part;
- (b) the most recent Government Mid-year Financial Projections Statement that is —
 - (i) released under the *Government Financial Responsibility Act 2000* section 13(1); and
 - (ii) made publicly available under section 9 of that Act;

Those passages amount to an additional definition to be included in proposed section 10A(1) of the Salaries and Allowances Act 1976 of “Government Financial Projections Statement”. Consequential amendments will incorporate that definition into other elements of the bill. The purpose of the amendment is to again achieve the level of specificity for the materials to which the Salaries and Allowances Tribunal must have regard when considering determinations within its function that relate to the salaries of the officers specified in section 6(1)(a), (ab), (d) or (e) of that act.

Hon SUE ELLERY: I rise to indicate that we will support the amendments at 21/19, 22/19 and 23/19. These give effect to the recommendation of the committee that definitions need to be provided to make clearer what policy documents those making the decision must have regard to. We still think the clause is flawed and that amending the Salaries and Allowances Act to give effect to these things is flawed, but these amendments make it less flawed.

Hon MICHAEL MISCHIN: I am obliged to the Leader of the Opposition for indicating the approach the opposition will take to the amendments in the supplementary notice paper and to the remainder of the bill.

Amendment put and passed.

Hon MICHAEL MISCHIN: I move —

Page 15, line 30 — To insert after “section 11(1)” —

and made publicly available under section 9 of that Act

That reflects the amendments that were made to an earlier clause of the bill relating to the materials to which the Industrial Relations Commission must have regard when considering its determinations.

Amendment put and passed.

Hon MICHAEL MISCHIN: I move —

Page 16, lines 1 to 4 — To delete the lines and insert —

- (ii) the Government Financial Projections Statement;

That has already been the subject of the amendment that inserts a definition of that same statement.

Amendment put and passed.

Hon SUE ELLERY: As I indicated a bit earlier, and as has been outlined by Hon Sally Talbot and Hon Ken Travers, we remain opposed to these provisions. We do not think that it is necessary to change the Salaries and Allowances Act, that this is being implemented in a way that captures some, but not all, of the people captured by the Salaries and Allowances Act and that, in fact, the government is applying an inconsistent policy. For those reasons we oppose the cause.

Clause, as amended, put and passed.

Title put and passed.

Bill reported, with amendments.

Sitting suspended from 5.43 to 7.30 pm