

POLICE AMENDMENT BILL 2009

Second Reading

Resumed from an earlier stage of the sitting.

HON KATE DOUST (South Metropolitan — Deputy Leader of the Opposition) [5.35 pm]: Let us go back to the start again, to refresh the memories of members. I am sure they have forgotten during question time what I started with. This bill seeks to amend the Police Act 1892, and provides for a new form of Clayton's cop to be employed in Western Australia. The bill is being put through this house to ensure that the Liberal government can break another election promise to Western Australia. It is really more about cost cutting and cost shifting. I will go through that in a bit more detail when we talk about some of the information that was provided when questions were raised during the estimates process about how much money this government will save. The opposition does not have a problem with the concept of auxiliary police officers or the employment of auxiliary officers, but only if they are supplementary to the 500 sworn officers who should have been employed as promised by this government. They should not be seen as a replacement, but that is what we see happening. The government promised 500 police officers, and it is now saying that it will employ 350 along with 150 auxiliary officers, who will be restricted and limited in the nature of the work that they can perform. It is not good enough for the state of Western Australia. This government made an election commitment. The people of Western Australia expected that 500 police officers would be employed, and this government is not prepared to deliver on that. It is only prepared to deliver a half-baked concept of what these people would do. To go back through a bit of history, the previous Labor government delivered on its policing commitment of 600 new police officers in its first term, and promised another 500 if it were to be re-elected for this term. The Liberal opposition of the time, going into the election campaign, matched that commitment to 500 police. Our view is that the government should deliver on that commitment and not break it.

In 2006, Labor introduced legislation to allow special constables to be created and employed, and in 2008 legislation was amended to deal with police liaison officers. In view of those other options available to the government, we do not understand why the government has not gone down the path of increasing those numbers rather than creating a whole new role, which it has not clearly defined in this bill. In the Police Act 1892—obviously a very old act but it has stood the test of time and has worked—the functions of special constables are set out quite clearly as are the functions of the police liaison officers, but we do not find the same type of detail in this amendment bill for the role and function of the auxiliary officers. I ask the minister to provide some detail about why that has not occurred. Why has the same degree of clarity and transparency not been provided for this new class of police officer? I encourage members, if they have the time, to have a look at how the functions are clearly set out for both of those two positions, but unfortunately not for the one that we are talking about today.

The opposition has a couple of amendments to this bill. I know that the minister probably has not seen them. They should have been provided this afternoon. They are the same amendments that were proposed in the other place.

Hon Peter Collier: Were they moved there?

Hon KATE DOUST: No, I think the government gagged debate several times and was not interested in dealing with any propositions to improve this legislation. The minister is right—the amendments were not moved in the other place, but we will move them here, because we know that we do not behave in the same way in this place as they do elsewhere.

Hon Peter Collier: Where are they?

Hon KATE DOUST: They are probably just being fixed up by the Clerks, and they may be available during the break this evening. I am happy to get the minister a copy of them. They are fairly simple. However, I have already been told by the minister's advisers that the government will not support any amendments, which is quite interesting when we consider that that is the whole reason we come to this place, and why we are supposed to be the house of review. I think everyone in this chamber can acknowledge that we have seen several pieces of legislation come through from the Assembly and we have fixed them up. I am disappointed that we will not have the same opportunity here, and that the government is already determined that it will not do anything at all to improve this legislation. Nevertheless, we will move those amendments anyway. It is disappointing that the government takes that view. We are starting to see more of that as we deal with these types of bills. I know that we have a number of police-related bills coming our way over the next week—I was about to say the next week or so, but I am not sure for how long we will be sitting.

Hon Peter Collier: Until Christmas.

Hon KATE DOUST: That is good. It saves me from having to worry about the family! As long as we can have midnight mass in this place, I will be a happy girl. I am sure Hon Giz Watson will be happy to attend also.

Over the past 12 months we have become aware of this government's poor record in getting its act together to bring these types of bills into this place. This piece of legislation is clearly about cost saving and cost shifting. I understand that one of the reasons that this proposal has been put forward is not that the commissioner is looking at ways to expand his numbers on the deck to take the pressure off his police officers. I know that when the three per cent efficiency cuts were first mooted there was a lot of hue and cry from the police force about how it could possibly make those cuts and what the implications of that would be to front-line services. It has been clearly demonstrated in the estimates committee that this proposal has come out of the three per cent efficiency cut. While 150 people will be employed, they will be employed at a lower standard than a police officer and it will actually save the government money. I will go through those figures shortly, because it is a substantial amount of money. At the end of the day, this bill is not about providing effective policing for the community; it is about cost saving for the government.

This minister would be aware that in a whole range of issues this government has not been able to manage this state's finances. The government has cut back on a whole range of programs across the state. It has had to grab money from all sorts of very interesting places. Members will recall the debacle whereby the Minister for Health tapped into \$25 million that he should not have had access to. A range of science and innovation programs have been slashed and burned. We are starting to see, not only in those areas but also in a range of areas that impact on the day-to-day lives of Western Australians, this government tapping into the commonwealth government for financial support to take the place of the money that it should have put into those commitments. It is a growing concern.

It was only about a week ago that the Premier announced several projects for which he had requested assistance from the federal government through the infrastructure program to subsidise state activity. Members should ask: If the state government is having to do that, what is it doing with the revenue it receives from this state? Where is all that money going? The answer is that obviously it is not managing it well.

The government made these commitments because it was desperate to get on to the Treasury benches. As a result it entered into an alliance with the National Party and committed to expend money on the royalties for regions programs. Before Hon Wendy Duncan interjects, nobody denies that people in the bush should be well looked after. The opposition might have a question about some of the things that are being done, but if money is going into country hospitals, schools, police and other worthwhile causes, then of course that should be the case. However, the government must be careful that it does not cut back too much in other key areas that provide a safe and secure environment for everybody else. It is a real trap that this government will fall into because the Liberal Party has to deliver on its commitment to the National Party. As a result it has had to cut back on its funding in a range of areas and now it is crying poor to the federal government and seeking financial support to deliver on its commitments.

I refer again to the saving to the government by not employing 150 police. I understand that in the estimates committee about a week or so ago it was found that the government would save in the order of \$6.2 million by not filling vacant positions with fully sworn police but by creating auxiliary police positions. It is a huge amount of money to save. At the briefing I was advised that the saving to the government was in the range of between \$15 000 and \$20 000 per position that was created.

I know that when in election mode all parties make promises that they should deliver on. However, there was absolutely no mention in the Liberal Party's documents about auxiliary police. In fact, if members go back to the "Liberal Plan for Police", a document used during the 2008 election campaign, it states that the Liberal Party will —

Recruit an additional 500 police officers over five years and an extra 200 specialist officers to further boost police resources.

The government is not delivering on 500 police; it is delivering on only 350 and it will employ these pseudo coppers who will be restricted in what they can actually do. It is not delivering to the community and the opposition is not prepared to support this government breaking its election commitments.

Some practical elements arise about how to deal with these auxiliary officers. We do not know what they will do. Their duties are not listed in the legislation, as is the case with police liaison officers and special constables. Will it be left up to the commissioner to determine what their duties will be? Perhaps the minister will advise the house whether their duties will be made public at some point. Will their duties be gazetted or will they be outlined in a secret document that the commissioner can amend? What is the longevity —

Hon Peter Collier: You're so cynical.

Hon KATE DOUST: I know that it is a fault. I have to remedy being so cynical. I suppose it comes from being a trade union official for 17 years.

When the commissioner decides what functions he requires these auxiliary officers to fulfil, how often will he change them? I know that they will receive about 12 weeks' training, which is about half the training period afforded normal police officers. I would not mind if the minister would provide the details of the elements of that training so that we will know what sort of skill level they will be required to achieve during what is really a short training period for people who will have quite a bit of responsibility in this role.

Once these people are trained, they will be out on the job and, again, we do not know in exactly what capacity. We know that there are a variety of options with respect to their duties. I understand from the briefing we had that they might be involved in minor support roles, such as school crossing guards; helping out on Australia Day in South Perth, which I found interesting; transit guards, and I am sure that my colleague Hon Ken Travers will have something to say about the impact of auxiliary officers on the transport area; prisoner escorts; and transport of prisoners. We need clarification of how and when this will be determined. Will they be given a list of duties by the commissioner and be required to perform them on a daily basis?

Another issue that was raised at the briefing was how an auxiliary officer can be identified as opposed to a police officer. Will they be required to wear a different uniform; will it be a different colour and style? I do not know whether this was raised in the other chamber that in another place where there are auxiliary officers they wear a different hat—colour and style and with a different band. The hats that the auxiliary officers wear there stand out and people know who they are.

If auxiliary officers are not given the capacity to perform all the tasks of a police officer, what would happen in a situation in which a member of the public is in distress—perhaps being assaulted—and sees somebody who he or she think is a police officer? In such a case what would be the responsibilities, if any, of the auxiliary officer? Will he be required to assist a person who finds himself in such circumstances? Can an auxiliary officer intervene in that situation? I ask the minister to provide some clarification of the boundaries for the types of tasks that auxiliary officers will be required to perform. I understand that another function will be to manage property, money and firearms, and that they can be used to transport forensic samples and perform other non-front-line duties as determined by the Commissioner of Police. The commissioner will therefore have a lot of say in what these 150 people will be doing.

I was also advised during the briefing that they will be guarding police crime scenes. I hope that during the training period they will be trained on how to deal with these situations and how to deal with emergency situations. We were given some information about their position descriptions but I do not know whether those descriptions have been resolved yet. I am not too sure of the detail that has been resolved in the discussions with the respective bodies about the structures or classifications. I have spoken to both unions involved. Currently, there are two unions involved in coverage but I understand there were three at one point. One would naturally assume the relevant union would be the Western Australian Police Union because these people will be police auxiliary officers, but under a constitutional union coverage arrangement one should not always assume those sorts of things. I understand that the Community and Public Sector Union-Civil Service Association of WA has become involved because of the public service element. I think the union responsible for the Public Transport Authority also had a bit of an interest because of talk of some of these people working in a transit guard capacity. The issue therefore of union coverage has not been resolved. I appreciate that it is not—at least I hope it is not—something in which the government will intervene, but there needs to be some clarity. These issues need to be sorted out if the government intends to advertise to fill these positions. From the briefing, I understand the government is hoping to have the first group of 40 employed in January 2010 and then to roll out the remainder over a period of time. However, all of these details need to be finalised so that people know exactly where they stand when they are employed. I have had discussions with both of the two key organisations which would usually represent those workers. I will say that the police union has a very high membership rate, as does the CSA. I imagine that these police auxiliary officers would sign up with their respective union. I would be interested in feedback from the minister on where the discussions are on resolving any uncertainty about the detail of the job description. I understand there were to be three tiers of employment. From the briefing I understand that the people who might perform work in the area of road traffic and school crossings would be at the base level. I was also told—this was interesting—that there would be not only full-timers and part-timers, but also casual employees. I am not too sure how that will work in this situation. From my experience, having dealt with a lot of casuals in the industry I worked in, it makes it difficult for training, for the hours worked, for the tasks they perform and for continuity of not just service but also what is actually happening in that work environment. I would be interested to hear the minister's clarification of exactly the situations in which casual police auxiliary officers will be employed.

I understand that the rural regions will gain from this change. Of the 150 auxiliary officers to be employed, we were advised that 10 would be heading to regional areas—seven to the mid-west and three to Bunbury. My

question therefore of the minister is: if these people—who I assume in country areas will be employed full-time or part-time—are to be attracted to and retained in a position in the bush, which will be a lower paid position than that of a police officer, albeit with limited function, will they be offered either accommodation or accommodation assistance?

I also want to know how the government will attract people to this role. If the current custodial officers, such as those predominantly working in the watch-house, decide to take up the opportunity to become a police auxiliary officer and are then no longer a custodial officer, what impact will that have on their continuity of service? Will they have to start afresh? Will they have to terminate their employment as a custodial officer and commence as a police auxiliary officer as a new employee, or will they have continuity of service? The model set up in this bill is very complicated. These people will not necessarily be treated as public servants and they will not necessarily be treated as police officers. They will be doing a bit of everything. They will be on a lower wage system, their function will be limited and they will not be fully sworn police officers. I say “not fully sworn” because they will not be able to perform all the duties of a fully sworn officer. On the flip side they will still have to be disciplined in the same way as police are disciplined. It is therefore a very interesting way in which this role has been created. I am keen to know how individuals will be treated. I imagine there will be some sort of recruitment program. Will they be encouraged to leave one role and take up the role of police auxiliary officer? I imagine the government will be looking to attract people who have already built up a skill set. I want to find out whether these people will lose out because they have moved to this different position or whether they will be able to simply roll things over? The same applies to people who are employed as police auxiliary officers: after a period of time in that capacity, will it assist them if they want to go down the path of becoming a fully sworn, fully functioning police officer? If they are able to transition, the same questions apply in terms of their continuity of employment. I always ask these questions, I suppose, because of my background. I am curious about how people will be looked after in the workplace, especially when the government is creating a new role that is different from the existing role.

I also want to know whether these people will be employed under an award, an enterprise bargaining agreement, minimum terms and conditions or a workplace agreement. What arrangements will be put in place that will govern their working conditions? These are important questions because if people are to be attracted to these roles, they need to have some certainty about their working conditions and their permanency. Although there are a lot of opportunities for employment around our state now as things start to pick up, when people commit to this type of role, it is not necessarily a commitment to a nine-to-five job; it is a little different and so it can be quite an important decision, as a decision on any job can be. They will therefore need to know exactly where they stand before they sign on the dotted line to take on this role. Because this legislation has been rushed and there is quite a deal of urgency to get it through Parliament so that people can be employed in January, it is very important that the government provides that detail and resolves some of the uncertainty before these people are employed.

Another question I have is: what sort of protection will be afforded to these auxiliary police officers if they are assaulted in the performance of their duties? We recently dealt with mandatory sentencing legislation.

Sitting suspended from 6.00 to 7.30 pm

Hon KATE DOUST: Before the dinner break we were talking about what sort of protection would be afforded to auxiliary police officers if they were assaulted in the workplace.

Hon Peter Collier: I have got all your answers.

Hon KATE DOUST: Very good.

Could the minister provide detail on what sort of qualifications an applicant would be expected to have to apply for an auxiliary police officer position? Will they be the same types of qualifications as a police officer, or will they be of a lower standard? If the qualifications are to be of a lower standard, why would that be? Are there any situations that can be conceived of where police auxiliary officers would have to serve on the front line? In the situation of what is proposed under the Criminal Investigation Act, would police auxiliary officers be expected to participate in stop and search in an entertainment precinct?

The question that I asked before dinner was: would police auxiliary officers be covered under the mandatory sentencing legislation we have recently passed? Given that police auxiliary officers were not anticipated by this government when it made its announcement about an extra 500 police officers, would they be covered under the mandatory sentencing legislation? Also, will auxiliary officers have access to weapons such as guns, Tasers, batons and capsicum spray? Will they be authorised to use those weapons; and, if so, which of them? Again, what sort of training would they have, and in what situations would they have to use those weapons?

Coming back to the proposed stop-and-search powers, given that the government proposes in another piece of legislation to expand the capacity of police officers to stop and search anyone without reasonable suspicion, I am

wondering how this will impact on the role of auxiliary officers. Does the Commissioner of Police have the capacity to decide that their role will be expanded to perform those tasks? As there is not enough clarity in the legislation about the functions of auxiliary officers, as there is for those other roles, will any of their functions be set out in regulations?

We have dealt with the issue of what will happen to continuity of employment if these other officers, who are not necessarily police liaison officers but are special constables—who are public servants—choose to change roles. Will they lose their status? I will leave that one. I will wait to see what the minister comes back with on the other questions.

There are a number of issues around this legislation. There are some concerns about how it will be dealt with. It is not straight up and down in terms of what will be their contract of employment. I understand, having again sought advice from outside this place during the dinner break, that there is still a lot of detail that has not yet been resolved around the nature of this work or the nature of the employment agreement for these officers. Hon Giz Watson reminded me during the break that indeed these auxiliary officers would be employed under minimum conditions of employment contracts. I have always had great difficulty with that type of employment contract, because it is so sparse. It only deals with a handful of core elements of an employment contract. It is the bare bones, with the minimum safety net that quite often is well below that of an award or an enterprise bargaining agreement. Minimum terms of contract usually, from memory, deal only with hours, sick days, holidays and, I think, parental leave. That is pretty much about it. There is usually only about four or five conditions. That is a very sparse contract for somebody to come into this type of work and not have the meat on the bones that would normally be available in terms of information about that person's rights and entitlements as a worker. It is quite disappointing that the government has already reverted to treating these types of workers in this way.

The other concern is that whilst auxiliary police officers will be treated differently from police as they will not be fully sworn and not operating at full capacity, they can still be treated in the same way in relation to discipline. The Commissioner of Police will still have the right and the opportunity to hire and fire these auxiliary officers at will, as he would a police officer. It is quite an interesting situation. I see these people as a bit in the twilight zone in terms of their employment contract and their rights. It is quite an unusual beast that is being developed here. There is a real concern about how this whole thing has been managed. A lot of these questions have still not been resolved to the satisfaction of the organisations that would represent these workers. Before the government proceeds to employ anyone in this capacity, the minister responsible—I appreciate that is not the Minister for Energy, even though he is representing in this chamber—needs to ensure that all the detail is finalised and everyone knows where they stand in relation to this issue. Another concern is also the fact that there is no transparency about the actual functions, and there are issues in relation to the commissioner's permission, if we like, not being made public.

The Police Amendment Bill 2009 is not an overly complicated bill. There are three key parts to the bill. For example, the definition of a police auxiliary officer is set out in clause 9. Therefore, such things are included but the bill does not provide a lot of detail. People already work in the role of custodial officers in watch-houses who are sworn as special constables. These people receive training on issues principally related to custody, which is why I raised that earlier question to the minister about providing the detail of the type of training to be given to these auxiliary officers so that we know exactly what they will be doing.

I think the minister will be pleased to know that I might start to wrap this up now. I think I have posed enough —

Hon Simon O'Brien: Jolly good!

Hon KATE DOUST: I thought members would be excited about that!

I think we have posed enough questions. I know that we have a couple of amendments to look at in committee, so some other things might come up during the Committee of the Whole stage. Our concern is that this government is using this legislation to break an election commitment to the Western Australian public: it promised 500 police but it will deliver only 350. The government has done this because of financial constraints placed upon it by Treasury and wanting to save three per cent. In fact, the government will save \$6.2 million by effecting this change. This is short-selling the community. This legislation is not about effective policing; it is about cost-shifting. That is very disappointing.

This is simply another example of a government that has failed to manage the budget books in the past 12 months. Part of that difficulty, I think, is that it came into this place without a plan. Members opposite did not expect to win the election, they came to government without a plan, and they have cobbled these things together. A lot of these types of bills that the government says are about improving policing and improving security and the safety of the community are not about doing that. We will see more of this as we deal with a couple of other bills that are still to come our way. The Police Amendment Bill will short-sell the community. It does not

provide for the people who will be employed under this legislation. I do not think it actually provides them with security and stability of employment or with a great opportunity in terms of future advancement in their employment. However, one of the core reasons that we will not support this bill is that we will not allow the government to break an election commitment. Although we support in principle the idea of auxiliary officers and we support in principle the employment of auxiliary officers, we would only support the bill if those 150 people were in addition to the 500 police the government promised to deliver. As they are not additional, and as the government proposes that they be replacements, we will not support the bill. On that basis, until the government is prepared to actually engage 500 fully operational, fully sworn police officers, and then looks to additional staffing arrangements, we will not support the government on this occasion on this legislation.

Debate adjourned until a later stage of the sitting, on motion by **Hon Simon O'Brien (Minister for Transport)**.

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