

POLICE AMENDMENT BILL 2009

Second Reading

Resumed from an earlier stage of the sitting.

HON GIZ WATSON (North Metropolitan) [8.53 pm]: The Police Amendment Bill 2009 aims to enable the Commissioner of Police to appoint police auxiliary officers who will carry out limited police functions so as to free up other police officers for front-line duty. As indicated by the Deputy Leader of the Opposition, it is not a proposition that we oppose; however, we do not support the current form that this legislation takes.

The functions of police auxiliary officers as set out in new section 38H are the same as for police officers unless limited by either a written law or a document appointing a police auxiliary officer. The structure of the bill is similar to the Police Amendment Bill 2006, which dealt with the matter of Aboriginal police liaison officers. The main issue for the Greens (WA) is that the powers of the police auxiliary officers greatly exceed their intended functions. This issue was raised by the opposition when the bill was debated in the Legislative Assembly on 13 and 14 October this year. Various amendments were moved in the other place, but unfortunately debate on the amendment to put the powers of police auxiliary officers in regulation and be gazetted was actually gagged in the other place. Therefore, we are currently dealing with the unamended bill.

Apart from standard police officers, the WA police service currently includes Aboriginal police liaison officers, special constables and police cadets. At the briefing that was kindly provided we were told that since about the start of 2009, the police commissioner has via the Public Sector Management Act employed special constables at the Perth watch-house to manage people held in custody there and that it is intended that this function will be transferred to the police auxiliary officers if and when this bill is passed. Therefore, the history of special constables is relevant to discussions about police auxiliary officers. Western Australia has a long history of special constables. Back in 1975 the Law Reform Commission of Western Australia published a report about the law relating to the appointment of special constables and the extent of their powers, which was the report of project 29 of the Law Reform Commission. Despite its age, the report's contents regarding special constables are relevant to this debate about police auxiliary officers. Although the report supported the continued existence of special constables for certain functions—albeit at that time they were not the particular functions envisaged in this legislation—and considered the police commissioner was the appropriate person to appoint them, delineate their power, train them and discipline them, the report also expressed concern about the fact that the powers granted to special constables were far greater than reasonably necessary for their duties. Paragraph 9 of the Law Reform Commission's report stated —

The Commission considers that persons whose occupation involves them in law enforcement should be properly qualified and trained, be subject to strict legal control, be required to act within clear and definite lines of authority and should possess no more powers than are reasonably necessary to fulfil their law enforcement functions.

Paragraph 10 stated, in part —

They —

Special constables —

all seem to have more legal power than is reasonably necessary to fulfil the purposes of their appointment ...

The report further stated —

Within the present legal framework ... it is only possible to confer greater law enforcement powers than those of an ordinary citizen upon a special constable by conferring the comprehensive police powers of a constable. The Commission considers that this is unsatisfactory. The inflexibility of this system and the lack of sufficient safeguards appear to have produced, or at least to have contributed to, a situation where it has never been fully ascertained in practice whether the advantage of conferring special powers upon persons other than regular police outweighs the problems created by doing so.

We were told at the briefing that the impetus for this bill is coming from the Commissioner of Police. As noted, since about the start of 2009 the commissioner has employed special constables for the Perth watch-house via the Public Sector Management Act. He would like to bring them within police discipline procedures under the Police Act and the job title would become police auxiliary officers rather than special constables. We were told this was merely forethought and that there has been no special disciplinary incident that has led to this, interestingly enough. Having the commissioner exercise disciplinary authority over people in this role is consistent with recommendation g(ii) at paragraph 54 of the Law Reform Commission's 1975 report. I ask the minister what, if

any, specific incident has led to the desire to bring people working in the watch-house under police disciplinary procedures or whether this is merely a pre-emptive move.

The bill is similar, but not entirely identical, to the Police Amendment Bill 2006, which updated provisions relating to Aboriginal police liaison officers. We supported the bill and were instrumental in achieving amendments that better protected Aboriginal police liaison officers' employment conditions. In terms of auxiliary or other police functions interstate and elsewhere, it is not unusual for a police service to include roles apart from that of police officers. However, the roles vary quite considerably between jurisdictions and I looked at the provisions in various other Australian states. I will not go through each one of those; it is suffice to say that each state seems to take a slightly different approach but there are in effect a number of different categories of what could be called auxiliary officers in each state and territory.

My research officer took some time to consult with the Western Australian Police Union regarding its attitude to the Police Amendment Bill 2009, particularly, as discussed by the Deputy Leader of the Opposition, given that there is considerable interest about whether the auxiliary officers appointed under this legislation will come under the area of the WA police union or the public sector union. In a sign of the police union's attitude, a media report released on 14 September 2009 indicates that the union is cautious and wants to check the fine print before taking a position on the bill, and it wants the officers to be limited to back-line work as opposed to front-line work. At the briefing we were told that the union agrees in principle and has been consulted for some time. Its main issues are to do with safety and perception, and it supports watch-house officers being covered by the police union rather than the Community and Public Sector Union-Civil Service Association of WA for industrial relations reasons.

Interestingly enough, my office also contacted the Prison Officers Union and it provided some information. On the fact that police auxiliary officers at the watch-house will have access to Tasers, it says that Tasers are not standard issue for prison officers and there are mixed feelings about this; some prison officers feel that Tasers incite violent behaviour and some feel that they inhibit it. Currently, only the emergency support group, which is a more highly trained group of prison officers who are used to responding to particular incidents, can use Tasers. Anecdotally, the union understands that some people intended to be police auxiliary officers and their trainer are former prison officers and a former prison officer trainer. Originally, the union sought that the watch-house should use prison officers, not police auxiliary officers or an outsourced service. It prefers a seamless service for managing people at lock-ups, on prisoner transport and at court by having all of these provided by prison officers. The bill is not the union's favoured model; however, it accepts that there are legislative and philosophical issues to overcome in adopting its preferred approach—that is, people held in custody in the watch-house have been neither sentenced or imprisoned, nor remanded in custody by a court. Historically, this role has been fulfilled by police officers, not prison officers. It is just an interesting angle on it. The police auxiliary officers will, in effect, fulfil a function that is very similar to that of a prison officer, but they will deal with people who have a different status in that they have not been found guilty of an offence or, indeed, remanded into custody.

As to the question of the need for this role, it seems reasonable to the Greens for the police to have assistance for roles that do not require police expertise. It is normal for any organisation to employ people in a range of different roles based on their qualifications and competencies—for example, administrative workers or technical specialists. As already noted, in Western Australia the police service has included roles apart from that of police officers for many years, and the same has happened interstate and overseas. The functions of this position, if it is formalised by this bill, remain the key issue for the Greens. The similarity of the functions of police officers as provided by proposed section 38H will mean that a police auxiliary officer will, unless limited by a written law or by the appointment document, hold extraordinary powers in respect to other citizens. The information provided by the minister to Parliament and at the briefing and the information on the Western Australian Police Union's website indicate that the current Commissioner of Police does not intend to include the full range of police functions in appointment documents during his term. It is worth noting the words "during his term". Police auxiliary officers will carry out specific tasks. We were told at the briefing that mainly they will be supervised by a police officer in carrying out their functions, and their powers will not apply at all times, unlike those of police officers, which apply at any time of the day or night. I understand that, in consultation with the union, standard operating procedures are being developed that will set out the demarcation of police auxiliary officers' duties and the monitoring of them by police officers. Their certificate of appointment from the commissioner will also define their role and powers. Their uniform will be the same as those of current watch-house officers—that is, it will be similar to that of a police officer—but their badge will apparently indicate that they are auxiliary officers. It is worth noting that police auxiliary officers will have access to Tasers when managing or transporting people in custody, as do the current officers who carry out this role.

Hon Ljiljanna Ravlich: That's a bit scary.

Hon GIZ WATSON: Indeed, and I think there is growing concern about the use of Tasers in this state and I will not go into a particular case that happened only this weekend; my colleague in the other place is working on that.

Although the intention is to limit the functions of police auxiliary officers, the bill does not contain any limitations. The current commissioner will eventually retire and although the current commissioner has stated on the record that he does not intend to include the full range of police functions in appointments during his term, nothing in this bill would prevent a future commissioner from changing that. It is possible to create an auxiliary role with specific powers as legislated—for example, Victoria's protective services officers. We must note that this is not an identical role to that proposed for Western Australian police auxiliary officers. The nearest equivalent that I could find is in the Northern Territory, which similarly grants auxiliaries unnecessarily broad powers under its Police Administration Act.

The concerns expressed in the 1975 Law Reform Commission report about special constables apply here. The information we received initially was that the role of police auxiliary officers would be limited to managing people held in custody in the Perth watch-house; managing property at police stations—for example, if there was a haul of shoplifted property, police auxiliary officers would be responsible for documenting it and preparing it as an exhibit for the court case; guarding crime scenes; and relieving as crosswalk attendants at school crossings. However, it is worth noting that as the debate in the other place progressed, the role seemed to expand beyond this. The second reading speech in the Council states —

The bill is drafted in a broad manner so that the Commissioner of Police will not be constrained in determining the nature of the secondary policing functions that will be assigned to the police auxiliary officers.

...

This bill is important in the ongoing fight against crime as it provides the Commissioner of Police with the flexibility to appoint the police auxiliary officers to assist police officers in the completion of many nonoperational duties. As a result, this will free the police officers from many such duties, enabling there to be a greater front-line policing presence.

My questions in relation to this are: what functions are currently intended to be fulfilled by police auxiliary officers; is it the intention that police auxiliary officers will be permitted to exercise general police functions, and, if not, why does the bill not specifically limit the powers to be exercised by police auxiliary officers; and have the standard operating procedures for police auxiliary officers been finalised, and, if so, can they be provided to the house so that we can consider them?

Clearly, police auxiliary officers will require appropriate training and qualifications to carry out their functions. Making the commissioner responsible for this is consistent with paragraph 54 of recommendation (g)(i) of the 1975 Law Reform Commission report. At the briefing we were told that training and other qualification requirements were being finalised, but at this stage the details are that the training will be similar to that given to special constables presently working at the watch-house. This training comprises eight weeks of training on the management of people in custody and four weeks of training on managing property, guarding crime scenes and being crosswalk attendants; followed by six months probation with on-the-job assessment and monitoring by people currently working in these roles. Requalification will be required every two years. Perhaps in his response the minister might indicate whether that information is accurate. The duty-of-care component of the prisoner-handling training will be the same as that for police officers and the people currently carrying out that role, and will take almost three weeks to complete.

On 14 October this year the Assembly was told that the cross-cultural component of training will be conducted over a total of one and a half days. I assume that is one and half days of training on all cultures. I would argue that there is quite a difference between Aboriginal cultural training and more general cultural training and that one and a half days does not seem to be very much time. Police auxiliary officers will not have as much legal training as police officers, in line with their more limited functions. Other qualifications that are required include an entrance exam, which is the same as that for police officers, and a fitness assessment, which has been developed with occupational health and safety advice. Although the fitness level requirements are lower for police auxiliary officers than for police officers because of their more limited functions, police auxiliary officers will be empowered to pursue and apprehend people escaping from lockups. There was also discussion about auxiliary officers calling for police backup. To work at the watch-house, a psychological assessment and interview will be required, and a higher level of psychological profile will be required for police auxiliary officers than for police officers. Other requirements include a panel assessment and interview, criminal record and integrity checks and a first aid certificate. It has also been suggested that there will be career path opportunities to enable police auxiliary officers to become police officers, in the same way that Aboriginal police liaison officers were encouraged to become police officers.

I have questions for the minister about the content of the cross-cultural training that the police auxiliary officers will receive, particularly in relation to their work with Aboriginal people held in custody at watch-houses, how the content and duration of the training was arrived at, and who will deliver the training. I also want to know whether the training requirements for police auxiliary officers have been finalised; and, if so, whether we can see a copy of the requirements. Have the other recruitment qualification requirements for police auxiliary officers been finalised; and, if so, can we see them?

The transition process will be similar to that for Aboriginal police liaison officers in 2007. There are currently about 65 special constables working at the watch-house, and they have been invited to become police auxiliary officers. Those who decline will be able to continue as special constables in their usual roles. No further special constables will be recruited for watch-house work; this will be done by police auxiliary officers only. Special constables may be used in other roles—for example, cross-border work. This year, 40 new police auxiliary officers will be appointed. We were told at the briefing that the budget will cover this. It is anticipated that 150 more will eventually be appointed. We were also told at the briefing that police auxiliary officers will not be moved around the state in the same way that police officers are, and that they will essentially be public servants; their award will reflect that status. This will enable recruitment of local people, which is a good initiative.

With regard to assaults on police auxiliary officers, we were told at the briefing that the recent mandatory sentencing laws for assaults on certain public officers will cover police auxiliary officers while they are on duty. This was confirmed during debate in the other place. We were also told that the officers will be covered by section 318 of the Criminal Code, which relates to serious assaults—for example, an assault on a public officer.

In respect of accountability, the 1975 Law Reform Commission report recommended that the police commissioner be solely empowered to appoint special constables, to delineate their powers and to exercise disciplinary authority over them. The report also recommended at paragraph 54 that special constables be required to carry their certificate of appointment with them whenever performing their duties, and that the commissioner set out details of appointments of special constables yearly in his annual report. Accountability for police auxiliary officers is provided in the bill via proposed section 38I. Under that proposed section, police auxiliary officers are not members of the police service for the purposes of the Police Act, but other provisions make police auxiliary officers subject to the internal disciplinary procedures contained in the Police Act. The commissioner, with the approval of the minister, is empowered to make rules, orders and regulations in respect of auxiliary officers under the Police Act. Auxiliary officers are also brought within the Police Act's provisions for internal investigation, discipline and appeal.

Proposed subsections 38G(3) and (4) permit the commissioner to vary or cancel the appointment of a police auxiliary officer at any time. Proposed section 38H(2) provides that other written laws referring to police officers or members of the police force that do not confer a power, duty, obligation, authorisation, exemption or exception are taken to include a police auxiliary officer, unless the provision states otherwise. We were told at the briefing that this will ensure that police auxiliary officers will be covered by external investigation processes—for example, the Ombudsman and the Corruption and Crime Commission. I have checked both the Parliamentary Commissioner Act 1971 and the Corruption and Crime Commission Act 2003, and I think this is correct. Perhaps the minister could give me a clear indication that police auxiliary officers will be covered under those acts and be subject to external investigation processes.

I foreshadow an amendment standing in my name on the supplementary notice paper to provide that a police auxiliary officer must, at the reasonable request of a person, produce evidence of his or her appointment, terms and conditions. This is to ensure that members of the public can readily identify auxiliary officers. The amendment is based on the wording used for investigation under section 523(5) of the Legal Profession Act 2008, but for the sake of consistency the penalty has been adjusted to match the penalties contained in the bill. I chose this wording because it is the wording with which the then Labor government proposed the removal of the penalty. The Greens opposed that proposal and, with the support of the Liberal party, gained that amendment.

I understand that there is resistance on the part of the government to accepting any amendments to this bill; for what reason, I am not quite sure. The pattern that seems to be developing is that no amendments will be entertained in this place ever again, and that if something has gone through cabinet, that is it. It makes me think that we may as well pack up and go home rather than go to the bother of mounting some good arguments for putting checks and balances into legislation, which is the longstanding tradition of this house. This amendment is not at odds with the bill. The government has so far resisted any change restricting the commissioner's wide discretion over the role of police auxiliary officers. The government has argued that no-one raised this concern when a very similar bill for Aboriginal police liaison officers was passed. However, the situation is different; the role of APLOs already had a 30-year history, was well understood and was, by its nature, fairly constant in its aim of improving the cultural competency of the police service. The second reading speech for this bill indicates that the role of police auxiliary officers is intended to be flexible depending on the commissioner's needs at any

given time. The proposed wording of the amendment does not interfere with this, but simply assists with monitoring and accountability.

I encourage members to consider this amendment when we get to the committee stage. I indicate that the Greens' support for the final passage of this bill is very much contingent on what happens during the committee stage. Our concern remains that the appointment of these officers is at the discretion of the commissioner. I know that Hon Kate Doust has some amendments in her name on the notice paper designed to ensure that the definition of the powers, duties and obligations are prescribed in regulations rather than left entirely to the discretion of the police commissioner. The Greens (WA) support those amendments. They will not impede the passage of the bill. They mean that the powers, duties and obligations will come before this place and have the scrutiny of Parliament. At the very least, that should occur to provide a check on an otherwise very broad power to be given to the Commissioner of Police. With those comments, the Greens (WA) support the second reading of the bill.

HON LJILJANNA RAVLICH (East Metropolitan) [9.20 pm]: I rise to make some comments on the Police Amendment Bill 2009. In doing so, I will restate the opposition's position, which has already been put on record by Hon Kate Doust as our lead speaker on this legislation. We will not be supporting this legislation for two key reasons. First, this is not about additional police numbers, but rather substitution. Secondly, the opposition also has a range of other issues that cause it considerable concern.

The notion of police auxiliary officers is nothing new. In fact, many countries have police auxiliary officers. They can be found in Canada, Hong Kong, Hungary, Israel and Malaysia—just to name a few places. I was having a little chuckle earlier with my parliamentary colleague Hon Ken Travers, because Sweden has the Swedish auxiliary police association and they are referred to as the Beredskapspolisföreningen. There are many letters in that! There is nothing new about this concept, but what is new here is that the government has gone on the public record and promised that it would fund 500 new police officers; however, we find there are only 350 fully funded police officers, and 150 officers are in fact police auxiliary officers. That is very disappointing. What is even more disappointing is that more recent information put out in the public by the Minister for Police and the Premier continues to refer to the government funding an additional 500 police officers. That is simply not true, and the government should at the very least start changing the language that it uses to reflect the truth. The truth is that there are only 350 police officers and there are 150 auxiliary officers. I went back to look at the history of this issue and went to the Liberal Party website to look at its 2008 election commitments.

Hon Nick Goiran: Good website, hey?

Hon LJILJANNA RAVLICH: It works, and I found the information that I was looking for, so that is the only comment I will make on it.

The commitment was very clear that if elected a Liberal government would recruit an additional 500 police officers over five years and an extra 200 specialist officers to further boost police resources. In the preamble to the "Liberal Plan for Police", there was an executive summary followed by a subtitle "Labor's faults", and the second paragraph of that read that Labor had hoarded a \$2 billion surplus but had failed to plan for the future, and had therefore made the people of Western Australia feel unsafe in their communities. I had to have a quiet chuckle at that allegation against Labor, because here we have a Liberal government that has just passed its first 15 months in office and instead of having a \$1.5 billion surplus, it has a \$700 million deficit. I have to also say that if I had to make the choice between a government hoarding a \$2 billion surplus or having a \$700 million deficit, I know which I would choose. We are in a far worse state today than we were then. There is no doubt in my mind that it all comes down to a question of money.

The next page of the Liberal Party policy, in heavy font, reads —

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

It goes on and says —

With a growing population and increasing crime rates, more police are needed throughout the state.

Western Australia needs more police on their feet, in the street.

I had to have another quiet chuckle there, because they have had their cars taken away from them; they have had their motorbikes taken away from them, and their mobile phones taken from them so, of course, they are going to be walking up and down the street "on their feet". This must have been a real brainwave by some Liberal think tank

Hon Simon O'Brien: What do you want them walking on—their knuckles, like you?

Withdrawal of Remark

Hon LJILJANNA RAVLICH: That is unparliamentary and I would like the member to withdraw.

Hon Simon O'Brien: Withdraw what?

Hon LJILJANNA RAVLICH: That. Come on; stand and withdraw it!

THE DEPUTY PRESIDENT (Hon Michael Mischin): Are you requiring the member to withdraw that remark?

Hon LJILJANNA RAVLICH: Yes, I am, because he implied that I was a Neanderthal woman, and I do not like that, and I think he should withdraw it.

Hon SIMON O'BRIEN: Mr Deputy President, I said no such thing. I did not imply that the honourable member was a Neanderthal woman. I have nothing against Neanderthal women. I have never met one, and I certainly would not presume to compare my good friend opposite with one in case it caused some offence in some quarter. But if she is upset about anything that I have said, then, of course, I withdraw, because she is such a sensitive creature.

Hon LJILJANNA RAVLICH: Thanks for that, and I accept the apology.

Debate Resumed

Hon LJILJANNA RAVLICH: The point that I was making is that police have had a really rough time in the past 14 or so months. There is no doubt that their job must be a lot harder without their cars, without their motorbikes and without their phones. In respect of what was promised by the Liberal Party prior to the election compared with what we have ended up with, I think that people can feel rightly disappointed. I certainly believe that the police department can also feel quite cheated, because there is no doubt in my mind that if the Commissioner of Police had his way, he would choose to have a further 500 police officers rather than 350 police officers and 150 auxiliary officers.

There is also the question of what functions auxiliary officers can perform compared with fully fledged police officers. It is a bit like saying that a teacher's assistant in a primary school can do all the things a fully trained teacher can do. The simple fact is that they cannot, and nor should they. What is very worrying about this legislation is that we have wrapped up within this amendment bill the power for the commissioner to provide additional functions to police officers. In fact, the Commissioner of Police will have the ability to limit the power that an auxiliary officer holds; that is, the commissioner will have the power to either increase or decrease the powers of an auxiliary police officer. The commissioner can also make a determination about when such powers can and should be exercised. He may want auxiliary police officers to have a greater set of powers at certain times of the year for certain reasons and then reduce the power that they have at other times in other circumstances. I am worried that this is all very loose and that this will be done by an instrument. There is certainly the potential for auxiliary officers to not know when these changes will occur. Will the auxiliary officers know when their powers have been increased and will they be notified when their powers are decreased? With what frequency will these changes occur? With regard to the offences for which some powers may be exercised, will the auxiliary police officers have the flexibility to adapt to the range of changes that may be forced upon them as a result of the power of the Commissioner of Police to make such determinations, which will impact on how the auxiliary officers perform their functions on a day-to-day basis? They are very concerning issues.

This is a matter of economics. That was brought to our attention and became very focused during a hearing of the Standing Committee on Estimates and Financial Operations on 27 July 2009 when the committee had before it the Commissioner of Police. My colleague Hon Ken Travers went out of his way to seek information on the question of auxiliary officers. Hon Ken Travers referred to the line item in the budget titled "Changes to the Mix of Additional Police Officers and Police Staff", and said —

I assume that is the decision to change the additional police officers promised during the election to make them now unsworn officers.

Hon Ken Travers wanted to obtain some background information on that matter. The commissioner advised the honourable member —

They will be sworn officers, but they will be what is called limited function or auxiliary officers.

Hon Ken Travers then asked —

In terms of medical benefits and the like, what will be the situation regarding auxiliary officers? Will they be the same as sworn, ordinary officers, or will they be treated in a different way?

The commissioner replied —

It is not intended that they act, or they are employed under exactly the same EBA as current police officers.

This was the same question that Hon Kate Doust asked. The commissioner went on to say —

That is still to be negotiated with the union, the industrial part of it. It is not part of the act itself.

There certainly are some practicalities that are yet to be determined regarding the creation of these positions. Hon Ken Travers then went on to say —

Hon Ken Travers: He is a good bloke.

Hon LJILJANNA RAVLICH: He is. Hon Ken Travers said —

The other thing is, in terms of the line item, it varies over the forward estimates. Can you give me an explanation as to why you expect to make more savings in 2011-12 than in 2012-13?

The commissioner referred that question to Mr Bechelli, the chief financial officer, who explained —

The actual increases are associated with the change in the mix. Auxiliary police officers would obviously be paid at a lower rate than sworn officers. Initially the savings in the front end is—the cost to recruit a first-year constable versus the auxiliaries is roughly the same, or would be slightly higher for an auxiliary. Then as it moves out in the forward estimates and more numbers of auxiliaries come on versus the police officers, then the gap will grow in the out years. So it is just a case of the cost of auxiliaries is slightly cheaper in the out years, and as the police officers move through their normal incremental ranks, the costs will actually increase in the out years. It is purely and simply due to the additional—the change, or more auxiliaries come on versus police officers over that period, as well as the differential in salaries.

The Commissioner of Police said that the key to it is —

The police officers are subject to a separate promotion system, obviously, so they will get promoted and as the years go by they will get more expensive because you are paying them more money; the auxiliary officers will stay fairly constant, so then you start to save money in the out years.

This is all about the economics. This is not about what is good for the state anymore, because what is really good for the state is for the government to deliver the 500 officers that were promised during the election campaign. We all know that the government has a problem with the state's finances and that we have a spendthrift Treasurer who cannot contain spending. We know also that the honourable Premier has a real problem with spending. When he was the Minister for Education, he promised teachers a pay rise that accounted for some \$100 million without even taking it to cabinet. We know that he is a spendthrift and that there are some very serious problems with the budget. This is supposed to be some sort of a halfway house whereby the government can be seen to be delivering on an election commitment without really doing so.

Having done some work in this area, after I had gone through all these things, I thought that perhaps the government should have put out a plan A and plan B. Plan A would have been that if the government could manage its finances and if it had some money left in the kitty, the public would receive 500 additional police officers. Plan B would be that if the government could not manage its finances and mucked up its finances to the extent that it caused financial mayhem and could not afford to continue governing the state, the government would provide 350 police officers and 150 auxiliary officers. That would have been a much more honest way to go about this. In truth, that is exactly what has happened.

My colleagues have outlined some of their concerns, including Hon Giz Watson, who put on record her concerns about this legislation. I have concerns about the integrity of this matter. It certainly is not what people expected. The Western Australian public can rightfully feel cheated about what has gone on. I am very satisfied with the position that Labor has adopted on this matter because we want to hold the government to its promises. This is not what the Liberal Party said it would deliver; it is quite a different beast and it should not be supported in its current form.

We think that this bill is really policing on the cheap. I certainly think that there may be some operational problems with the auxiliary officers. I do not believe for a moment that Western Australian taxpayers will be getting value for money by the creation of these positions.

The bill is fairly simple. A large part of it makes a great deal of amendments to a range of other legislation. That is the thrust of it. Having made those comments, we will not be supporting the bill. I am quite satisfied that that is the case.

HON KEN TRAVERS (North Metropolitan) [9.41 pm]: I rise to make some comments on the Police Amendment Bill 2009. I note the comments made by preceding members. I wanted to cover a couple of slightly

different areas from those that have been covered tonight. I congratulate Hon Ljiljanna Ravlich for quoting such an interesting matter that arose during a Standing Committee on Estimates and Financial Operations hearing.

When I first got a copy of this bill, I found it interesting that we were creating a new form of police officer—members have gone through that—without describing their functions and how they would be allocated within the police service. That was going to be left purely to the Commissioner of Police. I mentioned earlier that we will see a couple of themes this week and next week, if we sit next week. We will see a theme of legislation being rushed into Parliament. In fairness, this legislation does not fall into that category. We will also see a theme of legislation that delegates Parliament's powers to another group. Over the past eight years that I have been a member of this place, and probably even the four years before that, because there was a balance of power in this place in which the government did not have a majority, governments tried to delegate legislation to groups outside Parliament. It was often resisted by the opposition, which resulted in amendments being made. We do not face that situation anymore. We now have a government that has the numbers in this place and a fair degree of relatively new backbenchers. Governments find that it takes some time for backbenchers to find their voice and start to question the actions of governments. From a government point of view, it is very simple and easy to delegate legislation and say, "Trust us; we'll look after it. You don't need to worry about the legislation." In the past this chamber has acted as a bit of a protection from governments doing those sorts of things.

Hon Liz Behjat: Protection against your government—that was why.

Hon KEN TRAVERS: This is the problem that Hon Liz Behjat raises. Everyone's answer is: "Don't worry because the people in charge today"—it is the Liberal Party today —

Hon Liz Behjat: Trust us.

Hon KEN TRAVERS: Hon Liz Behjat will find out that one day evil Liberals might get into power rather than nice Liberals.

Hon Liz Behjat: There's no such thing.

Hon KEN TRAVERS: We read the papers. We know that members opposite are not one big happy family. One day the Minister for Police might not be their friend. It might be an evil person. It might be someone who wants to be a totalitarian and start to abuse those powers.

Hon Robyn McSweeney: What about the CFMEU leaving the Labor Party?

Hon KEN TRAVERS: Hon Robyn McSweeney is supporting my point; that is, whilst today she might have faith and trust in the people in her party, the job of this Parliament is to put in place legislation that will survive and provide protections long after she has gone and long after the Leader of the House finishes the second half of his parliamentary career.

In case members have not looked at it, this bill amends a number of pieces of legislation—two in particular. Firstly, it amends the Police Act. What date was the Police Act enacted? It was enacted in 1892. Secondly, the bill amends the Bail Act of 1982. The existing act—the Police Act—has lasted for over 100 years. It is probably one of the few acts still in existence that was passed by Parliament before the Leader of the House even came to Parliament. I can proudly say that the Bail Act came in after the Leader of the House came into this place.

Hon Nick Goiran: It is not unamended.

Hon KEN TRAVERS: No, it is not unamended, but my point is that legislation has to last forever and be solid and sound. Interestingly, a change occurred in 1996 in that for the first time the conservatives lost control of this house and the decisions of this house were made by an approach that required negotiation and reaching agreement with other parties in the place, whether it was with the Labor Party, the National Party, the Democrats or the Greens (WA); that was a change from the old way of doing it. Even prior to that change, members of the Liberal Party in the upper house took a fairly strong view about their role as upper house members. They did not always rubber-stamp what came through from the government.

If I can get through the unruly interjections, I will get to my point. This is not one of the most outrageous pieces of legislation that is about delegating the powers away from this Parliament. We can have that debate in a little while when we get to some of the more outrageous legislation that delegates power. If it passes such legislation, this house would fail in its obligations to the people of Western Australia to ensure that legislation is robust and that the executive arm of government is held accountable to Parliament. Members in the lower house do not care about that sort of stuff because that is where the executive is formed. If they have the numbers there, they will exercise them. This place is a little different. Based on the reaction of some government backbenchers tonight—I understand it; we have all been through it—they are still beholden to the government and the executive and they do not want to challenge it at this stage.

Hon Robyn McSweeney: You're beholden to the unions.

Hon KEN TRAVERS: This is the problem that the minister demonstrates. I am not making that sort of an argument. She is demonstrating her lack of ability to comprehend the complexities of the arguments that exist in this place. She can make those cheap shots because my point earlier when I was talking about the Liberal Party position was in response to an interjection that basically stated, "Trust us because we're all nice people today." That may be true. I am sure the Minister for Energy has had a few factional brawls with some of his colleagues in the Liberal Party.

Hon Simon O'Brien interjected.

Hon KEN TRAVERS: There is a rule about misleading the house.

Several members interjected.

The DEPUTY PRESIDENT (Hon Michael Mischin): Order, members! Perhaps we could resume debate on the bill.

Hon KEN TRAVERS: I was about to respond to the interjection from the acting Leader of the House—a very good acting Leader of the House in terms of the way he has performed tonight. He is very cooperative.

I want to turn to the key part of this legislation, which is that it seeks to introduce a new provision for auxiliary officers. I agree with my colleagues who stated that the bill just creates the capacity for these auxiliary officers, but goes no further. As a Parliament, we get to ask what exactly will be the role of these police officers. How will these auxiliary police officers fit within the rest of the system of policing in this state? I must say that when I looked at the Police Act, the interesting thing I found is that we already have a provision for special constables in this state. The provisions for the terms of the appointment of special constables, I have to acknowledge, are in very similar terms, if not identical terms, to those for the appointment of auxiliary officers.

Hon Ljiljana Ravlich: Why the change?

Hon KEN TRAVERS: This is the interesting point, Hon Ljiljana Ravlich—why the change? What will be different between a special constable appointed under this act and an auxiliary constable appointed under this act? I think that is where things become more complex. When we look at the functions of an auxiliary officer under clause 10 of this bill, we find that they are very similar to those of special constables. One of the interesting things is that in what will become section 38I, "Police auxiliary officers not in the Police Force", there is a similar provision that relates to special constables. I think Aboriginal police liaison officers are also included. Where is the significant difference between an auxiliary officer and a police officer? It boils down to this: the one significant difference is that the Commissioner of Police will have the powers to remove an auxiliary officer under the provisions of the Police Act, whereas, as I understand it, he can remove a special constable only as a general member of the public service, and all its procedures have to be followed. I am sure members who have been following this debate closely will have looked at the bill and would understand the procedures for removing a police officer. I cannot off the top of my head remember the section; I think it is section 8, but the precise section does not really matter. But there is an array of procedures that have to be followed that are different from those relating to special constables.

Members could ask: what is the point? What is the problem with that? Obviously, when the police commissioner is not in a position to remove an officer from his or her functions, he is going to be far more constrained in the way in which he uses those officers. Commissioners often use it to create, effectively, full police officers in Western Australia's border areas. An officer who may be a sworn officer in South Australia or the Northern Territory becomes a sworn officer in Western Australia. In that circumstance, if that sworn officer becomes a problem, we rely on his being dealt with by his home jurisdiction. That tends to be the major difference between what will be an auxiliary officer and a special constable. For the purposes of this bill, if passed into law, both will specifically not be members of the police force of Western Australia for the purposes of this act. That becomes contradictory in that we are creating police officers who will not be police officers but will be subject to removal by the commissioner under the Police Act. That is a very strong limiting power in terms of the control that the police commissioner will have over the functions or roles that they will be given. Once this act comes into play, we will have no idea what roles and functions each category of officer will carry out. It will simply be a matter for the police commissioner to determine.

Before I go a bit further on that point, I want to turn briefly to the question: what is the problem with that? Clause 12 seeks to amend section 3(1) of the Bail Act 1982—a modern act, certainly by the Leader of the House's definition. Who becomes an authorised police officer? At section 3(1) of the Bail Act 1982 we find —

authorised police officer means a police officer who holds the rank of sergeant, or a higher rank, or is for the time being in charge of a police station or lock-up;

Why do we have to have an authorised police officer under the Bail Act? Again, if we go to the explanatory memorandum provided with this bill, we see the main function of an authorised officer under the Police Act. Basically, this is about the person in charge of a lockup or a watch-house. The main function is to grant bail in specified circumstances contained within the act. One would assume, when reading the existing act, that an “authorised officer” holds the rank of sergeant or a higher rank, or is for the time being in charge of a police station. We are talking about a fairly senior and experienced officer being the person that one goes to for that function—someone who has been around the traps for a while. Once we amend the act, if this bill is passed, the authorised officer will have a far more expanded definition. It will be a person who holds the rank of sergeant or a higher rank—we continue to maintain that provision. It will be the police officer who is for the time being in charge of a police station—we continue to maintain that part of the old definition. But then we insert new paragraph (c)—we are now alphabetising them. We create a new person who can become an authorised police officer, and who will be listed under paragraph (c) of the bill —

whichever of these officers is for the time being in charge of a lock-up —

- (i) a police officer;
- (ii) a special constable appointed under the *Police Act 1892* Part III whose powers, duties and obligations are or include those of an authorised police officer under this Act;
- (iii) a police auxiliary officer appointed under the *Police Act 1892* Part IIIB whose powers, duties and obligations are or include those of an authorised police officer under this Act;

So, even though we wanted a very senior and experienced person, police auxiliary officers will now have powers to grant bail. That gives us a taste of the way in which this legislation could be used. We have all these categories of police officers. As a Parliament, we are going to have no control over it. We are going to give auxiliary officers the same functions as senior police officers, but they may not have had the training, they may not have the skills and they may not have the experience that is currently expected of those other police officers. What are we going to end up with? My colleagues have already pointed out that the first way that this bill will be used is to reduce the election commitment of 500 police officers to 350. Are we going to see in the next budget a further categorisation to say, “Now we’re going to change these functions, because it is going to save us money, and have road traffic police. We’re not going to employ any more full police; we’re now only going to employ road traffic police at a lower level”? So the commitment to fund 350 extra police officers is actually diminished because, in the next round, we go down.

Hon Max Trenorden: We learnt that off the member!

Hon KEN TRAVERS: Hon Max Trenorden, when have we ever created the role of auxiliary police officers?

Hon Max Trenorden: We did not get the 500 from you! The Labor Party committed to that two elections in a row and never achieved it once!

Hon KEN TRAVERS: My God! No wonder they sent you from the other place up here! You did not learn anything down there and you have not started to learn anything up here! If Hon Max Trenorden has a look at the records, he will see our commitment to increasing police officers and that we delivered on it. This government inherited a police service that had over that number of officers. That was during a time when it was extremely difficult to recruit. In fact, the Chamber of Commerce and Industry of Western Australia will tell members that its greatest concern about the future was the skills shortages in Western Australia. I suspect we will return to a phase like that in the not too distant future, whereby people are drawn up into the process.

Debate adjourned, pursuant to standing orders.