

POLICE AMENDMENT BILL 2009

Second Reading

Resumed from 24 November.

HON KEN TRAVERS (North Metropolitan) [2.13 pm]: In continuing my remarks, may I place on the record my support for the comments of the Minister for Child Protection and Communities on the importance of combating domestic violence and the fact that it is something we should all work on. It is appropriate to make those comments during the debate on the Police Amendment Bill, because it is fair to acknowledge that the police in Western Australia are often the people who first attend domestic violence situations. From my experience of talking to police officers, they are never the easiest things to deal with. They are always among the most confronting experiences that police officers have. We should all acknowledge the work that police officers do. Certainly, the police in the Joondalup area have done some really good work in cooperation with local women's refuges and the like. A few years ago we started a number of trials that have become very successful in combating domestic violence. It is therefore appropriate to acknowledge the minister's comments but also the work that the police service does in this very important area. I thank the minister for remaining in the chamber to hear that. I appreciate it.

I want to go back to a more specific debate on the bill. Members will recall that yesterday I was pointing out that in many regards we are introducing with this bill a new category of auxiliary police, which is in many ways similar to the existing category of special constable, with one exception. I was able to find that exception. This relates to clause 9 of the bill, as the key clause, which really provides the difference between auxiliary constables and special constables. It inserts into section 33K of the Police Act an addition to the definition of a member of the police to include as a new class an auxiliary police officer. As I said earlier, it means that once the substantive Police Act is amended, the Commissioner of Police will have the power to remove an auxiliary police officer from that position through the processes of the Police Act rather than the way special constables are treated, who are treated as normal members of the public service. The point I was trying to make yesterday is that in the past the act provided some protection which limited to some degree the number of options for the Commissioner of Police when allocating powers.

It is interesting to look at the areas in which it is suggested that people will become auxiliary police officers. I understand it is already occurring with custody duties and that people are being looked after by special constables. In the court system private security companies are looking after people in custody. In prisoner transport, people who are not even police officers or public servants are looking after people. Transporting prisoners is another area that was mentioned as a potential. Managing property, school crossing guards and guarding crime scenes were also mentioned. It bewilders me to understand why any of those areas of duties are included. When we look at what occurs with special constables and officers outside special constables, private sector people are already engaged in a number of those areas, not necessarily under the police service, but in other areas that are not covered by the Police Act. I find it quite extraordinary that we need to do this. We are doing it in a way that simply hands over that power from the Parliament to the Commissioner of Police without any further checks and balances.

I want to place on the record that I have a great deal of confidence in the current Commissioner of Police. My impression last night was that members on the other side of the chamber were unanimous in the view that they have absolute, unequivocal confidence in the current Minister for Police, Hon Rob Johnson. That may be very much the case for members opposite. However, as I was saying last night, we are writing legislation that will live well beyond the time in which Hon Rob Johnson is the Minister for Police. As I pointed out, the current Police Act was first enacted in 1892. In light of your comments earlier about this chamber, Mr President, I suspect the act pre-dates the chamber in its current form. This chamber, as it is currently formed, was not even around when the current Police Act was put into operation all those years ago. We need to have robust legislation that provides protection. Members opposite may be a united group. They may be absolutely confident in whoever may replace the minister on their side, but they must realise that when we pass this legislation it must stand the test of time. It may be when a Labor member becomes Minister for Police or when some other member becomes Minister for Police. It might be that one day we will see someone of the ilk of members of the former One Nation party who used to reside in this chamber become Minister for Police.

Hon Giz Watson interjected.

Hon KEN TRAVERS: Hon Giz Watson is indicating that she has concerns about the current Minister for Police in that he might be a bit like the One Nation members who used to be here. The point I make is that the legislation we pass needs to be robust. It needs to be strong. We need to make sure that if we are going to downgrade the role of police officers, we do it in a way in which the Parliament has control. In the past the

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control has been unusual but fundamentally exercised through section 33K of the Police Act. That position will be removed with this bill. Previously, there needed to be a very senior officer to carry out some of the functions under the Bail Act. Those functions will be able to be carried out by an officer who may not be in any way as experienced or trained in the way, from my reading of the Bail Act, that I believe the Parliament was expecting when it passed the original act. We have to ask ourselves why we are doing this and why it is so important. It has been pointed out by previous speakers that this legislation is about allowing the government to get away with not honouring its commitment to appoint 500 additional police officers. The government is now saying that will increase that number by only 350 and that there will be 150 police auxiliary officers. How will we be able to know which officers can perform which functions? Will they have proficiency badges on their uniforms? I used to be a scout!

Hon Max Trenorden: Have you got proof that you were a scout?

Hon KEN TRAVERS: I am happy to provide Hon Max Trenorden with proof of that!

Hon Phil Edman: The scout's motto is "Be prepared".

Hon KEN TRAVERS: That is right!

Will police auxiliary officers end up having proficiency badges so that the public can distinguish them from police officers, and know that they have been trained only to be school crossing attendants, for example? Perhaps they will have a crossing attendant and first aid badge on their uniforms. Those are the sorts of things we need to know when we pass this legislation. How will we avoid setting up a framework under which, at the end of the day, we will not end up getting any of the 500 additional police officers because they will all be police auxiliary officers?

Hon Max Trenorden: It happened when you were in government.

Hon KEN TRAVERS: Hon Max Trenorden raised this point last night, and I will go over this again for his benefit. I am happy to talk about this because it reinforces my point; I appreciate his interjection. When we were in government, meeting our commitment to increase the size of the police service was a very difficult task. Police officers were leaving as fast as —

Hon Max Trenorden: They were leaving in droves!

Hon KEN TRAVERS: That is right, and it was happening right across the community because of the boom. I know that the Premier does not want to talk about it, but we will have another boom, and the same pressures will be applied to the system. The previous government worked very hard to meet its commitment, and it did. Hon Max Trenorden should look at the figures, because they will show that we met our commitment to increase the police service, but it was very hard. I know this, because as a member based in Joondalup, the police academy is just down the road, and it was my pleasure —

Hon Max Trenorden: It's a magnificent academy.

Hon KEN TRAVERS: It is a magnificent academy, and I remember campaigning for the academy to be based in Joondalup many years ago. I was very pleased when it was co-located with Edith Cowan University in Joondalup, but it required a lot of hard work. I attended a number of graduation ceremonies at the academy. The previous government went around the world to attract police officers to Western Australia, and it was a fascinating experience to turn up at graduation ceremonies and see English bobbies becoming Australian police officers. On one occasion there was also an American and a former Dutch police officer. We had recruited them, and that was the hard work that the previous government had to do to ensure that it honoured its commitment to increase the size of the police service. I do not for a moment say that it was easy; it was hard work to find and recruit those police officers to Western Australia. If one travels through Hon Max Trenorden's electorate, one will find that many of the police have Scottish accents, Irish accents, Welsh accents and even American accents, because that is where many of them were placed. It has been a great cultural experience. When I spoke to police officers at the academy, they said that it had been a good experience to have those skills brought in from around the world, and that it had actually benefited the police service. I tell Hon Max Trenorden that when the going gets tough —

Hon Max Trenorden: The tough get going. They've gone!

Hon KEN TRAVERS: We have not even started to see the going get tough. The government has a very weak backbench that is not holding it to account, and 350 transit security officers are to be transferred into the police service as police auxiliary officers. The government will then claim that it has expanded the police service by 500 extra officers. That is what this bill is really about, and that is the sole motivation for bringing it into Parliament; that is why it is on the table. Can a special constable not perform the functions of a school crossing guard under the existing act?

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Hon Max Trenorden: Of course.

Hon KEN TRAVERS: Of course! I thank Hon Max Trenorden.

Hon Kate Doust: He's very helpful, isn't he?

Hon KEN TRAVERS: Absolutely!

The government will rob us of 150 police officers, and we will have to wait to see who else will be moved across. When we get to the committee stage, I will want some commitments from the government. I know that there are conversations taking place between the police and the Public Transport Authority about managing the security fleet, and I welcome that. I welcome everything the government has done until now; it has implemented four points of Labor's five-point plan for increasing bus security, but there is one area it has yet to cover. I encourage the government to hold a parliamentary inquiry to look into the underlying causes of security problems, and how we can better work the security systems already in place. That is the final issue that needs to be dealt with. We have to be very careful about how we do that; I do not want to see a situation where we suddenly find transit security guards becoming police auxiliary officers as a means of honouring the commitment made by the government to the people of Western Australia before the last election to increase the number of police officers.

We also need to know how we are to differentiate between the functions of police auxiliary officers and police officers. I received a phone call over the weekend from a member of my family who owns a small business. The business had been damaged by vandals throwing rocks; other businesses in the same shopping centre and in the general vicinity had also been damaged. When the police were called, they advised that they did not attend such situations. We need those extra 500 police officers; they need to be out there on the beat. Eventually, the police did turn up in that situation, but their initial response was that they did not come out for those sorts of things. There was probably more than \$100 000 worth of damage to those businesses. The public should be able to expect a fully trained police officer to come out and assess the evidence in such cases. Two weeks ago we debated a bill that the government claimed would end graffiti in this state; extra police officers on the beat will make a far greater difference to the fight against graffiti than that nonsense graffiti legislation. At the end of the day, everyone in this chamber accepted that the legislation would not really make an impact and that it was just a bit of spin by the government to pretend that it had done something about graffiti. The reality is that kids under the age of 18 will still be able to obtain all the graffiti implements they want.

Hon Peter Collier: You supported it.

Hon KEN TRAVERS: We did. We will not just oppose legislation for the sake of it. If the government wants to bring in spin, the opposition will not get into a game in which the government can claim that the opposition is stopping graffiti legislation. We let it go through because we are going to hold the government to account. When there is still a graffiti problem in three years' time, we will be able to say that we supported the government but that the legislation was inadequate, and that we were right and the government was wrong and had failed to deliver in the fight against graffiti in this state. We will ultimately support this bill —

Several members interjected.

The PRESIDENT: Order!

Hon KEN TRAVERS: With some amendments, we would support it.

Several members interjected.

The PRESIDENT: Order, members! I do not think that finger-pointing or continuous interjections from four or five members will help the debate. With those two observations, please continue.

Hon KEN TRAVERS: There are circumstances in which we could live with this bill, if we were to be given a guarantee that it is not about downgrading the police service and reducing the number of additional police officers that the government committed to.

Hon Nick Goiran: You know it's not.

Hon KEN TRAVERS: If it is not about that, will Hon Nick Goiran support an amendment to say that the legislation cannot come into operation until the government has honoured its commitment to provide 500 extra police officers?

Hon Nick Goiran: Legislation is supposed to be concise, not a big pile of waffle like you've been spouting for the past 32 minutes.

Hon KEN TRAVERS: I would have been a lot quicker if there had not been so many interjections. I can assure the member that when I started my speech, it was nowhere near as long as it has become. I appreciate it was

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broken in the middle, which always extends the debate, and I had to explain things three or four times to Hon Max Trenorden, which delayed me a little.

Hon Nick Goiran is correct that legislation needs to be concise, but it also needs to be right, and we need to provide the protections in the legislation. It should not be so precise that a bill is a substantive piece of legislation to create power for regulations, and then everything is covered in regulations. That is this government's definition of conciseness in legislation—to create heads of powers for regulations, and nothing more. That is not good legislation. It might be very concise, but it is not good legislation.

Hon Max Trenorden: Don't get into a debate about that because that is the new model for legislation, Australia-wide and in the western world—and the former government was doing it, too!

Hon KEN TRAVERS: If Hon Max Trenorden noticed, I made the comments —
Several members interjected.

Hon KEN TRAVERS: This is why my speech is taking so long! If members re-read my speech in this place last night, they will notice that Hon Max Trenorden was in this historic chamber that is about to change forever when I went through this point—and he missed it! Does Hon Max Trenorden want me to do go through it again, or will the member read *Hansard*?

Several members interjected.

The PRESIDENT: Order! I want the debate to be relevant and orderly.

Hon KEN TRAVERS: I hope I can conclude my remarks without seeking an extension. On that basis, rather than prolong the house, I urge Hon Max Trenorden to read *Hansard* and my comments on the role of this place —

Hon Max Trenorden: I was in the chair.

Hon KEN TRAVERS: The member can still listen, even when he is in the chair; he does not have to sit there and fall asleep. Mr President, I am sure, is listening to me, which is why I am directing my comments to the Chair: in that way, I will get through this speech without these unruly interjections. Oh, my God—it is hard work doing this with these new kids on the block! It really is. In some cases they have no excuse, because they are not all that new to Parliament.

The point I raised yesterday is that regulations are appropriate, but the government has to make sure that it sets the parameters in the bill. Regulations play a role, but there is also a role for setting out the substantive power in the heads of power. As I pointed out yesterday, this house has always played a very important role in acting as the check and balance on that process whereby executives seek to gain maximum power through the use of regulations. Some could argue that that is happening under this act and that the executive is seeking to maximise its capacity and to be unfettered in its power, and that it is our job as a Parliament to temper that attempt. Governments are formed in the other place, so that chamber tends to support the executive. For at least the last 12 years this chamber has been the place—I understand that governments try to argue this—in which the opposition, with the Greens (WA), was able to exercise control and hold the government to account. That no longer exists. We now have a government that has unfettered power in both chambers, and it is starting to exercise it. That will be a problem.

The challenge will be for the National Party or the backbench of the Liberal Party, to step up. I give this warning, which I do not often do: I often worked with ministers to try to get good outcomes, and if members opposite do not step up to their government, they will be out of power very quickly. They will find that the executive will seek that power, they will exercise it and they will lose touch very quickly. It is the job of members opposite to hold the executive to account. We cannot do anything else other than to raise the issues now, put the cases out there and live in hope that some of the Liberal and National Party members will try to bring that government to account when it seeks to get these unfettered powers by way of regulation.

We have already seen a demonstration of this process in the other place. We will see it in this place in a couple of weeks, as regulations were tabled earlier by the parliamentary secretary. The government will use regulation-making power to expand tourism precincts in Western Australia; it will not use the act. That is the sort of unfettered power that the government will seek to achieve. The government will not go through the proper processes of Parliament, and that is the sort of issue members opposite will face. We can go down the path of regulation-making power, but to do that we need to have a strong upper house, by whatever means that can be achieved.

In conclusion, I cannot see why any of the functions that have been listed at the moment cannot already be done by special constables under the current system, by which there is a bit of a check on the expansion of that role. I think the people of Western Australia will want to know that when a police officer turns up to assist them or they

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see a police officer out on the street, that officer is fully trained and fully functioning and capable of doing everything. I do not think the people of Western Australia want to look at the uniforms to try to decipher, from badges or whatever, the functions of that police officer. They want to see the full extra 500 police officers out on the beat. They want to see them so that when those businesses find graffiti on their premises or their windows have been attacked by rocks, the police will have the ability to attend and to catch some of the culprits.

With those comments, I conclude my remarks. I will look for a commitment from the minister during the committee stage on how this measure will apply to transit security officers, which is another very important issue.

HON PETER COLLIER (North Metropolitan — Minister for Energy) [2.36 pm] — in reply: I thank honourable members for their contributions to the debate. A number of issues were raised about the Police Amendment Bill 2009. I say at the outset that it appears from the amendments on the supplementary notice paper from the opposition in particular, and as indicated by Hon Ken Travers, the opposition will support the bill if we support those amendments.

Hon Kate Doust: No.

Hon PETER COLLIER: You will not?

Hon Kate Doust: If you want to put on the extra 500 police officers before you go down this path, then we'll talk about it.

Hon PETER COLLIER: Then you will support it? Anyway, it is a moot point because we will not be supporting the amendments. I will go through that in a moment.

Hon Max Trenorden: Because you are not in opposition, and in the mind of the opposition it is a maybe.

Hon PETER COLLIER: Clayton's!

A number of questions were asked, most from Hon Kate Doust, which I would like to respond to, and from various other members, which I will answer collectively. If there is anything that members feel I do not respond to adequately, I will deal with that in committee.

First of all, several members raised the incorporation in this bill of 150 police auxiliary officers and the accusation that, in fact, that does not meet the government's election commitment or promise of 500 additional police officers. Those 150 auxiliary officers will in fact be performing roles currently undertaken by police officers, and as such they will release 150 fully sworn police officers to front-line duties over the next four years. If those 150 officers are added to the 350 officers, the public will see that 500 additional police officers will be in front-line roles in Western Australia.

I will go through the questions and the responses, and I will try to respond to all Hon Kate Doust's questions. She asked, as did Hon Ken Travers, about the difference between special constables and police auxiliary officers. The provisions in clause 10, which deals with police auxiliary officers, and part III of the Police Act, which deals with special constables, are virtually identical. The key difference is that the bill ensures that police auxiliary officers come within the disciplinary regime of the Police Act. The member asked about the difference between Aboriginal police liaison officers and police auxiliary officers. Again clause 10 of this bill and part IIIA of the Police Act, which deals with Aboriginal police liaison officers, are virtually identical. The difference is that APLOs have to be Indigenous, as the title suggests. Also, APLOs are subject to the disciplinary regime in the Police Act as a result of the Police Amendment Bill 2008.

The member asked how long the functions will apply. It is planned that the role of the police auxiliary officers will remain constant for as long as possible. However, as with any employment role, and particularly for policing, this is likely to be subject to some change over the years.

Hon Kate Doust and Hon Ljiljanna Ravlich asked about where the functions of police auxiliary officers would be defined. The functions will be provided for in the certificate of appointment, as outlined in clause 10—proposed sections 38G and 38H—as happens for Aboriginal police liaison officers. It is intended to post the details of the certificate of appointment on the WA Police website for access by the public.

The next question was: when will a position description be finalised? The position description has been largely unchanged since July this year. A copy of that was provided to the opposition, actually, during the briefing. There is no mention or intent that police auxiliary officers will perform transit guard duties or help out at South Perth on the Australia Day public holiday. That question was also raised by Hon Ken Travers.

The next question was about why we had included casual employment in the industrial agreement. The answer is that casual employment is included as a standard option, to allow for flexibility in the future should that type of

employment be suitable for a future role. There is no current intent to employ police auxiliary officers on a casual basis in police stations or the Perth watch-house.

Hon Kate Doust: That is not what your advisers told me at the briefing; I was told they would be employing casual auxiliary officers.

Hon PETER COLLIER: I hope I have clarified that for the member now.

The next question was: why are there three tiers of police auxiliary officers? The three tiers of auxiliaries mirror the current structure in the Perth watch-house, and it is intended to remunerate these officers fairly for the level of responsibility.

The next question was: will police auxiliary officers in regional areas be eligible for housing or accommodation allowances? No, they will not. They will be recruited locally, and, as such, there will be no need for housing to be provided.

The next question was: will police auxiliary officers who are successful in obtaining a police officer role have their length of service recognised? Yes, they will. As happens for APLOs, any officer who transitions to a police officer role will have his or her service recognised for entitlements such as long service leave, and for police medals and awards.

Both Hon Kate Doust and Hon Ljiljanna Ravlich asked what training will be provided to police auxiliary officers. Police auxiliary officers will receive the same training currently delivered to custody officers—that is, nine weeks at the police academy—plus an additional three-week module that addresses the station-based duties that will be added to the role. This additional module will include training on the receipt, management and transfer of firearms, property, exhibits and drugs; court orderly duties; crossing guard duties; the processing of summonses and restraining orders; emergency management support; audit requirements; bail procedures; and information security.

I was asked whether I could provide detail on the qualifications an applicant would be expected to have to apply for the role of an auxiliary police officer, and whether they would be the same qualifications as those required of a police officer or whether they would be of a lower standard. In answer to those questions, I indicate that the physical, medical and integrity testing is the same. The main difference is the entrance exam, because the selection criteria are less broad than the 22 dimensions identified as part of a constable role.

The next question was: how can police auxiliary officers become police officers? A police auxiliary officer who wishes to become a police officer will apply via the normal channels and will need to meet the same selection standards as an external applicant. The applicant's experience as a police auxiliary officer may support his or her performance in the selection processes; however, it will not exempt him or her from the usual processes.

I was asked by several members about the uniform that will be worn by police auxiliary officers. The uniform is distinct—this is important—and has badging on the chest area, the sleeve, the cap, and any wet-weather gear that clearly identifies them as auxiliary police officers. They will also wear maroon epaulettes, as opposed to the black ones worn by police officers. When driving marked police vehicles, auxiliary officers will use a canvas light bar cover that identifies that the vehicle is being driven by an auxiliary.

I was asked what protection will be afforded to police auxiliary officers when assaulted in the course of their duties. They will be considered, in law, in the same way as police officers. If an assault that occasions grievous bodily harm is proven in a court of law, the offender will be subject to mandatory imprisonment provisions.

The next question was: how will police auxiliary officers be employed? Initially, they will be employed on a new contract that will contain above minimum conditions. Where practicable, the conditions will be similar to those of police officers. Once police auxiliary officers have commenced, WA Police will work with the union that has coverage to establish an agreement. Hon Kate Doust was interested to know which union will have coverage. The answer is that union coverage is yet to be determined. The Western Australian Police Union of Workers and the Community and Public Sector Union-Civil Service Association of WA are in discussion on this matter, and we expect a resolution prior to the employment of police auxiliary officers.

The next question was about where police auxiliary officers will be located. The existing custody officers at the Perth watch-house will have the opportunity to transition to police auxiliary officers, so it is expected that the initial concentration of auxiliaries will be there. Later in 2010, new positions will be created in districts throughout the metropolitan area, and in two regional locations.

Hon Ljiljanna Ravlich asked about the weapons that police auxiliary officers will carry. Police auxiliary officers will be trained in the use of handcuffs, batons, pepper spray and Tasers, as are custody officers now. The police manual details when this equipment is to be carried and used.

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Hon Giz Watson asked several questions. She asked if there was a specific incident with custody officers that led to the Commissioner of Police wanting to employ police auxiliary officers under the disciplinary regime of the Police Act 1892. No, there was not. The commissioner's view arises, in part, from recognition that their role, particularly in a custody environment, can involve a degree of physicality at times.

Hon Giz Watson also asked whether police auxiliary officers were subject to oversight by the Ombudsman and the Corruption and Crime Commission. Yes, they are. Hon Giz Watson also requested details of the cultural training that auxiliaries will receive. Police auxiliary officers will receive approximately one and a half days of cultural training, delivered by the Indigenous and community diversity unit, plus sessions on the Aboriginal visitor scheme, the Aboriginal Legal Service, and the Deaths in Custody Watch Committee. Also, sessions that deal with mental health will be delivered by the Mental Health Emergency Response Line and will include references to Indigenous issues. This is, of course, in addition to the equal employment opportunity and ethics training, which has cultural components.

Hon Giz Watson requested details of the standard operating procedures for auxiliary officers. Police auxiliary officers will, in the main, follow the procedures set out in the police manual, as police officers and custody officers do now. Minor modifications are currently being identified.

Finally, Hon Ken Travers asked why we were also amending the Bail Act. That is being done to make clear that senior police auxiliary officers will be able to grant bail, as they will be replacing senior police officers in such roles.

I feel that all questions asked have been covered, but if any members feel that I have not done so adequately, they can certainly use the Committee of the Whole stage to seek clarification of the answers to those questions.

I turn now to talk about the suggested amendments. The government will not be supporting Hon Giz Watson's amendment, which is that a police auxiliary officer must, at the reasonable request of a person, produce evidence of his or her appointment terms and conditions. I have discussed this with Hon Giz Watson. The government will not be supporting that amendment as it is primarily covered through regulation 904, but we can perhaps cover that more comprehensively during the committee stage.

The first of the amendments from the opposition is about the proclamation of the act, and it provides that it be proclaimed only after a further 500 police officers have been recruited. The government will not support that amendment. It would not be possible, obviously, to delay the appointment of police auxiliary officers until 500 police officers are appointed, as that could take several years.

The opposition's second amendment relates to clause 10 and is in the name of Hon Kate Doust. The government will not support that amendment because it regards the amendment as unnecessary. Proposed section 38G(5), on page 7 of the Police Amendment Bill 2009, states at line 18 —

The appointment of a police auxiliary officer, its terms and conditions and any cancellation of it must be in writing and signed by the Commissioner.

Hon Kate Doust: Whereabouts is that again?

Hon PETER COLLIER: That is proposed section 38G(5) on page 7 at line 18, so the amendment is already provided for.

The opposition's third amendment is about the tabling in both houses of Parliament, within 90 days, of any documentation for appointments or alterations to appointments for police auxiliary officers made by the Commissioner of Police. The government will not support that amendment. Appointment documents for police auxiliary officers are issued to each individual officer, and it is unreasonable that the contents and the identity of those officers should be subject to tabling in Parliament.

The government will also not support the fourth and fifth amendments to clause 10, as these changes would remove the proposed process whereby the Commissioner of Police, via a written document of appointment, sets out the powers, duties and obligations of a police auxiliary officer, and replace it with a requirement that this be done by regulation. The provisions presently in the bill are consistent with the manner in which the powers, duties and obligations of special constables and Aboriginal police liaison officers are made. As previously stated, these provisions were enacted in 2006 and 2008 respectively by legislation introduced by the previous state government.

Having said that, I thank members for their contributions, and we can cover any further areas at the committee stage. I commend the bill to the house.

Question put and a division taken with the following result —

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Ayes (18)

Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan
Hon Phil Edman

Hon Brian Ellis
Hon Donna Faragher
Hon Philip Gardiner
Hon Nick Goiran
Hon Alyssa Hayden

Hon Col Holt
Hon Robyn McSweeney
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton

Hon Simon O'Brien
Hon Max Trenorden
Hon Ken Baston (*Teller*)

Noes (13)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple
Hon Kate Doust

Hon Sue Ellery
Hon Jock Ferguson
Hon Jon Ford
Hon Lynn MacLaren

Hon Ljiljana Ravlich
Hon Sally Talbot
Hon Giz Watson
Hon Alison Xamon

Hon Ed Dermer (*Teller*)

Pairs

Hon Nigel Hallett
Hon Liz Behjat

Hon Adele Farina
Hon Ken Travers

Question thus passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Peter Collier (Minister for Energy) in charge of the bill.

Clause 1 put and passed.

Clause 2: Commencement —

Hon KATE DOUST: I move —

Page 2, lines 8 and 9 — To delete “on a day fixed by proclamation, and different days may be fixed for different provisions” and insert —

to be proclaimed after a further five hundred police officers have been recruited and subscribed to the required engagement in accordance with section 10 of the Act

This amendment goes back to the issue that has been picked up by a number of speakers on this side. This legislation is about the government cost shifting and cost cutting. The government made a commitment to the Western Australian community during the election period that it would seek to engage another 500 police officers during its first term. Because of financial pressures placed upon the government, it is now renegeing on that commitment and is seeking to employ only 350 police officers, along with the 150 auxiliary police, who are pseudo-police, if one likes, and will not be able to fulfil the same function as police officers. Having spoken to the Western Australian Police Union, I know that its preference would be to have these 150 spaces filled by police officers, not by auxiliaries. The union knows that this legislation will go through, and people will be employed in this auxiliary capacity on very restricted terms. There is no clarity for the community, and there is certainly no clarity for the Parliament, about the role and function of these auxiliary officers now and in the future. That will be left up to the Commissioner of Police, because this government is prepared to devolve that responsibility away and give more capacity to the commissioner to make decisions about how our community will be policed. This government needs to take a much more proactive stance and take back that control. One way to do that is to make sure that it delivers on the 500 extra police officers committed to during the election. One of the reasons the opposition is not prepared to support this bill is that it is not prepared to have this government break an election commitment. In our view, this bill should not be proclaimed until the government delivers on its election promise to the community to put in place 500 extra police officers. That is not 350 extra police officers and 150 office staff, or 150 custodial officers; that is 500 extra police. Having been out and about over the past couple of weeks in community forums at which law and order and crime issues have been at the forefront of the interests of the people attending, I have found that all of them talked about the difficulties they have in getting a police response in a timely manner. I know that the minister has said that putting in place these 150 people will free up 150 police officers, but that still does not deliver the 500 extra police. All the minister is saying is that he will move people around. The government must deliver on the promise that the Liberal Party made, otherwise it will be short-changing the community. Our position is that until the government delivers on its promise to provide the 500 extra police that the community needs, we will not support this bill. This legislation does not achieve the aim of providing an extra 500 police officers. If the government wanted people

who could do non-front-line types of work, be it office work, lollipop attendants at school crossings or workers to transport prisoners, it could do that. Special constables, Aboriginal police liaison officers or even public servants who work in the police force could pick up that workload. Nothing constrains the government from employing additional staff in those areas. The government is creating a new type of employee about which we have no detail. That will all be left up to the Commissioner of Police to determine and the details will not be made public.

We will not support this bill. We want this amendment to be passed because we want to keep the government honest. We want to ensure that the government delivers on its promise to the community. Until that happens, we cannot support what the government is trying to achieve. Although we support in principle the employment of additional staff to work in this area, we do not support the fact that these auxiliary officers will supplement police officers. They are not extra police officers. The employment of auxiliary officers dilutes the commitment the Liberal Party made to employ an extra 500 police officers. Until there are 500 extra police officers in place—not just people who have been moved around—it does not matter how many other types of people the government employs; it must put in place those 500 extra police officers to deliver on the Liberal Party's commitment.

Point of Order

Hon SIMON O'BRIEN: I query whether this amendment is in order. Is it possible to have a commencement date such as that which is being described in the terms shown on the supplementary notice paper that the honourable member has just moved? This amendment is very inexact, imprecise and irregular.

The CHAIRMAN: I believe that this amendment is within the scope and purpose of the bill, given the proposed insertion. My reading of it is that there does not appear to be anything seriously wrong with the amendment moved by Hon Kate Doust.

Committee Resumed

Hon PETER COLLIER: Do you mind if I stay seated during the committee stage?

The CHAIRMAN: No, that is fine.

Hon PETER COLLIER: Thank you, Mr Chairman. As I mentioned in my summation of the second reading debate, the government will not support this amendment. We think it is nothing more than a political move on the part of the opposition to —

Hon Kate Doust: What about the 500 officers you promised?

Hon PETER COLLIER: I am saying that we will provide 150 auxiliary officers. If this amendment is passed, they cannot be deployed until the 500 police officers are employed. In essence, that detracts from the merits of this bill. Members must not forget that the Commissioner of Police wants the auxiliary officers so that he can put police officers out on the beat. He wants them on the beat so that they can make our streets safer and perform the roles that they should be performing rather than sitting behind a desk. That is why the government will not support the amendment.

Hon GIZ WATSON: The Greens (WA) have considered this amendment but we are not interested in the perpetual bidding war between the major parties about who can put more police officers on the street. During the election prior to the last, I distinctly remember the Commissioner of Police putting on the public record that he did not want any more police officers. That surprised me at the time. I do not know whether he has said that again recently. It is up to the discretion of the Commissioner of Police to decide whether he wants auxiliary officers or police officers. We will not engage in that debate. We oppose this bill, not because we believe the Liberal Party should adhere to its election commitment but because we oppose the fact that the commissioner has absolute discretion to appoint the auxiliary officers and remove and prescribe their powers and duties without recourse to Parliament. That is why we are opposed to this bill and we will not support this amendment.

Amendment put and negatived.

Clause put and passed.

Clause 3 put and passed.

Clause 4: Section 9 amended —

Hon GIZ WATSON: This clause will replace the word “force” with the words “police auxiliary officer” in section 9 of the Police Act 1892. In effect, this is the key clause of the bill because it provides that a police auxiliary officer will now be recognised under that act. The explanatory memorandum says that the amendment means the police auxiliary officers will be subject to the rules, orders and regulations made by the Commissioner

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of Police. This is the key point that the Greens (WA) wish to make about this bill. We support the establishment of a legislative framework to recognise and regulate the police auxiliary officers but we do not support this method. We do not support the fact that it will be at the discretion of the Commissioner of Police to establish those rules, orders and regulations and also to alter them as and when he sees fit. I note the amendment to clause 10 on the supplementary notice paper in the name of Hon Kate Doust to try to address this issue. At the very least, these rules, orders and regulations should be subject to parliamentary scrutiny. We believe that they should be included in the legislation—that is the purpose of Parliament. As I said in the second reading debate, we are dealing with exceptional powers that are only provided to police officers. No other public officer is provided with the power to use lethal force or has the capacity to detain people against their will and to use an offensive weapon such as a Taser or a baton. It is a very serious matter for the community, via Parliament, to give certain members of the community these types of powers. In this case, the new type of police officer will be called a “police auxiliary officer”. As indicated in the debate so far, those powers include the use of force. It is the role of Parliament to determine the extent of, and limitations on, the use of force. It is not appropriate in any case to give that power to the executive by way of handing it over to the police commissioner. I have a great deal of time for the current police commissioner. He is a very good police commissioner—probably the best we have had in this state. But he is not going to be in that position forever. What we do today in this piece of legislation will be set in place, at least in theory, forever. I do not think Parliament will be doing its job if we do not maintain that control in the hands of Parliament.

I have raised this matter during the debate on this clause, because this is the first point at which the words “police auxiliary officer” will be inserted into the Police Act. We do not support this clause, because this is the clause under which the power to set the parameters on what police auxiliary officers can and cannot do will be placed in the hands of the police commissioner. We cannot support that. It is the wrong structure, and it is the wrong level of control. It will take that power out of the hands of the people’s representatives—the members of Parliament—and give it to the police commissioner.

Hon PETER COLLIER: I take on board the points raised by Hon Giz Watson. The rules, orders and procedures are not made by the commissioner exclusively, as I am sure the member will be aware. They require ministerial approval.

Hon Ken Travers: You have absolute faith in the minister, do you?

Hon PETER COLLIER: I do. The commissioner has also been given this power with respect to Aboriginal police liaison officers and special constables. That amendment was made in 2008. I think that the argument that police auxiliary officers should be separate from that is probably not valid.

Hon GIZ WATSON: My response to that—I made the same comment in my second reading contribution—is that Aboriginal police liaison officers are in a different category. They are well established and have been well recognised for a considerable period. The arguments for creating the position of Aboriginal police liaison officer were well put, and we were happy to support that bill, with some amendments with regard to the employment conditions of those officers. The intention was also stated in the bill that ultimately the majority of the Aboriginal police liaison officers would become fully-fledged police officers. I do not think it is reasonable to make that comparison with the circumstances in this bill.

As to whether I am comforted by the fact that the Minister for Police will have a role in this, nothing puts the fear of God into me more than that prospect. I think we have an exceedingly irrational and rabid police minister. I do not have any confidence in the police minister. I put that on record right now. Hon Ken Travers made a comment about what would happen if at some time in the future we had a police minister who had similar political views as the former One Nation members in this place. I suggest that we have such a minister. He has no respect for the rule of law. He is obsessed with law and order, in the most ignorant and base manner.

I understand that this bill is being dealt with as an urgent bill. Have any drafts been prepared of the rules, orders and regulations that are to be made by the Commissioner of Police; and, if so, can the minister table them?

The CHAIRMAN: Order, members! Can I just make an observation, please. I do not know if the honourable member has really thought too much about making a comment about a member in the other chamber, but I just ask her—and anybody else, for that matter, in the future—to be wary of using that sort of language and reflecting upon a person in the other chamber in the manner that I think I may well have heard.

Hon Sue Ellery: She said she does not have confidence.

The CHAIRMAN: I am quoting from standing order 97, and I think the member must understand that.

Point of Order

Hon Ken Travers; Hon Peter Collier; Hon Kate Doust; Hon Simon O'Brien; Chairman; Hon Giz Watson; Hon Sue Ellery; Hon Liz Behjat

Hon SUE ELLERY: If I may just seek clarification, Mr Chairman. I respect the standing order, which says we ought not reflect on a member in the other house. But I wonder if it is really causing offence against that particular standing order for a member to say that she personally does not have confidence in a minister in conducting his role. I suspect—I am happy to stand corrected—that the intention of the standing order was not to reflect on the character and not to reflect on the personal attributes of another member. But does that restrict a member from expressing a point of view about whether the member does or does not have confidence in how a minister is conducting himself in the performance of his duties?

The CHAIRMAN: I do not want to keep the argument going ad infinitum. All I simply said was that I remind members to be careful. That is all. I take on board everything the Leader of the Opposition has just said. I simply will say this much, though: I am looking at standing order 97; if members will bear with me for a second or two, it simply states —

No Member shall use offensive or unbecoming words in reference to any Member of either House, and all imputations of improper motives and personal reflections on Members shall be considered highly disorderly . . .

At the time, I thought it was perhaps not becoming of this particular chamber. I do not think we need to make a song and dance about it. I take on board what the Leader of the Opposition is saying. I just say to the member concerned: perhaps be a bit more circumspect in how things are said. That is, I think, all we really need to say on the issue.

Committee Resumed

Hon KATE DOUST: I am actually going to agree with the comments that were made by Hon Giz Watson. What we are seeing here is a piece of legislation that again is devoid of —

Point of Order

Hon LIZ BEHJAT: Again, on standing order 97, the member has said that she agrees with the comments made by Hon Giz Watson. The word that was used was that the Minister for Police was “rabid”. That is offensive and unbecoming, and I think that those remarks should be withdrawn.

The CHAIRMAN: Can I allay the member’s fears. I believe that in the context in which Hon Kate Doust was speaking, she was agreeing with the intent of what Hon Giz Watson had said in terms of her interpretation of this part of the clause. That is as far as I intend to take it.

Committee Resumed

Hon KATE DOUST: Thank you, Mr Deputy Chairman. Perhaps if the member would actually sit and listen to people without jumping to her feet ad nauseam and ad hoc on a regular basis, we would be able to continue. I know that that the government is keen to get its legislation through.

Several members interjected.

Hon KATE DOUST: Otherwise it might just take us a little bit longer.

The CHAIRMAN: Order, members!

Hon KATE DOUST: I was saying that Hon Giz Watson has raised some relevant points about the fact that this legislation is devoid of any level of detail about the employment of these particular individuals. That is what I agree with her on. I also have views about a range of ministers, but I am not going to pass those views right now; I will pass those at another stage, and maybe in another place.

Hon Simon O’Brien: So you are moving to the Legislative Assembly, are you?

Hon KATE DOUST: No. The Police Act quite clearly sets out the functions and roles of Aboriginal police liaison officers and special constables. We do not have that in this legislation. I think that is one of the concerns that Hon Giz Watson has expressed very clearly. This particular group of employees or workers will be under the total control and management of the Commissioner of Police to deal with at will. That is a real concern, because we as a Parliament do not know the detail or the nature of the tasks that they will be employed to fulfil. If it is good enough to have these other, separate categories of constables and APLOs, and if it is good enough to spell out the functions that those categories of workers undertake, I do not understand why it is not good enough to do so for this new category of worker. They will not be fully sworn police and they will not be performing all the functions that are set out for police, so we need to know quite clearly what they will be doing. It needs to be done in a manner in which the Parliament can deal with. It should not be left to the whim of the Commissioner of Police.

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I think Hon Giz Watson made a very valid point that although we may have a good Commissioner of Police now, it may be that different personalities fill that role who may have different policy objectives, different drivers and different ways of managing the business of police in this state. They may, off their own bat, determine that this new category of worker should do a whole new range of other tasks and perform a range of other functions that we may not have contemplated when we put this legislation through. I do not understand why adequate thought has not been given to how this could be better managed. It may well be that the minister who is ultimately responsible for this has been too busy pumping out a range of legislation, which, as we have discovered, is usually devoid of detail and left to the imagination and control of the police, and not the Parliament and the people. I do not know whether it is something that has slipped by the keeper and that the government does not want to deal with this. Again, that perhaps demonstrates incompetence at that level. However, it is very important for this Parliament to have a very clear understanding of exactly what these people will be doing, not just some lines from the minister in this chamber about what he thinks they might be doing —

Hon Peter Collier: I did not say that.

Hon KATE DOUST: The minister outlined a couple of things, but they are just maybes. We need to know with clarity exactly what they will be doing. We also need to know where the line is drawn on who has the ultimate control over that function. It needs to be set out much more clearly than the information we have been provided with on this light piece of legislation. I also have another point that I would like to raise on this clause, but I will wait until the minister has responded.

Hon PETER COLLIER: May I just say at the outset that the roles that have been identified in the bill for auxiliary officers are virtually identical to those of APLOs and special constables under part III and part IIIA of the act. It has therefore virtually been a cut and paste, so I do not know why the opposition thinks there is some sort of clandestine move on the part of the government. It is virtually identical and a cut and paste. The answer to Hon Giz Watson's question is no, the drafting of regulations, as is very common practice, will be done after the passing of the bill.

Hon GIZ WATSON: Could the minister indicate when it is anticipated that the rules, orders and regulations will be drafted?

Hon PETER COLLIER: By the end of the year.

Hon KEN TRAVERS: I accept the point that the minister has just made, which is that it is a cut and paste for APLOs and special constables. Will the minister explain why we need the clause? Why can those functions that the minister has outlined to the chamber not be done by people acting as special constables?

Hon PETER COLLIER: I have already covered this in my précis in the second reading speech. I said the physicality of the role of auxiliary officers had to do with bringing in the disciplinary provision of the Police Act. That is covered in section 23, and that is why we need it.

Hon KEN TRAVERS: I have to raise this with clause 9, because we are now going to make rules and regulations for a police officer and an auxiliary police officer. The minister is telling us that there will be a difference in that an auxiliary police officer will be treated the same as a police officer in disciplinary procedures, and that is the only difference. I still do not accept that with a crossing guard, which is one of the positions that has been outlined to us, there needs to be the capacity for the disciplinary procedures under the Police Act. If that is the minister's explanation, can he explain why we are not then amending section 10 of the substantive act to make sure that these auxiliary officers take an oath?

Hon PETER COLLIER: Auxiliary officers have a written certificate of appointment, which I am sure the member is aware of, as do APLOs and special constables. They do not take an oath; nor do special constables or APLOs.

Hon KEN TRAVERS: I understand that, and I understand that in the way the act is structured there is no amendment to section 10 of the substantive act. I understand that they take an engagement rather than an oath, when they engage and promise to "well and truly serve our Sovereign Lady the Queen ... without favour or affection, malice, or illwill". To my mind, that is the fundamental difference. That is the reason the Police Act can be used for disciplinary powers. The way in which this legislation is structured, it could technically create a full police officer with all the powers of an existing police officer able to be removed by the Commissioner of Police under the Police Act, but the officer would not have actually taken an engagement in those terms. People are either one or the other. I would have thought that one of the fundamental reasons that the Police Act is able to be used to remove someone from office is that the person had been engaged under the Police Act to serve, to keep the peace and to do all those things that we ask them to do; otherwise, they are just public servants, in the same way that APLOs and special constables are. The minister cannot have it both ways; it is one or the other. I still do not think the minister's explanation is satisfactory. The minister can repeat that auxiliary officers will not

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take an engagement, and I understand that, but I want to understand the philosophical reasons for their being different from any other public servant. They must surely have to be engaged for them to be able to be disciplined under the Police Act. The way in which this bill is written means that, once it is an act, the Commissioner of Police could say that he would appoint Hon Peter Collier with all the powers of a police officer.

Hon Ed Dermer interjected.

Hon KEN TRAVERS: Exactly.

Hon Peter Collier: It needs to be remembered that the actual oath of office is a symbolic gesture. Training will be the key to officers' responsibilities, not an oath. They will be different from public servants because they will carry some policing powers.

Hon KEN TRAVERS: With all due respect, they will not carry just some policing powers; under this legislation, they will be able to carry all policing powers. Once this legislation is passed, police auxiliary officers will be able to carry all policing powers. Does the minister consider the oath that he took when he was sworn into this place as just a symbolic gesture?

Hon Peter Collier: That's got nothing to do with it.

Hon KEN TRAVERS: It has.

Hon Peter Collier: No, it hasn't.

The CHAIRMAN: Order, members! I ask members to stick to points relevant to this particular clause.

Hon KEN TRAVERS: It absolutely has something to do with it; an oath is not a symbolic gesture. I took an oath when I became a member of this place, as did other members, and I took it very seriously, as would every police officer who has taken the police oath. I call it an oath, but under the Police Act it is called an engagement. Under section 10 of the Police Act, police officers promise to —

...well and truly serve our Sovereign Lady the Queen ... without favour or affection, malice, or illwill, until I am legally discharged; that I will see and cause Her Majesty's peace to be kept and preserved ...

It goes on; it is quite a long section. I do not believe that any police officer would undertake that oath lightly as a purely symbolic gesture. Yes, they have been through their training, but they would treat the oath as a very serious matter. The reality is that most police officers know that after they have taken the oath, they will be on the clock 24/7. When police officers leave the station for the day, they do not stop being police officers; they have an obligation to continue functioning as police officers in their private time and without pay. There are obligations on them under the act.

Hon Giz Watson: It is the same as members of Parliament.

Hon KEN TRAVERS: Exactly, Hon Giz Watson; we do not clock off either. That is the fundamental difference. To me that is one of the core areas of this legislation for police officers. That is why, after police officers have taken that engagement, there is a separate process for removing them, through the Police Act. The government is saying that it will remove those protections under the Industrial Relations Commission.

I return to my original point: police auxiliary officers are effectively no different from special constables. In fact, every one of the functions of police auxiliary officers outlined earlier by the minister could be performed by special constables. They are doing them today, and they will be doing them tomorrow. I agree that officers probably do not need to accept an engagement to become a crosswalk attendant, even though that is a very serious job. I find this circumstance extraordinary.

Hon PETER COLLIER: I say at the outset that they have those powers only when they are on duty, in much the same way as Aboriginal police liaison officers do. Unlike police officers, they will not have those powers 24/7. That is the first thing that needs to be established. Also, APLOs are not sworn under oath, and that came about through legislation introduced by the previous government. That basically covers it.

Hon Ken Travers: They are the same as APLOs and special constables, so why are we doing this?

Hon KATE DOUST: That is an excellent question. The government made a commitment to 500 extra police. If the government wanted to employ a further 150 staff to perform administrative duties, crosswalk duties, transport of forensic items and storage and management of property, there would be nothing to constrain it under the arrangements already in place, and we would not need to go down the path of having separate legislation. I do not understand the need for the creation of this additional grouping of officers. How they are to operate and what their roles will be falls into a bit of a twilight zone.

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Hon PETER COLLIER: As I have said, they will come under disciplinary provisions of the act; that is the important thing. Obviously, they are not Aboriginal so they cannot be APLOs; they are auxiliary officers.

Hon KEN TRAVERS: They could be special constables, though. That still does not answer my question. They could be appointed as special constables to perform the functions of police auxiliary officers as they have been outlined by the minister; there would be no problem with that. I do not think that the powers provided under this legislation are necessary; these officers will not have taken the oath of engagement. The minister earlier made the comment that they will be police auxiliary officers only when on duty. Can the minister show me where in the bill that provision is made? I can show the minister a clause that states the opposite.

Hon PETER COLLIER: That will be done by their certificate of appointment through the commissioner, and that also happens with special constables.

Hon KEN TRAVERS: We go round and round in circles. The minister's comment is incorrect, because under this legislation the commissioner will be able to appoint them as 24/7 police auxiliary officers. In fact, the legislation specifically provides that the commissioner can make such determinations. The commissioner can limit them, but he does not include limitations in their appointment order; they will not be limited: they will be police auxiliary officers 24/7, the same as police officers. The minister is asking the house to trust the government.

Hon Peter Collier: It is consistent with what we do with special constables and APLOs. Why is that different?

Hon KEN TRAVERS: It is not. The legislation has been brought into the chamber but the minister cannot explain it. The answer we keep getting is that police auxiliary officers are the same as special constables. If that is the case, why do we need the legislation? I know we are going around in circles, and that is the problem with this legislation; it is nothing more than an attempt to produce a sham situation so that the government can employ fewer than 500 additional police officers. That is what the minister should admit. The way this act is written, the government could create 500 extra police officers on lower wages and conditions.

Hon Michael Mischin: The same as APLOs.

Hon KEN TRAVERS: No, there is a protection against that. The commissioner would not do that because under the terms of engagement provided in section 10 of the act he would lose control of the way in which officers can be dismissed and removed from office, because they would fall under the public sector legislation rather than the police legislation.

Several members interjected.

The CHAIRMAN: Order, members!

Hon PETER COLLIER: Hon Ken Travers is basically going around in circles.

Hon KATE DOUST: I know we have been over that issue, but I have another quite pedantic issue to raise about clause 4, which reads —

In section 9 after "Force," (each occurrence) insert:

police auxiliary officers,

In that section of the Police Act there are three occasions where the words "Police Force" are written. I wonder whether there has been a typo or some sort of error, because I am not too sure why on the bottom line of section 9 we would insert "police auxiliary officers" so that it would then read "Police Force police auxiliary officers canteen".

Hon PETER COLLIER: It is actually "Police Force," There is a comma.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Section 23 amended —

Hon GIZ WATSON: I want to be sure that this is on record. This clause provides a basis by which the Commissioner of Police, where appropriate, can impose a penalty on this new category of officer so that the police auxiliary officer will come under the cover of section 23 of the Police Act. Has there been any incident that has led to the need for this bill and whether any more information can be provided to the house about any concern that disciplinary matters were not being dealt with adequately?

Hon PETER COLLIER: No, there is not. As I mentioned earlier, and I will repeat, the commissioner's view arises in part from the recognition that their role, particularly in the custody environment, can involve physicality at times. I raised that issue in my summation. No, there is no specific incident.

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Hon GIZ WATSON: To tease this out a bit: therefore, the concern about the physical nature of that job from time to time was the aspect that raised the concern about disciplinary action?

Hon PETER COLLIER: Yes.

Hon KATE DOUST: I refer to proposed section 23(4) of the Police Act about fining and deducting an amount of money from the salary. If these people are going to be paid with the minimum as their base, how is a deduction applied that would take them well below a safety net? In what situations would a penalty be imposed? I am interested in proposed subsection 23(4) about reprimands, fines and demotions.

Hon PETER COLLIER: It is a fine, as I think it has been established. Potentially it will be something like breach of regulations, but they will be receiving above award conditions.

Hon KATE DOUST: The clause refers to inserting words at paragraph (c).

Sitting suspended from 3.45 to 4.00 pm

Hon KATE DOUST: Before we broke for afternoon tea, I was asking a question that related to page 4, clause 6(2)(d), which states —

delete paragraph (c) and insert:

(c) demotion;

If the minister reads the Police Act 1892, section 23(4)(c) states “reduction to a lower rank”. This amendment proposes to delete those words and insert “demotion”. Given that this is a new role that we do not fully understand, and police auxiliary officers are, sort of, at the bottom end of the scale in terms of the structure, what would they be demoted to? If it was found that some action needed to be taken against a worker, what would they be demoted to?

Hon PETER COLLIER: The auxiliary officers will be in levels, and so they will be demoted to a lower level.

Clause put and passed.

Clauses 7 and 8 put passed.

Clause 9: Section 33K amended —

Hon KATE DOUST: I am not too sure of the matter the member intended to raise; I hope that he is not too far away.

Hon Norman Moore: We do have a process to go through; we can't just hang around waiting for him.

Hon KATE DOUST: I know. I might leave it to Hon Giz Watson; I know the members have talked about the clause.

Hon GIZ WATSON: My question about this clause is: how do these provisions differ from those already in place in relation to police officers—or do they differ?

Hon PETER COLLIER: No, they do not differ to those in place with regard to police officers.

Clause put and passed.

Clause 10: Part IIIB inserted —

Hon KATE DOUST: I move —

Page 7, line 4 — To insert after “service” —

some or all of the powers, duties and obligations prescribed in regulations

We think that clarification is necessary. This is an issue we have been talking around, and I do not think the minister's answers have satisfied most of us about the detail of the engagement of these types of employees. If that level of detail cannot be provided in the legislation, rather than just leaving it to the commissioner's discretion, we would like to see these details provided in regulations. I think that is fairly clear.

Hon PETER COLLIER: Is this the amendment on the supplementary notice paper that states —

... To insert after “service”...

Hon Kate Doust: Yes.

The CHAIRMAN: That is correct. Hon Kate Doust has moved, on page 7, line 4, to insert, after “service”, “some or all of the powers, duties and obligations prescribed in regulations”.

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Hon PETER COLLIER: This is actually a different amendment from the one that I have. Is this the original amendment that came through?

Hon Kate Doust: Which one do you have?

Hon PETER COLLIER: We have a different amendment; I do not know whether that one might have come through earlier. I apologise for that—I may have had a separate supplementary notice paper.

The government will not be supporting the amendment for the same reasons I gave earlier; that is, the position needs to be consistent with special constables and Aboriginal police liaison officers. The certificate of appointment that auxiliary officers will receive is the appropriate mechanism by which the terms and conditions of service are set; that is, through their certificate of appointment, not through the regulations.

Hon GIZ WATSON: The Greens (WA) agree with the sentiment of this amendment, although I am not sure that the wording is quite precise for some reason, or perhaps it is not in the correct place; I am not sure. It is not my amendment. I understand that the intention is to reserve for Parliament the capacity to examine the powers, duties and obligations of police auxiliary officers, and to do that by way of saying that these functions will be prescribed in regulations is something that we support. As has already been pointed out, and as will become more apparent when we move through the bill, this bill as it stands allows the Commissioner of Police to appoint a police auxiliary officer with the full powers of a police officer, and it is only by way of the decision of the Commissioner of Police, with the tick-off of the Minister for Police, that exemptions or reductions of those roles, powers and functions will occur. The discretion is totally in the hands of the Commissioner of Police and the Minister for Police. The minister can correct me if I am wrong, but my understanding is that the only way that the powers are reduced from those that are provided to fully sworn police officers is if the Commissioner of Police chooses to reduce those powers.

Hon Peter Collier: That is correct.

Hon GIZ WATSON: Right. Therefore, in effect, the Commissioner of Police could appoint officers who would be called police auxiliary officers with all the powers that we currently give to police officers, and the Parliament would be able to do nothing about that. Is that correct?

Hon PETER COLLIER: Yes—just as he can do with APLOs, which is the same situation.

Hon GIZ WATSON: That is not a matter that we can support. Therefore, by way of indicating our position on this amendment, we support it as a means of at least requiring that regulations be open to parliamentary scrutiny and disallowance, if that is the least we can do to put the ultimate decision back in the hands of Parliament.

Amendment put and negated.

Hon GIZ WATSON: I move —

Page 7, after line 23 — To insert —

(7A) A police auxiliary officer must, at the reasonable request of a person, produce evidence of his or her appointment, terms and conditions.

Penalty: a fine of \$500.

In foreshadowing this amendment during the second reading debate, I indicated that this provision is very similar to an amendment that was accepted in debate on the Legal Profession Bill 2007. The point here is that questions have been raised about the capacity to ensure that a police auxiliary is identified. I have heard the minister's response about the different uniform and badging, but it seems reasonable that the auxiliary officer should be able to provide evidence of office in carrying out his or her duties, in the same way that police officers are able to identify themselves. This is a reasonable amendment. It is a safeguard and will assist in monitoring and accountability in the deployment of these officers.

Hon PETER COLLIER: As I mentioned in my reply to the second reading debate, the government will oppose this amendment. In effect, regulation 907 of the Police Force Regulations 1979 already imposes an obligation by which police officers and APLOs produce certificates of authority to members of the public on reasonable request when they are not in uniform. In conjunction with the enactment of this police amendment legislation, the Police Force Regulations 1979 will simultaneously be amended to provide that the requirement under regulation 907 will also apply to police auxiliary officers. Again, that is consistent.

Hon KATE DOUST: I indicate that the opposition will support the amendment moved by Hon Giz Watson. It is a fairly sensible amendment. I understand what the minister has just said, but I suppose the member is asking for that clarity to be put into this legislation so that it is transparent, and people understand that auxiliary officers can be asked to produce that certificate, rather than having to go hunting for that information. I have one question.

Hon Ken Travers; Hon Peter Collier; Hon Kate Doust; Hon Simon O'Brien; Chairman; Hon Giz Watson; Hon Sue Ellery; Hon Liz Behjat

We can identify police officers by the numbers on their badges. Will auxiliary officers have that same capacity, and will they also be issued with identifying numbers? I am wondering whether that will happen, because if there is an issue and people are not happy with the way they are being treated, they would normally take down the number of that individual police officer and use it as part of their complaint.

Hon Giz Watson: If they are wearing one.

Hon KATE DOUST: Yes—if they are wearing a number.

In terms of the issue we have about not knowing from time to time what the role and functions of these individuals will be, how do the auxiliary officers know? Are they issued with a daily task sheet or are they issued with notification of their tasks on a once-off basis? How often will this be changed? I think back to when I briefly had an organising stint at the casino. There was an issue with a cleaner, and I thought it was an interesting insight into how management sometimes deals with employees. The cleaners would be issued with a card listing their duties, which they would have to put in their pockets. I had a very interesting case with one poor fellow. Every time he bent over to move the mop or something, his card would fall out of his pocket, and get damaged in the bucket. We ended up having the card laminated, because the employer gave him warnings that this would lead to dismissal for damaging company property, being the card with his duties on it. How will information about an auxiliary officer's terms and conditions and when those terms and conditions change be provided to an auxiliary officer? Why can this information not be made public to the person the auxiliary officer is dealing with? If a member of the public asks who the officer is, what the officer is doing and what task the officer is performing, surely the auxiliary officer should provide that information to the member of the public. Alternatively, the auxiliary officer should have some identification that a member of the public can refer to if he feels aggrieved by or wants to complain about the behaviour of an auxiliary officer.

Hon PETER COLLIER: I will respond to each of those questions. The auxiliary officers will have a written certificate of authority that they will not necessarily have to carry with them. They will have a regimental number, just as police officers do.

Hon Kate Doust: Will that be a badge?

Hon PETER COLLIER: They will have a badge and a card. The position description will apply, as with other roles and positions, and the auxiliary officers will be given powers according to that position. The certificate of appointment conditions were placed on the police website, and that website address will be listed on the card.

Hon GIZ WATSON: It seems that the only substantial difference is that I am proposing that an auxiliary police officer must carry this identification with them. The minister is indicating that such a —

Hon Peter Collier: The card has to be with them—not the written notification, but the card.

Hon GIZ WATSON: The written notification —

Hon Peter Collier: The written authority exists but it does not have to be carried.

Hon GIZ WATSON: It does not have to be carried.

Hon Peter Collier: It is about three or four A4-size pages, but they will carry their card.

Hon GIZ WATSON: Unlike police officers, who have a range of powers, the identification number is sufficient. We are dealing with officers who might have a range of duties, depending on whether they are appointed to working in a watch-house or attending crossing duties. A member of the public will not know the limitations of the officer's duties. That is different from a police officer. A simple identification would be adequate.

Hon PETER COLLIER: There will be a brief summation of the powers of the auxiliary officers on the back of their card.

Hon Giz Watson: That is good.

Amendment put and negatived.

Hon KATE DOUST: I move —

Page 8, lines 2 to 12 — To delete the lines and insert —

- (1) The powers and duties and obligations of auxiliary police officers shall be prescribed in regulation to this Act.
- (2) An exemption or exception to any written law other than this Act that applies to a police officer or a member of the police force can similarly apply to an auxiliary police officer once it is prescribed to do so by regulation.

Hon Ken Travers; Hon Peter Collier; Hon Kate Doust; Hon Simon O'Brien; Chairman; Hon Giz Watson; Hon Sue Ellery; Hon Liz Behjat

This comes back to the issue of transparency and Parliament having a say in the role of these auxiliary officers rather than the officers being under the complete management and control of the Commissioner of Police. I understand from the comments the minister made earlier that the government will not support this amendment. However, the Labor Party is obliged to move this amendment to continue to raise awareness of the need to provide clarity and detail about the role and function of the auxiliary officers. That information must be set out in a manner so that Parliament can have a say and, if Parliament is not satisfied about the role or functions that the auxiliary officers are being required to perform, Parliament should have the ability to disallow those regulations, if need be.

Hon PETER COLLIER: As I mentioned in my second reading summation, we will not support this amendment because it would present a lack of consistency with regard to the powers, duties and obligations of special constables and Aboriginal police liaison officers. As stated previously, these provisions were introduced in 2006 and 2008 by the previous Labor government. This amendment would create an evident inconsistency in the manner in which police auxiliary officers were appointed and special constables and APLOs. We will not support the amendment.

Hon GIZ WATSON: The Greens (WA) support the amendment. As a matter of clarification, does the government intend the position of special constables to continue? I am slightly confused about that. I thought that the auxiliary officers would replace —

Hon Peter Collier: Yes, they will continue.

Hon GIZ WATSON: What will they do and how will they be different from police auxiliary officers?

Hon PETER COLLIER: They will continue in their current role as custody officers. It will be up to them to determine whether they move into the role of auxiliary officer.

Hon GIZ WATSON: Could a watch-house be staffed by special constables and police auxiliary officers?

Hon Peter Collier: That's correct.

Hon GIZ WATSON: Is that desirable? It seems that the purpose of this legislation is to try to bring those people under the disciplinary powers of the commissioner. I thought that was the whole point. I am surprised that it is envisaged that they will continue. We can compare this with the Aboriginal police liaison officers. The policy intent and direction then was to have a transition whereby most of those officers would be encouraged to become full police officers. There might be a transition phase but is there ultimately a proposal to remove the category of special constable?

Hon PETER COLLIER: Yes, there is. The member is correct; there will be a transition phase. Special constables will not be forced into that position but there will be a gradual transition to auxiliary officers. It is deemed to be workable.

Hon GIZ WATSON: Ultimately, will we remove that category of police officer—special constable—or will we keep that in the range of officers who can be appointed? It seems very messy. In principle, we support the appointment of auxiliary officers. However, if we have these multiple categories and Parliament is finding it somewhat confusing, the public will probably have the same difficulty.

Hon PETER COLLIER: They will still remain as cross-border police. The title will still remain, but their role will be as cross-border police.

Hon KATE DOUST: I must have missed something there about cross-border police. That is the first time I have heard them mentioned. Can the minister repeat that answer?

Hon PETER COLLIER: Officers who cross the border from South Australia or the Northern Territory will be special constables. That is their title, as opposed to being auxiliary officers.

Hon Ken Travers: Could they be auxiliary officers?

Hon PETER COLLIER: No.

Hon Ken Travers: Are you sure?

Hon PETER COLLIER: Yes. It is a different role.

Hon KEN TRAVERS: I cannot see, from the way this bill is written, why special constables cannot be appointed as auxiliary officers. Where is the clause that stops them from being appointed as auxiliary officers?

Hon PETER COLLIER: It is because they fall within the disciplinary provisions of their own jurisdiction.

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Hon KEN TRAVERS: I understand that they come under the disciplinary provisions of their own jurisdiction. They also come, as special constables within the jurisdiction, under the provisions of the Public Sector Management Act. But what is wrong with them coming, in terms of their appointment as auxiliary officers, under the disciplinary procedures of this bill? The point I am making is that this is another example of where we are told one thing, but the way in which this bill is drafted is so broad, and its scope is so large, that the police commissioner could appoint cross-border police officers as auxiliary officers, and, if the commissioner was unhappy with them, remove them under the bill. That is the problem that we have at the moment.

Hon PETER COLLIER: The special constables are from another jurisdiction, and they are not paid by Western Australia; they are paid by their own jurisdiction. They come under the conditions and terms of their own jurisdiction. Therefore, it is just not applicable.

Hon KEN TRAVERS: I know that the difficulty the minister has is that he is trying to argue what is practice as opposed to what is in the legislation. The point I am making is that that may not be the intention, but the way this legislation is written, it will not prevent that from occurring. All the way through this legislation, we have been getting these “just trust me” clauses. This is just another example of how under this bill the Commissioner of Police could appoint special constables as auxiliary officers on terms and conditions as outlined by the commissioner. In fact, as was pointed out to us, this is cut and pasted from the legislation for special constables. The government is seeking to create these police auxiliary officers, but they will actually be the same as special constables. The only change is that they will come under the disciplinary procedures.

Hon Kate Doust: And you would have to ask why it would want to do that.

Hon KEN TRAVERS: Yes. We come back to that. The only reason is so that it can pay them less.

While I am on my feet, I know that the minister gave a commitment during his response to the second reading debate, but are there any protections in this legislation to ensure that transit officers will not be transferred across and made police auxiliary officers? Are there any protections in this legislation, or is it just a case of relying on the minister’s commitment during the second reading debate?

Hon PETER COLLIER: I stand by what I said before about the jurisdiction. I understand that that is not going to placate the member. But because of the fact that it is a different jurisdiction, and that they will come under that jurisdiction in terms of their conditions, it means that they cannot be auxiliary officers. In terms of the transit officers, I can reinforce to Hon Ken Travers that, no, they will not be auxiliary officers.

Hon Ken Travers: But there is nothing to stop that from occurring in the future if another government comes in?

Hon PETER COLLIER: Potentially, no.

Hon Ken Travers: Or if this government changes its mind in six months’ time?

Hon PETER COLLIER: No.

Hon KEN TRAVERS: I have one last question for the minister. Is it possible, from the way this clause is drafted currently, that the minister could appoint a police auxiliary officer who has all the powers of an existing police officer and is able to operate 24/7 as an existing police officer?

Hon PETER COLLIER: Yes, it is.

Hon KEN TRAVERS: I thank the minister for that. Secondly, is it possible that that person could be paid a lower salary than is currently paid to officers of the police force?

Hon PETER COLLIER: It is possible, but, as I said, certainly the union would not be very happy about that.

Hon KEN TRAVERS: I am sure the union would not be very happy about it, and I wonder whether the union even realises that there is that capacity under this legislation. Did the minister brief the union to tell it that that was the capacity under the legislation?

Hon Peter Collier: Those negotiations are still taking place, and the union has been briefed.

Hon KEN TRAVERS: That is the point. In a nutshell, this legislation creates policing on the cheap. We have just had it. It is on the cheap in terms of downgrading the number of officers —

Hon Peter Collier: It is the same as APLOs.

Hon KEN TRAVERS: No. APLOs are in addition to the established force.

Hon Peter Collier: I am talking about the conditions and whether they can work the same hours as auxiliary officers.

Hon KEN TRAVERS: This is policing on the cheap.

If these officers are not to be the Tiger Airways version of policing or the Air Asia version of policing, how will we know what powers they will have or will not have? How will we know whether we will get the full service and the free meal and the in-flight video? When we are walking along the street and we see them, how will we know what powers they have? Will they have badges on them?

Hon Peter Collier: It will be on their card. We went through that when you were not in the chamber.

Hon KEN TRAVERS: This is the point. I know the minister went through it earlier. I understand that it will be on their card. The auxiliary officers will be wearing a police uniform. So, the only way a member of the public will be able to know what an auxiliary officer is able to do or is not able to do will be to say, "Excuse me, auxiliary officer. Can I have a look at your card to see what your proficiencies are and what your powers are and what you have been appointed to do?" Is that correct?

Hon Peter Collier: It will be on the police website, as I mentioned earlier.

Hon KEN TRAVERS: Oh! Will the uniforms be any different?

Hon Peter Collier: Yes, they will, and I went through that earlier.

Hon KEN TRAVERS: But that is not a requirement, is it? There could be the same uniform for auxiliary officers as for police officers, could there not? There is nothing in the legislation to prevent that.

Hon Peter Collier: No. The uniform is different.

Hon KEN TRAVERS: But that will be an administrative matter. It is not in the bill, is it?

Hon Peter Collier: No, it is not.

Hon KEN TRAVERS: So there is nothing to prevent them from wearing the same uniform?

Hon Peter Collier: It is not in the act for special constables, either.

Hon KEN TRAVERS: No?

Hon Peter Collier: No. I am sorry, Hon Ken Travers, but I did go through this. I am sorry that the member was away from the chamber on urgent parliamentary business, but I did go through all this.

Hon KEN TRAVERS: We are on this clause again, and I know the minister has gone through it, but I think it is really important to get this on the record in a very clear way.

Hon Peter Collier: It is on the record.

Hon KEN TRAVERS: Well, I am not sure that it is as clear as —

Hon Peter Collier: Read *Hansard*.

Hon KEN TRAVERS: It will be very clear after this, because, if nothing else, it will be repeated, so everyone will know that this is exactly what this bill will do. Under this bill, the Commissioner of Police will be able to appoint auxiliary officers. Those officers will have the same powers as police officers, but they will be paid less. The only way in which members of the public will be able to know that those officers are auxiliary officers is if they stop and ask them. I think this is very bad legislation. That is why I support the amendment moved by Hon Kate Doust, because that might at least start to put some protections in this bill so that ordinary members of the public will understand the powers that have been granted under this bill.

Amendment put and a division taken, the Chairman casting his vote with the noes, with the following result —

Extract from Hansard
[COUNCIL - Wednesday, 25 November 2009]
p9673d-9695a

Hon Ken Travers; Hon Peter Collier; Hon Kate Doust; Hon Simon O'Brien; Chairman; Hon Giz Watson; Hon Sue Ellery; Hon Liz Behjat

Ayes (12)

Hon Matt Benson-Lidholm
Hon Helen Bullock
Hon Robin Chapple

Hon Kate Doust
Hon Sue Ellery
Hon Jock Ferguson

Hon Jon Ford
Hon Lynn MacLaren
Hon Ljiljana Ravlich

Hon Giz Watson
Hon Alison Xamon
Hon Ed Dermer (*Teller*)

Noes (17)

Hon Jim Chown
Hon Peter Collier
Hon Mia Davies
Hon Wendy Duncan
Hon Phil Edman

Hon Brian Ellis
Hon Donna Faragher
Hon Philip Gardiner
Hon Nick Goiran
Hon Alyssa Hayden

Hon Col Holt
Hon Michael Mischin
Hon Norman Moore
Hon Helen Morton
Hon Simon O'Brien

Hon Max Trenorden
Hon Ken Baston (*Teller*)

Pairs

Hon Ken Travers
Hon Sally Talbot
Hon Adele Farina

Hon Nigel Hallett
Hon Liz Behjat
Hon Robyn McSweeney

Amendment thus negated.

Hon KATE DOUST: I move —

Page 8, line 24 — To insert after “officer” —

consistent with the regulations to this Act,

The discussion we had prior to the division reinforces the reasons we need to ensure that there is transparency and accountability in the role and functions of auxiliary officers in this clause. Proposed section 38H(3) states that the commissioner, in any way he sees fit, can change or limit the powers, duties and obligations of the officer or the application of any authorisation. The minister has just put on the public record that auxiliary officers can be given the full powers of police officers but will be paid at a lower rate. Hon Ken Travers is absolutely right in that this is policing on the cheap. We have picked that up all the way through. This is simply the government trying to save money. In some ways I think that the creation of this new role of police auxiliary officer, which is another tier of policing, is just to sell it to the Commissioner of Police, because this government is not prepared to pay the additional \$6.2 million that is required to put onto the police payroll fully sworn and fully operational police officers. Although we may have a reasonable Commissioner of Police now, who is acting in the community’s best interests, as he sees fit, from the discussion we have had previously, everything leads to the fact that the Parliament still needs to have oversight of the role and functions of police auxiliary officers and, if need be, needs to be able to review the regulations, and in some cases disallow, if need be. That is why we are moving this amendment. I look forward to the minister’s response.

Hon PETER COLLIER: Once again the government will not support the amendment for the reasons that we basically did not support the last amendment—that is, the consistency with special constables and Aboriginal police liaison officers, and the powers, duties and obligations of those two positions. The bill will provide consistency without the amendment, which will just provide inconsistency, and for that reason we will not support the amendment.

Hon KATE DOUST: We have just had the discussion and discovered that the position has the potential to be vastly different from those other two roles. This position has the potential to be that of a fully operational police officer, if the commissioner so decides that auxiliary officers will have those full powers. The minister said that just a few minutes ago. It is a different role, so there needs to be the capacity for the Parliament to have oversight and to have that clarity.

Hon Peter Collier: So can APLOs and special constables.

Hon KATE DOUST: APLOs are not fully sworn police officers. That is in the act.

Hon PETER COLLIER: These auxiliary officers are not going to be fully sworn police officers either.

Hon Sue Ellery: They could be.

Hon KATE DOUST: That is right, and I thank the Leader of the Opposition; they can be. The minister has already said that if the commissioner so decides, he can give them the full powers of a police officer.

Hon KEN TRAVERS: If the Commissioner of Police does not limit their powers, they have the full powers of a police officer, so it is actually the other way. They start with the full powers of a police officer, so if the police commissioner does not limit them, they have the full powers. That is correct, is it not?

Hon Ken Travers; Hon Peter Collier; Hon Kate Doust; Hon Simon O'Brien; Chairman; Hon Giz Watson; Hon Sue Ellery; Hon Liz Behjat

Hon Peter Collier: It is exactly the same as for special constables and APLOs.

Hon KEN TRAVERS: Yes, but the minister has attempted to convince us that they are different, otherwise there was no point in moving this bill. The government could just stick with special constables.

Hon Peter Collier: I have responded.

Hon KEN TRAVERS: Maybe I can go to the other end of the spectrum and ask a question. People could be appointed to be school crossing guards, and the limit of their powers would be those in the Road Traffic Act—that is, to manage school crossings. That is correct, is it not? All their powers could be limited, other than those under the Road Traffic Act for the purposes of managing school crossings.

Hon PETER COLLIER: School crossing guards have been identified for the reason that, in some instances, they may not show up and police officers will need to fill in.

Hon KEN TRAVERS: Are police officers, police auxiliary officers, special constables and Aboriginal police liaison officers all covered under the mandatory sentencing provisions for assaults on public officers?

Hon PETER COLLIER: Yes.

Hon KEN TRAVERS: If someone assaults a police auxiliary officer who is operating as a school crossing attendant, the mandatory sentencing provisions will apply. If someone assaults a teacher in the schoolyard—as we saw the other day—the penalty could be as little as a \$60 fine.

Several members interjected.

The CHAIRMAN (Hon Matt Benson-Lidholm): Order, members.

Hon PETER COLLIER: I am not sure whether there was a question in that.

Hon Ken Travers: Yes, I am asking a question.

Hon PETER COLLIER: Yes.

Hon Ken Travers: That's possible?

Hon PETER COLLIER: Yes.

Amendment put and negatived

Clause put and passed.

Clause 11 put and passed.

Clause 12: *Bail Act 1982* amended —

Hon GIZ WATSON: This clause amends to the Bail Act 1982 and changes the definition of “authorised police officer” to include police auxiliary officers. A main function of an authorised police officer is to grant bail in specific circumstances contained under the act. When I read this, I could not help but think about the findings of the Coroner’s Court in the case of the death of Mr Ward. The Coroner’s Court noted a police officer’s role in declining to grant bail to Mr Ward. I am concerned about the training that is given to police officers. Unfortunately I do not have a copy of the coroner’s report with me, but those responsibilities under the Bail Act are responsibilities for which increased training of police officers is certainly necessary. I want to raise this matter in the context of this legislation, because we are effectively providing police auxiliary officers with those powers or functions under the Bail Act. I ask the minister to relay to the Minister for Police that it is essential for these officers to be well trained in the application of the Bail Act. I ask the minister to be aware of the coroner’s recommendations in this regard.

Hon PETER COLLIER: I will certainly raise the matter with the minister.

Hon KEN TRAVERS: The minister may recall that I made reference to this clause during my contribution to the second reading debate. It appears to me that the original intent of the 1982 legislation was that officers granting bail would have a fair degree of experience and expertise in the field and in police stations. It was clearly intended for the provisions to apply to very senior officers. Can the minister assure us that the police auxiliary officers appointed under this provision will have the same degree of experience and expertise as was anticipated under the Bail Act 1982? I think it was intended that the authorised officer would be an experienced, high-ranking officer; we are now authorising special constables and police auxiliary officers to perform those duties. How will we know that they have the same degree of experience in the police station and in the field to deal with the sorts of matters that police officers deal with when they are asked to make such decisions about bail applications?

Hon PETER COLLIER: I ask the member to look at clause 12(3)(c), which states —

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

That means a senior officer with the relevant experience and understanding.

Hon Ken Travers: Is there any guarantee of that?

Hon PETER COLLIER: They will be in charge of a lockup; that is included in the bill.

Hon KEN TRAVERS: There is another interesting part that I am not sure I understand. Clause 12(3)(c)(iii) states —

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;

Will it need to be specified as part of the terms of appointment that they will need to be formally appointed as a police auxiliary officer with powers under the Bail Act? They will have all the powers of a police officer. Normally, the way it operates is that they are given the powers of a police officer, but they are limited. This seems to suggest that the auxiliary officers will have all the powers of police officers and some additional powers to become authorised officers under the Bail Act. Is that correct?

Hon PETER COLLIER: The certificate of appointment reflects that they have that role; it has to. It is in their certificate of appointment.

Hon Ken Travers: Can you explain it to me in a little more detail?

Hon PETER COLLIER: It will be on their certificate when they are appointed; that will be identified as their role.

Hon KEN TRAVERS: Clause 10 does not appear to grant additional powers; it only provides for the powers of a police officer. However, clause 12 suggests that police auxiliary officers must have, as part of their appointment, an additional power. Clause 10 does not provide for the appointment of that additional power, as far as I can see. I would be happy for the minister to point out where that additional power is.

Hon Peter Collier: It doesn't actually state that they have to have an additional power. I am not quite sure what the member is saying.

Hon KEN TRAVERS: I am trying to understand this clause, which refers to the Bail Act. They are to have the same powers, duties and obligations as an authorised officer. They are appointed under the provisions of proposed section 38G in clause 10 of the bill, which we have just passed, but this clause refers to the fact that the powers, duties and obligations are or include those of an authorised police officer under the act. We are dealing with the definition of an authorised police officer.

Committee interrupted, pursuant to standing orders.

[Continued on page 9703.]