

OCCUPATIONAL SAFETY AND HEALTH AMENDMENT BILL 2002

Second Reading

Resumed from 20 June.

HON RAY HALLIGAN (North Metropolitan) [4.50 pm]: The Bill is to amend the Occupational Safety and Health Act 1994 to extend its operation to police officers and for related purposes. The 1984 Act promoted the purpose of improving the standards of occupational safety and health for Western Australian workers. It is said, however, that by virtue of a legal quirk, more than 4 000 sworn members of the Police Service were denied the protection of that Act. The genesis of the amendment before us dates back a number of years. Some time in 1998 the then Minister for Police, Kevin Prince, made mention of work being done to try to provide that protection to police officers. In November 2000, in a statement in the other place, he said -

For some time, the Government has been working towards providing coverage for police officers under the Occupational Safety and Health Act. This matter is far from straightforward and sensible negotiation and commitment has been required to deliver a fair and reasonable outcome. Following extensive consultation, agreement has been reached between the Minister for Police and the Minister for Labour Relations for a legislative amendment to extend the Occupational Safety and Health Act to police officers, subject to four caveats:

I mention those caveats because they are important and are part of the reason for this amendment taking so long to be placed before this House. The minister continued -

First, police officers, although not employees, will be considered employees for the purpose of coverage by the Act; second, the Commissioner of Police will be vested with the responsibility of ensuring that the provisions of the Act apply to all personnel of the Police Service; third, the Act will include a provision to prevent a police operation that is dangerous, covert or of high risk from being prejudiced should any part of the operation conflict with the Act; and fourth, a co-agency agreement will be developed between the Police Service and WorkSafe in relation to the special needs of policing.

It seems a relatively simple matter to bring the officers of the Police Service into line with so many other workers throughout the State. Those four caveats give an indication of some of the difficulties associated with this issue. The Opposition, in its inimitable fashion, will continue down the path of pointing the finger at the now Government and its delay in introducing legislation to protect the officers of the Police Service. The Premier, then Leader of the Opposition, introduced a Bill back in 1999. That Bill had some deficiencies, although he made the effort to introduce other legislation. It has been said that the Bill would have gone through earlier had the then Government supported it. The original Bill went through in 1984 and in subsequent years no effort has been made by a Labor Government to alter the situation. This was borne out by Hon Michelle Roberts when, in her summing up in the other place on Wednesday, 19 June this year, she stated -

I am absolutely delighted to be the minister who has finally brought before Parliament legislation that will provide occupational health and safety standards for police officers.

There is nothing wrong with that. The minister definitely did do that, although the Bill has not been passed through Parliament yet as it must first be passed through this House. The minister further stated -

It is significant that occupational health and safety legislation first came into place in Western Australia in 1984. Eighteen long years later, legislation has finally been brought forward by this Government. Although there was much lip service in the past about progressing occupational health and safety legislation for police officers, no Government has taken on such a task.

I am suggesting that it is recognised that there were problems associated with this legislation. Although this Government has been in power for nearly two years, the legislation will only now pass through this House. I am not trying to point the finger at the Government; I am trying to respond to what government members have said. The Opposition supports this Bill. I am glad the minister nodded; I thought he was waiting for something of that nature to be said.

Hon Nick Griffiths: I am always impressed by the member's eloquence.

Hon RAY HALLIGAN: Although the Police Service has implemented many safety strategies in its work environment, the issue has always been the independence of the Police Service and the protection of that independence. Again, that has caused some of the difficulties associated with this legislation. When Hon Kevin Prince was the Minister for Police, he spoke of the need for suitably trained workplace health representatives in the Police Service and of its ability to fully comply with the requirements of the Occupational Safety and Health Act, which is contingent upon a carefully staged introduction. I understand that this will be introduced over a 12-month period to assist officers to be trained in the implementation of their duties. Also, many of the Bill's

provisions introduce new obligations for the Police Service to establish a safety committee structure throughout the service. Again, this will take some time to bring to fruition. These issues will be thoroughly progressed and will lead to an occupational safety and health regime in the Police Service that meets the unique requirements of police officers and their managers.

All members are mindful of the work that members of our Police Service do. They are quite frequently called upon to attend horrific accidents, are often witness to abuse of people on the streets and attend to the aftermath of family violence. Not too many other people in Western Australia would take on those tasks. The police probably do not do it willingly, but they do it knowing that it is part of the job, and they do not shirk the responsibilities that go with that job. I think all members in this Chamber would wish to give their sincere thanks to members of the Police Service for the work they do, often when we are asleep. We hope this legislation, when in place, will provide them with the support they require.

HON JIM SCOTT (South Metropolitan) [5.00 pm]: The only thing that the Greens (WA) find wrong with this Bill is that it has been a long time coming. It corrects an anomaly that should have been fixed many years ago - that police were not regarded as employees, which cut them off from the protection of the Occupational Safety and Health Act. That crazy situation has now been rectified. As Hon Ray Halligan said, police work in situations in which they need the protection of an Act such as this. Few employees in this State would have greater need for the protection of that Act than the police. I do not want to in any way hold up this legislation getting through today, so I will sit down, shut up and give my support to the Bill.

HON JOHN FISCHER (Mining and Pastoral) [5.01 pm]: This Bill has been a long time coming. The Police Union has been asking for this legislation since 1982, and Western Australia is the last State in Australia to bring in a Bill of this nature. It is fitting that One Nation supports this Bill. Occupational health and safety laws cover every other occupation, including firemen and ambulance officers, in this State. Since a policeman is never off duty, it is fitting that the health and safety provisions cover an officer who is forced to attend a scene, even if he or she is not on duty. This legislation will develop a culture of safety first and responsibility for one's own safety. While an employer has a duty of care towards an employee, that employee must also take care to protect himself or herself from harm. Police officers who blatantly act outside operational procedures will in future be contravening health and safety codes, and will find themselves accountable. I believe the tragic aircraft accident at Newman last January was a case in point. The coroner found in that case that budgetary concerns, inadequate pilot training, and failure to follow procedure were the principal causes of the accident. In this case, sadly, it would seem that the blame can be apportioned to both sides. Hopefully this Bill will put the onus both on individual officers and the service to create a culture of safety within the force, so that this sort of thing does not happen again. While policing can be a dangerous and difficult occupation, it is possible, by correct training and procedure, to minimise wasteful harm and, in extreme unfortunate cases, death. It is also important that safety remains within context, so that normal police operations, including covert operations, are not compromised in any way. I believe there are provisions in this Bill that will ensure that is the case. It is with a great deal of satisfaction that One Nation sees this legislation coming before the Parliament, and we are most certainly in full support of it.

HON KATE DOUST (South Metropolitan) [5.03 pm]: I support this Bill, which has been for me a much anticipated piece of legislation. I referred to the potential inclusion of the Police Service under the provisions of the Occupational Safety and Health Act 1984 in my inaugural speech. As someone who has been involved in this area for a long time, I could never understand why police officers had been omitted from the protection of that Act. I am pleased that this Government has been able to move forward on behalf of members of the Police Service, to see that they were included, and have the same protection as every other worker in this State. Hon Ray Halligan and Hon Jim Scott have already presented some reasons for the exclusion of police, such as issues with the contract of employment and the definitions of workplaces. Once this legislation is passed, it will offer a range of opportunities for members of the Police Service to take a more active role in discussions on occupational health and safety issues that arise in their workplaces, be that through elected safety representatives or workplace committees that will be established in each of the police stations.

Another benefit for police officers is that now an independent body will scrutinise any health and safety issues in their workplaces. The external organisation, WorkSafe Western Australia, will be of great benefit to them in that there will not be any potential conflicts of interest, which may arise from time to time when internal investigations occur. That will be a very positive step. The close scrutiny of the way in which occupational health and safety is conducted in the Police Service will lead to further improvements in service standards for its members.

Another benefit is that the practicability issue will come into play for those people covered under the Act, as it does for every other worker. I understand that some of the problems for police officers include the difficulty in accessing personal protective equipment and a range of other equipment such as riot gear, helmets, boots, raincoats, body armour, chain mail shirts etc. A lot of that comes down to cost. Once practicability kicks in, the

employer, in this situation, will no longer be able to say that it cannot afford the equipment. It will have to take into account a range of other factors before it can reach that decision. Hopefully, that will provide some positive change for those people who need to access that PPE on the odd occasions when they need to use it in their working environment.

I agree that this legislation will lead to a positive cultural change in the workplace. It will occur over a long period, and it will come about because of the active interaction of safety representatives and safety committees and their interactions with the levels of management in the various police stations.

The Police Service will gain another benefit from the passage of this Bill. In the past when fatalities or injuries occurred in the workplace or as a result of the nature of the work police officers perform, those fatalities or injuries were not recorded nor were inquiries conducted. Now WorkSafe WA will be able to investigate those incidents, report on them and hopefully find ways to prevent them from happening again. This will be a relief for the families of officers who pass away in the course of their duty. Currently, fatalities that occur in the Police Service are not listed in the "State of the Work Environment" issued by WorkSafe WA. Quite often those fatalities can be tracked only when a person has a personal interest. Hopefully, that issue also can be addressed.

Over the next 12 to 18 months there will be a very positive change, as the representatives and the committees start to operate. This will also be of great benefit to the public of Western Australia. Police officers will be working in a much-improved workplace due to the improved health and safety conditions, and that benefit will flow through to the community. I hope that as a result of this change - I know the Police Service takes this issue very seriously, as does the Western Australian Police Union - the Commissioner of Police will dedicate staff to deal with the health and safety issues that arise. It is a very specialised area that requires people who are competent, have knowledge of how the legislation operates and how the systems can be put in place, and who can deal with the resolution of the issues that will arise.

I am very pleased that this Bill will be passed through this place today. I congratulate all those involved. I particularly congratulate those members of the Police Union who have been active in pursuing this matter. On behalf of its members, I look forward to the passage of this Bill.

HON NICK GRIFFITHS (East Metropolitan - Minister for Racing and Gaming) [5.08 pm]: First, I thank Hon Ray Halligan for his support and observations. In particular, I note his reference to the Minister for Police, Hon Michelle Roberts, who has been very keen to have this measure passed into law. Hon Jim Scott also spoke in support of the Bill, and I thank him for his support. Similarly, I thank Hon John Fischer and Hon Kate Doust, who has some considerable expertise in this area, and I think we have benefited from her informed observations. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Leave granted to proceed forthwith to third reading.

Third Reading

Bill read a third time, on motion by Hon Nick Griffiths (Minister for Racing and Gaming), and passed.