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Police Amendment Bill 2007

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POLICE AMENDMENT BILL 2007

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Second Reading

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [3.15 p.m.]: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

I am pleased to introduce the Police Amendment Bill 2007.

The Report on the Review of the Police Act 1990 was tabled in this House on 25 October 2006. The Review concluded that the policy objectives of the Act remain valid, and that the terms of the Act generally remain appropriate for securing those objectives.

The Report contained 56 recommendations, most of which were for legislative changes to improve the operation of the Police Act, having regard to its policy objectives.

Members will undoubtedly recall that a substantial proportion of these recommendations were included in the Police Amendment (Miscellaneous) Bill that was passed by Parliament in the Spring Session of 2006.

That Act ensured that some of the key recommendations were implemented without delay. These included: Emphasising the law enforcement role of police in New South Wales with the restoration of the title New South Wales Police Force

I would like to thank all the participants in the consultation process who together played an invaluable role in the development of this bill.

The amendments as proposed for the draft bill relate to two groups of recommendations. These are:

Employment related matters aimed at promoting further consistency of the Police Act with the Public Sector Employment and Management Act; and

matters relating to complaints, under Part 8A of the Police Act.

I will now briefly take the members' through the proposed amendments:

Employment provisionsEmployment provisions

The Public Sector Employment and Management Act introduced modern and consistent employment standards for persons in the Public Service, a public authority, in a statutory position and, in certain circumstances, to officers in the New South Wales Police Force.

Bringing greater consistency in the employment of senior executive police officers and those of the public sector generally;

Removing the requirement to categorise complaints against police;

Removing of the statute of limitations for bribery offences; and

Increasing penalties for persons impersonating a police officer.

The bill I have introduced today addresses the remaining recommendations of the Police Act Review Report.

These were matters that required further consideration by the Government and further consultation with the key stakeholder groups to ensure that any legislative reforms would achieve the outcomes intended by the Police Act Review and would be in the public interest.

The main bodies consulted on these proposals were the New South Wales Police Force, the Police Integrity Commission, the New South Wales Ombudsman, Police Association of New South Wales and the Ministry for Police.

Many of these provisions have been incorporated into the Police Act, sometimes in their entirety or sometimes in part. Some were also incorporated into the Police Act by the Police Amendment (Miscellaneous) Act 2006.

The bill will advance this administrative reform process by making further amendments to broaden the consistency between the two Acts and to incorporate notes into the Police Act to draw attention to certain employment provisions in the Public Sector Employment and Management, or PSEM, Act that already apply to police officers but are sometimes overlooked.

It is proposed to amend section 25 of the Police Act to provide that an acting Commissioner of Police is to be appointed by the Minister, rather than by the Governor on the recommendation of the Minister. The amendment will also enable an acting Commissioner to be appointed if the Commissioner is suspended.

Such acting appointments would only be for short-term periods.

The proposed amendments are consistent with the PSEM Act and will simplify the current cumbersome administrative process.

Section 26 of the Act will be amended to provide that the Commissioner or an executive officer may be re-appointed with effect before the expiry of the Commissioner's or executive officer's term of office. In that case, the Commissioner's or executive officer's existing term of office will expire. This is similar to section 68(2) of the PSEM Act.

Section 41 of the Police Act will be amended to provide that a contract of employment of an executive officer may constitute an instrument of appointment. This will remove some unnecessary paperwork in the appointment process, and is consistent with section 69(4) of the PSEM Act.

The Commissioner will be empowered to appoint officers to act in non-executive police officer or non-executive administrative officer positions if the position is vacant or the holder is suspended, sick or absent. Currently, this situation is dealt with by way of temporary appointments. These provisions will largely duplicate section 24 of the PSEM Act.

Provision will also be made for the Commissioner to retire an executive officer, a non-executive officer or a non-executive administrative officer who is found on medical grounds to be unfit to discharge or incapable of discharging the duties of the officer's position. This will be consistent with section 25 of the PSEM Act.

In a similar vein, the position of a non-executive officer or a non-executive administrative officer will become vacant if the officer abandons his or her employment in the New South Wales Police Force. This is an addition to the provisions that outline the ways by which a position becomes vacant. It will bring the Police Act in line with section 26 of the PSEM Act.

The provisions relating to the employment of temporary employees to carry out work in the New South Wales Police Force have been substantially expanded to capture most of the provisions of the PSEM Act relating to the employment of temporary employees.

The Act will stipulate a maximum period for temporary employment at anyone time of three years, rather than the current period of four months, and provide for reemployment of a temporary employee to be in accordance with guidelines issued by the Commissioner.

The employment of temporary employees for periods of 12 months or more will be limited to employees selected on merit.

A note will be inserted in the Police Act to advise on the provisions of the PSEM Act that apply to members of the Police Force. They include issues such as cross-agency employment; employees contesting State elections and the re-appointment of employees resigning to contest Commonwealth elections.

ComplaintsComplaints

I now turn to the complaints provisions. The bill provides for minor amendments to Part 8A of the Police Act (which relates to the management of complaints made against police officers) and improves the capacity of

the Ombudsman to report and consult with the Minister for Police and the Commissioner for Police in relation to police complaints.

Section 129 of the Police Act will make it clear that complaints made directly to the Police Integrity Commission or the Ombudsman are not required to be entered into the complaints information system unless the Police Integrity Commission or the Ombudsman so directs. This will assist, where required, in protecting the identity of complainants.

Section 144 of the Act will make it clear that the power to investigate a complaint includes the power to take any action necessary to resolve the complaint in the manner the Commissioner thinks fit, including alternate dispute resolution.

These amendments will assist police resolve complaints without recourse to full-scale investigations, where not appropriate, and allow for the more timely resolution of minor complaints.

This is supported by Section 148A which will confer on the Commissioner an express power to decide to take no further action in relation to a complaint.

Section 154 of the Police Act enables the Ombudsman to request the Commissioner to review a decision to take no further action in relation to a complaint.

These amendments give the Commissioner greater control over the management of complaints, and support the role of the Ombudsman in overseeing the management of complaints.

Functions of the Ombudsman relation to complaints

Currently, the Ombudsman may make a special report to Parliament at any time about any matter connected with the Ombudsman's functions under the Police Act relating to complaints.

Sections 160, 161, 161A and 162 of the Police Act will enable the Ombudsman to report to the Minister for Police and the Commissioner on any such matter. These amendments regarding special reports replace previous provisions.

Section 163(6) of the Act will enable the Ombudsman to publish police information, including critical police information) to the Minister as well as the Commissioner.

Amendment of the Police Integrity Commission Act 1996

As a result of the amendments to the Police Act there are a small number of consequential amendments to the Police Integrity Commission Act.

Section 74 of the Police Integrity Commission Act provides for the termination of police investigations. The amendment will provide for the Police Integrity Commission to notify the Commissioner of Police instead of the Ombudsman on the completion of an investigation into a police complaint, or a decision to discontinue an investigation.

At schedule 2 there is an amendment enabling the making of regulations containing savings and transitional provisions.

Conclusion

In conclusion, this Government is pleased to bring forward these amendment to ensure that Police are equipped with the most modern and effective legislation to help them fight crime and operative with optimum efficiency.

I commend the bill to the House.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [3.15 p.m.]: I lead for the Coalition in debate on the Police Amendment Bill 2007. We will not be opposing the bill, but I will be seeking to amend it in one area that I will speak to shortly. The amendments to the Police Act 1990 and the Police Integrity Act 1996 arise out of a statutory review of the Police Act which was conducted by the Ministry of Police and which was tabled in Parliament in October last year. The review recommended changes to the Police Act to align provisions with the Public Sector Employment and Management Act 2002, including provisions about the appointment of staff. The overwhelming majority of this legislation deals with the employment of staff. The other aspects of the bill deal with complaints against police that, as I will indicate shortly, formed part of the review.

The amendments to the bill provide that an acting commissioner of police can be appointed by the Minister rather than by the Governor on recommendation of the Minister. An acting commissioner can be appointed if the commissioner is suspended. The commissioner can be reappointed before his or her term of office expires in that area that I will be seeking to amend the bill slightly. The bill also provides that a police officer can be paid an allowance while exercising the functions of a position even though he is not appointed to act in the position. It further amends the current practice in that an executive officer can be appointed before his or her term of office expires. It also empowers the commissioner to retire an executive officer, a non-executive police officer or administrative officer found to be unfit or incapable of discharging the duties of their positions. Officers can act in non-executive police officer and administrative officer positions if vacant or if the holders are suspended, sick or absent from work. Non-executive police officer or administrative officer positions become vacant if an officer abandons his or her employment in the New South Wales Police Force. The final part of the bill relates to the three-year maximum period of temporary employment. However, if it is a merit selection position it has to satisfy the criterion of 12 months or more.

I am proposing an amendment because I am concerned that the bill will allow a government irrespective of its political persuasion to make an appointment of a commissioner out of sequence. For instance, in the lead-up to an election nothing will stop a government from renewing the contract of a commissioner who may be under, for example, a five-year contract—I am not referring to the current Commissioner of Police—and there is no ability for that decision to be challenged. If the term of office of a commissioner is to expire on a date following an election and the proposed date of reappointment is less than 12 months before the election date, my proposed amendment stipulates that the reappointment cannot take place. The five-year contract of the current commissioner runs until 2012. However, under the bill as it presently stands, in the 12 months prior to the 2011 election campaign the Government could renew the commissioner's contract even though it had some years to run. It is my view that a commissioner should not be reappointed within 12 months prior to an election if the contract is being renewed ahead of schedule. My proposed amendment seeks to add a level of protection so that in the lead-up to an election campaign the community has a degree of scrutiny over the Government and reappointment of a commissioner of police.

The position of Commissioner of Police is special in that it is independent of government. Over the last couple of years the Government relied heavily on the former Commissioner of Police particularly in regard to announcements containing bad news. The Government always trotted out the commissioner, rather than the Minister of the day. The Government preferred to make positive announcements and to leave the bad news to the commissioner. We saw that in the lead-up to the election campaign. I held the view then, and I continue to hold the view, that there needs to be some level of independence from government. I am also concerned about the appointment procedure by the Minister. The Opposition has considered the bill and will not oppose it. However, we will closely monitor it. Nevertheless, the Opposition's foreshadowed amendment with respect to the reappointment of a commissioner of police will allow a level of scrutiny in the lead-up to the election. It is a sensible amendment. I will be surprised if the Government does not support it. I reiterate: the amendment prevents any appointment being made out of sequence in the lead-up to an election campaign and it allows the public to consider the matter.

The bill also deals with complaints against police. Some members may be concerned about the commissioner's significant powers with respect to the resolution of complaints. I contacted the Ombudsman's office to ensure that this is consistent not only with the recommendations of the ministerial review but also with the role of the Ombudsman. I have been advised that the Ombudsman is not opposed to the changes. The bill will allow greater flexibility for the commissioner to deal with the class of complaints that do not automatically fall within the purview of the Police Integrity Commission. These are more managerial or less serious matters such as an officer's attitude or customer service type matters. Indeed, it appears that the Ombudsman is working with the Commissioner of Police to put forward a series of changes that will free up police time. I suspect that they are a result of a recommendation made by the Commissioner of Police, who is working in tandem with the Ombudsman. As a result of the ministerial review of the Police Act, 56 recommendations were made. A large number of these recommendations have been included in the Police Amendment (Miscellaneous) Bill 2006. This bill addresses the remaining recommendations. I shall move my foreshadowed amendment in Committee.

Ms SYLVIA HALE [3.25 p.m.]: The Greens do not oppose the Police Amendment Bill 2007, although we have reservations about some aspects of it. The bill amends the Police Act 1990 and the Police Integrity Commission Act 1996 following a statutory review of the Police Act 1990 by the Ministry of Police. The review was tabled in October 2006. Much of the bill concerns work arrangements and the appointment of persons to fill vacant positions on an ongoing, rather than a temporary, basis. A temporary period of employment may, however, extend to three years rather than the four months that currently applies. One must wonder whether the end result will be to permit what is, in effect, a permanent appointment without a position being advertised. I note that anyone employed temporarily for 12 months or more will be required to have been selected on the basis of merit. The implication is that an employee may act in a position for up to 12 months without ever having to front a selection panel. The commissioner is given considerable discretion in terms of public scrutiny appointments. Further, the bill states:

The Commissioner may exempt the employment of a person if the Commissioner determined that the special circumstances of the case justified the exemption.

The commissioner, therefore, has the power to ignore the requirement for merit selection for any position whether longer or shorter than 12 months. Recently numerous allegations have been circulating about inappropriate appointments within the Department of Corrective Services. I am concerned that the provisions before us today may facilitate questionable appointments not based on merit to occur within the New South Wales Police Force, especially at senior levels. I understand that the Opposition has concerns about the provisions relating to the reappointment of a commissioner prior to the end of a commissioner's term—that is, the provision may be used in the period prior to a State election to allow the Government to reappoint a commissioner and thus, presumably, frustrate any desire on the part of the incoming government to make a clean sweep. My reading of the Act is that under section 28, "Removal of Commissioner", a commissioner may be removed should the Minister so recommend. Section 28 states:

The Governor may remove the Commissioner from office on the recommendation of the Minister at any time for any or no reason and without notice.

I await with interest the Opposition's amendment, which we will consider very seriously. I turn now to the provisions dealing with the functions of the Ombudsman relating to complaints. I understand that the Ombudsman's office is supportive of the bill, but not all of the Ombudsman's requests have been incorporated into the bill. Currently the Ombudsman may make a special report to Parliament at any time about any matter connected with the exercise of the Ombudsman's functions under the Police Act relating to complaints. That provision has been retained and has been enhanced in relation to auditing matters as well.

While the current wording has been maintained, the bill replaces current section 161, which provides for the making of information public. The effect of the change is to remove the requirement that the Ombudsman publish information about the rights and responsibilities of both the police and the public. I am not sure why that provision has been removed. Perhaps the Minister will be happy to explain why that information-providing role of the Ombudsman is to be deleted. When we turn to look at the issue of complaints, there are few improvements within the bill. We already have a veil of secrecy over many of these investigations. Often people get too little in writing from the Ombudsman, whose investigations may take months or even years. The Ombudsman may omit any matter from a copy of a report given to a complainant or a police officer, other than the commissioner, if the Ombudsman thinks it is in the public interest to do so.

A number of the provisions seem to be aimed at giving the commissioner greater powers to oversee complaints and to take any action that he or she sees fit, or to take no further action in relation to a complaint. The bill does nothing to change that situation. The police can still investigate themselves, and the Ombudsman's oversight role is relatively weak. Let us take, for example, the case of Police Commissioner Scipione's recent "investigation"—I use that term loosely—into police not wearing identification tags during the APEC demonstration, and the assault on photographer Paula Bronstein.

In the case of the non-display of badges, the commissioner made a very cursory investigation, and claimed that nothing untoward had occurred and that police did not wear the badges because wearing pin-attached or velcro-attached badges had previously injured police. According to the Commissioner of Police, wearing a badge is more of a hazard for police than the wearing of a weapon, such as a gun. I fail to follow the argument that the wearing of badges is hazardous. Indeed, during the budget estimates hearing and in answer to questions on notice the commissioner failed to provide a single instance of when police have been injured by their own badges.

The Hon. Eric Roozendaal: They don't wear them.

Ms SYLVIA HALE: I acknowledge the interjection by the Minister for Roads, and Minister for Commerce that they do not wear them. We still have not heard the commissioner's thoughts on the investigation by police of the assault on photographer Paula Bronstein and other persons during the APEC period. In fact, the commissioner displayed remarkably little knowledge of the details of APEC operations at the budget estimates hearing, which is somewhat surprising given his position and the importance attached to the event. It is not surprising that the Greens and many members of the public are sceptical about any procedures that involve the police conducting investigations into complaints about police conduct. As with so many of the checks and balances that have developed historically to protect the public from excessive use of executive power, the Government dismisses transparency and accountability mechanisms as red tape that must be eliminated.

Many people view the making of complaints to the Ombudsman about police behaviour as a waste of time. When police take it upon themselves to push a five-foot, slightly built, female photographer down onto the pavement for no apparent reason, people quite rightly perceive this to be an abuse of police powers. I understand that a number of people who participated in the APEC rally are obtaining legal advice regarding wrongful imprisonment, assault and other offences allegedly committed by police. This State has a history of royal commissions—like those of Justices Moffat and Wood—into aspects of police incompetence, corruption or brutality. In Victoria, a number of people who suffered injuries at the hands of police during the World Economic Forum in 2000 have recently received compensation payouts from the police. The information emanating from Victoria in recent days indicates that some members of Victoria Police are quite prepared to put their own interests ahead of those of the public.

Proposed section 161A enables the Ombudsman to omit police information, and requires the Ombudsman to omit critical police information, from copies of reports given to complainants or police officers. What sort of details will a complainant not be given? For example, will the name of an officer who had failed to wear a name tag and who was the subject of a complaint, or who used unreasonable force or obstructed the making of a phone call to a lawyer, be withheld? What guidelines will be in place to assist the Ombudsman in determining whether information will be made available? For example, if a Greens member of this Parliament and a Senator who held a press conference in Farrer Place were watched, followed, and reported on by undercover police officers, could all reference to this operation be deleted on the grounds that it was a police surveillance or operational matter? These are questions that remain to be answered.

Although the Ombudsman can still require that a matter be investigated, the Commissioner of Police can bring to an end any investigation. The Ombudsman has the power to request a review of the commissioner's decision, but the extent of the Ombudsman's power beyond that is anything but certain. The Greens do not oppose the bill but are far from satisfied about how police investigations are currently handled in New South Wales. The bill does not worsen the situation, but neither does it make any great improvement.

Reverend the Hon. FRED NILE [3.35 p.m.]: The Christian Democratic Party supports the Police Amendment Bill 2007. The bill implements a number of recommendations from the statutory review of the Police Act 1990, principally relating to employment provisions of the New South Wales Police Force, and provisions relating to improving the police complaints management process. The statutory review of the Police Act 1990 was completed in 2006, and a number of its recommendations for legislative reform were brought forward in the Police Amendment (Miscellaneous) Bill 2006. A number of other matters were raised during the review but further consultation was needed between the members of the Police Force, the Police Force itself and the Police Association. That consultation has now been finalised, and we understand that all stakeholders support the proposals contained in the current bill.

The bill ensures greater consistency between the Police Act's employment provisions and the Public Sector Employment and Management Act 2002. It makes minor amendments to part 8A of the Police Act, which relates to the management of complaints made against police officers. This is an area of ongoing concern to police officers because of their sense that a multiplicity of organisations is now available to investigate complaints of various sorts, depending on the type and seriousness of the complaint. Nevertheless, many police officers are tied up for many hours dealing with the complaints that are made. Often the complaints are vexatious and nothing comes of them. However, one of the more serious effects on the morale of police officers is their concern that they do not get themselves into trouble in carrying out their duties. That now brings a degree of hesitancy into the role of police officers in this State.

Police officers know there are so many avenues for complaints, that there are so many areas where, even without intention, they may make an error—in many cases, almost a technical error—which will cause them to face such complaints. I believe this is a serious matter, and I urge the Government as it reviews legislation affecting police to cut down the red tape, as it is referred to, as it has done in other areas, to review the entire complaint mechanism with regard to police officers in order to simplify it. This will allow police officers to concentrate on doing their duty, rather than having to look over their shoulder to ensure they do not fall into a trap—which, as I said, may be a technical or administrative trap—which affects their ability to carry out their duties.

The bill will improve the capacity of the Ombudsman to report and consult with the Minister for Police and the Commissioner of Police in relation to police complaints. I note the concerns raised by the Leader of the Opposition in relation to some aspects of the bill. The bill amends the Police Act to provide that an acting Commissioner of Police is to be appointed by the Minister rather than by the Governor on the recommendation of the Minister. The Minister for Police, the Hon. David Campbell, made it clear in his agreement in principle speech:

Such acting appointments would only be for short-term periods, such as when the commissioner is on leave.

I believe that is a perfectly acceptable procedure. Obviously, to involve the Governor in such appointments would entail additional administration and procedures, which is not required or necessary. It is a simple procedure in that limited category such as when the commissioner is on leave. However, to ensure the independence of the Commissioner of Police, it is important that the Governor retain the role of appointing the Commissioner of Police, which is an important function in this State. We support the bill.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [3.39 p.m.], in reply: I thank honourable members for their contributions to this debate. The report on the Police Act 1990 identified areas in the legislation that needed to be strengthened to improve the administration and efficiency of the New South Wales Police Force. The amendments arising from the review of the Police Act cover a broad spectrum of issues. The bill will provide greater consistency between the Police Act and the employment provisions of the Public Sector Employment and Management Act. With the support of all the police oversight agencies and the Police Association, the bill provides for a range of minor improvements to Part 8A of the Act which deals with the management of complaints against police officers.

The total package of reforms presented in this bill will make the Police Act a more practical statutory basis for the employment and operational effectiveness of police in this State. The Government supports the continued role of

the Ombudsman in the management of complaints made against New South Wales police officers. I acknowledge the comments of the Reverend the Hon. Fred Nile in relation to the Minister, rather than the Governor on the recommendation of the Minister, being able to appoint an acting Commissioner of Police. The amendment will significantly reduce unnecessary bureaucracy in the appointment of an acting commissioner.

Currently, if the Commissioner is away for a period of two weeks, application still has to be made to the Executive Council to appoint an acting commissioner. Both the New South Wales Police Force and the Commissioner of Police support the amendment. There is no public benefit in having the Governor involved in the appointment or termination of an appointment of an acting commissioner. The removal of the Governor from the appointment or removal of an acting commissioner by substantively empowering the Minister to do so brings the process into line with the Public Sector Employment and Management Act. I commend the bill to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clauses 1 to 5 agreed to.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [3.46 p.m.]: I move:

No. 1 Page 3, schedule 1 [3]. Insert after line 16:

(3) The Commissioner may not be reappointed under subsection (2) if:

(a) the day on which the Commissioner's term of office would otherwise expire is after the date appointed for the next general election of Members of the Legislative Assembly under section 24A (a) of the *Constitution Act 1902*, and

(b) the proposed date of reappointment is less than 12 months before that election date, and

(c) the term of the proposed reappointment would expire after that election date.

The purpose of this amendment, which relates to section 26 of the Police Act, is to guarantee the independence of the position of Commissioner of Police. It will remove any opportunity for a suggestion of political appointment in the lead-up to an election campaign, and will ensure probity and forward thinking by the Government in relation to the reappointment of a commissioner. A commissioner can be appointed with a five-year contract but there is nothing in the legislation to stop the government of the day bringing forward reappointment well before the expiration of the contract.

The current commissioner's five-year contract will expire in approximately 2012, but there is nothing in the legislation to prevent the Government reappointing the Commissioner some years beforehand. In the lead-up to a State election campaign the government of the day could bring forward the contract of an unpopular commissioner and reappoint, even though the public, the police rank and file, or indeed the Parliament itself, may not agree with such reappointment. The amendment will ensure that the independence of the Commissioner of Police is protected.

The Hon. ERIC ROOZENDAAL (Minister for Roads, and Minister for Commerce) [3.47 p.m.]: The bill provides that section 26 of the Act will be amended to provide that the commissioner or an executive officer may be reappointed with effect before the expiry of the commissioner's or executive officer's term of office. In that case, the commissioner's or the executive officer's term of office will expire. This is similar to section 68 (2) of the Public Sector Employment and Management Act. The Government believes the Opposition amendment would be an unnecessary restriction for the following reasons. It would be inconsistent with the appointment process for other public sector executives. The Government respects the century-old caretaker conventions that prevent appointments of senior Government officials prior to an election. This unnecessary legislation will only add to the red tape and bureaucracy that this bill intends to cut out of the Police Act 1990 to allow New South Wales police to focus on the job of keeping New South Wales safe.

Unlike other public sector agencies the Government has, however, maintained the role of the Governor and the Executive Council in the substantive appointment of a permanent Commissioner of Police. This ensures the independence of the position both within and outside the organisation. The New South Wales Opposition has not afforded this respect to the Commissioner of Police. Members may remember the former Opposition Leader's promise to unilaterally sack former Commissioner Ken Moroney should they be elected. Members will also recall the former Opposition Leader labelling the former Commissioner of Police a "clown". That same Opposition Leader promised to direct the Commissioner of Police to round up 200 people of Middle Eastern background and

"get them arrested and get them locked up". This is not an Opposition that respects the independence of police or indeed respects police at all. The Labor Government is proud to support our police and help them cut away the red tape in their administration. The Opposition's amendment will not help to cut red tape and the Government cannot support it.

The Hon. MICHAEL GALLACHER (Leader of the Opposition) [3.49 p.m.]: The main thrust of the Government's opposition to our amendment is based on two arguments. The third argument is just political rhetoric and we can disregard that. As to inconsistency with executive positions across the public sector and the Public Sector Employment and Management Act, the Commissioner of Police is a special position. I cannot think of any other senior executive in the public sector that would be similar to the Commissioner of Police. The Commissioner of Police takes an oath of office from the moment the officer enters the New South Wales Police Force and that oath of office continues throughout the officer's entire career until resignation or retirement from the New South Wales Police Force.

Therefore, the position of Commissioner of Police cannot be compared with any other executive position. Because of the inherent power and authority attached to the Commissioner of Police, the position needs to be continually examined to ensure independence and that there is no impropriety between the Commissioner of Police and the government of the day. We are moving in the right direction. We saw what happened in Queensland some years ago when there was an improper and arguably corrupt relationship between Commissioner Lewis and the government of the day.

The Hon. Eric Roozendaal: A National Party Government.

The Hon. MICHAEL GALLACHER: Unfortunately, the Minister cannot get away from party politics. This amendment relates to all political parties now and in the future. It recognises that the commissioner's position is completely different to other public sector executive positions. It ensures against a political appointment of the Commissioner of Police in the lead-up to an election by way of five-year contracts. It guarantees a level of protection for the commissioner's position. The other argument the Minister raised was red tape. The red tape rests with the government, not rank and file police. The Minister gave the impression that the early reappointment of a Commissioner of Police would affect general duties police at Central or The Rocks. That is rubbish.

A procedure for early appointment of the Commissioner of Police, which must be subject to a level of probity and security, will involve red tape. By virtue of the position, it must be done in a way that negates any suggestion of impropriety. The suggestion that red tape will tie up the Police Force is a ludicrous argument. The Police Force will not be affected at all. If anything, the procedure will ensure that the government of the day goes to extra lengths to ensure that the reappointment is consistent with the needs and wishes of the public. It is far better for the Commissioner of Police to be reappointed in this way than for the Government of the day to be able to reappoint the commissioner on a whim.

Question—That the amendment be agreed to—put.

The Committee divided.

Ayes, 20

Mr Ajaka Mr Clarke Mr Cohen Ms Cusack Ms Ficarra Mr Gallacher Miss Gardiner	Mr Gay Ms Hale Dr Kaye Mr Khan Mr Lynn Mr Mason-Cox Reverend Dr Moyes	Ms Parker Mrs Pavey Mr Pearce Ms Rhiannon <i>Tellers,</i> Mr Colless Mr Harwin
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Noes, 21

Mr Brown Mr Catanzariti Mr Costa	Reverend Nile Mr Obeid Mr Primrose Ms Robertson Mr Roozendaal Ms Sharpe	Ms Voltz Mr West Ms Westwood <i>Tellers,</i>
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Mr Della Bosca Ms Griffin Mr Hatzistergos Mr Kelly Mr Macdonald	Mr Smith Mr Tsang	Mr Donnelly Mr Veitch
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Question resolved in the negative.

Amendment negated.

Schedule 1 agreed to.

Schedule 2 agreed to.

Title agreed to.

Bill reported from Committee without amendment.

Adoption of Report

Motion by the Hon. Eric Roozendaal agreed to:

That the report be adopted.

Report adopted.

Third Reading

Motion by the Hon. Eric Roozendaal agreed to:

That this bill be now read a third time.

Bill read a third time and returned to the Legislative Assembly without amendment.

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