

## GOVERNMENT RAILWAYS AMENDMENT BILL 2021

### *Second Reading*

Resumed from 20 October.

**HON NEIL THOMSON (Mining and Pastoral)** [2.19 pm]: I rise on behalf of the opposition to present on this bill and inform the house that the opposition will support the bill. In saying that, we will not be taking that much time on this. There is not too much to say about the specifics of the bill, but there are a lot of rail safety and trespass issues to canvass. I will touch on some of those within the time frame available, but I expect it will be relatively short. We will not need to go into committee.

The Government Railways Amendment Bill 2021 came before the Legislative Assembly in 2019. It really highlights the cumbersome nature of and challenges with parliamentary process when bills of a fairly minor nature end up getting caught up in the election process after Parliament is prorogued, and we end up having to start again. Here we are in 2022 with a bill that will amend the Government Railways Act 1904, which, as far as I can tell from [legislation.wa.gov.au](http://legislation.wa.gov.au)—the portal for government legislation—has not been amended since 2005. The act prescribes a penalty for trespass, currently set at \$200, which we can all agree is a very insignificant amount.

Given the challenges over recent years with the rise of social media and the behaviours outlined in the second reading speech by the parliamentary secretary on behalf of the Leader of the House representing the Minister for Transport, trespass has been a rising problem. Certainly, there are some rather graphic examples. As recently as 24 August 2022, PerthNow reported “Perth train station delay: 13-year-old charged after climbing roof sparking train line shut down”. I can only imagine how dangerous it is to climb on the roof of a train, given the electrification, the potential for injury and all those issues. We do not know the state of mind of the person involved. Sometimes, sadly, people trespass due to mental health issues. We know about not only the terrible trauma some of our drivers have to go through when that occurs, but also people’s thrillseeking behaviour. We saw a classic example on social media of a young gentleman jumping on top of a train and then, while it was on the Fremantle Railway Bridge, jumping into the water, narrowly avoiding serious injury or death. This is a very serious issue. Trespass is a serious matter insofar as it is reportable to the Office of the National Rail Safety Regulator. Clearly, our national rail safety laws require these matters to be reported. That affords a level of transparency about the effectiveness of our regulations and our legislative framework.

In supporting this bill, I make a few observations. There is an opportunity for stronger measures. This bill will raise the potential fine to \$5 000. That might have seemed all right in 2019, but it is probably not right now. I also note the difference between that and penalty for general trespass, which is up to \$12 000. I question why we do not just align the provisions in this act with those general provisions, given the considerable nature of the consequences of trespass in this situation—the issues around occupational health and safety for drivers, staff and the commuting traffic, and the huge impact it potentially has on those who choose to trespass.

It is interesting to see how social media fuels some of these incredibly antisocial behaviours and also dangerous activities such as the strange penchant for people to choose railway lines as a site for their wedding photos, which are then posted on Instagram. That is one of the strange things that occurs in this day and age of social media. I think a deterrent factor is needed, which is why we support the bill. The question is whether this could be picked up by the Criminal Code. That would mean that this house would not have to go through the process again when, at some point in the election cycle, in the lead-up to an election, the whole process ends when Parliament is prorogued, and it would not take three years for the house to get around to changing the legislation in order for it to line up. Maybe there could have been scope in this bill to enable the Government Railways Act 1904 to align with the Criminal Code.

There is also an important provision on the infringement notice maximum penalty under clause 7 of the bill. It will amend section 53A of the Government Railways Act 1904, which limits the amount that can be applied by way of an infringement notice. As I read it, an infringement notice can be issued that does not exceed 20 per cent of the maximum that would be applicable by a court. I assume “imposed by a court” under these provisions “imposed by a court” to mean applied by a court. Maybe, in good faith, and requiring us not to go into the Committee of the Whole House stage, the Leader of the House could clarify that. I assume applicable by a court means 20 per cent of \$5 000, not \$12 000. I assume the maximum infringement notice penalty will be \$1 000. I may be wrong; it may be \$12 000. I am trying to work out what amount will be applied in relation to the infringement notice.

**Hon Sue Ellery:** It is \$1 000, honourable member.

**Hon NEIL THOMSON:** Thank you. I appreciate that clarification, by way of interjection.

It means that the Department of Transport or the Public Transport Authority, whichever agency is responsible for issuing the infringement, could issue an infringement notice penalty of \$1 000, which would avoid the process of having to go before a magistrate. Again, that seems quite low. Maybe that is appropriate, given there is in fact

scrutiny within a court of the severity of the case, and given that trespass could be mean anything from standing on a rail line on property without authorisation through to those severe cases such as when we saw a young man—sadly, often a young man—hang off the back of a train going 120 kilometres per hour on the main rail line heading north. I believe that was some years ago. I recall that incident, and I am sure that all members recall it. Clearly, the strongest force of the law must be applied to those sorts of behaviours, with consideration of a perpetrator's record and all the other things that need to go through the court process.

The second reading speech refers to the need to avoid going to court because the average cost to the Public Transport Authority to prosecute trespass offences is between \$2 000 and \$3 000; clearly, a \$200 fine is almost pointless. As a former public servant, I wonder whether the costs are higher given all the on-costs, overheads and the general work that needs to be undertaken. I assume that the PTA has a unit whose officers focus on these matters. The maximum penalty increase to \$5 000 is a little low. It would have been good if the maximum penalty aligned with the Criminal Code provisions. The flexibility that can be applied by a judicial officer remains insofar as they would look at the evidence of a particular case and the nature of the infringement and make an adjustment according to the severity of the case. It is important that we raise these issues. As I said, I do not plan to spend too much time on this debate. Clearly, the PTA will be delighted when the Government Railways Amendment Bill 2021 passes today. We are all about getting things done with the government when they make sense. We want to support good government when it makes sense. We will spend more time on things that do not make sense. Today we are supporting this change.

Before I make my closing remarks, I want to refer to the issue of rail safety generally and how this bill will impact that. As I mentioned earlier, rail safety rests with the Office of the National Rail Safety Regulator. Section 2A of the Government Railways Act 1904, which is the underlying act that is being amended, outlines the hierarchy and refers to the national law. We would like to see stronger provisions in the Regional Australia Level Crossing Safety Program, an issue that was raised during debate in the other house. It is a very important issue. I recall a personal circumstance when I was a young man; it was one of those moments when your life flashes before your eyes. I was with a bunch of young men in a car on a very wet day in regional New Zealand. We were heading down a very wet road when suddenly there was a moving vehicle in front of us. It was only because of a last minute definition—there were no markings on the moving vehicle—that we realised that it was a train. We skidded to a halt, only a few feet from the side of the vehicle, because the crossing was unmarked. We would really like the government to focus on this because it is cutting a swathe of grief and problems across regional Western Australia. The issue can be addressed with relatively low cost and low input. A simple reflective painting on the side of a train would have assisted us in identifying that moving vehicle. Sometimes when we are young, we are also a little bit stupid—as was the case with the young university student. Sadly, so many young people lose their lives in tragic circumstances. This change is about young people as well.

I commend the PTA for working on the broader front of education in relation to safety. There is mention of the Right Track program, which is a teaching aid. I am sure that the Leader of the House, as the Minister for Education and Training, is very aware of the trespass and risk-taking behaviour teacher resource. I have looked at it, and I commend the Public Transport Authority, which is the agency responsible for putting it together. It does not matter how many penalties we exert through legislation nor the amount of a fine, young people will often make decisions that do not always line up with the proper risk matrix and comply with the law. Young people often do things on impulse or because they seek acknowledgement within their peer group. Clearly, the number one approach is education. The Public Transport Authority has put together the Right Track program on trespass and risk-taking behaviour. It contains great graphics and exercises. I hope that young people pause for a moment to let these things sink in and avoid some of those behaviours. Ultimately, both the government and the opposition sides of this house and all parts of Parliament want to see the statistics start to come down in a way that puts our community in a greater place of safety.

Those are my comments today. We support the bill; there has been too long a delay and certainly I will not add to that today because of the importance of this bill. Perhaps those who think about the policy can think about how we can make this more of an automatic process in the future. I question why the government has set the fine at this level, particularly given that the Criminal Code already has provisions for trespass, but that is an issue for another day. It is certainly worth reflecting on as we go forward.

**HON DAN CADDY (North Metropolitan) [2.38 pm]:** It gives me great pleasure today to rise to talk on the Government Railways Amendment Bill 2021. It is critically important legislation, albeit it is a very small document. There are two arms to the bill—namely, the increase in fines, which is what Hon Neil Thomson talked about, and the removal of a redundant provision, which I will not talk about today. We need to recognise the history of where this has come from; indeed, once again, Hon Neil Thomson referred to it in his remarks. We all saw the images of a young man surfing, as they call it, on top of a train, an incident that could have ended in absolute tragedy. I want to range over some of the broader safety benefits that will come from this amendment bill. This bill should be absolutely non-controversial, and I am not surprised that the opposition supports it.

As a society we seek to increase safety measures in everything we do. That is what civilised societies do. As a government, we seek to do the same things. I see the increased fine—this increased deterrent—as a critical safety measure. Safety measures can come in all sorts of guises. I note that Hon Neil Thomson talked about level crossings. I digress slightly, but something that the state government has taken very seriously is eliminating level crossings. Denny Avenue and Caledonian Avenue have already been completed. There are a further 16 level crossing removals planned. That is one way of increasing safety on the rail network. It is something that the minister, her office and the department have been very proactive in getting done.

It should also be noted that sometimes mechanisms that increase deterrents work extremely well. An example of this would be the introduction of double demerits that we saw some years ago. That was something that was introduced as a trial and is now there in perpetuity because it worked; it got results and it led to a reduction in road trauma. Coming back to rail safety, as a government I think we have a really good track record. Improvements in safety for the public are one thing, but what I really want to touch on today is that these deterrents will hopefully lead to fewer incursions on rail networks by individuals and also fewer fatalities. A really important aspect of this is that it then leads to a reduction of trauma. Every time someone is killed—in no matter what instance, but, we are talking about railways now—there is obviously trauma suffered by family and friends. However, there is also the trauma of the first responders who are there, the trauma suffered by those who have to investigate, and first and foremost, of the train drivers themselves.

Members may want to know where my interest in this comes from. I obviously have a keen interest in railways. Many people know that I think rail is the only way to travel, but members might not know that a close family member of mine spent his entire working life as a railway engineer with a specific interest in safety. In his later years, he authored many reports on rail incidents. Not all of them involved human tragedy—most rail incidents over a certain criterion are investigated. He did this across many states in Australia. This means I have spent many hours listening to the intricate details of what investigating a rail incident is all about. In fact, I daresay, if Ross were standing in my place today, members would be very happy with the standing order arrangements and the fact that time has been limited; otherwise, we may well be here at four o'clock in the morning and he would still be talking about his passion for rail safety and investigating these things.

Something he said to me really stuck with me. That was that when his team were on their way to investigate an incident in which there had been a fatality, they would take time to get there in the hope that they did not also have to see the human side of what had happened. To put that into perspective, at one stage the regional engineer for the New South Wales rail network was charged with doing a technical report on the incident. By the very nature of that, they did not necessarily look at the human tragedy. In fact, the only human side of it would have been the interactions with respect to train drivers, controllers and that sort of thing.

The idea of reducing trauma for everyone involved should absolutely be seen as the core of this and as a tangible benefit of the proposed increase in fines from \$200 up to \$5 000. This is not just limited to Western Australia; it is not even limited to Australia; there are stories of trauma from all around the world. I did note a really recent report from TrackSAFE Foundation, from September 2022. It looks into things right across Australia, but it has a specific section where it looks at Western Australia. It is great to know that there are people doing this. The purpose of this report is —

... to increase knowledge and inform prevention activities in order to reduce fatalities, injuries and near misses on the Australian heavy rail network.

Whilst this report notes that the average economic burden of rail safety incidents in Australia from 2007–15 was estimated to be about \$360 million, and that is not an insignificant amount, I want to continue to focus on the human cost. When I look at the number of fatalities in Western Australia going back to 2001, it appears to me that there has been no significant increase or decrease. Putting this legislation through is a real opportunity to increase the deterrent and see a decrease in fatalities. In the last 15 years, seven of those years have seen double-digit fatalities. For each fatality, as said before, the human cost from families and friends is enormous, right through to the drivers, operators and first responders—even sometimes from the general community, if it is someone from a small community.

It is a worldwide issue. Members in this place know how I am a bit of a Europhile and how I love to get evidence from Europe. I will get to that eventually. I wanted to look at one report in particular, to give members an idea of how these things evolve and can happen. It is an Australian example. I will not identify the report, but I will provide it to Hansard. I have deliberately looked at a report from over 15 years ago. I have to stress that this report was stressful and sad to read. It is a report on a train hitting three children that were on the track. It was a tragedy. Whilst I recognise that younger children might not fall into the category of people who can be deterred, I really wanted to use it to illustrate the human cost of such tragedies. I will read just a few little passages. Once again, this report, as many are, is a technical one. It was established to work out the factual circumstances, to identify direct causes, to address whether there was rail worker—or human—error, and to make recommendations.

The scope of this report was not to look at the human cost, but I was aware of this report and some of the details. I sought it out because it is critical in outlining how these things can happen. The principal cause of the accident, obviously, was the three children who were playing—in their minds—on an operating railway track. The network controller did everything that he had to do, he mobilised police and ambulance services. Everything was done. The other trains were even informed. The chronology of events makes it even sadder. The children were seen on surveillance cameras just before they entered the railway corridor and someone on an earlier train had seen them. Everyone was in communication and everyone knew they were there, but, as is the case with railways especially, there was not a lot people could do because it takes a long time to stop a train and they cannot be steered out of the way. The driver of that train was left to deal with significant trauma and issues. The web of humans affected was enormous. The report says that it was actually the third train going through that area that struck these children. That is an absolute tragedy. Although in this case the children would not have been deterred by some increased pecuniary measure, because trains move quickly and especially modern trains, although they are not silent, are fairly quiet, it could just as easily have been adults or the people Neil Thomson spoke about who decided to have their wedding photos on a railway line.

As I said, it is a technical report. It is a good report, but it does not include the human suffering. I wanted to lay that element over this debate to show what we will avoid if we reduce the number of people hit by trains.

I go to a much more recent report about fatalities on the German rail network. I picked Germany because it is a country I am familiar with. I am familiar with the size of the German rail network and I figured it would be quite advanced. But it is still an issue that affects it. I want to read from an article about what happens when there is a fatality on the train tracks in Germany. It is called a *personenschaden*—members may correct my pronunciation—which means “damage to person”. This is obviously a bureaucratic phrase that seeks to almost dehumanise what happens when there is a fatal crash or fatal incident. I go to this article because it talks about the career of a train driver, a gentleman named Peter Gutwasser. He drove on the S-Bahn railway system through Berlin. During his time, he was directly involved in three fatalities. It is like the story of what happened in Australia several years ago that I just referred to. The most awful experience Peter Gutwasser ever had was when he hit two children, in October 1996. He says in the article that he can still hear the noises from and see what happened in that incident. In his words, translated from German —

“I’ll carry that with me for the rest of my life, but I learnt to control it. I gave the boy a name for myself so I could give it all a place and move on from it.”

When a train driver can go to work at the start of the day and may come home having to deal with something like that, we need to do everything we can to ensure that the chance of that sort of incident happening is greatly reduced. The second incident he spoke about is very similar to the case on the Fremantle line. It was the third person he saw killed while he was a train driver. It was someone who was train surfing. He did exactly what we saw someone do in Fremantle. A young man aged 22 years climbed on top of the train. Unfortunately, as he climbed on top of the train it went under a low signal post and that was the end. Herr Gutwasser said —

That guy was 22—at that age you should know what you’re doing.

He was angry. In the end, he got past it and dealt with his anger and his grief.

I wanted to use those examples to show how important it is that we do everything we can as a government through regulation. The minister has been very big on improving safety everywhere. Everything we do to improve safety will reduce the chance that some of our hardworking public servants in the transport network will have to go through that sort of trauma.

Increasing the fine to \$5 000 is linked to the cost of prosecution, as the minister said in the second reading speech. That is important, but it is the human suffering that is probably most important. I have no doubt that increasing this fine will reduce the number of transgressions and through that the number of accidents and amount of trauma to so many people. In my mind, that makes this legislation doubly good. I commend the minister on her diligent work and I absolutely commend this bill to the house.

**HON PIERRE YANG (North Metropolitan)** [2.55 pm]: I rise to make a few comments about the Government Railways Amendment Bill 2021. I would like to thank the opposition for its support of the bill. Earlier today, Hon Neil Thomson made a very sensible and meaningful contribution to the debate on this bill.

I want to go back a little bit in history to look at the train system in Western Australia to show why it is absolutely necessary to do everything we can to make sure that it is a safe system for passengers, staff and the general public so that we can have a very efficient public transport system.

I agree with Hon Neil Thomson that young people, in particular young men, can be impulsive. I would not necessarily use the word “stupid”, but when we are young, we do stupid stuff. I am talking about the male population —

**Hon Sue Ellery** interjected.

**Hon PIERRE YANG:** Yes, Leader of the House.

It is important that we acknowledge and agree with Hon Neil Thomson on that point.

I also want to say a few things about Hon Dan Caddy's contribution. His three examples gave us that human touch. When we deal with legislation in this place, we deal with the words and sentences in bills. When we go into Committee of the Whole House, we look at the rationale for each of the clauses and sometimes members of this place put forward amendments with a view to improving the legislation. Once legislation has passed, receives royal assent from the Governor and becomes a law that affects all Western Australians and visitors to Western Australia, it can have a real impact; sometimes it will determine whether someone chooses to do a little act that could have huge ramifications for their wellbeing and those who could be impacted by their decision. I will talk about that in detail later.

As I mentioned, I want to talk about the train system in Western Australia. Let us not forget that the invention of trains and railways underpinned the rapid growth of the Industrial Revolution, which transformed the world into the modern twenty-first century world that we know. The technology surrounding and in trains has come a long way. In 1904, the top speed of a train in Western Australia was about 20 kilometres an hour. If I tried to drive at that speed in any suburban street, I bet I would get a few beeps from horns at the back asking me to hurry up, but that was the speed of a train 118 years ago. Fast-forward 90-odd years—in 1991, the speed was 110 kilometres an hour. That was a dramatic increase in speed from the first railway that we had as a state. Back in 1879, we had steam and diesel-powered locomotives, but in the early 1990s we had electrified engines and trains that served the commuters of Western Australia. As we have heard from other members, when it comes to that development, trains are obviously a lot smoother. They are not silent, but they are a lot less noisy compared with older engines. That high speed and less noise come with a risk when people get on a track. As we know, some people get on a track. They have less time to react and, unfortunately, we see fatalities from time to time.

I want to acknowledge the Public Transport Authority's campaign as mentioned in the minister's second reading speech. There are social media campaigns that highlight the dangers of trespassing and also remind people not to go on the train tracks to take their wedding photos. I saw one sign when I visited Fremantle with my family last Saturday. There was a sign with an image of a couple having a photo shoot on the train tracks on their wedding day with a train seemingly driving towards them. I might as well get the words right. The words on the sign said, "Don't let the happiest day of their lives be their last".

I think these campaigns are very effective. They remind people to be careful with their decisions but at the same time, as we have heard from the previous two speakers, we need to do everything we can as a community. One of the things that we can do is increase the fine for trespassing on the railway system. If we look at the value and the purchasing power of \$200, I dare say that would have got us two full trolleys of groceries 20 years ago, in the early 2000s. It depends on what you buy but, these days, \$200 might get you half or three quarters of a trolley so it is important that we increase the proportionality of the fine imposed for trespassing from \$200 to \$5 000. I will differ from Hon Neil Thomson in the sense that \$5 000 might have been appropriate in 2019 when the Government Railways Amendment Bill 2019 first passed the lower house and was introduced in the upper house.

**Hon Neil Thomson:** By means of interjection, I was talking about inflation.

**Hon PIERRE YANG:** Inflation. Yes, that is right. I still think \$5 000 is a marked improvement on the existing penalty. There is an aspect of this that is not about punishing people—I am not saying that; I am moving on to the next point. It is not about punishing people to say, "Whack! Here is a \$5 000 fine." It is about deterring people so that there is another factor involved when they make a decision. Hopefully, people will consider that in their decision-making process and risk assessment—especially young men, if we ever have that in the back of our mind when we are in our late teens and early adulthood—and that will help them come to a more sensible and safer decision.

I want to touch on another aspect of the bill about injuries. In my view, this is why it is absolutely important to have an amendment bill like this. In a way, I echo the words of Hon Dan Caddy about the real human loss when we have a fatality or an injury. Over the past five years, from 2016 to 2021, a total of 145 fatalities and injuries were reported in Western Australia. There were five fatalities and 11 injuries among trespassers and 260 near misses with trespassers, resulting in an average of 43 a year. There were potentially a lot more but they may not have passed the regulatory threshold for reporting.

A further total of five fatalities and 12 injuries occurred as a result of collisions with road vehicles and pedestrians at level crossings. I echo the words from Hon Dan Caddy that it is fantastic to see that so many level crossings are being removed in Western Australia, particularly in the south eastern corridor. There are still a lot of level crossings. In particular, the removal of the one on Denny Avenue in Kelmscott definitely helped to make the railway system a lot safer for the general public, the passengers and the other road users, and the traffic a lot more efficient. Well done to the state government for making that happen.

I do not think a \$5 000 fine is an extraordinary amount but it is an appropriate one. Let us look across the nation. The maximum penalty for trespassing is about \$5 500 in New South Wales and about 40 penalty units in Queensland, which, from my research, is about \$5 514. As you can see, a similar fine is imposed in New South Wales and Queensland. This increase, from \$200 to \$5 000, is not out of the ordinary; in fact, it is quite a measured but significant increase, and hopefully it will make the system a lot better.

I want to commend the state government and the public service on one small aspect. I used to live in Sydney, and my primary way of getting around, during those 14 or 15 months, was using the train system. The trains in New South Wales tend to be a bit bigger—double level—and used by a lot more people. Twenty years ago, there was a problem with graffiti on the trains, and, as I saw when I went back for a visit recently, the problem still exists today. The graffiti is surely not done by the public transport staff over there; it is done by trespassers going into the train yard. The expense of removing the graffiti puts a burden on that state's finances. It is atrocious how much public resources, money and staff time is wasted because of that problem.

In Western Australia, our trains are always clean and well maintained. There is no graffiti, and our trains are maintained to the top level. They are clean and tidy and well taken care of. We are also replacing our trains with Western Australian-made rolling stock, I hasten to add, which is fantastic for the economy and manufacturing capability of this state. That is a credit to the McGowan Labor government. We have always believed in bringing manufacturing capacity back to Western Australia, and we have always had faith in—and supported—the railway system. I know it has been 40-odd years, but I still cannot understand why the then Liberal Premier shut down the Fremantle line. I just cannot understand it. It must have been some kind of philosophical opposition to trains, but, hey, it has been 40 years and things are looking good now, thanks to the Labor government.

I wish to conclude by saying the following things. This is a short bill, with only seven clauses. It has the strong purpose of increasing the penalties that can be imposed for trespassing on the railway system. I say again: the aim of the bill is not simply to punish people who trespass on the railway system but to deter people from doing silly things. I am sure, with a dedicated public campaign in the media and the social media space, we can make the system a lot safer for passengers, staff and train drivers, and for the people who might act impulsively. Hopefully, they will not do such silly things. With those words, I commend the bill.

**HON MARTIN PRITCHARD (North Metropolitan)** [3.14 pm]: I would like to make a couple of brief comments on the Government Railways Amendment Bill 2021. The bill will deal with a lot redundant stuff, which is fine; I think everybody is quite comfortable with that. I am not normally an advocate for increasing fines. I think back to my youth, which is a fair while ago now. I think it is no secret in this place that I had a fairly robust youth. I used to drink quite a lot. In making decisions at that age, the last thing I would ever have thought of—with a skinful—would have been whether the consequence would be a \$200 fine or a \$5 000 fine. I am also concerned that there is a cohort of people who will be unable to pay a fine, whether it is \$200 or \$5 000.

I take on board the comments the minister made when introducing this bill. There is an ongoing process of trying to discourage this sort of behaviour on the transport premises. This is being done through social media and through encouraging police to build relationships with repeat offenders—people who tag and such. The increased fine is not the only thing that is going to have a major impact; many other things are happening behind the scenes to try to discourage this sort of behaviour, and it needs to be discouraged. I think the fine increase will discourage thrillseekers, if I can categorise them in that way, such as the young gentleman who jumped off the train into the river earlier this year, but I do not think it will have such an impact on those who tag and such.

This bill is just one of the levers that this government is using to make the public transport service a lot safer. On the basis that there is a lot of other work being done, I am happy to support the bill.

**HON SUE ELLERY (South Metropolitan — Leader of the House)** [3.16 pm] — in reply: I thank members for their contributions to the debate on the Government Railways Amendment Bill 2021. I particularly thank the opposition for its support. I will respond to some of the comments made by Hon Neil Thomson in particular.

There was a question about whether there is an opportunity to increase the fine above \$5 000. The amount of \$5 000 reflects the cost to the Public Transport Authority of taking an alleged offender to court and prosecuting them. For now, that amount is deemed to be sufficient, but there is always the opportunity to revisit that at some point in the future. Another question was about aligning the fine with the trespass provisions under the Criminal Code, which set a fine of \$12 000. The provisions under both the Criminal Code and the Government Railways Act are available to prosecute trespass. It would depend on the specific circumstances of an offence. Linked to that was a question about why we have a modified penalty provision. The purpose there is to incentivise payment of the infringement, rather than having the matter dealt with by a court. I am advised that the cost of sending transit officers to court is about \$2 000 to \$3 000 in time that is lost by those transit officers being in court rather than anywhere else. It is quite a deliberate and considered decision to try to get payment up-front, rather than going through the courts.

More generally, on level crossings, the state government is committed to level-crossing safety and will continue to work with the federal government and the Office of the National Rail Safety Regulator on improving safety across

the network. The recent federal government budget announcement of \$180 million towards improving level-crossing safety in Australia is welcomed. The state government has doubled our investment in rail crossing safety, with a total of \$34 million being allocated between 2019 and 2024. Our investment is improving rail safety in a number of regional areas, including safety upgrades to 11 level crossings in the Peel and south west regions. Another point that the member touched on was which trespass provision would be used. I think it is worth noting that the difference between using the Criminal Code and the Government Railways Act is that the Government Railways Act provides averment. Who are the lawyers in the house; am I pronouncing that correctly?

**Hon Matthew Swinbourn:** I have no idea. Ask the Clerk!

**Hon SUE ELLERY:** I had to google “averment” to find out what it meant; 21 years of legislating and that is what I had to do! Averment provisions permit a statement of fact or mixed fact and law, which lessens the prosecutor’s evidential burden, so the process is faster under the Government Railways Act than under the Criminal Code; however, the Criminal Code remains an available tool if required.

Another point that the member raised that I thought I might add to goes back to passive level crossings. As I have said, we have an extensive level crossing removal program through Metronet, and a couple of the members who have spoken mentioned the recently closed Denny Avenue and Caledonian Avenue level crossings. Of course, the interesting thing about regional level crossings is that the former Liberal–National government privatised WA’s freight rail network, so responsibility for the rail component of rail crossing controls on this network such as boom gates, flashing lights, electrical activation and signs or road markings now largely sits with the private railway operator. Despite that, the state government contributes 50 per cent towards the cost of maintaining level crossing controls for the government rail network—that is, Arc Infrastructure and Public Transport Authority railway lines on public roads—recognising the importance of improving safety for road and rail users. Of course, I have mentioned that safety at level crossings has been identified as a national priority.

I think those were the key issues raised by Hon Neil Thomson. He also raised the issues of social media and of young men being risk-takers. That issue was also raised by the other three contributors, none of whom are young men now, but who took the opportunity to reflect on their youth.

**Hon Dr Steve Thomas:** That’s a bit vicious!

**Hon SUE ELLERY:** You are not young. You are not old, but you are not young! Those members took the opportunity to reflect in part on their own youth, and perhaps a little bit more generally on their gender and the risks men take when they are young. On a serious note, I thank those members for their contributions and for recognising the seriousness of actually dealing with this issue. Hon Dan Caddy referred to his family member’s commitment, engagement and involvement over many years in the area of rail safety.

Hon Pierre Yang also talked about the issue of young men taking risks. He also talked about the increasing speed at which trains now travel, which is worth reminding ourselves about. Although it was initially deemed to be a good thing to reduce rail sound pollution on the local community, it has perhaps made the trains a bit more lethal, because we cannot hear them as much as we could when they were much slower and clunkier and made a lot more noise. I also thank Hon Martin Pritchard for his contribution. He reflected on whether we have the balance right in using fines as a deterrent. He made the entirely valid point that this is one of the ways in which the government is trying to reduce deaths, trauma and injury from accidents or ill-thought-out activities by young people who venture onto trains and tracks and put themselves in danger.

With those comments, and noting that the opposition has indicated that it does not intend to go into committee, 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 Sue Ellery (Leader of the House)**, and passed.