

GOVERNMENT RAILWAYS AMENDMENT BILL 2019

Second Reading

Resumed from 26 September.

MS L. METTAM (Vasse) [12.18 pm]: I am pleased to be the lead speaker on behalf of the opposition on the Government Railways Amendment Bill 2019. From the outset, we will certainly be supporting this legislation, which increases the penalties associated with trespass and aims to discourage premeditated and deliberate acts of trespass. We will be moving an amendment during consideration in detail. I understand that it is already on the notice paper. Obviously, this legislation is quite timely. Its introduction coincides with the release of the Public Transport Authority's annual report, which highlighted some concerning figures about our rail network and also the public transport network. It does not paint a very good picture of what we have seen under the McGowan government's watch. Specifically, category B offences or notifiable occurrences are incidents that have the potential to cause a serious accident. Since 2016–17, there has been a 71 per cent increase in category B occurrences, which is concerning. Over the last financial year there has been a 74 per cent increase in incidents of trespass, which is also of great concern. Notifiable occurrences of trespass increased from 328 in 2016–17 to 510 in 2017–18. In 2018–19 there were 885 notifiable occurrences of trespass. Over the first two years of the McGowan government, transit guards have endured an unacceptable rise in incidents of antisocial behaviour. In fact, assaults on transit guards have increased by 30 per cent over the last financial year. An answer to a question on notice revealed that between 2017–18 and 2018–19, the number of such incidents increased from 113 to 147. When we talk about physical assaults on the public transport network, and particularly on our trains, we are talking about spitting and assaults with weapons.

The Government Railways Amendment Bill 2019 was read in just before a scathing article appeared on the front page of *The West Australian*, headed "Train War Zone". A former Public Transport Authority officer talked about working in the public transport system. To quote from the article by journalist Josh Zimmerman, he said —

"Having spent my time in the Army and having deployed overseas, to be honest I feel safer carrying my rifle and kit (bag) in Afghanistan, having insurgents shoot at me than having to come back to the unit," ...

The violence the officer was exposed to was headlined by a vicious stabbing attack at Welshpool train station last October, which left him with wounds to his head.

He was also punched and kicked to the back of the head and face during the same assault.

In a separate incident, the man had his head slammed against the door of a train during an arrest.

He also had his "face used as a punching bag by an offender" in a third assault ...

As I understand it, this transit officer had raised these issues with the PTA. I have already mentioned the fact that we have seen an increase in notifiable category B offences under this government's watch. Although it is pleasing to see some response to incidents of trespass in the rail network, it is of concern that these very serious assaults on our transit officers are not being dealt with in any meaningful way in response to the concerns that have been raised.

There has also been an increase in category B offences of vandalism in our rail network over the last financial year—from 85 to 101, according to the PTA annual report. When we put these figures together, they are deeply concerning and paint a pretty bleak picture of what our transit officers have to endure in the public transport network. This comes at a time when we have basically seen a flatlining of the number of passengers using the public transport network.

I turn now to the Government Railways Amendment Bill 2019 and quote from the second reading speech —

The purpose of this bill is to increase the maximum fine for trespass on the rail network from \$200 to \$5 000.

...

An increase in the penalty for the offence of trespass reflects the seriousness of that offence. The increase in penalty is intended to discourage premeditated and deliberate acts of trespass and to reduce the risk of serious injury.

That is certainly an endeavour that the opposition supports. A range of other concerns were highlighted in the annual report, including offences against transit officers and the levels of violence we are talking about. The opposition certainly supports the government's move to increase the penalties for trespass, but we believe there is an opportunity to make them even harsher. It is acknowledged that until 2017, prosecutors relied on the Criminal Code for many trespass offences. The Criminal Code currently provides a maximum penalty of \$12 000 and 12 months' imprisonment. I will later read from the section of the Criminal Code that provides those penalties for general acts of trespass. The concern the opposition has is that if there are such hefty and significant maximum penalties for general trespass—\$12 000 and 12 months' imprisonment, which is obviously at the discretion of the court—why can the government not simply translate those penalties to this bill? The government is moving to increase the penalties under the Government Railways Act because it is understood that that legislation contains a simpler

mechanism for charging trespassers. However, the question remains: why does the government not just transfer the penalties under the Criminal Code straight across to that act?

There are already trespass provisions under the Criminal Code, including trespass on crown land, which covers railway property. Section 70A states, in part —

(1) In this section —

person in authority, in relation to a place, means —

- (a) in the case of a place owned by the Crown, or an agency or instrumentality of the Crown—
the occupier or person having control or management of the place or a police officer; or
- (b) in any other case —
 - (i) the owner, occupier or person having control or management of the place; or
 - (ii) a police officer acting on a request by a person referred to in subparagraph (i);

trespass on a place, means —

- (a) to enter or be in the place without the consent or licence of the owner, occupier or person having control or management of the place;

We had a briefing, which was of great value, from representatives of the Public Transport Authority on how the Criminal Code has been used and some of the challenges associated with that. I understand that the Criminal Code provisions for trespass are designed for retailers and small business operators to provide a warning. Before someone is actually charged with trespass, they are given a warning to move off a property. The explanation that was provided to us is that it is much more difficult to prosecute individuals under the Government Railways Act 1904 as it stands, which is why there is this move to increase the penalty in that act. The opposition is asking the question: if the general penalty for trespass is a fine of up to \$12 000, why would the government not just transfer that penalty across?

Dr A.D. Buti: Member, can I just ask a question, because I am going to speak on it. Under your amendment, are you still wanting to prosecute under the specific act or do you want all prosecutions to occur under the Criminal Code?

Ms L. METTAM: We will move an amendment so that the penalties in the Government Railways Act mimic the penalties in the Criminal Code.

Dr A.D. Buti: But to still stay under the act?

Ms L. METTAM: Yes.

We have some questions, such as: How many offences have been successfully prosecuted under the Government Railways Act and how many offences have been successfully prosecuted under the Criminal Code? How many offenders have paid the fine associated with the court costs or received a community order? Why have more prosecutions not happened under the Criminal Code? During the briefing, I was given an understanding that 70 per cent of offences are prosecuted under the Criminal Code. We are interested in understanding why there has been that shift. I talked about an understanding that was provided during the briefing that the Criminal Code, as it relates to trespass, refers to some sort of warning.

Dr A.D. Buti: Are you referring to moving on notices?

Ms L. METTAM: No; I am referring to section 70A in the Criminal Code, which refers to a person in authority requesting that a person leave the place. During the briefing, Public Transport Authority representatives explained to us that because the Criminal Code provides for a warning, it makes it much simpler in every other instance to prosecute under the Criminal Code, whereas that opportunity does not exist for trespass on railways. As I stated, we were told that until 2017, 70 per cent of cases were prosecuted under the Criminal Code. We are keen to understand why that is the case. Certainly, we want to give courts and judges as much discretion as possible. The Criminal Code acknowledges that the penalty for trespass should be as much as 12 months' imprisonment, and it also carries a maximum fine of \$12 000. Why would the government not mimic those sorts of penalties in this legislation, understanding that a court has discretion and that those penalties are a maximum and that these sorts of incidents are of great concern in the community? Given what the government is setting out to achieve by increasing this penalty, the increased penalty will obviously serve as a deterrent and will send a strong message to those in the community who undertake antisocial and high-risk behaviour, behaviour that we certainly do not want mimicked on our railways.

I refer to an article dated 25 October 2017 about a train surfing accident. It states —

A 23-year-old man has been fined \$1000 for a “high-risk” trespass after he was caught train-surfing last month.

The man pleaded guilty in Perth Magistrate's Court yesterday over an incident on September 23 when he was filmed clinging to the back of a north-bound train between Leederville and Glendalough stations.

The Public Transport Authority said the magistrate told the man he had engaged in "high risk-taking behaviour" and ordered him to pay a \$1000 fine and ... court costs.

The second reading speech highlights the obvious costs associated with prosecutions. I understand that for the PTA alone, the costs associated with dealing with prosecutions of trespass in the court system are between \$2 000 and \$3 000. Apart from serving as strong deterrent and sending a strong message about what penalty such an offence attracts, there is obviously a public interest in being able to recover some of those costs when there is a prosecution.

An outstanding question about this legislation is whether it will have a lasting impact, given that other legislation imposes heftier fines. If we increase the penalty for trespass to \$5 000, what impact will that have if the Criminal Code provides a maximum penalty of \$12 000? At the end of the day, the opposition will support this bill but we will move some amendments, as I have explained. The bill highlights the fact that if this is such a serious issue that is of great concern, why is the government not taking the opportunity to do this properly? Why is it tinkering around the edges? Why is it not giving the issue the credibility it deserves? Why is trespass on railways a lesser offence than the general offence of trespass? That is the key question, particularly when we consider that a court has the discretion to determine a considered and appropriate penalty. The penalties for trespass should be serious and that is why the Liberal opposition will move an amendment to bring the penalties in the Government Railways Act in line with those in the Criminal Code. A \$12 000 fine—in addition to the threat of imprisonment—would serve as more of a deterrent.

As I stated earlier, the introduction of this bill raises not only questions about what is happening on our transit network in relation to trespass, but also concerns about what we are seeing on our public transport system at a time when there is slow growth in patronage. The 15 per cent hike in public transport fares on the train network that have occurred since the Labor Party came to government has probably not helped.

I will leave my comments there. In conclusion, what we have seen on the public transport network so far is of great concern. The PTA's annual report raises a lot of issues. Since this government has come to office, there has been a 71 per cent increase in category B offences. That is at a time when patronage has increased by only four per cent. As I have said, the 15 per cent fare hike since 2017 has probably put a lot of people off using public transport. In the last financial year, the number of trespass incidents has increased by 74 per cent, and there has been a shocking 30 per cent increase in assaults on PTA officers.

There are many issues and concerns about our rail network, of which the Minister for Transport has oversight. Those concerns include antisocial behaviour and violence, as highlighted by the front-page article to which I referred. This bill deals with one particular concern, and that is the increase in the number of trespass incidents. The Liberal opposition is asking the government to take trespass on the rail network as seriously as general trespass by increasing the penalty to make it a strong deterrent for would-be offenders.

That concludes my comments. I look forward to consideration in detail.

DR A.D. BUTI (Armadale) [12.40 pm]: I also rise to talk on the Government Railways Amendment Bill 2019. Obviously, as the member for Armadale, trains play a very important role in my community. We are glad to have the opposition's support for this bill. However, I want to address some of the comments made by the member for Vasse, and also her proposed amendment.

I want to give members bit of context and talk about the importance of trains in the metropolitan area, and particularly for my community. The Armadale line is one of the heritage lines in the metropolitan area. My electorate has four train stations. Trains are a very important form of transport for people in my electorate who live along the Armadale line. I have used trains for a long time. I used to travel from Armadale in the days when the trains were diesel and had open windows and doors. We would go across the Swan River, near where the stadium is now, on a rickety, tickety single bridge, and we would be standing next to an open door. Things have very much changed since those days.

It is not stretching the realms of reality, or shall I say I am not exaggerating, when I say that it has always been a Labor government that has been a friend of trains. The member for Dawesville can shake his head. However, as we well know, a Liberal government created one of the greatest disasters —

Mr Z.R.F. Kirkup: How long ago was this, member for Armadale?

Dr A.D. BUTI: It is in your DNA.

Mr Z.R.F. Kirkup interjected.

The ACTING SPEAKER (Mr R.S. Love): Member for Dawesville!

Dr A.D. BUTI: It may not be in the member for Dawesville's DNA, because he probably had not been born at that time. But, for a lot of us, it is in our DNA. We remember the decision by the Sir Charles Court government to close the Fremantle line, and, even worse, to sell off that land to private developers. Thank goodness that did not happen and we were able to reopen that line.

Mr D.R. Michael: I remember that there was a football game in the early 1980s, a massive game, Claremont versus South Fremantle, and they had to bring the train back just for that game to get people up from Fremantle.

Dr A.D. BUTI: Yes, I know, member for Balcatta. The member for Dawesville is shaking his head. Which government brought us the Mandurah line? It was a Labor government.

Mr Z.R.F. Kirkup: Legislated by the Court government.

Dr A.D. BUTI: The Court government's proposed route to Mandurah would have added a considerable amount of time to the journey. The member knows that. The member also knows that one of the determining factors in whether people take a train, particularly if they live in outlying areas, is how long it will take to get to the city. That is why the tension for any government will always be how many stations there should be on the Mandurah line, because obviously the more stations there are on the Mandurah line, the longer it will take people to get to the city. The fact is that because of the increase in population, there will always be a demand for more train stations; therefore, there will always be that tension. The Liberal government proposed a route to Mandurah via Kenwick. How absurd that people from Perth would go to Mandurah via Kenwick! That would make it really enticing for people to get on the train. If people wanted to go to the member for Thornlie's electorate, that would be fine—people get to Thornlie via the Kenwick route. However, people would not want to go to Mandurah via that route. Would the member for Dawesville find that appealing?

Mr Z.R.F. Kirkup: All I know is that we legislated for it.

Dr A.D. BUTI: Yes, for that route.

Mr Z.R.F. Kirkup: You say that we are not for trains and rail systems.

Dr A.D. BUTI: In the metropolitan area, how much rail has a Liberal government ever built?

Mr Z.R.F. Kirkup: I'm sure we've built many kilometres.

Dr A.D. BUTI: How many? I think it is probably not very much.

Mr Z.R.F. Kirkup: I don't know. I'm not the Minister for Transport.

Mr C.J. Tallentire: How many kilometres have you closed down?

Dr A.D. BUTI: That is exactly right. How much rail has a Liberal government closed down? That is a very good point, member for Thornlie.

Mr D.R. Michael: Cyril Rushton was the Minister for Transport at the time.

Dr A.D. BUTI: He was my local member at the time. How dare he! He would have understood.

Ms R. Saffioti interjected.

Dr A.D. BUTI: Yes, Rushton Park.

Several members interjected.

Dr A.D. BUTI: He may have retired to Mandurah, but he was a member for the Armadale region before the seat was called Armadale. He would have known the importance of rail to our community. He did not think about the residents of the western suburbs—the struggling people in Cottesloe, as we keep being told by the member for Cottesloe.

Let us move to this particular piece of legislation before the house. It is interesting that the member for Vasse said that we are not taking the issue seriously enough because we have not increased the penalty enough. The penalty will be increased from \$200 to \$5 000. I think anyone would consider that to be quite a significant increase. It is very easy for opposition members to say that whatever penalty the government puts in is never enough; they will go even higher.

Ms R. Saffioti: Use the dartboard!

Dr A.D. BUTI: Yes, the dartboard—they will go even higher.

Before I address the member for Vasse's proposed amendment and her criticism of the bill and other matters, I want to go through the points of the bill. We are seeking through the Government Railways Amendment Bill to increase the current maximum fine for trespass under the Government Railways Act 1904 from \$200 to \$5 000. In anyone's language, that is incredibly significant. That shows that this minister and the government are taking this matter very seriously. It is also a signal to the public that we are taking this matter very seriously. We are increasing the penalty from \$200 to \$5 000. When the member for Vasse's predecessor in that seat, Hon Troy Buswell, was Minister for Transport, did he ever talk about increasing the maximum penalty from \$200 to \$5 000?

Ms L. Mettam: He used the Criminal Code.

Dr A.D. BUTI: No, he did not.

Several members interjected.

The ACTING SPEAKER: Members! Member for Armadale, through me, please.

Dr A.D. BUTI: I will continue, but I do need to address some of the points mentioned by the member for Vasse.

As I said, the bill will increase the maximum fine for trespass from \$200 to \$5 000. The increase is intended to discourage premeditated, deliberate acts of trespass, including offences such as train surfing and the incident in 2018 when a man jumped from the top of a train that was going across Fremantle Bridge.

Under the Rail Safety National Law (WA) Act 2015, specific railway incidents must be reported to the Office of the National Rail Safety Regulator. The notable occurrences are defined in the Rail Safety National Law (WA) Regulations 2015 as either category A, which is death, serious injury or significant property damage, or category B, which are incidents that have the potential to cause a serious accident.

On a different matter, an incredibly serious matter is the attempted suicides or the successful suicides that occur on rail lines, which is terrible. Unfortunately, it does not matter what the penalty is, that would never ever deter someone who is seeking to end their life. It is a very sad occurrence that takes place.

The Public Transport Authority has implemented a number of initiatives to discourage trespass. There are fines, but this incredible increase in the maximum penalty will act as a signal of how seriously the government takes this matter and will hopefully be a deterrent. Some people would not be deterred if it were a \$50 000 fine, but it will be a deterrent for some people. It also will be a consequence that they will have to pay for a trespass. The minister and the Public Transport Authority do not see this as the panacea for everything in trying to ensure trespass numbers are reduced. As members would be well aware, the PTA has implemented a number of initiatives to discourage trespassing, including a targeted social media campaign highlighting to the public the dangers of trespassing and a media campaign to stop photographers taking pictures of wedding parties on the tracks. I never knew that took place; it is amazing. The PTA has also deployed transit officers to build valuable relationships with high-risk youth through social activities to promote rail safety and the dangers of trespassing, and is providing ongoing support and delivery of the Right Track education program to encourage young people to become more responsible for their own safety while using the rail network and to alert them to the dangers and consequences of trespassing in the rail corridor. Transperth train operations are also working with the Western Australia Police Force to prevent graffiti-related trespass incidents at railcar depots, stations and sidings on the PTA rail network.

This minister, this government and the PTA have undertaken an umbrella of initiatives to try to reduce the incidence of trespass and antisocial behaviour. Antisocial behaviour takes place on trains. It takes place in many parts of our society. At times, it can be quite unpleasant. I must say, the Armadale line is well served by the presence of transit guards. I imagine that we have more transit officers on the Armadale line and maybe the Guildford line than on the Mandurah, northern and Fremantle rail lines. Anyone who wanted to do a sociological study of Perth could start by spending time on the trains—they could take a train on the various lines and see the difference. It is quite interesting. The Fremantle line is very different from the line that goes to Mandurah or Armadale. I have been travelling on the Armadale trains for a long, long time and I have never personally felt unsafe but, obviously, other people have experienced unsafe incidents. Sometimes it is unsafe at the stations more so than on the trains.

The member for Vasse mentioned looking at the Criminal Code. When I mentioned Troy Buswell, the member mentioned that prosecutions were taken under the Criminal Code—is that right?

Ms L. Mettam: That is what the adviser said.

Dr A.D. BUTI: How many?

Ms L. Mettam: I do not know. This is what we are going to ask.

Several members interjected.

The ACTING SPEAKER: Members!

Ms R. Saffioti interjected.

The ACTING SPEAKER: Minister for Transport!

Several members interjected.

The ACTING SPEAKER: Member for Vasse, enough! Member for Armadale, could you continue without engaging directly with the member for Vasse.

Dr A.D. BUTI: I have a couple of things to say about the member's reference to the Criminal Code. That is why I asked the member the question. I am still not 100 per cent sure what the member said. I understand the member said that the maximum penalty should be increased to about \$12 000, which is what is in the Criminal Code. I get that

part of what the member for Vasse said, but I am still not quite clear about this: is the member saying that it should be prosecuted as an offence under the Criminal Code or under this amending bill?

Mr W.R. Marmion: Just debate it on either side. She does not have to respond.

Dr A.D. BUTI: But I am asking a question to try to help clarify it for me.

Several members interjected.

Dr A.D. BUTI: Member for Nedlands, I am not asking you. I am just asking a question.

The ACTING SPEAKER: She does not have to respond.

Mr Z.R.F. Kirkup: This is not question time, member.

The ACTING SPEAKER: Members! Member for Dawesville!

Dr A.D. BUTI: I do not think the member for Vasse actually knows.

Ms L. Mettam: I do.

Dr A.D. BUTI: Why not give me the answer, then, if you know? Is the member asking for it to be prosecuted under the Criminal Code?

Point of Order

Mr Z.R.F. KIRKUP: If I can just seek clarification from the Acting Speaker: the opposition has been told it cannot respond to the member for Armadale's questions.

Dr A.D. Buti: When? No, you haven't.

Mr Z.R.F. KIRKUP: If he is soliciting a response, is the opposition able to respond or will we get called to order by the Acting Speaker? Are we unable to respond, in which case we are complying with the Acting Speaker's previous direction to the opposition?

The ACTING SPEAKER (Mr R.S. Love): I am sure the member for Armadale is quite capable of debating this without engaging directly with the member for Vasse, which I have asked him not to do.

Debate Resumed

Dr A.D. BUTI: I think I was engaging in a quite civil manner just to try to get the information. I am trying to understand what the member for Vasse is seeking with her amendment. Is the member for Vasse seeking for the prosecution to take place under the Criminal Code?

Dr D.J. Honey: No.

The ACTING SPEAKER: Member, you can pose the question but you cannot badger the member into giving you an answer.

Dr A.D. BUTI: I do not think I badgered her; I just asked the question.

Dr D.J. Honey: Under this bill.

Dr A.D. BUTI: Oh, under this bill—right. The member for Vasse is not seeking prosecution to take place under the Criminal Code; she therefore was not agreeing with a former minister, her predecessor in the seat of Vasse, that it should be prosecuted under the Criminal Code.

Member, in 2016, only 18 prosecutions took place under the Criminal Code. The member's response to me was to prosecute it under the Criminal Code. There were only 18 prosecutions in 2016 under the Criminal Code, and there were more than 16 trespassers. In 2016, on the member for Vasse's own figures, there were more than 16 trespassers on the rail network. Only 16 people were prosecuted under the Criminal Code. The member for Vasse mentioned simplicity. It is very simple to say, "We should just take the penalty under the Criminal Code and transport that into this bill." The prosecution that takes place under the Criminal Code is different from the prosecution that will take place under this bill. The PTA has its own prosecuting officers who will prosecute under this bill. I think the member for Vasse is getting into dangerous territory.

I would also like the member to tell me where, in other legislation, we have just grabbed what is in the Criminal Code and transported it into another act but do not also have the Director of Public Prosecutions, or the police prosecutors, prosecuting. The PTA basically prosecute up to about 90 per cent, I think, of offences under the principal act. About 10 per cent go to the State Solicitor's Office as a quality assurance mechanism. The member for Vasse needs to think through her simplistic amendment a little more. She grabbed the headline by saying that it is a very significant increase from \$200 to \$5 000, which her minister never even contemplated. The member's response to me was that he prosecuted under the Criminal Code. There were 18 prosecutions in 2016, so that was a really great response—18 prosecutions! But he did not think about increasing the penalties under the act. This minister is seeking to increase the penalties from \$200 to \$5 000 and the member does not think that is significant—incredible!

If it were prosecuted under the Criminal Code, who is going to do the prosecution? Is the member saying that PTA officers should use the Criminal Code to prosecute? I think the member is going down a dangerous road if she wants to ask the Public Transport Authority to use the Criminal Code to prosecute. If the Director of Public Prosecutions or the police prosecutor prosecutes, that will deflect a lot of resources into prosecuting trespass offences on trains and prevent the DPP and the police prosecutor from prosecuting other offences.

Once again, the member for Vasse has sought simplistic headlines with this proposed amendment. She has not even explained properly whether an offence would be prosecuted under the Criminal Code or the act that this Government Railways Amendment Bill is seeking to amend. As I stated to her, the PTA prosecutes up to 90 per cent of trespass offences on PTA land under the Government Railways Act, which gives the powers to prosecute. That is very sensible, as is the response to increase the penalty for the offence from \$200 to \$5 000. It is also a very sensible measure economically, because it costs \$2 000 to \$3 000 in lost time for the PTA to prosecute a trespass offence. We are seeking to increase the fine to \$5 000. That will provide cost recovery plus, obviously, a deterrent to the offender if they are found guilty. If prosecution of the offence were transferred to the DPP or the police prosecutor, the amount of lost time to those officers would be significant and would prevent them from dealing with other work.

It would have been really nice—I was probably expecting too much—if the member for Vasse had come in here and supported this bill. Just support it. It is a great measure. Troy Buswell never did it, and the member for Vasse's response was that he prosecuted under the Criminal Code. However, under the Criminal Code, in 2016 there were 18 prosecutions. Therefore, I do not think Troy Buswell used the Criminal Code very often to prosecute. The member for Vasse should have come into this house and said that this is a significant change in the maximum penalty for trespass offences, from \$200 to \$5 000. That is a significant increase. The minister and the government should be applauded. We take this matter seriously but, as usual, with this minister, we do not look in isolation. We do not see this bill as the only thing we need to do.

[Member's time extended.]

Mr W.R. Marmion interjected.

Dr A.D. BUTI: Thank you. You should have just asked for it.

The ACTING SPEAKER (Mr S.J. Price): No; hang on! Member for Nedlands, on expiry of your time, you can actually request an extension.

Dr A.D. BUTI: Calm down. Why does the member for Nedlands not make a contribution? There are a lot of trains in Nedlands!

It is good that the member for Vasse has said that she supports the bill before the house, but it would have been great if she had just come in and supported it without the need to be negative. She always does that. She does it in all her tweets. She feels that she has to congratulate the government, but she always has a negative aspect to it. She would have more force if she did not always oppose us.

Mr R.R. Whitby: Exactly. Correct.

Dr A.D. BUTI: Exactly. Otherwise people will say, "There's the member for Vasse again, opposing for the sake of opposing." Getting back to this bill and the very important issue of —

Ms R. Saffioti: There used to be a shark in every corner!

Dr A.D. BUTI: Yes.

In light of the measures the minister has taken with the PTA, it would be a mistake for the member for Vasse or anyone to think this is the only measure we will use to deal with trespassing. It is a very important issue. The member for Thornlie knows it is an important issue because his electorate is also serviced by the railway line. As I mentioned, we are looking at many ways to try to educate the population not to engage in trespass and dangerous activities that will put their lives and others' lives in danger. We are also seeking to reduce antisocial behaviour. Our transport network is incredibly important for our communities. Whatever we can do to make the transport network safer and more appealing to people to utilise will be better for all. I commend the bill to the house. For the life of me, I cannot understand how increasing a penalty from \$200 to \$5 000 is not significant and does not show that the government is taking the matter seriously. I honestly cannot understand how that cannot be considered significant, in conjunction with all the other measures I mentioned. In comparison, Troy Buswell did nothing. The member for Vasse said that he prosecuted under the Criminal Code. Yes, there were 18 prosecutions in 2016 under the Criminal Code.

I commend the bill to the house.

MR Z.R.F. KIRKUP (Dawesville) [1.04 pm]: I was not initially intending to speak on the Government Railways Amendment Bill 2019, but I cannot help but respond to the baiting by the member for Armadale, who had the

temerity to suggest that somehow rail was not in the DNA of the Liberal Party. How wrong you are, member for Armadale; how wrong you are!

Several members interjected.

The ACTING SPEAKER: Members!

Mr Z.R.F. KIRKUP: I find it fascinating that not a single rail project in Western Australia is underway at the moment without money from the federal Liberals.

Several members interjected.

The ACTING SPEAKER: Members! Member for Armadale! Member for Dawesville! Thank you, members. Member for Armadale, you have had your say, thank you very much. Member for Dawesville, make your second reading contribution about the bill. That would be greatly appreciated, thank you.

Mr Z.R.F. KIRKUP: Thank you very much, Acting Speaker. It is an important reflection of the fact that the Labor Party uses spin to try to cast the Liberal Party —

Dr A.D. Buti interjected.

Mr Z.R.F. KIRKUP: Acting Speaker.

Several members interjected.

THE ACTING SPEAKER (Mr T.J. Healy) Members, thank you. Please allow the member for Dawesville to continue his remarks.

Mr Z.R.F. KIRKUP: Thank you very much, Acting Speaker. The bill is about government railways. We are obviously talking about railways.

Dr A.D. Buti: No, it's not actually; it's about amending an act.

Mr Z.R.F. KIRKUP: Member for Armadale —

The ACTING SPEAKER: Members! Please allow the member for Dawesville to make his comments in silence. Member for Dawesville, please also direct your comments to the Chair, thank you.

Mr Z.R.F. KIRKUP: I have been addressing only you, Acting Speaker, in responding to the remarks of the member for Armadale and once again pointing out how futile they were when he suggested that somehow the Liberal Party does not have rail or public transport in its DNA.

Several members interjected.

Mr Z.R.F. KIRKUP: It is baked into us.

The ACTING SPEAKER: Members!

Mr Z.R.F. KIRKUP: It is baked into how we feel, because every single rail project underway in Western Australia at the moment has money attached to it from the federal Liberal Party. Thanks very much to the Liberal Party! I hear time and again in this place that somehow because of a rail closure —

Dr A.D. Buti: You closed a rail line.

The ACTING SPEAKER: Member for Armadale, I am sure you made many contributions in your previous speech. Please allow the member to make his comments or I will have to call you to order. Thank you, member.

Mr Z.R.F. KIRKUP: Somehow, when the Labor Party throws back time and again, as the member for Armadale just did—I do not know whether it was in the 1960s or 1970s —

Dr D.J. Honey: It was the 1600s, I think!

Mr Z.R.F. KIRKUP: That is right; the 1600s, member for Cottesloe!

Several members interjected.

Mr Z.R.F. KIRKUP: When the Labor Party again throws at us its reflections on events of decades past that are somehow reflective of our perspective on public transport, it is absolutely absurd.

Ms C.M. Rowe interjected.

The ACTING SPEAKER: Members!

Mr Z.R.F. KIRKUP: I hope that when the member for Belmont sends out her correspondence to her community over Christmas she will thank the federal Liberal Party and the former Liberal–National government for undertaking such an important rail project that will positively impact her district and, indeed, other districts across Western Australia!

Several members interjected.

Mr Z.R.F. KIRKUP: When the member for Armadale —

Dr A.D. Buti: You closed the third-tier rail line.

The ACTING SPEAKER: Member for Armadale, I call you to order for the first time.

Mr Z.R.F. KIRKUP: It is a very controversial subject. Members of the Labor Party light up and try to throw everything they can at us because they know that they are misleading this place when they suggest that the Liberal Party does not somehow care about public transport. We deeply care about public transport and about rail. Of course, as it is worth pointing out once again, member for Armadale, the former Court government legislated for the Mandurah line to be built in the first place. It is important —

Several members interjected.

Mr Z.R.F. KIRKUP: — and yet —

The ACTING SPEAKER: Members! This is a very important bill and this is a very important debate. People are very excited about the topics. Please listen to other members as they make their contributions.

Mr Z.R.F. KIRKUP: Thank you very much, Acting Speaker; you might have your work cut out for you here, because members opposite do not like it when they hear the truth.

Dr A.D. Buti: Do you want to talk about the bill?

Mr Z.R.F. KIRKUP: We are talking about the bill. The member for Armadale spent the better part of 10 minutes of his contribution attacking the member for Vasse and suggesting that somehow the Liberal Party was not concerned about rail. We are deeply concerned about rail. We believe that rail has a vibrant future in Western Australia, which is why the Liberal Party is contributing to rail projects that are underway. The member for Belmont has a great benefit in her district now thanks to the Forrestfield–Airport Link, which was started by the former Liberal–National government. As the member for Darling Range pointed out to me a moment ago, I would hate to think what that project would have looked like under the Labor Party’s plan; its train station was a kilometre away from the airport and people would not have known how to get there. Obviously, when we are talking about this bill, we are talking about the importance of public transport.

Dr A.D. Buti: What about Ellenbrook?

Mr Z.R.F. KIRKUP: What about it?

Dr A.D. Buti: You didn’t support the Ellenbrook project. Talk about the bill.

Mr Z.R.F. KIRKUP: We are absolutely talking about the importance of the bill.

Mr D.R. Michael: Why did you close down the Main Street tram in Osborne Park?

Mr Z.R.F. KIRKUP: Member for Balcatta, when was that tram closed?

Mr D.R. Michael: In the 1950s.

Mr Z.R.F. KIRKUP: In the 1950s—right! Member for Balcatta, does it not betray the Labor Party’s perspective on this when it says that the Liberal Party is anti-rail yet it has to reach for examples from the 1950s, 1960s and 1970s? It is an absurd suggestion from members opposite that somehow we do not care for rail, when of course we do.

The member for Vasse will move a very important amendment that will increase the penalty for trespass.

Dr A.D. Buti: She doesn’t even understand it.

Mr Z.R.F. KIRKUP: I look forward to the member for Armadale’s contribution.

Dr A.D. Buti: I just gave it to you!

Mr Z.R.F. KIRKUP: Perhaps in consideration in detail then! I hope the member votes for the amendment that the opposition will move to strengthen the penalty.

Mrs L.M. Harvey: The member for Vasse should be a minister.

Mr Z.R.F. KIRKUP: Absolutely, she should be a minister. I look forward to the member for Armadale strengthening those provisions by voting for the member for Vasse’s amendment to increase the penalty for trespass. It is an important amendment that will be moved.

Ms R. Saffioti: So you’re opposing the bill?

Mr Z.R.F. KIRKUP: We want to strengthen it, minister. We want to go even further and make sure that those who —

Dr A.D. Buti: Which clause are you amending?

Mr Z.R.F. KIRKUP: If the member for Armadale needs me to point him to the notice paper, I will walk him through it right now if he would like.

The ACTING SPEAKER: Member, just for your assistance so that you do not keep interjecting, it is on the notice paper. It is to clause 4. Please allow the member to continue his remarks.

Mr Z.R.F. KIRKUP: It is to clause 4, at line 8 on page 3 of the bill.

Ms R. Saffioti: So you oppose our bill?

Mr Z.R.F. KIRKUP: Not at all. We have already showed that we are in support of this bill. All we want to do is make it stronger. We want to go further than the government has gone to make it stronger.

Ms R. Saffioti: You're very opposing.

Mr Z.R.F. KIRKUP: We are not opposed at all. If anything, we want to improve the work, because that is what the Liberal Party does with rail—we make things better. I will not sit here and get this barrage of mistruths from those opposite when they suggest that the Liberal Party does not support rail. It is in our DNA. It is the backbone of what our party believes in at every single turn.

Dr A.D. Buti: You closed our rail.

Mr Z.R.F. KIRKUP: We will not continue to refer to things that happened in the 1960s and 1970s, member for Armadale, as if they were a reflection of the current view.

Point of Order

Mrs A.K. HAYDEN: Mr Acting Speaker, you have asked time and again that members opposite not interject. I would like to hear my fantastic member for Dawesville on his feet.

Several members interjected.

The ACTING SPEAKER (Mr T.J. Healy): Members, the point of order will be heard in silence. Member, I think the point of order you are making is that the member be heard in silence during the debate. Thank you, members. Member for Dawesville, please continue.

Debate Resumed

Mr Z.R.F. KIRKUP: I said at the start that I would not make a lengthy contribution, because I am looking forward to the contributions of —

Mr D.T. Punch: It's been carrying on for a while.

Mr Z.R.F. KIRKUP: It has been six minutes, member for Bunbury. It might feel like an eternity, but I assure the member that it has not been that long.

My point is that we cannot continue to point to these examples. Member for Armadale, I think it is absurd to point to these examples as somehow showing that the Liberal Party does not believe in rail. Members opposite have reached back to historic examples. If the member for Armadale wants to go back in history, the Labor Party has a much more tarnished reputation on a range of policies and social imperatives. We can talk about the closure of railway lines; that is fine, and I will talk about the White Australia policy. Shall we talk about that? That is a great reflection.

Several members interjected.

The ACTING SPEAKER: Member for Bunbury, member for Belmont and member for Wanneroo, I was on my feet. I call each of you to order for the first time.

Member, I know you have a large contribution to make, but can you confine it to the bill before us, not the White Australia policy.

Mr D.A. Templeman: You're very abrasive today!

Mr Z.R.F. KIRKUP: I just had a rough sleep, member for Mandurah!

Ms R. Saffioti: That tie has not been done well either!

The ACTING SPEAKER: Members!

Mr Z.R.F. KIRKUP: That is the only thing that is going to throw me, Minister for Transport!

I appreciate the member for Armadale's contribution to this place, as always but in this case, he is wrong. I urge all government members to consider not being drones to their party's view and to stand with us in support of this very important amendment that will be moved to clause 4 at line 8 on page 3 of the bill.

MR C.J. TALLENTIRE (Thornlie — Parliamentary Secretary) [1.15 pm]: I am very pleased to speak to the Government Railways Amendment Bill 2019. It strikes me that ensuring the safety of our rail network is one of

the most important things we can do with public transport to give people a sense of assurance that they are very safe on the trains. I heard the member for Armadale earlier and I recall the time when he was on the train and was mistaken for a very famous person. That example shows that there is often light banter and social discourse on the train. If my recollection is correct, he was mistaken for former President Obama.

Dr A.D. Buti: That's right, but without the beard.

Mr C.J. TALLENTIRE: It was prior to his beard days, but with that hint of greyness.

The trains are much safer than those opposite would have us believe. There are, of course, times when people are concerned, and that is why the transit guards are in place. I personally feel quite safe when I catch a train at 7.00 pm, but some constituents, especially older constituents, are inclined to tell me that they have heard all these terrible stories about how dangerous the trains are and how they are war torn or they are a battlefield. This sort of stuff undermines public confidence in the rail network and in the quality of our service. It scares people off. In fact, my experience is that the service between Perth and Thornlie is very well frequented and safe, even well into the evening. I want to reassure members at the outset that we have a good-quality network that is safe to travel on. When there are occasionally problems and when people's fears may be justified is when they get off the train and have to make the journey from the train station to their home, especially at night. If they have to do that unaccompanied, it can sometimes be a fearful thing, especially for women. I am sure there are ways that we can address that problem into the future. Giving transit guards the capacity to accompany people to their car in the train station car park is one idea, but, ideally, people could be met by a family member or a friend at the train station so that they can get home safely, even after nightfall.

The issue here is with trespassing on the network itself. The problem in the Thornlie electorate is the use of trail bikes on the rail network. In the easement that runs from Thornlie station to Cockburn station, there is a freight line that is managed by Arc Infrastructure, formerly Brookfield Rail. I know that that company does its very best to make sure that there is no illegal use of that space, but there is an ongoing problem with trail bikes getting into the corridor. It is a very dangerous thing for those people to do, even when no trains are around. They know they are acting illegally. They often try to do it in an undercover way; they wear balaclavas or full-face helmets so that they cannot be recognised. They certainly take a risk, because that rail corridor is simply not designed for trail bike usage. The chance of a relatively inexperienced trail bike rider hitting a sleeper at a difficult angle and coming off is very high. If we add to that the possibility of them running into a freight train, it really could be a scary scenario. I know that whenever the reports go through to Arc Infrastructure, it is very concerned about this, but we have to look more broadly at how we deal with illegal trail bike usage in the community. I know that I am not the only member with that concern. Just in the last week in my electorate, a couple of trail bike riders on the principal shared path hit a 60-year-old cyclist. That person did not receive life-threatening injuries but did end up in hospital. The issue of trespass and the lack of respect for public property exists, and I think that is why these increased penalties are totally justified and are very, very timely.

I am not sure whether the opposition's intent is simply to try to enter into some sort of law and order bidding war with its amendment on the notice paper, but perhaps 12 months' imprisonment for illegal trail bike usage on the rail network in the area of the train lines is justified. I would be interested to hear the member for Vasse comment on that when she moves the amendment later. A term of 12 months' imprisonment for illegal trail bike usage is a new development. It is certainly a problem. My hope is that we will eventually have a technological solution and a system whereby every trail bike that is sold is registered and installed with some sort of technical device that slows down the trail bike rider. I totally understand that police have great reservations about chasing after trail bikes at the moment. All too often, it can lead to a very serious mishap. We have seen trail bike riders who, when chased, have fallen off their bikes and lost their lives. It is a serious matter, but we need to find a solution more broadly to illegal trail bike usage.

This legislation was also inspired by the concern about people doing stupid things such as trying to surf on the top of trains going over the Fremantle railway bridge and getting that little bit of YouTube footage that they can then put up on social media and hope that it goes viral and get various hits and become a renowned YouTuber as a result of that sort of action. That kind of approach to YouTubing, if that is what it is called, is a very dangerous one. It is dangerous for the individual involved and it is unfair on the community as a whole, because it puts everyone at risk when we have to face the possibility of trying to apprehend the person and deal with the copycats who might come along. A whole spate of problems can be triggered just because someone is trying to gain some level of notoriety and promote themselves as a YouTuber and have advertising come through. I gather that a way of generating money if someone becomes a well-known YouTuber is by doing crazy things. We do not want that to happen on the Public Transport Authority network. It is not the place for it at all, so I certainly do welcome these increased penalties from that point of view alone.

Other members touched on how we have the two categories of seriousness of offence. The Category A type of offence is when there is death, serious injury or significant property damage and category B is when there are incidents

that may have the potential to cause a serious accident. We have seen an increase in category B incidents when there is a potential to cause a serious accident. The number of category B offences went from 328 in 2016–17 to 510 in 2017–18. It further increased to 885 incidents in 2018–19. The offences are definitely there. Again, I think the increase in the penalties is an example of how needed this legislation is. We hope that it is enough to act as a dissuasive factor, but the smart thing about this legislation and the policy work around it is that we are not doing the penalty on its own. We are also doing good social media work to explain to people the risks, how dangerous it is to put oneself in grave danger by getting into the PTA area and that dashing across the train tracks when those bells start ringing and the gates come across is just not worth it. The risk of really serious injury, quite often resulting in death, is just too high. People are risking their life trying to quickly cross the train tracks.

The social media work has certainly been very effective. It is often fairly graphic and uses some very frightening but catchy—if I can put those two thoughts together—ideas around how dangerous the issue is for people. We need to use other avenues to educate people about the risks and not rely only on the punitive measures. The seriousness of trespass laws can then be communicated to the public. We also have to deal with this issue of a temptation that people have to take photos, even wedding photos. I can understand that it perhaps has some appeal. A view down a long straight stretch of train track, standing in the middle of the railroad with a sort of sense of looking into eternity, perhaps that is a form of symbolism for people's life plans. It is an idea that has to be tempered because there is the risk that a train could be coming from the opposite direction. What might be a romantic idea could be a fatal one. That is not what we want at all. Ensuring that people are aware of the dangers and are able to weigh up things and take the better step and make the better decision of avoiding putting themselves at risk in the first place is definitely the best thing to do.

Getting back to the role of the transit guards on the network, I know that there is always some confusion about who is a PTA transit guard and who is a revenue protection officer. Just that presence of guards on the trains is very reassuring for people. It makes a big difference and it is almost like bringing back the old-style ticket collector and conductor. Just that presence of someone who we can refer to if there is some level of antisocial behaviour going on in the train is very helpful. Perhaps we could encourage those various transit guards to be a bit more engaged with the passengers on the train and to see their role as more of a customer service role than a figure of authority, but we recognise that they need to step into that authority role, too.

That is just an idea of how we can evolve and go about this task of reassuring people that the train networks are much safer than some fearmongers in the community might have us believe. When I tested this out, my suspicions were confirmed. People tell us that the train network is incredibly dangerous, but when we ask them whether they have used it, invariably the answer is no. I would really like to put to the test those members opposite who make claims about how unsafe they feel on the train network. I would like to know how often they use it. All that information is readily available because it is all logged on a SmartRider. If the media wanted to, it could simply ask a member to produce their SmartRider record, and that information would be available. I think the SmartRider might have to be registered.

Mr D.J. Kelly: The member for Dawesville is a bit quizzical about this system. SmartRider? What would that be?

Mr Z.R.F. Kirkup: It is very old school. It should be an app.

Mr C.J. TALLENTIRE: Yes, it would be great if it was available as an app.

Mr Z.R.F. Kirkup: Like Hong Kong, where you can swipe through on your phone now.

Mr C.J. TALLENTIRE: Yes. The point is that there is a SmartRider account that sets out the log of various journeys. I want to stress that I think the system is unfairly maligned at times, and that is not helpful. Whenever I catch the train, I am always struck by how many people using the train at night are probably those more recently arrived in Australia. They are often students or shiftworkers. They are very strong users of the public transport system, particularly the train network, later in the evening. That is a good thing. It is unfortunate that we have seen lewd, aggressive behaviour, and people with mental illnesses occasionally on the trains. Their behaviour needs to be tempered. The presence of various transit guards is particularly useful in this case.

One of the main points is our attitude towards public property in general. If people are respectful of public property, that would make a big difference. Unfortunately, we live in a world where sometimes the public domain is not respected, and that can lead to some of the problems that we see.

The legislation before us will make a very big difference. An increase in the penalty from \$200 to \$5 000 will make a difference, and it is realistic. I look forward to hearing from the member for Vasse when she moves her amendment about what sort of circumstances she thinks would justify 12 months' imprisonment for a trespass offence and how that fits in with comparable cases of trespass. She will no doubt make some arguments that justify her putting this amendment on the notice paper. I look forward to hearing those arguments.

I think we have this legislation right. The increase in the penalty is welcome. I am sure that we will have to deal further with the issue of how transit guards tackle antisocial behaviour on the trains, and ensure that people do not

Extract from *Hansard*

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Ms Libby Mettam; Dr Tony Buti; Mr Zak Kirkup; Mrs Alyssa Hayden; Mr Chris Tallentire

trespass on the rail reserve, which causes problems for drivers. It must be horrendous for train drivers in a freight train or a passenger train—it is a huge mass that is moving along—to suddenly worry about a trail bike user or somebody else walking along the tracks and how they would hope to stop the train. It would be very difficult. It is not fair on those people who are simply trying to do their job of driving the train.

This amendment to our government railways legislation is welcomed by all of us, and I am sure it is especially welcomed by those people who drive the trains. They will be very thankful to realise that we have changed the penalty so that we can dissuade people even more from contemplating trespassing on the rail reserve.

Debate adjourned, on motion by **Mr D.R. Michael**.