FINES, PENALTIES AND INFRINGEMENT NOTICES ENFORCEMENT AMENDMENT (TAXATION) BILL 2012
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Second Reading — Cognate Debate

Resumed from 26 June.

HON GIZ WATSON (North Metropolitan) [5.32 pm]: I believe I was on my feet when the second reading debate on these bills was adjourned so I will continue with my comments on them.

I turn to the issue of the publication of details. In the other place on 1 May 2012, the Attorney General said the reason for the publication —

The DEPUTY PRESIDENT (Hon Matt Benson-Lidholm): You have the call, honourable member!

Hon GIZ WATSON: Yes, sorry; somebody was obeying the new, strictly enforced rules —

Hon Simon O'Brien: Was the sun blotted out?

Hon GIZ WATSON: No, there was something crawling along the floor! Sorry; I will return my attention to this matter.

The DEPUTY PRESIDENT: A little decorum, please, member!

Hon GIZ WATSON: The Attorney General said that the reason for the publication provisions in the bill is that publication is an efficacious recovery tool. He said that the idea comes from Tasmania, and has been very successful because people understand and dislike the idea that their employers and neighbours could find out that they have unpaid fines.

I refer to paragraphs 6.27 and 6.28 on page 178 of a 2007 interim report of the NSW Sentencing Council entitled "The Effectiveness of Fines as a Sentencing Option"—there seems to have been no final report—which in part state, in relation to the publication of defaulter's names —

> This option … might be effective in inducing people with means to repay the debt quickly.
>
> …
>
> It is not however, an option that the Council would support, by reason of its unequal application to those without means, and by reason of the abandonment of public shaming as a sentencing option.

The Greens do not support the publication provisions in these bills. They are unnecessary because the legislation as amended provides a range of other inducements to pay apart from publication. Further, information as to how potential negative impacts will be managed has not been provided.

Publication of offender details on the internet has become a regular feature of this government's legislation. In 2010, the government introduced the Prohibited Behaviour Orders Bill, which included publication provisions. I spoke on this issue then and will not repeat myself now, except to reiterate a couple of points. For that bill, the UK case Stanley v Brent was cited as support for the publication concept. In that case the claimants were members of a gang responsible for serious and antisocial behaviour over a long period, and media reports had already occurred. Indeed, the case emphasised the need for publicity to be confined to what is reasonable and proportionate, bearing in mind the rights of both the constrained person and the public. Notably—especially given the government's argument that publication would deter offenders by increased risk of apprehension and punishment—the case did not refer to any research regarding the likelihood of publicity fulfilling the purposes of enforcement or deterrence; that point was conceded by the appellants, who instead ran an argument based on necessity and proportionality. When the Prohibited Behaviour Orders Bill was debated in this Parliament, the government dismissed the suggestion that stigmatisation through publication might produce negative ongoing effects on recidivism and reoffending.

In 2011, the government introduced the Community Protection (Offender Reporting) Amendment Bill (No. 2) 2011, which also provided for publication—this time, of the details of reportable offenders and people with supervision orders under the Dangerous Sexual Offenders Act. The government's stated justification this time was enhancement of public awareness and safety, and increasing public vigilance to increase the prospect of arrest.

These bills go further than either of those previous bills, this time publishing the details of debtors who have already had a penalty imposed; whose whereabouts are known; and who are not a risk to community safety. If the motivation for publication is public shame and humiliation, certainly shame can be constructive and re-integrative; carefully managed, it can be a useful tool in reducing crime, but it can also have negative impacts

including, on one hand, stigmatisation; or, conversely, the granting of undue high status as a "badge of honour". No evidence has been provided for the likely impacts of publication in the context of these bills. Will it work? Will it simply humiliate poor people? Will it become a means of protest for people who have received a fine or infringement notice for something they consider to be petty? A threshold aggregate sum need not be reached before publication can occur; the aggregate concept applies only to enforcement warrants for infringement notices. Will publication of large numbers of debtors make those who are otherwise inclined to pay resentful, wondering whether they should bother when so many others appear to be getting away with not paying? This legislation is different, in respect of the naming component, from the two relevant bills previously debated in this Parliament.

If publication is taken to be a penalty—although, as noted, the government sometimes argues that publication is not a penalty—its increasing use for a variety of offences turns what should be a hierarchy of penalties of increasing severity based on the seriousness of the offence into something flatter, where publication happens for both the convicted sex offender at the high end of the scale of offences, and the person who is slow to pay a parking fine at the low end of the scale. I suggest that this is not appropriate.

Another concern I have is how soon publication can happen. With infringement notices, I understand that, in addition to the initial time limit specified on the infringement notice, at least 28 days must elapse after a final demand is issued, and a further 28 days must elapse after registration and an order to pay or elect is issued, before publication can occur. That is, 56 days plus the initial time specified on the infringement notice must pass before publication can occur. However, with fines, as I read the bills, once the fine is registered—which, under the changes to section 32, will be able to happen immediately—only 28 days needs to elapse before publication can occur. This seems an unreasonably short period.

Last, I understood from the briefing that the bills do not allow publication to occur if the person is protected by a restraining order—for example, women in hiding from violent partners—but when I later looked at the bills I could not find such a provision. It does not appear to be in proposed section 56D(2), nor amongst the amendments made to other acts at part 4. My question to the parliamentary secretary is: is there a provision preventing publication of details of people who are protected by restraining orders; and, if so, which provision is it? I will obviously deal with that when we get to the committee stage, but I flag that it seems to be a shortcoming of this legislation. Another concern about publication is how the information can be used by third parties, for example, to discriminate against job seekers. I understand from the briefing that discrimination has been one consequence of the publication provisions in the prohibited behaviour order legislation. We opposed the prohibited behaviour order legislation not the least because of its publication provisions. The bill therefore provides that it is discrimination for third parties to use the published information in various contexts. However, this creates an entirely avoidable new workload for the Equal Opportunity Commission. It is not the work that the Equal Opportunity Commission was set up to do nor what taxpayers pay it to do, certainly not while real issues of substantive equality continue to exist in this state, as experienced daily by many Western Australians.

Further, the bill draws in third parties such as providers of goods, services or accommodation, by giving them highly useful information about a wood-be client's propensity to pay, and then saying it is unlawful for them to use this information. It seems to me that the bill creates a problem that it then purports to fix by creating new problems. I respectfully suggest that where possible, it is better policy to focus on prevention of problems rather than the cure of them. The publication provisions should be removed from this bill.

The transitional provisions are in clause 40. In essence, the bill adds to the consequences that occur already at existing stages of the fines or infringement notices enforcement process. The transitional provisions operate so that some, not all, enforcement actions currently in train will be able to make use of the new consequences. Warrants of execution already in train will not be able to make use of part 7, division 6A; that is, the powers to immobilise vehicles, remove numberplates or cancel vehicle licences. But as I read the bill, they will be able to make use of the publication provisions. Notice of intention to suspend motor drivers' licences for infringement or fines already in train will be able to make use of all the new consequences. Obviously, notices issued already will not mention the extra possible consequences provided for in this bill. I understand from the briefing that if the bill is passed, action will be taken to start changing the wording of infringement notices as fast as possible so that they specify all the various consequences of not paying or electing within the time limit, including the new consequences introduced by this bill. I understand there will also be an intensive advertising campaign to increase public awareness.

These measures will take time, and it is important that the bill not become operative until afterwards. I am not moving an amendment to the transitional provisions because I understand from the briefing that the bill will not be proclaimed until 1 November 2012 to give these measures time to take effect, so that anyone who gets a final infringement is fully aware of all the consequences if they do not pay, or elect in the case of infringement notices only. My question to the parliamentary secretary is: will he please confirm that the bill will not be proclaimed

before 1 November and detail the measures that will be taken in the meantime to ensure that people will know all the consequences that will flow from non-payment?

The next point I want to raise regarding the substantive bill is that of evaluation. I was interested to learn from the briefing, because it is not apparent in the bill, that this is a trial only, approved by cabinet to operate for three years in the metropolitan area. The bill does not contain a sunset clause. The second reading speech indicates that an evaluation will be done after three years, but the bill does not contain any evaluation provision. The proposal for both the duration of the scheme and its evaluation is therefore policy only and not legislatively binding. Nor is it clear what the terms of the evaluation will be, particularly its impact on Aboriginal people and on people on low incomes. Nor is there any requirement for the evaluation to be tabled in Parliament. I will therefore move an amendment to insert an evaluation clause, which I hope will be supported by all parties, because it accords with the stated intent of this bill. The wording of the proposed amendment is similar to the amendment I previously moved, and that the house supported when we debated the Criminal Code Amendment (Infringement Notices) Bill 2010. Obviously, we will deal with that in the committee stage.

With regard to fees, clauses 39(3) and 40 of the main bill amend section 108 and insert a new section 114, and together with the taxation bill permit over-recovery of costs via fees, and validate regulations that purport to permit this. The money will not go to a special purpose account for assisting with the administration of this act. I have already noted the background to the over-recovery. In summary, some years ago the Standing Committee on Delegated Legislation identified that the fees in the regulations were effectively over-recovering costs by 325 per cent, but this was not authorised by the act. Justification given for the over-recovery then and now is that the over-recovery is an inducement to people to deal more appropriately and promptly with their fines and infringement notices. We do not support over-recovery of costs via fees. With respect, the act, particularly given the new provisions in this bill, already contains substantial inducements. Further, it is a more transparent process if costs and penalties or inducements are clearly distinguished from each other when they appear in legislation or regulations tabled in the Parliament. They are different things with different policy purposes.

I want to raise a particular query that relates to this area that the bill covers. As I was advised at the briefing, I have had an email from a member of the public who, on 21 February was successful in appealing a fine that had been imposed by the Magistrates Court after he had elected to have a traffic infringement notice determined by that court. However, even though the police officer who had imposed the traffic infringement notice was a party to the appeal and was represented by the State Solicitor's office, the information that the conviction and fine had been set aside on appeal does not appear to have reached the Fines Enforcement Registry. Instead, the Fines Enforcement Registry continued with enforcement as if the fine and/or the infringement notice existed, resulting in this constituent having his driver's licence suspended a month later, on 30 March 2012, just before the Easter long weekend. It is obviously important that all forms of enforcement action permitted by the act and by the bill are brought only against people who are debtors at the time the enforcement action is taken. My question to the parliamentary secretary is: how did this situation arise? What is the process to ensure that if a person does not elect to have their infringement notice determined by a court or if there is an appeal related to a court fine, accurate information as to a court's determination is received in a timely manner by the Fines Enforcement Registry?

That concludes my remarks on the bill. I will make more comments in the committee of the whole stage, but I indicate at this stage that the Greens WA do not support the bill.

HON COL HOLT (South West) [5.47 pm]: I rise in support of the Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012 and the Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012, but I want to make a few comments about government action required to deliver an outcome. I recognise that this is not a new issue and that the collection of unpaid fines has been an ongoing issue for a long time. A number of different governments have sought to change that in a number of ways. In 2006 the Minister for Police was Hon John D'Orazio. I refer to an idea that was put forward by his office in trying to address this. At that time they decided to list in the newspaper all the drivers' licence numbers of people whose licences had been suspended. Some members may remember that great big long list of drivers' licence numbers being published in the paper. I remember at the time listening to the minister talk about what the government was trying to achieve from that. He spoke about a couple of issues; one was that he was concerned that people were driving around when they did not have a licence. He was very concerned about the third-party implications of that. I think he had quite a noble idea of trying to warn people by indicating, "If you see your driver's licence number in this list, you don't have a licence, and you shouldn't be driving around". Another objective, I suspect, was about the recovery of some outstanding fines. I think at that time—do not quote me—around $50 million in outstanding fines had not been collected. If my memory serves me correctly, that action out of the office would have cost about $250 000, which in the scheme of government expenditure is not a lot of money. At the time I was lecturing in extension; members will understand what I mean by that. We looked at the action to see whether

it would deliver the outcomes that the minister was talking about. When we broke it down, we came to the conclusion that although it was a noble action, it would not deliver the outcome the minister was concerned about. When we break it down, we must consider the people who are targeted by the action. There are a number of different categories of people who are being targeted, one of which is fine evaders, and they are probably chronic fine evaders. Basically, those fine evaders have the attitude, "I know I have lost my licence and have unpaid fines"—which could be as a result of fare evasion from trains, for example—"but I don't care. I don't care if I see my driver's licence number in that list. I'm going to keep driving." The action we are seeking to implement does not necessarily deliver the outcome we are seeking, which is to get those types of people off the road.

Another category of people are those who probably did not realise they had an unpaid fine. They might have changed their address and failed to notify people and the trail of notification of warnings about having an outstanding unpaid fine that could result in the loss of the person's licence never got to the end point. I am sure that would have happened on occasion. Most people I know who move house and change their details—probably 99 per cent of them—inform the police and the utilities to ensure that these types of things do not happen to them. A small percentage of people may have changed their address but did not know they had lost their licence. We are relying on them to buy the newspaper on the day that the drivers' licence numbers have been printed and to recognise their driver's licence on the list. Probably only a small percentage of people would buy the newspaper on that day and probably an even smaller percentage would be people who have changed address and did not know they had lost their licence. When we talk in this place about legislative tools or government policy to bring about change, I am reminded of this example from a few years ago that never brought about much change at all. This bill is about trying in a very different way to change the behaviour of people who do not pay their fines. Obviously, it is being done through a legislative tool. The purpose of this bill is very clear, I think, and very different from the objectives of the minister's action in 2006. This is about recovering the outstanding fines. According to the second reading speech, that figure has grown to about $251 million. Also, it will serve as a deterrent to fine evaders, or people who have not paid their fines, because if they do not pay their fines, there will be consequences. This bill seeks different outcomes.

I would like to ask a couple of questions. There still seems to be an issue about how people will be notified and how confident we are that the Fines Enforcement Registry has done everything it possibly can to deliver those notices to the people at that point. That was an issue in 2006 and it appears to still be an issue today. I would like to know what is being done to address that situation. The story that I referred to in 2006 is about an action, and I suspect that that action did not work at all. I have not seen anything about it being monitored or any feedback about how it went. This legislation has a three-year review to see whether the legislation has worked, which I think is a great initiative. When governments introduce this sort of legislation and this type of tool to bring about behavioural change, it is important to check to see how well the outcome was delivered. I support the legislation and the three-year review, but I will encourage the minister and his department to inform the house about how they have managed the issue of notifying people who have outstanding fines before they get to the point of losing their licence.

HON MAX TRENORDEN (Agricultural) [5.55 pm]: I have been in this place for a few years and I want to go back through the history of this particular issue. I suggest all members read the second reading speech of the Fines, Penalties and Infringement Notices Enforcement Bill on Wednesday, 23 November 1994 if they have a case of insomnia! I was in attendance for that debate, and if members go back through the record, they will see that I voted in favour of that bill. I remember the bill being suspended. Let us look at what was talked about in 1994. The second reading speech on that bill refers to the number of Aboriginal people who had been caught in the system, the lack of sentencing options for Aboriginals and imprisonment being the last option. Last year I visited the prisons in Broome and Roebourne. Guess who is in those prisons? It is Aboriginals who have not paid their fines. The second reading speech I referred to is from 1994 and today it is 2012. What has changed? Once we have passed the Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012, what will change? The answer is nothing. In 1994, we brought in a new option—the suspension of licences. That is a powerful tool. Guess who suggested that we should suspend licences? It was the Law Reform Commission. I am not anti-Law Reform Commission; it does good work and it looks at remedies before a bill is enacted. The Law Reform Commission indicated its concurrence with the need to develop a new system of enforcement for the payment of fines. Similarly, the commission indicated its support for the main purpose of the new legislation, which was to suspend people's licences. It says in the second reading speech —

> Given that 87 per cent of the adult population possesses a motor driver's or motor vehicle licence, suspension provides a realistic and administratively effective means of enforcing a fines and an infringement notice. In 1992–93 approximately 450 000 infringement notices were issued by the police and local government. Around 100 000 fines were imposed in Courts of Petty Sessions …

Lo and behold, what does it say occurred in 1994? It says —

> only 40 per cent of which were paid without the need for enforcement action.

It is deja vu. The second reading speech goes on to talk about the police enforcing in excess of 100 000 warrants for unpaid fines and infringement notices in 1994. It also says that there are not only human resource implications, but also that the outstanding fines totalled more than $13 million. Read the second reading speech for today's bill. I am not that good, but Hon Phil Gardiner, because of his banking expertise—I am not sure whether that is an asset or liability!—can press a button and tell me what $13 million in 1994 equates to in today's figures in the current second reading speech. There is probably not a lot of difference given the number of vehicles that were on the road at the time.

Sitting suspended from 6.00 to 7.30 pm

Hon MAX TRENORDEN: As you know, Mr Deputy President (Hon Brian Ellis), I was so keen to get in my speech that I stayed here through the dinner break with my finger on the line that I was up to.

Hon Ed Dermer: You were particularly statuesque in so doing, I might add!

Hon MAX TRENORDEN: The second reading speech of 23 November 1994 for the Fines, Penalties and Infringement Notices Enforcement Bill said that there were too many options available to people in these circumstances. It states —

> The integrity of the fine as a viable sentencing option is under serious threat because the system permits a defaulter too many options and is open to abuse.

It states a bit further down —

> Fine defaulting is also the major reason for the imprisonment of Aboriginal people.

As I said a little earlier, what has changed? Over the page it states —

> The Bill will provide the sheriff and police involved in the execution of these warrants with the powers necessary for effective fine enforcement—such as right of entry.

If that is so, why are we doing these bills now? It continues —

> Where there are no goods or land to seize the sheriff will serve the defaulter with a compulsory order to undertake community work.

That worked really well, did it not? It continues —

> Unlike the current system, where community work is freely available, the sheriff will means test the offender before allowing community work. The work and development order scheme will therefore continue in a modified form as an alternative only for those who genuinely do not have the capacity to pay.

We know that did not work. The speech goes on at page 7501 —

> Vehicle licences will be targeted only for corporate offenders or where no driver's licence is available.

We have heard similar arguments since. It states further down —

> The suspension of licence is the final sanction applied to unpaid infringement notices.

We are hearing something similar with this bill. It further states —

> The introduction of the system will coincide with a comprehensive public education campaign which will fully inform the community of the changes. The campaign is planned to commence across the State in early January and run through to March 1995. Television coverage will be supplemented by press and radio advertisements, with a significant focus on Aboriginal country radio in the northern part of the State.

That worked a treat, did it not? Nothing changed. It continues —

> The new system will deliver many benefits to the community of Western Australia.

I love this bit —

> Through increased effectiveness, the system is expected to generate an estimated additional $2.29m from infringement notices and an estimated additional $8.6m from court fines. This amounts to an additional $10.89m a year. The use of the new system to enforce in excess of 100 000 warrants for backlogged, outstanding fines is expected to raise an estimated additional $6.5m for the State.

Does all that sound familiar? It continues —

> Significant work hours also will be saved by the system.

Does that sound familiar? It continues —

> Work and development orders are expected to reduce from 13 800 orders a year to fewer than 2 500.

Does that sound familiar? It continues —

> When the program has been fully operational for one year it will release the equivalent of 12 full time staff to meet other government initiatives within the ministry.

Does that sound familiar? It continues —

> The use of the sheriff and bailiffs to take responsibility for executing warrants, along with the use of alternative enforcement strategies, will release at least 20 more police for core police duties.

That is 16 years ago, is it? Again, with the wisdom of the time—I voted for this legislation—the second reading speech continues —

> Experience with licence suspension as a fine enforcement mechanism in New South Wales suggests —

I agree; it just says "suggests" —

> that there is not likely to be a significant increase in the incidence of driving without a licence.

Have members read the second reading speech on this particular bill? I have it here. It says that something like 45 000 people are driving without a licence. Is that the figure?

Hon Giz Watson: Yes.

Hon MAX TRENORDEN: We will get to that in a moment. Yet back when this bill was introduced in 1994, the evidence from New South Wales was that that was not going to occur.

Hon Michael Mischin: That is 45 000 out of how many?

Hon MAX TRENORDEN: It is there, but it is no different. In this case, it is still a percentage of a certain number of drivers.

Hon Michael Mischin: And it always will be.

Hon MAX TRENORDEN: That is right; but what I am saying to the parliamentary secretary is: what is the difference?

Hon Michael Mischin: You're not sending everyone else to jail.

Hon MAX TRENORDEN: We will get to that in a minute.

The other point, which is a really important question, is that the second reading speech states —

> … the State Government Insurance Commission has indicated that it will sue the person for the accident and claim the money through civil proceedings.

We all know that that is true, but it has not stopped 45 000 people currently driving without a licence, even though that is common knowledge, I would argue, out there in the community.

I will just take the Tardis through to 2002. A bill called the Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2002 was introduced by Hon Jim McGinty on 23 October 2002. It states —

> In the event that payment is still not made or arrangements are breached, the registrar may refer the matter to the Sheriff to attempt to recover the penalty by warrant to seize goods and offer them for sale. As noted, the Fines, Penalties and Infringement Notices Enforcement Act contains a range of enforcement options to recover penalties, together with power to make time-to-pay arrangements. If the initial recovery options are unsuccessful, the Fines Enforcement Registrar may issue a warrant to empower the Sheriff to seize the goods of a fine defaulter and subsequently sell those goods …

And the sentence goes on. That is in the current bill and, if I want to go back to it, it is actually in the bill in 1994 as well.

So we transport ourselves to the current time. I will go through the second reading speech and talk about some of the things that were of interest in my mind as I read the second reading speech. It states —

> The Fines, Penalties and Infringement Notices Enforcement Act 1994 commenced on 1 January 1995.

I have just been through all that. It continues —

> During this time some 3.7 million fines and infringements totalling over $1 billion have been registered with the Fines Enforcement Registry. As at 6 March 2012, 739 793 fines and infringement notices were outstanding, totalling $251 million.

As I said, how does that compare with the $13 million back in 1994? It continues —

> Of this amount, $56.7 million is subject to time-to-pay arrangements. Further, as at the same date, 47 878 people had had their licences suspended for nonpayment of fines and infringement notices.

Further on, the second reading speech states —

> Licence suspension has been a cost-effective enforcement measure, which has subsequently been adopted by almost every other state in Australia.

I agree with that. It continues —

> As the number of people subject to licence suspension has increased, the propensity for people to continue to drive while their licence has been suspended has increased.

So there is an admission, going back to 1994, that people are driving without a licence and they are not greatly concerned about it, even though, if they have an accident, and that accident is serious, it could cost them more than just financially.

The second reading speech continues —

> In 2011 the Magistrates Court received some 4 500 lodgements for the offence of driving while disqualified …

There is the problem—only one person in 10 is getting caught. That is really quite a strong argument about where we are at. It continues —

> Those people who continue to drive while disqualified not only demonstrate a contempt for the sanctions imposed by the law, but also pose a risk to themselves and other road users by driving when they should not be, and while uninsured.

I totally—100 per cent—agree with that. The point I am trying to make, though, is that in the period from 1994 until now, what has changed? That was just as true back then as it is now.

If a person accumulates $2 000 worth of fines and disregards warning notices, a range of penalties may be imposed. I will talk about that more in a moment.

The second reading speech goes on to say —

> What is significant here is that any of the three enhanced measures introduced in this bill can apply to persons with outstanding infringements and fines. …

But it goes on in the same paragraph to say that this "generally does not go beyond licence suspension".

We already know that a significant number of people do not pay their fines. As has been referred to, not all of these are people who cannot afford to pay their fines. Some of these are people who just choose to head down this road.

The second reading speech also talks about Aboriginal people. As I have said, last year I visited Broome and Roebourne prisons. The bulk of the people in those jails are there for non-payment of fines or other traffic offences. The second reading speech says —

> This change will mean that the Fines Enforcement Registry will be able to register time-to-pay arrangements immediately after a fine is imposed. A benefit of this, for example, is that in some cases arrangements for voluntary deductions from social security payments can be made immediately, reducing the potential for future licence suspension and the consequences of driving without a licence.

What happens if an Aboriginal person decides to cancel the time-to-pay arrangements? Will it be possible to cancel these arrangements? Maybe the parliamentary secretary can talk about that. I do not see how this will do anything to change the circumstances of the large number of people in the north west who are of Aboriginal descent and are in jail for traffic offences.

Let us now get down to what is new in this bill. If a person receives a warning notice and it is placed on the windscreen of his car, or wherever it is placed, and he chooses to ignore it, his car can be clamped. What will be the outcome of that? I suggest that the outcome of that will be a large increase in the sale of oxyacetylene cutters

to remove the wheel clamps. People are just going to remove the wheel clamps. If people remove the wheel clamps, what will the penalty be? Why are all of these people, who have been breaking the same rules since the introduction of this bill in 1994, all a sudden, because of this bill, going to act differently? Why is that going to happen? I can answer that and tell members that it is not going to happen.

At a time in the future a bill will come in to amend the Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Act 2012, and some minister will say that there will be a penalty if people cut the clamp off. What is the current penalty for removing the clamp?

The second reading speech states that as a result of the Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012 there will be enhanced enforcement measures such as numberplate removal and the seizure and sale of goods—sale of goods has been in the act since Methuselah was a child. As to licence plate removal, particularly country members in this chamber know that over the years the Auditor General has regularly reported that there has been a very poor rate of return of licence plates to the Department of Transport or the local government bodies that collect them. The next deal will be that people will go down to the pub to buy a licence plate. They will wander down to the pub and there will be a person just outside the front door of the pub; instead of being able to buy drugs or whatever it is, people will be able to buy a licence plate. It will not be very difficult. People will take it home, screw it on their car and away they go! The police will still only catch one in 10 offenders, particularly if it is a good, recent licence plate. The police will probably not pick them up at all because they will just look at the licence plates and go to the computer, and they probably will not find out that the car is unregistered and the driver does not have a licence. The second reading speech also states that the new provisions "will allow the Sheriff to seize and sell goods to the value of the outstanding infringements". What is new about that? It is in the current act, and has been in the legislation for some time.

I am at a loss to understand why I should support this bill, as there is nothing new in it. The consequences of this bill will be nothing. If we go back and look at the standing practices of Western Australia through *Hansard*, as I have just done with two bills, this bill is virtually a carbon copy of the last two. So, tell me why this bill will work? An issue for members of this chamber in the evaluation of legislation is not only whether a bill should pass, but also whether a bill is actually worthwhile—it has some function. I put to members that this bill has no function. There is nothing new in it, much of it is repetitive, and for those people who have been breaking the law by driving without a licence, risking having a crash while uninsured and getting into serious trouble, all that information is already out there. People know about it, but they still do what they do.

I am also interested in the view that the people who have not paid the $251 million, or whatever the figure was, in fines are all down-and-outs who do not have the money to pay—I think not. I think there is an attitude in society, and some portion of the community is prepared to break the law. I cannot say everything in the bill is wrong, because I actually approve of the fact that people's names could be published if they have fines totalling $2 000. I think that is more likely to be effective on people of some means who have some capacity to pay their fines—nobody likes to see their name in the paper as being a lawbreaker. But at this stage, I see no reason to support the bill.

HON PHILIP GARDINER (Agricultural) [7.50 pm]: We have just heard why it is so useful to have some corporate history in this Parliament and someone who can bring to the chamber some wisdom on these issues.

Hon Max Trenorden: Wisdom?

Hon PHILIP GARDINER: Some wisdom, I said! It is so easy to lose.

I rise to speak on the Fines, Penalties and Infringement Notices Enforcement Amendment (Taxation) Bill 2012 because I also have concerns, but of a different kind from those that Hon Max Trenorden just talked about. Similarly, I do not believe that the measures in this bill will make any difference. There is a much deeper concern that we have to address. The most disturbing thing is that there is no analysis in this bill or in the second reading speech. There is no in-depth understanding of why people are not paying these fines. What is the culture with which we are dealing?

Hon Max Trenorden earlier referred to the increasing number of fines owed to the state. I would have thought that if $13 million was owed in 1995, about $50 million would be owed today. However, $250 million is owed in unpaid fines today. There has been a huge increase. What is happening culturally? I am sure the solutions will not be quick solutions, but until someone with a sufficiently long-term perspective looks at the issue, makes some decisions about it and starts to get to the bottom of it, we will never solve this**.** All we will see is yet another way in which the legal system raises money for Treasury. Maybe there is something cultural in that alone. That is how I think a lot of citizens see the current traffic fines and what the system is doing; it is about raising money. It is almost like another tax for motorists. We are nearly all motorists, so we are all paying another tax, just about, if we break the law. I will come to how we break these laws and the implications of it. If

we break these laws, we pay more money to Treasury because the fines keep increasing. Who likes paying tax? What do we all try to do? We try to minimise our tax, within the law. None of us likes to pay taxes, so I think more and more will not pay taxes. In the preparation of this bill, I would have liked an analysis of what is going on, because only then will we have a solution that will make change. I do not think that the solution in this bill will make any material change.

On my estimates, around 200 000 citizens have outstanding fines. That is about one in 10 of the state's population. That is quite a high proportion. The $252 million in outstanding fines on 30 June 2011 fell a little—I do not know what caused the fall—to about $246 million in December 2011. I do not have all the data. I need the data to be sure that what I am saying is correct, but I can go on only what I have. Of that $246 million, about $151 million was unpaid court fines and $95 million was unpaid infringements. Are the unpaid court fines just an extension of the fines on top of the traffic fines? I understand that between 70 per cent and 80 per cent—it may be more—are traffic infringements. There are some parking infringements in there and some other infringements, but it is nearly all traffic infringements. Therefore, I presume that the unpaid court fines are essentially on top of traffic infringements, and of that $246 million, about $59 million is on a time-to-pay basis currently. That would mean that about $187 million is on the run, if you like, applying to about 150 000 people. Those are rough numbers; I do not have them precisely. I have just been given the breakdown. The Attorney General has said that the breakdown is roughly in excess of $240 million, representing 280 000 individuals. I said 200 000 but it is 280 000 individuals. Of the 722 000 unpaid fines and infringements, speeding is 101 000; travelling without a ticket, 95 000; parking, 65 000; no driver's licence, 45 000—that is to do with traffic—failure to return numberplates, 42 000; then there is a bit about failure to vote, driving under the influence of alcohol, failure to transfer a vehicle licence, which are about 20 000-odd each; unlicensed vehicles, 20 000; and disorderly conduct, 14 500. Therefore, in the traffic area it is probably something like 150 000-odd of the 280 000 people. That is about 50 per cent. A large part of it is to do with the traffic area. My speech here assumed it was a bit higher than that, to be quite honest; nonetheless, it is a very material part of our problem. I suspect that what I say can apply to the other aspects of it to some extent.

Is it that we are just involved in a game with the police in all this? Is this what that is about? If it is, that is not healthy. If I am speeding and a police officer is coming along the road the other way and I see him, or someone flashes their lights to tell me that there is a camera down the road, it almost is part of a game, is it not? We are playing along to see whether we can get away with it. We are almost like young children in a way, if it is that they are brought up that way. But is this game only because in a few cases, certainly where the traffic area is concerned, the laws are not sufficiently credible? It is like parents with a young child; they always, in my view, need to tell the child why it is that they cannot do something so that they can understand it. Really, we as a citizenry are the same; it has to make sense to us, because if it does not make sense to us, we will actually play the game—or ignore it. This is the kind of analysis that I would have liked to see to support these fines and infringements bills if it is going to convince me to vote for them. But then, of course, we will always have, as we do with some children—I do not know whether it is a family thing, genetic or quite what it is—people who want to do something deliberately wrong. We will have those people who want to get a kind of ego trip about speeding down the freeways and so on, but we do not want to have any of that. That has to be out. But on the other hand, there are lots of cases, to do with traffic infringements in particular, in which we are caught at the wrong time. A lot of it is from accidental behaviour; we are not trying to avoid the police or anything, it is just that we go faster or something like that, are caught and fined and then we disrespect the fine because we know we did not mean to do it. If we did not mean to do it, we have that very uncomfortable feeling. Sure, we did not mean to do it, but we did it so we have to pay the fine. We cannot deny that we did not do it but we did not mean to do it. There is that category that includes a caution, which the police often use. I will come back to that later. All of this often comes out of our social infrastructure but like everything else, everything has to be reinforcing. If the traffic laws make sense and the social infrastructure is such that we are responsible, reasonable and fair, the thing is reinforced so that it all works. I think the proposed solution in this bill relates only to metropolitan areas. Is that correct?

Hon Nigel Hallett: Yes, it is only metropolitan.

Hon PHILIP GARDINER: I could not find that in the second reading speech. I should have checked it. It only relates to metropolitan areas and is subject to a three-year review. The three-year review is important if we are going to put anything this new into place. We are now close to a 20-year review of the actions that were introduced since 1995, and there does not appear to be much difference. I am not too sure whether the three-year review will show any change. I will come to the new measures in a minute because I am concerned about some of them, and then there is a three-year review. When it came to mandatory sentencing for assaults on police and other civil servants, the Nationals were instrumental to some degree in requesting and succeeding in having the Attorney General put a review provision in a number of these kinds of bills, which I applaud if we are to have a

law to see where it is working. If it is not working, we have to go back and find out why it is not working. The review should not be held after the first three years for any of these bills. There should be a continuous review because we all know there is a bit of an adoption process early but then it tails off and it goes no further in a number of different cases.

The main part of the proposed solution is the harsher punishment of wheel clamping, warning notices on vehicles, plate removal and licence cancellation. The one that I am particularly concerned about is publishing on the internet. We decided in this chamber that we are going to publish the names of paedophiles on the internet. When we are looking at a spectrum, the angst through which we went when we were talking about this in the chamber is one end of the spectrum. On the other side of the spectrum is putting a person's name on the computer who has not paid a parking fine. We should put everything on the web or nothing on the web as far as I can tell.

Hon Liz Behjat: There's a big difference between a parking fine and a paedophile.

Hon PHILIP GARDINER: Exactly. Therefore, why give the same punishment?

Hon Col Holt: Is it $2 000?

Hon PHILIP GARDINER: It is subject to a fine of $2 000, as Hon Col Holt just said. It is still a minor offence yet it incurs the same punishment given to a paedophile and it will go on the web.

Hon Liz Behjat: That's not the punishment.

Hon PHILIP GARDINER: It is part of the punishment. Maybe we will put someone's name on the web with some label that they do not like. I would not like that.

Hon Michael Mischin interjected.

Hon PHILIP GARDINER: I do not think the effect is the same. If it goes on the web, anyone can look at it, I presume under some kind of web address related to not paying fines. It is the same thing as what happens to a paedophile. I just think that in that context, it looks like we are pulling these two things out and they are at the opposite end of the spectrum of seriousness.

The time to repay continues. That is fine. As we have said, it will have a greater effect than paying a fine of $2 000.

Let me be a bit personal here. I have been on the dark side of some of this.

Hon Michael Mischin: No!

Hon Liz Behjat: Which part of the spectrum?

Hon PHILIP GARDINER: Which part of the spectrum does the member want to know about? I am in the middle actually. I will not go any further on that. It was part of life's experience. I have lost my licence.

Hon Michael Mischin interjected.

Hon PHILIP GARDINER: It is only for the imagination to make that connection.

Losing my licence was another part of the rich experience in a way. I then wondered how people who have little money and are trying to maintain a job and a family do it. It is a very difficult thing to do if people do not have the means, which I was fortunate to have and which members in this place are fortunate to have. But they should get out there and work on the dark side for a while and see how it goes. That is when they will understand what it is like. I can tell members that it is easy to make laws in this place, but wait until they start living them. It could be an accident or a lapse of concentration and they would be in the soup with no way out. They might do double or nothing, which means that they cannot lose two points for 12 months, but, if they fail that, they will get double the term of the original suspension. It is very easy to lose a couple of points. It happens so easily, and often when people do not mean to do it; they just happen to get caught.

I have also on the dark side taken the police to court over some of these fines. I have done it twice. I recount the experience for no other reason than to say that most of us have neither the time nor the money to do it and we just pay the fine. The first time I did it, the magistrate ruled in my favour. The second time I did it, I learnt more. The only reason I recount this experience is the credibility of the law. I was passing another vehicle on a country road. Drivers who need to pass another vehicle do it as quickly as they can. They do not hang out there at the speed limit while passing a vehicle in the short bit of road that they get when it finally comes along, although I was told that drivers are not meant to do that; they are meant to wait for the long bit of road to do it. Of course, by that stage, there will be three vehicles behind a truck waiting to get by, and the third vehicle will not get by. The first vehicle might get by, but the driver needs to do it quickly, because it is too big a risk hanging out there.

Hon Max Trenorden: I'm guilty.

Hon PHILIP GARDINER: I am too, and that is similar to what took me to the Magistrates Court the last time. What I learnt in the Magistrates Court is that, first of all, police prosecutors have cases coming through all the time, so the evidence that the police gave in my case was quite at odds with my recollection of the events. At the end of the day, the magistrate said, "I feel for the accused", which was me, "because I believe his evidence over that of the police." That is a pretty big thing to say, but the position of the police has to be put in context; they will never remember it all. But, in the same sense, it damages their credibility a bit in their operations. The next thing the magistrate said was, "I have no power to change this charge because it is mandatory", as Hon Michael Mischin would well know from being in that role in his previous life. I could not get out of it. The magistrate had no power to change it, even though my evidence was accepted over that of the police. That means that the only way one can get out of it is to use all one's skills, as though one were already in the courtroom, at the kerbside while the police are considering writing out a ticket. That is the only opportunity one will have of getting some concession. Maybe a beautiful woman might have an advantage; maybe the policeman is having a bad day. There are a whole range of potential consequences, but that poor police officer has to be judge and jury and be fair while trying to ascertain someone's character and whether they are trying to pull the wool over their eyes, prior to charging them. Once they have been charged, they are finished.

That is just one of the areas in which I see difficulties with the credibility issue. I think a new approach is required, and not a piecemeal approach of the kind we are considering right now. It needs to encompass in-depth analysis and an understanding of the socioeconomic mix of the people who must make payments. It needs to be able to take into account whether there are a whole lot of solicitors out there who know the system, are taking it on and not paying their fines, as someone mentioned to me the other day; I do not have evidence of that, and if someone can help me with that, it would be very helpful.

Hon Max Trenorden talked in part about the Aboriginals and where they are at. I know from first-hand experience that Aboriginals have had driving difficulties, and they are written off; once they lose their licence, those people have nowhere to go, especially in the country, and even when they have been trying, with all the other difficult circumstances that prey upon their lives. It is not just Aboriginals; it is also others in lower socioeconomic circumstances. When they are already dealing with all these other difficulties, when they lose their licence, how do they deal with that? Members should try not driving for six months; it is impossible. They then lose the incentive to keep on going, because they give it all away, and then it becomes alcohol, drugs and everything else.

We need a new approach that has credibility. It has to be an approach that recognises what socioeconomic circumstances apply to given circumstances. There is public transport in the city, but in the regions these situations bring about other circumstances. That may not apply to these bills, if it is just metropolitan, but nonetheless in the bigger circumstances, that is what has to be considered.

Credibility within the law comes back to respect for the law. When we are talking about dysfunction and so on, the big word is respect. It is not just social dysfunction, it is also schools, but the big word is respect—respect for each other, respect for our institutions and respect for families.

Hon Max Trenorden: Members of Parliament!

Hon PHILIP GARDINER: That is right, respect for members of Parliament. The member says that in jest, but that was my concern when we were talking about the tight and shale gas issue in Gingin, Eneabba and so on. Unless there is respect, no-one is going to listen. Respect for the law is very important, but the law must be understandable as the better part of the way we live. All lawyers will say, "Of course it is," and that they defend the law and everything else; but we also know that the law is an ass sometimes, and until we get the "ass" part of the law out—a fair bit of it is in the area about which we are talking—we are not going to get that respect.

Let us take one of the difficulties the police face. I know that this legislation applies to a whole lot of other areas, but I will just deal with the 50-odd per cent that seems to be related to traffic. The police administer laws that are determined largely by Main Roads. I must say that I have not been able to analyse whether a committee comprising Main Roads and WA Police sets the speed limits and determines where the stop signs go and so on. But if the police have to administer someone else's rule written on a piece of paper of 60 kilometres here, 70 kilometres there and so on, we are giving the police a very difficult task, because they are the ones who are mandatorily making the decision. If they are making a decision in a 70-kilometre-an-hour zone when they do not believe it should be a 70-kilometre-an-hour zone, that becomes tough. Therefore, for a start, it has to be done in a different way.

The second thing about speed limits is that the word "limit" is used, but not honestly. It is not a limit because we are all allowed to do up to nine kilometres over the limit. We have asked the police about this in estimates hearings, and they said that it is to allow for the errors in speedometers and so on. I would like to see the analysis

of that because I suspect with modern motor vehicles, that tolerance is much less; I suspect it is an error of not more than two or three kilometres an hour maximum. There could be a greater tolerance on the amount of inflation of tyres. If the pounds per square inch of tyres is low, people will go slower than if their tyres have a higher pressure. Tyre pressure may make a difference, but the information I have is that it, too, is a very small amount. Some people have bigger wheels on their cars. That is nothing to do with tolerance; it is a deliberate action and they have to adjust for that when they drive.

While there is a limit that does not mean a limit, that causes disrespect for speed. I hear Geoff Hutchison and others talking on the wireless about how people are driving down the Mitchell Freeway at 109 kilometres an hour when the limit is supposed to be 100 kilometres an hour, and the traffic is all moving smoothly. They are all exceeding the speed limit and they are not being fined. Why are they not all being fined for exceeding the speed limit? It is not an honest use of the word "limit". When that kind of language is not being understood, that reduces respect for the law. When people are then fined, they think, "Damn it; I'm going to do the same speed as everyone else." Even if they are not there at the same time, they are using that road and driving at 109 kilometres an hour rather than the limit of 100 kilometres an hour. I would much prefer to have all the limits adjusted appropriately and if people drive at more than two or three kilometres maximum over the limit, they should be fined heavily by losing three demerit points. Why do I say two or three kilometres over the limit? I would like to have a guidance at one level, so 100 kilometres an hour might be the guidance and the limit might be 110 kilometres an hour. But we need to have something where the words mean what we understand the language to say.

Hon Nigel Hallett: Can you move on from that, please?

Hon PHILIP GARDINER: Is it too familiar?

Then there is the issue of passing, which we have already talked about. I think there is a much greater case—it has been referred to in a study by the New South Wales Law Reform Commission—that while fines are right in many cases, there should be much more use of cautions for infringements. Then, of course, there are those of us who might get a lot of cautions, so they would need to be tracked somehow so that if they are being abused, we are also then suitably punished.

I have already talked about the socioeconomic considerations, but I went to see what the other states did. I am sure New South Wales has the same problem because it seems to have a proportionately higher number of outstanding fines and infringements. They have about $850 million outstanding and I think NSW's population is five million.

Hon Max Trenorden: Seven million.

Hon PHILIP GARDINER: That is not too far out; it is roughly four times our population, so they have the same problem—roughly in the same proportion. As of March this year, NSW now has four debt collectors whose job it is to recoup this money. This bill just outlines a cheap mechanism through which it is hoped we can recover the unpaid fines. I think Victoria Police have other measures that are not too dissimilar, as far as I can tell. However, in the final analysis, I would like to get the state very clearly out of having fines and infringements appear to be a revenue raiser, because it continues to look very much like a tax paid by those whom some members might say deserve to pay it. Nonetheless, in that judgement that we make, I think we cause people to lose respect for the law. The analysis needs to take into account, firstly, the costs of the underemployment of those who lose their licence rather than having another measure imposed on them; secondly, the cost of the family dysfunction that occurs; and, thirdly, the aggregate perspective of what we should do around this area. I suspect that many people here and elsewhere will say that it serves anyone right for losing their licence if they have gone over the speed limit by any amount. Those people probably will drive at exactly 100 or 110 kilometres an hour if that is the speed limit, which is fair enough. Bear in mind, however, that on the open roads in regional areas it is very easy to go safely beyond that limit. Let us make a real limit. The conclusion I have reached is that I do not believe this bill will improve the situation at all. There needs to be a much deeper analysis before I can see a resolution that will help us in this area. The law must be credible and we need to review a number of these areas, not just those to which I have referred but, I am sure, many others. The law must be reviewed and made realistic so that people can respect it.

HON MICHAEL MISCHIN (North Metropolitan — Parliamentary Secretary) [8.23 pm] — in reply: I thank members for their contributions to the debate and the opposition for its indication of broad support for the bills, albeit —

Hon Sue Ellery: For one.

Hon MICHAEL MISCHIN: For the substantive bill—the Fines, Penalties and Infringement Notices Enforcement Amendment Bill 2012—rather than the Fines, Penalties and Infringement Notices Enforcement

Amendment (Taxation) Bill 2012, notwithstanding the opposition's reservations about one aspect of it. I thank also the Nationals, as a party, for its support, as opposed to its two members who have chosen to take a contrary view. However, I will not ignore the significant contributions made by Hon Giz Watson, Hon Max Trenorden and Hon Philip Gardiner in respect of the matters raised by this legislation. I will deal with as much of that as I can in my reply to the second reading debate, although I might put off some of it until we go into the Committee of the Whole because there are amendments on the supplementary notice paper that need to be addressed, some of which have been put up by the government. I will make mention of those in due course also.

I will address in no particular order some of the features of the bills that have been raised in the course of the debate. Hon Philip Gardiner said that it all comes down to respect for the law and that from time to time the law is an ass. We must put that into some context. He also said that we need to understand the psychology, or the culture, I think he put it, behind the evasion of and failure to comply with the payment of fines and infringement notices. With respect, it is not that hard to work out. As was pointed out during the course of the second reading debate, before the 1994 act very limited avenues of enforcement were available. I stress that we are not talking here about the offences that give rise to the penalties that we are attempting to recover. The merits or otherwise of the laws creating those offences, whether they be for speeding, bail offences, failing to pay for a ticket on a train, parking fines and all the rest of it, is a totally different issue. If one wants to debate the efficacy or appropriateness of those laws or the wisdom or silliness of the offences, then that is for another time, because we are dealing here with fines imposed by way of infringement notices which have not been contested or which have not been contested successfully in a court, and fines imposed by courts—a solemn order of a court that has said that in the circumstances the person before that court charged with an offence should suffer a penalty of a monetary nature rather than imprisonment or some other disposition. In many cases the sorts of offences are those that are punishable only by a fine. The issue was raised of whether it is just that when passing a truck on a country road one happens to exceed the speed limit and encounters a police officer coming from the other direction who detects that the driver has exceeded the speed limit and chooses, rather than letting it go, to actually enforce that particular law under the Road Traffic Code that makes it an offence to exceed the speed limit, notwithstanding that one is doing an overtaking manoeuvre. That is another matter and we need to address the traffic laws if that is the case. What we are talking about here are validly issued infringement notices that the offender chooses to pay or chooses not to contest because they know they have no legal basis for doing so, or having contested it are punished with a fine by the court. That applies to all the other fines and infringement notices involved.

Before the 1994 act, the only way that fines could be enforced in any meaningful sense if people did not choose to pay the fine themselves was to make an order for what was called committal in default, with committal being committal to prison under a warrant. That could be avoided with time-to-pay arrangements or by paying the fine. What was found was that the imprisonment of people on the scale then available was putting ordinarily law-abiding citizens at risk of being confined to prison for a day or a week or a month as the case may be, with the consequences being that this would disrupt their domestic life, that they might lose their jobs and that they had the stigma and experience of having been in prison.

In any event, it was costing the community a vast amount of money to enforce the payment of fines in that fashion. The 1994 act found an alternative means of enforcing those fines, either by way of seizure of goods or suspension of licences, the thinking being that most people would not want to drive without a licence because that would make them subject to even more serious penalties down the track. That seemed to have worked. Hon Max Trenorden and Hon Philip Gardiner have mentioned that nothing seems to have changed in 20 years. Well, something has changed in 20 years. Bearing in mind how the population has grown and the like, what was then something like 7 000 people going to jail for the non-payment of infringement notices would have ballooned out enormously by now. That is not happening, and by and large people do pay their fines.

Hon Philip Gardiner says that we need to look at the culture. It is easy. Most people respect the law. They may not like the law. They may feel that they have been driving within the speed limit, if we want to use that category of offence, every day of their lives, and on the one occasion they happened to speed up, they got pinged by the police. They say how unjust that is, and they know that their neighbour speeds all the time and never gets caught—blah, blah, blah. That is beside the point. Most people, when they have a fine, whether it is a parking fine infringement that is issued against them or a speeding offence or something like that, will pay it. The people we are after are not the ones who have a respect for the law; we are after the ones who do not—the ones who accumulate something like $2 000 worth of unpaid fines and infringements, and in some cases more. I am informed that something like 20 of them in the community have fines of over $20 000 that they have accumulated. They do not care whether their licence is suspended. They do not have any respect for the law and they do not have any respect for court orders. The reason that they do not pay these things is that they figure they can get away with it and that there are no other consequences, other than an additional fine, or as the case may

be, that they can avoid. So the state casts about for other sanctions, other encouragements and other incentives for them to pay their fines.

It may be that more extreme measures are available. I suppose on one argument, if we want to ensure that everyone pays their fine, we simply make it a blanket case of sending everyone to jail if they do not. However, the government has not resorted to that and does not think it is a good idea for a variety of reasons, so it has resolved on these measures—wheel clamping, numberplate removal and the like—to see whether that works, and there is every reason to suppose it will. It is a different situation with paedophiles, because there we are not naming them for the purposes of shaming them; there we are naming them for the purposes of being able, under the circumstances of that legislation, to permit tracking, enforcement and the like, because there is a public concern that children may be endangered by having sex offenders living in places where children are prone to be and so forth. Here, there is a different incentive. A select number of recidivists who have no respect for the law will have their names published and their identities revealed. It is done under limited circumstances, and they have to be the worst of the worst. We are talking about people who overcome the threshold of having $2 000 worth of fines that are not paid—people who ignore the fact that they have been issued with reminders, notices, the works, yet they still choose not to obey court orders and pay their fines.

It may be that they fancy themselves as the Ned Kellys of the modern world and they are rising up in defiance of authority. But I suspect that it is quite the opposite. These are people who simply do not care. They are quite prepared to have everyone else in the community do their bit and to relax in the knowledge that they think that all these other people are fools, because if they only had that gumption and if they were not so law abiding, they too could get away with it. That undermines respect for the law. Why should Hon Philip Gardiner pay his speeding fines, fair cop or not, if others deliberately avoid doing so and have no sanction against them? It is only by showing that there are some teeth behind the laws and behind the orders of courts that we can maintain respect for the law.

The member had some things to say about speed limits and the like. As I said, that is for another day. However, I do not think the legislation refers to a limit; I think it refers to travelling in excess of a certain speed, so I am not sure that I understood what the argument was. In any event, if he has an issue about whether speeding offences are justifiable, whether there ought to be an element of discretion involved in them and whether there ought to be an intent to speed involved somewhere as an element of that offence, that is for another day. But it is my understanding, in any event, that although a purported speed of one or two kilometres an hour above the speed limit may be a breach of the Road Traffic Code, the reason these people are not prosecuted is simply because of the recognition that people's speedometers may vary due to factors such as the inflation of tyres and the like. But that is by the by.

I think I have already dealt with the question that has been raised about how we are somehow equating paedophiles and speeding offences. The point is that not all of these things are the result of speeding offences. There are a variety of offences of, I suppose, a broadly civil nature, and although some of those offences may be more serious, such as breaches of bail, there could also be a variety of environmental-type offences, such as unlawful dumping. The target of this legislation is people who refuse to pay a fine, and for whom suspension of licence either does not matter or has had no effect.

The point was made also that these court orders and infringements could be categorised as a tax, and everyone wants to minimise their tax. If we are going to categorise this as a tax, the easiest way to not pay the tax is simply not to offend. But that has not worked in respect of a certain number of offenders. If people do not want to pay their so-called tax on speeding, they should not speed. If people do not want to pay their tax for parking where they should not be parking, they should not park there. That is the best way to minimise their tax. It is not by saying, "There's a court order against me and I'm not going to pay it", and accumulating over $2 000 worth of fines.

Before we get to the argument that some of these people may not be able to afford to pay their fines, I should stress that these provisions and the $2 000 limit will apply only to people who have not entered into time-to-pay arrangements—they have not been interested in it. That is one of the factors that causes trouble for Aboriginal people out in the country. If we impose a fine on these people and then allow them to leave the court, it just slips their mind and does not make any impression on them. The reason for making the time-to-pay order at the time of the imposition of the fine is so that arrangements can be made immediately for the person to start to satisfy the amount owed; and it does not need to be by a great deal. These provisions will have an effect on those people who simply cannot be bothered or are deliberately evading time-to-pay orders and so forth.

The same situation will apply to publication. I am informed that even though a significant number of people may fall into this category and be subject to this act, the people who will be targeted will be only the worst of the

worst—that is, only those people who have accumulated tens of thousands of dollars of fines would be exposed by way of publication.

I should deal also with the issue that Hon Phil Gardiner raised about how people might perceive this as raising money for Treasury. Okay. Many people might perceive it in that way. But, once again, this legislation is not targeting the common or garden variety traffic or parking offender, who thinks it is unjust that the City of Stirling should get $60 out of him for parking in the wrong bay and it is just a money-making exercise and the money is just going into the city's treasury, so he pays it grudgingly. We are talking about a person who has accumulated thousands of dollars in fines and is making everyone else bear the burden for his offending.

I think I have largely dealt with the issues Hon Max Trenorden raised. He seems to think that this is all a case of deja vu, and that, essentially, nothing has changed in the last almost 20 years. With respect, I do not accept that. One can always look back with the wisdom of hindsight and say things could have been done better. I suggest that the legislation has been effective, and has been for a long time. It has been picked up by other jurisdictions, and, within its limitations, it has worked. But a disregard for the significance of licence suspension has developed, and it is now meet for the government to address that and to look for other means of reinforcing the law and court orders and encouraging people to meet their obligations.

Hon Col Holt mentioned the issue of notices and the accuracy of the database, which has been a complaint. People are required to notify the Department of Transport of a change of address; it is an offence not to do so. What has been found, however, is that people, nowadays, move around a great deal, and often people do not notify—either inadvertently or deliberately—the Department of Transport of their change of address, which might result in notices going astray. At my current address I have received notices that look suspiciously like notifications from government departments for people who have not lived there for more than a couple of years. That is why the legislation —

Hon Adele Farina: Sometimes people do try to get it changed, but the Department of Transport is hopeless at updating records. I know people who have put in changes of address to the Department of Transport four or five times and the mail is still being sent to the wrong address. What is government doing to address those systemic problems with the Department of Transport's systems?

Hon MICHAEL MISCHIN: If Hon Adele Farina would like to raise those cases with the appropriate authorities, we might be able to give her an answer.

Hon Adele Farina: I have.

Hon MICHAEL MISCHIN: I am not in a position to answer now what steps the Department of Transport could put into place regarding changes of address.

The point I am simply making is that this legislation is trying to establish a more reliable database by allowing the authorities access to the account details for those who may be drawing on electricity. That tends to be a far more accurate way of ascertaining where someone might be at any given time, because we need to provide details of residence and so forth before we can open an electricity account. Even if people are renting, they cannot get away from providing some details, unless they are lodging. By no means will the problem be absolutely solved—I accept that—but there is a requirement under the legislation that there has to be satisfaction that notices have actually gone to the right place.

Hon Adele Farina: The only problem with that is that all the electricity companies will have only one person's name as their client, even if it is a married couple. It creates a huge problem for people who are going through separations and divorces, I might add, if the accounts are in the husband's name. They will accept only one person as the client, and they are not in the wife's name. How is that going to help? It will help to some extent, but it will be very limited because only one person at that address will be registered with the electricity company.

Hon MICHAEL MISCHIN: I am not in a position to start answering questions like that. If Hon Adele Farina has something to say about it, she had the chance to oppose the bill —

Hon Adele Farina: And I still do.

Hon MICHAEL MISCHIN: — or those provisions. Hon Adele Farina can ask those questions when we go into Committee of the Whole, and then I might be in a position to give the member some answers. I am not going to debate it at this stage.

Hon Adele Farina: It was just some forewarning of what's to come!

Hon MICHAEL MISCHIN: Those are matters of process, in any event.

The DEPUTY PRESIDENT (Hon Brian Ellis): Order, members. I think the parliamentary secretary has indicated that the time for those sorts of questions is when we are in the Committee of the Whole.

Hon MICHAEL MISCHIN: In any event, I should add that questions of process, as opposed to the scheme of the bill, are a different issue. It may be that there will have to be refinement of some of the processes at the departmental level in the way in which the bill is enforced and the way in which notices are set out. However, they are matters of detail that relate to the execution of the law rather than the scheme proposed by the bill and the merits of that scheme.

Hon Giz Watson raised a similar issue about the other end of the process. I am not familiar with the case that she raised. I understand from my adviser that Hon Giz Watson raised this issue with him at a briefing and I think some information regarding that particular case was provided. I am not familiar with that case, so I cannot comment. In any event, I suggest that, again, it is a matter of execution of the scheme rather than how the scheme is intended to work from a legislative perspective and its merits as law.

Hon Giz Watson also spoke about the evaluation and trial period. Although it is proposed that the bill will operate statewide, the intention is that for an initial period it will be effected only in the city. There are logistical and evaluation reasons for that. Plainly, things such as wheel clamping and the like involve resources and it is far more efficient to utilise those resources in the metropolitan area rather than out in the country, at least for a trial period.

The amendments will be evaluated after a period of three years. I note that Hon Giz Watson has proposed amendments to effectively establish a scheme for the Ombudsman to monitor and review the operation of the amendments. The Department of the Attorney General already has a skilled evaluation unit, which operates at arm's length from operational areas in the department, such as the Fines Enforcement Registry, the Sheriff's Office and the areas of the department that will implement the new measures. The department has the relevant expertise to do an evaluation and in many cases seeks peer review from other experts—for example, the Australian Institute of Criminology. The evaluation process is monitored according to a strict governance process. No need is seen for the specific monitoring and review foreshadowed by Hon Giz Watson and the government will not support those amendments.

Hon Giz Watson raised the question of publication, but I think I have already dealt with that. She also raised the question of insurance. In respect of the third party insurance status of persons who currently have their drivers' licences suspended by the Fines Enforcement Registry, third party insurance is maintained provided the vehicle licence and registration remains valid. However, whatever may be the case in the event of personal injury insurance, private insurers for property may very well have their reservations about providing insurance to people who do not have valid drivers' licences, or for vehicles that are unlicensed. That is where the risk arises to a large extent from those who have had their licences suspended or where a vehicle licence is no longer operative. Likewise, there would be that problem potentially with those who are subject to an enforcement warrant and have had licences cancelled, quite apart from committing further offences.

I will deal with the question of over-recovery. There are two aspects to that. It is true that the Joint Standing Committee on Delegated Legislation identified that fees charged for enforcement actions were in excess of the cost of recovery for those actions. Overcharging, in a sense, or a fee in excess of cost, is currently used as a means of encouraging the payment of the fine, so there is an additional penalty, as it were, if there is a failure to pay within time in order to encourage people to pay on time or to pay at all. Unless there is that additional penalty, people have no incentive to pay at an earlier stage or in a timely fashion. The other aspect of over-recovery is where there is an estimate as to the cost of enforcement and dealing with the measures under the act. A particular step in the enforcement process may actually involve less cost than the fee that is charged, but the fee is calculated on the basis of what it would cost to enforce generally and is apportioned according to each step along the way. An example would be the cost of a writ in the Supreme Court, for example. The management of litigation by a court registry may be on average a particular figure, but not every piece of litigation goes through that whole process. Therefore, the practice is to charge a fee at the gate of the court, as it were, with the filing of a writ and then other fees at other significant steps of the litigation process. Filing the writ may not cost the registry a great deal in resources and expense, but the other stages of the litigation process cumulatively do. Although there may be over-recovery of a specific point, there may be under-recovery when one takes into account the total cost of managing that litigation at the court registry. Therefore, the apportionment is done at different places and a fee is charged at different places. Up until now, modified penalties and the like have been, I understand, the subject of regulation, but it is appropriate that it now be formalised by providing legislative backing to that by the taxation bill that is before us.

Lastly, we have the amendments that have been proposed by the government and those are necessary following royal assent being given to the Road Traffic (Vehicles) Act 2012. Clause 70C, which amends section 16, has been inserted to clarify that a vehicle licence should not be transferred if a licence suspension order under either section 19 or section 43 of the Fines, Penalties and Infringement Notices Enforcement Act is in force in relation to the vehicle. The amendments more correctly reflect the existing practice in relation to these orders, so they are

essentially a formality to clear up the operation of the act in light of other amendments that have occurred. On that note, I commend the bills to the house.