

ROAD TRAFFIC LEGISLATION AMENDMENT (INFORMATION) BILL 2010

Second Reading

Resumed from 10 November 2010.

HON KEN TRAVERS (North Metropolitan) [3.24 pm]: This bill seeks to amend three acts: the Road Traffic Act 1974, the Road Traffic (Administration) Act 2008 and the Road Traffic (Authorisation to Drive) Act 2008. The first thing we need to do in this debate is put in context why we are amending those three acts. Essentially, the same amendments that will be made to the Road Traffic Act will be made to the 2008 acts. That is because in 2008 the then government passed a suite of legislation through this house. However, we have not dealt with the remainder of the legislation that would enable the 2008 acts to be fully implemented, at which point they would take a number of functions out of the Road Traffic Act and deal with them separately under the Road Traffic Administration Act and the Road Traffic (Authorisation to Drive) Act.

We are now dealing with the Road Traffic Legislation Amendment (Information) Bill. The two 2008 bills were part of a suite of legislation that was intended to set up a range of changes to road traffic legislation, including what is called “compliance and enforcement legislation”. The suite of legislation also required other legislation to be passed. Once that legislation is passed, all the bills can be fully gazetted and enacted. The amendments we are moving to the 1974 act will cease to exist when the new 2008 acts come into play.

The first thing I will look for from the government is an indication of where the other legislation is to deal with those very important road safety matters that are commonly referred to as the “compliance and enforcement legislation”. The “chain of responsibility” is another way to refer to those areas. They are important measures about road safety. I would have thought that if we were able to deal with this bill, we also would have been able to deal with the other bills by now. If we had done that, we would probably be amending only two acts rather than amending three acts with similar amendments.

In the second reading speech, the Minister for Transport said that this bill seeks to amend four key areas of the acts. I believe it is fair to say—I would argue very strongly that it is the case—that there is a fifth element which has not been given the same prominence as the four elements that were highlighted in the second reading speech but which is just as important to the people of Western Australia as the other four. I will explain to members what I think that fifth point is. This bill is also about establishing, to some degree, the framework for privatisation within the whole area of road traffic licensing administration. Some clauses are clearly aimed at helping set up the framework for that to occur. Most of that will occur as an administrative function. There is no doubt in my mind that this legislation intends to do that. We have before this Parliament legislation to deal with a matter of privatisation, yet it is not clearly and explicitly pointed out in the bill that that is the purpose of some of the clauses in the bill. In addition, the government has not openly explained to the people of Western Australia what its intentions are for the privatisation of things such as people getting their driver’s licence. I can understand how that can be done for high-end heavy vehicles. People who pass their licence for that type of vehicle and who work in an industry will very quickly be found wanting if they do not have the required skills. Those who employ and use those registered training associations and who conduct the assessments would very quickly identify those whose skills are wanting. How can a simple driver’s licence test be privatised? For that matter, how can the administration of the processing of driver’s licences and motor vehicle registrations be privatised when dealing with such confidential information? I find that quite extraordinary.

The government identified that this bill does four things. Firstly, it provides greater protection for and rules about the disclosure of information. Secondly, it deals with access to the photographs taken for a driver’s licence test. Thirdly, it deals with learner’s permits and, in particular, the inclusion of a photo on them. Fourthly, in the case of a deceased person, it requires that a photo must be provided to a family member of the deceased. I believe that the government intends to move some amendments relating to that last provision, which I will refer to in more detail later. The first provision deals with the disclosure of information relating to how we manage, disclose and create the framework and provide the protection for that information that is contained within the databases that make up the motor vehicle and driver’s licence databases in Western Australia. The bill very clearly articulates and outlines how information is to be exchanged between various government agencies, such as the police, the Department of Transport, Main Roads, and, from memory, without flicking back through it all, the Office of Road Safety. Interestingly, it also includes a provision for a general framework of disclosure. Members may recall the Wilson Parking incident that occurred some considerable time ago. At the time an extensive report came out with a number of recommendations on the need to provide greater clarity about when the information held in these databases can and should be disclosed to different people. It is fair to say that this legislation has been a long time coming. It seeks to address a number of the outstanding key recommendations of the reports on the Wilson Parking issue. I think the former Minister for Transport, the same member who will have carriage of this legislation in this house on behalf of the government, tabled a report in December 2008 that contained a range of recommendations that called for action. It is worth noting that that suite of legislation that I talked about

earlier addressed these matters but because the government has not progressed that suite of legislation, we have been waiting from December 2008 until March 2011 to have access to that information and to get this bill before us that will seek to deal with the way information is handled.

This is an interesting and complex issue in that I think we would all agree that a range of personal information is held on those databases that we do not want disclosed willy-nilly to private organisations purely for commercial interests without any checks or balances in place as to what will happen with that information. At the same time, information is contained within those databases that may be beneficial to provide to private sector organisations in a very limited nature. I know that certain organisations are seeking to develop databases of motor vehicles, for instance. They would not require the provision of any personal information but this legislation would allow those organisations to develop databases that track the history of motor vehicles on a fee-for-service basis. That will allow a car yard to have far greater intelligence about the history of a vehicle and whether the clock that shows the vehicle has done 20 000 kilometres is accurate or whether it may have actually done 1 020 000 kilometres. It will also help prevent the rebirthing of vehicles, the moving of vehicles and illegal vehicles being transported around our system, which would be useful so long as that can be done without personal information being provided. From the briefings that I have had to date, until quite recently it is still unclear whether this legislation intends to deal with those matters or whether other legislation will be required down the track. I look forward to the minister giving us some clarity on that.

The other thing that worries me is that at the same time as we seek with this bill to provide a very clear framework about the way in which legislation is referred to and shared between relevant government agencies, which is a good thing, disclosure of information in a more general sense seems to be covered by clause 12 of the legislation. That clause effectively sets up a framework about who information can be provided to in line with other written laws and jurisdictions and then includes a clause that states “a purpose prescribed by the regulations for the purposes of this definition”. Members may recall my recent speeches on the Police Amendment Bill 2010 about the way that bill was drafted. This is another example of legislation that comes through the Parliament about which we say we want to have all these checks and balances, and the Parliament sets that framework, but then we include a clause that basically says it will be up to the government of the day to make that decision about what happens to that information. Clause 12 basically allows a government to prescribe by regulation anybody it wants. In theory, even though this bill is about addressing the circumstances of the Wilson Parking issue, if a future government wants to sell that information to Wilson Parking, all it has to do is prescribe in the *Government Gazette* that Wilson Parking or private car park owners is a purpose prescribed by the regulations for the purposes of this definition. Then it can provide whatever information it wants from those databases to that private organisation. We may ask what the problem with that is. It relates to the same issue that I have raised before. It is always easy and we will always get it from governments. Governments of the day always look at issues according to where they sit at that particular time as a government. They say, “This will make it easier, we can give it out and choose how and when we give this information and who we give it to.” The problem is that future governments are also given that opportunity. It may be that everyone who sits in this house who becomes a member of the government will act responsibly with that information. We do not know what is going to happen in five, 10 or 15 years when a future Minister for Transport prescribes it and puts it through. Others can say that Parliament could disallow it. Even if a government has the numbers in the house, it is a lot harder to put legislation through that will allow it to do that than it is to simply gazette a matter. Again, the public disclosure or the public debate does not occur around matters that are gazetted. That is the first point. The second point is that once the regulation has been gazetted, that information can be provided to a third party. Even if we disallow the regulation at a future date, that information is gone and it is too late. It stops the government doing it again until it issues a new gazette with a new regulation contained in it. In the meantime, that information has been provided to that third party. That is a very dangerous thing. Previously, the checks and balances of Parliament would have resulted in an amendment to restrict and contain that power, but ultimately the government has the numbers in both this house and the other place. How long have we been here, Hon Ed Dermer? Is it 14 years?

Hon Ed Dermer: Fourteen years.

Hon KEN TRAVERS: In that time, on every occasion this house would have sought to put pressure on the government to come up with amendments that would reduce the power of the executive and require it to come back to Parliament in a proper way to change the legislation. We would have ended up with legislation that made it very clear who the government wanted to give this information to and the circumstances in which it wanted to give it, and that would have been done with amendments in this place.

Hon Ed Dermer interjected.

Hon KEN TRAVERS: It is also the nature of this house to provide that check and balance. Today, because of the numbers in this house, the only people who can get any changes through are on the government side. I have

not bothered to move an amendment. There is no point unless the government is prepared to make amendments as this legislation will go through on the numbers. I am a realist; I can count the numbers.

Hon Ed Dermer: But the fact that you can still argue the case and point out the defects is also very important.

Hon KEN TRAVERS: Absolutely! That is one thing; however, the point I make is that that responsibility for these matters now rests on the shoulders of the backbench members of the government parties in this place and in the other place. Until the next election, they are the only people who can provide those checks and balances in the system. That is their responsibility, and it will be on their heads if these matters backfire at some point in the future. I urge backbench members on the other side to understand that is now their responsibility.

This legislation basically sets up a very nice framework and if we include one simple little line, we can basically provide whatever information to whomever we like by way of prescribed regulation. In my view that is of great concern. In many respects I think it defeats the purpose that we are told this legislation is for—namely, to address the concerns that were raised in the report on the Wilson Parking issue.

The next issue I move to is the provision of photographs. Again, this is a fascinating issue. On this occasion, I will move an amendment because this bill seeks to allow for access to the photographs that are taken when we sit our driver's licence. I am sure we will have a view about whether our personal photo that is held on the database is a good photo or a bad photo.

Hon Simon O'Brien: Yours would be a good one.

Hon KEN TRAVERS: I do photograph well, thank you, minister, if you say so. As long as it has me on the right side with my dimple, minister!

Hon Simon O'Brien: You are even better in person!

Hon KEN TRAVERS: Sweetness will not get this legislation through any quicker, I am sorry!

Hon Simon O'Brien: It was worth a long shot.

Hon KEN TRAVERS: The bottom line is that this bill seeks to free up the legislation so that those photographs can be provided to the Australian Security Intelligence Organisation, the WA Commissioner of Police, a member of the police force or someone assisting a police officer. My first point is that it is my view that if there is a national security issue that requires ASIO to have access to that database, it would be able to get those photographs today, if it wanted to, through its own legislation. ASIO may need to get a warrant to do so, but I would be fairly comfortable that if it is related to national security, that could easily be done by ASIO and that its powers would override whatever we put in state legislation anyway, because national security matters override the powers of the state.

The question then becomes: should the police have access to those photographs? I think everyone would remember the debate—or maybe many would not, but it was a contentious issue when photographs were included on drivers' licences of whether those photographs should be provided to other organisations. When I talked to the government about this issue, it said that there was a circumstance, I think in Mandurah, in which the police wanted to get a photograph of a bloke who was suspected of having committed a murder; I think this is the story that was told to me. They wanted this photograph to distribute to the police so they could use it and could catch this person because the community was at risk. In those circumstances, I would agree to the release of the photograph. I do not have a problem with a framework that allows driver's licence photographs to be released when there is a threat to community safety. However, the question broadens: should we hand over driver's licence photographs willy-nilly? What does it mean if we simply hand over the photographic database that is attached to the drivers' licensing system to the police force to use in whatever circumstances it wants? I think this brings us to the whole question of whether that then turns our driving licence into an effective identity card. I suggest that once we have actually provided a photograph to the police, so that officers will have our photos and our names and addresses in their cars, it is becoming an identity card. If members think about that, it is something that we should give serious consideration to.

Hon Ed Dermer: Remember the extraordinary reaction to the Australia Card debate?

Hon KEN TRAVERS: Absolutely, Hon Ed Dermer. I suspect there were many on the other side of this chamber who were out there protesting against the Australia Card when it was proposed by a previous federal Labor government. There was a strong campaign and I am fairly confident that members on the other side said, "No, we don't want an identity card", yet here is a piece of legislation that, it can strongly argued, will turn the driver's licence into an identity card. That brings us to a more philosophical question. Members on the other side frame themselves as "liberal" and I would have thought that they understand the concept of libertarianism and that there is always a balance between the freedoms that are attached in those circumstances and the question of national security. It is always a balancing act to ensure that we have our freedoms as individuals but that at times for the benefit of national security some of those freedoms are diminished. In my view, it is clear that in the

circumstances I outlined earlier in which there is a genuine belief that someone is endangering society—it is not national security, but it is about the security and the safety of the community—handing over the picture is a reasonable thing to do. But do we want to do that on a broader level—that is, hand over all photographs? It is interesting to think that we are creating something that is potentially an identity card that could be handed out and used by the police in this state as an identity card. They would be able to stop people and require them to produce their identity card and, worse still, that information would sit on the computer database in every police vehicle and even within the handheld tasking and data information system devices that police have.

Let us think about the legislation that has been brought in over the past two years and whether the government is starting to create the elements of a police state. I am not suggesting that that is the government's motivation in bringing in this legislation. Well may Hon Liz Behjat laugh, but the member should look at the legislation that has been introduced, such as the stop-and-search powers, and think about how that legislation could have been used in other parts of the world in previous times. What powers are used by police states? They are the ability to randomly stop and search, the ability to confiscate people's assets without justification, the ability to create fear and the ability to vilify people. Hon Alison Xamon is right; prohibited behaviour orders are part of that, potentially vilifying people. Although it may not be the intent of members on the other side, look at the way in which they have drafted the PBO legislation —

Hon Simon O'Brien: With respect, this is about drivers' licensing legislation; this is not about those things that you're getting on to.

Hon KEN TRAVERS: This is the problem: the minister has his blinkers on and he cannot see what the government is doing. The minister sees the trees but he does not see the wood. This bill is part of that wood; this bill is one element of that wood. That is the minister's problem and why I have to explain it to the house in such detail in my contribution to the second reading debate. The minister looks at each tree and says it is a tree; he does not look at all the trees and put them together and say it is a forest. Therefore, this bill as an individual tree is a tree, but when it is put with the other legislation the government has brought forward, it creates the framework for a police state. That is the bottom line. Members can laugh about it or be upset by it, but the bottom line is that this government has brought in all the legislation that potentially produces all the key elements of a police state. As I said earlier, I honestly do not believe that it is the genuine intention of members on the other side to create a police state. I think they are doing it completely ignorant of the fact, and I am raising the issue in the house tonight to try to alert members that the combination of legislation that this government is bringing in presents or sets up the framework for a future minister or a future government to abuse and misuse. It will not be the members who sit in this chamber tonight who will abuse and misuse the legislation; however, when we are gone, there will be the potential for that abuse, and that is something we always have to guard against. It might sound like good politics. Government members may be able to run around putting out media statements claiming that they have been tough on law and order issues even though it will not make any difference to the law and to the safety and security of people. The government can claim it has been tough, yet when we look at the totality of the legislation it gives us grave cause for concern. I have no problems with the police having access to photographs in those circumstances in which there is a demonstrable public interest in providing that photograph to the police. I do not support the holus-bolus handover of those photographs to the police to use however, whenever and wherever they like, without any controls or restrictions, thereby effectively creating another of the elements that go together to create a potential future police state. That causes me grave concern about this legislation and is an area in which I will seek to move an amendment to try to limit the provision of a photograph to the police force by way of a public interest test. I do not think that is unreasonable. I would have thought that that would at least give us some protection down the track against this legislation and the handing over of photographs being misused.

The Road Traffic Legislation Amendment (Information) Bill 2010 provides for photographs for learners' permits. Members will be pleased to know that I do not have a problem with that. If we have photographs on our drivers' licences, we should have them on our learners' permits.

The next element of this legislation is who should have access to a photograph of a deceased person that is held on the database. I understand there is a mother who is keen to get access to the photograph of her deceased son because, as I understand, the photograph taken for the purpose of his driver's licence is very sentimental to the family. I understand that and I have no qualms about providing a photograph in those circumstances. In fact, at the time, I indicated to the minister that I was prepared to try to facilitate the rapid passage of this legislation through the house before adjourning for the Christmas break so that the photograph could be handed over to that family member. I did however have some concerns about the manner in which this bill was drafted and I acknowledge the government's advice that it intends to move some amendments to address the concerns that I have raised. I think the proposed amendments are very good and will fulfil the requirements of what the government seeks to do and will meet the protections that I want. I will take a short moment to explain to members what I mean by that. The original proposal was that any family member, as described in the bill, could

apply to the director general for a copy of the photograph of a deceased person, which on face value seems reasonable. However, when one thinks about it, there may be a reason why someone does not have a photograph of the deceased person; they may not have had a photograph of that person for 30 years because the person did not want them to have a photograph—yet they may still be a family member. There may be very good reasons why the person did not want a family member to have a photograph, yet under this legislation how was the Director General of Transport to know the history? I proposed, and the government has picked up my suggestion that we amend the legislation to make it that the deceased person's estate can apply for a copy of the photograph. The photograph then becomes a part of the assets of the estate, in the way that other photographs of that person become a part of the estate, and the executor or administrator of the estate can distribute the photograph as they see fit. One would hope that the administrator or executor of the estate would have a better understanding of who the deceased person would want photographs distributed to or not distributed to in the family. I think that is a good way for the government to deal with the issue while ensuring checks and balances to prevent photographs being provided to the wrong person. Again, I congratulate the government for being prepared to pick up and deal with the issue and address it in the manner in which we as an opposition would by understanding the problem and coming up with a good solution that will not create other problems down the track.

The final point that I want to raise, which I do not believe is adequately addressed in the legislation, is the insertion of a new clause to deal with the confidentiality of information to provide for anybody, be they an employee, a staff member, a contractor or an agent of the director general in any capacity whatsoever engaged in the performance of the functions under this act, to be held accountable; that is, if they are given access to that information they have to maintain its confidentiality. Why would the government need to include a special clause in that framework and in that terminology? It would need to if, as a government, it had plans to privatise areas of the current Department of Transport, including vehicle licensing and vehicle assessment areas. That is my view on why the clause is in this bill. It was not explicitly pointed out in the minister's second reading speech, and, in fact, whenever I have asked questions in this place about the issue of privatisation the government has been very cagey about giving a straight answer about its plans. It is clear that the government has plans. Perth is a small town. We hear the whispers around town about what is going on. We know what the government is up to in those sorts of areas. There is no doubt in my mind that the government has been actively examining a range of privatisation options in that area. I do not know the extent or the full nature of it.

As I have said earlier, any privatisation would greatly concern me, but if the government were to go so far as privatising the assessment of motor vehicle driving licences for the average run-of-the-mill driver's licence it would horrify me, because it sets up a system that I do not think will work. If assessments were handed over to the driving schools, it will create two potential conflicts; firstly, that the schools will seek to keep the person longer than needed by saying they need more lessons because they have not yet achieved the required standard or, secondly, the schools seek to gain a reputation of passing people very quickly in order to encourage people to use their services. Whichever way we look at it, it is not good. It is one of those things that is impossible to monitor post-event. It is extremely difficult to set up a regime to monitor vehicle examinations post-event. Unless the assessor is sitting outside the private vehicle examiners' offices and grabs the vehicle as it is driven off the premises, it can always be claimed that the bald tyres were fitted after the vehicle left the workshop. For drivers' licences, I have no idea about how we ensure the driving school has assessed the person properly. The person could be taken out for a drive post-event and drive really badly and the school says, "Well, they drove really well with us; they must have been nervous." Who does not know someone who has said that they failed their driver's licence the first time because they were nervous when they sat the test? I genuinely do not see how a framework could be set up in any way, shape or form. Yet this provision allows us to set up a framework that allows people who are outside the public service to access and use the information that is contained within the motor vehicles and the drivers' licences databases. There is only one reason for the government to include such a broad clause that would allow people outside the public sector to be covered by confidentiality of that information and the use of that information: it is the government's intention to privatise. I hope that as part of this debate we get some straight answers from the government on its intention in that area. If we are being asked to pass legislation that sets up a framework, we should be given the opportunity to have that put clearly, honestly and openly to the people of Western Australia through this Parliament.

I have pretty much covered all the issues that I wanted to cover in my contribution to the second reading debate. I note that we will go into committee because, as I said, there are government amendments. There may be some further government amendments on top of the one I discussed earlier.

Hon Simon O'Brien: There are some other little ones.

Hon KEN TRAVERS: It may have been the late Hon Phil Pental who told me the story about how Charlie Court used to tell his ministers that if they brought in a bill and they needed to amend it after it got into the Parliament, it went to the bottom of the list and never went back to the top of the list. That was a way of encouraging ministers to make sure that they got their bills right the first time and did not make mistakes and

have to amend them later. I note it is becoming a habit for us to be given legislation to which government amendments are moved. I do not have a problem with the amendment that is a result of discussions with the opposition, but I have a problem when the amendments are initiated by the government because it has realised it did not get the bill right when it was first brought in. It is interesting that we ran out of legislation last week.

Hon Simon O'Brien: We deferred a bill at your request and then you went and complained!

Hon KEN TRAVERS: You know we ran out; we were down to one last bill!

Several members interjected.

The PRESIDENT: Order! As interesting as this may be, it has very little to do with road traffic legislation. That is the bill before the house.

Hon KEN TRAVERS: You hit the sore point! You set off all sorts of explosions, Mr President.

The PRESIDENT: I did not say a word.

Hon KEN TRAVERS: I was making a general observation on this bill, that, as I mentioned earlier, the opposition was prepared to try to facilitate its passage late last year if it could get agreement on those amendments on the licence, which I discussed earlier. Even if the opposition could not get agreement, it would have still brought it on for debate, had the debate, finished the bill and got it through before the end of last year. The opposition was certainly prepared to facilitate the passage of the bill. This bill was placed on the notice paper two weeks before Parliament came back; it was on the list of bills to be addressed. I immediately contacted the office of the now Minister for Transport and said that it is great that it is on the list and I asked him to tell us where we are up to with it. I did not get any response. On the Friday we were notified of what was on the list for the next week. I was having a very enjoyable drive back from Cervantes with Hon Sue Ellery and, as she will remember, we contacted the government and said it was fine and we were happy to deal with it, and asked where we were up to with those matters. Then it was taken off the notice paper and it is back on today. I raise these points only to highlight the fact that this is about the cabinet and the cabinet's management of its legislation and having legislation, first, ready to go and, second, having considered it in the detail to make sure that the bill covers all the things it wants the bill to do.

With those comments, I am happy to conclude my remarks on the second reading. I look forward to the committee stage. As I said, there is a lot of detail to go through to fully understand the implications of this legislation; on the surface the opposition is happy to support most of it, but I think there are a number of hooks in the detail that we need to address in committee.

HON ALISON XAMON (East Metropolitan) [4.04 pm]: The Greens also have a number of questions about the Road Traffic Legislation Amendment (Information) Bill 2010 that we are hoping to explore further in committee, but we broadly support efforts to clarify and strengthen legislative provisions around the protection and disclosure of licensing information. The Western Australia Police, the Department of Transport and other relevant agencies need adequate access to information to undertake their duties; that is recognised. However, there is always the balancing act in acknowledging that this is personal and private information and, therefore, it is important to ensure we have adequate safeguards to protect people's interests and privacies.

The bill amends the Road Traffic Act 1974, the Road Traffic (Administration) Act 2008 and the Road Traffic (Authorisation to Drive) Act 2008. The bill will therefore repeal the acts' existing provisions dealing with the disclosure of information held by the director general and it will replace those provisions with a far more explicit and prescribed framework. The bill seeks to clarify and strengthen provisions relating to the protection and disclosure of licensing information held by the Director General of Transport, incorporating all the information relating to WA drivers' licences, vehicle licences and demerit points. To date there has not been a clear and comprehensive framework for the disclosure of this information, which is an issue, as just mentioned, that was brought to the fore by the media on several occasions over the last few years. This has been a point of contention.

The bill also enables drivers' licence photographs to be accessed by WA Police, the Australian Security Intelligence Organisation and other Australian law enforcement agencies to assist in the investigation and prevention of criminal and corrupt behaviour and national security initiatives. I would certainly be keen to hear the Minister for Finance representing the Minister for Transport detail the rationale for introducing the requirement to disclose drivers' licence photos to various other state and federal government agencies, because the explanatory memorandum does not cover this as comprehensively as was expected. The bill also introduces the requirement for all learners' permits to include the person's photograph and signature. This requirement is not only a deviation from the practice that has been employed for learners' permits to date, but, importantly, also adds a provision over and above what is currently required for people who have drivers' licences in that they are not compelled to have a photo. On the face of it, it sounds like a pragmatic step, but certainly the Greens would

be keen to ensure that there are stringent constraints on the use of juveniles' personal information. I have personally spoken on the importance of the protection of right of privacy for juveniles on a number of occasions in this place and we are acutely aware that this provision will enable an official record of, effectively, all learner's permit holders, who in many instances are juveniles, and means pretty much that everyone, because most people get a driver's licence these days, will have a formal photo, if you like, on a government system.

Finally, the bill will allow the director general to give a photograph of a deceased person to a near relative. I understand that until now there was no legislative provision under which the director general could release a copy of the driver's licence photo to a person's family. This requirement for privacy has meant that in some instances people who have lost a relative and who have treasured the photo on the deceased's driving licence have been unable to access the photo. Certainly the Greens have some sympathy for those family members who wish to be able to access that photo. Hence the Greens support the government facilitating families' access to these photographs when the person has died. I understand from the briefing on the bill that a number of these provisions are to combat the high levels of driving licence fraud. I think it would be useful to have on record just how frequently people are being caught committing fraud of this nature. We know that identity theft is becoming an increasingly serious issue and we recognise that the capacity to access photos can actually go some way towards addressing that.

Again, while the Greens support efforts to combat fraud, I take this opportunity to raise the issue of the release of details, including driving licence photographs of missing persons. As I understand it, that was one of the rationales behind this. I would be grateful for further clarification regarding the release of information in sensitive circumstances. For example, if a person is noted as missing but in actual fact has deliberately gone missing to escape a situation of domestic violence, the worst thing that could happen for them would be for their picture to be made available and displayed on every television set in the state. I understand from the briefing that it is intended that there will be a framework by which to determine which photos should be publicly released. I would really appreciate it if the minister could elaborate what that framework will be.

Similar to the concerns raised by the opposition, I note that last month a newspaper published an article claiming that WA Police intends to outsource mobile speed and fixed red-light-speed camera operations and infringement processing. The Greens have concerns about this move towards privatisation. The legislation we are considering highlights how sensitive people's information is. The government has a duty to protect the confidentiality of this information. In many ways I recognise that that is partly the intent of this legislation, while at the same time it is opening the gateway for information to be released.

I certainly have grave concerns about the prospect of allowing private profit-making businesses to access this information. The Greens will be seeking an assurance from government that this will not happen and that it is not the intention, as well as an assurance that provisions in this legislation have not been written with an aim in mind for privatisation and the release of information to private companies. Following those brief comments, the Greens have a number of questions to ask during the committee stage, and I will raise those issues then.

HON SIMON O'BRIEN (South Metropolitan — Minister for Finance) [4.13 pm] — in reply: Speaking in response to the second reading debate of the Road Traffic Legislation Amendment (Information) Bill 2010, I thank members for their input and I thank those who have indicated their support for the second reading. I would like to respond in detail to Hon Ken Travers and Hon Alison Xamon, who both made thoughtful contributions. In so doing, they underscored the purpose of the upper house as the house of review, our Legislative Council—indeed, the older chamber; the senior chamber—in the WA Parliament. In some of his remarks, Hon Ken Travers challenged us to contemplate the role of not only the chamber but also individual members in considering and weighing matters before us and whether they should be supported or opposed based on criteria of whether this is in the better interest of long-term administration and the protection of human rights in Western Australia, or whether it simply adheres to some order of numbers of the day. They are reasonable and rightful questions for us all to contemplate on an ongoing basis. I do not in any way shy away from dealing with those questions or being part of a consideration of those matters in the light that Hon Ken Travers has shone upon this particular debate. I want to say that upfront: we are in furious opposition on these matters.

While it is true, as Hon Ken Travers also observed, that governments of the day tend to find it necessary to advance legislation without other members or houses having the temerity to seek to amend it and knock it into what is always perceived to be some better shape, the fact of the matter is that there are two sides to every proposition. It is with that in mind that I now present an alternative view to some of the matters that have been raised by Hon Ken Travers and Hon Alison Xamon so that members can weigh those matters in light of all the information that they need to come to a conclusion. I look forward to the conclusion being that the second reading is supported.

Hon Ken Travers asked, and I think it was reasonable to do so, what has happened to the chain-of-responsibility bill or the balance of those bills in that suite of legislation. Members will remember there was a package of five bills, and I think two of them have actually received royal assent, though they have not been proclaimed.

Hon Ken Travers: I think clauses 1 and 2 might have been proclaimed but not the rest of them as such.

Hon SIMON O'BRIEN: It is the same effect; he is quite right. There are a couple of bills still in the offing. Further industry consultation has been undertaken, and some revisions are to be made or being made. This always seems simpler than it is, particularly when, in light of those bills, it involves a rewriting of the entire Road Traffic Act and then some. It is all the machinery involved in everything to do with the licensing of drivers of all classes of vehicles, indeed the licensing of all the vehicles that need to be licensed to be on our roads and a range of matters, such as the loads that those vehicles carry and learners' permits; it is about everything. It is a complicated mechanism, and it is surprising how difficult sometimes it can be to get that job done. Nonetheless, I think it is fair enough that at this time Hon Ken Travers, as opposition spokesperson for transport, asks, "Where are these bills and can we reasonably expect to see them?" I indicate that, although I am not the transport minister anymore, I would hope that that legislation is introduced and progressed this year. Those bills will of course have to battle other priorities for legislation in the house, the same as any bill has to. I would hope that they would be progressed. I was progressing them as minister, and I have no doubt that Minister Buswell will be doing just the same thing

Hon Ken Travers: He'll probably claim he's brought them forward!

Hon SIMON O'BRIEN: He probably will, and good luck to him. It is interesting what happens. We had a change of government a couple of years ago, and that was a new experience for a lot of us.

Hon Sue Ellery: A very unpleasant one.

Hon SIMON O'BRIEN: Some of us enjoyed it more than others! Before Christmas there was a reshuffle of cabinet responsibilities, and for some members of cabinet, including me, that was also a new experience. Hon Ken Travers can probably relate to this remark: when you move on, it is a bit like being a relinquishing foster parent.

Hon Ken Travers: I got to keep transport, minister.

Hon SIMON O'BRIEN: Good luck to the member. It is a bit like being a relinquishing foster parent who has to understand that they do not have formal rights to interfere in the ongoing education and the nutrition of the child. You have to move on, but you adopt new responsibilities. Insofar as I am aware, I believe that my successor in this portfolio will bring it on.

Hon Ken Travers: The question then is: is that legislation your baby or Buswell's?

Hon SIMON O'BRIEN: Again, I will use the metaphor of the curate's egg: the good bits can be attributed to me; if there are any bits that people do not like, I am sure that will be due to Minister Buswell! The house of review will give that adequate attention at the appropriate time.

Hon Ken Travers made note of my speech—because it was my speech then—and the four key areas identified in the bill. He said that he had identified a fifth area, and that is fair enough. The area he raised that he felt needed to be added to the list was the issue of the possible privatisation of services. I turn firstly to the order in which Hon Ken Travers raised matters. He dealt firstly with the provision of information. I am glad that Hon Ken Travers acknowledged that this is a complex issue. The more we look into it, the more we uncover. It is very much like the analogy of peeling an onion: the more this matter is examined, the more that comes to light.

Hon Ken Travers: If you peel an onion too much, all that happens is that you end up in tears, minister!

Hon SIMON O'BRIEN: We came close to that on occasion, but I am sure we will not go there this evening.

Hon Robyn McSweeney: Not if you peel them in water.

Hon Sue Ellery: That is true.

Hon SIMON O'BRIEN: Returning to the matter at hand, Hon Ken Travers raised the issue of dealing in great detail or dealing generally with matters of authorisation—of how some officer, now, or at some stage in the future, will be permitted to deal with private information. He spent some time—it was useful time—developing that theme. He was right when he focused on proposed new section 12 in the bill, and in particular the third category of purposes prescribed by the regulations for the purposes of this definition. That is just the sort of thing that deserves to be debated in this place and consideration given to. I think the member has acknowledged that the rest is pretty straightforward, and that is our proposition.

Hon Ken Travers: It sets up a framework between government agencies. We go into great detail there and then we suddenly say that, for the private sector, we will just leave it to the government to do in the future.

Hon SIMON O'BRIEN: The member is right. There are already provisions for dealing with, and the passage of, information between agencies; we are just trying to make them better. A later evolution is now being prescribed that will tighten things up and make it a bit clearer. It reflects the natural evolution that has occurred in the handling of this sort of information. At the same time, we need to understand that this is a broad bill dealing with the overall issue of information disclosure. The exact parameters that will surround the future provisions relating to this issue will be a matter for the committee stage. We need flexibility in what we are prescribing. There will be occasions in the future, as circumstances or technology evolve, when it will be necessary to make judgements because there are other reasons that information has to be exchanged. We are proposing that that be done for prescribed purposes in the future. Other members in the house may have a contrary view on whether that is a suitable provision. We will explore that a little more later on.

I turn now to the provision of photos. The honourable member surmised that the Australian Security Intelligence Organisation, and perhaps some other agencies, would have powers under national security legislation to obtain information or, indeed, to do all sorts of things. I think that is a reasonable presumption for now, so let us not debate that. I am sure that those powers exist. Those powers would probably override many other state-imposed restrictions. That starts to get a bit complicated if we start considering that in all its shapes and variances, but I do not think we need to do that. I think we need to look at what this bill is proposing to do. In the limited situation that ASIO needed to obtain an identifiable photo of a person in real time to respond to a security issue, this bill would enable it to have access to that photo. That is what we are doing deliberately, because without that, we think that a greater wrong would potentially exist. If there were a need, for national security purposes, for a photo to be obtained so that, for example, a suspected terrorist or bomber could be identified in a crowded shopping centre or an airport terminal, that photo needs to be obtained quickly. People cannot muck around trying to get a search warrant and going through all other forms of bureaucracy or other judicial processes to make that happen. It has to occur in real time. That is our view, and that is why that provision is in the bill.

In relation to police accessing photographs virtually as a matter of course, the police used to have that capacity anyway. It was not so long ago that all this licensing information and all the administration that went with it was done by Western Australia Police. The police had all the information, and they used it. I have no doubt it was already in the custody of the Commissioner of Police, and I will guarantee that it was used for more than simply licensing purposes.

Hon Ken Travers interjected.

Hon SIMON O'BRIEN: We are now proposing to recognise that for many enforcement and simple compliance purposes it is the police out there on the streets who have responsibilities in this regard. We have heard from other members involved in the debate about the problems of identity fraud and theft. We need to ensure that police are out there checking the bone fide details of drivers and have a fighting chance of identifying them correctly. That includes, in our view, the ability to access information and require people to produce not only their name, address and general driver's licence information, but also their image, which is recorded. Why else would we need images in the form of photos? Specifically, this will assist police in determining whether they have been presented with fraudulent identity information by a person they have stopped on a roadside. That is particularly when we need to have this capability.

Hon Alison Xamon made the comment that identity theft and identity fraud are significant and increasing problems, and this bill is aimed directly at seeking to assist police to address those issues. However, I do not think it is right to say that the driver's licence will become a de facto compulsory identity card. It may well be used for the convenience of the holder, as indeed drivers' licences with photos on them are used by most of us from time to time as a way of proving our identities. That is just the way it is and that happens now, but I do not think that it is fair to say, Hon Ken Travers, that there is any proposal to make drivers' licences an ID card that will be required to be produced on demand. There is a requirement for police in certain functions to have a driver produce their driver's licence. That does not occur in the sense that Hon Ken Travers is worried about; it is an existing power and it is quite proper for someone using a motor vehicle to prove that they are licensed to do so. It also proves their identity. However, it is not envisaged anywhere in this amending bill that a driver's licence would become a de facto identity card to be demanded by police, for example, of pedestrians accessing Hay Street Mall.

Debate interrupted, pursuant to temporary orders.

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