

ROAD TRAFFIC LEGISLATION AMENDMENT BILL 2011

Committee

The Chair of Committees (Hon Matt Benson-Lidholm) in the chair; Hon Simon O'Brien (Minister for Finance) in charge of the bill.

Clause 1: Short title —

The CHAIR: There is a supplementary notice paper, paper 246, and the question is that clause 1 stand as printed.

Hon KEN TRAVERS: I am interested to know when the supplementary notice paper was distributed.

The CHAIR: Very recently.

Hon KEN TRAVERS: I will need to have some time to have a look at that.

Hon Simon O'Brien: It is a very complicated amendment!

Hon KEN TRAVERS: I have not been previously advised of that supplementary notice paper, but I will have a good look at it once I have made my opening remarks. I will make my comments on this bill on clause 1, as that is the appropriate point. Members may recall the minister and I having a bit of a discussion during the second reading debate about the issues with Wilson Parking and the provision of information to private organisations. The minister said that this legislation does not have anything to do with that matter and is purely about compliance and enforcement. I refer the minister to clause 213 of the bill. This is why I am dealing with this under the short title, as it is easier to do it as a general debate about the clauses rather than wait until we get to specific clauses. There are a number of clauses in and around clause 213 that deal with the relevant sections amending the Road Traffic (Administration) Act 2008 as to who can or cannot get information. On my reading of these clauses, they do not correlate specifically to compliance and enforcement but some clauses in this bill deal with general tidying up of the Road Traffic (Administration) Act 2008. I therefore come back to the point I made during the second reading debate: this bill provides an opportunity for the government to put in place legislative reforms to provide protection for the public from their information being provided to private third parties. I still do not have an answer from the minister to that question. I would like to get the answer to the question of whether the government has changed its policy and is now of the view that it is okay to provide that information to those third parties. If it is through the Supreme Court process, that is fine, but the government should be prepared to come out and say that. If it is not, I ask again: why was it not included in this legislation? Would the government be prepared to hold up this legislation—not an extensive delay—and consider a further amendment if it requires a new clause to be inserted into the bill to deal with that matter?

Hon SIMON O'BRIEN: There are a number of ways I could approach this question, and that is a good thing, because by the time I have exercised several of those options, I hope it will convince the chamber that this is not the time for the matter that the honourable member raises to be dealt with. The long title of the bill currently before us states —

A Bill for

An Act —

- **to repeal the *Road Traffic (Vehicle Licensing) (Taxing) Act 2001*;**

It does that, but that in itself does not attach upon the question the member raises. Secondly, the long title continues —

- **to amend the *Road Traffic Act 1974* and various other Acts as a consequence of the enactment of the *Road Traffic (Administration) Act 2008*, the *Road Traffic (Authorisation to Drive) Act 2008*, the *Road Traffic (Vehicles) Act 2011* and the *Road Traffic (Vehicles) (Taxing) Act 2008*;**

That is the package known as the compliance and enforcement package.

Hon Ken Travers: Which also included provisions about protection of public information as part of that package.

Hon SIMON O'BRIEN: Indeed. It was also to amend the Road Traffic (Administration) Act 2008, the Road Traffic (Authorisation to Drive) Act 2008 and the Road Traffic (Vehicles) (Taxing) Act 2008 and for related purposes.

The bill covers a very large number of consequential amendments as part of the process of moving the licensing of vehicles and people from the Road Traffic Act 1974 to its own standalone legislation. Not surprisingly, a great deal of physical changes to the legislative machinery have to be made. Furthermore, the acts that create the new licensing regime, conceived and introduced back in 2007, themselves contain dual provisions, because over time

the Road Traffic Act 1974 has been amended in a number of minor ways on a number of occasions. In parallel with that and with the same amending bills, those amendments were mirrored in the current package of bills that we are dealing with at this time, because of course in due course that package of new bills was to take over from many of the provisions in the Road Traffic Act 1974, as I have mentioned.

We have had all sorts of changes. It is a complex scenario, if one tries to look at it in toto, but the honourable member invited us to examine clause 213, which proposes to insert a new section 16A into the Road Traffic (Administration) Act 2008. It will be titled “Disclosure of information for the purposes of the Personal Property Securities Act 2009 (Commonwealth)”. If we compare that with what we currently have, we find that the proposed new section will provide —

The CEO may disclose the following information to the Registrar as defined in the *Personal Property Securities Act 2009* (Commonwealth) section 10 —

- (a) information relating to vehicles that have been stolen or written off;
- (b) vehicle licence information that the CEO considers to be relevant to the operation of the register as defined in that Act.

This is nothing new, because already in the Road Traffic Act 1974 there is a section 15A, which is in almost identical terms. I know, because I introduced the very bills that, apart from taking on the commonwealth’s Personal Property Securities Act, also made the consequential amendments to our Road Traffic Act 1974. That demonstrates that the very clause that the member nominates as an example is in fact just another genuine consequential provision to encapsulate in the new acts legislative provisions that have already been passed and already exist in other legislation in this state; that is all it is. That is what a consequential provisions bill in large part is for.

We come to the suggestion that the member has made; that is, we should take advantage of this opportunity while these bills are before the chamber to deal with a completely unrelated matter.

Hon Ken Travers: My point is that it is not unrelated, because these bills deal with the way in which information is provided to third parties. I am asking about provisions that would relate to the way in which information is provided to third parties.

Hon SIMON O’BRIEN: Indeed it does. The package we have before us contains the entirety of the legislation of how information collected by those responsible for administering this legislation may be disbursed. It does so by providing, as in proposed new section 16A, circumstances in which certain information may be disclosed to certain people. Therefore, it may not be provided in other circumstances. That enabling legislation is contained at the moment in most of the acts that we are dealing with as well as in the Road Traffic Act 1974. It is proposed that that continue; there is no contemplation of a new regime in this bill, and neither was it within the scope of the package that we are dealing with. Now at the eleventh hour the member proposes that we somehow insert some measures in there, or at least at the eleventh hour he asks us why we have not inserted some extensive measures into this legislation to deal with a separate issue.

The release of information at law currently is as decided by Parliament, and it is reflected in the legislation that we are dealing with now. That legislation is entirely consistent with the view of this government, including when I was Minister for Transport with responsibility for the Road Traffic Act 1974. The government position has been completely consistent with the legislation in that certain information may, necessarily, be information in the custody of the holders of the information under the Road Traffic Act 1974 and may be released quite properly in certain circumstances to certain parties. That includes police forces and the keeper of a personal property securities register and in a range of other circumstances, but not in circumstances that are not specified in legislation. There is nothing inconsistent in what I have said in the past and what this government has said in the past about that matter, and none of that changes at the time that this bill is being considered.

The member noted, however, the issue that the giving out of private details to private entities such as Wilson Parking has continued. There has been a change in the landscape, because one of the parties seeking that information, to pursue various actions, was successful in going to the Supreme Court and applying for an order to get that information. The party applied for that order to pursue a debt. In those circumstances it is competent for the court to order that information be provided. That is outside the purview of this legislation and it is certainly not something that the government is happy about. However, it is within the power of the Supreme Court to make such an order whether or not it irks the government. It does not mean that somehow the government has changed its tune and does not stand by its earlier commitments to keep information private and to not enable information to be given out to parking companies that just ask for it. I do not see that this bill creates a circumstance for us to introduce some form of new legislation to attempt to circumvent the long-established procedures of the Supreme Court; that is what the member is talking about doing. I do not know how we would go about doing that, but I am certain that it would not be the Minister for Transport who would have

the responsibility to change that fundamental aspect of how our legal system works. For all the right reasons, the government does not wish to pursue the suggestion that we go down that path and it has not pursued that in this bill. If someone were to attempt to introduce provisions to curtail the powers of the Supreme Court, I would expect the Chair to very carefully consider whether such an amendment would even be in order, given the scope of this bill as already agreed by the house.

With all that in mind, I do not have anything much more to say in response to the member's question. I hope that the house does not feel inclined to pursue this channel of argument, because ultimately it will be fruitless.

Hon KEN TRAVERS: I thank the minister for his answers to the questions that I raised. I just want to make sure that I clearly understand his answers. I think the minister said that he does not accept that this is the appropriate legislation with which to deal with this issue, but the government is unhappy that those private companies now access that information by other means. I think I am right up to that point. Is the minister saying that this is not the appropriate legislation?

Hon Simon O'Brien: Yes.

Hon KEN TRAVERS: Is the government unhappy that the companies are now accessing that information by other means?

Hon Simon O'Brien: I can comment only from the point of view of when I was the relevant minister. I assure the member that we were not pleased with that development. If the member wants to make any further inquiry about these matters, I would ask him to, with respect, direct the questions to those ministers who are empowered to respond on the part of the government. In this case, that is not the minister representing.

Hon KEN TRAVERS: I understand that. The point I come back to is that, in my view, it is within the encumbrance of this legislation; this is a bill to amend the Road Traffic (Administration) Act, which deals with who gets that information and how they get it. One way of dealing with the problem would be to amend that act. I believe it is within the purview of the bill before us, because this bill will amend that act and this bill already contains other clauses that relate to the way in which information is provided to third parties.

Hon Simon O'Brien: The member is talking about amending the bill in such a way as to preclude the Supreme Court from giving orders in response to requests for information to recover debt. That is way, way out of the scope of this bill.

Hon KEN TRAVERS: No, because the bill provides who can get the information. How a private company gets the information is not the issue; the issue is whether we want to protect it. Therefore, this bill would be a vehicle to deal with that issue. I accept that the government is telling me that it does not see this bill as the appropriate legislation with which to deal with the issue. I do not accept the argument that it is not appropriate for people to ask the minister in his representative capacity to get advice and inform the house that the government is prepared to consider closing down the use of the Supreme Court to get that information or that it is comfortable that third parties can circumvent the intent of the Road Traffic (Administration) Act and get that information via the Supreme Court. If it is the view of the government that it is not appropriate to ask the minister about that, that is fine and there is no point in continuing to have this debate; we will worry about it another day. However, that is not an unreasonable question in light of the scope of this bill. I am sure that if it were beyond the scope of the bill, the Chair would have called me to order. It is clearly within the scope of the legislation because the substantive legislation provides protection to people. It is not unreasonable to ask the minister that. If the government says that it does not want to answer that today, I accept that. However, that is the decision of the government; it is not a decision about whether we should be able to answer the question in the chamber today.

Hon SIMON O'BRIEN: Firstly, Mr Chair, I join with my good friend in acknowledging your indulgence as we perhaps stray a bit from the absolute, pure, crystal substance of this bill. Hopefully, you will not indulge us too much longer, but at least to this extent. We have had a general acceptance of these provisions for some time on both sides of the chamber. A few points of detail have been worked through and that has taken some time. The former government brought in this bill. I was the Chair of the committee—a fine committee it was too—that looked at these matters in detail. I was the opposition transport spokesperson at the time, so the bill has had a very good run. However, I can say that when it put these provisions into this legislation back in 2008, the former government did not consider the matters that the honourable member is raising now. During the time of the former government a very hot issue was run about many, many thousands of people's private details being, in effect, sold to Wilson Parking and others.

Hon Ken Travers: It is the same situation today; that is the point.

Hon SIMON O'BRIEN: It is not the same situation today, because what used to happen then—it was a scandal at the time—was that Wilson or some other entity would simply go to the department and, for a very small administrative fee, ask for thousands and thousands of records. I certainly put a stop to that in government. Since

then there have been some other ways of finding similar information, but it is not as though private companies can do it as a job lot of 10 000 records at a time, as I understand it. Companies have to go to the Supreme Court. Whether that is a matter that needs to be dealt with is, as the member says, a matter for another day. I think the member accepts the view—I hope that the chamber also accepts the view—that this is not the day and this is not the bill. This is a totally different matter being raised by the member and something that has been dealt with by an amendment to the Road Traffic Act 1974. I do not think it is possible for us to insert an amendment in this bill that says, for example, that the Minister for Transport of the day can overrule any order of the Supreme Court. I really do not think that this is the time or the bill to entertain such a proposal. I thank the honourable member to not to try to put his interpretation or spin on the government's response. It is not the appropriate time to raise this matter. You have been extraordinarily generous, Mr Chair. I thank you for allowing us the opportunity to fully explore that aspect of the debate.

Hon KEN TRAVERS: I wish to make a very clear statement. The minister just referred to this as a scandal. That information is still being provided to these private companies under the watch of this government. The government is standing by and letting it happen. The response we have had from this government is that it is comfortable with that situation, and so be it. After all the screaming from the minister about that when he was the opposition spokesperson, for the government to now sit by and not do anything to try to address it is on its head. It needs to accept responsibility for that and acknowledge that it is not responding and it is allowing that information to be provided. It is happening today. The minister cannot talk about what happened in the past and then try to absolve himself from what is happening today. I accept that the government is not going to use the opportunity that I think is there in this bill today to try to address it, so I am happy to move on. But let no-one be under any illusions that this was an opportunity and the government has chosen not to take it.

Clause put and passed.

Clauses 2 to 26 put and passed.

Clause 27: Sections 92 to 102D deleted —

Hon SIMON O'BRIEN: I move —

Page 11, line 17 — To delete “102D” and insert —

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This amendment does not deal with the provision from the model compliance and enforcement bill. It is a consequential change stemming from the restructure of the Road Traffic Act 1974. I do not think it had been identified at the time the current bill was drafted. The proposed amendment to clause 27 will repeal section 103 of the current Road Traffic Act 1974 as those provisions have been incorporated into new section 143A of the Road Traffic (Administration) Act 2008 and will avoid the duplication of legislation.

Hon Ken Travers: So the provisions we're deleting are picked up in the other acts?

Hon SIMON O'BRIEN: Yes.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 28 to 238 put and passed.

Title put and passed.