



Speech by

Dr LESLEY CLARK

MEMBER FOR BARRON RIVER

Hansard 18 November 1998

TRANSPORT LEGISLATION AMENDMENT BILL (No. 2)

Dr CLARK (Barron River—ALP) (3.39 p.m.): It would probably take me well over an hour if I talked to this House about the range of transport issues that I grapple with in my electorate. However, I have only 20 minutes, and I will try to use even less time than that because I know that members want to move business along. Today I will restrict my comments to Part 5 of the Bill, that is, the proposed amendments to the Transport Operations (Passenger Transport) Act.

The whole of the taxi industry, especially Black & White Taxis, which operate in Cairns, are keenly awaiting the changes in this Bill because they effectively will prevent the de facto deregulation of the industry being attempted by certain charter bus companies offering a quick response service indistinguishable from that provided by licensed taxis. In Cairns, the conflict between the Sunshine Central Booking Service—which is one of the names they use—and Black & White Taxis has been particularly personal and particularly intense. It is one with which I have been involved, and I want to put a few things on the record today.

It is clear that Sunshine set out quite deliberately to promote themselves as providing a taxi service. They began doing that officially in Cairns around May/June of this year. It was always their intention to compete directly with Black & White, because there are no restrictions either in legislation or regulations on the number of passengers that a charter bus company can carry in Cairns.

As other members have said, the problem of competition between taxis and charter buses is not a new issue. It was attempted to be addressed in previous changes to regulations whereby, in towns of less than 10,000 people, it was actually specified that charter bus companies had to carry more than six people. But I believe that in larger cities and tourist areas, it was considered overly restrictive and difficult to enforce, and it was left as it was, so that charter bus companies could carry any number of people—one, and then however many more. But there have been continuing problems. I am sure that everybody would recognise that, and we had to do something to fix it. So that is what I believe this legislation does very successfully, and it does it in a way that I understand has the support of the tourism industry, because that is also a very important consideration.

During my contribution to this debate, I intend to refer to correspondence that I have had with various parties on this issue because I believe that it tells the story very well. Not long after I was elected on 15 July, I received my first letter from people who were owner/operators of three taxis with the Cairns taxi service, Black & White Taxis. They were the Gardiners of Smithfield Heights in my electorate, and they were obviously very concerned about this situation. In their letter to me they stated—

"The manager of Sunshine"—

Andrew Plimmer—

"has openly admitted during media interviews that as his vehicles look like a cab, and act like a cab, people think they are a cab and therefore use them as a cab."

So it was well known that this was going on. They continue—

"Sunshine C&BS are now accepting immediate bookings and not advance bookings as required by law. They are also regularly accepting hirings from designated Taxi Ranks and parking illegally in the Cairns CBD to create their own ranks."

I was very much aware of that. I had heard this from other people. But there is one interesting aspect of which I was unaware. I do not know whether anyone else in Cairns has seen them, but apparently Sunshine have employed bikini-clad young women——

Mr Pearce: Wow!

Dr CLARK: Yes, to walk along the Esplanade with mobile phones——

Mrs Rose interjected.

Dr CLARK: They are taking a leaf out of the Gold Coast's book. I think they saw it as a good thing. This was apparently on the Esplanade. They were walking along with mobile phones, asking people whether they required transport, and then phoning their vehicles to come and provide it. So they have certainly been innovative. And in the Yellow Pages there was a clear reference to the fact that it was a taxi company. The Gardiners say also——

"As long term residents who have invested a large amount of money in the Cairns taxi industry we are concerned that this company have been allowed to openly compete with us without having to meet any of the minimum requirements. Black & White Taxis have undertaken Quality Assurance and then entered into a Taxi Service Contract with the State Government which guarantees a minimum standard of service to the public of Cairns. As shareholders of Black & White we are bound by this Service Contract."

I believe that that sets out the issue very well for my constituents and Black & White Taxis.

I made my representations to the Minister, both verbally and in writing, urging him to bring forward the amendments to the legislation. I believe that they had been planned under the last Government. It was certainly in the media in Cairns prior to the change of Government. I know that the previous Government was aware of that problem and was starting to do something about it. I wrote to the Minister saying, "Let's progress this. Obviously it is urgent." I said——

"Bringing this bill"——

that is, the Bill that members are debating here today——

"into Parliament at the earliest possible sitting would send a positive message to industry that the Labor Government will act quickly to close loopholes that damage fair trading, and have an improper impact on the operations of taxi businesses that meet all licensing requirements."

I am obviously very pleased that the Minister has acted. It has taken longer than some people would have liked it to take, but these are complex matters that take time to draft properly. Those were the representations I made to the Minister.

The day afterwards, I got a letter from Sunshine addressed "Dear Sir", so members can imagine that that did not exactly start off our relationship on a very good footing. In their letter to me, Sunshine said——

"We are a legitimate Limousine and Charter Bus operation and operate very strictly within the guidelines that are so very clear in the Public Passenger regulations."

Obviously, that did not really impress me—— given what I knew about how they were operating. They went on to complain bitterly about Queensland Transport officers who I considered were just doing their job. It is important to let people know the kind of language that they used in their letter, so that people know the kind of company they are dealing with. The letter says——

"I would not have believed that government officers could be so deceitful and uneducated when requested to give simple advice on a topic that they should be so familiar with, in this case, The 'Public Passenger Transport Act.' I continually ask myself, What is on their Agenda? Is it to administer the existing Public Passenger regulations or is it to harass us, ignore those that are breaking every rule in the book and re writing the rules to suit themselves? In an attempt to so blatantly protect the existing Taxi service, that in my opinion is providing a less than adequate service anyway."

The letter continues——

"I thought we lived in a democratic society, promoting free enterprise allowing those with the will, to get out there and do well. Generating wealth and stability within the community. To date we have proven that this is not the case."

It is mine and many others opinion that Monopoly's breed contempt and complacency."

Clearly, they were out there providing a service that they felt should be able to continue. They felt that what they were doing was just basic competition that should be allowed to continue regardless of the laws of the State.

I wrote back to the company. Basically I decided to take them on. I say what I think, and I let people know where I stand, so I made it very clear in my letters back to Andrew Plimmer when I said—

"It is my understanding that your operation does not conform with the spirit of the legislation and that you are taking advantage of the situation in a way that is detrimental to the only authorised taxi company in Cairns. I trust that the situation can be resolved in such a way as distinguishes between your service and that of taxis and that in future you provide a service not currently provided by taxis."

I thought that was fair enough. I let him know where I stand.

Mr Pearce: I bet you don't get a Christmas card off him.

Dr CLARK: I do not expect a Christmas card. I sent him a copy of the letter that I sent to the Minister. He then sent that straight to the Cairns Post, and World War III erupted. I was then the villain in the piece. I got a letter back. It started "Dear Lesley" this time, so at least they knew what sex I was. The letter said—

"Dear Lesley

It is always amusing when someone stands up in a foreign area"—

I am not quite sure which, but anyway—

"and makes a totally uneducated statement, in an obvious attempt to stifle ones business and blatantly support the other, prior to consulting with both parties.

I am no politician, however I do believe it is wrong of you to be making these irrational and uneducated statements prior to having more substantial evidence."

Some people might have thought that I should put that letter in the bin.

Mr Bredhauer: It sounds like they're off your Christmas card list.

Dr CLARK: That is right. However, I am a fair-minded person, so I phoned them up and said, "Come and talk to me. Come to the office and let's have a meeting. Let's sit down"——

Mr Schwarten interjected.

Dr CLARK: Exactly. I thought that if he had more to tell me, fair enough, let him come in, and he did. He brought along a third person. I am not sure whether that person recorded the interview, but there was a third person there.

Mr Schwarten: Did you give them a cup of tea?

Dr CLARK: I might have offered them a cup of tea, because I am charitable.

I used that as an opportunity to make it clear to him that this was not an attempt to destroy anyone's business. I know that there are people who are now working for that company who will be affected adversely when that legislation comes in. I said to him that it was irresponsible of him to continue to expand his company and put people on when he knew that he was not going to be able to continue doing what he was doing. I made it very clear that the company had been providing good customer service. There is no doubt that they are very polite and treat the customers very well. I acknowledged all of that.

Incidentally, I do not want to let Black & White get away scot-free, because it has not always been perfect. I do not think any taxi company would ever say that 100% of its drivers are always perfect; they are not. However, owner-operators pay for their taxi licences. I asked Andrew whether he was really asking me to say to people who have invested their life savings or superannuation in a taxi licence—which costs in excess of \$300,000— that their investment is worthless and means nothing. I told him that that was the consequence of what he was trying to do. I told him that if he was really interested in deregulating the taxi industry—which is what he was on about—he should go out and get some political support from elsewhere. I do not think that any members on the other side of House are trying to promote deregulation of the taxi industry, because they know—as we know—what that would mean.

Mr Pearce: I wonder how he'd be if the shoe was on the other foot.

Dr CLARK: One can be quite sure that he would be screaming the loudest. I know the sort of letters that I would be getting from all the family businesses and taxi owners. I know what they would say to me if I were to try to promote that in the community.

I told him that what he was asking me to do was untenable, that there were rules and that he had to stick to the rules. That is what is happening. Unfortunately, Black & White had to take its own legal action. It took out an injunction to prevent that company having signage on its vehicles that promoted it as a cab providing a taxi service. I am glad to say that Black & White won that case. It is disappointing that it had to spend a lot of money to do that. The company had a week to remove the

signs and replace them with a sign advertising a generic booking service. The judge knew, as did everybody else in Cairns, what was happening: the company was pretending to be a taxi company when it was not.

The conclusion of the issue is the amendment that we are debating today. The aim of the amendment is twofold. The first aspect is the removal of charter buses from the list of public passenger services excluded from being a taxi by definition. That would define charter buses that ply for hire or that can be hailed on a street as providing a taxi service. Sunshine can provide a taxi service. The point is that, if a company does that, it will be liable for prosecution if it does not possess a taxi service licence. We do not mind it being a charter bus company and providing a taxi service if it is licensed. It has to have a taxi licence.

The second aim of the proposed amendments is to better clarify what constitutes a taxi service. The existing definition refers to the fact that it includes a "demand responsive service", but it does not say what that is. The amendments now spell that out. The Bill amends the definition of "taxi service" to distinguish what "demand responsive service" means. It means that any person who holds themselves out to the public as being able to respond immediately or within a period of time appropriate to a taxi or within a similar period of time, or holds themselves out as a service being able to provide taxis, or generates a public expectation that the service being provided is a taxi will be providing a demand responsive service and, therefore, will come within the definition of "taxi service". I repeat: Sunshine can provide a taxi service, but it will require a taxi service licence to operate or it will be in breach of the Act. In the definition of "demand responsive service", the word "taxi" has its ordinary meaning. That will allow a court to judge whether the operators are holding themselves out as being a demand responsive service on the basis of a court's ordinary conception of what a taxi does; that is, an operator's actions will be judged on whether the court is of the opinion that it is providing what would ordinarily be thought of as a taxi service.

We now have amendments that will protect the existing taxi service. Charter buses can provide that service if they get themselves a licence. We are returning a level playing field to the industry. I commend the amendments to the House.
