



Speech by

Fiona Simpson

MEMBER FOR MAROOCHYDORE

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TRANSPORT AND OTHER LEGISLATION AMENDMENT BILL

Miss SIMPSON (Maroochydore—LNP) (4.54 pm): In rising to talk to the Transport and Other Legislation Amendment Bill 2008, we note that this is a large piece of legislation that covers amendments to some 11 acts of parliament, the majority of which are uncontroversial, though there are elements that we will address in more detail that we do have concern about.

The amendments to legislation involve the Anzac Day Act 1995, the Building and Construction (Portable Long Service Leave) Act 1991, Police Powers and Responsibilities Act 2000, Tow Truck Act 1973, Transport Infrastructure Act 1994, Transport Operations (Marine Pollution) Act 1995, Transport Operations (Marine Safety) Act 1994, Transport Operations (Passenger Transport) Act 1994, Transport Operations (Road Use Management) Act 1995, Transport Planning and Coordination Act 1994, and Workers' Compensation and Rehabilitation Act 2003. There is obviously an opportunity in this legislation to cover a considerable amount of policy issues in regard to transport and Main Roads which the government has taken the opportunity to bring forward in this one piece of legislation.

Perhaps the most controversial aspect I will address first, which is the amendments to the Transport Operations (Passenger Transport) Act 1994 involving transit officers. We must have safe public transport and public transport facilities. We have long been calling for more police to be available in regard to transport operations, particularly on our railway. This piece of legislation seeks to provide extended powers to transit officers which include detention, the order of removal of outer garments and frisk searching. This amendment has not been supported by a range of key stakeholders including the Queensland Police Union, Queensland Council for Civil Liberties, Queensland Law Society, Legal Aid Queensland and the Rail, Tram and Bus Union.

Our view is that these provisions are over the top for transit officers. We want to see more police in place and transit officers able to appropriately call on police to use the powers that they are trained to enforce in regard to safety provisions. What has also been raised with us is a range of concerns about how these new transit officers who will be afforded these new powers will be trained. When we had our briefings in regard to the training provisions, we noted that there was still work being done as to how these were to be rolled out. But it is a matter of great concern when there is a separate classification of officers who are essentially going to be able to use powers which were previously only available to police.

Less than two per cent of all crime in Queensland is committed on the Citytrain network. Recent published customer research shows that 30 per cent of passengers perceive a personal safety risk using public transport and an increase in offensive behaviour. That is the overall perception of passengers. Such perceptions of poor safety are more marked when Citytrain patronage increased by 6.6 per cent from 2006-07 to 2007-08. Certainly this is something that is not gender specific, but a lot of women do feel a great deal more concerned, particularly when the hours of their workplace require them to travel when it is dark. But this is something that affects men as well as women, young as well as old. We strongly reassert our support for sufficient and appropriately trained officers to ensure safety, but primarily for those stronger powers in relation to detention to be with the police to provide adequate and appropriate backup support to transit officers.

I take this opportunity to raise an issue with the minister. It is not only about having adequate numbers of people providing that safety backup and support on our public transport; it is also about the physical location of our train and bus stations and other places where people gather to catch public transport. There is also the issue of the way our trains are designed.

I had raised with me only this week by a regular public transport commuter on the north coast rail line their concern that some trains are designed in such a way that the transit officer might be in the first three carriages and that officer is not able to travel to the back three carriages unless they get off at a stop and go to the back half. The point raised with me by this commuter was that if a commuter is in the part of the train where the transit officer is not then they have no way of actually drawing the attention of the transit officer without perhaps raising the ire of the person causing problems in their carriage.

This commuter said that he had actually given his phone number to a woman who was most concerned and had been faced with somebody acting inappropriately in front of her in a rail carriage. That woman felt she could not raise the alarm, be it via the distress button available in the carriage or something else. It was not an option for her to discreetly raise the alarm about her safety because this person was right in front of her. She could not get the attention of the transit officer or the police officer on the train because the transit officer was in a different part of the train. That person would have to get out of the train. I draw that issue to the minister's attention.

I think it raises some other issues around public safety on trains. It is a concern if people are not able to reasonably raise the alarm by the public alarm button. They may have mobile phones and have the opportunity to get someone's attention. It is preferable to have a design whereby officers are able to access people. I seek the minister's feedback with regard to that concerning situation.

There have been concerns raised by the Queensland Law Society and other bodies with regard to the provisions related to extending the powers of transit officers. They are opposed to providing transit officers with detention powers. The collective view of these submissions was that detention powers should remain with the police force.

We have had feedback from the police union about the provisions related to search and seizure, arrest and detention on reasonable suspicion, evidentiary issues and liability. Once again, there have been a range of concerns raised about those particular matters. There are quite extensive powers with regard to search and seizure. We have already raised the issue of detaining someone. There is also the problem with how to handle evidentiary issues and liability issues. I seek the minister's feedback with regard to those provisions.

Other concerns include statements being taken by transit officers and the removal of outer garments, potentially leading to significant opportunities for complaints about sexual harassment or sexual assault. The departmental briefings have emphasised that transit officers will not be able to arrest individuals but they can detain them and call for police assistance. Our view is that there needs to be more police assistance in place so that the extension of these powers is not a cheap way of trying to put band-aids on an issue. It needs people who are appropriately trained to the highest level with full powers available to them to keep the public safe.

In terms of the appointment of public transit officers, there is a general description of powers and operational areas. This is also going to include ferries and buses in the TransLink area. This provision makes it clear that reasonable force can be exerted on all TransLink services.

In the departmental briefing it was advised that uniforms, identity cards and other accoutrements for transit officers are provided for under the legislation. Concerns have been raised about the training that is going to be involved. There is also a question as to people's expectations of those transit officers who do not have these more extensive powers. I note that the department will badge and identify people. It does mean that we will have separate classes of transit officers operating. Whether there is any confusion in that regard, I do not know.

What does it mean for those transit officers who do not want to transition to having these different powers? Will they be able to continue to operate in the system? What will be expected of them? What will be the employment requirements put upon them by their employer? In short, will they be disadvantaged if they do not wish to put themselves at a perceived risk by doing training to extend their powers—more powers than they had when they took on their original role as transit officers? I seek the minister's advice on that. There are legitimate concerns from a range of stakeholder groups. There are concerns from workers who feel that they may be asked to upskill or be put in a predicament where they do not want to take on those other roles and may feel that that in some way will cause them greater difficulty in fulfilling their role. There may be a public expectation or inner pressure to do this.

I put on the record that we do not support these extensions. We do support strongly more police being in place to ensure public safety. We also support the ability of passengers to raise concerns about their safety in a public place without putting their safety at risk. I ask the minister to take on board the concerns raised with me by one rail commuter and the story relayed to me about the problem of the person being separated from anybody who could have come to their assistance and their feeling that they were unable to discreetly seek attention without further aggravating the person who was in their carriage.

As mentioned before, this piece of legislation before the House amends a wide range of other pieces of legislation, some of which are quite complex. I would like to talk about the maritime legislation. We note the changes in this regard. The amendments are intended to streamline the provisions and make it easier to apply orders.

Current provisions found in part 13A of the Transport Operations (Marine Safety) Act 1994 do not clearly authorise the court to order Maritime Safety Queensland or another person other than the person in breach of the enforcement order to take direct action to achieve compliance.

Amendments to the Transport Operations (Marine Pollution) Act 1995 will establish that the District Court may make orders requiring the applicant or another interested party to take direct action about a ship. This provision operates to allow a court to make such further orders as are appropriate to remedy the contravention of marine safety legislation.

In considering the action a District Court may take, the Scrutiny of Legislation Committee has expressed concern that the District Court action involving compulsory property acquisition may breach a fundamental legislative principle which can only be undertaken with fair compensation. Such provisions only operate after it has been proven in the District Court that there is an ongoing breach of marine safety legislation and that a District Court has made an enforcement order in relation to that breach and that order has been contravened.

With regard to the Transport Operations (Marine Safety) Act, the amendments will insert an evidentiary provision requiring the owner or master of a ship to present safety equipment when asked to do so by a shipping inspector. Outlined under proposed section 50A, these three new offences provide that the owner or master of a prescribed ship must not operate the ship unless it has a particular sewage system, that the release of untreated sewage from a prescribed ship into prohibited untreated sewage discharge waters is an offence and that each culpable person for the discharge commits an offence unless the situation falls under one of the stated exceptions. This amendment is furthering provisions for Queensland's marine and coastal environment to be protected from pollution, and that is certainly something that we support.

There have been concerns for some time in terms of the adequacy of legislation to enforce the environment that we want to keep—that is, a clean marine environment. I would certainly also appreciate the minister's advice with regard to the status of the pump-out facilities in a number of ports, the ongoing maintenance of these facilities and their adequacy for the growing demands of our marine industry, because we want to make sure that people do not pollute our marine environment. We also want to ensure that there are adequate pieces of infrastructure in place so that people who want to do the right thing are able to do so and have access to the appropriate services. I seek the minister's advice specifically with regard to the issue of the adequacy of the marine pump-out facilities not only in our large ports but also in some of the smaller ports. This is an issue that relates not only to large vessels but also to smaller vessels. There are also provisions in this legislation that extend the requirements about the disposal of garbage waste as well, and we support that.

I want to address another issue in this legislation relating to the transport infrastructure legislation, and specifically the temporary restrictions on state controlled roads. These provisions have been put forward on the basis that the government feels that it needs to toughen up provisions preventing people from travelling on flood-affected or rain damaged roads, particularly flood-affected roads. There has been criticism from the government about people abusing these roads during times of severe weather events and continuing to drive despite having been warned not to and subsequently causing substantial damage. We certainly do not want to see people travelling on unsafe roads and abusing those road conditions. There are some concerns, though, that this legislation may further excuse government from doing what it needs to do—that is, to repair those roads in a timely manner to ensure that people are able to have reasonable access to those roads as soon as possible after flood events.

We appreciate that there can be extraordinary events which cause extreme damage. One of the concerns that arose from the flooding around Mackay was the time it took for the load restrictions to be released off some of the roads in that area, because in some cases it was months and months. The member for Mirani can more eloquently advise the House about the feedback he has had from his local community about this issue, but the people we have talked to raised valid concerns that it was months and months before some of the load restrictions were lifted off the roads in this vicinity. That had a huge

negative impact for people—not just those in the transport industry but people trying to go about the local economy with local jobs and ensuring that they were able to get back to normal.

The issue here for us is one of caution in that there does need to be appropriate legislation providing for the protection of a state asset and people's public safety, but there also needs to be some imperative for government to do its job and ensure the rehabilitation of damaged roads as soon as possible and also to ensure the appropriate maintenance on those roads so they are more resilient in the event of extreme rain. While we know that there will be extreme events that no maintenance will prevent, there has been quite a deal of anger about the lack of timely and appropriate maintenance of state controlled roads. That means that there are roads falling into a state of disrepair which should not be.

I note that the member for Lockyer, Ian Rickuss, raised the issue of the road near Gatton which was washed away. He had been warning the government about that road for months—warning that there was an issue, that this road was dangerous, that it was something that was going to be a public risk. And what happened? With the events of last week, that particular road collapsed. This goes to the heart of the issue I am raising here about the need for appropriate maintenance and for government to do its job and not just turn around afterwards and slap a sign on the road that says, 'Stay away from this road. It's in bad repair,' because some of these roads are in worse repair as a result of negligence prior to these rainfall events.

The event that the member for Lockyer reported actually resulted in an Energex crew crashing down that collapsed embankment. Thank God they were not injured, but it was a serious issue and one that no doubt has been exacerbated by the government's lack of action in terms of a timely approach to deal with its maintenance issues and to address known problems. It is time we saw not only an appropriate maintenance program but one that understands that roads can be rehabilitated faster after certain events if the appropriate maintenance has been done before that event.

If there has been damage done to roads, there must be an imperative put on the government to do all it can to bring about timely repair and restoration of those roads so that the local traffic and the local economy can be returned to normal as soon as possible and we do not have a situation where people are literally losing hundreds of thousands of dollars in lost business. I know of one case where equipment was unable to be retrieved which subsequently caused a great deal of damage to local businesses because of the load restrictions that were in place for an extended period of time without a timely response to address that.

Some of the other provisions in this legislation before the House address issues such as the implementation of reforms related to the safe transport of dangerous goods, provisions around heavy vehicle regulations—which we debated in this House earlier in the year, but there is further clarification tabled here today—and also the open roads policies of government with regard to addressing congestion on the roads, particularly when they are breakdowns. There are also provisions in this legislation which provide for renaming of some of the subsidiaries of Queensland Rail.

With regard to a specific issue about commercial corridor land, the incorporation of Queensland Rail has also had a flow-on effect where commercial leases with the former Queensland Railways should have been seamlessly transferred along with the freehold title in a recognised subdivision containing commercial operations, and this issue is addressed in this bill. Such a transition of tenure is a process that deems the leased land to be a new rail corridor. However, the Transport Infrastructure Act requires that land be surrendered to become unallocated state land, and I understand that this has caused legal issues particularly with subletting and for those who are in situations with existing leases. Therefore, this new provision is to ensure that when a lot containing a commercial corridor land site is surrendered under the Transport Infrastructure Act an interest in the land is to be continued as an interest in the railway manager's sublease.

I want to put some questions to the minister as to whether there are some current examples or even legal action which is either being pre-empted or being resolved by this provision being put forward. As I understand from the briefing, on the surface it appears that this is addressing a legal anomaly to in fact give people back some degree of rights. However, I would appreciate the minister's advice as to what legal action is pending to be resolved or absolved by these particular provisions.

However, I want to turn to another issue that has been one of great personal controversy in terms of the method of implementation, although we agree with the objective, which is to ultimately achieve the better management of fatigue issues within the heavy vehicle industry. The heavy vehicle issue has been contentious often because of the time it takes to ensure that the regulations are appropriate for a vast state such as Queensland, because of the need for a timely and appropriate upskilling of people in regard to that regulation and because some of the changes do not always address the core issues. There has been continuing concern about people absenting themselves from the heavy vehicle industry because of the difficulties involved in the trucking industry today. I want to address some of those matters.

There has been a huge spike in the cost of registration in the trucking industry. This does not relate to a provision in the bill before the House, but I think that it often ends up being the straw that breaks the

camel's back. We have seen a huge spike in the cost of registration for people in the trucking industry. So at this time when they are struggling, when they are seeking some assistance to ensure that they have a viable industry for their members into the future, I would ask the government to consider the impact of these hikes in the registration cost and whether it is time for these increases to be put on hold, considering there are more substantial increases to come. This increase in cost is onerous. It is causing a degree of distress and hardship in an industry that is already facing challenges.

I have met with a number of industry groups and individuals. I am struck by the many operators who are professional and who are concerned about ensuring that the best practices are put in place so that their truck drivers are safe and the public are safe. However, in recent times we have seen an increase in the number of truck related fatalities. There is also the growing concern that, despite the legislative frameworks of government, other issues have not been addressed.

Today, we heard the Main Roads minister say that more truck stops will be put in place. That is welcome. The opposition has been calling for that. However, the industry has raised the need for a thorough investigation as to the real cause of the crashes that have occurred. The industry feels that Queensland Transport is avoiding such an investigation. If the concerns about truck smashes and the overturning of vehicles are really going to be addressed, I say to the minister that it is time that, in partnership with the industry, there is an investigation into truck safety so that once and for all some of these issues can be addressed fairly.

We support reasonable legislation that underpins safety. But laws alone are not enough. The truck stops are a step in the right direction, but they are not enough. Other issues are at the heart of the matter. It is time they were addressed. We have been putting questions on notice to the government about where some of these truck crashes have occurred. There are some surprising accident spots and others that are not so surprising. But one thing that still has not been addressed is the full range of issues relating to truck crashes. The fact that we see transport legislation again before the House really should highlight to us that it is time that we look not only to amending legislation but implementing other changes in practices to address the factors that contribute to an unacceptable rate of truck crashes.

It has been suggested that a safety subcommittee should be formed with the RFIC to reveal the causes of truck crashes and to bring about solutions. I urge the minister to take this suggestion on board, as we believe that more can be done to address these valid concerns about safety not only for the general travelling public but also for truck drivers themselves so that legislation alone does not become the solace of government in addressing this very valid concern.

Some of the provisions in this legislation also extend the onus of proof. We support the corporate chain of responsibility measures, but we continue to have concerns about the way in which there has been this creeping tendency of the government to basically condemn someone as guilty until they can prove themselves innocent. That is a lazy methodology. It makes it convenient to gain convictions.

Mr Rickuss: We definitely need more rest stops for truckies.

Miss SIMPSON: As the member for Lockyer says, we need more rest stops for truckies. More needs to be done in that regard. Once again, in terms of this whole issue of addressing overall truck safety, to have reverse onus of proof provisions in legislation ignores the responsibility of government to take a leadership role to address the more holistic issues in relation to road safety, particularly where they relate to heavy vehicles.

Also, this legislation contains search without warrant provisions. In the past, concerns have been raised not only by the Scrutiny of Legislation Committee about these types of provisions but also by others, not only in industry but more broadly, that we are starting to see government rely increasingly on such provisions to get an early and easy conviction. We believe that if people are driving while fatigued and they are a safety risk to others, they should be dealt with appropriately by the law. But the law must also be fair in the way these matters are assessed.

This legislation seeks to change some of the means of defence. A notable amendment is the exclusion of the mistake of fact defence, which is replaced with the defence of reasonable steps. Such a provision was introduced in the Transport Legislation Amendment Bill in March 2008, which was enacted on 31 August 2008. Heavy vehicle drivers operating under an advanced fatigue management system must carry exemption documentation during travel. This legislation provides a definition of fatigue management requirements, which includes an exemption record requirement. Under this amendment, an influencing person is deemed to have committed the offence if the driver fails to carry an exemption notice unless it is established that the influencing person took reasonable steps or was not in a position to influence the conduct of the driver. For the benefit of the *Hansard* record, I would appreciate it if the minister would give some examples as to what reasonable steps would be in that chain of command and throughout the chain of command.

I want to address some of the issues relating to clearing obstructions from roads. This matter is part of the government's open roads policy. Certainly, we support our roads being able to flow as quickly and as

easily as possible. There is also the additional practicality of the need for emergency vehicles to get to some of these hot spots as soon as possible as well as addressing evidentiary issues when you start to move vehicles where there may have been injury to individuals and damage to property. I seek the minister's advice in regard to these changes which make it easier to move from the road stricken vehicles that may be creating an obstruction. I seek the minister's advice as to how the liability issues will be addressed with those who seek to take those contracts to remove the vehicles. I also seek the minister's advice as to what happens if evidence that is necessary in a court action is destroyed. Obviously, we want to see public safety being the first consideration, but there may be some legal ramifications that are not clear in terms of how the department will handle these particular matters.

These provisions will allow for the quick removal of stricken vehicles and other objects. They will also allow for the recovery of reasonable expenses incurred in clearing the roads of debris and immobilised vehicles with the owners present or not present and the disposal of material by sale or by other method. Although there are some liability protections, once again there is a concern about interference with evidence that may be required in subsequent legal action and the rights of people to deal with that and also whether insurance provisions will be negated for those who have had property removed from the road.