

**ROAD TRAFFIC AMENDMENT  
(IMMOBILISATION, TOWING AND DETENTION OF VEHICLES) BILL 2020**

*Second Reading*

Resumed from an earlier stage of the sitting.

**HON AARON STONEHOUSE (South Metropolitan)** [5.04 pm]: I was just getting through my introductory remarks. I was about to quote from an article from *The West Australian* titled “‘Overreaction’: WA’s parking management industry slams move to ban wheel clamping”. In that article, Josh Zimmerman writes —

The parking management industry has lashed out at a moves to ban wheel clamping, labelling the step as an “overreaction” that risks swamping businesses and apartment complexes with illegally parked cars.

The McGowan Government announced it intended to ban wheel clamping, with the Premier describing the practice as a “disgraceful scam”.

Legislation is currently being drafted and will be introduced to Parliament around the middle of the year.

The new laws will also cap towing and storage fees to prevent wheel clammers from resorting to an equally predatory practice.

But Perth Security Services director Neville Mader said the McGowan Government was “using a sledgehammer to crack a walnut” and that the entire clamping industry was being blamed for the actions of a small minority of operators.

Mr Mader said his firm worked closely with its clients—mostly strata managers and business owners—and clamped only persistent or blatant offenders.

That is just one example of someone in the industry who has a concern that they have not been consulted on the drafting of this legislation. The government is rushing to regulate and to outlaw a practice without having engaged with key stakeholders, and then, as that stakeholder described, it is using a sledgehammer to crack a walnut. It is a disproportionate approach.

Of course, members will be aware that I had the privilege of chairing the Select Committee on Personal Choice and Community Safety. The committee looked at regulatory principles and regulatory approval processes. Those matters occupy chapter 6 and have some mention in chapter 7 of the committee’s report, “Community Safety: For the Greater Good, but at What Cost?” I encourage members to look at that report, because although the earlier chapters range over a number of perhaps niche issues, I think that the final two chapters contain some very useful information for legislators and regulators.

At page 91 of the report, the committee made recommendation 11, which deals with the regulatory impact assessment process that I have described earlier in my remarks. It is an excellent process. Committee recommendation 11 reads —

The Government:

- (a) always consider the merits of publishing Decision Regulatory Impact Statements
- (b) publish Decision Regulatory Impact Statements where appropriate.

In response to recommendation 11, the government said —

Recommendation 11: Supported.

It is standard practice for Decision Regulatory Impact Statements (DRIS) to be published as they are intended to be public documents. The March 2020 Better Regulation Program: —

Which I quoted from earlier —

Information paper for agencies states: “Once the regulatory proposal is approved, the relevant Consultation Regulatory Impact Statement (CRIS) and DRIS should be published on the agency’s website. They can also be provided to the Better Regulation Unit, which can include the documents in the publicly available CRIS and DRIS archive.”

As an interesting sidenote, I asked Treasury if it could provide me with the consultation regulatory impact statements and the decision regulatory impact statements of this current government for all the regulatory proposals it has brought to cabinet and all the legislative and regulatory changes it has made. If I remember the Treasury’s response correctly—I will not quote it—it was to the effect of, “We don’t keep that data, you’ll have to go and ask the individual agencies.” That is interesting because, obviously, it did not get the memo. Apparently, the whole-of-government response to recommendation 11 of the committee’s report was that the Better Regulation Unit, which is, of course, part of Treasury, keeps an archive of these things. Clearly, there is some miscommunication here within the government,

perhaps between the Department of the Premier and Cabinet and the Treasury and the Better Regulation Unit, because obviously they are not talking to each other and getting the message across. It is interesting. The government supports the idea of transparency around consultation and regulatory decision-making. In this statement and its response to recommendation 11 it implicitly supports the idea of transparency around regulatory decision-making.

However, an exemption from the regulatory impact assessment process for the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020 has been sought and granted. It is certainly my view, and members can infer from the committee's report that the committee may share this view—if members read chapter 7, they will find that is the case—that better regulations are written when they are subject to the scrutiny of daylight. Daylight is the best disinfectant. Better decisions are made when they are transparent, made out in the open, subject to scrutiny and done with consultation. A regulatory impact assessment process with consultation is fairly useless if it is done behind closed doors, never sees the light of day and is never exposed to the public.

**Hon Michael Mischin** interjected.

**Hon AARON STONEHOUSE:** I suspect the concern is that consultation may be sought from stakeholders, stakeholders may say that the government's regulatory response is a terrible idea, and, rather than be embarrassed and admit that its idea is bad and that it has to go back to the drawing board, especially after it has made a public media statement, the government would rather progress, ram its legislation through and hide any consultation that may have revealed any deficiencies in its regulatory response. That is one possible explanation. The other is perhaps that the government wanted to dispense with consultation entirely. The government had a great idea, and there was no need to bother the public and the proles with consultation. After all, the government knows best and it will regulate and tell people how to behave and interact, and if they have complaints, it is simply because they are wrong. Clearly, this bill is not the administration of justice. That exemption category does not apply here.

The committee made another recommendation at recommendation 12. If members have the committee's report on hand, they can turn to page 99. The committee makes some comments on a ladder of intervention that deals with the ethics of paternalistic regulation, but the same principles apply to regulation of the marketplace. Here we have the government regulating, presumably for the consumer's own good, protecting them from various externalities, from them hurting themselves or making some blunder in the marketplace. The same principles apply, and on page 99 the committee makes mention of the Nuffield Council on Bioethics' ladder of intervention, which is at figure 13. The ladder of intervention starts at the bottom with the first response available to regulatory agencies, which is —

*Do nothing or simply monitor the current situation.*

Obviously, the government has not gone down that route. It has decided to do something. The second rung on the ladder is —

*Provide information.* Inform and educate the public, for example as part of campaigns to encourage people to walk more or eat five portions of fruit and vegetables per day.

An information campaign has not been embarked upon. If this is an illegal practice, if this is somehow extortion or threats are being made, it is obviously illegal and I am sure police would like to know about it and investigate it. No campaign has been embarked upon to ensure that drivers know their rights and that they are not being extorted. As far as I can tell, the government has not entertained that idea. As I said earlier, there is a statement of intent—not a green paper, not a consultation document, a statement of intent. The government's intention, its policy objective, is already marked out. Its mechanism for regulating and addressing the mischief of wheel clamping is already laid out in that document. Its intention is clear. The government made the media announcement in February, it produced a statement of intent in, I believe, May and we had legislation in Parliament by June. No consultation was undertaken between the statement of intent and the bill being introduced. Perhaps I am wrong; maybe there was. I would love to hear whether that is the case, but it seems pretty clear through the time line of events that no consultation was undertaken between the statement of intent and the legislation being implemented. In fact, it is interesting that in the escalation of intervention of there being a problem that the government is not best suited to solve, information is the next best thing.

That approach of starting at the bottom of that ladder before escalating is what I witnessed being ignored on another piece of legislation, and that was with the Ticket Scalping Bill. It is a very similar piece of legislation. It addresses some supposed moral outrage or injustice taking place. Of course, the solution is not to educate consumers, educate property owners of their rights or tell people that if they have been a victim of a crime, they should go to the police. The government's response is to regulate a practice or outlaw it entirely. The government will regulate something rather than inform people of their rights. It is rather remarkable. It makes me wonder whether the idea of educating people rather than regulating or coercing them ever occurs to agencies. I do not know.

That is why we have processes such as the Better Regulation Unit and the regulatory impact assessment in place. Interestingly, in hearings I have been a part of through various committees when witnesses from the Better Regulation

Unit have appeared, they have given very interesting testimonies. These are all in *Hansard* transcripts that members can avail themselves of if they like. They have given testimony to the effect that these processes were put in place in the early 2000s, but before they came into place agencies would merely pass more regulations because more regulations meant more full-time equivalents. The more regulations there were, the more red tape was imposed on stakeholders and the more justification for FTEs and more budget, and therefore the cycle continued. The idea of having a customer service approach obviously had not occurred to them. The idea of streamlining or reducing red tape to serve the community had obviously never occurred to them. Hence, in the early 2000s the regulatory impact assessment process was put in place. According to Treasury, at least, it has done its job in slowly changing attitudes in government agencies over time. I am not so much convinced, given the existence of this bill, the Ticket Scalping Bill and other pieces of legislation. The government uses sledgehammers to crack walnuts. That is why those processes exist. The ladder of intervention continues. It says do nothing and provide information. Then it says —

*Enable choice.* Enable individuals to change their behaviours, for example by offering participation in an NHS ‘stop smoking’ programme ...

The next rung up says —

*Guide choices through changing the default policy.*

Members might think of a good example, maybe being an organ donor by default and having to opt out. There is still a choice of course, but the default option is the government’s intended policy. The ladder then goes up through “guide choices through incentives”, “guide choices through disincentives” and “restrict choice”. The final rung of the ladder, at the very top, is the harshest form of intervention, which is “eliminate choice”. Of course, the government has looked at this problem of wheel clamping, of cowboy operators in the industry apparently scaring people and extorting them, and has jumped all the rungs of that ladder and gone to the very top, which is interesting because the committee, which I chaired, made the following recommendation, recommendation 12. I quote —

Government agencies have regard to the Nuffield Council on Bioethics’ intervention ladder when developing policies and regulation.

The government responded to that recommendation. It said —

... **Noted**

Government agencies as a matter of course apply principles of proportionality in developing policies and regulation as they relate to public health.

They may apparently do that when it comes to public health, but they do not do it in other ways. Clearly, there is no proportionality in this approach here. There is no proportionality in the approach that the government has taken. After a handful of complaints on the radio and an apparent issue at a commercial property in the City of Stirling, the government moved to outlaw the entire industry.

I do not have any soft spot for wheel-clamping operators. I did not really think about it as an industry until a few months ago when this appeared on my radar. The idea that there are businesses out there that purely operate wheel-clamping operations was somewhat news to me. As I say, there may be cowboys in that industry—people doing the wrong thing by using standover tactics or intimidation. That may be taking place. There is certainly anecdotal evidence of that taking place, but there is an absence of any substantial empirical evidence of this taking place. The government has not really made the case for why this industry should be outlawed entirely rather than merely being regulated, licensed or having a mandatory code of conduct. I find that concerning, especially as normal consultation has been dispensed with. The government is asking members of Parliament to outlaw an industry, which will result in jobs being lost. That is seven full-time employees who we know of, but it may be many more. I am aware of one operator that solely does wheel clamping, and wheel clamping is part of the business of other security firms. I do not want to come into this place at any time and vote for legislation that will destroy someone’s job or livelihood. I want to use my position in Parliament to facilitate jobs, remove barriers to entry, and let people create their own wealth and pursue their own interests. I do not want to pass legislation that outlaws how somebody puts food on their table.

I gave the examples earlier of people who rely on their jobs at a wheel-clamping operator—the gentleman who is a trained and qualified carpenter who, due to a back injury, can no longer perform that job, and the single parent with two young dependants. Those people will lose their jobs as a result of this legislation passing. I think that is absolutely avoidable and unnecessary. Members may not like what some people in this industry do, but destroying their livelihood is a massively disproportionate response. That, effectively, is what members will do if they vote to support this bill—that is, destroy their livelihoods. Wheel clamping is not the only thing for larger security firms. They offer other security products and services, so they will probably continue to operate. Will jobs remain for people who monitor wheel clamping and parking spaces? Who knows. The businesses themselves will probably remain intact. Those businesses that solely provide wheel clamping—I am aware of one—will likely go under. Members may think that that company will be able to transition to tow trucks, but that is a completely different field. The

company would need to have equipment and qualified employees to go down that route. The capital cost would be huge. I do not want to be insulting or disparaging, but putting wheel clamps on a wheel is not a particularly specialised skill; it is not a highly skilled profession. Those people are doing fairly menial tasks, as a lot of people in that lower rung of security work do. These are not the kind of people who can just be put in a tow truck or be expected to bounce back and find employment right away. As I said earlier, this is coming at a time when the unemployment rate is at 6.7 per cent, businesses across the state are closing, and people are doing it tough due to various COVID restrictions. Effectively, we are in a recession. This is not the time to destroy people's jobs and livelihoods.

My main concern, which I have laboured to get across, is around the lack of consultation. In a moment, I will move a motion to refer this bill to the Standing Committee on Public Administration. I do not want to make referral to committee a regular thing in this Parliament. I do not think that is necessary. For the most part, this chamber, in Committee of the Whole House, can do its job in interrogating legislation. When members see the terms of reference of my motion, they may understand the intention behind it. The intention is not to delay the bill or to investigate the policy of the bill. The intention, as members will learn in a moment, is to inquire into the development of the policy and the consultation undertaken. I have just laid out a massive oversight and a bypassing of normal regulatory impact assessment processes, which this bill has been able to fly through by government edict. It has been without due process or the normal checks and balances that take place when legislation is developed. That should be a concern for everybody, especially when it means that people will lose their jobs.

There may be alternatives or unintended consequences that the government has not considered. The government has not considered what will happen to the people who lose their jobs as a result of wheel clamping being outlawed. As far as I can tell, unless the minister responsible is going to correct me in a moment, the government has not consulted the tow truck industry. I mentioned the statement of intent earlier; it is not a green paper. There is nothing in it about consultation being undertaken with stakeholders; there is no mention of it. There are a lot of assumptions about the various impacts on stakeholders, but no mention of consultation—neither is there a call for feedback or submissions from stakeholders. We need to understand the implications of this legislation—who it will affect, how it will affect the industry, and what its economic impact will be. These are the kinds of things that we would normally get through the regulatory impact assessment process, a consultation regulatory impact statement and a decision regulatory impact statement. We have not been afforded the opportunity to range over those kinds of papers. Within its standing orders, the Standing Committee on Public Administration has the ability to investigate the development of policy and consultation undertaken on this bill.

*Discharge of Order and Referral to Standing Committee on Public Administration — Motion*

**HON AARON STONEHOUSE (South Metropolitan)** [5.26 pm] — without notice: I move —

- (1) That the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020 be discharged and referred to the Standing Committee on Public Administration.
- (2) The committee is to inquire into the bill with particular reference to the development of its policy and the consultation undertaken.
- (3) The committee is to report by 26 November 2020.

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment)** [5.27 pm]: I indicate that the government will not be supporting this motion without notice from Hon Aaron Stonehouse. Earlier in his contribution, Hon Aaron Stonehouse said that this was not a matter for Parliament. The honourable member forgets that we make legislation and laws in this place. This is absolutely an issue for the Parliament and upon which Parliament should rightly have a view. I think the honourable member is out of touch on this matter. The voice of public opinion is well and truly on the side of this bill. I am not sure about his phrase “jumped the shark”. Perhaps that was one of those woke statements that Hon Rick Mazza was talking about recently, but it does not make sense at all.

**Hon Aaron Stonehouse** interjected.

**The ACTING PRESIDENT (Hon Dr Steve Thomas)**: Order, members! There is far too much background noise. I would like to hear the minister in silence.

**Hon STEPHEN DAWSON**: The government announced its intention to prohibit wheel clamping in February this year. That announcement received significant media attention, and straightaway the Department of Transport began to receive feedback from interested parties. Hon Aaron Stonehouse said that consultation had not happened, yet he read from an answer that was given to a question that he recently asked in this place that spelt out that stakeholders have had an opportunity to provide feedback and that the Department of Transport has engaged with the Western Australian Local Government Association; specific local governments, such as the City of Stirling; security companies that undertake wheel-clamping activities; strata companies; the Western Australia Police Force; the Department of Local Government, Sport and Cultural Industries; the Department of Mines, Industry Regulation and Safety; and the Road Safety Commission. I do not believe that people will lose their jobs as a result of this bill, but operators will certainly have to change how they operate. Hon Aaron Stonehouse quoted selectively from the second reading speech. If he read it properly and put the whole thing on the record, he would understand that what is being put in place

will ensure that people do things differently. He would also understand the level of concern that has been expressed by various members of the community and this place. Hon Simon O'Brien reminded us about the comments of Minister Bill Johnston in the other place. He is only one person whose vehicle's wheels have been clamped.

This industry needs to operate differently. There is a very big difference between the Sheriff's Office wheel clamping vehicles and others taking underhanded actions. Time and again we have heard from aggrieved people who believe that underhanded activity has been taking place. This bill will stamp that out. It will make sure that people cannot do that.

In response to Hon Aaron Stonehouse's comment that this is not a matter for Parliament, I point out that vehicle immobilisation has already been explicitly prohibited in the Northern Territory, New South Wales, Victoria and Queensland. Guess who put those prohibitions through? Parliaments did. Although there are no explicit bans for wheel clamping in Tasmania and the Australian Capital Territory, other legal mechanisms limit the use of vehicle immobilisation devices. This bill will bring Western Australia into line with other states by banning the use of vehicle immobilisation as a way to control parking.

The government is committed to banning wheel clamping as a means of controlling parking. The media has continually reported wheel-clamping cases and that led to a rise in community concern about vehicles being clamped improperly and in a way that coerces payment. Members of the community have said that some wheel-clamping operators sit in wait for an opportunity to clamp parked vehicles in a predatory and intimidatory fashion. This bill will ban that practice. I have to say that it is objectionable to prey on people who are parking in private parking areas. That practice will end under the bill. The Western Australian community has made its voice clear on this issue. The government has listened and it is acting to stamp out the unfair practice of vehicle immobilisation. As I indicated, significant community feedback received through local government and electorate offices and via the media prompted this decision. Correspondence overwhelming called for a better way of managing parking on private land. The announcement we made in February was an answer to ongoing community sentiment.

Hon Aaron Stonehouse rightly pointed out that the Department of Transport developed a document entitled "Statement of Intent: Vehicle Immobilisation and Vehicle Removal and Detention" that was circulated on 25 May to the various stakeholders, tow truck owners, strata agencies, parking organisations and security agencies engaged in wheel clamping. It was also published on the Department of Transport's website. I am advised that feedback was received from those players. They know about the bill and the matter has been considered. This course of action—to bring in a bill to outlaw wheel clamping—is absolutely the right thing to do. The honourable member's suggestion to send this bill to a committee seems to be one of the member's *modus operandi* in this place. When he does not like a bill, he wants to send it off to a committee and it gets bogged down. Honourable members in this place have a right to their point of view, but this has been this member's *modus operandi* time and again. It is a delaying tactic. I notice that today the member seems to be having a bet each way. Not only has he moved this motion, but also amendments to the bill have been put on the supplementary notice paper. It is frustrating!

The member does not like the bill—that is fair enough—but we do. Banning wheel clamping is absolutely the right thing to do. The community wants it. Other states and territories have done it and we are bringing this state into line with other jurisdictions. We will not be supporting the motion to send this bill to a committee. We believe the bill needs to be dealt with expeditiously.

**HON SIMON O'BRIEN (South Metropolitan)** [5.34 pm]: On behalf of Her Majesty's loyal opposition, I want to put the Liberal Party's views on the motion to refer the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020 to a standing committee. During the second reading debate I explained the Liberal Party's position and stance on the bill. I indicated that I had examined the issues. I thought that there might have been some substance to the problems that have been identified by the member who moved this referral motion. As I explained in my contribution in the second reading debate, I chased down each of the potential shortcomings and I was satisfied that not only is there a very strong case to regulate and in many cases ban the use of wheel clamps and other like devices, but also the public officers responsible for developing the policies and practices that go with this bill did so in a way that has provided viable alternatives.

I also spoke with the minister outside the chamber about a particular practical matter. I look forward to receiving more information on that from the minister in due course so I can reassure some in my electorate and those I engage more closely with in local government, and one in particular who holds a key to a viable alternative. All of that is yet to come, and to do that we must get this bill through. I indicated during the second reading debate that on behalf of the opposition I intend to facilitate that. We could all get up and tell wheel-clamping stories until next Pancake Day, but that will not happen. This legislation needs to be dealt with and we cannot wait until 26 November. I hope that we will have finished and gone home before then.

The motion calls for the bill to be referred to the Standing Committee on Public Administration, which is chaired by the redoubtable Hon Adele Farina. Were Hon Aaron Stonehouse to substitute for Hon Ken Baston on such an inquiry, it would still leave other redoubtable members on that committee—Hon Kyle McGinn, Hon Jacqui Boydell and Hon Darren West—to see this inquiry through. I know that they will do a great job in examining the matter, but it

would be totally unfair to suggest that they could inquire into this matter and report by that date for two reasons. First, as I indicated, in my judgement this matter has been looked into very thoroughly by the officers involved; and, second, in any case, it would be extremely hard to do the consultation that would be required and to satisfy the need to get this bill through the house if that committee were to report by 26 November.

I toyed with suggesting an amendment to the motion to give the standing committee a direction to report by next Tuesday and to give it permission to meet while the house was sitting and, indeed, to meet on weekends and 24/7 if it should so desire, to meet that deadline. But then I decided that I do not think that we really need to do that, so I will not.

The concerns of the member who moved this referral are noted. I listened very carefully to his case. I also listened very carefully to the minister's response. With all that in mind—with the possible exception of the 24/7 meeting schedule for this beloved committee—there is no case for this bill to be referred to the committee. Therefore, we will be opposing the motion.

Question put and negatived.

*Second Reading Resumed*

**HON RICK MAZZA (Agricultural)** [5.40 pm]: I will not take up too much of the house's time on the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020, considering that a fair amount of time was taken up with the referral motion. This bill seeks to amend the Road Traffic Act 1974 and the Road Traffic (Administration) Act 2008.

I think this bill is based on a populist policy. People do not like to have their car wheel clamped. People also do not like to get a parking ticket. However, we are not proposing to ban parking tickets. People get aggrieved or upset about any fine or penalty, whether that be a parking ticket or a wheel clamp.

As far back as May 2017, a constituent contacted me to complain about the predatory behaviour of wheel clampers. On 23 May 2017, I asked a question without notice of Hon Stephen Dawson, as the minister representing the Minister for Police, about the codes of conduct and controls for wheel-clamping operations. The answer I got from Hon Stephen Dawson was —

- (1) Western Australia Police do not license security officers as wheel clamping operatives and do not hold information on those security officers who conduct wheel clamping.
- (2) WA Police has no oversight of wheel clampers. Any complaints about the behaviour of a wheel clumper can be dealt with by their employer. Matters should be reported to WA Police only if a criminal offence occurs.

The answer I got in 2017 was that there was no regulation, control or oversight of wheel clamping. All someone had to do was set up a business, buy some wheel clamps, and have a property owner or property management company engage them to clamp vehicles. The Minister for Environment, in his contribution to the debate on the referral motion, said that the community is satisfied with this bill—people do not like wheel clamping and do not want wheel clamping. However, sections of the community have a problem with the banning of wheel clamping. I am talking particularly about property managers. I received a copy of a letter from a person who manages an apartment complex. The letter is dated 12 August this year and is addressed to Hon Mark McGowan, MLA, Premier of Western Australia. The letter is quite lengthy, so I will not read it all, but it states in part —

I am the Chair of the Council of Owners at the Complex at which I live. It consists of 28 units which house some 47 people and 38 vehicles. We have 4 visitors' car bays (max. 4 hour parking) and have to monitor and control residents' cars, visitors' cars, contractors, courier vans, etc.

Prior to employing the wheel clamping service we had extraordinary problems with recalcitrant parkers. They knew what the rules were but deliberately flouted them—those types of people don't care.

...

The blurb issued in respect of wheel clamping says "Visitors will be able to park in popular spots without fear of vehicle being clamped." A residential complex is not a "popular spot".

...

The main thing to remember here is that (currently) people aren't clamped if they obey the rules. In my experience, many of the people who park against the rules don't care about fines. The **only** thing that concerns them is wheel clamping because that causes them inconvenience.

This issue has been raised with me by a couple of people. Property managers will continue to have problems with people who park where they should not park.

**Hon Michael Mischin:** The Premier would say those people are Australian, whereas those who clamp their wheels are "un-Australian".

**Hon RICK MAZZA:** It is funny the member would say that. The last paragraph of this letter states —

It is not “unAustralian” to wheel clamp. What is “unAustralian” is deliberately parking contrary to the rules and signage.

I have lived in an apartment complex. On occasion when I have pulled into the underground car park, someone has parked their vehicle in my spot. That causes a lot of inconvenience. I would put a polite note on the windscreen asking the driver to move their vehicle, and I would park my car outside and wait until such time as they had seen fit to move their vehicle and then bring my vehicle in from the street. That is as frustrating for a person as having a wheel clamp applied to their car because they have parked in the wrong spot.

**Hon Simon O'Brien:** They can't give them a ticket or have them towed.

**Hon RICK MAZZA:** No, they cannot, so it becomes problematic.

What the government has proposed as an alternative to wheel clamping is a tow truck arrangement. However, that is problematic. It is onerous, and it will take time. I do not think it will be much of a deterrent, to be honest. The definition in the bill of “towing charges” is any charges, other than storage charges, that may be imposed for towing the vehicle. That includes travelling to the premises, taking steps to find a relevant person for the vehicle, loading the vehicle onto a tow truck, and towing the vehicle.

The bill provides that a number of steps must be followed before a car may be towed away from a private property. The parking area must have signage that warns about the possibility of towing. The owner of the property must have a towing agreement with the towing operator, otherwise the operator is not authorised to tow the vehicle. There must be a 30-minute waiting period before the vehicles can be towed away, unless it is causing a hazard. If someone was parked in our parking spot—maybe they do not do it on a regular basis—we could ring up the towing operator and say, “Someone has parked in my spot. I need you to come out and move the car.” The towing operator would have to drive from their depot to the car park. How long that will take will depend on where their business is, I suppose. It could take half an hour, or an hour. When they get there, they have to wait for half an hour. During that time, the tow truck operator must look for the owner of the vehicle. They have to drive there, park their tow truck, wait for 30 minutes, and look around for the owner of the vehicle. If the owner returns and the vehicle has been loaded, the vehicle must be released for a set fee. The government is looking at about \$200 for that. If the vehicle is not loaded at the time the relevant person returns, the driver may take their vehicle and drive away. The private property owner will be liable to pay the tow truck company \$200 for its time and effort. Therefore, not only has the property owner had someone park in their spot, they have to ring up the tow truck operator with whom they have an arrangement, the operator has to drive from wherever their depot is, for however long that takes, and wait for half an hour while they look around for the owner, and, before they have loaded the vehicle, the owner may rock up and say, “What are you doing? That's my car. Thank you very much”, and drive away. The property owner, who has had the inconvenience of someone parking in their car bay, now has to write a cheque, do an electronic funds transfer or use their credit card to pay for the cost of the tow truck. How many property owners will go to that trouble when they may end up with the bill? There are some fairly significant issues for people who manage apartment complexes and shopping centres when people completely ignore the rules. I would not be surprised if in years to come another piece of legislation is brought into this Parliament to reintroduce wheel clamping as a means of managing recalcitrant parkers.

Another issue that was raised by Hon Aaron Stonehouse in his very fine contribution to this bill is what will happen to the owners and employees of this business now that they will no longer be allowed to undertake wheel clamping. People may say that they will be able to transition to another type of business in the security industry. It is a fairly big leap from being a wheel clumper to being a tow truck operator. There are a lot of differences between those two industries. This wheel-clamping business employs seven people and supports seven families. Whether it will be able to transition, and what losses it will suffer, or whether it will simply go onto JobSeeker, remain to be seen. I have an issue with a small business being destroyed, basically at the stroke of a pen, through this legislation. It will have to either become a different type of business or simply close its doors, which is of concern.

I think a mandatory code of conduct would be a better option. I asked a question in this place in 2017 about the regulations around wheel clamping, and the response was basically that there were none. If we do not have any regulations or guidelines, of course there will be issues in an industry. Some of the operators might be predatory by nature; we saw that on one of the TV stations, I think, a couple of months ago. I think Hon Aaron Stonehouse mentioned a clamping operator in the City of Stirling who was clamping wheels, and the tenants did not like it. They really should have negotiated with the property owner to adjust the agreement. If there were a mandatory code of conduct to regulate these operators and ensure that there is some integrity around what they are doing, they could provide a service to property owners who have people parking in their parking bays who should not be there. I think that would have been a far better way of dealing with this issue. As it is, we are looking at destroying a small business and we are going to leave property owners in a situation in which it will be very, very difficult to manage people who, in a very un-Australian way, park vehicles where they should not park them. Therefore, I will have some difficulty in supporting this bill.

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment)** [5.51 pm] — in reply: I thank members who have made contributions to the second reading debate on the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020—particularly Hon Simon O'Brien, who indicated that Her Majesty's loyal opposition would be supporting the bill. I am grateful for his indication of that. I also acknowledge the contributions made by Hon Aaron Stonehouse and Hon Rick Mazza. I note that a number of members who chose not to contribute to the second reading debate have indicated to me that they are supportive of the legislation and that their choice to not make a contribution to the second reading debate should not be understood to mean that they do not support it.

I will start off with the contribution by Hon Simon O'Brien. The government agrees with the honourable member's characterisation of wheel clamping as thoroughly undesirable. He gave the example of the member for Cannington's experience in the parking bays at his electorate office, where vehicles belonging to the member and his staff were clamped. That highlights the problems that arise when no legislation is in place to regulate an issue. That scenario is not unique and is consistent with what we have heard and seen—a steady stream of complaints from vehicle owners about unreasonable and predatory behaviour. The Department of Transport also agrees with Hon Simon O'Brien's characterisation of wheel clamping as being, in some cases, extortion. There is a real need for reform in this area, which is why this bill will not only ban wheel clamping, but also establish a framework for the regulation of towing.

Although the bill will authorise towing as a last resort, it will be regulated, with requirements for minimum waiting periods, maximum fees, and reasonable procedures for the prompt return of vehicles. Landowners have a legitimate need for parking enforcement, and the Department of Transport agrees with Hon Simon O'Brien's views about having a proportionate response to the problem of people parking where they should not park. We believe this legislation balances the rights of owners and drivers.

The Department of Transport is developing processes to enable truck drivers to contact the department to report that they are towing a vehicle away, and for vehicle owners to find out where their car has been taken. The department's preference is to use existing call centres, but given the expected low level of towing at the outset, it is intended to be a last resort. The department is researching the most effective way to display and collect that information. This may take the form of email notification or signage, rather than reliance on phone calls. Given the time constraints of developing legislation and the uncertainty around towing volumes, the department does not support developing a potentially costly IT solution at the outset.

I have already gone through the consultation that was undertaken on the bill in response to Hon Aaron Stonehouse's proposal to send the bill to a committee.

As Hon Simon O'Brien indicated, he raised an issue with me behind the Chair about strata bodies. The bill will regulate the towing of vehicles and it will be open to strata bodies to enter into arrangements so that vehicles parked without authorisation can be removed. Regulations will determine the circumstances in which towing can be used, and this will allow for a vehicle to be towed if it is parked without authorisation. If the vehicle is causing a hazard or unreasonable obstruction, it can be removed without a waiting period.

The Department of Transport is developing a communications strategy to educate stakeholders and, indeed, the general community about the new legislation, once it passes. There has been liaison with local governments, strata agencies, towing companies, wheel-clamping companies and other identified stakeholders. Consideration will be given to running information sessions on the new regime, and local governments will be encouraged to enter into local parking agreements as part of their parking management functions. I have raised this matter with the Minister for Transport's office, and it has indicated that it will give special attention to working with local governments. The member has raised one in particular, so I have brought information relating to that local government to the attention of the minister's office. It has indicated that it will work with that local government so that it can work with strata managers.

**Hon Simon O'Brien** interjected.

**Hon STEPHEN DAWSON:** Hopefully it will, but as we have both indicated, some councils, such as the City of Stirling, are onside and have been willing to make an effort, and we hope that other councils will follow Stirling's shining example. Certainly, I have raised with the minister's office the council that the honourable member brought to my attention, and some effort will be put into working with it.

I turn to Hon Rick Mazza's contribution. The member referred to the legislation as being "populist"; I would say it is popular. We have heard from a great number of people over the past few months that they have experienced predatory behaviour. People do not support the unconscionable and predatory nature of wheel clamping. The member is right: people do not like fines generally, but people cop it if they have done the wrong thing. What concerns people most is the predatory nature of wheel clamping, and we have seen and heard examples of that time and again.

The changes brought about by this legislation will not impact on most of the work undertaken by the tow truck industry. The regulations will apply only to vehicle removal and detention as a means of private parking control. This will not affect other forms of towing, such as picking up vehicles that have been involved in crashes or have broken



down. We believe that this is sensible legislation, that it is absolutely the right thing to do, and that the community is onside.

With that, I will bring my remarks to a close, and I commend the bill to the house.

Question put and passed.

Bill read a second time.

**The ACTING PRESIDENT (Hon Dr Steve Thomas):** Members, noting that we are so close to the halt in proceedings and that it would take some minutes for the minister's advisers to get themselves settled, and given that the shirt the minister wore the week before last indicated that he is a very great fan of the Diwali festival and he might like to go outside and celebrate that in a minute, I propose to leave the chair until the ringing of the bells!

*Sitting suspended from 6.00 to 7.30 pm*

*Committee*

The Deputy Chair of Committees (Hon Robin Chapple) in the chair; Hon Stephen Dawson (Minister for Environment) in charge of the bill.

**Clause 1: Short title —**

**Hon AARON STONEHOUSE:** I have a few questions for the minister about consultation. The minister would be aware of the answer that he provided to me on behalf of the Minister for Transport on 8 September. It states —

The Department of Transport has consulted with the Western Australian Local Government Association; specific local governments, such as the City of Stirling; security companies undertaking wheel-clamping activities; strata companies; the Western Australia Police Force; the Department of Local Government, Sport and Cultural Industries; the Department of Mines, Industry Regulation and Safety; and the Road Safety Commission.

I am aware that the statement of intent was published on 25 May and the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020 was introduced on 17 June, if I remember correctly. During the minister's comments about a motion to defer that I raised, he mentioned that feedback was received as a result of the statement of intent. Can the minister tell me from whom he received feedback and on what dates?

**Hon STEPHEN DAWSON:** Honourable member, I do not have a fulsome list but I am advised that the announcement was made on 18 February. There has since been a steady stream of correspondence from a variety of people about the issue. Correspondence went out on 21 May, which I am happy to read out to the member. It states —

You may be interested in the forthcoming ban on vehicle immobilisation (wheel clamping).

In order to keep you informed about the Government's plan, I am pleased to be able to share a Statement of Intent that outlines the current DoT position on:

- the prohibition of vehicle immobilisation;
- the intended regulation of vehicle removal and detention (towing); and
- encouraging the use of Local Parking Agreements.

Your preliminary comments have been considered carefully, and any further comments you care to submit will also be an important part of developing policy in this area. If you should wish to make further comments, please address them to ...

It provides a wheel-clamping email address at the Department of Transport. It continues —

Thank you for taking the time to inform the Government of your concerns about parking regulation.

This correspondence was sent to that list of places that we have both quoted from earlier including local government et cetera. It also went to anybody who had corresponded with government following 18 February. If anyone came back to us after that date, they were added to the list, sent this information and offered the opportunity to again give feedback on the statement of intent.

**Hon AARON STONEHOUSE:** On the new date of 21 May, an email went out with the statement of intent. It was later published publicly on the Department of Transport's website around 25 May. That is okay. As a result of that outgoing email to various stakeholders, was feedback received by DOT? I am interested in specifically those stakeholders that are security companies undertaking wheel-clamping activities and perhaps any stakeholders that represent property owners. Just to make this easier for the minister, I am also trying to establish whether between the release of that statement of intent and the bill being introduced into Parliament on 17 June, any feedback was incorporated into the drafting of the bill?

**Hon STEPHEN DAWSON:** I cannot give the member a list, sorry. I do not propose to hold up the progress of the bill to get the member a list, but I am happy to undertake to get the member a list at a later stage if it is possible.

Feedback was received by the department from some local governments, WALGA, some strata organisations and, I am told, one or two tow truck companies. Some of that feedback was on regulations around things such as penalties, time frames et cetera. It is fair to say that there was never an end date for feedback, so conversations are still happening with some of these organisations about the regulations, because obviously the regulations need to be made post—the passing of the bill before us.

**Hon AARON STONEHOUSE:** That is rather disappointing, minister. It does not sound like best practice when it comes to consultation. An email was sent out to stakeholders on 21 May outlining that the government intends to introduce legislation. It solicits feedback in that email; that is good, but it contained no end date for the feedback process. For all we know, stakeholders could have been seeking legal advice before submitting feedback to the Department of Transport. Who knows? Perhaps the minister might be able to tell me whether a date for when the bill was intended to be introduced to Parliament was mentioned in the statement of intent. I do not think stakeholders have been treated fairly in the consultation undertaken by the Department of Transport. Of course, the minister cannot provide me with a list of those who provided feedback. It is fair to say that feedback might still be received and consultation might still be undertaken and that that will inform the regulations that will be written, but I do not think this really passes the test of the best way to make regulatory changes and consult with stakeholders, especially when the impact of this bill will be to destroy people's livelihoods.

I know that I probably will not be satisfied by this process and that my concerns about the lack of consultation will remain, but perhaps the minister could answer one more question on clause 1. The Better Regulation Unit granted the DOT, on the drafting of this bill, an exemption to the regulatory impact assessment process under the exemption category for the administration of justice. I want to know whether an exemption was sought by the DOT or the minister from the Better Regulation Unit, or whether the Better Regulation Unit made that decision on its own.

**Hon STEPHEN DAWSON:** No, we did not seek an exemption; we provide the information to the Better Regulation Unit and it makes a decision on whether something is excluded or needs to go through a process.

**Clause put and passed.**

**Clause 2: Commencement —**

**Hon AARON STONEHOUSE:** Members will be aware that the supplementary notice paper has an amendment in my name to clause 2. Amendment 1/2 is a pretty simple amendment that the Committee of the Whole House has agreed to on numerous occasions recently; it has become almost a convention of the fortieth Parliament. This amendment merely intends to ensure that if the rest of the bill, other than part 1, is not proclaimed within 10 years from when the act receives royal assent, the act can be repealed. That is not an extreme imposition; 10 years is obviously plenty of time to write regulations. If everything other than part 1 of the act is not proclaimed, there is no point in having it on the statute book, as everything other than part 1 is the operating clauses of this bill. It is a rather simple amendment that this chamber and other parties have agreed to before. It should be a simple matter to approve this and move on to the other clauses. I move —

Page 2, after line 9 — To insert —

- (2) However, if no day is fixed under subsection (1)(b) before the end of the period of 10 years beginning on the day on which this Act receives the Royal Assent, this Act is repealed on the day after that period ends.

**Hon STEPHEN DAWSON:** I indicate that the government will not oppose this amendment. Obviously, similar amendments have been inserted in pieces of legislation over the past few months, so I am happy to see this included.

**Hon SIMON O'BRIEN:** Can the minister indicate when he expects the balance of the legislation to be proclaimed?

**Hon STEPHEN DAWSON:** I am advised that we are aiming for the first quarter of 2021.

**Hon SIMON O'BRIEN:** If the government has no appetite to oppose this amendment, we can go on with it. I know some of my colleagues are more enthusiastic about this type of provision than I am, but if we are all going to go along with it, who am I to defy the will of the chamber? I have now made the opposition's position crystal clear.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 3 and 4 put and passed.**

**Clause 5: Part 6A inserted —**

**Hon AARON STONEHOUSE:** I have some questions that might fit best within division 2, as they are around the immobilisation of motor vehicles. I think I may have received an answer to this previously, but perhaps the minister can refresh my memory and put it on the record for the aid of those who may be following the debate. There are exemptions to the prohibition on immobilising vehicles, including law enforcement officers and other authorised people. Can the minister tell me whether local governments or agents of local government, such as rangers, will be

exempt from the prohibition on immobilising a vehicle? What I want to know is whether, perhaps as part of a local parking agreement or the duties of a ranger in enforcing any other parking regulation, a ranger of a local government could wheel clamp a car and be exempt from the prohibition on wheel clamping.

**Hon STEPHEN DAWSON:** A ranger could undertake clamping if they were empowered under the Local Government Act or regulations under that act. I am told that the Shire of Broome has a law that allows it to clamp caravans, for instance, if people are camping in areas that they should not be.

**Hon AARON STONEHOUSE:** I thank the minister for clarifying that for me. So that we are absolutely clear, wheel clamping will be outlawed for private citizens but will continue to be carried out by local government authorities and rangers, especially in the instance of the Shire of Broome. People should be absolutely clear about this: wheel clamping is not being outlawed in its entirety. Wheel clamping will continue; it is just that it will now be carried out by law enforcement officers, local government rangers or other people who are carrying out official duties. That was my understanding of it. For me, it begs the question of why we are doing this when we could just have put in place a code of conduct or regulation for wheel-clamp operators. However, the policy has already been decided. People should be clear about what this bill does.

My next question is around division 3, which is proposed section 96 onwards. I refer the minister to part 3 of the Department of Transport's statement of intent, which is headed "Impact of Regulation of Vehicle Removal and Detention". Below that is a table, headed "Table Three: Indicative Vehicle Removal Costs and Timelines".

**Hon Stephen Dawson:** Sorry, member; what are you referring to?

**Hon AARON STONEHOUSE:** The statement of intent from the Department of Transport has a table of indicative vehicle removal costs and time lines. The table outlines a few scenarios, and the proposed waiting period and indicative cost. I found the first and third rows of the table interesting. The first row outlines a scenario in which a vehicle is causing a hazard. The owner agrees to remove the vehicle before the vehicle is loaded and there is no charge to the vehicle owner and the vehicle may be removed as soon as possible. That seems reasonable to some extent. Of course, a cost would be incurred if the tow truck driver had attended and already started to load the vehicle but it was not fully loaded yet. But that is rather minor compared with the outcome in the third row of the table.

The third row describes a scenario in which a vehicle is obstructing traffic or access. The owner agrees to remove the vehicle before the vehicle is loaded, and again, there is no charge to the vehicle owner and the vehicle may be removed within 30 minutes. I do not understand the lack of cost. If we can be completely honest, the cost here will be borne by either the tow truck operator or the property owner. The intention here is that no cost will be charged to the vehicle owner who has parked their vehicle in a way that is causing a hazard, or obstructing traffic or access. We could have a scenario in which somebody who has parked their car blocks access to a fire exit, fire hydrant or water mains. A tow truck operator is called to remove the vehicle because it is a danger to the property owner, their tenants or their customers. The tow truck operator arrives to remove the vehicle, but the rather selfish and perhaps un-Australian person who parked their vehicle in a way that is causing a hazard to everybody else sees the vehicle being loaded up and can get their vehicle and drive off with no charge to them at all. In that case, the tow truck operator or the property owner bears the cost. Can the minister clarify that that is the case? That is what is outlined in the statement of intent. Can the minister confirm whether that is reflected in the clause of the bill that we are discussing now?

**Hon STEPHEN DAWSON:** The statement of intent is seeking views from the community. The bill before us gives the government a head of power to deal with the issues, but this has not been landed yet. It is simply suggesting a way forward and seeking feedback on that. We have had feedback on it, but at this stage it has not been landed on by government.

**Hon AARON STONEHOUSE:** I think it would be unfortunate and rather unfair if somebody parked their car, obstructing access to an emergency exit, fire hydrant or something of that nature and causing a hazard to the occupants of the building—whether customers or tenants—and the property owner had to bear the cost of removing that vehicle because the vehicle owner happened to catch the vehicle just before it was loaded on a tow truck. I certainly hope that the regulations, when they are drafted sometime next year, will not reflect the proposed absence of any cost to the vehicle owner in that kind of scenario.

**Hon Simon O'Brien:** Isn't that specific scenario already dealt with under proposed section 99?

**Hon AARON STONEHOUSE:** It mentions that the vehicle can be towed, but I do not think it mentions the cost.

**Hon Simon O'Brien:** Are you talking about the release of a motor vehicle being loaded onto a tow truck but it has not been completed? That's in the bill.

**Hon AARON STONEHOUSE:** If the loading of the vehicle has not been completed, the owner can take the vehicle away. I want to know whether the tow truck operator or property owner can recoup the cost from the vehicle owner in a scenario in which the vehicle is obstructing something or causing a hazard and needs to be removed.

**Hon Simon O'Brien:** I don't believe so.

**Hon AARON STONEHOUSE:** I do not think so. The statement of intent says no.

**Hon Simon O'Brien:** It's not a statement of intent we are looking at; it's a bill.

**Hon AARON STONEHOUSE:** Yes. That is my concern and it worries me, honourable member. I do not think it is very fair that someone can be reckless with the lives and safety of others by parking their vehicle in a way that blocks an emergency exit or a fire hydrant and then bear none of the costs of having a tow truck called out to remove their vehicle.

**The DEPUTY CHAIR (Hon Robin Chapple):** I will just remind members that dialogue between members is not necessarily what we are dealing with here. I am hoping that the minister will be able to answer the member's questions.

**Hon STEPHEN DAWSON:** I think Hon Simon O'Brien, by way of interjection, pointed out that proposed section 99, "Release of motor vehicle that is being loaded onto tow truck", explicitly states that there will not be a charge. We are trying to get the vehicle moved as quickly as possible. I understand where Hon Aaron Stonehouse is coming from; he is suggesting that the tow truck operator should not be penalised financially. This legislation is about stopping the predatory behaviour that we know exists in the community. The honourable member has a different view and obviously represents a different viewpoint, but this legislation is about stopping something that currently happens in the community that we think is predatory. It will put in place a process that, hopefully, will stop some tow truck operators doing the wrong thing.

**Hon NICK GOIRAN:** I have one question on clause 5 to ask the minister. I refer to page 5 of the bill and the fourth line, which is part of the definition of "public entity". The definition is set out in paragraphs (a) to (e). Paragraph (e) states —

a person or body, or a person or body in a class of persons or bodies, prescribed by the regulations;

If the minister turns to page 10 of the bill, he will see that the twenty-seventh line outlines that the application of division 3, "Towing of motor vehicles", will not apply "in circumstances prescribed by the regulations". On the following page there is subdivision 2, "Towing", and proposed section 97, "Towing parked motor vehicles prohibited unless requirements satisfied".

Proposed section 97(1)(b) refers to "details prescribed by the regulations in relation to the vehicle", specifically in relation to the tow truck driver having to notify the CEO in a manner and form approved by the CEO of details prescribed by the regulations in relation to the vehicle. Further on in the same proposed section, there is a reference to the tow truck driver having recorded the details prescribed by the regulations. Proposed section 97(1)(e) refers to "the waiting period prescribed by the regulations". If the minister turns to page 13, still in clause 5, he will see that proposed section 98(2) refers to regulations prescribing the kind of premises, and proposed section 98(3) refers to different waiting periods that might apply to motor vehicles parked in different circumstances and the prescribed waiting periods. Further on, proposed section 98(4) refers to prescribing —

... the steps that a person must take in order to have taken reasonable steps to find a relevant person for a motor vehicle and may prescribe different steps that must be taken in different circumstances.

If the minister turns to page 17, still on clause 5, he will see proposed section 103(4), which states —

Regulations may prescribe the steps that must be taken to release the vehicle ...

Proposed section 104(2) refers to a fee, if any, to be prescribed by the regulations and other requirements prescribed by the regulations. The proposed section ends with subsection (4), which states —

Regulations may prescribe matters that the CEO must consider when granting or refusing to grant an approval ...

If the minister turns to page 18, still in clause 5, he will see that proposed section 105B(a) refers to "charges of prescribed kinds or in prescribed circumstances", and proposed paragraph (b) refers to "charges of prescribed kinds". Still in clause 5, on page 20 of the bill, proposed section 105E(2)(f) refers to "circumstances prescribed by the regulations" and circumstances that do not apply if a vehicle is detained. I have one question about clause 5. A lot of matters are waiting to be prescribed by the regulations. It makes it difficult for us as lawmakers to know exactly what we are agreeing to at this time when there is this plethora of matters to be prescribed by the regulations. I wonder whether the minister can inform the chamber of what the government intends to be prescribed in these various regulations.

**Hon STEPHEN DAWSON:** Can I just clarify whether Hon Nick Goiran is looking for an answer to each of those specific points that he raised about those proposed sections or for an overarching answer to the question?

**Hon NICK GOIRAN:** In the spirit of trying to save time, I had hoped that there might be an explanation about all those points that the minister could provide in one hit rather than me having to ask about all of them.

**Hon STEPHEN DAWSON:** The intention of the bill is to provide for regulations to provide for the manner in which the towing is regulated, noting that there is a prohibition on wheel clamping as a private parking management tool. Regulations will cover the quantum of the charges to be imposed and the manner in which information will be provided. The legislation draws on regimes in place in other jurisdictions and it may be necessary to amend policy settings to reflect new technologies, such as to report tow aways or to respond to the policy not working effectively for particular types of parking locations—for example, to use different maximum charges or waiting periods for different locations.

**Clause put and passed.**

**Clauses 6 to 13 put and passed.**

**Clause 14: Part 4 Divisions 6A and 6B inserted —**

**Hon AARON STONEHOUSE:** I have some questions about divisions 6A and 6B to be inserted into part 4 and how they relate to the inspection of premises; the search of premises; directions to produce records, devices or other things; directions to provide information; and directions to provide reasonable assistance for powers of inspection and search. Powers will also be granted to agents to make copies of documents and to secure documents. Will the various enforcement powers granted under this bill be able to be exercised only with a warrant; and, if so, which powers will be able to be exercised only with a warrant and which powers will be able to be exercised within the normal course of duties to enforce the provisions of this bill?

**Hon STEPHEN DAWSON:** In relation to entry and searching being able to take place without a warrant, the inspection would have to occur during business hours. That is at proposed section 61A. In relation to proposed section 61B, for evidentiary reasons, it requires a warrant or consent of the person. Directions to provide information can happen at any time without a warrant, but bear in mind that these are not search powers. That information is not admissible in evidence against the person, unless they have given misleading evidence or misleading advice.

**Clause put and passed.**

**Clauses 15 to 27 put and passed.**

**Title put and passed.**

#### *Report*

Bill reported, with an amendment, and, by leave, the report adopted.

#### *As to Third Reading — Standing Orders Suspension — Motion*

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment)** [8.16 pm] — without notice:  
I move —

That so much of standing orders be suspended so as to enable the bill to be read a third time forthwith.

**HON AARON STONEHOUSE (South Metropolitan)** [8.16 pm]: I do not know why we need to proceed to the third reading immediately and suspend standing orders to do so. There are regulations that need to be written. As was pointed out during Committee of the Whole House, most of the bill is regulation. Effectively, the entire regulation of the towing industry will be conducted through prescribed legislation. The bill still needs to go back to the lower house and then regulations need to be written some time in 2021. There is really no rush. Unless a compelling reason is given, I feel inclined not to support suspending standing orders to proceed to the third reading right now.

**HON SIMON O'BRIEN (South Metropolitan)** [8.17 pm]: It has become a routine practice that governments become impatient to move to a third reading and we are constantly asked to suspend standing orders to allow that to happen. On all the occasions that happens, this is one occasion that members might permit it. The amendment is so incidental that it does not affect the fabric of the bill. I have always thought it prudent for the minister in charge of a bill, as their first recourse, to move that the third reading of the bill be made an order of the day for the next sitting of the house, and then it just comes on and would probably be dealt with without debate. But it does allow for a safety margin and this is recognised in our standing orders. There is a very good reason for having it. I say to all members here, regardless of the nature of this bill, that it should be an extraordinary thing that we suspend our standing orders. If we are going to keep doing this all the time, we ought to change the standing orders rather than keep suspending them just for this purpose when often there is no reason to do so, but it is also a very intemperate way of going about legislating.

We are in the hands of the government to some extent because it put the legislation upon us, and we do not want to be seen to be delaying the government's progress. Realistically, this does not delay anything. Less than 24 hours from now, or whenever it might be, I am sure that this bill will be third read by the house. Only the government has the capacity to say that some further tweaking needs to be done and it will seek recommittal of the bill. It is up to the government to do that if it wants. I ask the minister to very quickly reflect on what I have just said before deciding

to proceed with this motion. I think this is a good example of why it probably is not really necessary. The government will potentially place itself in jeopardy if it continues to pursue this course of action, and the house will not be grateful if the government has to take some other extraordinary measure in order to further amend the bill.

Question put and passed with an absolute majority.

*Third Reading*

**HON STEPHEN DAWSON (Mining and Pastoral — Minister for Environment)** [8.21 pm]: I move —

That the bill be now read a third time.

**HON AARON STONEHOUSE (South Metropolitan)** [8.21 pm]: I will not take up too much time, although I may reflect on what I suspect is the attitude that we spent too long on the Road Traffic Amendment (Immobilisation, Towing and Detention of Vehicles) Bill 2020. After all, it deals with such a simple matter, so why would we spend five and a half hours of the Legislative Council's time on such a trivial matter that apparently is so popular that a talkback radio segment or two will write government policy and normal consultation will be dispensed with? It is important that we consider this legislation. It is important for the almost dozen people who will lose their jobs as a result of the passage of this bill. At the very least, they deserve that we do our jobs properly, we scrutinise this legislation, we examine the policy and the clauses of the bill and we contemplate the intended or unintended consequences of the bill. I have tried to do that. Obviously, I have concerns about the lack of consultation that was undertaken. I have concerns that this will result in the destruction of at least one business that has been operating for about 25 years, which employs seven full-time employees and about six part-time employees at any one time. I also have concerns about the imposition on the towing industry and the fact that prices will be fixed and that property owners will bear the cost of careless, reckless and irresponsible people parking where they do not have permission to park. I am also concerned that the bill does not necessarily do what it says on the tin. The government, in its press releases, media and coverage of this bill, has claimed that the legislation will ban wheel clamping. It will not ban wheel clamping. Wheel clamping will continue. It will continue to be used by local governments and various government agents in the course of their duties as a method of deterrence for illegal parking when it comes to recouping costs or unpaid fines, perhaps as the sheriff, or when law enforcement officers or others acting on behalf of the courts, issues an order from the courts to repossess property, for instance.

I do not support this bill. I think it is a sad day when this Parliament enacts and expedites legislation that results in the destruction of people's jobs and livelihoods.

*Division*

Question put and a division taken, the Acting President (Hon Robin Chapple) casting his vote with the ayes, with the following result —

Ayes (26)

Hon Martin Aldridge	Hon Colin de Grussa	Hon Michael Mischin	Hon Dr Steve Thomas
Hon Ken Baston	Hon Sue Ellery	Hon Simon O'Brien	Hon Colin Tincknell
Hon Jacqui Boydell	Hon Diane Evers	Hon Samantha Rowe	Hon Darren West
Hon Robin Chapple	Hon Donna Faragher	Hon Robin Scott	Hon Alison Xamon
Hon Tim Clifford	Hon Nick Goiran	Hon Tjorn Sibma	Hon Pierre Yang ( <i>Teller</i> )
Hon Peter Collier	Hon Laurie Graham	Hon Matthew Swinbourn	
Hon Stephen Dawson	Hon Kyle McGinn	Hon Dr Sally Talbot	

Noes (3)

Hon Rick Mazza	Hon Charles Smith	Hon Aaron Stonehouse ( <i>Teller</i> )
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Question thus passed.

Bill read a third time and returned to the Assembly with an amendment.