

RAIL SAFETY NATIONAL LAW APPLICATION BILL 2023

Second Reading

Resumed from an earlier stage of the sitting.

MS C.M. ROWE (Belmont) [3.05 pm]: I wish to continue my contribution on the Rail Safety National Law Application Bill 2023, which is a very important bill. I will reiterate a few comments I made before we rose for the lunch break.

[Member's time extended.]

Ms C.M. ROWE: Because I have segued into climate change, I would like to reiterate how I got talking about climate change when we are discussing a rail safety bill. Yet again, I highlight the amazing work that our Labor government has done over six years of government to implement the most transformational rail network that our state has ever seen. We have already laid 72 kilometres of new rail. I will not go through all the Metronet projects again, but I will highlight that 18 Metronet projects are underway and six have already been completed, including two train stations in my electorate. We also have 12 other projects right across the metropolitan area. None of this would have happened under a Liberal government. We are really invested in rail.

Obviously, we want to ensure the safety of passengers and everybody involved in the rail industry. We do not want to see people injured or dying. I talked about how fatalities occur and how long it takes for trains to come to a standstill. A train takes something like the length of 14 football ovals to come to a standstill, so it is very difficult to manage situations if people trespass or accidentally find themselves in the way of a train, and that leads to fatalities. We also see awful instances of suicide. For those reasons, it is important to invest in rail and ensure safety.

When talking about this bill, I have two other reasons to highlight the importance of rail. One reason is that we currently see many people who are financially stressed and stretched by food insecurity and rising cost-of-living pressures. They are real. I see these people every single day when they come into my office to talk about how hard it is to meet the rising costs of rent. Rent is going up at astronomical rates. I see this day in, day out. Having a functional, reliable and interconnected rail system that links people to employment opportunities is essential. It is also essential for public transport to be an affordable way for people to get to and from their employment.

The second reason that I think rail is really important and that, with the indulgence of the house, I will be spending a large part of my remarks focusing on, is the positive environmental impact of rail. It provides people with an opportunity to go about their day-to-day lives without having to rely on cars and motor vehicles. I want to talk about this because unfolding before our eyes is a situation that we have not seen before. This has been predicted by many scientists, and that is nothing to crow about. From their point of view, their predictions of global warming coming to fruition are awful. It is truly horrific. I was quoting from an article in *The Washington Post* just before the lunch break. I will just reiterate what the Secretary-General of the United Nations said recently. It created quite a wave when he stated —

“The era of global warming has ended; the era of global boiling has arrived,”

...

“Climate change is here. It is terrifying. And it is just the beginning,”

The same article includes statements from Piers Forster, who is a professor of climate physics. I am not even sure I know what that means, but he is understandably an expert. He is from the University of Leeds in England and is also the chair of Britain's Climate Change Committee. He stated —

The changes are “extreme, but these are exactly in line with our predictions,” Forster said. “This is what we told people would occur 20 years ago, and it's occurring.”

The UN has labelled this as a “code red for humanity”. If anybody needs to be convinced, they clearly have not read a newspaper. However, assuming that some people are still unsure whether this is really as bad as what the UN is saying, I will read an article from *The Guardian* entitled “‘Era of global boiling has arrived,’ says UN chief as July set to be hottest month on record”. I will provide this all to Hansard. It simply talks a little bit about how July was the hottest month on record since before industrialisation. Temperatures have gone up 1.5 degrees. It does not sound like a lot, but it is incredibly significant when thinking about how fragile ecosystems are. It is incredibly dangerous and impactful.

If we take a glance around the world at what transpired over the European summer in Greece, the fires in Italy and all over the world in Europe and Canada, we can see that the photos speak louder than words. They are truly devastating. A professor of climate science from the University of Melbourne stated —

“Climate science's projections are pretty robust over the last decades. Unfortunately, humanity's stubbornness to spew out ever-higher amounts of greenhouse gases has also been pretty robust,”

We obviously have seen these increasingly severe weather impacts. These have been long signposted—we know that. The scientists are all saying, “This is what we predicted”, but we continue to have our heads in the sand. Although this year has been eye-opening in terms of the catastrophic heatwaves and fires resulting from increasing temperatures around the globe, scientists are saying—I am going to use layman’s terms—that this is going to be the norm and average going forward.

I will quote another article from *The Guardian* entitled “‘Off-the-charts records’: has humanity finally broken the climate?” That is a very interesting prospect and one that I think we should all ponder in this place as legislators. I am going to quote from Piers Forster, whom I quoted earlier. He is from the University of Leeds. He stated —

“July has been the hottest month in human history and people around the world are suffering the consequences,”

...

“But this is what we expected at [this level] of warming. This will become the average summer in 10 years’ time unless the world cooperates and puts climate action top of the agenda.”

Many scientists have been particularly blunt about this. Natalie Mahowald of Cornell University stated —

“What we are seeing this year is just the tip of the iceberg, so to speak, of what we expect to happen.” Meinshausen said: “If we do not halt global warming soon, then the extreme events we see this year will pale against the ones that are to come.”

The other thing that happened this week to further cement the catastrophic situation that we are now seeing was the death of thousands of emperor penguin chicks in Antarctica. I know that that might sound like an interesting thing to talk about; I am an animal lover, but someone does not have to be an animal lover to recognise that this is indicative of how serious the problem is. On this issue, the *New York Times* stated —

Sea ice levels around Antarctica in 2023 are likely to reach record low levels by a wide margin. This sudden drop has alarmed scientists and has some speculating that Antarctic sea ice is entering a new, unstable state.

That was something that really distressed me to read about. In fact, I believe it was thousands of emperor penguin chicks that died. Another article from *The Guardian* entitled “Emperor penguins: thousands of chicks in Antarctica die due to record-low sea ice levels” stated —

... record-low sea ice levels that caused a “catastrophic breeding failure”

It then went on to state —

About 30% of the known 62 emperor penguin colonies in Antarctica have been affected by partial or total sea ice loss since 2018.

This has been the result of our climate inaction in only a few short years. When I say “our”, I mean globally. This is a major problem that the world is facing. Dr Jeremy Wilkinson is a sea ice physicist—I did not know such a thing existed before reading this article—and he is with the British Antarctic Survey. He stated —

... the research “dramatically reveals the connection between sea ice loss and ecosystem annihilation”.

Another scientist in the same article stated —

“What’s most devastating for me is that we know this will get worse before it gets better. This is the trajectory that we are on.

“It’s only by changing our behaviour and the amounts of fossil fuels we use will we reverse the trajectory for these emperor penguins, and many other species.

“How bad it gets is still up to us.”

I think that is something that we all need to reflect on and take on board, especially as legislators. I think we are doing great work in Australia and I am so relieved that we have a federal Labor government. We all know that there was a major environmental report that the Morrison government simply ignored; it sat on its hands and did not release it. When Labor got into government, it released that report. It showed that the health of the Australian environment was deteriorating at a really rapid rate.

I will just touch on some of the things that have occurred. One is that since 2016, 202 animal and plant species have been listed as threatened. This is really significant. We are seeing a major depletion of native species. One of the major contributing factors was the massive bushfires seen in 2019, which apparently killed and displaced over a billion animals. I think that paints a pretty clear picture. Global warming is happening and it is a massive issue facing all of humanity. There is no planet B. We need to be doing everything that we can at every level of government to address this.

I know that I have taken members on a bit of a tangent when speaking on this bill, but I think bills like this can be really helpful. Whether or not that was the intent of the bill, what we do as a government by providing people with the opportunity to travel to and from work and to get to other commitments that they have in their life in a way that does not have an extensive carbon footprint is really impactful. I am very grateful that our minister and Deputy Premier are doing so much in so many ways. I know our cabinet is really committed to looking under every policy nook and cranny to see how it can contribute to ensuring that we are doing our bit to address climate change.

On that note, it has been a rather bleak contribution, but I commend this bill to the house.

MS K.E. GIDDENS (Bateman) [3.20 pm]: I am also pleased to make a brief contribution to the Rail Safety National Law Application Bill 2023. Before I begin my contribution, I acknowledge the member for Belmont. She is very passionate about climate change, in particular; this is a passion shared by many of us in this chamber, including me. She made the extremely valid point that our rail network is a very low emissions way to transport people. It is not only socially and economically a just means of transport, but also has an effect on our carbon footprint. She made a very important contribution to the debate in that regard.

I think that our railways are as strategically important now in 2023 as they were in 1917 with the opening of the Trans-Australian Railway, which first linked Western Australia to the east by rail. Our rail network in a trading state like Western Australia is important not only for the movement of goods, but also it supports our economic growth. We heard from the member for Scarborough about the railcars that carry thousands of tonnes of iron ore from the Pilbara to our ports, fuelling not only the economy of this state, but also the nation, and the incredible technology that has gone into things like driverless railcars. Western Australia is not a mining state as much as it is an innovation state.

The contribution of rail to our economy cannot be overlooked. This was perhaps brought home to us just last year, in 2022, when we had significant rain throughout the outback, the impact of which affected not only the Kimberley, but also our rail link to the east, when the rail line was washed out between South Australia, Western Australia and the Northern Territory. In the few weeks that the rail line was washed out, we saw the impact it had on our ability to move groceries across the country. Although air travel is a brilliant invention and great for carrying people, it is not the most cost-effective means of conducting trade. Regardless of how technologically advanced we become, our rail network remains a significant piece of economic infrastructure in our state and this country. With that in mind, anything that contributes to the safety, confidence or efficiency of that mode of transport is very welcome.

Given that my colleagues have already made excellent contributions about the nature of this bill, I will just provide a very brief summary. This bill follows a 2011 decision of the Council of Australian Governments to establish a national system of rail safety regulation. I just highlighted one of the reasons that is really important. South Australia was appointed to be the host jurisdiction of this legislation. In 2012, it passed the Rail Safety National Law (South Australia) Bill 2012. At the time, the Barnett government elected to implement the Rail Safety National Law (WA) Act 2015 using mirror legislation, which then required the Western Australian Parliament to pass laws that mirrored those passed by South Australia. As others have noticed, since 2015, eight legislative amendment packages have been passed in South Australia that have not yet been adopted here in Western Australia. This bill will do the work that arguably should have been done in 2012 to ensure that there are no legislative inconsistencies between the jurisdictions and to achieve that goal of national uniformity.

Obviously, speaking to the name of this bill, which is rail safety, the bill also seeks to make it extremely clear that the jurisdiction for drug and alcohol testing is and will continue to be conducted using Western Australian practices, thereby giving the Western Australia Police, in particular, the right to conduct those tests. Alcohol and drug use on our roads has been a major focus of road safety campaigns. There were 29 000 drug and alcohol tests conducted on rail drivers between 2015 and 2022. That is quite a large number. I am not good with maths. That is definitely 29 000. A total of 954 were found positive for drugs and 895 were found positive for alcohol. Although that is a very small percentage of the sample taken, we can all agree that anything we can do to strengthen a zero approach to drug and alcohol use on our rail network will improve our confidence and the safety of that network.

We have had some great contributions. The member for Collie–Preston talked about her electorate’s links to rail, with the history of the naming of the *Australind*. I could not help but reflect on *Boaty McBoatface* and the wonderful campaign that led to its naming. Maybe we need a “Train McTrainface” in Western Australia!

In reflecting on my electorate’s connection to rail, and the impact of rail safety in particular, I am going to talk about a road—Leach Highway. Members might ask: what is the connection between Leach Highway and this bill? Our transport modes do not operate in isolation. It is really important that our rail network is well connected to our port networks and our port networks are connected to our road networks. Leach Highway runs through my electorate and carries a large volume of truck traffic to Fremantle port. When I was elected in 2021, one of the key issues raised with me both throughout the campaign and afterwards when I surveyed my community was traffic on Leach Highway, particularly because of its size and the presence of trucks on that road. Thanks to the investment of the then McGowan government since 2017, and now ongoing investment by the Cook Labor government, the

issue has been addressed in a number of significant ways. The first relates to freight on rail. We heard from the Deputy Premier; Minister for Transport today in question time about the outrageous way in which the Nationals WA and the Liberal Party significantly decreased our capacity of freight on rail in this state. Since 2017, this government has made a huge investment in freight on rail, which has had the consequence of removing tens of thousands of truck movements directly out of my community in Bateman directly off Leach Highway onto rail, creating not only better traffic flow, but also a much safer environment.

It is not just about freight on rail; it is also about the way the road operates. I want to talk about some of those investments by the Labor government since 2017 and go through some of them in detail. I was at a small business forum the other day with the federal Minister for Small Business, Julie Collins, and my friend and federal colleague Sam Lim, the member for Tangney. It was hosted by the Blue Gum Park Tennis Club, a club that I love. It is a great community club. It was the middle of the day and games were being played. We enjoyed the beautiful spring weather. One of the tennis players stopped his game, jogged over to me and said, “Remember that you promised: don’t forget about Leach Highway.” I said, “I haven’t forgotten. Don’t worry. We’re working on it.” These are some of the things that have happened. We have seen over \$2.2 million worth of investments in a number of upgrades, including Leach Highway. Is the Welshpool Road interchange in the member for Victoria Park’s patch?

Ms H.M. Beazley: Yes, it is.

Ms K.E. GIDDENS: Yes, so the member knows very much about that. There has been significant investment. There has been huge investment in the upgrade of Stirling Highway and the interchange at the end of what was the old High Road in the electorate of my other neighbour the member for Bicton.

More specifically to my patch, there have been a number of investments in local infrastructure. They include an upgrade to the Leach Highway–Moolyteen Road intersection. This intersection was upgraded to allow another left-hand lane to get more traffic off Leach Highway to prevent the build-up of cars wanting to turn. There was the installation of partial traffic lights at the intersection of Leach Highway and Norma Road, allowing a right turn into Norma Road from Leach Highway and Myaree. There was an upgrade to the intersection of Leach Highway and Rome Road, including the construction of a median island on Rome Road and Leach Highway to prevent right turns from Rome Road onto Leach Highway. There are a number of others, and I will get to them shortly.

Before I do, I want to talk about safety on Leach Highway because since 2017 that there has been a reduction in road vehicle crashes. That is a great trend to see. However, there have been slightly more truck crashes. I acknowledge that the interaction of cars and trucks on Leach Highway is of concern to people in my electorate. Apart from the road upgrades, there is a significant plan to ultimately remove trucks from Leach Highway. I will not say forever; there will always be movement into those industrial areas, but getting the large volume of freight trucks out of our electorate will be the plan for the outer harbour. Of course, work on that is steadily underway and this government has committed to getting that work done. It makes sense. The Anketell–Thomas Road link is an obvious choice to take heavy traffic out of the suburbs of my electorate to the industrial zone and to a new modern port where we can continue to be one of the best exporting states in the world.

I like to keep my contributions in this place positive, but I have to point out some the things I anticipate the Liberal Party might claim in the lead-up to the 2025 election. History and the Liberal Party’s behaviour in the past is a strong indicator of the future. I note that in several election campaigns the Liberal Party campaigned for Roe 8 and Roe 9 and did not support the McGowan Labor government’s decision on that at the time. It is a complex issue. Again, I have had feedback from my community that it did not want trucks on Leach Highway, so there was a degree of support for getting that road extension. But, of course, a bad solution is a bad solution. As I said, the Labor government is working towards a good solution, and that good solution is the outer harbour. Just how seriously did the Liberals take this, having campaigned on it in several elections? In the 2021 state election—members might remember this one because it was a curious event indeed—the Liberals committed \$135 million out of a required amount of more than \$700 million to finish Roe 8. This party campaigned on this issue on numerous occasions and said it was serious about it, but then committed only \$135 million of the \$700 million required. I have to ask just how seriously the Liberal Party took that commitment.

Again, in 2022, the then member for Tangney, Ben Morton, ran a petition just barely outside my patch. He called for a flyover and significant upgrades to Stock Road and Leach Highway. That might seem reasonable, as he was representing his community and was getting together names on a petition, but the curious thing was that the member for Tangney was a member of the federal Liberal government and had been in the federal Parliament since 2013. He had been part of a Liberal–National federal government for almost 10 years, and in 2022, in the lead-up to the state election, Hon Ben Morton, MP, was getting signatures on a petition for investment in infrastructure. That is curious because he was in government. Again, if he had been serious, he could easily have made that commitment, especially noting at the time his special position of Assistant Minister to the Prime Minister and Cabinet.

I would rather talk about what we are doing, but that is worth pointing out because it will come up again. Promises, squeaks and noises will be made, but the record of the Liberal members on this issue is that they talk the talk, but do not walk the walk.

I turn to the return of freight on rail and in particular to the comments of the Deputy Premier; Minister for Transport in question time today. I have some figures here about rail. Over 20 per cent of freight volume is now, in 2023, carried on rail to Fremantle port. As the Deputy Premier; Minister for Transport noted, that is an increase from under 10 per cent when we took over government from the Liberals in 2017.

I conclude by saying that rail continues to be significantly and strategically important infrastructure. It is supported by this government, not only in terms of the very significant investment in Metronet, as mentioned by many members, with 18 programs and 27 kilometres of new line, but also the less sexy freight on rail. With that, I conclude my comments and commend this bill to the house.

MS E.J. KELSBIE (Warren–Blackwood) [3.36 pm]: I rise today in support of the Rail Safety National Law Application Bill 2023, which will apply the Rail Safety National Law, with modifications, as the law of Western Australia and repeal the Rail Safety National Law (WA) Act 2015 and subsidiary legislation.

The potential for rail gets raised pretty consistently and often with me as the member for Warren–Blackwood. I have been working alongside a community group from Balingup, the Balingup Rail Group, which is a passionate, dedicated group from Balingup that is proactive in its advocacy to get road transport onto rail. It was established to examine and report on two issues: first, the possible use of the south west train line between Bunbury and Bridgetown to replace road transport of lithium ore; and, second, the prospect of establishing a tourist rail service between Bunbury and Bridgetown if the use of the line becomes available. I have met this group quite a few times. They are a passionate bunch. The group's website states —

The argument for re-opening the rail line extends beyond the interests of Balingup and is a proposal for the use of State infrastructure for the benefit of the whole of the South West.

Judging by a lot of the commentary and meetings in my electorate, plenty of people would agree with the group. I was particularly pleased to stand alongside the Minister for Regional Development recently to announce the commencement of a joint government and industry feasibility study into the recommissioning of the Greenbushes–Bunbury railway line. The state government, through the South West Development Commission, has allocated \$3.3 million to conduct the study, which is also being matched by \$3.3 million from Talison Lithium. The study will be led by Talison Lithium, which operates one of the world's most important lithium mines at Greenbushes. My colleague the member for Collie–Preston and I met for dinner with the CEO, Lorry Mignacca. We talked about this important study and accommodation projects in the town of Bridgetown and Greenbushes. With the demand for lithium continuing to rise globally and with production from Greenbushes expected to rise to more than two million tonnes in the coming years, both industry and government have determined that it is appropriate to go to the next stages. Talison Lithium will work with Arc Infrastructure, the state government and me, as the local member, on community consultation, and look at a detailed assessment of the engineering requirements to bring that railway line back into operation. It has been 15 years since that rail line has been active, and if it is reactivated, it will remove about 200 trucks a day from the road. The benefits from recommissioning the line would include improved road safety, job creation and support for local industries. As mine production increases, we will see more trucks on our roads. With production levels of more than two million tonnes, that equates to 70 000 truck movements along the South Western Highway each year.

I move on to talk about Bridgetown and Greenbushes. Bridgetown has a strong history of rail. The official opening of the railway station in Bridgetown was booked for early October 1898, but regrettably no dignitaries or parliamentarians from Perth could make it, so it had to be postponed until December 1898. The first train arrived in Bridgetown in July 1898. One of my election commitments, which I am very proud to have delivered, involves the Bridgetown historical rail line. My commitment was for \$200 000 to support the revitalisation of the two historic railway station buildings in Bridgetown and Greenbushes. It was to include the refurbishment of the old Bridgetown railway station, which is an absolutely beautiful and iconic space in the centre of the town, to provide a mixed-use space with a commercial and retail community hub. The other part was to relocate and redevelop the old Greenbushes railway station to create an interactive heritage display module at the Greenbushes Discovery Centre. I am pleased to say that the refurbishment of the Bridgetown railway station is now complete and the redevelopment of the Greenbushes railway station is due to start in mid-September. I believe that the Shire of Bridgetown–Greenbushes signed up its builder just this week. The project will involve the relocation of the historic station building from North Greenbushes to Greenbushes. It is expected to take about three months to complete to lock up. The internal refurbishment will commence and then it will become an interpretation centre as part of the new Greenbushes Discovery Centre.

This weekend, along with Minister Templeman, I am pleased to be attending the Royal Western Australian Historical Society's 58th State History Conference of Affiliated Societies, hosted by the Bridgetown Historical Society. On

Saturday morning we will open the conference that has the theme of “Moving Forward Looking Back”. I am particularly looking forward to the presentation by Philippa Rogers titled “WA Railway history to Bridgetown”. I believe that Philippa is a historian and heritage officer with a fascination for Western Australian history, but with a particular interest in railway history. I believe she is the curator of the Bassendean Railway Museum, so I am pretty excited to listen to what she has to say and to hear more about the history of Bridgetown and its connection to rail.

I return to the Rail Safety National Law Application Bill 2023. Historically, every state and territory regulated its railways independently, resulting in many inconsistencies between jurisdictions and also inefficiencies for industry. This bill will minimise legislative inconsistencies related to rail safety and support the timely application of rail safety amendments so that rail operations are regulated consistently and seamlessly across Australia. This will provide greater certainty for rail operators, rail safety workers, and the national rail safety regulator and investigator, which will encourage industry participants to better understand their shared responsibility and accountabilities. I commend the bill to the house.

MS M.J. HAMMAT (Mirrabooka — Parliamentary Secretary) [3.45 pm] — in reply: I rise to give the second reading reply on behalf of the Minister for Transport and to close off this second reading debate on the Rail Safety National Law Application Bill 2023. I want to start by thanking everyone who has contributed to this second reading debate. I always enjoy it when we debate a bill related to rail. There are so many passionate contributions by people who enjoy speaking about rail projects and the history of their rail lines. To reiterate the purpose of this bill, it will apply the Rail Safety National Law, with modifications, as the law of this state and repeal the Rail Safety National Law (WA) Act 2015 and subsidiary legislation. I thank the Leader of the Opposition for his contribution to the second reading debate, including his acknowledgement of the importance of this legislation in supporting rail safety in Western Australia. I also acknowledge and thank the Leader of the Opposition for indicating the opposition’s support of the bill, notwithstanding the fact that there are some matters to talk about in consideration in detail.

I want to address some of the questions raised by the Leader of the Opposition in his second reading contribution. Firstly, I confirm that this bill will be considered by the Standing Committee on Uniform Legislation and Statutes Review. The member also asked whether the Toodyay Miniature Railway will be captured by this legislation. I do not want to provide specific advice on that operation because I have to confess that I am not familiar with it, but I understand that it is operated by a local hobby organisation and I can advise that section 7 of the Rail Safety National Law (South Australia) Act provides for a power to exclude certain railways from coverage of the national law. Regulation 7 of the national regulations prescribes particular railways and classes of railways to which the law does not apply. I also advise the Leader of the Opposition that no further amendments have been made to the Rail Safety National Law since 20 June 2023, and that none is proposed before we anticipate passing this bill. In relation to the member’s questions about how proposed amendments are agreed upon, I advise that amendments require the unanimous agreement of the ministers of the Infrastructure and Transport Ministers’ Meeting, as set out in the Intergovernmental Agreement on Rail Safety Regulation and Investigation Reform. Those amendments are then legislated in the South Australian Parliament. The member also spoke more generally about rail safety, particularly around level crossings in regional WA. Although this bill does not specifically deal with level crossings, a matter that is not strictly relevant to the content of the bill before us, I affirm this government’s commitment to rail and road safety. I draw the member’s attention to our government’s commitment to upgrade 87 passive level crossings on public roads in regional WA, including the installation of flashing light controls at 13 crossings and the replacement of Give Way signs with Stop signs at 74 crossings. This will mean that no level crossings will be controlled by Give Way signs on public roads in WA, which will be an important safety achievement.

I also thank all government members for their contributions. I thank the member for Southern River, who can always be relied upon for a colourful contribution. In his contribution to this debate, he acknowledged the community benefits of government investment in rail infrastructure, particularly through Metronet. The member for Bassendean in particular talked about safe workplaces and work practices and the important role that unions play in achieving that. The member for Thornlie gave a very considered contribution explaining the difference between mirror law and applied legislative mechanisms with an interesting historical perspective. I confirm for the member for Thornlie that this bill will cover all railway operations, both government and privately owned, and, in particular, Arc Infrastructure, to which he referred in his second reading contribution. Arc Infrastructure is an accredited rail infrastructure manager and rolling stock operator and is required to comply with all requirements of the Rail Safety National Law.

I thank the member for Collie–Preston, who highlighted heritage work being done on railways throughout WA. The member for Cockburn raised a number of issues that he is advocating for on behalf of his constituents. He also mentioned Neil Byrne and I thank him for that because I also have fond memories of Neil Byrne speaking to me about the Midland Railway Workshops. I thank the member for Willagee for his contribution. He noted the significant number of drug and alcohol tests undertaken by the Office of the National Rail Safety Regulator to monitor the capacity of rail safety workers to carry out their work safely. I thank the members for Churchlands and Kalgoorlie for their support and the issues they raised. I also thank the member for Kingsley for noting the government’s commitment to rail safety and, again, level crossings in particular.

The Member for Scarborough highlighted the importance of rail in creating connectivity and, again, as he frequently does, passionately advocated for his community of Scarborough. The Member for Victoria Park detailed the deficiencies in the mirror law approach and very clearly highlighted the benefits of adopting an applied legislation approach to national uniform laws, as proposed by this bill. The member for Belmont, who is always a passionate advocate on a range of issues, highlighted the connection between public transport, rail and climate change. The member for Bateman highlighted interactions between rail and road, particularly trucks. I thank the member for Warren–Blackwood for her contribution in which she highlighted the historical and community importance of railways, particularly in the south west.

In concluding the debate, I thank government and opposition members for their contributions to the second reading debate and for their support of the Rail Safety National Law Application Bill 2023. The bill will provide for greater consistency with the Rail Safety National Law as it applies in this state and will ensure that Western Australian rail operators and rail safety workers benefit from the efficiencies of a consistent and seamless national rail safety regime. I commend the bill to the house.

Question put and passed.

Bill read a second time.

[Leave denied to proceed forthwith to third reading.]

Consideration in Detail

Clause 1: Short title —

Mr R.S. LOVE: Deputy Speaker, I understand we can ask a couple of general questions at clause 1.

The DEPUTY SPEAKER: We will see how you go!

Mr R.S. LOVE: I have not conducted consideration in detail on a transport bill with the parliamentary secretary before, so I congratulate her upon her first bill.

Also, I wonder whether someone could consult standing orders to see whether it is acceptable for a former staff member of the Legislative Council to appear! I note the presence of Nigel Pratt, and welcome him back to Parliament.

The DEPUTY SPEAKER: We will take that on notice!

Mr R.S. LOVE: The Rail Safety National Law Application Act 2023 is the short title. The parliamentary secretary made comment in this regard. I asked a question after a statement was given in the briefing about the necessity for all transport ministers to agree to amendments to the South Australian law before the amendments could happen. Is that reflected in the legislation; and, if so, where is it reflected?

Ms M.J. HAMMAT: It is not in the bill as such, but the requirement to get the agreement of that group is in clause 4 of the intergovernmental agreement.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Application of National Law as law of the State —

Mr R.S. LOVE: Clause 5(1) reads —

Rail Safety National Law means the Rail Safety National Law set out in the Schedule to the *Rail Safety National Law (South Australia) Act 2012* (South Australia) as in force on 20 June 2023, as amended by —

It gives a list of things after that. Clause 5(2) reads —

The Rail Safety National Law —

- (a) applies as a law of the State; and
- (b) as so applying, may be referred to as the *Rail Safety National Law (WA)*; and
- (c) so applies as if it were an Act.

A change possibly could not happen without the agreement of the Western Australian Minister for Transport, as the parliamentary secretary just outlined, but would a change occur if an amendment were made to the South Australian law post June 2023? Would some process be needed insofar as that change would need to be laid before Parliament or would it be dealt with in some other way?

Ms M.J. HAMMAT: Can I clarify that the member means a change that happens before this bill has gone through both our houses of Parliament? Is that the change the member is referring to or a change subsequent to this bill being adopted by our Parliament?

Mr R.S. LOVE: To be clear, I refer to subsequent to 20 June 2023—that period before the commencement of the Rail Safety National Law as Western Australian legislation.

Ms M.J. HAMMAT: Amendments that received royal assent in South Australia after 20 June 2023 but before the commencement day for this WA act will have a commencement day as the date determined by proclamation—and they will be subject to the disallowance provisions of this act.

Mr R.S. LOVE: To be clear, is it the commencement date of those provisions?

Ms M.J. Hammat: Yes.

Clause put and passed.

Clauses 6 and 7 put and passed.

Clause 8: Disallowance of amending Acts —

Mr R.S. LOVE: This provision relates to disallowance of amending acts. I am trying to get an explanation on a couple of things. Clause 8(3) reads —

For the purposes of this section and section 7 —

- (a) the period specified in section 7, a notice period or a disallowance period continues to run even though a House of Parliament is prorogued or dissolved or expires ...

Could the parliamentary secretary run through what that will mean in reality or what would happen once the next Parliament is initiated?

Ms M.J. HAMMAT: I am advised that, ordinarily, the notice period would end when Parliament is prorogued for an election, but this provision will ensure that that will not happen. This provision will ensure that the disallowance period will continue beyond the proroguing or dissolution of Parliament. Over the page, subclause (3)(b) addresses that.

Clause put and passed.

Clauses 9 to 11 put and passed.

Clause 12: Application of National Regulations as subsidiary legislation —

Mr R.S. LOVE: We are now dealing with the regulations that are made under the national system and the application of national regulations as subsidiary legislation. Are the processes for all the matters of disallowance and the application of various regulations and any amendments that occur exactly the same as those for the legislation, or are there differences between the two processes?

Ms M.J. HAMMAT: I am advised there is a small difference in changes to the act and changes to the regulations. When a disallowance process applies to an amending act, the disallowance process will happen before the act comes into effect. The changes to regulations will come into effect and then the disallowance process will occur.

Mr R.S. LOVE: Is the application of the national regulations, as they stand at the moment, set at a particular time? I noticed in the legislation that the date of 20 June was given. Will that apply to the regulations as well or just to the legislation?

Ms M.J. HAMMAT: It is the same operational date, 20 June, for both the regulations and the act.

Clause put and passed.

Clauses 13 to 19 put and passed.

Clause 20: Exclusion of legislation of this jurisdiction —

Mr R.S. LOVE: Clause 20, “Exclusion of legislation of this jurisdiction”, states —

- (1) The *Interpretation Act 1984* does not apply to the *Rail Safety National Law*.

...

- (2) The following Acts of this jurisdiction do not apply to the *Rail Safety National Law* ... or to the instruments made under the Law (except as applied under the Law) —

- (a) the *Auditor General Act 2006*;
- (b) the *Financial Management Act 2006*;
- (c) the *Freedom of Information Act 1992*;
- (d) the *Parliamentary Commissioner Act 1971*;
- (e) the *Public Sector Management Act 1994*;
- (f) the *State Records Act 2000*.

Can the parliamentary secretary explain why these acts will be excluded from operation? After the parliamentary secretary has done that, I might ask another question depending on the answer I get.

Ms M.J. HAMMAT: The exclusions will ensure that a consistent regulatory framework is applied right across Australia. These acts will be excluded and in their place corresponding legislation in South Australia will apply, so there is a structure that will allow for those same objects to be met but using the legislation of the South Australian Parliament. These exclusions, I am advised, are in the 2015 legislation, so the exclusion of the WA acts and the operation under the corresponding South Australian legislation has been in place since the bill was passed in 2015.

Clause put and passed.

Clauses 21 to 24 put and passed.

Clause 25: When rail safety worker is not obliged to comply with requirement —

Mr R.S. LOVE: I have selected this particular clause, but there are a number of similar provisions throughout the bill. Perhaps the parliamentary secretary can explain something to me here. This clause is about when a rail safety worker is not obliged to comply with the requirement to submit to alcohol testing and so on. It states —

- (1) A rail safety worker who is on railway premises after carrying out rail safety work is not obliged to comply with a requirement made under the *Rail Safety National Law* ... section 126(1) if —
 - (a) the worker is not involved in a notifiable occurrence; and
 - (b) more than 12 hours have passed since the worker finished carrying out the work.
- (2) A rail safety worker who is involved in a notifiable occurrence is not obliged to comply with a requirement made under the *Rail Safety National Law* ... section 126(1) if —
 - (a) more than 12 hours have passed since the worker was involved in the occurrence; or
 - (b) the worker —
 - (i) has finished a shift during which the worker carried out rail safety work; and
 - (ii) has left the place where the worker finished the shift; and
 - (iii) was unaware of the occurrence when the worker finished the shift.

Can the parliamentary secretary explain the rationale behind those provisions and why the period of 12 hours has been accepted? Perhaps there are already similar provisions in the current law—I fully expect this—but can the parliamentary secretary explain what is behind those exclusions and provisions?

Ms M.J. HAMMAT: I am advised that the provision of 12 hours and 12 hours having passed is consistent with section 66 of the Road Traffic Act 1974, which deals with police powers to require breath or blood samples, so it is already part of our legislative framework. The second part about the worker finishing their shift and leaving their place of work is about the fact that the worker has finished work and left the premises, so they will not be covered by the scope of those provisions.

Mr R.S. LOVE: If we go back to that answer, clause 25(1) refers to a worker who is on railway premises after carrying out rail safety work and is not obliged to comply with a requirement when “more than 12 hours have passed since the worker finished carrying out the work”. Presumably, this refers to a worker who is resident on some sort of rail system? Is this a driver who might be sleeping on the train? I am trying to understand why that 12-hour system applies in both circumstances, whether or not the worker has left the premises.

Ms M.J. HAMMAT: Subclause (1) deals with a worker on railway premises and it contains the provisions around 12 hours of work. It is not necessarily easy to think of circumstances in which someone might have completed their 12-hour shift and still be on the premises—maybe someone returned to work. The clear intention of the clause is that if there is a notifiable incident and less than 12 hours has passed, that person will be subject to the drug and alcohol testing provisions. The incorporation of the 12 hours is consistent with the approach the government takes in the road safety legislation I mentioned earlier.

Clause put and passed.

Clauses 26 to 28 put and passed.

Clause 29: Breath analysis indicates prescribed BAC —

Mr R.S. LOVE: Is there any provision in the legislation at any point to allow a person who has had an indication of blood alcohol content to then get a blood test or to allow the person to seek further testing if there is some doubt or they dispute the outcome? It might be tied up with clause 43, which refers to the collection of evidence, but could the parliamentary secretary explain whether a person who was close to or just over the limit of the prescribed amount would be allowed to have another test—perhaps a blood test—to indicate exactly what the situation was?

Ms M.J. HAMMAT: I am advised that there is nothing in the legislative framework that would allow a worker to require a subsequent test, but there would be nothing to prevent them from going to their own medical practitioner and getting their own test conducted.

Mr R.S. LOVE: If the provisions are intended to be reflective of those in the Road Traffic Act, are there not provisions in the Road Traffic Act that provide such a recourse for that person? I thought there was, but I could be wrong. If it is to be consistent, surely it should be included.

Ms M.J. HAMMAT: I am advised that under the Road Traffic Act, if there is a positive breath test, that is the reading that is used. It is taken as the final test, for want of a better description. In the event that the blood alcohol test is a blood test, there is the capacity for that person to get a B sample of their blood, which they can then have tested independently. I am advised that the same provision will apply under this legislation.

Mr R.S. LOVE: Without getting the Road Traffic Act out and studying it, can the parliamentary secretary unequivocally state that these are exactly the same provisions that apply under the Road Traffic Act? I am not sure about it, so I ask for that unequivocal affirmation.

Ms M.J. HAMMAT: I am advised that I am not here with experts on the Road Traffic Act. Our understanding and the advice I have is that the scheme is, in general, the same as the scheme that operates for road traffic offences. The intention of the bill is to carve out that particular section of legislation so we can have consistent standards. The advice I have been given is that it is broadly intended to operate in the same way as the current road traffic provisions.

Mr R.S. LOVE: Thank you. Perhaps that might be investigated before the bill goes to the other place, because the same question will be asked there. I hope the answer is more unequivocal on that occasion.

Clause put and passed.

Clauses 30 to 58 put and passed.

Title put and passed.

[Leave granted to proceed forthwith to third reading.]

Third Reading

MS M.J. HAMMAT (Mirrabooka — Parliamentary Secretary) [4.22 pm]: I move —

That the bill be now read a third time.

MR R.S. LOVE (Moore — Leader of the Opposition) [4.22 pm]: I would like to thank the parliamentary secretary for the answers given in consideration in detail. I thank the advisers for their time in coming along and spending a fair amount of time here today only to answer a few questions, but I think we explored some interesting concepts in some questions.

We had the issue about whether the rail safety legislation matches exactly the Road Traffic Act provisions on blood testing for alcohol and drugs. As has been stated in the speeches, perhaps some nuances are different. It has been stated that is the case, but I am not sure that it is exactly. We will get some confirmation of that.

Otherwise, as I said in my second reading contribution, the opposition supports the legislation. I do not think it is controversial. We have been given a further understanding of the Parliament's ability to disallow provisions and the process that has to be gone through before any changes are made under the Council of Australian Governments arrangements. With that, I will wind up my third reading contribution and commend the bill to the house.

MS M.J. HAMMAT (Mirrabooka — Parliamentary Secretary) [4.24 pm] — in reply: I rise to make a third reading contribution. I would like to thank everyone who has contributed to the second reading debate on the Rail Safety National Law Application Bill 2023. I thank the opposition, including the member for Moore, for its support for this important legislation. It has been heartening to see so many contributions from so many members. As I said earlier, I always love hearing people talk about the importance of rail and rail safety.

I will undertake to provide clarification on the point that the member for Moore raised during consideration in detail. I thank him for his consideration on that.

I thank my advisers at the table for their work. They are Charlie Marks, Melissa Bouvarie and Nigel Pratt from the Department of Transport. This bill has been a long time in the works, and lots of work has gone on behind the scenes. I appreciate the advisers' work and the work of everyone at the Department of Transport over what has been a very long period.

I would like to briefly summarise the purpose of this bill and outline why this change is required. The purpose of this bill is to apply the Rail Safety National Law, with modifications, as a law of this state and to repeal the Rail Safety National Law (WA) Act 2015 and subsidiary legislation. In 2011, the Council of Australian Governments endorsed

the Intergovernmental Agreement on Rail Safety Regulation and Investigation Reform and agreed to establish a national system of rail safety regulation and investigation.

In 2012, the Office of the National Rail Safety Regulator was established under the Rail Safety National Law in South Australia. Unlike other participating jurisdictions that applied the Rail Safety National Law as a law of their jurisdiction as it existed from time to time, Western Australia chose a more cautious approach and implemented the Rail Safety National Law using mirror legislation. In November 2015, Western Australia passed the Rail Safety National Law (WA) Act 2015. WA's mirror law approach requires the Parliament of Western Australia to pass laws that mirror those passed by the South Australian Parliament, and this has not proven effective in maintaining a seamless national rail safety system.

The bill will provide for greater consistency with the National Rail Safety Law as it applies in this state, and it will ensure that WA rail operators and rail safety workers benefit from the efficiencies of a consistent and seamless national rail safety regime.

With that, I commend the bill to the house.

Question put and passed.

Bill read a third time and transmitted to the Council.