

**TAXI AMENDMENT BILL 2003**

*Second Reading*

Resumed from 22 October.

**HON ALAN CADBY** (North Metropolitan) [10.09 am]: I last spoke in the debate on this Bill four weeks ago. Before the debate was adjourned I was talking about the current number of taxi plates, which is 1 114 or 1 115. That figure is made up of 924 conventional plates, 102 peak-period plates, 81 multipurpose plates and eight area-restricted plates. Hon Graham Giffard, as a result of his study, made the recommendation that those figures be changed, so there would be an increase of 28 conventional plates, 12 peak-period plates, four multipurpose plates and six area-restricted plates, which would give 1 164 taxi plates. The Government has chosen to take most of that recommendation on board and has moved for 1 162 new plates, the major difference being no increase in the number of area-restricted plates but an increase in the number of conventional licence plates.

It is quite clear to all of us that there will be a release of conventional taxi plates no matter what happens with this Bill. The Opposition realises that there is a need to increase the number of taxi plates, particularly for peak periods. I gave the example of my children who have to wait two or maybe three hours for a taxi at peak periods. In the end they usually give me a call and I must go to collect them. There is certainly a need for an increase in the number of taxi plates. The Government has talked about increasing the current number of taxi plates by 50. We know that this figure is not set in concrete and could be changed at any time at the whim of the minister. There has been no assurance that another 100 or even 250 extra taxi plates will not be released. Nothing in this Bill as it stands will stop that from occurring. Statements by the minister leave taxi plate owners rather confused and uncertain about the viability of their business, because, as I said, there is no guarantee that this Government, which we know is money hungry, will not flood the market with lease plates, so that it can play with its ideological views about how it should govern our State. As we know - it seems to be said by most people on this side of the House - any promise made by this Government is worthless. I think even the Government would accept that that is the case.

I notice that in the Bill there is a definition of plate holder rather than plate owner. Therefore, I ask the parliamentary secretary whether he can assure the industry that this change in title will have no bearing on plate ownership now or in the future, because there is no category for plate owner, only plate holder. To me, that is a difference, and I want an assurance from the parliamentary secretary that it will not affect the ownership of those plates.

The minister announced that the Government would not proceed with its plate buyback, whether voluntary or compulsory. However, the Opposition has a problem with the idea of flooding the market with government-owned plates. One of the problems is that it will simply devalue the current plates and undermine the economic viability of more than 1 100 small businesses that are currently involved in the industry. The Opposition's problem is that it believes current owners could be forced out of the industry as a result of this Bill, and it could be seen as the Government proceeding with recommendation 3 of the Giffard report by stealth; that is, buyback. One of the recommendations in that report - I think it is recommendation 9 - was that the balance must be right. Not too many plates should be released because of viability. It seems to me that the Government has not put anything in place that will safeguard that belief. Let us be honest. At the moment taxi operators are struggling for fares, and this will not help them at all.

Another matter relates to the leaseholders. Why would people buy a lease? They will have no capital equity to compensate for the long hours, no sick pay, no holiday pay, no long service leave and no superannuation. The only winner will be the Government, as it will be paid for the lease, and any increase in the value of the lease plates will go straight to the Government. In other words, the taxi driver will work for the Government without any of the normal benefits. In a way, if there could be a nationalised state industry, it is very reminiscent of that type of thing. Many taxi plate owners rely on the ownership of such plates as their nest egg for the future. If the market is flooded with government lease plates, the current taxi plate owners will suffer. That is why I believe Hon Peter Foss has put forward his amendment, which will limit the number of leases the Government can grant.

The Opposition will not support the Bill, but it supports the intention of providing the community with taxi services. The Opposition does not believe this Bill is in the long-term interests of owner-drivers or the taxi industry itself. It will have a detrimental effect on the way in which people invest in business, particularly in taxi plates. A balance must be achieved between protecting people's investments, protecting the industry and providing the appropriate standards and opportunities for people to get involved in the industry, while at the same time providing a safe and reliable taxi industry for the people of Western Australia. I am afraid this Bill falls a long way short of those goals.

Hon Alan Cadby; Hon Murray Criddle; Hon Jim Scott; Hon Ken Travers; Hon Peter Foss; Deputy Chairman

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**HON MURRAY CRIDDLE** (Agricultural) [10.15 am]: I will oppose this Bill. I have no time for it whatsoever, and I know the industry does not want it. The idea of lease back brings the Government into the operation of the taxi industry. We had WA Inc a few years ago, and here the Government is getting involved in what should be a private enterprise business. I have no time for this move whatsoever. From my point of view, it will put real fear into those people who already own taxi plates. It will undermine the value of taxi plates as they stand currently. The idea is to issue further conventional taxi plates for use throughout the week. I have some sympathy for multipurpose taxi plates being issued. However, the real issue is that there is a requirement on weekends for perhaps an extra 50 plates to be issued to cater for the peak periods. That could happen immediately. A monitoring process should be put in place to ascertain whether that is the number of plates required and how they are operating. However, from my point of view, the idea of issuing 32 conventional plates through a lease system, which will undermine the current private enterprise arrangements, will put pressure on the industry.

We have talked about the price of fares and the like. If pressure is put on the industry and people are lost from it, there will be a minimal service by an industry that has served Western Australia quite well. If members looked at the taxi industry in other parts of Australia, they would be quite impressed with the way in which the taxi industry operates in Western Australia. It provides a reasonable service.

The Bill is to amend the Taxi Act 1994 to enable the Government to lease 48 taxi plates. As I said, 32 of those will be conventional taxi plates, four will be multipurpose plates and 12 will be peak-period plates. I have already commented that the real issue is the peak-period plates. Currently, plates are selling for up to \$200 000. This will put pressure on the private operators in that side of the industry.

The Bill is aimed at lowering costs and government becoming involved in the arrangements to lower costs. I can see nothing but problems arising from that. It will place pressure on private fleet owners. I will wait to see how the Government will make a decision about the cost of the lease arrangements. The Minister for Planning and Infrastructure is inclined to get involved in everything down to the micro decisions. I wonder whether she will be involved in the price-fixing arrangements that are put in place. I would like the parliamentary secretary to explain how the price will be set.

Hon Ken Travers: For the leasing?

Hon MURRAY CRIDDLE: Absolutely - the leasing. This is all about leasing, in case the parliamentary secretary is not aware of that. This Bill is about allowing any number of lease plates to be put in the public arena. There is no cap on those lease plates. That was one of the options in the memorandum that was circulated. Quite a few people were happy with the status quo. Of course, we are looking at leasing because of a decision the minister has made. The idea is that lease plates will be issued to drivers on the basis of a single set of plates. They will be leased to drivers who have experience in the industry. I would prefer those licences to be sold through a tendering process under the arrangements in the current Act. I support drivers with experience getting additional plates. I am suggesting that they should be sold. All the money raised through the existing process of selling plates goes back into the Taxi Industry Development Fund. There is a clear understanding that the funds raised under the new arrangement will also go back into that development fund and be used for the broader interests of the taxi industry. That is the current arrangement.

The Bill shows that that provision is required to satisfy the national competition policy. I am getting fed up with hearing about the requirements needed to meet national competition policy rules and regulations. The second reading speech says that the current process does not meet the national competition policy guidelines. I hope that the National Competition Council will accept the present position. The requirement was for an annual release of further plates. I understand that there is hope that this will meet the national competition policy criteria.

Hon Ken Travers: That is not part of the package, but you are right.

Hon MURRAY CRIDDLE: That is what the second reading speech says. I guess this is aimed at trying to satisfy the national competition policy.

Hon Ken Travers: You are right to suggest that; however, the other part of that is the mechanism for determining the annual release of the plates if they are required.

Hon MURRAY CRIDDLE: We will see just how that unfolds. The second reading speech says that the requirements of the national competition policy need to be met. An argument should have been developed to point out that there is a need for extra taxi plates on the weekends when there is a shortage of taxis. Anybody who has needed a taxi from Perth on a Friday and Saturday night would know that there is a shortage of taxis at that time. The call centre systems and the like would have to be very efficient throughout that period.

Hon Alan Cadby; Hon Murray Criddle; Hon Jim Scott; Hon Ken Travers; Hon Peter Foss; Deputy Chairman

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I am very unhappy about the idea of lease plates. I am concerned about the Government getting involved in private enterprise. We have experienced that before, and it has not been particularly successful when governments of this persuasion have tried it.

Another issue I will raise in the committee stage is the capping of the percentage of plates that the State can lease, which is necessary. Hon Peter Foss has suggested a cap of five per cent. If the Bill were passed, the taxi industry would accept a cap of 20 per cent. The Government has an amendment on the Notice Paper to cap the percentage at 20 per cent.

Hon Alan Cadby: That 20 per cent is not set in concrete; it could be any figure.

Hon MURRAY CRIDDLE: There is a provision for the minister to increase that limit. The industry and I are opposed to that.

Hon Ken Travers: It is subject to parliamentary scrutiny.

Hon MURRAY CRIDDLE: I understand the point the parliamentary secretary has made; however, I would not like to see that option included in the Bill. I am sure that the industry would prefer it to be changed by legislation rather than by regulation. The industry has said that it does not want the lease plates and it wants a cap of 20 per cent. The parliamentary secretary might consider that when -

Hon Ken Travers: The cap cannot be increased beyond 20 per cent without going through a parliamentary process. This House would have to agree to it being increased beyond 20 per cent, because it is a disallowable item.

Hon MURRAY CRIDDLE: We can discuss that when we get to the amendment. I would like the parliamentary secretary to clarify that matter. If he is saying that 20 per cent is the cap and that the Government must come back to Parliament and reintroduce the Bill -

Hon Alan Cadby: It can be altered by regulation.

Hon MURRAY CRIDDLE: I would like to see a provision in the Bill that the number of plates the State can lease would be capped at 20 per cent. As I said, my first option is to not see this legislation introduced into Parliament at all. Having made those points, I will oppose this Bill. I do not see any need for it at all. It will put pressure on the industry. It will get the Government involved in private enterprise, and I do not think it should be involved in it. I will argue my points of view from that stance.

**HON JIM SCOTT** (South Metropolitan) [10.25 am]: When I first began to deal with this Bill, I did not realise the complexity of the set of arrangements that are involved. I did not realise the complexity of different interests that are involved in the process. Initially, I had been told that the Transport Workers Union had pushed for it and that Brian Burke had written letters to the Government urging it to take up this process. On the other hand, Hon Murray Criddle is right. What we are seeing here today is another change to legislation in the long line of competition policy changes that States are being forced to live with. Apart from having signed off on the competition policy agreements without adequate care and concern, the States are not standing up to the federal Government. However, in this case the impacts of the national competition policy are somewhat alleviated by the changes that the Government has made. The types of systems that the National Competition Council discussion papers recommend be put in place are quite draconian. The NCC would like an open-slather market to operate whereby anybody could own a taxi and compete on the market. It seems to think that arrangement would work well.

The NCC points to examples of the taxi industry in the Northern Territory and New Zealand. Although those systems might be nice economic models, they do not work well. I have not personally experienced being driven in a taxi in those places. However, people who have driven in taxis in New Zealand in particular have told me that it is like a barter system. People who arrive at the New Zealand airport spend their time running up and down the taxi rank bartering for the best price and for the best quality taxi they can get.

Some drivers in the taxi industry have provided me with some figures. I have not ensured that they are correct, but I know that the people who have provided them to me are honest. I have no reason to believe that the figures are untrue. Those drivers have informed me that taxi drivers in New Zealand make between \$3 to \$10 an hour. The Greens (WA) would not like to see that happen in Western Australia.

Some points made in the various papers that have been written are correct. This is an area of interest to me given the Government's position on the crayfishing industry. There is research to back up the fact that there has been a consistent investment in plates in the taxi industry. People want it to be an investment that increases in value, not through it accumulating in real value, but through having some sort of restriction on the market. That then drives up the prices of fares and puts an upward pressure on the prices for leasing those vehicles from the plate

holders and for those people to make a living. Adjustments need to be made to the industry, but not the wholesale sorts of adjustments that the national competition policy would like to have.

A paper entitled "National Competition Council Staff Discussion Paper" that was put out in November 2000 refers to a number of those things I have already mentioned and states -

There is a clear case for regulating quality standards in the industry on consumer safety and protection grounds. Such regulations address information deficiencies such as the consumer's inability to verify the safety of the taxi . . . and provide enhanced levels of safety and, hence, of consumer confidence in the industry. . . .

By contrast, the benefits of restricting entry to the industry are effectively zero, while the costs to consumers are extremely large.

The paper then provides examples in the Northern Territory, which has changed, and states -

In four cases (Victoria, New South Wales, Western Australia, ACT), the elimination of all restrictions on supply has been recommended. . . . In South Australia, while no regulatory change was recommended, reliance on existing provisions for the issue of new taxi and hire car licences was recommended as a means to remedy acknowledged under-supply.

There is no doubt that the restriction of entry is not good for the consumers. However, there is a relationship between the number of taxis, the amount of money people can make and safety standards. Therefore, the important thing is to strike a balance. On the one hand, I do not want to see taxi plates become a tradeable commodity in their own right. However, there has been an exaggeration of the number of multiple-plate owners in Western Australia. From the papers I have read, it seems that this State does not have the same problem that exists in other places and that the majority of people who have more than one taxi plate are not the sort of people described in the competition policy documents. The paper then said about Western Australia that -

Rapidly increasing capital values for taxi licences have lead to the development of extensive secondary markets. Considerable trading in licences occurs in all jurisdictions, while a major proportion of licences are owned by investors, rather than taxi industry participants.

The paper refers to the other States and then reads -

Similarly, the Western Australian review found that sixty per cent of taxi plates in that state had been bought for speculative purposes.

My understanding of ownership is that most people who have more than one plate will not say that they want to have some speculative advantage. However, most of them are drivers who have, over time, bought a second plate, which they see as their retirement package. I know that the Government does not want to see plates become part of a retirement package. However, if we are going to make changes, we must ensure that we put in place a system that allows taxi drivers to make a sufficient income so that they create a retirement package in some other way such as putting their money into some form of investment or superannuation fund that we do not mind having an accumulating value. If we do not ensure that they can make a good living, they will not be able to do that. The only way those people feel they can do that at the moment is to get some value on taxi plates. We must consider the whole mix and try to create a system that will treat the people who have made that investment in a humane way.

The national competition council paper states on page 12 paragraph 3.2 -

The issue of whether there is a right to compensation can be considered from the legal viewpoint as well as from the perspective of equity. While several NCP reviews have discussed the equity arguments surrounding compensation, none has addressed the question of a possible legal right to compensation. It is understood that legal advice requested by some governments has generally indicated that no legal right to compensation would be likely to be found to exist in the event of deregulation of entry to the taxi market. This seems consistent with the experience of reform to other sectors in which the "rights" lost due to reform have been entirely the creatures of past regulatory decisions, as is the case with taxi licences. In general, where payments have been made in such cases, they have been based on equity arguments in favour of compensation. In this context, the following discussion of possible "rights" to compensation is focused exclusively on the equity arguments that may be made in favour of compensation.

Further on, the part of this discussion that got my attention stated -

Moreover, there is a strong argument that those who have purchased a taxiplate since the signing of the NCP agreements in 1995 have done so in the face of clear signals from all governments that the existing

regulatory regime was not likely to endure. The NCP agreements are transparent in nature, and encompass clear guiding principles and presumptions. There is a general presumption that competition should not be restricted, with a strong public interest test required to be met where that presumption is to be violated.

I am always amazed that the faceless people - for the most part - who sit behind closed doors in cloistered environments, think that everyone in the community has a huge and abiding interest in national competition policy, they follow it as though their life depended upon it, everybody knows what they are intending to do and that the general theory is evident to everybody. I have news for those people. A heck of a lot of people from the taxi industry would not have a clue about what those people are thinking about doing in the future. It is a total misconception that somehow those people who have invested in a taxi plate should have understood that this legislation would be introduced and that, therefore, they basically do not deserve any consideration whatsoever. We do need to have considerable concern about those people who have made an investment. On the one hand, I do not believe that investing in taxi plates should become a way for people to make money. Driving and operating taxis should be the way that money is made. On the other hand, I do not believe that people should lose their investment by an uncaring application of government and national competition policy rules.

We must have some compassion for plate owners. The Greens (WA) want to ensure that current investments are not lost. In my discussions with the Government I have said a proper formula must be put in place that, although will not result in an increase in the value of taxi plates, will ensure that people do not lose their investment.

The National Competition Council believes that it is fair for taxi plate owners to suffer some loss, otherwise the cost will shift to the community. I do not believe these guys in the NCC live in the real world much of the time. If we drive down the value of what, in effect, people are putting away as superannuation, at some stage Governments will have to pay for that. Those people will go on the welfare system if they cannot afford to keep themselves. The whole problem with this concept is that the Government appears to believe that those people will go away and there will be no ongoing effect on them; however, there will be a complete ripple-on effect on them.

There is another area of competition policy with which I am not happy. The taxi industry is a service industry that expects drivers to have a good relationship with their passengers. This attempt to modify the taxi industry, as has happened to a lot of other industries, is not good for the tourism industry or other industries that flow on from the tourism industry. There will be flow-ons from a system that allows a passenger to haggle with a driver for a lower fare; one flow-on will be a surly driver who is very unhappy about the fare. There must be a balance in the system for the issue of plates, and the Government can achieve that balance. It should be acknowledged that under the existing legislation extra plates could be put on the market at any time, which would drive down the price of current plates. This legislation does not change that ability, except that plates will not now be released for investment purposes but instead will be leased. In that respect the legislation has changed, but the number of plates on the market will not change.

Hon Murray Criddle: It will undercut those investors because it clearly states that the plates that go out will be at a lower rate than those already out there.

Hon JIM SCOTT: That is right, and that is the balance that the Government must look at closely. Clearly we do not want a continuation of the growth in the value of taxi plates.

The parliamentary secretary provided me with a document on the cost of taxi licences in Victoria. That State examined the situation over a long period. Obviously there have been dips in value, but there is now a very strong upward trend in the price of taxi licences in that State. I personally do not want to see that situation going on and on. Ultimately, if plates get too expensive, Governments will be forced to end the system. The national competition policy paper claims - although I do not have the mathematical skill or the data with me to say that it is incorrect - that the cost of a plate adds a third to the cost of a fare. I do not know how accurate that claim is, but it is fairly high when one considers that the cost of the vehicle and other running costs would have to come out of that figure. I would have thought it would have been less than that, but I will take the word of the paper. That is a problem if indeed it is rising to that extent.

Hon Murray Criddle: You would be happy with a CPI rise though or some gradual rise?

Hon JIM SCOTT: Yes. When new plates are released or an announcement is made of changes to the Act, the value of plates dips, but then later trends upwards, and usually that impact on the value has not been as great as people expected. People always see the worst side of change. However, there is a clear danger in the Government's overstepping the mark. We want a proper formula in place that will not drive down the value of plates and create a loss in their investment, but at the same time we want a control on their growing price. There is no doubt that if the initial large capital cost of a plate were reduced, more money would go into the pockets of taxi drivers and operators and at the same time possibly fares would reduce; there is that much room to move.

It is very hard to arrive at the optimal number of taxis. The National Competition Council Staff Discussion Paper stated -

The Western Australian review found that

“Restricting plate numbers leads generally to a sub optimal number of taxis in the market as complaints from the industry, if plate numbers are too high, are likely to be more vocal than those from consumers if there are too few taxis . . . Regardless of the sophistication of the models used, it is highly unlikely that the market optimal number of taxis will be reached in a regulated environment”.

I always love phrases such as “market optimal number” which come from those types of bodies. The market optimal number is, I believe, a mythical number usually devised by people who have no experience in the industry but who have some very good theories about the market.

Hon Murray Criddle: That gets back to that safety issue that you were talking about earlier.

Hon JIM SCOTT: That is right. If we develop a complete dependence on the market, we will be putting in place a system which is based on the so-called rationality of numbers but which has no thought for the human element. As legislators, we have a responsibility to look after the human side of these issues, because the human side is the people who elect us to this place, and that includes both consumers and taxi drivers.

Hon Murray Criddle: In fact, there is nothing much wrong with the taxi industry right now.

Hon JIM SCOTT: I do not think there is a huge amount wrong with it. I agree with a lot of the Government’s aims in this legislation. However, again the problem is the human element. People have made different levels of investment. Some people got their plates for nothing and some entered the system at another time and got their plates almost through an apprenticeship system. In more recent times, people have purchased expensive plates and others have purchased multipurpose plates, which have another value because they do not provide the same level of income. There are also people with peak-hour plates. One of my concerns with the legislation is having a raft of different types of plates. How will the Government cope with some owners who have leased government plates, some who have bought plates, and others who have multipurpose plates? How will people who have invested a big lump of money in their plates - I know it is not a massive amount as it is for premium plates - compete with somebody who leases a government plate and then leases it to somebody else at night or at other times? It will be very difficult to manage all those different angles, because some people may get a better deal than others under this system. We must be very careful.

When the Government proposed the total buyback scheme, there was resistance from some sections of the industry but not others. For instance, the peak-hour drivers were pretty well unanimous in wanting the Government to buy back their plates because they did not see a future for the purchased plates under that system. It has been put to me that even now the Government should be considering the buyback of those particular plates. I would like to hear from the parliamentary secretary what those drivers want to do. Another issue for the peak-hour drivers - I am not sure whether this issue has been picked up entirely in the Bill - is the great uncertainty about when and where they can pick up passengers. I was told that they do not find out until the day before a big event whether they are allowed to drive on that day. For instance, the example they gave me of one day on which they were not allowed to drive was Australia Day. On that occasion there were large queues of people unable to get taxis. The peak-hour drivers could not operate because there had been no fixed arrangement for the big event on that day. There needs to be more certainty for those people.

Hon Ken Travers: Australia Day is one of the days that has already been agreed to as a future peak-hour plate day, but I will expand on how we will put in place a process for other days of the year as well.

Hon JIM SCOTT: Those drivers have also said that they have not been part of the consultative process on that issue. I wonder about the wisdom of allowing one sector to dominate the process for when that will occur. The Government needs to consider whether there will be an excess on occasions such as Australia Day in parts of the city, particularly in places like South Perth and so on, and give those drivers certainty. That is important for premium plate owners as well. They need to understand that, unless there is a smooth crossover between the peak-hour plates and the full-time plates, more full-time plates will be issued. Peak-hour plates, multipurpose plates and so on must be integrated into the system to give certainty to everybody involved in the process. If premium plate owners have too much say in that process, they will be hoist with their own petard and the Government will end up issuing more plates and they will be in a worse position than they would have been.

Hon Murray Criddle: Another area that must be considered is the special charter vehicle, which is having a big impact on the vehicle-hiring industry and the taxi industry.

Hon JIM SCOTT: Although the National Competition Council has made great play about the number of taxis per capita, the National Competition Council is one of those bodies that looks at things in a small vacuum. It

does not seem to understand that there has been a huge improvement in the communication systems in taxis. There is a much more scientific art of ensuring that people are in the right place. As has been pointed out to me, the waiting time for taxis is shorter than the waiting time for ambulances; it is not a huge waiting time on average.

According to the data I have been given, Western Australia has the most competitive prices in Australia. We should always keep those issues in mind and be careful not to upset the applecart too much with changes. We must also keep in mind that with the development of cities like Perth, massive amounts of money have been invested in infrastructure for private motorists. The number of people with one or two cars now far exceeds the number a few years ago and is constantly increasing. If more people drive their own cars, fewer taxis will be needed. I would like it to be the other way around. From my environmental point of view, I would like less emphasis on expenditure on the private motorist and more on public transport and taxis. I would like the Government to explain how people who have made an investment will be able to compete fairly with those who get the new lease plates. The going lease rate will, undoubtedly, be lower than the current rate. That has been the case in the other States that adopted this system. Obviously the lease rate will be variable so a definitive figure cannot be put on it.

Peak-hour drivers are concerned that the legislation will deny them the opportunity to convert to premium or full-time plates. I understand from the Government that it will enable that to happen. However, the current viewpoint of plate owners is slightly different from that of the Government. The Government says that it will give the peak-plate owners three months to divest themselves of those plates and get a new lease plate. However, the plate owners are concerned that many drivers who have had to pay for a plate will be competing against people who have a lease plate. They do not think it would be fair for the new drivers. The owners would like that issue dealt with so that they do not lose their investment. I think the simplest thing would be a fair buyback, although that is always a difficult figure for government to juggle.

The industry says that at the moment there is not enough work for drivers to earn a decent living. The principal objection is to the non-transferable nature of the plates to be released. The industry says that could result in a similar outcome as that which would be provided by a voluntary buyback scheme. I am not sure I entirely agree with that position. On the one hand, there is no doubt that there has been a downturn over recent times that has impacted very badly on the industry. That has been caused by what happened in the airline industry, including the collapse of Ansett Australia, and the problems in the tourism industry resulting from our involvement in the war on terrorism and so on. We have managed to put ourselves in a position in which Australia, along with other parts of the world, is no longer a place that people feel safe to visit.

The downturn will not last forever. There are already signs that there will be some growth in tourism in the not-too-distant future, and the amount of taxi work should increase. On the other hand, I also think that the Government needs to be careful about how many new plates it releases and how it releases them. I understand that the parliamentary secretary will explain the idea of releasing a relevant percentage - probably 20 per cent. I have talked to him about that, and I understand that he is satisfied with it. Like Hon Murray Criddle, I note that another percentage could be prescribed but only through a disallowable instrument. Such a change in the percentage would need to come before this place so that it could be knocked back.

There is a need for some level of flexibility within government about the numbers of taxis that are required. For example, we do not know what will be the impact of the southern rail line. That might get a lot of people out of their cars, who will then require taxis when they are in the city and so on. Adjustments will need to be made in light of major infrastructure projects and the development of new areas and so on. Hopefully, the planning of such projects will include less reliance on private car ownership. Those things could result in considerable changes in the number of taxis that are needed, both upwards and downwards. The Government needs the ability to change the number of lease plates that are available at certain times. However, such a change needs scrutiny and must come before this House.

It is generally regarded that there is a very high standard of drivers and vehicles. It is very important that the Government does not mess this up by turning the economic-rationalist screw so hard that it reaches the point at which drivers cannot afford to maintain that level of service and quality of vehicle.

I look forward to hearing from the parliamentary secretary about what will be done about these crucial issues. I also look forward to hearing about the sort of formula that will be put in place to ensure that the incomes or investments of the existing plate holders are not destroyed and to look after those drivers working with peak-hour plates and multipurpose taxis so that they are not driven out of business by unfair competition with people driving taxis with the new leased plates. I am concerned about the ratio of leased and premium plates that will be released and about the ability of drivers to transfer to a premium plate without it being a major cost and without completely losing their investments.

Hon Alan Cadby; Hon Murray Criddle; Hon Jim Scott; Hon Ken Travers; Hon Peter Foss; Deputy Chairman

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I can raise any other matters during the remainder of the debate. The Greens (WA) support the concept of keeping down the cost of taxi plates because we believe that the high cost of plates prevents many people getting into the industry and making an income. However, we do not want to see those people who have had to make that investment in the past lose their money.

**HON KEN TRAVERS** (North Metropolitan - Parliamentary Secretary) [11.11 am]: I thank members for their contributions. I will attempt to address the issues they have raised. Hon Alan Cadby raised the issue of whether the change from plate owner to plate holder will adversely affect current plate owners. I am advised that the change in terminology will not affect them in any way. Hon Alan Cadby referred to the potential for flooding the market for lease plates by a money-hungry Government.

Hon Alan Cadby: You accept it, do you?

Hon KEN TRAVERS: I was quoting his words. If the Government were purely interested in grabbing money in this exercise, it would seek to issue plates under the current system and put them out to tender because that would immediately provide significantly larger sums of money to the Government.

Hon Alan Cadby: You could not do that because you are against small business.

Hon KEN TRAVERS: The member cannot have it both ways. The Government could make a lot more money very quickly by issuing plates.

Hon Murray Criddle interjected.

Hon KEN TRAVERS: I am responding to the point that Hon Alan Cadby made. The member is right, our intention is to put money from the lease plates back into the taxi industry. Hon Murray Criddle is therefore correct when he assists me in rebutting the point made by Hon Alan Cadby.

Regulation 6 currently provides a limit on the number of owned or leased plates that can be issued to a ratio of 0.86 conventional plates and 0.37 multiple-purpose or restricted plates per 1 000 head of population. If we were ever to go down that path, which is certainly not our intention, we would be in the position of being able to issue an additional 290 conventional and 334 multi-purpose or restricted plates under the current legislation. The Government has identified the need, and I understand is supported by industry, for an additional 50 plates. The report of Hon Graham Giffard clearly identifies the categories that those plates will come under.

The Government's intention in the current discussions with the industry is to develop a clear formula for the future issuing of plates, which is one of the requirements of the national competition policy. I will make a few comments shortly about our options with that issue. As for flooding the market, the Government has made clear the number of plates it intends to release, regardless of whatever method is being used.

Hon Murray Criddle asked how the price of leasing will be set. He noted that the money will go to the taxi development fund, so whatever price is set, the money will go back into the industry and not to the Government. A number of the issues that Hon Murray Criddle raised go to his being philosophically opposed to the position of the Government on this issue. By going down the path of leasing plates, the Government wants drivers to be able to have a stake in the industry and have better earnings. The drivers who will meet the criteria will be experienced and provide a quality service. The Government hopes to assist quality drivers by enabling them to become holders of licence plates leased directly from the Government.

Hon Murray Criddle also made comment about the Government becoming involved in private enterprise. Government regulation creates the value of the plates, so there is no doubt that the Government is already involved. Government actions affect the value of the plates. For example, Hon Jim Scott referred to the price of taxi plates in Melbourne. It is interesting to follow the peaks and troughs in the values of those plates. From talking to people around the State, there is no doubt that reviews and the like have an impact on the value of plates. Clearly, the Government is involved in this industry because the actions of Governments have an impact on the value of plates. The decisions of Governments on when and how to issue plates impact on the value of licence plates. That is why the Government believes it is important to set a formula that is agreed to by everyone.

Hon Murray Criddle: Do you not agree that, with the sale of plates, when they go out to tender anybody can tender at whatever price he likes?

Hon KEN TRAVERS: That is correct.

Hon Murray Criddle: If they went out to lease at a set figure, it would be a totally different issue.

Hon KEN TRAVERS: The lease rates will be set taking into account the existing rates in the marketplace. Although they will be lower, it is not the Government's intention to set them at a point so low that it will have a negative impact. The intention is to provide for those drivers who will meet the standards, who are the sort of



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drivers we want to maintain in the industry. Once they get those lease plates, they will have a slightly improved benefit when compared with other drivers in the industry. Part of the point of this exercise is to maintain quality drivers so that not only do we have a good service but we will continue to have a good service and hopefully be able to improve on it.

Hon Murray Criddle: You have not given me any confidence about the question of at what figure you will set the lease rates. You say that it will be at a competitive rate that is below the current lease price, but it may be 50 per cent of the current lease price if somebody feels that way, which would destroy the industry.

Hon KEN TRAVERS: The number of plates that will be issued is so low that I do not believe it will destroy the industry. When we reach the committee stage, we will have the debate about the cap.

I put forward an amendment following discussions with Hon Jim Scott - I should acknowledge him at this point - about setting a reasonable cap. Regardless of the cap that is set, I am fairly confident that it will not have an impact. It is certainly not the Government's intention to go down the path that Hon Murray Criddle is suggesting.

Hon Murray Criddle: I am just asking what path you will go down; that is all I am asking.

Hon KEN TRAVERS: I have explained the Government's intention. It is to provide plates at a rate that is lower than the current market rate. That will provide a better income for the quality drivers that we want to retain in the industry, while not having a significant impact on the industry. At this time, Victoria is ahead of this State in these matters. Melbourne has something like 100 lease plates. One hundred will be issued every year for six years. I think that announcement was made in May 2002. The price of plates on the market in Victoria has grown steadily since that time. That clearly highlights the fact that the concerns expressed by Hon Murray Criddle are unjustified.

The Government acknowledges the need to strike the sorts of balances to which Hon Jim Scott referred. That is why the Government will seek to put in place a formula for the future. The report that Hon Graham Giffard prepared for the minister included a section about where he felt we should be going with the issuing of plates in the future. The minister is in discussions with the industry on that matter. In broad terms, the Government's intention is to have a formula that will cover the growth in demand, and we will also examine whether there is a need to improve the situation to meet defined targets. We will try to get a balance between meeting the growth in demand and ensuring that the needs of the consumer are met. Those are the two key areas in setting the formula. In setting the formula, we must make sure that we maintain a viable industry, so that quality drivers will stay in the industry and receive a fair reward for their contribution.

Hon Jim Scott referred to the various types of plates and said that they could be difficult to manage. I do not believe that will be a problem. The quality drivers at the coalface will get a slightly better return under this system. That is the point of the exercise; that is, to try to maintain those quality drivers in the industry. These days, there are still some owner-drivers, but most of them already operate under some form of leasing arrangement, whether they are leasing plates or subleasing a vehicle from someone else. There are already various options in the marketplace in that regard.

Hon Jim Scott: Are you going to address the issue of the peak plate drivers?

Hon KEN TRAVERS: Yes, I will deal with all of Hon Jim Scott's points. I may be wrong, but I understood that Hon Jim Scott indicated that he supports the need for the Government to look at some sort of buyback for peak plates. That is not on the Government's agenda, but I will certainly make sure that the member's comments are drawn to the attention of the minister. The buyback of plates is a matter on which the minister has previously made a clear announcement; that is, it is not on the Government's agenda.

Hon Jim Scott pre-empted me. His next point was about the process for the operation of peak plates. The Government is currently engaged in a consultative process. The peak plate drivers are included in that process. The Government acknowledges the need for a clearer process regarding the times at which peak plates can operate. As I mentioned earlier, agreement has already been reached that Australia Day should be one of those times. A number of other days are currently being discussed with all sections of the industry. The sorts of days being considered are Melbourne Cup day, the busy days leading up to Christmas and the like. We will try to have a formal, set process for the days and times on which peak plates can operate.

Hon Jim Scott: Does that include events that happen periodically, such as when the American fleet is in town or something like that?

Hon KEN TRAVERS: I was about to point out that certain days will be fixed, and there will be a process for determining other days that may or may not be included in the list. People may put forward the suggestion that the peak plates should operate when the fleet is here, so that the peak demands of the industry can be met. There

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would be benefits in that for the existing holders of conventional plates, as Hon Jim Scott said, if the demand could be met. It would probably remove the need to issue more plates if those peak times could be managed. If there is one area in which there is consumer dissatisfaction, it is about peak and premium times. Therefore, if we can get a proper process to manage that, it will be for the benefit of everybody in the industry and make the situation clearer. Of course, the other side of the argument of which we must be aware is that the conventional plate drivers make the bulk of their money in peak times. Therefore, it is one of those areas in which we must get the balance right.

The Government is committed to working with all the industry players, including the peak plate drivers and owners, to get the right formula for determining those times - obviously, the Government will also work with the Taxi Council of WA to reach the right formula - so that all the interests are managed concurrently.

Hon Murray Criddle, by way of interjection, referred to the problems that small charter vehicles create for the industry.

Hon Murray Criddle: Not the problems, the impacts.

Hon KEN TRAVERS: He referred to the impacts that small charter vehicles have on the viability of the industry. When I first came into this place and Hon Murray Criddle's predecessor was the Minister for Transport, I always enjoyed getting into taxis, because the drivers would tell me how terrible Eric Charlton was and the impacts he had had on the taxi industry.

Hon Murray Criddle: It's good to get in a taxi nowadays.

Hon KEN TRAVERS: I am sure it is and that it has turned around. It always was an enjoyable exercise to jump in a taxi and hear the driver say what a terrible man Eric Charlton was. That was all because of the changes he had made regarding small charter vehicles. I am sure Hon Murray Criddle now enjoys getting into a taxi, although I have no doubt that a few taxi drivers probably remember his time as minister and give him some constructive criticism.

Hon Murray Criddle: My wife travelled in a taxi one day and she got an earful about how bad I was as the transport minister.

Hon KEN TRAVERS: And she said, "You do not know the half of it!"

The Government has taken a number of actions with regard to small charter vehicles. It has developed those actions in consultation with the taxi and the small charter vehicle industries, which has led to a clear divide between the taxi and the small charter vehicle markets. We have done that by increasing the requirements of vehicle standards and increasing the minimum charges. To answer Hon Murray Criddle's interjections, I assure him that the Government was aware of the problems created in the past in that regard and the Government has taken action to ensure that the impact of SCVs on the taxi industry's viability are being dealt with.

Hon Jim Scott referred to the setting of prices, which is an extremely contentious issue. As I travel around the State as part of the country taxi review, it is interesting to hear the different views that people in the industry have about the elasticity of demand and what impact an increase in fares would have. The Government has gone down the path of leasing plates rather than increasing fares, to provide better returns to those drivers who provide an excellent service and whom we would like to remain in the industry.

Hon Jim Scott also referred to peak drivers and their ability to convert from a peak plate to a lease plate. I have sought advice on this matter. Peak plate drivers will be able to apply for a lease plate. If they are successful, they will be given some time - Hon Jim Scott was correct in saying three months - to divest themselves of their peak plate, should it be a transferable plate, before being issued with a lease plate. I understand that is not exactly what Hon Jim Scott was seeking, but there are difficulties in going down the path of converting a peak plate with a capital value to a lease plate. The option will be available for peak drivers to convert to lease plates.

Hon Jim Scott: What are those difficulties?

Hon KEN TRAVERS: Those difficulties include working out the value that would need to be charged. The member has already said that he has a problem with the number of options that are available, and to deal with that issue would throw open another option. Effectively, it would require the Government to buy back the peak plates. As I said earlier, the Government does not intend to do that. I will draw the member's comments to the attention of the minister. That would be the only easy way to do it, and the Government does not wish to proceed with the option of buying back those plates. As I said, this legislation will enable drivers to apply to become lease plate holders if they believe it is in their interests. If they were successful, they would be given time to divest their peak plates. Another difficulty is that if a driver who owned a peak plate applied for and was successful in obtaining a conventional plate, the peak plate would need to remain in the system to meet all the demands on the system.

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Hon Jim Scott also said that the lease plates would be non-transferable. That is absolutely right. If they were transferable, they would attract a value. Therefore, the drivers would lose the benefits they will gain under the proposed system. I will refer to the issue of capping the number of plates that can be leased during the committee stage. I acknowledge Hon Jim Scott's contribution on this matter. He has sought to engage in constructive dialogue with the Government to improve the Bill and to provide protection to drivers, and he has made sure that all the appropriate checks and balances are in place.

I will move an amendment during the committee stage as a result of those discussions. I acknowledge the constructive approach Hon Jim Scott has taken on these matters to achieve a better outcome for everybody in the industry.

I have dealt with most of the major issues raised by members. If I have omitted to mention any, I am sure members will take the opportunity to raise them with me during the committee stage. I thank members for their contribution and commend the Bill to the House.

Question put and a division taken with the following result -

Ayes (13)

Hon Robin Chapple	Hon Jon Ford	Hon Jim Scott	Hon Ed Dermer ( <i>Teller</i> )
Hon Kate Doust	Hon Graham Giffard	Hon Tom Stephens	
Hon Sue Ellery	Hon Louise Pratt	Hon Ken Travers	
Hon Adele Farina	Hon Ljiljanna Ravlich	Hon Giz Watson	

Noes (12)

Hon Alan Cadby	Hon Paddy Embry	Hon Ray Halligan	Hon Barbara Scott
Hon George Cash	Hon John Fischer	Hon Frank Hough	Hon Bill Stretch
Hon Murray Criddle	Hon Peter Foss	Hon Norman Moore	Hon Bruce Donaldson

(*Teller*)

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Pairs

Hon Dee Margetts	Hon Derrick Tomlinson
Hon Nick Griffiths	Hon Barry House
Hon Kim Chance	Hon Robyn McSweeney
Hon Christine Sharp	Hon Simon O'Brien

Question thus passed.

Bill read a second time.

*Committee*

The Deputy Chairman of Committees (Hon Kate Doust) in the Chair; Hon Ken Travers (Parliamentary Secretary) in charge of the Bill.

**Clauses 1 to 3 put and passed.**

**Clause 4: Section 3 amended -**

Hon ALAN CADBY: The definition in subclause (1)(a) states -

**"lease"**, in relation to taxi plates, means to acquire the right to use the plates for a period specified by the Director General;

I am concerned about security of tenure. If a person is to become a lessee, he must purchase some capital equipment such as a taxi and the communication systems. Therefore, it is important that he know how long the lease will be for.

In the parliamentary secretary's summing up of the second reading debate he referred to better returns or security for the lessee; therefore, obviously, some market research has been done. In that research, has consideration been given to the annual costs and the annual income for a lessee? If the parliamentary secretary can talk about better returns, the market research must have been done and I ask that it be shared with the House.

Hon KEN TRAVERS: With regard to security for lessees, when the director general seeks applications, the time period for which the plates will be provided to them will be clearly specified. At this stage, I understand the intention is that it will be eight years for conventional plates and 10 years for multipurpose taxi plates. To a

large degree, I imagine that that ties into the life expectancy of the vehicles. At that point the applicant can then make his investment decision.

With regard to returns, as far as I am aware, no research has been done into the details to which the member referred. However, we know what the current lease rate for plates is in the marketplace. Lease drivers will get a better return because it is the Government's intention that the rate at which the plate is leased will be set at a figure lower than the current market figure. That is why we are able to say that there will be a better return for drivers.

Hon PETER FOSS: My concern is slightly different and relates to the definition of "lease" that states -

**"lease"**, in relation to taxi plates, means to acquire the right to use the plates for a period specified by the Director General;

From whom is that right acquired? It seems to me that the words "by the Director General" qualify the words "for a period". However, it does not seem to say that the word "lease" necessarily means a lease from the director general, which should be clear. It should read; "in relation to taxi plates, means to acquire from the Director General the right to use the plates for a period specified by the Director General". If the provision is not set out like that, it may have some impact on the provisions relating to leases. For instance, proposed section 16(3) states -

Without limiting subsection (2)(a), taxi plates may be leased by an individual only if the Director General is satisfied that the individual -

...

(c) is not the lessee of taxi plates.

Interestingly enough, the word "lessee" is different from the word "lease". I do not see why the word "lessee" should not include a lessee of plates from an owner of plates. I think that the Taxi Act actually has a definition of lessee that does not refer to the director general.

Hon KEN TRAVERS: The advice given to me is that the current definition will allow the plates to be issued in the manner in which the Government intends.

Hon PETER FOSS: Although I am very pleased with the parliamentary secretary's advice, I do not agree with it. The only thing I can see in this legislation that bears on the meaning of the word "lessee" is the word "lease", which does not give us any overwhelming requirement that the word "lessee" in proposed section 16(3)(c) will mean other than the word "lessee" means in common parlance; that is, a person who leases plates. I am not happy with the parliamentary secretary's advice. We are passing a Bill that intends to affect people who do not currently own plates but who drive taxis and are experienced in the taxi industry - I understand that this is what the minister hopes will happen. My advice is that nearly every single person in this State who does that is a lessee, not an employee. Therefore, under the ordinary meaning of the word "lessee", they are disentitled by this provision from leasing a plate from the director general. This provision is taking out of contemplation all the people whom this legislation is intended to primarily benefit. I am raising this matter because if the minister's intention is that preference be given to those people who are currently driving as lessees, then I see nothing in this Bill that takes away from the ordinary meaning of the word "lessee" in proposed section 16(3)(c); that is, a person who leases a taxi plate. If they want to get a taxi plate from the Government, they have to first surrender their current lease. What taxi driver will be able to do that? A person who applies for a lease must say that he is not a lessee - he does not drive for a living in a taxi that he does not own. Instantly, those people will not be able to do that. If the parliamentary secretary thinks that they will give up their current lease so that they can do that, come on! That is not going to happen.

Hon KEN TRAVERS: It is the Government's intention that the lessee of a plate from the Government will have an interest in only one taxi plate. Again my advice is that people will be able to apply for a lessee plate. If they are successful in that application, they must divest themselves of any interest in another plate prior to the issue of the lease. They would be aware that their application had been successful, but this clause is about the director general's not going through the final stage until they have divested themselves of that interest. I repeat what I advised during the second reading about people who currently own peak-period plates: there is nothing to prevent them from having an application for a lease considered but, if the application is successful, they would need to divest themselves of that interest prior to the issue of the lease; and they would do that only when they knew their application had been successful.

Hon PETER FOSS: There are two propositions in what the parliamentary secretary said, neither of which I accept. I do not accept one as being the law and I do not accept the other as being practical. I am sorry that I will have to deal with the next clause, but this being the definition clause, unfortunately, it has an effect elsewhere in the Bill. Proposed section 16(2) states -

Taxi plates shall also be offered for lease, with the invitation to apply to lease taxi plates specifying -

- (a) the criteria to be met by the successful applicant;

It seems to be contemplated that the successful applicant must meet certain criteria. Proposed section 16(3) states -

Without limiting subsection (2)(a), taxi plates may be leased by an individual only if . . .

That seems to be saying that all those criteria apply. The criteria to be met by a successful applicant are not being reduced but, rather, having another criterion added. It seems to me that to be a successful applicant the criterion in proposed section 16(3) must be met; therefore the applicant cannot be a successful applicant. That is the practical problem with the legislation in the way it has been drafted. The second problem is that most people lease for a period. They pay more for short-term leases than long-term leases; that is the way life works. People are happy to grant long-term leases on the basis that they avoid the costs of continually stamping new lease agreements, finding lessees and possibly paying commissions to people to find them. Therefore, leases for six months or 12 months, or whatever, are cheaper than shorter terms. People who lease for a week at a time obviously pay a lot more; anyone who has hired a car knows that. This legislation is saying to those people that if they have entered into a secure, long-term arrangement, they will be disqualified from having one of these leases issued until they give up their long-term one. How do they give it up? They have entered into a legal agreement.

I understand the intention of the clause, but I am not sure why this provision should be put in the Taxi Act. I understand that other criteria must be met; for instance, the Minister for Planning and Infrastructure has said she will give preference to current drivers. That provision is not in the Bill. I would rather have seen that provision if she intends to do that; nobody has said it would be improper. She has said that as a policy matter she will give preference to current drivers. I think she should also give preference to those people who are currently leasing a plate if they give an undertaking that they are prepared to give up that lease when the term expires. The Bill is virtually saying that those people who have committed themselves to being taxi drivers, who have entered into long-term leases, who may not have the capital to buy a taxi plate and who have made a long-term commitment to the industry, will be disadvantaged. I do not accept the parliamentary secretary's first statement about the interpretation of "lease", because the way in which proposed subsection (2) has been written makes interpretation impossible. Even if it were possible, the practical situation is difficult.

I come back to where I started, which was to ask why the Bill does not define "lease". The parliamentary secretary's explanation of how he believes section 3(1) of the Act will work means that the definition of "lease" in this Bill will not change the ordinary meaning of the word "lessee". "Lessee" means leased from anybody, whether or not from the director general. Perhaps the question I was really asking, while we are on clause 4, was: does the parliamentary secretary need a definition of "lessee"? The parliamentary secretary should be seriously contemplating that "lessee" means "lessee from the director general". I do not think the parliamentary secretary has thought through this issue very well from the legal perspective. Someone has written the clause and someone else has worked out how the process will work, but nobody has put the two together to see whether the law fits the process. That is what concerns me. I am not in any way criticising the policy of the Bill. I am saying that I hear it but I cannot see it in the words of the clause, and I do not think it will work in a practical sense. I think a little more homework is needed to be done.

Hon JIM SCOTT: I acknowledge the difficulty of the crossover between this and the next clause, which raises some concerns in my mind as well. More than anything else, I am concerned about the practicality of the wording of the clause. As Hon Peter Foss said, and as I read the Bill, the meaning of "lease" will be applied through a combination of clauses 4 and 5. The clause infringes on the rights of a private lease arrangement also. I am not a lawyer, but I wonder how that will stand legally.

Hon Peter Foss: We can do nearly anything in this Parliament.

Hon JIM SCOTT: I agree that practically I cannot see how people who are tied to a lease can suddenly say that they are not tied any more to that lease. Will the parliamentary secretary explain the normal arrangements in a lease between the owner of a plate and the lessee of the plate who uses the licence at night or for part of the week, and whether those leases are taken out on an annual basis? It is important to know that so that we can work out how this clause will play out. As Hon Peter Foss said, it could mean that the people who currently lease a plate from a plate owner would find it extremely difficult to change over to leasing directly from the director general; that issue must be resolved and it would be worth resolving at this stage.

Hon KEN TRAVERS: The advice I have received is that "lessee" refers to the lessee of a plate under this Bill, not of any other plate.

Hon Peter Foss: I thought that was the intention, but it does not say it. Ambiguity does not help us and the statement by the parliamentary secretary does not help us.

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Hon KEN TRAVERS: The Taxi Act has a definition of “lease”.

Hon Peter Foss: That does not help us either.

Hon KEN TRAVERS: “Lessee” under this Bill refers to a lessee of taxi plates. I think that is the intention and I think that is the way it would be interpreted.

Hon PETER FOSS: I beg to disagree because the normal rule of interpretation is that a word is given its common meaning. The only way to get away from that is to have a special definition stating that the word does not have that meaning, or it may result in some ambiguity that requires a court to resolve. I gave the parliamentary secretary a possible definition by reading out the definition of “lease”. However, that definition does not help us, because there is a definition of only “lease”, and not “lessee”. In relation to taxi plates, lease means “to acquire the right to use the plates for a period specified by the Director General”. It does not state that the plates are acquired from the director general. The definition could state that, in relation to taxi plates, “lease” means to acquire from the director general the right to use the plates for a period specified by the director general. If the definition said that, we would know what type of lease it referred to, but even then it would not deal with lessee, although one might be able to argue that the definition of “lessee” should be similar to the definition of “lease”. I have checked the Taxi Act and it does not contain a special definition. I think that a definition of “lessee” is required. It will not be hard for the parliamentary secretary to do that. It could be along the lines of, “lessee” means a lease from the director general.

I am interested in this issue. I had thought of an amendment, but I did not draft it because I think there is a very strange legal situation. I did not want to raise the issue until it arose, but now I am forced to explain it. Even though the lease is by the director general, who is the lessor? I think the lessor is the Government of Western Australia. I think the director general is simply the agent of the Government of Western Australia, because it is not clear in the Bill. Who else can do that? Who has the right? The Crown and the Government of Western Australia have that right. Even though the Bill says that the director general may lease the plates, I think the director general is leasing purely as an agent of the Crown in the right of the State of Western Australia. I think that the definition of “lease” in relation to taxi plates means to lease from the Government of Western Australia. One of the reasons I did not write an amendment is that, having read the Government’s proposal, I was left in some doubt as to who was the lessor and I did not think it was up to me to try to resolve that issue. I do not think it is my job to try to make sense of who the Government thinks is the legal entity that is the lessor. In relation to taxi plates, lease means to acquire from the State the right to use the plates for a specified period. We no longer refer to the Crown. Would that definition be more acceptable to the Government; that is, the definition of “lease” in relation to taxi plates means to acquire from the State the right to use the plate for a period specified by the director general, and “lessee” would have a corresponding meaning?

Hon Ken Travers: Are you indicating that you will move that amendment?

Hon PETER FOSS: I am suggesting it to the parliamentary secretary. I am not saying that it is the best drafting. I am just trying to help. If the parliamentary secretary would like me to help more specifically, and if he is interested, I would be glad to do so. I suggest we insert “from the State” after the word “acquire” at line 12 on page 2 and add “lessee has a corresponding meaning” at the end of line 14. I am not guaranteeing that wording because I have done it on my feet and I had purposely not done it before because I was a bit concerned about the issue. This drafting comes without a warranty!

Hon KEN TRAVERS: I suggest that, rather than draft an amendment on the run, we postpone consideration of this clause so that we can seek further advice and clarify the matter and consider whether the amendment can be phrased better. I appreciate the contribution from Hon Peter Foss. We will certainly go down that path.

Hon MURRAY CRIDDLE: Can the parliamentary secretary clarify where the plates come from and assure me that it is not the department, but the State? That can be easily done, because the plates are actually purchased. Who owns the plates to sell them in the first instance? Are the plates the property of the State or the department of transport?

Hon KEN TRAVERS: My advice is that it is the State.

**Clause 4 postponed until after consideration of clause 18, on motion by Hon Ken Travers (Parliamentary Secretary).**

**Clause 5: Section 16 amended -**

Hon ALAN CADBY: I have a question about the term “criteria”. Proposed subsection (2) states -

Taxi plates shall also be offered for lease, with the invitation to apply to lease taxi plates specifying -

- (a) the criteria to be met by the successful applicant;

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I note that the parliamentary secretary's amendment on the supplementary notice paper to proposed subsection (6) will delete the words "in accordance with criteria to be set". What is the nature of the criteria that must be met, and is it similar to the criteria the parliamentary secretary will insert in a later proposed subsection?

Hon KEN TRAVERS: That amendment was moved in the Assembly. Subsequently, it was felt that a better way of drafting it would be to specify the criteria. That will be the criteria as proposed in the amendment I will move shortly. If a number of drivers continue to meet that criteria, a ballot would be held under clause 7 to determine which of those drivers would receive the lease plate.

Hon ALAN CADBY: If that is the case, should the legislation not include a definition of the term "criteria"?

Hon KEN TRAVERS: If my amendment is accepted, the criteria will be defined in the Bill.

Hon ALAN CADBY: According to supplementary notice paper issue No 3, the proposed amendment is to delete the term "criteria", and to insert the words "by the Director General having regard to", followed by a list. That list is not defined as the criteria to be met, which is referred to in proposed subsection (2). Nowhere in this Bill or the supplementary paper is a definition of "criteria". In fact, the Government plans to remove the word "criteria" from that proposed subsection.

Hon KEN TRAVERS: The point that the member is making is about the way the legislation has been drafted. He is correct in one sense. The criteria that will need to be specified by the director general in the invitation to apply is that criteria which will be listed in the Bill if my amendment is successful.

Hon ALAN CADBY: The point I am trying to make is that we know what the criteria are only because the Government proposes to delete the reference to "criteria" and replace it with something else. Once that is done, the term "criteria" will not be defined in the Bill. A definition of "criteria" should be inserted in clause 4, or the list contained in the proposed amendment to replace the term "criteria" in proposed subsection (5) should be inserted in proposed subsection (2). Once this legislation goes through, "criteria" will have no meaning. It could mean anything.

Hon KEN TRAVERS: I do not believe there is a need for us to make any amendments in that regard. The success of the amendment standing in my name on the supplementary notice paper will mean that the Bill will make explicit the basis on which the director general can issue plates. That list will be the criteria or the procedure by which he will operate and will contain the issues to which he must have regard when issuing the plates.

Hon ALAN CADBY: It is difficult to get through to the member that if this supplementary paper did not exist, we would not know what the criteria are because there is no definition for "criteria". The only reason we know is that we have the supplementary notice paper.

Hon Ken Travers: The director general will still be bound by the Act, which will make the criteria clear.

Hon ALAN CADBY: Where in the Act does it make them clear?

Hon Ken Travers: If my amendment is successful, a list will be inserted into the legislation. That will be the basis on which the director general can issue a plate. The invitation to apply will need to specify those items that will be listed at the end of proposed subsection (6).

Hon ALAN CADBY: I cannot agree with the parliamentary secretary. He must either change the word "criteria" in proposed subsection (2) so that it is in line with what is contained in his amendment or include "criteria" in his amendment. The word "criteria" is very subjective. Once this has gone through, there will be no definition of criteria in the Act.

Hon Ken Travers: There will be, because the list of criteria will be defined in the Act.

Hon JIM SCOTT: What impact will proposed subsection (3)(b) have on the ability of existing peak-time drivers to get one of these new lease plates? Proposed subsection (3) states -

Without limiting subsection (2)(a), taxi plates may be leased by an individual only if the Director General is satisfied that the individual -

...

(b) is not the owner, and has no interest in the ownership, of taxi plates;

Does that mean that peak-time drivers will not be able to get a lease on a full-time plate?

Hon KEN TRAVERS: Hon Jim Scott raised this matter with me prior to the debate, following which I requested that advice be sought from parliamentary counsel to confirm that specific point. The advice I have received is that nothing in this Act prevents a driver from applying for the plate. The director general will issue the plate so long as he is satisfied at that time that the driver has divested himself of any interest in a plate. Nothing in the

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Act will prevent a driver applying for a lease plate. As long as that driver has divested himself of his interest in a plate, he can be issued with a lease plate. I specifically requested advice about that point, and that is the advice I received.

Hon JIM SCOTT: Much of this will be tied with timing. A driver may enter into a private lease just before a new release of lease plates. It will depend on how the releases will occur. Will people be able to apply for a new licence before the director general notifies that the department will be issuing a new release? How will that process happen? Someone might be tied into a lease. As Hon Peter Foss said, that is a private arrangement that cannot be chucked away willy-nilly. If that driver cannot manage to get his lease rewritten, he will be in a bit of a spot. He will not be able to get hold of one of the newly released plates unless he has some early indication of the release and times the conclusion of his other lease with that. I do not know how that could be done.

Hon Ken Travers: Clause 4, which was postponed, makes it very clear that "lease" refers to an existing lease under the Act, not a private lease.

Hon JIM SCOTT: It has no interest.

Hon Peter Foss: If you owned an MPT, you would not get one.

The DEPUTY CHAIRMAN (Hon Kate Doust): Can we allow Hon Jim Scott to complete what he is saying? It is getting confusing with two voices.

Hon JIM SCOTT: Basically we are talking about a group of people who bought plates. They want the ability to get hold of some of the new leased plates from the Government. Therefore, they must be able to divest themselves of their plates. However, they also have lease arrangements with sublessees, as I understand it. Is that the case?

Hon Ken Travers: They can sublease plates but the subleases would not be for the same period. They would need to put those issues in place. There would be an annual consideration of the lease of plates.

Hon JIM SCOTT: I want to clarify that this legislation is not making it virtually impossible for them to change over. Would they be able to apply only when the licences are released, or is the parliamentary secretary saying they have three months to do it? Would they fall off the end of the table if the three months were up and they were not able to sell their licence plate so that somebody else could take it over? One of the concerns of the great bulk of drivers when looking at this transition period is the impact of a new lot of plates coming onto the market and taking their share of revenue. The parliamentary secretary is saying that they can apply for a new licence plate, but they must divest themselves of their current licence. If they were able to lease a new plate and become a premium licence plate driver while they still held the other plate but were not able to sublease it, they could use the same vehicle and work full time. I do not see how that could hurt, because it would occur during a transitional period. If they were able to do that it would soften the blow, even if they took three months to sell their current licence. I cannot see how that would be a problem for the industry. It would be better for the industry in a way because they would be driving and therefore adding more driving time. If they had to divest themselves of their current licence, it would be fairly difficult for them. They would have the plate they had paid for and the new plate coming out with which they could make more money. It would be difficult for them to sell their current plates even in three months, particularly part-time licence plates because anybody who bought one would take more time to make money. If they were able to have the new licence in addition to their current licence, the current licence could be sold at any time, and I do not see that would be a problem.

Hon PETER FOSS: I think Hon Jim Scott is spot on. Quite plainly a person who owns a part-time plate has an interest in the ownership of plates. I believe therefore that person is disqualified. I know we have been told that the process will work, but I do not think that is authorised by law. I do not want to draft legislation on the run, but I suspect that the Government should look at this. The point being made by Hon Jim Scott is a good one and it should be looked at. I am not drafting but suggesting the concept that where a person cannot comply with proposed subsection (3), it will be sufficient if that person gives an undertaking to comply or become compliant within a period after the plate is issued to him. I would suggest the Government have a scheme that would nominate that period, so that the licence holder would then have an obligation to comply with that period, or such further time as the director general shall allow him or her because of difficulties. I can see the point that Hon Jim Scott is raising. If these plates are regularly coming up for lease and people with part-time plates are the prime people who would like to move from part time to full time, they will be in the market for the plates. As soon as they get one, they will have to get rid of their existing plate. There will therefore be a glut on the market at that time because of everybody trying to quit their part-time plates. Even assuming it could be done, that would be the worst time to be doing it. Because of the capital they had invested, this will provide a massive disincentive for them to move across to the new plates. Once again, the Government would be providing a capital obstruction to anybody in that category that the Government wants to encourage to lease the plates. It



seems to me that, without intending to do so, practical obstructions have been put in the way of people who want to move across to the new plates.

I was about to raise another point, but I think Hon Jim Scott's point is very good. I do not believe there is a simple resolution. The Government will have to consider a specific capacity for people to give an undertaking to become compliant with proposed subsection (3). They could nominate the period in their application, and it could be one of the matters taken into account by the director general. If a whole lot of people are part-time plate owners and, for example, one says that he can get out of it easily in three months, provided he does not continually ask for extensions, there may then be an orderly transfer from one kind of plate to the other. If there is nothing like that, as Hon Jim Scott stated, even with the Government's procedure, which I do not believe is legal, there will be havoc. The Government will be wondering why people who are currently driving under a lease or a part-time plate are taking this up. The reason will simply be that the Government has put a statute in place that makes it almost impossible for them to do so from a practical point of view. I would therefore agree entirely with the interpretation Hon Jim Scott has put on it.

Hon KEN TRAVERS: The Government's view is that nothing limits someone from making an application under the Act. A period will need to be given, but may I suggest to members that if we can move on, I will seek further advice and, if there is any need to clarify the matter, we will be able to do that under clause 7 which amends section 18.

Hon JIM SCOTT: I merely suggest that when the parliamentary secretary is seeking further advice, perhaps he could make it open to people who are already in the industry to make earlier application rather than waiting for the release of plates, so that they could have available to them a period during which they could look at selling their licence plate. Perhaps they could be able to make an application before the release occurred. That would mean the Government would receive applications from people outside the industry in the normal way, but people who are in the industry, whom the Government wants to keep -

Hon Ken Travers: We will be able to revisit this when we deal with clause 7, which amends section 18, "Issue of taxi plates", if there is a need. I will seek further clarification of it. However, I suggest we move on to consider the -

The DEPUTY CHAIRMAN (Hon Kate Doust): Order! Hon Jim Scott has the call. The parliamentary secretary will wait. I will give him the call in due course.

Hon JIM SCOTT: If we leave in "is not the owner, and has no interest in the ownership, of taxi plates", it may prevent any change; that is all.

Hon KEN TRAVERS: I say to Hon Jim Scott that the Government's view is that it will not issue plates to someone who has an interest in an existing plate. We are prepared to allow people to make an application - that is the intent of the Government - and to give them a reasonable time between making their application and being notified that their application will be successful so long as they have divested themselves of the other plate. I understand the concerns being raised by members. My view is that if there is a need for clarification and to make an amendment, that would be easily and most appropriately done in section 18 of the substantive Act, which is dealt with in clause 7 of this Bill. I suggest to members that we continue to deal with the other matters in clause 5, and before we reach clause 7, I will request further clarification from parliamentary counsel about whether there is a need to amend it. We should move on and deal with the other issues. We can deal with the issue of people being able to apply for and issued with a plate if they have divested themselves of the other plate when we reach clause 7 of the Bill.

Hon PETER FOSS: I am sorry to disagree with the parliamentary secretary again, but I believe Hon Jim Scott has raised this issue at the right time, because I believe he is dealing with the question of qualification. Section 18 of the Act deals with the process of issuing. We are now dealing with the process of becoming entitled to have such a plate. As I read this, a person is not entitled to have it - he cannot apply - and that is the end of it. Therefore, I believe Hon Jim Scott is correct in raising it here, and this is where it should be dealt with. If the parliamentary secretary does not want to deal with it now, we could possibly postpone this clause until after we have dealt with some other matters.

I will now move on to the point that I wanted to raise. The concern I have always had was heightened by the parliamentary secretary's answer to Hon Alan Cadby about how this form of lease will save people money. I will be quite frank. I am a deregulator. I do not think it comes as a surprise to anybody that I am a deregulator. Therefore, I do not expect any gasps or intakes of breath as a result of my saying that.

Hon Tom Stephens: What about when it comes to the legal profession?

Hon PETER FOSS: I totally agree there too.

Hon Ken Travers: With or without buyback, Mr Foss?

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Hon PETER FOSS: With buyback. I proposed a scheme for buyback many years ago. I believe there should be full buyback. I will deal with why I believe that.

Hon Ken Travers: Compulsory?

Hon PETER FOSS: I can go into that. However, we are not discussing that now. I want to talk about that in the context of this Bill. Why is the value of plates a bit of a problem at times? The problem arises from the fact that if a person owns a taxi with a valuable plate, he must obtain sufficient income to pay for not only the work that he does while sitting in that taxi, the maintenance that the taxi requires and the other running costs, but also the capital return on the cost of the plate. Therefore, enough income must come in to pay for all those items.

Hon Ken Travers: Or be getting capital growth in the plate to -

Hon PETER FOSS: I will get to the capital growth. That is my next point. The income must satisfy the work that the person does in the cab, the work he must do on the cab and his capital. The person who pays for that is the customer. Therefore, the taxi operator must have a better return because of the need to pay all those things. How does he get a better return? He may possibly get it by raising the fares, although the question of whether raising fares brings in more money or less is always interesting. Alternatively, the market could be reduced so that there are fewer taxis and everybody makes enough money. However, that creates problems for the ordinary person who wants to use a taxi but cannot get one and must pay too much for it. That is the net result of it. I certainly supported the concept.

What are some of the advantages of having it? As mentioned by the parliamentary secretary, a person will get capital growth, provided, of course, the value of the plate is growing at a reasonable rate. The value of plates has been going in the opposite direction recently. However, for many years, people who invested in them got not only some sort of return on their capital but also capital growth. That was an incentive to keep up the value; that is, to make sure that people had good quality taxis. They put money into the taxi and kept it as though it were new - all those things that were necessary in terms of service. People were prepared to invest because they got a return. However, what does this present plan do? The taxis will be leased at slightly less than the cost at which people currently lease from an owner. An owner leases because he has certain requirements that he must satisfy for the maintenance of the taxi. Making it slightly less will not necessarily help, because by the time the person is paid to run his taxi, he will probably be back in the same situation as he was when he was leasing his taxi from somebody else.

Hon Ken Travers: There is a difference between the plate lease and the taxi lease, though.

Hon PETER FOSS: Yes, I know, but the overall amount that the person will end up paying will be quite significant. What effect will it have on the overall capital value for the people who own their plates? If somebody in the market is leasing at a genuinely lesser value than a taxi plate can command, what will that do to the capital value of the taxi? A taxi is very much like any form of commercial property. If a person wanted to value an office building in Perth, he would not go around and look at the value of the land, how much it would have cost to construct the building and how much it would cost to replace it. He would ask what its rateable area is and what it is letting at, and do a calculation. Valuing a city property is easy. It is a mathematical calculation from the rent. By leasing at a lesser rate, the Government will not only take the capital gain - because I am sure that, over a period, the State will increase these amounts, at least in line with inflation, so it will become the trader in taxi plates - but also depreciate the value of taxi plates for which people have paid good money. That is why I prefer a full buyback. The Government should either stick with a system under which it sells the plates, and people then have an even playing field, or buy back totally.

There are problems in what the Government is presently proposing that came out in the parliamentary secretary's answer. The Government is trying to save people money. That is a laudable intent. I have no problem with that. I believe it is an excellent idea. The more we can reduce the cost of taxi plates, the better it will be for everybody, including the public. My concern is that I see nothing in this legislation to protect the capital investment already made by people who have bought plates, nor do I see any long-term benefit for the people who are leasing, because they will never get the benefit of the increased value of the capital. One of the nice things that came out was that people did get capital growth. There is nothing in this for anybody, other than to be a permanent serf. People will virtually end up as permanent serfs. It is like not being able to buy a Homeswest house. In this legislation, there probably should be an option after a certain period - if a person has leased from the Government for 10 years - to buy the plate.

Why must people be put in the position of having to permanently lease plates? How could a lessee become an owner of a taxi plate? That is the reverse scenario of the situation Hon Jim Scott raised. Clause 5, proposed subsection (3) states -

Without limiting subsection (2)(a), taxi plates may be leased by an individual only if the Director General is satisfied that the individual -

. . .

(b) is not the owner, and has no interest in the ownership, of taxi plates; and . . .

What if the owner subsequently wants to buy the plate? What is to stop an owner from buying a plate?

Hon Ken Travers: Clause 12.

Hon PETER FOSS: Exactly. How will that be done? Once people have got into this, how will they get out of it? Will they give up their income for a time? A driver cannot buy a plate if he is leasing a plate. It would be a crazy situation if a driver could own a plate but could not lease one, and a driver could lease a plate and could also own one. How will that change? A lessee will never be able to buy a taxi licence. The Government will give the driver an option - even that is arguable - and he will arrange to give up his lease and then conclude the purchase of the licence and take it over. I suspect that a person who did that would find that he would be left without income or legal security for a period. It seems to me that the legislation has not been thought through very well. Although I can accept that there may be some emotional arguments for allowing leasing, having had the emotional argument, the Government has stopped thinking. The Bill was handed to a draftsman who was told to write it without thinking about how it would work.

Hon KEN TRAVERS: I must address a couple of issues that Hon Peter Foss raised. The impact on the capital value of the plates is related to the number of plates that are issued. As I said earlier, if one wanted to drive down the capital cost of people's investments, one could quickly issue a number of plates. The Government could do that tomorrow under the existing regulations. It could issue a couple of hundred new plates, which would definitely drive down their value. As I said earlier, the Victorian Government has begun leasing plates in Melbourne. The evidence is that the capital value of plates on the market has continued to increase quite well since the leased plates came onto the market. The leasing of the plates has had no adverse impact on the capital value of the plates. This is not the place to give an economics lecture, but I can assure the member that the example in Melbourne shows that the value of the plates has not decreased. I argue very strongly to the member that the number of plates in the marketplace determines their value. This Government will set the lease rate at a level that will allow drivers who have leased plates to gain better returns.

The member was correct when he said that there was a choice to consider when deciding how to increase the returns to the taxi drivers: the Government could either reduce the lease payments or it could increase the fares. However, as Hon Peter Foss said, if the Government increased the fares, due to the elasticity of demand, there would be a good chance that the take-home pay for drivers would lead to a net decrease, and there are examples of that around the State. Eventually, it might lead to a decrease in the value of the plates, but there would be a lag. When the fares increase, the drivers on the road, rather than the plate owners, carry the substantive risk associated with those increased fares. We must be clear about this. The member seemed to be confusing the difference between a driver who leases a car with a plate on it and a driver who leases just the plate from the owner and places it on his own car, the management company's car or any number of a range of options that are available.

Hon Peter Foss: Yours will be less than the current leasing of the plate alone.

Hon KEN TRAVERS: Yes. However, the indications are that that will not have an impact on the total capital value. As I said, a range of other issues must be taken into account. Hon Murray Criddle talked about small charter vehicles. The changes that were made to small charter vehicles had an impact on the lease value of plates for a time. As a result of the changes that this Government has introduced, the value of the plate will increase as there will be a clear difference between SCVs and taxis. With regard to the final issue Hon Peter Foss raised, a person who wanted to give up his lease and buy a plate could forgo his lease plate and buy a new plate and transfer it across, if he was successful.

Hon Peter Foss: He would forfeit it.

Hon KEN TRAVERS: But he would not lose anything when he forfeited it.

Hon MURRAY CRIDDLE: I refer to clause 5, proposed subsection (2)(b), which refers to the period for which the plates are offered for lease. Obviously, someone who wins the lease will have to buy a car. For how long can a person hold the lease? Can the lease be rolled over? Obviously, the owner's car will have to be of reasonable quality to allow the person to operate, bearing in mind the safety issues and other criteria that people in the taxi industry must meet.

Hon KEN TRAVERS: I covered the member's question earlier. The Government intends conventional plates to be leased for eight years and for multipurpose taxis to be leased for 10 years. That means that the lease would be valid for the life expectancy of the vehicle. The lessee could apply to extend the lease when it expired.

Hon MURRAY CRIDDLE: Who sets the financial arrangements? I asked this question earlier but the parliamentary secretary did not clarify who will make the decisions regarding the lease and the setting of the lease. I asked for an indication of what level it would be set at. Obviously, there is no idea of what the level will be. Who will set that lease figure?

Hon KEN TRAVERS: The amount charged for the leases will be set by the minister in consultation with and on the advice of the department.

Hon MURRAY CRIDDLE: That worries the life out of me. If a minister can have input into what the lease arrangement costing or price might be, it will lead to all sorts of political interference in the process, which goes to the very heart of my concerns with regard to leasing. I put it on record that I am anything but satisfied with that sort of arrangement for leasing and the impact that it will have on the whole industry. Hon Peter Foss outlined succinctly the business side of making these decisions, which might have a substantial impact, especially if we change the 20 per cent limit on the number of lease arrangements that can be put in place. However, I thank the parliamentary secretary for his answer, about which I have great concerns.

Under proposed subsection (2)(d), what conditions will be imposed on the operation of a taxi using these plates?

Hon KEN TRAVERS: In broad terms, the conditions that are currently imposed on the operation of existing plates. This provision has been put in place because the leased plates will cover not only conventional plates but also restricted area plates, multipurpose plates and peak plates. As the member is probably aware, those licences are already issued subject to conditions on the licence and, in this case, it is no different. The conditions for operating a peak plate licence are set as part of the licence. It is intended that these plates be issued in the same way.

Hon MURRAY CRIDDLE: Proposed subsection (6) states -

... that the Director General determines to be available for lease, the successful applicants are to be selected on the basis of merit in accordance with criteria to be set.

In that case there is no priority for the people who have applied earlier. What arrangement will be put in place with regard to that? If 100 people apply for 50 plates, will the first 50 people get the chop? How will it be sorted out?

Hon KEN TRAVERS: We are proposing to amend that provision to specify the criteria for which the director general will have regard, the first of which will be the extent of an applicant's experience as a taxi driver. If it is impossible to split the applicants with regard to those criteria, then another amendment standing on the Notice Paper in my name for a proposed subsection (7) will result in a ballot being conducted.

Hon PETER FOSS: Another one of these little imponderables contained in this legislation deals with the question of what the lease amount will be in the future. It seems to me that there are two alternatives; it will rise in line with other costs in the community or it will remain steady.

Hon Murray Criddle: I think before you get that far you have to work out where we start from.

Hon PETER FOSS: I agree. However, let us assume that we have picked a starting point. What happens after that? Does the price go up, does it stay the same or does it go down? If the Government is currently charging X dollars to lease a plate, and we ask the population whether it thinks that price will be higher, lower or the same in 10 years from now, I think 99.99 per cent of people would say that it will go up. I suspect this will be quite a good little revenue earner for the Government. If leasing taxi plates is a good revenue earner for people who have bought them privately, it might be seen as a good revenue earner by the Government. Governments - I am not saying Labor Governments - being Governments, when they run short of money, they look at what fees they can raise to set them up. I think we can safely predict that the prices will go up. Along with that, we will also find that that will dictate the Government's view on what should be happening in the market to make sure that the plates are being leased at a lesser cost than that in the market. The Government then gets interested in keeping the number of taxis down so that the value of plates goes up and the lease rate goes up, otherwise, it will not be able to raise the amount needed. Unfortunately, whenever a Government becomes a player as opposed to merely a regulator, there is a conflict of interest. As soon as this provision is put in place, there is a conflict of interest. If the price goes up - I think I can safely predict that it will - it virtually means that the capital growth becomes, again, an interest for the Government. We have not bought back the plates but we have virtually bought back the future capital growth of these plates. We rarely have the opportunity to determine where there will be future capital growth. In this instance we have the capacity to control both things; the market in licences and the market in bought plates. Therefore, we have a very major control over the price of plates and now, unfortunately, a very major interest in it as well. I suppose there is already a current investment interest in that as we are already flogging the capital value for plates as it is. This is another unfortunate government motivation, which is a difficulty.

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One of the reasons I have an amendment on the Notice Paper is because I am concerned that the Government has the capacity to virtually take back the marketable plates without compensating anybody. This could be done by continuing to increase the number of leased plates and by lowering their price, if the Government is prepared to do that. There are so many capacities for the Government - depending on the sort of Government in office and what it wants to do - to go in there and fiddle. I do not know what the current minister's intent is and I cannot even guess who the future minister might be. However, I can tell members that a minister, if not more than one minister, will fiddle.

Hon Jim Scott: Speaking as an ex-minister.

Hon PETER FOSS: Yes, speaking as an ex-minister, a minister considers what he can do to give effect to his ideologies, which is why a person is elected. If Parliament gives a person the power to give effect to their ideologies, he does it; that is human nature. I have concerns about this provision because of that and I have an amendment on the Notice Paper because of that concern.

I have an amendment on the Notice Paper that tries to restrict the number of lease arrangements that can be put in place by the State to five per cent. My understanding is that the Greens (WA) will support 20 per cent but not five per cent - I would not mind if Hon Jim Scott confirmed that. If that is the case, then I will not be silly; I will go with whatever gets through. However, my preference is that it be five per cent - I think Hon Jim Scott will understand my reason for that a little more now I have made my statement.

The parliamentary secretary has an amendment standing on the Notice Paper for exactly the same purpose that uses alternative wording. Having considered it, I would say that possibly it could use more desirable wording. However, I am quite happy to go along with the Government's wording. At this stage, I propose to not move my amendment on the basis that the Government will move its amendment. With regard to how many lease arrangements can be put in place, the Government is a little coy in its amendment that states -

**“relevant percentage”** means -

- (a) 20%; or
- (b) if another percentage is prescribed by regulation, that other percentage.

I am not too happy with the second part of the amendment. When the Government moves that amendment, I will move to delete “(a)” as well as “(b)” and the rest of that line; that is, I do not agree that we should be doing this by regulation. Any such change is a major policy change, not just an inconvenience change.

Debate interrupted, pursuant to sessional orders.

[Continued on page 13475.]

*Sitting suspended from 1.00 to 2.00 pm*