

REGIONAL INVESTMENT FUND BILL 2001

Committee

Resumed from 14 March. The Chairman of Committees (Hon George Cash) in the Chair; Hon Tom Stephens (Minister for Local Government and Regional Development) in charge of the Bill.

Clause 5: Regional Assistance Authority -

Progress was reported after the clause had been partly considered.

Hon NORMAN MOORE: I am not altogether satisfied with the events of the past few minutes. This Bill was due to be dealt with after another Bill. We were ready to debate the previous two Bills only to discover that the Government adjourned the first Bill and did not want to debate the second Bill, but then moved to debate it and asked whether the Opposition had a problem.

We are ready to debate the whole of the Notice Paper today in the order in which it is listed - we have been for weeks - and we are now on about the fourth item after having dealt with only the first order of the day. I wish the Government would get itself organised. I find it extraordinary that we can adjourn a debate about infrastructure, a machinery of government Bill, so that the Greens (WA) will be happy with the outcome. We have just debated a Bill for a month and the Government took not one iota of notice of hundreds of amendments and propositions put forward by the Opposition. The Government put the legislation straight through and could not care less. Its priorities are unbelievable and the deals that are being done are totally regrettable.

The CHAIRMAN: Order! We are dealing with clause 5 of the Regional Investment Fund Bill.

Hon NORMAN MOORE: The Leader of the House may understand why I am a bit annoyed. We are now on clause 5 of this Bill for about the seventh time, and it comes and goes whenever it suits the Government's purpose. We are expected to sit here and just wait for that to happen.

I am still not satisfied with the minister's explanation of why he needs to be an authority. I have put a question on notice about this. In what other statutory authorities is the minister the statutory authority, having been told by the minister that there are hundreds of them? We could then decide once and for all whether the House should be agreeing to the minister setting up an authority that is in fact him as the minister. I raised the issue previously that the purpose of this authority is to allocate funds; it is a spending organisation. How will things be more squeaky-clean because the minister is an authority rather than just a minister? I suggest to government members that they join those cheering outside, because it will not last for very long.

Hon TOM STEPHENS: I have had a further look at the question of the minister as the authority. I have previously referred to a couple of these authorities. An authority exists under a works Act; and my colleague, Hon Clive Brown, Minister for State Development, exists as an authority under an Act, the name of which escapes me. He is referred to once as an authority and throughout the remainder of the Act as minister.

This is a change in parliamentary drafting style. It may not be the neatest, it may have an element of ambiguity about it or it may confuse people, but it is simply what the parliamentary draftsman has come up with as the best way to construct this legislation with the minister as the authority. It distinguishes the minister from his other responsibilities as a department, and it isolates the minister's functions from the way the minister's responsibilities are intertwined with the department. There is nothing more to read into it other than a change in the style adopted by the people writing up this legislation. The draftsman has drawn upon what was done in a couple of other Acts, built on that and fed it through this legislation. From time to time we see a change in style in the way things are drafted.

These are the facts and the way things stand. I cannot add any more to that explanation to persuade the Leader of the Opposition that the attitude that has been adopted should be the one that becomes law. When the Leader of the Opposition was in government, he regularly said to us, "This is the way the Government has opted to deliver on its pre-election commitment or its policy objectives." We articulated our policy objectives when in opposition. Arriving in government, we considered the issue about how we would make this fund transparent to the scrutiny of the Parliament and the wider community. This is how we have chosen to deliver that transparency. There was no other reason, other than to position this fund in a transparent and clear manner before the Parliament and the community.

Hon NORMAN MOORE: I do not propose to prolong this debate, but the minister does not have an answer when he tells us this was parliamentary counsel's way of doing things. He cannot come in here and say that he introduced a Bill because these days parliamentary counsel happens to draft things this way. The minister does not need this legislation. He could allocate the funds through his department and be just as accountable and transparent. The minister is introducing this Bill to the Parliament. Presumably, he gave instructions to the draftsman, because that is how the system of government works. The draftsman does not tell the minister

how to deliver his policies. The minister is trying to give the impression that this is a transparent process when in fact it is not. The Opposition has a number of amendments on the Notice Paper, which have been discussed by Hon Murray Criddle and me, that will endeavour to make this legislation more transparent and ensure that the authority cannot do as it pleases all the time without reference to somebody else. The minister will notice that further amendments will require the minister to do certain things when getting authority for the expenditure of funds rather than doing them himself.

The minister should not tell us this is a quirk of the current drafting policy of Crown Law. That is not how the system works. The minister sends off to the draftsman a cabinet decision which indicates what the minister wants delivered. I am sure the minister's cabinet minute referred to the setting up of an authority, and I am sure that it referred to the minister being the authority. The minister provided drafting instructions at the same time. The draftsman drafts for the minister, not the other way around.

Hon DERRICK TOMLINSON: I listened to the minister's explanation of his two-in-one function as both a minister and an authority. I was left a little more confused than I was previously. I have always had a great deal of trouble understanding the concept of three-in-one or two-in-one personalities. I am glad it is only a two-in-one personality in this instance, otherwise the minister might have been assuming a status to which he is not entitled. Another Bill to which I cannot refer contains words to which I cannot refer, to the effect that there are some things better done by the minister as a statutory authority or whatever than the minister can do himself, and therefore the minister is embodied as a statutory authority. According to the function, the person becomes either the Father, the Son or the Holy Spirit.

Will the minister provide some explanation, given that the function of the authority is the distribution of funds, of why that authority is better able to do this than the minister? We have heard one explanation: that a minister, because of the protections afforded by the Crown, is not liable under some aspects of law. However, the minister as an authority is liable under other aspects of the law. I am not quite sure about this provision. Could we be enlightened on when the minister, embodied as the authority, functions as the authority but is still the minister? What is the difference between the two other than the change of name?

Hon TOM STEPHENS: Under this Bill, the minister has the narrow responsibility of being the authority responsible for the administration of this Bill and all its purposes and functions. As the Minister for Local Government and Regional Development, I have entrusted to me the portfolio responsibilities that are assigned by the Premier with the swearing in of the Government. That assigns to me a department and all the other Acts that are attached to that portfolio. On this occasion, the Bill simply narrows down a particular fund with its purpose and functions and embodies its operation inside a statute. The minister's responsibility for the fund, its functions and purpose is embodied in that authority. That deliberately makes it discrete from the other functions that come under the responsibility of the Minister for Local Government and Regional Development. I have nothing more to add to that.

I agree with the member that this could be seen as potentially confusing, but it was not done with that intention but rather to make available a discrete operation of this fund and its functions and to have it accountable through this Parliament. Treasury is keen to have the fund issue dealt with by the Parliament so that in the budgetary process this fund's operation can be discretely and cleanly delineated. This fund will exist separately from the other functions of my department.

Hon DERRICK TOMLINSON: I am sorry but that is not a satisfactory explanation, even though it might be the best that the minister can give. Having never been a minister, I do not really understand the functions of a minister, but having observed ministers, sometimes closely and sometimes from a distance, I am aware that there are many dimensions to the role of a minister and that there are constant transitions between those roles. However, there is no delineation of those roles by statute. They are there and are part of the complexity of the job of being both an executive head of a department and a politically accountable person. It is made particularly complex by the Westminster system in which the minister is both a parliamentarian and the statutory head of a department. I understand the multifarious aspects of the minister's role. However, to say that this role will be delineated by a statutory definition, which makes it different from other roles, does not satisfy me.

I was interested to hear what the minister was getting at when he started to talk about Treasury and its requirements for the management of the fund. Perhaps there is some accountability in this provision that I have not had explained satisfactorily yet. Before I come to terms with this Bill, I would like to have a more satisfactory explanation from the minister than has been given so far.

Debate interrupted, pursuant to standing orders.

[Continued on page 8747.]

Sitting suspended from 3.45 to 4.00 pm