

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

**PUBLIC TRANSPORT AUTHORITY BILL 2003**

*Second Reading*

Resumed from 7 May.

**HON DEE MARGETTS** (Agricultural) [10.06 am]: I know very little about this Bill. However, I know that my -

Hon Ken Travers interjected.

Hon DEE MARGETTS: Oh, how unkind! I know that my parliamentary colleague Hon Jim Scott is very keen to speak on this Bill.

Several members interjected.

Hon DEE MARGETTS: Yes, I know a little about ports but I am not entirely sure how that links in with this Bill. The issue of transport is absolutely important to the Greens (WA) for a range of reasons, not only in terms of public amenity but also -

Several members interjected.

The PRESIDENT: Order! Members will behave themselves and not interrupt the speaker.

Hon DEE MARGETTS: Yes, they could miss something extremely important. However, in this case, I doubt it. I thank members for their attention.

**HON JIM SCOTT** (South Metropolitan) [10.08 am]: Given the debate we have already had on the Public Transport Authority Bill, there is a great level of misunderstanding, because it seems to me -

Hon Nick Griffiths interjected.

Hon JIM SCOTT: Well, in some cases with good reason. However, there seems to have been a wide-ranging debate on strategies, planning and all sorts of other things when, in fact, the Bill sets up an authority that is completely separate from those sorts of matters. It is similar to the way in which Main Roads, for instance, has been brought under the Department for Planning and Infrastructure where it focuses on the building of roads, and the planning of roads is done by the Department for Planning and Infrastructure. The Public Transport Authority will be dedicated to providing rail, bus and ferry services. This Bill seeks to provide an integrated approach to those services. It does not provide for the construction of the railway line to Mandurah. However, it will ensure that a good service is provided when the railway line to Mandurah has been developed.

The changes drafted in this Bill are very good. In the past, many complaints have been made about the lack of transport integration in Perth. Many people have recently complained about inadequate bus connections to ferry services. This Bill will go a significant way towards providing a better transport service for the community of Western Australia. That is very important. Although this Bill does not address transport strategy and planning, in this modern day and age in which we struggle to address a range of environmental impacts, it will ensure that a more efficient and, therefore, a more environmentally friendly transport system is developed in this State.

Some members have complained about the areas that are not addressed by this Bill. I understand that Hon Paddy Embry was concerned that money spent on the rail line to Mandurah would deprive country roads of funding. His focus was on providing more money for country roads. However, for many years overexpenditure has occurred on metropolitan roads in this State. He should focus on that issue rather than being concerned about something that will eliminate the need for more urban roads. A good public transport system means that less expenditure is needed for maintenance of urban roads, which means that more money will be available for spending on country roads.

Hon Paddy Embry: Do you think enough money is being spent on roads?

Hon JIM SCOTT: I think probably as much money as can be afforded is being spent. We must remember that the more urban roads that are built, the more consistent maintenance is required, and it encourages greater car usage. That leads to even more expenditure on maintenance, which eventually leads to financial problems. The City of Perth has more roads per capita than anywhere in the world except Houston. If that is the case, Perth has too many roads.

Hon Paddy Embry interjected.

Hon JIM SCOTT: That is exactly right. It is important to have a good, integrated public transport system to lessen the need for that expenditure and to free up funds for building roads where they are most needed.

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

Members of the Government have told me that. This is a simple Bill and it will have far-reaching benefits in making our transport system more effective. The creation of a single authority to manage the various aspects of passenger transport will ensure a much better service and provide those other benefits.

I understand that the previous Government started an integration process, so this Bill is not a reflection on its lack of policies; it is a further step along the path.

Hon Murray Criddle: It is the step along the path, not a further step.

Hon JIM SCOTT: I know that the previous minister had seriously considered an integrated transport portfolio, so this is not a political issue; it should get the support of all members.

The Bill does not contain many aspects that concern me. Most of the clauses deal with simple housekeeping issues such as changes to who is in charge of what; therefore, it will not effect major changes. However, the overall concept of the legislation will not only create a big change to the extent that people in Perth will be set on the path of having a better public transport system, but also it will affect the way our city is planned. That will be necessary to integrate a good public transport system.

One of the problems with Perth is that it has expanded as a result of the amount of money that has been spent on its roads and highways. An architect friend once told me that urban Perth has a lower population density than rural Java; it is therefore difficult to run an effective transport system. A certain population density is necessary to run a properly integrated public transport service. In addition to this type of integration, I hope that government will do the sort of planning that will create more urban infill along our main transport nodes and enable not just better planning but also better design so that people can live happily in more dense urban environments. In the past, part of the problem with people accepting a move away from the quarter-acre block and the higher densities has been the appalling design of the urban area, compared with cities in Canada, for example, which have very good public transport systems. The Canadians have also managed to ensure that the design and planning of their streetscapes and the provision of public open space is integrated as part of their transport system. From speaking to the minister in the past, I am sure it is her intention to consider better planning and design to increase the profitability of public transport and to ensure a move away from being one of the largest car users in the world. The average car occupancy for vehicles coming into the city of Perth is 1.3 people.

This Bill will lead to a big change in people's attitudes to public transport. It is very important that people feel they are getting a good system. In doing that, we may be able to avoid the very strong measures that have been taken overseas. As part of my trip with the Standing Committee on Environment and Public Affairs I spent some time in London. Members may be aware that a very large tax is imposed on vehicles entering the main city area of London. It is designed to reduce the number of vehicles going into the area. It has been incredibly successful. I was surprised to find that people living close to the area were very happy with the scheme. I would have thought that some of them would have been upset if they needed to go into the city regularly. It has freed up the city and allowed better public transport. The buses whiz through the city very quickly; there are no hold-ups. It has created a city with a very smooth movement of people. It would have been unbelievable only a few years ago. It is happening now.

Hon Murray Criddle: What percentage of the population use public transport?

Hon JIM SCOTT: A lot more than before. The new system has not been in long enough to determine whether it is a permanent improvement. I do not have the figure for London but I know the European figure is significantly higher than in Australia. I believe only four per cent of Perth's population regularly use public transport. The figure is at least double that in most European cities. The tax system has resulted in more people using public transport and the transport system has become more efficient. Perth does not need such measures yet but by providing good public transport infrastructure we can ensure that things move in that direction without the need for a big tax.

Hon Murray Criddle: We need more people living along the spines of public transport routes.

Hon JIM SCOTT: Yes, I agree. We need more people living along the spines; it is very important. There are significant amounts of space along the spines. I have long advocated that we develop higher population usage, whether it is through urbanisation or commercial use. There is a vast amount of open space in Mosman Park and between Claremont and Fremantle that could be used successfully by more people in the future. It would result in a greater use of the train system.

Hon Murray Criddle interjected.

Hon JIM SCOTT: The member is talking about the southern extension. It was also a problem with the section of rail intended by the previous Government to run over the Jandakot water mound and through a number of golf

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

courses and parks. There was no way there could have been any building. There were already significant problems with a number of buildings in the area because of the impact of aircraft. I recently looked at the urbanisation of the Jandakot water mound. Buildings are being constructed along the bore line. The bore line is inside the urbanised area. In order to achieve development, vast amounts of water have been pumped from the water mound to drop the water level. The water has gone out to sea at a time when we are supposedly having problems saving water. That is the sort of planning we must get away from. Unfortunately, the Jandakot to Kenwick rail line would have promoted more of that sort of development. That would not have been appropriate. Although Hon Murray Criddle is correct that a section of the southern rail link will have population density problems, that section would have remained under the previous plan. It is basically the same line.

We must do better in the future in the way in which we plan infrastructure and the development of the city if we want our public transport system to work better. That involves where we develop urbanisation and where we place commercial developments. In the past we have seen very compartmentalised development. Urban, industrial and commercial areas have all been located discretely. That requires a lot of travel between the areas. They could have been integrated much better. Perth has the highest per capita car use of any city in Australia. It also has more roads per capita than any city in Australia. Interestingly, Fremantle has one of the lowest per capita car use levels in Australia even though it is part of the metropolitan area. Fremantle has a lower rate because of the integration of urbanisation, work and services. When we deal with legislation like this to improve the delivery of public transport, it is important that we do not forget that we need to plan properly for the future to achieve greater integration of different planning zones. Of course, we must recognise that we cannot have a high polluting industry in the middle of an urbanised zone. That is not something I would advocate. In fact, we should be looking carefully at imposing stricter requirements on such industries so that they can be located closer to urban areas. A lot of industries can coexist with communities. If we have a more integrated city, we will develop better public transport and achieve lower car use. Car use is beginning to cripple our cities and planet. Many members, including those who want to see more roads built, must realise by now that global warming is real and impacting on our climate. The movement of people must be more efficient. Rather than complain about public transport and demand better systems, it would be better to take a holistic view and start looking beyond the parochialism that has been expressed. This Bill is a small step along the way. In the time that I have had to examine it since my return, I have seen very little wrong with it. The Greens (WA) fully support the Bill and hope that further measures will be taken in the planning area to enhance the use of public transport rather than to privatise.

**HON GRAHAM GIFFARD** (North Metropolitan - Parliamentary Secretary) [10.30 am]: I thank members who have spoken and indicated their support and their varying degrees of enthusiasm for the Bill.

Hon Murray Criddle interjected.

Hon GRAHAM GIFFARD: We may well have disagreements on other issues, but the Bill is not -

Hon Alan Cadby: At least you will get one Bill through this week.

Hon GRAHAM GIFFARD: Members opposite have been taking grumpy pills already.

As a number of members have observed, the Bill creates one authority as the administrator of public transport services in Western Australia and draws together a number of bodies that currently perform that function. That is the inherent logic behind the Bill and the creation of the new authority. It is to improve the provision and coordination of public transport throughout Western Australia. As members have already observed, and as the Government has already explained on previous occasions, the creation of the authority is not intended, nor is it claimed, to be an exercise in cost cutting. It is not intended in any dramatic way to either save money or cost money. It has already been observed that there was no economic impact study, because the authority was not intended for that purpose. It will improve the focus and coordination of and draw together a system that is currently fractured. It will bring the system together because public transport is a key and very important service. It is appropriate that it be given the focus that it has been given under this Bill.

The transfer of staff from the Western Australian Government Railways Commission and the Department for Planning and Infrastructure will not be an exercise in redundancies. Hon Alan Cadby asked a question about job losses. Again, to the extent that this is not a cost-cutting exercise, we do not anticipate any job losses. Hon Alan Cadby also asked a number of questions about aspects of clause 12. He was concerned that a consequence of the Bill would be to stifle competition with private providers. As I understand it, the Bill specifically refers to those matters to make it clear that it will not prevent the authority from providing or facilitating functions such as Transperth and that there will be no diminution of private providers or country bus service operators. The inclusion of that provision in the Bill is to acknowledge the ability of the authority to do that. Similarly, a note under clause 12(2)(b) specifically explains that provision. It acknowledges and draws the reader's attention to the fact that the authority will have other responsibilities under other Acts.

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

Hon Alan Cadby: I raised that point because it is not specific to the rail freight system. It is actually quite general. That is why I raised the issue.

Hon GRAHAM GIFFARD: That is the only example I can think of. As I understand it, that is the only reason that provision was included in the Bill. The member is right. In addition to the public transport system, there are obligations and responsibilities arising from the rail freight corridor. The provision is included to acknowledge that -

Hon Alan Cadby: So that is the extent of that clause?

Hon GRAHAM GIFFARD: I think so; I will check that. I understand that is the only example, but if there are others, I will raise them during the committee stage. I understand that is the reason for that provision in the Bill.

Hon Alan Cadby also said that he thought clause 12(3) appeared to be fairly broad. The secondary function of the authority is to earn revenue by engaging in activities that are not inconsistent with and do not have an adverse effect on the authority's main functions. The authority will be subject to regulations that will be disallowable by this Parliament. It will not be as wide ranging as members might think it will be. It will be constrained by those important considerations.

Any business activities that the authority is to undertake must be contained in its operational plan and require the approval of the minister and the Treasurer. I am told that similar provisions that apply to other agencies of government will apply to this authority. Section 10 of the Zoological Parks Authority Act is similar to this provision. Under clause 38 of the Bill, the authority will be subject to the provisions of the Financial Administration and Audit Act. The Treasurer's Instructions relating to charitable gifts by government will apply. Clause 14(4) refers to charitable gifts. Again, it will not be an open-ended discretionary power that will be exercised by the authority.

Questions about clauses 15 and 16, which relate to dealing with crown land and restrictions on certain dealings in other land, were raised by members. Similar provisions can be found in sections 27 and 28 of the Port Authorities Act. Those provisions relate to the leasing of land and purposes that are not inconsistent with the functions of the authority, so there are limits on the period for which land can be leased.

The requirement that the Treasurer should approve the plan is not unique. Section 20 of the Zoological Parks Authority Act contains a similar provision, as does the Country High Schools Hostels Authority Act, and, with respect to borrowings, the Ports Authorities Act.

I turn to the provisions that require the minister to be kept informed about the activities of the authority. I was asked what it meant for the minister to be reasonably informed of the operation's financial performance and position. I am advised that that will be determined by the minister. If the minister considers that he or she has not been kept reasonably informed, clause 27 empowers the minister to direct the authority to provide the information that is required. That question is resolved in the sense that the minister has the discretion to direct the authority. Parliament will have the capacity - I believe this matter was asked and resolved in the other place - to question the authority during the Estimates Committee.

Another issue raised related to commercially sensitive material. The important element is that the Auditor General will decide whether matters are commercially sensitive. If the Auditor General decides that the material released under clause 29 is no longer commercially sensitive, the information released would be required to be tabled in its entirety. The Auditor General must determine whether the material is commercially sensitive; it is not something that the minister or the Government can decide.

The requirement in the Bill that the Treasurer approve the authority's operational plan and borrowings will ensure that the State's assets are not placed at risk. To ensure that the authority is not deficiently funded, the Government will be required to support the authority.

Another matter raised relates to clause 56 and authorised persons. I am advised that the form of the certificate of appointment is yet to be determined. However, whatever form it takes - this is the point that was raised - it must be produced by an officer if it is requested. If an officer requires a person's details in the manner described - I think I interjected on that point with a colourful example - he or she would obviously be acting unlawfully. Officers must seek information for the purposes for which they are lawfully empowered, whether or not they are on duty. The two issues raised related to lawful information and whether an officer is on duty.

Hon Alan Cadby: People do abuse power.

Hon GRAHAM GIFFARD: People break laws. We pass laws and then we seek to have them upheld and enforced.

Hon Alan Cadby: These people are supposed to uphold the law.

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

Hon GRAHAM GIFFARD: That is right, and we expect them to. That would be the basis upon which they would be employed and authorised -

Hon Alan Cadby: Will the concept be that they are always on duty?

Hon GRAHAM GIFFARD: I believe so. That is my understanding of it. If I need to, I will have that qualified. I have been advised that they will be able to exercise those powers on their way home, for example.

The items that will be prohibited on the public transport network will be dealt with by regulation. Such regulations will be disallowable by Parliament in due course.

Clause 62 relates to, in theory, when members of the public may be called upon to assist in a search. As I understand it, the clause does not necessarily refer to members of the public but to people of the same sex who are employed by the authority, even though they may not necessarily be authorised persons.

Hon Alan Cadby: They will still be in the same position in terms of civil liability.

Hon GRAHAM GIFFARD: Yes. However, it is unlikely that members of the public will be called on to assist in a search. That provision has no compulsion, but it allows for them to be asked to assist. Members of the public are quite at liberty to decline if they are at all uncomfortable with the idea. That is why in all likelihood those asked to assist in a search will be other authority employees.

Hon Alan Cadby: Some people will be overly eager to assist the authorised person in the search because of their community-minded spirit.

Hon GRAHAM GIFFARD: That such people will be called on to assist is predicated on the premise that they will act reasonably. The law enables and authorises people to act reasonably and to assist by following reasonable requests. Therein lies the protection. Clause 62 enables an authorised officer to ask a person to assist in carrying out a search, and a person who does assist will be subject to the same protections -

Hon Alan Cadby: They will become, if you like, de facto authorised persons for a particular -

Hon GRAHAM GIFFARD: I am not sure whether I can agree that legally they will become de facto authorised persons. However, if they act lawfully, they will be subject to the same protections. If they do not act unlawfully, they will not be subject to a vexatious claim -

Hon Alan Cadby: You're describing the act rather than the person.

Hon GRAHAM GIFFARD: The act is lawful. There is no comeback if members of the public or an employee of the authority -

The PRESIDENT: Order, members! We are getting into details that should properly be raised in committee. We do not want the debate to be repeated with exactly the same questions when we arrive at the relevant clauses in committee. We are dealing with the Government's response to the second reading contributions.

Hon GRAHAM GIFFARD: Thank you for that guidance, Mr President.

I turn now to the procedure for issuing receipts. The approach will be similar to that used by police; that is, receipts will be given for items of any value. However, as with the police, this is best provided for administratively, and in the Government's view should not be contained in the Bill. Proof of ownership of the goods will be a matter for commonsense, but there will be resort to the Ombudsman or the courts should a person be aggrieved by the process. I have indicated privately that, as I understand it, there is a greater capacity for police to carry receipt books and other material in their cars than there is for authorised persons or security officers to carry such material in their pockets while they are working on trains. They will be constrained in the types and amounts of things they will confiscate and the number of receipt and other books they will carry on their person. However, they will be able to acknowledge, in the same way, the seizure of goods from a person, and there will be the capacity to recover those goods under the provisions of the Bill.

Many of the comments on this Bill mentioned, in particular, Main Roads. I understand the argument put by members that more money spent on public transport means less spent on roads, but I make the point that the allocation of funds for Main Roads is not something for the authority. We are talking about the establishment of a public transport authority that will essentially be the direct service provider, or will orchestrate the provision of services.

Hon Murray Criddle: We were referring to the wider debate.

Hon GRAHAM GIFFARD: I understand that it is the wider debate, but I do not propose to go through all the roads mentioned. I wanted to put on record that it is not that I do not want to talk about all the roads mentioned -

Hon Murray Criddle: We just wanted to make the point.

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

Hon GRAHAM GIFFARD: The opposition has made the point, over and over.

We have had many questions and debates on the urban rail issue, and it now arises again, because the Public Transport Authority will be the successor body to the Western Australian Government Railways Commission. To that extent, the Perth urban rail development project is subsumed under this umbrella. The cost estimates for the previous Government's project of \$1 217 billion were in 1998 dollar values, or in the case of the northern suburbs extension, 1999 dollar values. Members should understand that the figures the Government has for the cost of the delivery of those services are in escalated dollars, at the time the service is provided. The small increase comes with the change from the Kenwick deviation to the faster direct route. The official figure for the Perth urban rail development is \$1 409 million. The cost of the railway through Perth itself has not blown out. The supplementary master plan found that the cost of the civil and track work would be \$195.5 million. That did not cover any allowance for engineering, design and project management, which were covered under a separate cost allocation, bringing the total cost to \$222 million.

Hon Murray Criddle interjected.

Hon GRAHAM GIFFARD: Members alluded to other aspects of the metropolitan rail project. We have debated those matters on many occasions in the past, and we continue to have disagreements, and members are questioning the Government's prediction of what those figures will be.

Hon Murray Criddle: There is no disagreement over the community service obligation; that will be about \$40 million. The security issue will blow out.

Hon GRAHAM GIFFARD: I am talking more generally about the issues raised, not about those specific matters. There has not been any change to the Government's projections. We have built in the extra cost, the escalations and the increase in the overall patronage, and we have explained in some detail the range of services. I could go through all that again, but I do not propose to deal with specific issues on this occasion, just to make the point that this is simply about moving that function, and a number of others, across into the one organisation.

The one specific issue I do want to touch on is one that most members who spoke have talked about: school buses. One might be forgiven for thinking that the difficulties with negotiations over the school bus contracts began with the election of this Government, which of course is not the case.

Hon Murray Criddle: I do not think anybody said that.

Hon GRAHAM GIFFARD: Nobody actually said that, but one could be forgiven for thinking that it is all a matter of very recent history. However, the matter had been going on for some years before the election of this Government, and it is a matter for regret that it has not yet been resolved. The Government is determined to resolve it in the near future. There were issues that had not resolved themselves when the present Government took office. The incoming Government decided to appoint the Guise school bus task force, which began examining longstanding issues of contract tenure and remuneration. The outcome of that task force resolved some of the issues, and the Government gave some commitments in the negotiation phase, particularly in relation to no reductions and the backdating of increases. Notwithstanding that, we were unable to finalise the contract negotiations last year. Members of the school bus industry continue to have a limited range of difficulties with the position being put to them by the Government. The minister has made it clear that she will step in to resolve this issue this month if the parties cannot reach an agreement. I understand that the most significant outstanding issue is the rate of profit that bus contractors are to receive. The payment model is designed to reimburse contractors for every element of cost and to provide additional payments. The sticking point is that contractors are seeking a rate of return for profit, which, in the Government's view, is a rate one would expect from a business that would otherwise be running a commercial risk, such as a newsagency or post office. It would effectively guarantee those operators greater profit. That is the Government's view of where the sticking point is.

Hon Murray Criddle: Can you clarify that? This is an important issue. This is the crux of the matter.

Hon GRAHAM GIFFARD: The minister's office has advised that the most significant outstanding issue is the rate of profit contractors will receive through the payment model that is designed to reimburse contractors for their costs and to pay funds in addition to that. That is the sticking point that we have not been able to resolve. I understand it is the one big remaining issue. The minister has made it clear that she wishes this matter to be resolved in May. I believe she wrote to school bus operators in April and made it clear that if any matters remained outstanding in May, she would step in. If that occurs, she will essentially make a final decision on what will be offered to the contractors, which they will obviously be able to accept or reject. The minister has made it clear that she understands people's frustration. This matter has been going on for a long time. The minister is also frustrated that the parties have not been able to resolve the matter. She has made it clear that it is time this matter was brought to finality. She has put in place a process that will draw the negotiation process to

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

an end. I am sure many people in government and the school bus industry will welcome the final resolution of this matter.

Those are the issues which were raised and on which I have been advised. I invite members to raise any specific matters during the committee stage. This Bill has a simple and obvious logic that will result in a more logical and efficient structuring of the delivery of government services. I thank members for their support of the Bill and commend the Bill to the House.

Question put and passed.

Bill read a second time.

*Committee*

The Chairman of Committees (Hon George Cash) in the Chair; Hon Graham Giffard (Parliamentary Secretary) in charge of the Bill.

**Clause 1: Short title -**

Hon JIM SCOTT: I have already stated my support for the concept of separating planning and strategy from the delivery of services. In order for that to be done efficiently, there must be some sort of intelligence, if members like, between the Department for Planning and Infrastructure and the service delivery side of things to enable forward planning to occur. How will that occur? How will that information flow be provided to the planning and strategy side of the equation and the service delivery side? I was not in the country at the time so I was unable to attend a briefing on this issue. I would be interested to know how that will occur.

Hon GRAHAM GIFFARD: I am advised that a process and relationship will exist between the Department for Planning and Infrastructure, the minister and the authority. The Department for Planning and Infrastructure will advise the minister, who will provide that information to the authority. The process and formal relationship will exist in that way. Of course, it will also go the other way - from the authority back to the department.

**Clause put and passed.**

**Clauses 2 to 4 put and passed.**

**Clause 5: Authority established -**

Hon MURRAY CRIDDLE: I understand that the authority will be a single person. Can the Government outline the sort of person it might choose to take on that position, bearing in mind that this legislation involves areas of transport and knowledge of that area would be handy?

Hon GRAHAM GIFFARD: I believe that processes are in place for the appointment of persons such as this under the Public Sector Management Act. The Government intends to follow those processes. There is nothing conspicuous about this matter that would change that. The processes are in place and will be followed in the making of that appointment.

Hon Murray Criddle: The skills?

Hon GRAHAM GIFFARD: The process of appointment will involve a job description. I am advised that has not been finalised. I cannot provide the list of skills or attributes that the authority will look for because that part of that process has not been finalised.

**Clause put and passed.**

**Clauses 6 to 9 put and passed.**

**Clause 10: Other staff and contractors -**

Hon MURRAY CRIDDLE: I know that the parliamentary secretary touched on the issue of staff and their employment earlier. I want to establish how they will be transferred to this authority and whether existing relationships with contractors will remain the same. Will that continue on an ongoing basis? It is very important that we maintain the same sort of arrangements.

Hon GRAHAM GIFFARD: The provisions of the Bill mean that all existing contracts will be maintained. There will be no disruption or change. Western Australian Government Railways Commission employees will be transferred under the transitional provisions of this Bill, and Department for Planning and Infrastructure employees will be transferred under the provisions of the Public Sector Management Act.

**Clause put and passed.**

**Clause 11 put and passed.**

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

**Clause 12: Functions -**

Hon ALAN CADBY: We have some difficulty with the Public Transport Authority operating outside its natural domain. Subclause (2)(b) states that the legislation does not prevent -

the Authority from performing functions under other Acts that do not relate to, or are not limited to, public passenger transport services.

In his reply to the second reading debate, the parliamentary secretary said that he thought that it referred to the rail freight system. If that is the case, why does the clause not simply say that the authority is not prevented from performing functions relating to other transport enterprises? It is very broad. There do not seem to be any constraints on the transport authority getting involved in all sorts of enterprises or functions.

Hon GRAHAM GIFFARD: I make the point at the outset that the subclause refers to the authority “performing functions under other Acts”. That is either Acts in existence or future Acts that the Parliament passes that allocate a function to the authority. The authority will not be able to perform any other functions unless the matter comes before the Parliament, which allocates it a function under another Act. The authority will not be able to go off on some frolic and perform other functions.

However, I need to clarify the response I provided earlier. I am advised that the authority will also have powers and functions under the Government Railways Act, the Forrest Place and City Station Development Act and the Public Works Act in addition to the Rail Freight System Act. The authority will perform some functions under those pieces of legislation.

Hon ALAN CADBY: I still have a concern. Clause 13 refers to the authority getting involved in any business concern and acquiring, holding or disposing of shares, units or other interests. It seems that we will give the authority a very broad capacity to get involved in any commercial activity it chooses. Nowhere in the Bill is the authority constrained in any way. Could the parliamentary secretary explain that?

Hon GRAHAM GIFFARD: I say again to the member that the Act provides for the authority to perform functions in the provision of public passenger transport or any other functions that are provided for in any other Act. That is the extent of the functions that the authority is able to perform. The member alluded to clause 13, powers generally, which is predicated on clause 12. The powers generally are to be exercised in relation to the provision of public passenger transport services, or any other functions that the authority is authorised by any other Act to perform. The clause will not authorise the authority to perform any functions beyond what I have just explained to the member. Clause 13 must be read in the context of clause 12.

Hon ALAN CADBY: I seek final clarification. Let us say that the Public Transport Authority lets a contract for a public transport ticketing system to, say, ERG Group, and that ERG is in need of greater funds because it cannot complete the tasks. Would it be possible for the transport authority to inject capital into that company and maybe gain some shares as a guarantee? That seems to fit within Public Transport Authority services. It will provide a service, and it needs ticketing mechanisms. The people to whom it has given the contract are in difficulty. Could the authority buy shares in that company or have shares as a guarantee to its money invested?

Hon BILL STRETCH: Line 14 of the clause contains a note. I have never seen that in legislation before. It should be written formally into the Act or it should not be there at all. In my 20 years in Parliament, I have never seen anything like that in a piece of legislation. Can the parliamentary secretary provide an explanation of why it should not be printed out in statute form or deleted?

Hon MURRAY CRIDDLE: I take it that this is just a note, but, like Hon Bill Stretch, I have not seen anything like it before. I am asking for an assurance on that note, which reads -

The Authority also has functions under other Acts. For example, the *Rail Freight System Act 2000* gives it functions associated with the rail freight network.

Does that deal with passenger trains running on the freight network? Will there be some means by which the arrangements that are in place for people with leases on that land can be changed? Does it interfere in any way with the Rail Freight System Act?

Hon GRAHAM GIFFARD: On the last point - the member probably has some knowledge of this - the responsibilities for that land that the minister responsible for the rail corridor currently has will be transferred to the authority. That will not affect people's leases at all. The functions set out in the legislation for that minister will be transferred to the authority. That is a simple explanation.

Why is the note there? Members may not know it, but I am advised that it is a feature that is not uncommon in commonwealth legislation. The note gives people a better understanding of the effects of this provision.



Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

In relation to the hypothetical situation that was put by Hon Alan Cadby, the authority can carry out any activity if it is not inconsistent with or will not have an adverse effect on the authority's functions, and it has the approval of the minister and the Treasurer. All those things being equal, the answer is yes.

The CHAIRMAN: Although I do not wish to enter into the debate, it is necessary for me to indicate that with respect to that note in clause 12, section 32 of the Interpretation Act deals with headings, marginal notes and footnotes. The answer to the question raised by the member is contained in there. Unless members want me to read it out -

Hon Norman Moore: Why not?

The CHAIRMAN: It is important, because notes have appeared in other Acts. The Interpretation Act 1984 states -

**32. Headings, marginal notes and footnotes**

- (1) The headings of the Parts, divisions and subdivisions into which a written law is divided form part of the written law.
- (2) A marginal note or footnote to a written law and, in a context where there is no marginal note with respect to the relevant provision and notwithstanding subsection (1), a heading to a section, regulation, rule, local law, by-law, or clause of a written law, or to a portion of a section, regulation, rule, local law, by-law or clause of a written law, shall be taken not to be part of the written law.

**Clause put and passed.**

**Clause 13: Powers generally -**

Hon JIM SCOTT: I have a query about agents. I understand that the authority needs to employ agents - for instance, newsagencies - to sell tickets. However, in relation to the authority acting as an agent and providing a consultancy to the other parties, in what circumstances does the parliamentary secretary envisage that this will be required? What reason is there for the authority to act as an agency for other parties?

Hon GRAHAM GIFFARD: By way of an example, the authority will have in its possession a level of expertise in rail matters. It might provide advice on a consultancy basis to WestNet Rail Pty Ltd, which runs the rail freight system. That is something the authority can do as a consultant that is not inconsistent with or detrimental to its functions.

Hon JIM SCOTT: That explains how the authority can provide a consultancy, but the parliamentary secretary has not explained how it will act as an agent.

Hon RAY HALLIGAN: Subclause (2)(d) states that the authority can hold and dispose of shares and units etc, but only with the minister's approval. Yet, subclause (2)(h) states that the authority can -

develop and turn to account any technology, software or other intellectual property . . .

That can include patents, patent rights, copyrights or similar rights. It appears that the authority can dispose of those without the minister's authority. Can the parliamentary secretary explain why?

Hon GRAHAM GIFFARD: I am advised that these things can be dealt with by being considered as day-to-day business that the authority will be able to develop and dispose of. Alternatively, matters of great significance are expected to be in the operational plan that the authority is required to develop and submit to the minister and have the minister approve. Although paragraph (h) does not refer specifically to something of significance, it would be in the operational plan approved by the minister. There is opportunity for ministerial approval.

Regarding an agency, a reasonable, hypothetical example might be that the authority enters into discussions with the owners of the *Indian Pacific* for some sort of joint ticketing arrangement. In some instances, it may need to act on behalf of both parties. That is not inconsistent with, nor detrimental to, the operations of the authority. That is probably a useful example for the member.

Hon RAY HALLIGAN: I still have some concerns. We are talking about a commercial sense. The Bill discusses the authority being able to operate in a commercial sense. The plan provided to the minister is done so on an annual basis. In a commercial sense, an entity may have a patent or patent rights that someone is prepared to purchase. If it is not already in the operational plan and if it cannot be determined that what is on offer will be purchased over the next 14 months, a sale will have to be delayed. Is that good commercial sense?

Hon GRAHAM GIFFARD: There is a prescribed ability in clause 23 to modify the operational plan so anything of significance like that that the authority did not want to wait on for some months - perhaps not 14 months -

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

could be dealt with earlier by proposing an amendment to the operational plan. The minister could then approve it.

**Clause put and passed.**

**Clause 14 put and passed.**

**Clause 15: Dealing with certain Crown land -**

Hon MURRAY CRIDDLE: I have a few small issues that I wish to cover. They also relate to some later clauses.

From time to time, when Westrail land became available, it was passed on to local shires free of charge provided it was used as a public asset and no money was made from it. Will that still continue? Secondly, the Bill allows the authority to use land covered by the Rail Freight System Act for other purposes, such as pipelines. Will that function be impeded in any way?

Hon GRAHAM GIFFARD: Regarding both matters, the member has alluded to what has happened in the past and what is currently able to be done. I am advised that in both cases there will not be any diminution of any ability to do that. The same arrangements will apply.

**Clause put and passed.**

**Clause 16: Restriction on certain dealings in other land -**

Hon RAY HALLIGAN: We are dealing with something that could be of some magnitude and quite costly. The clause includes the phrase “unless the regulations permit the disposal”. Something of this magnitude should be in the Act, not the regulations. Will the parliamentary secretary explain why he is allowing the regulations to permit disposal?

Hon GRAHAM GIFFARD: The regulations will set the limit of the power to be exercised in this instance. It will be set for matters that are regarded to be minor or inconsequential; for example, a small lease that the authority may own that it wants to dispose of. It will not do so for substantial matters. It is not the intention for the Act to be returned to the Parliament when disposing of small low-value leases. The clause refers to “dispose of any estate in land”; that is precisely what we are talking about. It means land leased by a vendor on a platform or a minor sale. The regulations will prescribe the limit. The authority will be able to deal with small day-to-day matters as an ongoing concern - matters that are not of great consequence.

Hon RAY HALLIGAN: I thank the parliamentary secretary for that explanation. He has clarified that there will be a monetary limit. That was the suggestion. It is my interpretation of what he said. If there is going to be a monetary limit on what can be sold, it will be in the regulations. Why can the figure not be contained in the Act?

Hon GRAHAM GIFFARD: The member is right in identifying that issue. Yes, we may well be looking at a monetary limit, or a time limit, for the disposal of a lease. In terms of the monetary limit, it is a question of maintaining the relative value of land that the Government might want to dispose of. It might want to limit the value on the sale of a block of land. We do not want to have to keep coming back to the Parliament asking it to amend legislation for the purpose of disposing of blocks of land at a certain value. It is considered more responsive to allow that to be done by way of regulations. It will still require a parliamentary process, but not the enactment of legislation. It is a more flexible program and is more responsive to the changes in the value of land over time.

Hon RAY HALLIGAN: I understand what the parliamentary secretary is saying. However, it is particularly important that, although there is flexibility working through regulations - that is understood - it is believed that certain matters should be in the primary legislation and not the subsidiary legislation. We are dealing with an authority which is being created but which is based on something that has been with us for many years. When the parliamentary draftsmen drafted this legislation, of course they were directed, but they had to anticipate what would be expected. The parliamentary secretary should know the type of land and its approximate value, even in today's dollars, and he can add to that figure if he so wishes. However, I suggest that there should be something a little more explicit in the primary legislation and that other more insignificant matters, as they were termed, should be placed in the regulations.

Hon GRAHAM GIFFARD: At this point the Government disagrees with the member's view. We appreciate his view, but we disagree with it. We think this is the most appropriate mechanism for dealing with matters of this sort. I remind the member that when I concluded the second reading debate, I made a brief reference to the provisions that are contained in this clause and the previous clause. I made the point that similar provisions can be found in sections 27 and 28 of the Port Authorities Act. It is not something that is without precedent in legislation. It is considered appropriate for the operations of this authority. Notwithstanding that, I appreciate the member's view.

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

**Clause put and passed.**

**Clauses 17 to 19 put and passed.**

**Clause 20: Draft operational plan to be submitted to Minister -**

Hon MURRAY CRIDDLE: This clause outlines the requirement that an operational plan be submitted. Subclause (2) provides that it must be submitted by 1 May every year for approval by the minister and subsequently the Treasurer. Will that become a public document tabled in Parliament? Is there any suggestion of a strategic five-year plan? Local governments have five-year plans, and other organisations such as port authorities also have long-term plans. If the Government is to borrow moneys into the future, it would give it some outline of what will happen in the future, and Treasury and the like would be well and truly aware of what is expected in the future. I am asking about a strategic, long-term plan into the future.

Hon GRAHAM GIFFARD: I am advised that the operational plan will be contained in the annual report. The authority will have a long-term planning emphasis. The reason it is not provided for in the Bill is that the authority will be deficit funded on an annual basis, which will make it difficult to comply with a five-year plan. However, it will undertake planning operations and, as I said, the operational plan will be contained in the annual report.

Hon MURRAY CRIDDLE: I understand that it is deficit funded for the community service obligations and the like, but clause 33 provides for borrowing. I understand that that capacity to borrow will be transferred from the Western Australian Government Railways Act, which is quite often used for all sorts of reasons to raise funds through Treasury. Although the parliamentary secretary has said that a strategic plan is not needed, I can see this mechanism being used to fund the south west metropolitan rail line. Is that the mechanism that the Government will use to do that, or is that a mechanism that is available to the Government to use?

Hon GRAHAM GIFFARD: The member has correctly identified the mechanism that will enable the authority to raise funds. That is positive confirmation of the member's comments about the ability to raise funds for those infrastructure projects.

In relation to the one-year plan that it is required to submit, the authority is unable to provide its operational plan beyond that when it is funded on an annual basis. In situations in which it is raising substantial funds, there are Treasury procedures that require long-term projections for the raising of those funds. It does not of its own volition just raise those funds. Other elements of government are involved in that function, and Treasury has its own requirements for long-term planning for the raising of those funds. On the face of its normal operations, it cannot provide an operational plan and it goes beyond the level of its deficit funding. That is why that distinction was made. When it is off doing things of a longer term nature, there are other requirements in government that require those long-term considerations.

Hon MURRAY CRIDDLE: I am concerned about the capacity to borrow by what seems to be an organisation that will have very little opportunity to repay. The Western Australian Government Railways Commission built up a very big debt and we paid for part of that debt when we sold the freight division, but I understand a debt still remains. Are we going to set up an authority that will have an enormous debt? Will we build on that debt to give us so many millions of dollars for the southern rail? I am wondering what it will be used for. I know we have not reached clause 33, but it directly relates to a plan for the future. Will the parliamentary secretary outline what it will be used for? I know Treasury can work out all sorts of things, but it never seems to work out a way to pay back debt. If we are going to use this as a mechanism to build up an enormous debt without any ability to repay, we will have a public transport system with a large debt and no way to repay it.

Hon GRAHAM GIFFARD: This authority's ability to incur debt will not be any different from that of the WAGRC.

Hon Murray Criddle: That is my point.

Hon GRAHAM GIFFARD: I take the honourable member's point. The authority has the same ability to raise finance as the WAGRC and the same ability to pay it back. There is no change to that structure. If the authority is raising funds, they must be approved by the Treasurer.

**Clause put and passed.**

**Clauses 21 to 32 put and passed.**

**Clause 33: Borrowing -**

Hon MURRAY CRIDDLE: This is the clause I was talking about. Subclause (2) states -

The Authority is to keep any register that the regulations require for the purposes of this section.

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

Will the parliamentary secretary please outline the regulations?

Hon GRAHAM GIFFARD: If the Treasurer sought the authority to establish that register, that clause enables the authority to establish it. In that sense it would be a doubling up of what the authority and the Treasurer are required to do under the Financial Administration and Audit Act. It is not envisaged that it would necessarily run that register, but if the Treasurer were of the view that it was required, this enables the authority to do it. It is no more than that. In the normal course of events the authority may not have its own register; it may just be a register for the Treasurer.

Hon MURRAY CRIDDLE: Why is a register set up if it is not necessary? Who will see the register? Will it be tabled in Parliament? What is the purpose of the register? We could be dealing with enormous amounts of money.

Hon GRAHAM GIFFARD: It is not a Treasury register. It provides for the authority to establish a separate register. This clause does not propose to establish that register; it simply creates the ability for that register to be established if required or requested. The questions that the honourable member asks are questions that would be addressed if that situation arose.

Hon Murray Criddle: That is why I want an answer.

Hon GRAHAM GIFFARD: The answer would come when and if that were to occur. It will not occur as a consequence of this clause, which simply allows it to occur if it is deemed necessary or desirable. The questions the member is asking about the register would then be addressed, but they are not addressed in advance, because the register might not be established. This clause would enable it to be established by regulation, but it does not automatically establish that register by regulation. If the register does not exist, those questions will not arise. Does the member understand the distinction I am trying to make? The member's question was reasonable; however, a register may not come into being. This provision simply allows for a register to be established, and, if it is established, those considerations will be provided for and contained in the regulations.

Hon MURRAY CRIDDLE: The parliamentary secretary has not picked up on my point. I want to know under what circumstances a register may be required.

Hon GRAHAM GIFFARD: I advise the member that clause 33(2) was inserted at the behest of Treasury, which wanted the ability to keep a register. This request was accommodated in the drafting of the Bill because it did not seem unreasonable or onerous. That is all I am able to advise the member at this stage.

Hon RAY HALLIGAN: It appears that this matter has something to do with financial administration. Hon Murray Criddle wanted to know why a register may be required, to which the parliamentary secretary has responded by saying that Treasury wanted that provision inserted. It appears that the provision for a register has something to do with financial considerations. A corporation of any description that is likely to have borrowings of the magnitude suggested by Hon Murray Criddle may have a register of this nature that includes details about borrowings, the type of security offered, the terms of a loan, the repayments and the like. Is it the parliamentary secretary's understanding that that is what Treasury may require?

Hon GRAHAM GIFFARD: It may well be; the member may be quite right. However, Treasury already has that information. The finance-raising opportunity is subject to Treasury approval.

Hon MURRAY CRIDDLE: Obviously I am not satisfied with the explanation I have been given. I want some clarity about that provision. I hope such advice will be forthcoming.

Hon GRAHAM GIFFARD: I am happy to make that commitment.

**Clause put and passed.**

**Clause 34: Guarantees -**

Hon MURRAY CRIDDLE: What is the guarantee and what format will it take?

Hon GRAHAM GIFFARD: I am advised that the nature of the guarantees provided for in clause 34 are no different from the Treasurer's guarantees that are provided for in the WA Government Railways Act.

Hon Murray Criddle: This is the minister's guarantee.

Hon GRAHAM GIFFARD: It is the guarantee given by the Treasurer on the minister's recommendation.

**Clause put and passed.**

**Clauses 35 and 36 put and passed.**

**Clause 37: Notice of financial difficulty -**

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

Hon ALAN CADBY: I am motivated to ask this question as a result of the answer given to a question I asked about clause 13(2)(d). Clause 37 sets out the steps that the authority must take if it falls into a state of financial difficulty; however, there is no provision that Parliament must be informed. When will Parliament be informed of any difficulty the authority may be experiencing? Will Parliament be informed under clause 37(2)(b) which refers to "initiate such action"? If so, even though the clause states that "Within 7 days of receipt of the notice, the Minister must", what will be the time frame?

Hon GRAHAM GIFFARD: The process set out in the Bill is for the minister to be notified and he or she must then inform other ministers. That is the line of authority under the Bill. In the event of the authority being in financial difficulty, the minister must be advised, and it is his or her responsibility to deal with the situation and to take appropriate action. That is the line of authority that will be created. Within that line of authority, there is no specific reference to Parliament.

**Clause put and passed.**

**Clauses 38 to 50 put and passed.**

**Clause 51: Execution of documents by Authority -**

Hon RAY HALLIGAN: I am not sure whether I am missing something; I quite possibly am. Clause 7(2) reads -  
The chief executive officer, in the name of the Authority, is to perform the functions of the Authority under this Act or any other written law.

Hon Graham Giffard: What clause are you referring to?

Hon RAY HALLIGAN: I know we are dealing with clause 51, but I am just referring back to clause 7(2). All I am getting at is that the authority is a body corporate, which has only a chief executive officer, who is the chairman of the board, so to speak. According to clause 51(4) -

The common seal of the Authority is to be affixed to a document in the presence of the chief executive officer, who is to sign the document to attest that the common seal was so affixed.

The chief executive officer is the only person who can do this. Clause 51(5) reads -

The Authority may, by writing under its common seal, authorise -

- (a) the chief executive officer; or
- (b) any other member or members of staff,

to sign documents on behalf of the Authority, either generally or subject to conditions or restrictions specified in the authorisation.

Why is the chief executive officer included again in this subclause, unless there is something I am missing?

Hon GRAHAM GIFFARD: Clause 51(4) provides for the chief executive officer to affix the seal, while clause 51(5), under the common seal, authorises the chief executive officer or any other member of staff to sign documents on behalf of the authority without the seal.

Hon Ray Halligan: Is it as simple as that?

Hon GRAHAM GIFFARD: Yes.

**Clause put and passed.**

**Clauses 52 to 55 put and passed.**

**Clause 56: Authorised persons and security officers -**

Hon ALAN CADBY: I was rather surprised by the parliamentary secretary's answer to my question in my second reading contribution when he said that the nature of the certificate had not yet been decided. This Act comes into being next week, so we really should have some details of that. However, the question I wish to ask now is about training. Clause 56(4) requires that a person be suitably trained. Can the parliamentary secretary provide some general indication of the type of training, and the length of time it will take to train a security officer? Do they go through a review process, say, annually to maintain and improve their skills, particularly in dealing with people? After the first 12 months they would learn a great deal about their job, and that may be an opportunity to review the nature of the training.

Hon GRAHAM GIFFARD: The certificates will be available when the legislation is proclaimed, which will not be next week; it is still a few months away. To answer the more serious question about the type of training, I am advised that there will be a 13-week course initially involving input from members of the Police Service. It will

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

cover all aspects of the duties of those officers. There will be regular assessments of officers, so that their performance and their understanding of their duties will be continually monitored. There will be opportunities for continuing development and training in that respect, but initially it will be a 13-week course.

Hon ALAN CADBY: Are they contracted for a particular period, or are they full-time permanent positions?

Hon GRAHAM GIFFARD: I am advised that they will be permanent employees.

Hon MURRAY CRIDDLE: I see that security officers may be issued with prohibited weapons. Rather than just having the chief executive officer certify these people, would it be better to have the Commissioner of Police certify them as well? Will the training be any more stringent than that given to security officers?

Hon GRAHAM GIFFARD: I am advised that certification by the Commissioner of Police as alluded to by Hon Murray Criddle is considered inappropriate, and the employing authority should issue the certificate. I am also advised that the weapons training provided to these employees will be the same as that provided to members of the Police Service. In fact, it will be provided by the Police Service to those employees.

Hon MURRAY CRIDDLE: The next obvious question is, will these people receive a clearance from the Commissioner of Police before they begin using these weapons?

Hon GRAHAM GIFFARD: These employees will have been police cleared at the time of the commencement of their employment.

**Clause put and passed.**

**Clauses 57 to 61 put and passed.**

**Clause 62: Provisions about searching a person -**

Hon ALAN CADBY: I refer to clause 62(2)(b), under which a security officer or member of the Police Service may -

detain the person for as long as is reasonably necessary for the person to be searched in accordance with this section; or

A number of clauses mentioned due force, but this one does not. Is the security officer able to use due force to detain the person until a search can be carried out?

Hon GRAHAM GIFFARD: The answer is yes.

**Clause put and passed.**

**Clause 63: Seizure of property -**

Hon ALAN CADBY: I want to gain some reassurance about what the parliamentary secretary said in his response to the second reading debate. I understand that the owner of valuable property can request a receipt, which will be given. Is that correct?

Hon GRAHAM GIFFARD: The answer is yes.

**Clause put and passed.**

**Clauses 64 to 67 put and passed.**

**Clause 68: Proof of certain matters -**

Hon JIM SCOTT: I put on record my concern that this is another incremental change to our law to reverse the onus of proof. I understand the administrative difficulties involved, but other methods could be used, even though they may be harder to put in place. For instance, a better ticketing system would prevent this sort of thing from happening. If a person does not pay the appropriate fare on the London Underground, he cannot get out. That does not happen here because the ticketing system does not allow it to happen, or it is very difficult for it to happen. The explanatory memorandum states on clause 68 -

Where a complaint states that a person is an authorised person, and that a person has not paid the appropriate fare for using a service, this will be taken to be proved in the absence of proof to the contrary.

We are moving along a track that I do not want us to move along. I hope that rather than making these things easier to administer, we will put in place better ticketing systems to prevent them from happening in the first place. After all, that would probably save more money, because the number of people caught skipping fares under the current system would be very small compared with the number of people who are actually doing it.

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

Fare skipping does not regularly occur under the overseas system, whereas it does here. I do not want to prevent the passing of this Bill, but it is important that I make that point.

Hon GRAHAM GIFFARD: I acknowledge the point made by the honourable member. However, the Government's view is that the onus will be on the purchaser of a ticket to provide that evidence. The Government does not know how that could otherwise be constructed. I am not sure how someone could prove a negative. The simple way to declare and prove one's innocence would be to provide the ticket.

**Clause put and passed.**

**Clauses 69 to 131 put and passed.**

**Clause 132: Section 88 amended -**

Hon JIM SCOTT: I seek an explanation of this clause. The explanatory memorandum states -

Section 88 of the *Government Railways Act 1904* exempts government railways from the requirement to pay rates and taxes, but requires the payment of shire rates in respect of land leased by the Commission under sections 63 and 63A (except when it is leased to Co-operative Bulk Handling Limited).

Why will Co-operative Bulk Handling Ltd be exempted from paying rates?

Hon KIM CHANCE: I did not realise that we would deal with something so precisely centred on my own portfolio when I took the place of the parliamentary secretary at the Table. I understand that the effect of this clause will be to repeal the existing provision, which exempted CBH. At least, that is the way it could be perceived; the adviser has informed me that that is quite incorrect. The repeal of this section recognises the alteration of the way in which the land will be held. The Government Railways Act currently requires the commission to enable rating or an exemption of rating. The way in which the authority will hold the land will be different. I understand that the commission will still hold the land, but we are dealing with the authority's rights in terms of that land. The adviser has told me that that is not correct. I think I had better confer on this matter, because I thought I understood it.

The CHAIRMAN: I will give the call to the Leader of the House again in a moment.

Hon KIM CHANCE: I am sorry for that delay, but this is quite a complicated issue. Clause 132, section 88 amended, is simply a consequential provision. The Co-operative Bulk Handling Ltd exemption will continue. It is not altered. Clause 50 of the Bill deals with exemption from rating.

Hon JIM SCOTT: I understand that this is an existing exemption. Why will it continue? I understand that CBH is changing its nature. I do not understand why this particular body will continue to be free from paying local rates.

Hon KIM CHANCE: It is a policy decision. I believe it also gives effect to undertakings that were given when the rail legislation was altered a couple of years ago. It has been a controversial issue.

Hon Murray Criddle: CBH does not pay rates on the rail corridor.

Hon KIM CHANCE: That is correct. I recall that when this issue was discussed, presumably in debate on the Rail Freight System Bill, there was general support from this place for it.

Hon Murray Criddle: The rail runs through CBH property.

Hon KIM CHANCE: There is a trade-off, with CBH using rail property and the rail body using CBH property.

Hon Jim Scott: What about competition policy?

Hon KIM CHANCE: It is not a matter -

Hon Murray Criddle interjected.

The CHAIRMAN: Members should direct their comments through the Chair. Hansard cannot hear the comments from the back.

Hon KIM CHANCE: Hon Jim Scott asked whether this is compliant with competition policy. It is not a matter that has been raised in that context. I can see that an issue about competitive neutrality might be raised. In any case, CBH is effectively a monopoly holder. It may be an interesting basis for argument in the future, but it is well beyond the scope of this Bill.

**Clause put and passed.**

**Clauses 133 to 171 put and passed.**

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

**Clause 172: Section 4 amended -**

Hon MURRAY CRIDDLE: I want to clarify the impact of the substitution of the minister in charge of Western Australian Government Railways with the Public Transport Authority. The next clause contains a similar provision. I imagine both will be encapsulated by the parliamentary secretary's explanation.

Hon GRAHAM GIFFARD: The effect of this Bill will be that there will no longer be a minister for Western Australian Government Railways. Clauses 172 and 173 delete references to that minister, whose position will be abolished, and transfer the responsibilities held by that minister to the authority.

Hon Murray Criddle: Will the authority be the minister in charge?

Hon GRAHAM GIFFARD: Yes.

Hon MURRAY CRIDDLE: The rail corridor minister also will no longer exist. Will the Minister for Planning and Infrastructure have control?

Hon GRAHAM GIFFARD: I am trying to be as clear as I can about this. The clause will delete the minister in charge of Western Australian Government Railways and transfer that minister's responsibilities to the Public Transport Authority, for which the Minister for Planning and Infrastructure will be ultimately responsible.

**Clause put and passed.**

**Clause 173: Section 8 amended -**

Hon MURRAY CRIDDLE: This provision deals with the rail corridor minister. Does the authority assume responsibility for this and is it directly responsible to the Minister for Planning and Infrastructure?

Hon GRAHAM GIFFARD: I am advised that the answer is yes.

**Clause put and passed.**

**Clauses 174 to 197 put and passed.**

**Clause 198: *Midland Railway Act 1919* -**

Hon NORMAN MOORE: This will be the most important question I ask all day. In division 6, clauses 198 to 201 repeal certain Acts. Having been a student of Western Australian history, I know a little about the Midland railway line, how it was built and all the rest. Is there any reason for repealing these Acts now? Is the Government taking the opportunity to get rid of some obsolete legislation or is there some wider purpose behind this provision?

Hon GRAHAM GIFFARD: I am advised that the Government is taking the opportunity to remove these obsolete Acts because they no longer perform a function.

**Clause put and passed.**

**Clauses 199 to 208 put and passed.**

**Clause 209: *Weapons Act 1999* amended -**

Hon MURRAY CRIDDLE: I understand that this Act will allow security officers defined in the Bill to carry batons. Is that a correct reflection of the effect of this Bill, and does it allow any other weapons to be used? Will the Police Service have any control over these activities?

Hon GRAHAM GIFFARD: Yes, the officers will carry batons and yes, the Police Service will have control over these activities. The intention behind this clause is to enable the officers to carry batons, not to carry other weapons. The Minister for Police, on the advice of her department, has been consulted and also supports this provision.

Hon MURRAY CRIDDLE: Will these personnel also carry handcuffs and the like?

Hon Graham Giffard: Yes, they are not prohibited weapons.

Hon MURRAY CRIDDLE: Members can understand my concern that these security officers will carry batons while not being members of the Police Force. I thought law enforcement officers belonged to the Police Force. I am concerned about the extension of the powers going to these people. Do these officers operate only on Westrail land and within Westrail precincts and the rail operation itself?

Hon GRAHAM GIFFARD: The officers will be permitted to act on property belonging to the Public Transport Authority and beyond. For example, if a member of the public were throwing missiles at a bus on St Georges Terrace, then these officers would have the authority to take action against that person. In relation to offences



Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

committed against a public transport vehicle or persons on it, these officers are not restricted to carrying out their duties on a bus, a train or a platform.

Hon MURRAY CRIDDLE: Where is the clarity in the definitions about where they can operate? I can envisage somebody getting clobbered and saying, "I was not on a bus. I was having a bit of an argument with a bloke on the pavement and you came over to sort it out when it was not really within your jurisdiction." Can the parliamentary secretary provide a clearer definition of the distinction between the activities of the Police Service and the activities of these particular personnel?

Hon GRAHAM GIFFARD: The provision in clause 58(2) applies if an offence is committed in respect of premises owned by the authority. That includes buses and trains. In addition, it applies to an authority property. That would include the example I gave a moment ago when an offence is committed against authority property. The member raised the example of two members of the public having an argument in public. That would not be included in any of the provisions of clause 58.

Hon JIM SCOTT: The parliamentary secretary has explained that it is intended that the clause will enable security guards to carry batons. Although that is intended, does the clause enable the carrying of hand guns? The clause enables police officers to carry prohibited weapons.

Hon GRAHAM GIFFARD: No, that is covered by the Firearms Act.

**Clause put and passed.**

**Title put and passed.**

**Bill reported, without amendment.**

*Recommittal*

On motion by Hon Murray Criddle, resolved -

That the Bill be recommitted for the further consideration of clause 29.

*Committee*

The Chairman of Committees (Hon George Cash) in the Chair; Hon Graham Giffard (Parliamentary Secretary) in charge of the Bill.

**Clause 29: Deletion of commercially sensitive matters -**

Hon PETER FOSS: I move -

Page 18, line 27 - To insert after "request" the following -

except where under paragraph (b) the document is to be laid before either House of Parliament by its own order.

I am sure that this matter is just an oversight. Clause 29 deals with the deletion of commercially sensitive documents. Members will recall the Burt Commission on Accountability. The commission stated that the fact that something is commercially sensitive is not an excuse for a minister to refuse to reveal it to the House. This House made that point quite clear not so long ago with Dr Peter Murphy, who received a fairly substantial fine for refusing to produce a document. On that basis the Burt Commission on Accountability stated that there should not be any impediment to a minister tabling a document before the House. This provision statutorily gives the minister an option. By implication, it would allow a minister, notwithstanding an order of the House, to refuse to produce a document that was commercially sensitive; that is, a document à la Dr Peter Murphy. That is what the provision currently means. It states -

(1) The Authority may request the Minister to delete from -

(a) a copy of a report under the *Financial Administration and Audit Act 1985* (and any accompanying document) that is to be laid before a House of Parliament or made public; or

(b) any other document of the Authority that is to be, or might be, made public, a matter that is of a commercially sensitive nature, and the Minister may, despite the *Financial Administration and Audit Act 1985* section 69 or an obligation, however arising, to make the document public, comply with the request.

That is putting into the statute the right of a minister to refuse to table documents that are of a commercially sensitive nature. I assume that it is just an oversight and that no-one had thought of the possibility of that requirement. I am not sure that with this particular minister and the railway project one can make that

**Extract from *Hansard***  
[COUNCIL - Thursday, 8 May 2003]  
p7271d-7287a

Hon Dee Margetts; President; Hon Jim Scott; Hon Graham Giffard; Hon Murray Criddle; Hon Alan Cadby; Hon Bill Stretch; Chairman; Hon Ray Halligan; Hon Kim Chance; Hon Norman Moore; Hon Peter Foss

---

assumption. For the purposes of argument I will assume it was an oversight and it was never intended that Parliament be prevented from ordering a minister to table a document purely because of its commercially sensitive nature. I assume I am correct in thinking that it was an oversight. I have moved an amendment that overcomes that oversight. The amendment means that if the House orders a document to be laid before it, a minister does not have the option of refusing. It is not a question of may or may not; the minister must do as the House orders. Some members may have flipped past this clause and may now feel somewhat alarmed.

**Progress reported and leave granted to sit again.**

*Sitting suspended from 1.00 to 2.00 pm*