



Transport Administration Amendment (New South Wales and Commonwealth Rail Agreement) Bill.

Second Reading

The Hon. MICHAEL COSTA (Minister for Transport Services, Minister for the Hunter, and Minister Assisting the Minister for Natural Resources (Forests)) [4.42 p.m.]: I move:

That this bill be now read a second time.

In December last year I announced an historic agreement between the New South Wales and Commonwealth governments for the Australian Rail Track Corporation [ARTC] to lease the New South Wales interstate and Hunter Valley lines. The bill provides the framework by which management of the New South Wales rail network will be integrated with the rest of the national rail network. It is the last major step in the realignment of the national rail network. A detailed history of the effort by the Commonwealth to create a national integrated rail network from the mismatched State rail networks was outlined when the bill was introduced in the other place. The most recent effort, which has led to this agreement, commenced in 1997 with the establishment of the ARTC as a Corporations Law company with its shares wholly owned by the Commonwealth.

Initially the ARTC took on railways then owned by the Commonwealth before taking a lease of the interstate lines in Victoria. Subsequently it entered into an arrangement to provide access for operators to the interstate lines in Western Australia. It is important to note that the network is under the control of the Commonwealth through the ARTC. Over the past five years growth in general freight in the New South Wales rail network has been in excess of 30 per cent. In my view this is a strong endorsement of the policies put in place by this Government for competition on our rail network. It is a tangible demonstration of the Government's strategies for separation: the introduction of private sector competition into freight rail operations has delivered genuine gains for the community.

However, to sustain this successive growth requires a change in the underlying management structures of the rail freight network. The long-term freight transport trend is away from traditional hinterland to port patterns towards interstate flows. The Commonwealth is best placed to provide the national context required to effectively manage this evolving transport pattern. Similarly, the Commonwealth holds prime responsibility for funding of the national highway system. It is appropriate that it also take prime financial responsibility for the national rail system. The Government believes that integration of the New South Wales rail network into the national rail network is logical and a long overdue public policy.

The three key features of the agreement with the Commonwealth and the ARTC are a 60-year lease to the ARTC for the non-metropolitan interstate main lines in the Hunter Valley, management by the ARTC of the New South Wales country regional network, and the majority of country rail staff remaining employees of New South Wales. To provide for the continued integrated management of the rural New South Wales network, it has been agreed that the country regional network—that is, branch lines and non-interstate main lines—will be managed by the ARTC on behalf of New South Wales. This network will be managed through an alliance contract between New South Wales and the ARTC. The Rail Infrastructure Corporation [RIC] will retain ownership and New South Wales will retain funding responsibility for the lines.

The Hon. Melinda Pavey: For the branch lines?

The Hon. MICHAEL COSTA: Yes, for these lines. We are talking about the residual network.

The Hon. Melinda Pavey: I just wanted to get it on the record.

The Hon. MICHAEL COSTA: It is more than on the record: it is in the legislation and in contracts, so do not worry about what I say.

The Hon. Melinda Pavey: So you will look after the branch lines. Thank you.

The Hon. MICHAEL COSTA: Once again, it is on the record, in legislation and in contracts.

The Hon. Melinda Pavey: You will look after the branch lines?

The Hon. MICHAEL COSTA: We will look after those lines better than those opposite are looking after the seats over there. When I was sitting over there during the last division I noticed that all the leather has been ripped up. An alliance board will be established to oversee these lines through the setting of key performance indicators. The alliance board will have a key role in overseeing the peak performance indicators for the residual network, and a strategic role in

developing key performance indicators for the lease network. The Labor Council will be represented on the alliance board. The majority of country infrastructure maintenance and train control staff are to remain employees of the RIC, and the State Rail Authority [SRA] will continue under an ARTC management. The ARTC will directly employ its New South Wales management administrative staff, and train control managers, infrastructure team managers and leaders. It is proposed that the ARTC lease and management arrangements will be taken up this year.

The proposed arrangements have a number of other significant elements. The Sydney metropolitan freight lines will be leased to the ARTC on similar terms to the lease of the interstate and Hunter Valley lines. It is proposed that this will commence on or after 1 January 2006 and conclude on the same date as the interstate lease. The ARTC is to undertake a five-year infrastructure investment program of \$818 million on the New South Wales network, plus a further \$52 million on the Albury-Melbourne line in Victoria. This will include a contribution by New South Wales of \$61.9 million. The ARTC will construct a new railway line, the Southern Sydney freight line, within the existing rail corridor from Sefton Park near Chullora to Macarthur. This will allow segregation of freight and long-distance passenger services from electric train services in this corridor, and provide a dedicated freight track connecting the interstate rail network with Port Botany.

It is important to note that the ARTC has agreed to be bound by the New South Wales passenger priority principles. New South Wales will have the right to resume network control in cases of gross and persistent non-adherence by the ARTC to these obligations. The ARTC management of the network will be subject to New South Wales rail safety accreditation by the Independent Transport Safety and Reliability Regulator in accordance with the New South Wales Rail Safety Act. The bill makes it clear that the ARTC is responsible for rail safety on the leased network and security of staff. The ARTC securing its accreditation is a condition precedent of the lease and other arrangements commencing.

Clear and achievable performance indicators are being established for performance under the contracts, including track performance and infrastructure conditions. The track indicators will be directed at precluding a run-down of the asset. There have been extensive discussions with the Commonwealth to ensure that New South Wales retains control in the event that the Commonwealth seeks to change the equity structure of the ARTC. It has been agreed that the Commonwealth will consult with New South Wales in the event that it wishes to dispose of any of its interests in the ARTC. New South Wales will have an option to re-acquire the ARTC's leasehold interests in the New South Wales rail network.

An important aspect of the implementation of the arrangement is the protection of the interests of current New South Wales employees. The original ARTC proposal was assessed by New South Wales against a set of 29 criteria that were developed in consultation with the unions. During the assessment of the proposal by New South Wales, an employee reference group was established to advise the unions of progress and to provide a forum for feedback. In July 2003 the Labor Council of New South Wales was involved in, and signed off on, 11 key objectives against which alternative models were considered to arrive at a preferred model. Following extensive consultation with the unions and the Labor Council, it was agreed between New South Wales and the ARTC that most employees would remain employees of the New South Wales Government instead of being transferred. That will allow staff to retain the benefits of being New South Wales public sector employees. The ARTC will be recruiting approximately 300 staff who will be direct employees of the ARTC. A transfer package has been put in place for country staff who resign from a New South Wales rail entity to take up employment with the ARTC. No-one will be forced to apply for a position within the ARTC.

The Government's policy of no forced redundancies applies to work force changes resulting from the ARTC lease. I have written to unions to assure them of this important safeguard. A joint consultative group of the Labor Council and the unions has been established to provide a formal consultative mechanism during implementation of the ARTC arrangements. As foreshadowed when this bill was introduced in the other place, the Government has undertaken further consultation with the unions, and flowing from that the Government proposes to move a number of amendments to the original bill. The most important change is that New South Wales will retain responsibility for occupational health and safety and workers compensation for seconded staff. That will provide an extra layer of protection for workers' interests. For the purposes of occupational health and safety, the legislation will provide that both the New South Wales rail authority and the ARTC will be bound as if they are the employer.

In regard to workers compensation, the legislation will make it clear that the RIC and the State Rail Authority [SRA] will continue to be responsible for the insurance for seconded workers and for all personal injury claims. A regulation-making power has been retained to ensure that the provisions of the Workers Compensation Act will be able to be appropriately applied in the workplace. Other amendments arising from consultation with the unions will provide greater certainty for the application of current industrial agreements, will place bounds around the personal information of seconded workers that may be disclosed to the ARTC, will provide for the protection of a seconded worker when disciplinary action is being considered by the RIC or the SRA, will provide for guidelines to be made by the Public Employment Office in regard to policies relating to the personal circumstances of individuals who will be seconded, will provide for the application of a salary maintenance policy and disciplinary action against seconded workers by the RIC and the SRA, and will require a secondment to be for a specified period.

The Government is committed to a number of additional policy matters raised by a number of unions and the Labor Council of New South Wales, but it was not appropriate to deal with them in the legislation. I have written to the unions and I have advised them of the Government's commitment to these important issues. The RIC will be allowed to competitively bid for work that the ARTC seeks to contract out. The Government agrees that when meaningful work can be found for surplus staff, it will be provided. Accordingly, the Government is happy to agree to this arrangement. I

understand that the ARTC has indicated that it will welcome bids from the RIC. As previously noted, the Government has agreed that the Labor Council will be represented on the alliance board that will be established to oversee the country regional network. The unions have requested that the board be established in advance of the commencement of contractual arrangements. . The Government will take steps to establish the board as soon as possible.

The Government will protect the core remuneration of workers. The Government will be giving an assurance that no worker will be forced to accept a secondment to the ARTC at a lower grade than the worker currently holds. Comprehensive arrangements have been put in place to preserve the existing conditions and entitlements of staff. For infrastructure maintenance and train control employees who are working on the ARTC-managed lines, existing enterprise bargaining agreements [EBAs] and other industrial instruments will govern conditions of employment. Future EBAs will be negotiated with the RIC and the SRA in consultation with the ARTC. Staff who take up positions with the ARTC will have a range of options in dealing with their entitlements. Their options are set out in a comprehensive transfer package. Details of the transfer package are being communicated through their work force representatives and directly to staff through briefing and information packs. Country employees who resign from the RIC or the SRA to take up employment with the ARTC will have a three-year employment guarantee.

The principal purpose of the bill is to give effect to the arrangements I have outlined. The bill will enable rail authorities to enter into each of the key agreements with the ARTC to which I have already referred. It also makes a number of consequential changes to facilitate the agreement, including adjustments to the functions and objectives of the authorities and amendment to the Conveyancing Act. The bill includes a number of provisions to ensure that New South Wales policy objectives are met. The ARTC is required to maintain the linear continuity of the lease network. Its powers to deal with land and infrastructure have been limited, including its ability to grant certain financial securities. These safeguards have been put in place to ensure that the ARTC will not be able to withdraw services from the network.

There can be no indirect transfer of the network to a private sector entity. The bill precludes the ARTC from becoming involved in above-rail operations in New South Wales to ensure that rail freight operations remain separate from track ownership. New South Wales recognises that with such a long-term arrangement, it is important to provide flexibility to deal with changes in circumstances. The bill provides clarity of the ability of New South Wales to acquire the ARTC's interests in the leased area by applying the principles of the Land Acquisition (Just Terms Compensation) Act. This will allow New South Wales to regain control of part of the leased network if there is a policy need to do so at some time in the future—for example, if New South Wales wants to extend electrified rail commuter operations. In the absence of legislative change, the ARTC would not be subject to planning regulations. The bill creates a framework for the application of the Environmental Planning and Assessment Act to the ARTC to avoid a regulatory vacuum.

The Government intends to move a number of regulatory amendments to clarify the application of schedule 6A of the Transport Administration Act. The schedule provides a statutory mechanism to simplify rights of access by rail entities to each other's land and infrastructure. The amendments have arisen in the context of finalising lease negotiations with the ARTC. The substantive changes relate to the ARTC's right to extend or expand infrastructure, location of rail infrastructure on other rail infrastructure, and the application of regulations with respect to access to land. I understand that the Opposition will support the Government's amendments.

I digress to express my appreciation of the role undertaken in this process by the Deputy Prime Minister, and Minister for Transport and Regional Services, John Anderson. I acknowledge that it was his drive and commitment that made this agreement a reality. I know from talking to him that it was a very difficult process. He has a genuine vision of how the rail network should operate. We may have political differences on many matters—

The Hon. John Ryan: You are too right wing.

The Hon. MICHAEL COSTA: He is too left wing for me. The Federal Minister for Transport and Regional Services, John Anderson, has a genuine commitment to a national public policy outcome for rail operations that is in the best interests of the nation. I am pleased to support him in that objective. We have been able to discuss frankly many difficult issues and resolve them during numerous telephone conversations.

The Hon. Melinda Pavey: The previous Minister for Transport could not.

The Hon. MICHAEL COSTA: Let us not politicise this issue. I am sure that members opposite appreciate the significance of this historical agreement. It was difficult to reach agreement, but the Federal Minister for Transport and Regional Services, John Anderson, and I have built up a personal rapport that has enabled us to agree to a number of issues on trust. In dealing with matters of this nature, it is necessary to be able to do so. I trust him in terms of his commitment to rail and its strategic role within the nation's transport framework. I extend to him and our respective officers my appreciation of the co-operative spirit in which this intergovernmental co-ordination was achieved. It was interesting to see staffers from intense political environments co-operating across the political divide to reach a sensible public policy outcome.

The Hon. John Ryan: It's rare for you, but it's common for us.

The Hon. MICHAEL COSTA: It is very uncommon for the Hon. John Ryan because he has never put up any sensible positions on anything. There has been co-operation at the bureaucratic level. I thank the bureaucrats, both at State and

national levels, who have acted professionally to achieve the difficult outcomes. This is an important and historic step towards the revitalisation of rail as a national key strategic transport mode.

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