



Local Government Amendment (No Forced Amalgamations) Bill.

Second Reading

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [11.23 a.m.]: I move:

That this bill be now read a second time.

It gives me great pleasure to introduce the Local Government Amendment (No Forced Amalgamations) Bill, especially as Government members voted against my being allowed to introduce it. This bill embodies the policy that Labor took to the people of New South Wales less than six months ago. Yet when the Opposition, with the support of the crossbenchers in this place, sought today to introduce the bill for discussion, the Government voted against its introduction. That is proof of the Government's hypocrisy and its shabby treatment of the people of New South Wales on a daily basis.

During the drafting of the bill it was suggested to me that it could be called the "Local Government Amendment (Keeping Labor Honest to Its Policy) Bill", but I prefer the first title. The bill will ensure that the Carr Labor Government cannot abandon the policy of no forced amalgamations that it took to the March 2003 State election. The bill seeks to amend the Local Government Act 1993 in order to require a poll of ratepayers and eligible residents to be taken as part of the consideration of any amalgamation or, importantly, significant boundary change. The bill will hold this Government to its election policy: nothing more, nothing less. It was not our election policy or that of the Greens or Unity; it was the policy that Labor took to the last election. We would like to enshrine Coalition policy in legislation because it is much better than that of the Government, but Labor won government so we have introduced a bill that reflects Labor policy. If and when Government members vote against the bill for a second time it will reveal the hypocrisy of Country Labor's so-called leader, the Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, and Minister Assisting the Minister for Natural Resources (Lands), who stood on a Labor ticket at the State election. He did not even have the guts to stand on a Country Labor ticket.

The object of the bill is to require the Local Government Boundaries Commission to poll residents and ratepayers affected by a proposed amalgamation of two or more local government areas or by a substantial change to the boundaries of a local government area. The purpose of doing so is to ascertain the attitude of ratepayers to the proposed change. The bill will prevent local government councils from being wiped out by the stroke of a Minister's pen, on the advice of a boundaries commission that may or may not—that is the important point—have performed its duties properly. At this stage some brief history of the issue may be helpful to honourable members. In January this year, in the lead-up to the State election, I was travelling in the south of the State when I saw an item on a Prime news bulletin in the Wagga Wagga district. The item referred to strong rumours that the State Government was looking to form super councils in regional areas and reported serious concerns in the local area about those plans.

I returned to Sydney and telephoned some regional mayors and general managers, who confirmed that there were some serious, deep-seated concerns about what a re-elected Carr Labor Government would do in terms of structural reform. I then issued a media release calling upon the Premier to come clean about Labor's plans for council reform. It took a couple of days—the previous Minister with responsibility in this area was also slow to respond—but the Premier finally woke up and issued through his spokeswoman some heated denials of any plans for wholesale rationalisation of councils. Some Labor candidates in the State election—including one who is now employed by the Minister for Local Government as a senior adviser—also began to issue denials about Labor's plans to do away with regional councils. On 19 March—just three days before the election—the comments of no less than Premier Bob Carr on this issue were quoted in the *Goulburn Post*. His comments were important because everyone knew that the then local government Minister was not standing for re-election and thus could say what he liked about the issue. The community was seeking a promise from the Premier. So the Premier was quoted in the *Goulburn Post*—an illustrious local newspaper—as saying that Labor had no plans for wholesale rationalisation of councils and that there would be no forced amalgamation of councils.

The Hon. Rick Colless: That's a lie.

The Hon. DUNCAN GAY: Absolutely. The Hon. Rick Colless has got it 100 per cent correct: Bob Carr lied to the people of New South Wales. That is why we introduced this bill: to keep the blokes opposite honest. This bill endeavours to keep members of the Australian Labor Party who make promises during an election honest; it is not about the Coalition's policy but about what the Premier said and the Government's policy.

Along the way Labor released its local government policy that it would not force amalgamations but would work with councils to implement further efficiencies in service delivery. I will now fast forward. After the election, at the New South Wales Shires Association conference, the Premier took out the big stick and told reporters that the Government would

take steps to implement reform if the challenge of voluntary and amalgamations was not taken up across the State. The Minister for Local Government issued a press release on the same day and welcomed the Premier's comments made at the Yarrawlumla conference. From that day, so far as councils are concerned, all bets were off and the push for amalgamations was on, and the promises went out the window. Everyone knows that we cannot trust the Premier and this Government, which conned the people of New South Wales when it said it would not force amalgamations.

The first council to feel the impact of the Labor Government's policy change was Yarrawlumla, which straddles the border of the Australian Capital Territory. It suddenly found itself the subject of a boundary alteration proposal that would result in half the council area being transferred to the Yass shire, with the area of Yarrawlumla to be dissolved. The Minister merely informed the mayor by letter that consideration was to be given to completely dissolving a council area by shifting the boundaries. Just like Jeff Kennett, Labor is shifting the boundaries. Instead of forcing two council areas to join together the Minister for Local Government is now forcing dissolution proposals onto councils. The Government did not receive an invitation from this council—this was its own initiative. Probably the most galling part of the Yarrawlumla proposal is the final line, which states:

The Boundaries Commission may not conduct a public inquiry into this proposal.

The Minister instructed that there may not be any public consultation on a major proposal to completely dissolve a council and transfer part of the council area to other local government areas. The Government calls it democracy, even though 10,500 residents of the Yarrawlumla area will not have any opportunity to make a contribution on the future local governance of their area. That decision will be left entirely to the Local Government Boundaries Commission—a body that was thoroughly discredited last year during court proceedings involving the proposed transfer of large swathes of South Sydney and Leichhardt council areas to Sydney City Council.

The Minister for Local Government should read what the court said about the way the commission acted. If the Yarrawlumla situation sets a precedent, more than 2.5 million residents in regional local government areas will not have the opportunity to have their say on the future of their council, nor will the four million people served by metropolitan councils. It is not acceptable for the Government to set up a situation in which no consultation will occur. That is where this legislation comes into play, and why it is so important. It is simple in its intent, and as I mentioned earlier, it goes no further than to hold Labor to its election commitment. It does not stop amalgamations that are voluntary or welcomed by the community.

If these amalgamations are as the Government says they are, it should support the legislation. We are not seeking to bring structural reforms to a halt; we just do not want to see Kennett-style forced amalgamations. We want to ensure that affected communities are given every opportunity to have their say on the proposed reform. We have heard that people in the bush were pleased that the Hon. Tony Kelly was appointed as part of the deal done with the unions, but the word now is that Frank Sartor could not have been any worse. That was a quick change of opinion—the Kelly gang has bolted!

Giving people the opportunity to have a say on proposed reform seems to be a concept that is foreign to the Labor Party, and I am appalled that a local government Minister who claims to be a member of Country Labor, even though he was elected on a Labor ticket, is the guiding hand in a process that will see communities effectively excluded from the consultation process. I remind members of the instructions from the Minister in the case of Yarrawlumla:

The Boundaries Commission may not conduct a public inquiry into this proposal.

It is ironic that the Minister for Local Government is going hell for leather to redraw local government boundaries in other parts of the State, but both the Minister and the former Minister for Local Government have refused to correct a bureaucratic bungle that has resulted in the property of a constituent included in the boundaries of Broken Hill City Council following the boundary realignment to bring large parts of the Broken Hill common into the council area. This oversight may leave my constituents thousands of dollars out of pocket through no fault of their own.

The simple message to the Minister is if he cannot help the Creswells by initiating a small but sensible boundary change, he should withdraw his proposal to the Boundaries Commission relating to Yarrawlumla shire, because they are based on the same premise. If the Minister is initiating proposals to do away with Yarrawlumla there is no reason that he cannot assist the Creswells by initiating a boundary change to fix this mistake. This legislation will ensure that affected residents and ratepayers are given every opportunity to have their say. The bill contains some firm mechanisms to take community consultation to the next level.

Unlike the current Local Government Act, which provides for a voluntary postal ballot to be taken of eligible persons in areas affected by amalgamation proposals—which has previously been studiously ignored by the Boundaries Commission—this legislation will require a ballot to be conducted for all proposals for amalgamation and substantial boundary changes. For the purposes of this legislation, a substantial boundary change refers to a boundary change that will have the net effect of increasing or decreasing one or more local government areas by 10 per cent or more. That is an absolutely crucial part of this legislation.

We do not propose to halt the small boundary changes that occur on a fairly regular basis by imposing this condition. We do not want to put in place a ballot for a boundary change that is as simple as moving a shire boundary across a property to include the entire property in a single council area. That would be simply unproductive. This legislation

covers substantial boundary alterations because the Coalition and, I suspect, members of the crossbench—and to a large extent the community—are largely suspicious of the motives of this Government. That is the loophole the Government has found to conduct forced amalgamations through the boundary amalgamations. We agree with a 10 per cent boundary alteration—that was put into the Act—but anything above 10 per cent is a forced amalgamation. We want to stop this sneaky coot, the Minister for Local Government, from being able to do it again. I use the word "coot" as a term of endearment, but not the word "sneaky".

The Hon. Tony Kelly: So were the Kelly gang, and they were regarded as heroes.

The Hon. DUNCAN GAY: They were not heroes; they were crooks. Members opposite are supposed to be making and upholding laws. Honourable members will recall that last year the Sydney City Council was given the blessing of the Government to take over large sections of South Sydney City Council and Leichhardt Municipal Council. That structural reform was in the nature of a boundary change rather than an amalgamation. That meant that the Government did not have to undertake any community consultation at all. The then Minister claimed that all the boxes had been ticked because an independent inquiry conducted earlier by Professor Kevin Sproats had taken public submissions in the course of the inquiry—a very good inquiry, I have to say—into inner Sydney local government areas.

The Hon. Tony Kelly: What about the recommendations?

The Hon. DUNCAN GAY: The Minister refers to the recommendations.

The Hon. Tony Kelly: You must admit they were good.

The Hon. DUNCAN GAY: The recommendations were good. It is a pity that the Labor Minister at the time did not put up a proposal based on those recommendations, instead of the Mickey Mouse proposal that came forward to satisfy the then Lord Mayor of Sydney.

The Hon. Tony Kelly: Thank you.

The Hon. DUNCAN GAY: Do not thank me now. I have gone on record 100 times in regard to that. The whole issue was dragged through the courts as the two councils directly affected fought a fairly tough rearguard action to protect their areas. During that legal action a judgment in the Land and Environment Court in favour of South Sydney City Council found that the Boundaries Commission—the body in which the Minister seems to have every confidence—had not completed its work properly. The commission was found to have allocated the majority of its work of considering the inner-city proposal to two separate firms of consultants and then adopting and signing off on the completed consultancy documents. That is, the commission referred the matter to consultants, who topped and tailed the proposal and presented it as their report.

That is what the court found. That was how appalling that process was. Not only was there no community consultation, but the commission that oversees boundary change processes was found to be distinctly lacking in its approach to consideration of boundary changes. That makes it even more important that affected residents and ratepayers have the opportunity to have their say. If the Minister at that time had put the Sproats recommendations to the ratepayers—rather than to the councils and using a backdoor mechanism—I think the ratepayers may have accepted those recommendations. But we will never know—because the Government was not prepared to give democracy a go.

As the bill before the House stands, the cost of the ballot of eligible residents and ratepayers will be borne by the State Government—as it should be—meaning that councils will not have to bear the cost of running a ballot for a policy that has been foisted upon their communities by the State Government. The Minister might cast his mind back to another of his Government's follies: the single-city saga. One day the Minister and the Premier were in Albury and Wodonga and decided that those two cities should become a single city. The cost of that to those local government organisations—that is, the cost of a proposal that never had legs—is still being borne by ratepayers. That was because a former Labor Minister and the current silly Premier decided that would be a good subject for their press statement.

The Hon. Dr Arthur Chesterfield-Evans: He got the headline though, didn't he?

The Hon. DUNCAN GAY: He got the headline, but the ratepayers were left with the bill. The legislation before the House requires the Boundaries Commission—which I am sure will complete its tasks much more diligently in future—to take into account the results of the ballot. In previous amalgamations the commission and the Government have studiously ignored the results of voluntary polls. In one instance we had the absurd assertion of the former Minister that the majority of residents must have been in agreement with a proposed amalgamation because they did not respond to a postal ballot. I suspect he may have been the only person in the State to ascribe to that logic.

The Hon. Dr Arthur Chesterfield-Evans: Statistically, a totally invalid interpretation.

The Hon. DUNCAN GAY: The Hon. Dr Arthur Chesterfield-Evans makes an erudite, intellectual and appropriate comment. As the bill reads, the commission will have to consider the results of resident polling. If the commission disagrees with the finding of that poll and recommends differently, the commission will have to publish reasons for going against the will of local communities. We are not seeking, through this bill, to tell the commission that it cannot go against a poll; we are saying that the commission will have to publish its reasons for going against the will of local

communities. That is a big ask of the commission. It will have to publish its reasons. That is a fair test. If the commission has good reasons, it can put those forward to justify its decision. The bill also states that a proposal is considered to have been approved only if the majority of residents in all affected council areas vote in favour of the proposal. Similarly, a proposal could be considered to have been rejected if the majority of residents in all affected council areas vote against the proposal.

The intent of the bill is clear. It seeks to embed the concept of community consultation in the council amalgamation and boundary change process. The bill will not halt the reform process; it will not derail voluntary amalgamations. That is not what it is about. However, the bill will hold the Labor Party to its election commitment of no forced amalgamations. The challenge for honourable members opposite—especially those who claim Country Labor links—is to support legislation that will really mean there will be no forced amalgamations. This is legislation that reflects the point of view that Labor put to voters in the last State election. This legislation reflects the words of the Premier to the *Goulburn Post* that there would be no widespread boundary changes and no forced amalgamations. That is why the Coalition has introduced this bill.

We could have introduced a bill that reflected our policy. Instead, we chose—quite properly—to bring forward a very carefully drafted bill that reflects the Labor Government's stated policy of no forced amalgamations. It also picks up the loophole that the Government has been using to force amalgamations and scare the people of New South Wales. One could have some sympathy for the Government if it actually had a plan for what it is doing. The simple fact is that there is no plan. All the Government is doing is scaring the people of New South Wales. I commend the bill to the House in the hope that all honourable members will take it seriously, because many communities will be depending on the passage of this bill for their future survival.

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