



Local Government Amendment (Anti-Corruption) Bill

Second Reading

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LOCAL GOVERNMENT AMENDMENT (ANTI-CORRUPTION) BILL

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Second Reading

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [5.00 p.m.]: I move:

That this bill be now read a second time.

I seek leave to incorporate the second reading speech in *Hansard*.

Leave granted.

Local government is the tier of government with which many people have the most contact. While local government is no longer the domain merely of 'roads, rates and rubbish', the broadening services and functions of local government means that councils are in even more contact with members of the community and are major contributors to the well-being and quality of lifestyle in a community. For these reasons, it is vital that councils operate effectively, and that people can have confidence that their local council is operating effectively.

I have commented on the admirable job that councillors and council staff perform for the benefit of their communities in this place before. I do not wish to detract in any way from that good work, although I must speak about those few persons who, for their own selfish purposes, corrupt the system of local government by interfering inappropriately in it.

As recent events affecting the Rockdale city council have shown, unfortunately there are still some unscrupulous individuals who are so driven by greed that they are willing to chance the severe anti-corruption and criminal conduct sanctions that are currently in place in order to obtain financial benefit or some other benefit or favour for themselves.

The scale of corruption exposed in the independent commission against corruption inquiry into activities at the Rockdale city council has shocked the community.

All people involved in the local government sector would have been disappointed to see one councillor admitting corruption, and another collected from his home by ICAC officers to appear before the inquiry to answer allegations of corruption. ICAC officers had completed rigorous and thorough investigations into the alleged corruption and the work of those officers and the inquiry is to be commended.

I note that it appears to have only been in the face of overwhelming evidence collected by anti-corruption officers that one councillor did admit that he had engaged in corrupt conduct. The councillor has since publicly apologised for his disgraceful behaviour and resigned from the council.

Evidence at the ICAC inquiry has shown that at least one councillor received money from development applicants, via intermediaries, to assist with the successful passage of a particular application through council.

The result for the community of such a scheme is the possibility of development that is not within the limits set by legislation or the council in consultation with its community. Residents or developers going to a council for approvals of one kind or another must be able to have security in the knowledge that their application will be dealt with on its merits, and according to the prescribed processes, and that the application will not be interfered with by corrupt councillors or staff. Decisions made on behalf of residents and ratepayers must not be made for the benefit of corrupt individuals.

The community has every right to expect that the State government will ensure that corruption within councils is not tolerated, and that councils will themselves undertake whatever reasonable measures may be necessary to render their organisations resistant to corruption.

Moreover, the community is entitled to have confidence that appropriate measures are in place so that where corruption or other criminal behaviour does exist, it will be rooted out and the people involved punished. It is critically important in terms of deterrence of other councillors or staff who may potentially take corrupt action that those persons conducting corrupt activities are found out and dealt with appropriately under the law.

This bill evidences the Government's resolve to act promptly and decisively against corrupt councillors, corrupt council staff, and councils which are afflicted by systemic corruption.

The measures contained in the bill will allow the immediate suspension, without the need for further inquiry, of individual councillors and council staff who have been found to be corrupt by a formal inquiry conducted by the ICAC, or who have admitted corruption, or who have been charged with a criminal offence relating to their civic duty.

The suspension will operate pending further action, which may involve prosecution of persons by the director of public prosecutions, or other appropriate action.

Corruption rots an organisation from the inside out. The longer it is left, the more damage it can do, and the harder it is to eradicate. Therefore the proposal provides that a suspension of a councillor or staff member may be based upon the findings of either an interim or final report of the ICAC. This element of the proposal, which focuses on timeliness, will ensure that there is little if any delay between the release of an adverse ICAC finding about an individual and that person being suspended from his or her civic office or council employment on a temporary basis.

It will no longer be possible for persons who have had an adverse recommendation made by the ICAC for their suspension or dismissal, who have admitted corruption or who have been charged with criminal conduct relating to their civic office to continue on in their role, or to be paid fees or salary, or to be involved in the day-to-day decision making of their council while waiting for the due process of law to reach its conclusion.

The capacity to immediately suspend these persons is essential for the maintenance of community confidence in the system of local government.

If the person is a councillor, the minister for local government will provide the councillor with an opportunity to make submissions as to why the councillor should not be dismissed from civic office. If the minister is not satisfied that the councillor should retain his or her civic office, that councillor may be dismissed by the Governor, by proclamation.

This power to dismiss a councillor is proposed as an option of last resort to remove a person who has been found to be engaging in corrupt conduct but who refuses to resign his or her position.

The period of dismissal will be determined in all the circumstances, but is to be no longer than 5 years. This maximum period is consistent with the powers of the local government pecuniary interest tribunal under the Local Government Act to disqualify a councillor against whom a complaint has been proven from holding civic office for a period of not more than 5 years.

The proposed dismissal power applies only to councillors, and not staff of councils. General managers have powers under the common law, industrial awards and agreements and employment contracts to deal with disciplinary matters relating to staff. Staff may also have further action taken against them by the director of public prosecutions.

An exercise of the power to dismiss a councillor for engaging in corrupt conduct is a serious matter. It is a power to protect the integrity and the reputation of a particular council and the local government sector as a whole. The ICAC considers that this proposal is critical to the effective removal of corrupt persons from civic offices.

If corrupt conduct extends beyond a handful of councillors and council staff to the point where the whole council is tainted by corruption, the Governor will also be able to immediately dismiss the council where a formal inquiry conducted by the ICAC has exposed systemic corruption and recommended its removal.

In those cases where a whole council has been dismissed due to evidence of systemic corruption, the council will immediately be replaced by an administrator appointed by the Minister for Local Government. The administrator will perform all of the functions of the council. The restoration of democratic local governance will occur as soon as it is deemed appropriate by the Government to hold fresh elections for the area. The right to select local representatives by democratic process is important and as such, voting for a new council will be restored as soon as is reasonably practicable.

It is entirely appropriate that the recommendation to suspend a councillor or member of staff, or to dismiss an individual councillor or an entire council, is made to the Minister for Local Government by the ICAC, following its investigations.

The ICAC has primary responsibility for administering the Government's anti-corruption program affecting public authorities including local councils. The ICAC is specially empowered to investigate the conduct of public officials, to make findings and recommendations and may refer criminal conduct for prosecution by either the director of public prosecutions or the police.

Due to the need for a prompt legislative response, on this occasion formal consultation with the peak local government sector organisations was not able to be pursued.

However, I am confident that the local government industry acknowledges the urgent need to place greater barriers, and to apply speedier sanctions, against those persons who through their selfish and greedy actions would bring the whole sector into disrepute.

The Government believes that these new measures will provide a greater threshold of deterrence against persons holding civic office or employed by a local government authority from succumbing to the

temptation to act in criminal or corrupt ways. It is my hope that the powers will need to be used only very rarely. I expect, and the community expects, councillors and council staff to respect their offices and to protect the integrity of local government. The measures in this bill will ensure that swift and strong action can be taken in those exceptional cases where councillors or council staff prefer personal profit or favour over the proper performance of their duties for the benefit of the community.

I would anticipate, and welcome, bi-partisan support for this important bill.

The welfare of the community and long-term stability and economic prosperity of the State are too important to extend any leniency to corrupt officials who seek to subvert the public institutions and values upon which our society is founded and depends.

The people of this State are entitled to expect that the conduct of councillors and council officers is not for the purpose of personal profit, and that they will always act honestly and fairly in carrying out their civic duties.

I commend the bill to the House.

The Hon. DUNCAN GAY (Deputy Leader of the Opposition) [5.02 p.m.]: The Opposition supports the Local Government Amendment (Anti-Corruption) Bill. It recognises the need to ensure that corruption in local government is dealt with in the most effective and timely manner. I find it somewhat strange that the Government has reordered this bill to become the first item of Government business for the day on the same day that a front-page article in the *Sydney Morning Herald* reported on the goings-on at the Rockdale City Council meeting last night. I can only assume that the Government has been moved to action because of that article and because of this week's recommendations from counsel assisting the Independent Commission Against Corruption.

It is also interesting that the Australian Labor Party has finally moved to suspend Councillor McCormick from the party. Why has it taken so long to do that? The Liberal Party expelled Councillor Andrew Smyrnis during the ICAC investigation. Councillor Smyrnis subsequently resigned his position on the council. If the Labor Party is serious about anti-corruption, surely Councillor McCormick should have been expelled from the party and urged to resign from the council some weeks ago. I caution the House that it is important for members and the media to note that the recommendations from counsel assisting the ICAC, Greg Farmer, are not the final recommendations from the commission. Caution is needed in referring to those recommendations. Taking those recommendations at face value would be the same as accepting as absolute the closing submission of a police prosecutor in any criminal case.

Despite the obvious gravity of the evidence before the ICAC and the recommendations of Mr Farmer, it is nonetheless important to note that point. It is my further understanding that it could be up to seven weeks before the ICAC hands down its final report on this matter. The current provision under which all civic offices in a council cannot be declared vacant by the Governor unless an investigation and inquiry is conducted under the Local Government Act, even in cases where the ICAC report may have found that a council was plagued by corrupt practices, is clearly an anomaly that must be addressed. That is what the bill is about. That inquiry process, which was included in the Local Government Act as a way of dealing with structural or procedural problems, such as those at Maitland and Bega Valley councils, can take a lengthy time. The shortest inquiry leading to the dismissal of a council that the Opposition can recall was a three-month inquiry into the former Windouran council in the State's south west.

The Hon. Michael Egan: Three months?

The Hon. DUNCAN GAY: Yes, three months.

The Hon. Michael Egan: Was that because of the need to provide natural justice?

The Hon. DUNCAN GAY: It could have been shortened a little if there had been narrower terms of reference.

The Hon. Michael Egan: I am sure that a people's tribunal could knock it over in half a day.

The Hon. DUNCAN GAY: I am sure that the Labor Party's credentials committee could knock it over in five minutes, but that is not the point. This is about natural justice, and it is important at this stage to stress that in mentioning those three councils I am not making any assertions of corrupt conduct against any of the former councillors of those councils. Given that the legislation could result in a virtual repeat of an ICAC inquiry, it is appropriate that provisions be enacted to allow a council to be dismissed on the recommendation of the ICAC commissioner contained in either an interim or final report of the commission. That streamlining of the provisions will mean that councils identified as corrupt will be able to be dealt with in a timely manner without the need for an extended period of investigation by the Department of Local Government.

Earlier this afternoon I was interested to hear the Minister for Local Government speaking on radio 2GB about Rockdale council. In that interview he said words to the following effect, "We need to get this legislation through quickly, then I won't have to have a public inquiry. This will get through Parliament as long as the Opposition supports it." The Minister is well aware that the Opposition supports this bill, as we said in the other House. The Minister did not need to engage in politicking. He is well aware that this bill will get through Parliament. It is the fault of the Government that the legislation has not been debated before this time.

I remind the House again that it is interesting to note the timing of debate on this bill: it is on the very same day that Rockdale council is again front-page news. Following the Minister's comments on radio today, as reported on the Australian Associated Press [AAP] wire service, I now pose two important questions to the Minister and the Government that need to be answered. First, if this bill is passed by the upper House tonight and ratified by the lower House next week, will it apply to Rockdale City Council? In other words, will those councillors adversely named in the final report of the ICAC be subject to the suspension and possible disqualification provisions contained in this bill?

The Hon. Michael Egan: I would hope so.

The Hon. DUNCAN GAY: So would I, but there is a degree of uncertainty. For instance, if the commissioner were to bring forward that recommendation tomorrow, and this bill had not gone back to the lower House or to the Governor, would the Rockdale council case be outside the purview of the bill?

The Hon. Michael Egan: I wouldn't have thought so.

The Hon. DUNCAN GAY: I look forward to the Government giving an assurance that that is not the case. The second question I ask is: When the Minister indicated today, as reported on the AAP wire service, that the director-general of the department will order the elected Rockdale mayor to be the sole chair at council meetings, under what part of the Local Government Act or associated regulations will that order be made? We had a cursory examination of the Local Government Act today and we could not find that part. We would be happy if the Minister or the Minister's representative could clarify those two matters.

The Hon. John Hatzistergos: You would prefer someone else to chair the meetings, would you?

The Hon. DUNCAN GAY: It is about process. I am surprised at a comment such as that from a member of the Labor Party. You are not happy with your Labor Party.

The Hon. John Hatzistergos: It is a really dumb question.

The Hon. DUNCAN GAY: Today the Minister indicated that he had instructed the director-general to indicate who can or cannot chair a council meeting. I am surprised that the honourable member—a prominent lawyer before he entered Parliament, a proud member of local government and a Labor councillor—would not want to know that the Minister has the power to, willy-nilly, direct in any instance who will chair a meeting. If we make law to deal with particular examples we make bad law. Whilst I agree that individuals under investigation should not chair meetings, the process should be conducted properly. I look forward to a response on those two issues. The bill deals with three primary issues, and I will deal with them in turn. First, the bill amends section 255 of the Local Government Act to allow the Governor to declare vacant all civic offices of a council and appoint an administrator without the need for a formal public inquiry. For the reasons I have already spoken about, this is an important amendment and it is appropriate that the proposed changes stipulate that the Governor cannot take this step unless a recommendation to that effect has been contained in an interim or final report from the Independent Commission Against Corruption.

Second, proposed section 440B will allow the Governor to dismiss a councillor from civic office and to disqualify the councillor from holding civic office for up to five years if the ICAC has recommended that consideration be given to the suspension of the person from civic office with a view to his or her dismissal for serious corrupt conduct. There is a proper process to be followed before disqualification, which includes the Minister giving the person a reasonable opportunity to show cause why he or she should not be dismissed from holding civic office. It would be rather difficult, I would imagine, in the face of a report of an investigation by the ICAC, for a person who is the subject of an adverse recommendation to show appropriate cause in this situation. There are some matters in relation to section 440B that the Opposition would like clarified. Those matters have already been canvassed in the Legislative Assembly, but the Minister failed to substantially address those concerns in his reply to the second reading debate.

Section 440B will allow the Governor to disqualify a person from holding civic office for a period of up to five years, which it is claimed is consistent with the powers under the Local Government Act for the Pecuniary Interest Tribunal to suspend a councillor who has breached the pecuniary interest provisions of the Act. Elsewhere in the same Act reference is made to the disqualification from holding civic office for a period of seven years of a person who is found guilty of the offence of acting in civic office while subject to disqualification. There is an apparent contradiction in what the Government is trying to achieve in this instance. In the view of the Government which is the more serious: an admission of serious corrupt conduct, a breach of the pecuniary interest provisions of the Act, or another offence under the Act that may lead to a seven-year suspension?

This is important legislation and it is important that it is implemented properly the first time around. That is why the Coalition seeks a clearer explanation from the Government as to the discrepancies that I have just mentioned. We do not intend to oppose or amend the five-year dismissal provision, but we would like a clear explanation of those contradictions. Once again we have been treated to a load of rhetoric from the Government on getting tough on corrupt councillors. The Minister for Local Government said in his second reading speech in the other place:

This bill evidences the Government's resolve to act promptly and decisively against corrupt councillors.

If that was indeed the case, why has it apparently taken last night's Rockdale council meeting and the recommendations of the counsel assisting the ICAC to prompt the Government into bringing this bill up the list for debate in the upper House tonight? The third major part of the bill relates to the temporary suspension of either

councillors or council staff, subject to strict provisions. Proposed section 440C deals with provisions relating to temporary suspension from civic office for serious corrupt conduct. Under this section the Minister may, without notice or inquiry, suspend a person from civic office if the ICAC recommends that this happen, if criminal proceedings for serious corrupt conduct are instituted against the person, or if the person makes an admission of serious corrupt conduct. While suspended, a person is not entitled to exercise any functions relating to the civic office, or to collect any remuneration or fees connected with that civic office.

The suspension can be lifted if the person is not dismissed from civic office or if criminal proceedings are not instituted within six months after the suspension. If the suspension is removed the Minister may ensure that the remuneration or fees withheld are paid to the person who was subject to the suspension. That is appropriate and proper. If a person is cleared of the allegations that led to the original suspension it is only right that the moneys withheld be then paid. Section 440D relates to the ability of a general manager to institute a temporary suspension of a staff member in connection with serious corrupt conduct. This section is substantially similar to section 440C with regard to the grounds for suspension, the process of suspension, the remuneration provisions in place under suspension and when suspension is removed, except for the fact that it is the general manager and not the Minister who institutes the suspension. The Opposition also holds some concerns about the wording of sections 440C and 440D. Section 440C (1) states:

The Minister may, without notice or inquiry, suspend a person from civic office.

Similarly, section 440D (1) states:

The General Manager may suspend a member of staff of a council from duty.

The key point that the Opposition takes issue with in these two sections is the word "may". Under the proposed legislation there is no compulsion on the Minister to suspend a councillor or a general manager to suspend a staff member. Rather, they "may" suspend a councillor or a staff member. This wording significantly weakens the bill. I ask the Minister to clarify why the word "may" instead of the word "must" is not included in those sections. By replacing "may" with "must" the bill would be significantly strengthened. Frankly, the Coalition would have expected that if the Government were serious about cleaning up corruption in local government and addressing community concerns about corruption amongst councillors or staff it would have made the bill as tough as possible.

In its present form, allowing the Minister or the general manager the latitude to suspend a councillor or staff member, rather than enacting a compulsory suspension based on either a recommendation from the ICAC, the commencement of criminal proceedings or an admission of corruption, is subverting the intent of the legislation as outlined in the Minister's second reading speech. The Minister claimed in the other place that it is important that the discretionary "may" remain in the legislation. He claimed that a value judgment needs to be made as to whether the admission of serious corrupt conduct actually constitutes serious corrupt conduct. One would have thought that an admission alone would be grounds for suspension. Frankly, an admission of serious corrupt conduct does not need to be judged. I look forward to the Government's views and assurances on that matter because the explanation of the Minister for Local Government does little to allay my concerns about this legislation. Will the Government assure the House that the wording of these sections will not leave a loophole in the legislation? I have indicated that it was the Opposition's intention to change the word "may" to "must"—

The Hon. Richard Jones: Changed your mind?

The Hon. DUNCAN GAY: No, we have not. We will not be proceeding with that because—

[*Interruption*]

I suppose technically we have, I accept that, but we have not changed our mind on the validity of changing—

[*Interruption*]

We are not proceeding with the change because we have been advised by Parliamentary Counsel that it is unable to do this without affecting other bills, which would be inappropriate because of the ramifications that flow into the ICAC Act. We rely on the professionalism of Parliamentary Counsel—I have no reason to doubt it—in this instance. I accept the recommendation.

The Hon. Michael Egan: A good and wise man.

The Hon. DUNCAN GAY: However, we have concerns about the philosophy. I cannot see why the Minister or the general manager should exercise latitude. The Opposition supports the bill, despite the concerns I have outlined, particularly in relation to sections 440C and 440D. We support the bill because we recognise the importance of the issue at hand following the disturbing revelations at the ICAC inquiry into Rockdale City Council. Local government remains at the forefront in most people's lives. Last week I spoke to the Civil Liability Bill and quoted from a Local Government Association of Queensland submission which stated that the only people who do not come into contact with something involving local government at least once a day are those who never venture beyond their front doors. Communities need to have faith in the ability of their local council to operate in an effective and corruption-free manner. They need to be assured that the actions of their council are not tainted by corruption.

Currently, as the Act stands, an entire council faces the threat of dismissal following an investigation of the Department of Local Government. In that case a community may lose elected representatives who have not been found to be involved in corrupt behaviour. Clearly, that is not fair: good people are tainted by the actions of a few.

The allegations of corrupt behaviour will hang over that entire administration, both elected and employed. I was interested to read that the ICAC Commissioner, Irene Moss, has flagged the need for consideration of development applications to be taken away from elected councillors and placed in the hands of council staff members. I do not think that that would solve the problem of possible corruption, but it may go some way towards addressing the issue.

The Rockdale City Council situation has shown that there needs to be a streamlining of the process involved in dealing with corruption at the local government level. That is why the Opposition will support the bill. In conclusion, I reiterate that the comments that have been quoted as facts in the press are only the closing summation of the counsel assisting the ICAC. While they are most damning comments they are not the verdict of the ICAC Commissioner, and I would hope that they will be treated accordingly.

The Hon. Eddie Obeid: She said that.

The Hon. DUNCAN GAY: She did not say that.

The Hon. Eddie Obeid: Irene Moss said that—that they are the comments of the counsel assisting.

The Hon. DUNCAN GAY: Yes, they are the comments of the counsel assisting, and we should treat them as such. It has been a damning inquiry, but we need to be tempered in our response to this most serious matter.

Ms LEE RHIANNON [5.25 p.m.]: The Greens welcome the Local Government Amendment (Anti-Corruption) Bill, which will make it easier for corrupt councillors, or councillors reasonably suspected of corruption, to be suspended or dismissed from civic office. We have some concerns about the power vested in the Minister with regard to suspending councillors, which I will come to later. There can be no doubt that corrupt activity occurs within some local councils. The recent revelations about Rockdale City Council are just one example. The article in today's *Sydney Morning Herald* referring to Warringah Council alludes to other councils. Since the Greens have been successful in getting elected representatives into local government we have been concerned about the number of examples brought to our attention.

The bill sets out three possible events that can trigger a councillor being suspended from office: on the recommendation of an ICAC report, if criminal proceedings for serious corrupt conduct are instituted, or if the councillor admits to serious corrupt conduct. The Greens support a councillor involved in these scenarios being suspended. Only last night there was an extraordinary situation at Rockdale City Council that made a farce of that council—indeed, of local government. Labor Councillor Adam McCormick attempted to chair a meeting when he had been named and recommended for prosecution by the ICAC. He pushed it too far. From the reports that we have received and from what we have read in the paper, it caused many local people a great deal of distress.

It is not too much to ask that such councillors be suspended from duty until such time as they are proven guilty or otherwise. In fact, as we saw last night, to have them continue in their official roles trivialises council meetings—it is farcical. A corrupt councillor could quite conceivably continue to influence events in a corrupt manner while charges are pending. This is obviously another reason why those councillors should be suspended. We are concerned that the bill gives the Minister a discretionary power to suspend councillors. This could undermine the process and could conceivably lead to further corruption. If a Labor Minister, for example, were to decline to suspend a Labor councillor, rightly or wrongly, an appearance of favouritism would be created. Straight away the anti-corruption message would have been diluted and the disciplinary process discredited. Surely it is better and safer to make the suspension automatic and remove the Minister's discretion.

The Greens also support extending the disciplinary powers to council staff, including general managers. There is often an assumption that corruption involves only elected councillors. However, in reality and from our experience, it is unlikely that corrupt activity could be entrenched amongst councillors without some staff being involved. While the Greens support the bill, it raises important issues of probity and corruption in local government that the Government has failed to address. The pecuniary interest provisions of the Local Government Act need to be strengthened. Councillors are continuing to find their way around the limited way the provisions are set out.

More fundamentally, the nexus between developers, campaign donations and councillors must be broken. We cannot have democracy at the local government level unless this occurs. It is time to call a spade a spade: A donation from a developer to a candidate or a party is simply corruption. It cannot be seen as otherwise. There is no other word for it. Labor and the Coalition can continue to refer to it as a donation or a contribution, but the general public understands very well that it is a form of corruption.

[*Interruption*]

I note the interjections from my colleague the Hon. John Hatzistergos. I imagine that he winced when he saw the bribery proceedings unfolding, when members of his own party were interchanging the word "bribery" with the word "donation" as they tried to squirm out of the situation. The member is trying to refer, with difficulty, to donations made to the Greens. I refer him to our web site. The Greens is the only party I know that discloses its donations, and it is calling for full disclosure. For the record, environment groups have enough trouble raising money for themselves, and they certainly do not give money to political parties. So again the member is off the mark.

This form of corruption does not end with local government. Let us not forget that the Minister for Planning is the consent authority for the largest and most important developments in New South Wales. Let us not forget that he has the ability to call in and approve developments. The Greens are in touch with community feeling on this issue,

and the major parties are falling way behind. When developers give money to a candidate or a party, are we really supposed to believe that they expect nothing in return, that pragmatic, hard-headed business people would give money simply out of the goodness of their hearts? No-one believes that.

The Government must legislate to ban outright all donations from any corporation or individual involved in the property industry to political parties or candidates at both the local and State government levels. I note that the former Labor Prime Minister, Paul Keating, has talked about this issue, because he has seen the damage it is doing to urban planning and development, particularly in the Sydney area, and to his own party. Democracy has been compromised. Decisions are being bought and sold, and only drastic action will put things right. The Greens will continue to defend and promote democratic values until the scourge of money politics has been eradicated. At a local government level money politics has come to the fore and is working in a very dirty way, and that needs to be cleaned up.

The Hon. JOHN HATZISTERGOS [5.32 p.m.]: Firstly, in relation to the matters which have brought this legislation before the House, I express my absolute abhorrence at the revelations that the ICAC has uncovered. At the same time, I congratulate the commission on the professionalism with which it has conducted these proceedings so far. When the committee first met with the new commissioner she unveiled a process that she intended to undertake to reform the ICAC. In many ways, the way this investigation has unfolded and the sophistication with which the evidence has been presented, particularly in relation to the interception of SMS text messages, has demonstrated the fruit of those efforts.

In many ways, the Government would prefer not to have had to introduce this legislation. Most people who serve in local government—I think more than 1,000 people serve in New South Wales—perform their duties diligently in the public interest. They do not get remunerated. In many cases it costs them money to perform their duties and they put enormous efforts into their public duties and responsibilities. I recall from my own experience in local government—I think I said this in my inaugural speech—that for many of these people it is a thankless task. They put up with an enormous amount of criticism, they get little reward for it, and the contribution they make to our community is invaluable.

Having said all of that, however, it does not excuse in any way the sort of conduct that existed in Rockdale. Clearly, this legislation will go a long way to addressing those matters. One would have thought from the contribution of the Deputy Leader of the Opposition that this legislation may not have had application to Rockdale, but clearly it does because section 440E of the bill proposes that it applies both before and after commencement. In other words, the section will apply to criminal proceedings which may have been instituted or admissions that may have been made about serious corrupt conduct before or after the commencement of division 2 of the bill. Clearly, this legislation will apply to Rockdale. One need not be concerned that the sort of conduct that was revealed in Rockdale cannot come within the scope of this bill.

The Deputy Leader of the Opposition made another criticism to which I must respond, that is, the use of the word "may" as opposed to the word "must" in sections 440C and 440D. It is necessary for honourable members to understand that the ICAC was established not as a body that dispenses discipline or determining guilt or innocence but as a royal commission, that is, an investigator. Subsequent amendments to the Act have allowed the commission to make recommendations, findings of fact and findings of corrupt conduct. However, that still does not detract from the fact that it is essentially an investigative body. It is not a court or a tribunal which is ultimately determining the legal rights of participants. People who appear before the ICAC do so in relation to a matter that the commission is investigating. They are not appearing in response to a petition brought by a citizen that requires a response. In other words, it is not an adversarial proceeding; it is an inquisitorial proceeding. Things can unfold in the course of an investigation.

The Hon. Duncan Gay: That is a matter of opinion. They are very adversarial down there.

The Hon. JOHN HATZISTERGOS: It is not at all. It is inquisitorial.

The Hon. Duncan Gay: Talk to some of the people who have actually been there.

The Hon. JOHN HATZISTERGOS: The Deputy Leader of the Opposition disagrees with that. I will not canvass the next report of the joint Committee on the Independent Commission Against Corruption, which hopefully will be released in the next couple of weeks. That report deals precisely with these issues and tries to explain in simple terms an inquisition and an adversarial process. Some people think that the ICAC is an adversarial body. It is not. It may have some features of an adversarial body but it is not. Effectively, it is a standing royal commission that has the power to institute its own inquiries, and it determines issues within the scope and purpose statements that it sets itself at the investigative stage.

The Hon. Duncan Gay: I do not believe it is an improper body, but it is clearly an adversarial body in its function and in the way it conducts its inquiries, particularly its parliamentary inquiries.

The Hon. JOHN HATZISTERGOS: I know that the ICAC has come under criticism, particularly from leaders of the National Party in the past. However, with the greatest of respect, I do not think that it can be attacked for the way it conducts itself in terms of it being an inquisitorial body in the royal commission sense. To my knowledge and the way I have been following it, it certainly follows in a similar way to the National Crime Authority, the Police Integrity Commission and, indeed, most royal commissions, bearing in mind that the commission's legislation is

somewhat different. Having said all that, when the legislation establishing the ICAC was enacted by the Greiner Government it did not state that the ICAC will have the power, for example, to prosecute persons who are found to be corrupt.

The choice words were used in that legislation—it is still there at the moment for anyone who wants to look at it—that the role of the ICAC is to make a recommendation that consideration be given to prosecution by the Director of Public Prosecutions [DPP]. In other words, in this bill we are importing the same terminology for exactly the same reason, that is, the DPP in the instance of prosecution is an independent officer who has independent responsibilities and must give consideration to all the issues.

The Hon. Duncan Gay: That is different—

The Hon. JOHN HATZISTERGOS: No, it is not different. The DPP must give consideration to different issues.

The Hon. Duncan Gay: It is different from a suspension. We are not talking about a sacking; we are talking about a suspension.

The Hon. JOHN HATZISTERGOS: The Director of Public Prosecutions has to consider issues separately from the ICAC. One clear reason the DPP has to consider matters differently to the way the ICAC considers matters is that evidence before the ICAC may not be admissible in a prosecution. Also, the DPP has to take into account the prosecution guidelines.

The Hon. Duncan Gay: That would be true if I was talking about sacking, but I was talking about suspension.

The Hon. JOHN HATZISTERGOS: The point that I am making is simply this: The ICAC is simply an investigator making recommendations. Somebody else is handing out the discipline and that person needs to be satisfied that the appropriate circumstances exist for that discipline to be instituted. The ICAC should not be given power to dispense discipline. It does not and should not have it. Other factors enter into the equation. There may be circumstances beyond the ICAC inquiry that would activate a general manager to act—for or against—particularly in relation to new section 440D. Also, general managers must consider industrial relations laws that are binding on them in their determinations, notwithstanding this legislation. That is why it is appropriate that consideration be given.

The Hon. Duncan Gay: It is a pretty long bow.

The Hon. JOHN HATZISTERGOS: I do not think it is. I think it is appropriate to consider all the circumstances, including the recommendation, in determining the action. If a recommendation is given by the ICAC that someone should be dealt with in this way, it would be a pretty brave general manager or Minister who did not act in accordance with that recommendation. However, it is appropriate that the legislation be drafted to reflect the division to which I referred earlier. The Deputy Leader of the Opposition also referred to the Minister's reference on radio today to the chairmanship of Rockdale City Council. I do not believe that the Minister indicated at any point during that radio interview that he was acting under some legislative precondition to direct Rockdale City Council to be chaired in a particular manner.

The Hon. Duncan Gay: He said, "I have ordered him."

The Hon. JOHN HATZISTERGOS: He can order him but, quite frankly, I would think that in the current circumstances Rockdale City Council would want to do as much as it could to comply with directions about the conduct of its meetings, bearing in mind the revelations that we have heard. It would be totally inappropriate to suggest that the Minister should stand aside and watch the sort of farce that unfolded yesterday, whether or not it is permitted under the legislation, and not voice criticism or issue some instructions to the director-general about the future chairmanship of that council.

The Hon. Duncan Gay: How does he order if he does not have the power?

The Hon. JOHN HATZISTERGOS: Let us not get into semantics. It is the end result we are talking about. In the current circumstances this means that it is inappropriate that the situation that existed last night should be repeated, particularly next week. That is, the meeting was suspended and a councillor, by all accounts, acted in a way that may ultimately lead to adverse comment by the commission, and was able to chair a meeting of Rockdale City Council which, amongst other things, was considering development applications.

I commend the Minister for the action he has taken. It is part of the package that the Government has foreshadowed with respect to local government. Other legislation has been foreshadowed in relation to planning, to deal with developers who pay off councillors and obtain development consents to which they are not entitled, and in appropriate cases revoke the consent and confiscate the profits in the event that the development ultimately proceeds. That legislation, which will be introduced in due course, should be regarded as part of the package.

I have no problems with people donating to political parties provided that it is done openly and transparently. I do not believe it was in this particular case. Ms Rhiannon has confused the issue by suggesting that any developer's contribution to a political party is somehow corruption. It is not. For example, many people donate to the Greens because they seek to support a certain policy by way of a financial contribution. As many people would be aware, larger developers donate to both political parties. What is wrong is connecting the two, that is, paying for a

designated outcome. It is that to which this bill and the bill to be debated later in this session are directed.

The Hon. Dr PETER WONG [5.46 p.m.]: I briefly comment on the Local Government Amendment (Anti-Corruption) Bill. The Unity party will support this bill to strengthen the New South Wales Government's ability to stand down councillors or dismiss councils on the ground of corruption. Although this legislation is a knee-jerk response to a specific council issue, it has merit. I believe it is appropriate that the Minister for Local Government should be able to stand down councillors or council staff subject to an ICAC recommendation, police charges being laid, or an admission of guilt.

It is also appropriate that councillors should be able to be dismissed by the Minister under the same criteria, and councils dismissed when the ICAC has found systemic corruption. The Government is keen to be seen as being tough on corruption, especially when a Labor councillor is involved. Alan Jones might get something to use against the New South Wales Government and the Labor Party. It is stating the obvious, but if we accept that this is okay, we are accepting government by media and headline. That is not good government and will not produce the best legislation in the public interest. Finally, I suggest that other measures need to be taken to reduce the potential for corruption in local government, which has been demonstrated in Rockdale City Council recently.

The Hon. Dr ARTHUR CHESTERFIELD-EVANS [5.47 p.m.]: On behalf of the Democrats I support this legislation. The Local Government Amendment (Anti-Corruption) Bill will amend the Local Government Act to provide that the Governor may, on the advice of the Minister for Local Government, disqualify a councillor or council employees who have been charged by police of offences, once the ICAC has found them guilty of corrupt conduct, or who have admitted their participation in corrupt conduct relating to their occupation. This sanction will last for five years. The Governor may also sack an entire council if the ICAC has recommended that consideration be given to its removal because of systemic corruption. In effect, the Minister arranges suspension and then recommends to the Governor that those persons should be sacked. They are then sacked by the Governor. It involves a two-step process.

The matter must be investigated by the ICAC, which must provide a report in order for the Minister to act. In other words, there must be a clearly written opinion on the fitness of those persons to continue in office. The bill will insert new sections 440A, 440B, 440C, 440D and 440E, which outline new provisions for the dismissal of councillors and council employees regarding serious corrupt conduct. Section 440A will insert the definition of "serious corrupt conduct" as defined within the meaning of the Independent Commission Against Corruption Act 1988 and apply that to corrupt conduct by councillors and council employees.

Section 440B (2) provides that the Minister will give the accused—for lack of a better term—an opportunity to show cause as to why he or she should not be dismissed before advising the Governor on what action to take in a particular case. In other words, people have an opportunity to defend themselves in the time between when the Minister suspends them and when the Governor accepts the Minister's recommendation to dismiss them. Under section 440D the general manager of a council may suspend a council employee on grounds similar to those outlined in section 440B. Schedule 2 makes a consequential amendment to the Independent Commission Against Corruption Act 1988 relating to reports on the dismissal of local government authorities, councillors and staff. In the second reading speech on 28 May the Minister said:

Due to the need for a prompt legislative response on this occasion, formal consultation with the peak local government sector organisations was not able to be pursued.

At least my office did its best and contacted the Local Government and Shires Associations and the Municipal Employees Union [MEU] about the bill. The Local Government and Shires Associations said that they were fine with the majority of the bill but were a little concerned about section 440C. They believe that a councillor should be dismissed only after he or she has had his or her day in court. They consider this to be an issue of natural justice. The MEU said that it had not even seen the bill, so my staff emailed it a copy.

The bill establishes a hierarchy of responsibility from the Governor, who takes the advice of the Minister, to the general manager, who is responsible for staff. If the ICAC determines that someone should face trial and that occurs, I do not believe a councillor should be able to say, "I will chair this meeting and, until I am found guilty, I will continue to act as if nothing has happened." I think justice must be not only done but seen to be done. If there is more than a smell of corruption—for example, the ICAC is involved and has delivered serious findings—councillors should not be allowed to tough it out and continue business as usual while the council discusses issues such as further development consents. That is not fair play. It is one thing to be presumed innocent until proven guilty, but another to allow the stench of corruption to surround a council indefinitely as though it does not matter. That does not lend credibility to the governmental process.

I was distressed to see articles in the *Sydney Morning Herald* of 14 and 16 May and yesterday and today about not only Rockdale City Council but Warringah Council and others. It is always dangerous to have a lot of developer money flooding into particular areas, especially in view of changes to the environmental planning and assessment legislation that allow developers to sue councils. I believe planning in New South Wales has been undermined. I have criticised the Government for this before. We need a plan. We must state this plan's philosophical basis publicly and encourage much community discussion. We must improve public transport and increase urban density along public transport corridors. We must make these decisions publicly. We must have zoning to support our plan and we need recreation areas that are not perpetually threatened by this Government's piecemeal approach that is shaped by the Environmental Planning and Assessment Act.

The Land and Environment Court is viewed as the developers' court as it overrules any planning decisions a

council tries to make. This has led to higgledy-piggledy development that has no framework and is restricted only by what developers can buy or get away with. Although I support the Government's move to get rid of corrupt councillors, while it perpetuates these closed processes and a lack of planning—which gives councillors much discretion and allows developers to buy the land available and construct as big a building as it can persuade the council to permit—the immense incentives for corruption will remain. That problem must be addressed.

With those caveats, the Australian Democrats support the bill. We support honest government and reject those councillors who have appeared before the ICAC and who say, "Until my wrongdoing is proven in court, I will continue the way I have been going." We believe there must be better, more open planning processes and serious plans and visions for our cities. They have not been forthcoming from this Government. Interestingly, in introducing this bill the Government has not thought beyond the immediate situation regarding corrupt councils. It has not considered the broader picture, which is typical of this Government.

The Hon. IAN COHEN [5.55 p.m.]: I shall reiterate some of the points made earlier by Ms Lee Rhiannon on behalf of the Greens. We support the Local Government Amendment (Anti-Corruption) Bill. The public has heard sensational evidence over the past few weeks regarding councillors, developers and go-betweens at Rockdale City Council and some worrying developments at Warringah Council. Weeks of evidence unfolding before the ICAC has revealed that councillors were in the process of receiving hundreds of thousands of dollars to ensure that particular development applications were approved. On Tuesday 11 June Greg Farmer, counsel assisting the ICAC, recommended that two Rockdale councillors—former Liberal councillor Andrew Smyrnis and Australian Labor Party Deputy Mayor Adam McCormick—two developers, and two go-betweens face criminal charges as a result of their "terrible crimes" of corrupt conduct.

While it is great that this particular corrupt conduct has been made public, the Greens believe that the situation uncovered at Rockdale City Council may be only the tip of the iceberg because of the pressures that councillors face when dealing with development applications. Those pressures may take the form of offers of gifts, benefits, bribes or other lobbying techniques. Because of the different power relationships and the potential for individual councillors and staff to make enormous amounts of money from the development process, undue influence and pressure could be exerted during the assessment process to produce a particular outcome.

It is interesting to note that developers make enormous financial contributions to the major political parties. In the two years between 1998 and 2000 Australia's three biggest property development companies—Meriton, Mirvac and Lend Lease—contributed more than \$750,000 to various branches of the Labor, Liberal and National parties. The latest returns for 2000-01 reveal that Westfield gave \$150,000 each to the Liberals and Labor, Meriton gave \$150,000 to Labor and \$100,000 to the Liberals, Leighton gave \$125,000 to Labor and \$122,000 to the Coalition and Multiplex gave \$118,000 to the ALP, mainly in Western Australia.

The Hon. Richard Jones: What did they want for their money?

The Hon. IAN COHEN: Indeed, what did they expect for those significant amounts of money? This is part and parcel of the present problems with our political system. When asked why he made donations Leighton's Chief Executive Officer, Wal King, recently told the *Sydney Morning Herald*:

If you don't do it, there's a chance of getting a black mark against your name. It's like giving your wife flowers; why wouldn't you?

Anne Davies, a reporter for the *Sydney Morning Herald*, pointed out that the New South Wales Labor Party now receives more than 30 per cent of its income from major developers. She wrote:

We are asked to accept that developers are simply ardent supporters of democracy. It has nothing to do with the fact that the NSW Government awards major construction contracts and has the power to "call in" developments and appoint itself the consent authority.

This bill deals with a small aspect of the corruption issue, but the Greens believe there must be a much wider review of donations from those in the property industry, particularly by developers to councils and political parties. The Greens would like to see, first, amendments that prohibit individuals involved in the property industry from giving donations to councillors or to political parties represented on council and those who contest any election to that council in the proceeding eight years; second, amendments that require developers to disclose all political donations they have made when they lodge a development application, as recommended by Greg Farmer, counsel assisting the ICAC, on 11 June; and, third, amendments that specify that donations to councillors are entered onto a public register operated by the State Electoral Office and posted on its web site. The Greens attempted to have these amendments drafted by Julia Bastable, whom I thank—she provides wonderful support to me in such matters—but Parliamentary Counsel advised us that they were outside the leave of the bill.

Clearly, political donations, which are generally made to the major parties, are a major problem. When they come tagged with expectations they cause many problems to local government. It is important to recognise that not only local councillors but council staff are vulnerable to corruption, and that needs to be closely monitored. Often there has been debate about whether councillors should be paid full salaries rather than a small amount of support money, thus making it their full-time job. That would move things forward considerably. Because councils work at a basic level and have great power over the development assessment process, and because staff recommendations count so much in many developments, particularly small-scale developments which are not considered by the whole of council, there is a constant temptation.

The bill enables the Governor to dismiss a council without the need for an inquiry when the ICAC has recommended that consideration be given to such action because of systemic corruption within the council. The bill enables the Minister, or the general manager, to stand down councillors or council staff who are the subject of an ICAC report and against whom the ICAC has recommended suspension and/or they have been charged with criminal offences relating to their civic duty and/or they have admitted corruption. Finally, the bill allows the Governor to dismiss a councillor if the ICAC recommends it and the councillor has been stood down by the Minister. The Greens believe the bill is a small but significant step in dealing with corruption at a council level, which has plagued many communities and cut into the social fabric of those communities in recent times. Adverse council decisions have had a deleterious effect on our environment.

The Hon. Tony Kelly: Point of order: I draw to your attention that a member is reading a newspaper.

The Hon. Richard Jones: To the point of order: This is not a newspaper, it is a copy of the *Land*, a very important newspaper. I am checking out the price of grazing leases in western New South Wales.

The DEPUTY-PRESIDENT (The Hon. Henry Tsang): Order! Members wishing to read newspapers may do so in the members' room, which adjoins the Chamber.

Reverend the Hon. FRED NILE [6.03 p.m.]: The Christian Democratic Party supports the Local Government Amendment (Anti-Corruption) Bill. This bill will amend the Local Government Act 1993 to enable prompt action to be taken against councils, councillors and council staff involved in serious corrupt conduct. It will also amend the Independent Commission against Corruption Act 1988. The bill provides for the immediate standing down, without the need for further inquiry, by the Minister or the general manager of councillors and council staff who are the subject of an interim or final report of the ICAC recommending suspension or have been charged by the police for criminal offences relating to their civic duty or have admitted corruption.

The bill also provides for the dismissal of a councillor by the Governor, contingent on an ICAC recommendation, where that councillor has already been suspended by the Minister, under the criteria set out above, and where that councillor has been given opportunity to show cause. The bill further provides for the immediate dismissal of a council and the appointment of an administrator to the council by the Governor, without a public inquiry, on the formal recommendation of the ICAC because of systemic corruption within the council.

The bill also provides that should a councillor or member of a council staff who has been charged with corrupt and/or criminal conduct affecting their civic duty be subsequently exonerated of those charges, that councillor or staff member will be automatically entitled to resume their former position with their council free of any penalty or stigma. Does this bill enable councillors to claim compensation for damage to their reputation? If a council is dismissed as a result of systemic corruption, and subsequently various individuals are exonerated, what will happen to the council? Could the council be reinstated? Is that within the contemplation of the Government and is there legislative provision for it? I do not think so, but that raises the question of the difficulty of restoring or replacing a dismissed council.

The bill is mainly the result of events that occurred within Rockdale council. I congratulate the ICAC on its successful conduct of the Rockdale council inquiry and its use of phone taps and surveillance. I am pleased that the ICAC has those powers. I know that whenever there is debate in this House about those powers, there is always criticism from civil liberty groups and so on, about infringing people's civil liberties. I believe that bodies such as the ICAC and the Police Integrity Commission must have those powers in our modern society to get all possible available evidence against those who are engaged in corrupt activities and who sometimes anticipate surveillance.

One of the those involved in the Rockdale council inquiry, a tailor, used the word "suit" in a childish way: one suit equalled \$10,000. A child could work out the code. It has been found in other corruption cases that some people become aware that they are under surveillance and take actions to conceal their activities. For example, a former Minister who let people out of prison used a code that represented dollars, and solicitors and others knew how to use the code.

For those reasons we have to put aside the fear of interference in a person's civil liberties in order to collect evidence, successfully charge corrupt individuals, and have them found guilty by their own words. In early evidence before the commission in relation to Rockdale council, individuals denied allegations and, quite cleverly, the commissioner allowed them to commit perjury and then asked them to listen to tapes in which they agreed to accept money in payment for corrupt activity. They were condemned by their own words. Because of the important role of local government, it must be seen to be above corruption.

Millions of dollars of profit is involved in the rapid development of Sydney's suburbs and large development projects. Because of that there has been, and will be in the future, great temptation. Councillors, who are often local businesspeople, suddenly have dangled before them \$70,000 or \$140,000, a rich reward, if they vote to approve a particular project. We need this legislation and I trust there will be an education program about these measures for all councillors throughout New South Wales. Hopefully, in the future they will report all attempted bribery to the ICAC. Perhaps at that point it becomes a sting where the ICAC can then conduct surveillance and, hopefully, catch more of those who offer bribes and those who accept them.

A member asked how this legislation will apply to the problems with Rockdale council. The bill states, "This

Act commences on the date of assent", which obviously will be further down the track. Will the bill apply to the Rockdale councillors who are the subject of findings by the ICAC? We must be certain that legal representations cannot be made to the effect that the bill does not apply to people found guilty of corrupt activity before it was assented to. I can see nothing in the bill that says it applies to cases of corruption identified before it is assented to. The Government may already have received legal advice to the contrary. I hope there is no loophole through which people will be able to wriggle out of the impact of the legislation, which obviously was introduced to deal specifically with Rockdale council.

Sadly, there has been an increasing number of reports of corruption across Australia, not only in Rockdale. I understand that at least five councils have been sacked in the past five years, and that dozens of others have been suspended pending investigation. In December 2000 the Melbourne City Council was sacked by the State Government amid claims of bullying, harassment, travel rorts and expenses frauds. In June 2000 the Western Australia State Government sacked the Cockburn City Council after a \$1.8 million inquiry found 66 incidents of unlawful activity involving eight councillors. In November 1997 Maitland council in the New South Wales Hunter Valley was sacked after an inquiry revealed that some councillors had drawn up hit lists of those in rival factions.

What has been happening in local government does not paint a bright picture, and we certainly hope that what happened at Rockdale is an exception to the rule. The Rockdale case was simple. Mr McCormick, whom we all saw on the front page of a newspaper, was reported in the *Australian* on 11 May as saying that this matter involved a developer's application to build an eight-storey block of units in Rockdale. On the weekend I attended a wedding and stayed at the Novotel hotel. My room was at the back of the hotel and as I looked over the buildings I was amazed at how Rockdale had grown like a forest. Certainly, many buildings were more than four storeys high. I know that the current issue relates to a development in Frederick Street, which is further back from the foreshore, but other buildings between the foreshore and Frederick Street seemed to be higher than four storeys.

I am not suggesting that other corrupt activity may have been involved in those developments, but perhaps it would be useful to examine all development approvals over the past couple of years. This current corrupt activity may just be the tip of the iceberg. We are pleased the Government has acted promptly. I do not know all of the individuals concerned, but allegations have been made about councillors associated with the Labor Party and also with the Liberal Party. This legislation will not advantage one particular party. We must ensure that all councils are above corrupt activity and that the men and women elected to them will deal honestly and truthfully with every decision they make. We are pleased to support the bill.

The Hon. RICHARD JONES [6.14 p.m.]: I support the Local Government Amendment (Anti-Corruption) Bill. I congratulate the Minister on acting quickly on this problem. Clearly a number of problems have existed with local government over the years. Some future government will reform local government procedures considerably and that will cause much angst in the community. I believe that we will have to reshape local government by amalgamating the numerous councils in this State into smaller groups of councils, as happened in Victoria, and then ensure that councillors are paid adequately.

One of the problems is that some people, not all, become involved in local government to serve not the community but their own ends. Often people with a vested interest in developments are involved in council, and even if they excuse themselves from meetings that discuss their developments, their influence is quite strong. People should be willing to go into local government if they can afford to do so and receive some reasonable compensation for their time. Being a local councillor takes a great deal of time and energy. It is a full-time job if one is conscientious. At some future point there will have to be a shake-up in local government, obviously in consultation with the people.

To cut costs, I believe we have to considerably reduce the number of councils, and I have no doubt that will happen. That will allow councillors to be elected from a wider representation of the community rather than from a narrow group or development lobby. That will go some way towards cleaning up local government. Local government is always fraught with difficulty. Every time the Minister has previously tried to amalgamate councils, some councils objected because they did not want to lose their identity; some felt they would be taking on the debts of the adjacent councils. One can fully understand their objection.

Reverend the Hon. Fred Nile: Residents do not want that either. They want to keep their local identity.

The Hon. RICHARD JONES: That is true, but retaining local identity and having too many councils results in extraordinary inefficiencies and residents paying higher rates. The present system is fundamentally inefficient and, unfortunately, lends itself to corruption. Like other honourable members, I received a copy of a letter from Peter Woods, the President of the Local Government Association, and Mike Montgomery, the President of the Shires Association, to Harry Woods. They very much oppose the idea of dismissing a council without a public inquiry, which this legislation provides for in new section 255(3). That section provides that the Governor may dismiss a mayor and councillors without holding a public or other inquiry concerning the council. I imagine that the Minister would not take that action lightly. Clearly, if the ICAC found a council to have been seriously corrupt, the Minister would have to act swiftly, and perhaps that may not warrant an inquiry. However, in most cases, as Peter Woods and Mike Montgomery say, there should be an inquiry irrespective of a report from ICAC.

The Opposition intended to amend section 440C so that it provided that the Minister "must"—rather than "may", as it presently provides—without notice or inquiry, suspend a person from civic office, and to amend section 440D so that it provides that the general manager "must"—rather than "may"—suspend a member of staff of a

council from duty under certain circumstances. For various reasons the Opposition will not move those amendments, which would be somewhat restrictive in any event. It would not necessarily be the case that the Minister should always suspend a person from civic office, or that the general manager should suspend a member of staff.

I consulted the Minister's advisers about this, and I understand that, in reply, the Minister will make a statement to the effect that the Minister for Local Government would put reasons in writing for not suspending a person from civic office. Of course, the general manager should also make his or her reasons available to the ICAC, but I do not know how the Minister will be able to achieve that result. Perhaps that should be negotiated by the Minister.

I consulted Byron Bay council about this legislation and it is happy with the bill. The new general manager, Robyn Read, is doing a very good job, and the council is going full steam ahead. Other councils also support the legislation in its present form. I hope it will work to help clean up the one or two rotten apples. I look forward at some future point to a considerable shake-up in local government, in consultation with the Local Government Association, the Shires Association and the people. I believe it will be necessary to adequately remunerate councillors for the work they do on behalf of the people.

The Hon. EDDIE OBEID (Minister for Mineral Resources, and Minister for Fisheries) [6.20 p.m.], in reply: I thank all honourable members who participated in this debate, and I welcome their support for this important legislation. I am sure all would agree, given the circumstances today, that this bill is crucial in restoring public confidence in local government, which has suffered somewhat over the past couple of months. As all honourable members know, this bill will enable the Minister to act more swiftly in these types of matters based on recommendations from the Independent Commission Against Corruption [ICAC]. Under the changes, the Minister will be able to recommend the dismissal of a council without the need to go through a public inquiry. Similarly, an individual councillor could be dismissed and disqualified from holding office for up to five years if the ICAC recommends such action.

The Minister will also be able to suspend an individual councillor if he or she has made an admission of serious corrupt conduct, if criminal charges are launched in relation to that councillor's civic duties, or if the ICAC has made such a recommendation. I understand that the Opposition was concerned about the provisions as they relate to the discretion of the Minister and the general manager to suspend an individual councillor or council staff member, as the case may be. I can assure honourable members that this discretion is important because it will enable the Minister to consider the ICAC's request rather than having to automatically suspend a councillor. For the benefit of honourable members who have raised this issue, I am advised that the Minister will consider carefully a report of the ICAC recommending the suspension of a councillor. Were a decision to be made not to adopt such a recommendation, written reasons would be provided by the Minister to the ICAC.

Obviously, in instances where suspension is crucial to the smooth functioning of a council and its good standing in the eyes of the community, the Minister would act quickly. The Minister has spoken at length today about the Government's desire to have this bill pass this Chamber tonight. He has said that once the legislation has passed, he will write to the ICAC commissioner explaining that the legislation is available and that she may make recommendations to the Minister, via an interim or final report, about Rockdale council.

The Minister has already made it clear that he is not satisfied with the situation at that council. In fact, today he asked the Director-General of the Department of Local Government, Mr Garry Payne, to contact the mayor and relay the Government's insistence that the mayor chair all future council meetings. The director-general spoke to the mayor and received a favourable response to that stern request. The Minister has also told me that if the ICAC makes any recommendation to sack either the entire council or an individual councillor, he will do it.

Finally, I would like to address the five-year disqualification period, which the Opposition referred to. Chapter 10 of the Local Government Act provides for a seven-year disqualification period, but only for repeat offenders, for example, a councillor who has already been disqualified under the Act but regains civic office during the disqualification period. This bill is consistent with the powers of the Local Government Pecuniary Interest Tribunal, which can disqualify a councillor for up to five years. I believe that the five-year period is appropriate. A councillor who re-offends would have the additional deterrent of up to seven years disqualification. I would also point out that five years is consistent with section 21 of the Interpretation Act 1987, which refers to "an indictable offence that is punishable by imprisonment for life or for a term of five years or more". I commend the bill to the House.

Motion agreed to.

Bill read a second time and passed through remaining stages.

Bill Name:	Local Government Amendment (Anti-Corruption) Bill
Stage:	Second Reading
Business Type:	Bill, Debate, Motion
Keywords:	2R
Speakers:	Obeid, The Hon Eddie; Gay, The Hon Duncan; Rhiannon, Ms Lee; Hatzistergos, The Hon John; Wong, The Hon Dr Peter; Chesterfield-Evans, The Hon Dr Arthur; Cohen, The Hon Ian; Deputy-President (The Hon Henry Tsang); Nile, Reverend The Hon Fred; Jones, The Hon Richard
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