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## NSW Legislative Council Hansard

### INDEPENDENT COMMISSION AGAINST CORRUPTION AMENDMENT (OPERATIONS REVIEW COMMITTEE) BILL

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#### Second Reading

**The Hon. JOHN DELLA BOSCA** (Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Vice-President of the Executive Council) [5.02 p.m.]: I move:

That this bill be now read a second time.

As the speech has already been delivered in the other place, I seek leave to incorporate it in *Hansard*.

#### Leave granted.

The Operations Review Committee's primary role is to advise the Independent Commission Against Corruption before it makes a decision not to investigate a complaint or to discontinue an investigation.

In 2004, the Government commissioned Mr McClintock to review the Independent Commission Against Corruption Act. The terms of reference included reviewing the adequacy of accountability mechanisms for the Commission.

In his report in January 2005, Mr McClintock recommended that the Operations Review Committee be abolished and an Office of the Inspector of the Commission be created.

The Government established the Office of the Inspector which commenced operation on 1 July 2005.

The Inspector's principal functions are to audit the Commission's operations, deal with complaints about the Commission and review the Commission's procedures.

At that time, the Government retained the Operations Review Committee. The Government was concerned to allow the new accountability mechanism, the Inspector, to commence operations before considering further changes.

In 2000, when the previous ICAC Parliamentary Committee originally proposed the Inspector be established, it suggested that the need for the Operations Review Committee be reviewed after the Inspector operates for 12 months.

The Inspector has now operated for nine months. The Government considers, therefore, that it is now appropriate to implement Mr McClintock's recommendation and remove the Operations Review Committee.

The McClintock report stated that despite the skill and dedication of its members, the Operations Review Committee is a limited accountability mechanism.

He stated that the Inspector provides a structurally superior form of accountability than the Operations Review Committee for a number of reasons.

The reasons for this include the fact that the Inspector has greater access to the Commission's records, the Inspector is completely independent (whereas the Chair of the Operations Review Committee is the Commissioner of the Commission) and the Inspector reports to Parliament.

While the Inspector does not have the same function as the Operations Review Committee, the Government is of the view that he will achieve similar outcomes by ensuring that the Commission's practices and procedures are effective.

Certainly, Mr McClintock reported that the Inspector would provide a more effective accountability mechanism than the Operations Review Committee.

The Inspector is managing the volume of complaints well. He also has sufficient time and resources to focus appropriate attention on reviewing the Commission's procedures and on his auditing role.

This will ensure that a more systematic approach can be taken, improving the quality of the Commission's decision making processes.

Indeed, if there is a change in the pattern of complaints around the Commission's decisions, the Inspector could initiate an audit.

The Government agrees with Mr McClintock's view that proper accountability of the Commission does not require both the Inspector and the Operations Review Committee to continue to exist.

The establishment of the Office of the Inspector itself provides a sound accountability mechanism for the Commission.

The Inspector has confirmed that he does not object to the abolition of the Operations Review Committee.

I would like to thank the members of the Operations Review Committee for their dedication and thank them for their efforts to date.

I commend the bill to the House.

**The Hon. DAVID CLARKE** [5.02 p.m.]: The Opposition does not oppose the Independent Commission Against Corruption Amendment (Operations Review Committee) Bill whose purpose is to abolish the Operations Review Committee, whose job has been to advise the Commissioner of the Independent Commission Against Corruption [ICAC] whether the commission should investigate a complaint or discontinue an investigation of such a complaint. This action is necessary because, pursuant to the Independent Commission Against Corruption Amendment Act, the office of the Inspector of the ICAC was established for the purpose of auditing and investigating any aspect of ICAC's operation, and any conduct of officers of the ICAC, including complaints about the commission. The office commenced operation on 1 July 2005 and, although it does not have the same functions as the now to be discontinued Operations Review Committee, the Government is of the view that it will achieve similar outcomes. The bill removes the duplication of roles between the two bodies.

The bill implements recommendations contained in a report prepared by Mr McClintock and issued in January 2005 following his appointment by the Government in 2004 to review the Independent Commission Against Corruption Act. Mr McClintock found that a new office of an inspector would provide a more structurally appropriate form of accountability than the existing Operations Review Committee, for a number of reasons, not least of which was the fact that the new office of the inspector would be an independent position whereas the chairman of the Operations Review Committee also acted as the Commissioner of the ICAC.

At the time the office of the inspector was established, the Government did not discontinue immediately the existing Operations Review Committee because it believed that the newly created office of the inspector should operate for a period to enable its functioning to be observed and reviewed. Ancillary to, and as a consequence of, the Operations Review Committee, the bill clarifies that a person who ceases to hold office as a member of the committee because of its abolition is not entitled to remuneration or compensation because of the loss of that office. The bill makes it clear that the committee has no ongoing functions in relation to complaints made or matters referred before its abolition and that its former members continue to be bound by the secrecy provisions of the Independent Commission Against Corruption Act.

As honourable members will recall, the ICAC was an initiative of a Coalition government, which created it in 1988 for the purpose of exposing corruption in public life. The commission has an uneven and erratic performance history and many in the community have been concerned that it could have been far more successful than it has been in achieving the purpose for which it was established. Hopefully, the position of office of the inspector will bring greater scrutiny to the operations and functioning of the ICAC. The bill is a general housekeeping measure to discontinue the Operations Review Committee, which has, for all intents and purposes, been replaced by the office of the inspector. As I indicated, the Opposition does not oppose the bill but we will watch to see whether the Government's assertion that the new office of the inspector will fulfil the functions of the now to be discontinued Operations Review Committee is correct. Only time will tell.

**The DEPUTY-PRESIDENT (The Hon. Amanda Fazio)**: I remind honourable members that the Hon. Robert Brown is about to give his inaugural speech. I ask honourable members to extend the usual courtesies to him.

**The Hon. ROBERT BROWN** [5.06 p.m.]: (Inaugural Speech): In general, the Shooters Party supports the Independent Commission Against Corruption Amendment (Operations Review Committee) Bill. I understand my colleagues from the Christian Democratic Party have some concerns about certain provisions, and I am sure I will be informed by the debate. Honourable members will be aware that this is my inaugural speech, so perhaps it is in order that I take a few minutes to properly introduce myself and to thank those who have contributed to my becoming a member of this House.

John Tingle—the Shooters Party's founder and first parliamentary representative—is here in the President's Gallery tonight. John retired from Parliament, giving his valedictory speech in this Chamber on Tuesday 2 May this year. At the party's State conference in 2005, I was elected to be the party's parliamentary representative when John retired. I am honoured that my colleagues in the party have placed their faith in me; however, I have some trepidation as to whether I can measure up to John's exemplary standards and record of achievements.

So honourable members may better understand with whom they will deal as the Shooters Party's new parliamentary representative, I will briefly relate my background. I came into the world in a working-class family in the inner-Sydney suburb of Leichhardt, in New South Wales, the fourth child and only son of a doting father and an embarrassed mother. Mother was somewhat embarrassed, it seems, because I came along 15 years after the youngest of my three sisters. In 1956 my family moved to a brand new, two-bedroom fibro house in Putney, known in those days as "struggle town".

I grew up and attended school in the Ryde district, with ample open spaces and plenty of bush gullies. To a young Leichhardt boy it was like a wilderness paradise—with rabbits. I developed an early taste for wild-harvested underground mutton—much to my mother's horror. To me they tasted so much better than the two-for-sixpence rabbits Mr Lamott's horse-drawn cart plied through the streets of Leichhardt. One of my early memories was of Mr Lamott's cry, "Rabbits, clothes props, getcha rabbits fresh."

My father's family all came from New England—Woolomin Flat to be precise. That is near Nundle, for the geographically embarrassed. Dad left school at the age of 12, and supported his family by trapping rabbits, brick making, and working as a general farm hand. He later moved to Sydney, and entered the public health service as a male nurse—that is what they were called in those days—working at Callan Park. My mother also worked as a mental health nurse at Callan Park. During the Second World War my father served in B Company, 2nd/3rd Machine Gun Battalion, and saw action in what was then Dutch New Guinea.

Although a child of the city, I spent as much of my youth as possible on the other side of the sandstone curtain, hunting and fishing with my father and his brothers, mostly in the north-west of the State and in the New England area. These early experiences are precious to me, and my time spent in the bush with my father has largely contributed to my life philosophies today. I left school at the age of 15 and commenced an apprenticeship in January 1966 at Cockatoo Island Dockyard as a fitter and turner. That was the year I first laid eyes on my then future wife, Louise. Apprenticeships in those days were of five years duration, changing to four years when I was already in my fifth year. I loved practical engineering, particularly what is termed heavy engineering, and I went on to eventually hold the position of plant superintendent at the dockyard, which was a pretty big deal in those days. In 1978 I left to take up a management position with a Lend Lease subsidiary company called Environ. That was, to say the least, a real culture shock—not only to me but to my then young family.

I transferred to James Hardie in 1985, when Environ was sold to that company. I subsequently left James Hardie in 1989 to pursue private family business interests. Concurrent with those activities, from the mid-1970s up to 1982, my wife and I were in a partnership with a former dockyard colleague, running a game fishing charter business in Fiji. That business venture came to an end upon the tragic death, whilst at sea, of our business partner, Jonathan Chatres Willis. Fate repeated itself when Robert Moss, a friend and business partner in one of our later family enterprises, was similarly tragically killed in November 2004 in a boating accident on Lake Eucumbene. I have been managing the family companies since, and now with my election to this place I have handed the management over to my sons.

Personally I consider myself, first and foremost, a family man, and I say that my family always comes first. When asked who I am, I invariably answer simply "a hunter". I treasure integrity, independence, resourcefulness, loyalty and honour. Now, I can imagine some mental eyebrow raising and eyeball rolling from honourable members about that statement. That is understandable, because those qualities can probably be described as somewhat lofty goals. I do not, however, claim to have always met my own standards. Take my family life, for instance. The pressures and stresses I have placed upon my family in my pursuit of the Shooters Party's goals over the past 13-odd years have been a substantial burden on them all. That they have weathered this period and supported me so strongly is humbling. I wish to thank my beautiful wife, Louise, my sons, Eric and Owen, and their families for being so heroically patient. I see in the gallery many of my friends and supporters, and I would like to publicly thank each and every one of them for their loyalty, their belief in me, and their advice and guidance.

I would also like to pay my respects to a fellow hunter—indeed, a respected elder of our brotherhood—who, sadly, passed away on 8 May this year. Gordon Beresford Alford was a man among men in the hunting fraternity. He was a lot like my father—quiet, compassionate and always courteous. Both were great role models. Gordon will be sadly missed by all of us. May he rest in peace. I would like to thank my political mentor, my predecessor and my very good friend, John Tingle. When I look through *Hansard* of 2 May and the replies to John's valedictory speech, it is not hard to identify strong themes that run through the honourable members' replies. If I may, I will quote from some of them. The Hon. John Della Bosca said:

I place on the record that he always exercises proper judgment—I am sure other members will want to add to that—with absolute integrity.

The Hon. Duncan Gay said:

He is one who deserves the title "Hon.". His dealings with people in this House have been exemplary ...

As the Leader of the Government said, John's conciseness and his ability to correctly use the language is a great lesson to all of us and something we should take on board.

Reverend the Hon. Fred Nile said:

His service has been above any form of criticism and he has been a model member of the Legislative Council. In those times he has shown great patience, a spirit of co-operation, and thoughtfulness.

The Hon. Dr Arthur Chesterfield-Evans said:

I think it is the observation of all members of this House that he is courteous and pleasant and rarely raises his voice or loses his temper.

I will have to remember that. The Hon. Ian Macdonald said:

Over the last 11 years John has been one of the towers of strength in this place, not only in defending it on many occasions from the various attacks made on it but also in working through and resolving difficulties that have arisen in the Chamber.

Mr Ian Cohen said:

He is always friendly and very reasonable and he has always been honest and forthright in his assessment of my many representations over the years.

The Hon. David Oldfield said:

He has brought a great deal of sense and logic to various other debates at different times. Shooters have a great deal for which to thank the Hon. John Tingle.

The Hon. Eddie Obeid said:

I think all of us would wish to emulate John's precise manner when contributing to debate in this House. The Hon. Peter Breen said:

I agree with remarks of the Hon. John Della Bosca that John Tingle has shown the highest integrity in his dealings with people in this Chamber.

I could go on. However, it is clearly evident that consistently and repeatedly the replies all acknowledge John's succinct and accurate speaking manner, his courtesy and, above all, his integrity. The debt owed to John—by hunters and shooters, fishers and, indeed, all law-abiding, freedom-loving citizens of New South Wales—will not be easy to repay. He is an outstanding Australian, and I am proud to call him my friend and mentor. This leads me to outline what the honourable members of this House can expect from Robert Brown, MLC. Somewhat pugnacious and aggressive by nature, I am told, and never backward in putting my beliefs forward, I am, however, very mindful of John Tingle's succinct advice to me:

Robert, be nice! And please don't waggle your finger at Government Ministers.

Mate, I'll try. And what of the Shooters Party agenda? Generally, it has been the Shooters Party's practice to allow the government of the day to govern—that sounds somewhat presumptuous—except where the government's agenda clearly is not in the best interests of our broad constituency or where that agenda is in clear conflict with the principles of sensible management of economic or social issues. As an example of the latter, I believe that the vast majority of the party's supporters—like the vast majority of Australian citizens—are not in favour of the sale of the people's water and the people's infrastructure of the Snowy scheme to private interests. If the New South Wales Government is still intent on selling Snowy Hydro, perhaps the Prime Minister could be persuaded to use some of his—no, our—remaining surplus, about \$10 billion I think, to buy out New South Wales and Victorian shares.

It probably goes without saying that the Shooters Party will work to support and protect the bicameral parliamentary system that we enjoy in New South Wales. I am sure all the crossbench members support that objective. Indeed, the Hon. Ian Macdonald, in reply to John Tingle's valedictory speech, highlighted John's

willingness to champion and protect this House from some of the less well-informed commentary that seems to pervade the media from time to time. States' rights is another issue that concerns shooters. The purse string diplomacy exercised by the Federal Government in relation to the so-called national gun laws is a glaring example of the abuse of States' rights. Why worry about a bothersome Constitution when you can simply bully? Many in this Chamber would level the same accusation at the Federal Government in the matter of the recent changes to the industrial relations laws. It is a great pity that the States now squealing about Federal bullying did not squeal so loudly about the Prime Minister's expensive and totally ineffective gun buy-back scheme. The money wasted on that scheme would have paid for a lot of additional front-line police and an awful lot of additional trained nurses. There may even have been some money left over for our underfunded education and training systems or our third-world mental health system.

The Shooters Party's members cover a broad spectrum of political leanings. Our surveys have shown that they are roughly evenly split between Labor and conservative voters when it comes to electing members of the Legislative Assembly. All shooters have had a disproportionate measure of regulation and legislation shoved down their throats since the early 1990s. Most of it is bad legislation and over-regulation—the Game and Feral Animal Control Act 2002 apart, of course. In fact, shooters probably only started to realise they were being singled out in the late 1980s, by policies being introduced by the Unsworth Government. Not to be outdone, however, the Greiner Government followed suit in 1992. In fact, it was then Police Minister Ted Pickering's light-hearted disdain for shooters' unity that caused John Tingle to form the Shooters Party in 1992. The fact that he was right probably does not matter.

There have been imitators of the Shooters Party at various times, all claiming to advance the interests of shooters. A party with the acronym GOSH ran in the infamous 1999 upper House tablecloth election and managed to skim about 26,000 primary votes from the Shooters Party, and that hurt. Only recently we have seen a glut of recruitment flyers flooding the shooting clubs and hunting clubs in New South Wales from yet another political party for firearm owners. Honourable members will note that I am shaking in my boots. Perhaps other incumbent political parties should be quaking. The name of this newbie is the Liberal Democratic Party, which is a good one. Although it appears that the party is currently registered only in the Australian Capital Territory, its propaganda promises Federal and State registration and campaigns. I bring this to the attention of honourable members to assure all here that the Shooters Party is not connected in any way to this political group.

The Shooters Party will continue to work with the government of the day to improve the legislation and regulations related to firearms ownership and use. As an immediate example, the new licence testing regime will need some finetuning. Who better to advise the Government than the shooters? We will continue to encourage the Government to broaden the implementation of conservation through sustainable use—terrestrial and marine. I mention marine because for too long the fishers have blithely ignored the insidious advance of animal rights extremist ideology into the political spectrum. To those fishers I simply say: Open your eyes and look at the increasing attacks by these zealots on farming and hunting, and be assured that the Shooters Party will continue to fight for you. We will continue to argue for worthwhile access to public lands and waterways for all users. We do not believe in lock it up as a workable solution to conservation, whether it be by the endless declaration of keep-out national parks and reserves or by the proposed declaration of massive no-go marine reserves.

Marine reserves are necessary, but they should be properly planned. Contemporary hunters, fishers, foresters and farmers are all interested in the conservation of biodiversity. They do not need city-based extremists to lecture them on stewardship. Perhaps they need someone to champion their collective conservation ethic, and the Shooters Party will be that champion. In conclusion, if I can live up to even a modicum of John Tingle's standards, then I hope I will serve the Shooters Party and the Legislative Council well. I thank honourable members for their polite forbearance and the courtesy extended to me during my inaugural speech in this place.

**Reverend the Hon. FRED NILE** [5.26 p.m.]: The Christian Democratic Party supports the Independent Commission Against Corruption Amendment (Operations Review Committee) Bill. The bill has a simple objective: to abolish the Operations Review Committee of the Independent Commission Against Corruption [ICAC]. The committee's primary role was to advise the Independent Commission Against Corruption on decisions not to investigate a complaint or to discontinue an investigation. In January 2005 Mr McClintock reviewed the Independent Commission Against Corruption Act and recommended that the Operations Review Committee be abolished and that an office of the ICAC inspector be created. The Government established the Office of the Inspector of the Independent Commission Against Corruption, and that office commenced operation on 1 July 2005. The inspector's principal functions are to audit the ICAC's operations, deal with complaints about the ICAC and review ICAC procedures. The inspectorate has now operated for almost 12 months.

The Government has introduced this legislation believing it is appropriate to implement Mr McClintock's recommendation and to abolish the Operations Review Committee. Mr McClintock's report stated that the inspectorate would provide a structurally superior form of accountability because the inspector would have

greater access to ICAC records and, most importantly, would be completely independent. The chair of the Operations Review Committee is the Commissioner of the ICAC and the inspector reports to the Parliament. Obviously, the inspector does not have the same function as the Operations Review Committee. However, it is hoped that he will achieve similar outcomes by ensuring that the ICAC's practices and procedures are effective. In particular, if there is a change in the pattern of complaints about the ICAC's decisions, the inspector can initiate an audit.

I am a member of the Committee on the Independent Commission Against Corruption, which supervises the ICAC, and I have attended a number of meetings at which the inspector has briefed committee members and kept them up to date with the establishment of his office, its staffing and the fit-out. The inspector has been very open to suggestions from the parliamentary committee. However, I have been concerned that he may not have the resources he requires to carry out his role effectively. As I said, I have a concern because I believe that, through the establishment of the office of the inspector and the abolition of the Operations Review Committee, the Government intends that in due course the inspector will effectively take over the committee's role. There appears to be a gap between the structure of the inspector's office and the structure of the Operations Review Committee. The committee's primary role was to advise the ICAC before it made a decision not to investigate a complaint or to discontinue an investigation.

As far as I can assess as a result of attending the briefings given by the inspector, he will be required to respond to complaints from people who are unhappy with the way the ICAC has dealt with their complaint. Whereas the Operations Review Committee was able to investigate a complaint, or the termination of an investigation, and to advise the ICAC in that area, it appears that the inspector will respond to complaints from people who are affected by the ICAC's efficiency, its tardiness in responding to a complaint, or its failure to respond to a complaint. There appears to be a loophole that could be easily addressed if the ICAC were required to advise the inspector in the same way that it was required to advise the Operations Review Committee about any decision not to investigate a complaint or to discontinue an investigation. Perhaps that could be achieved by introducing a regulation to ensure that that information is conveyed to the inspector. It may be possible to do that through a Minister's directive to the ICAC. As I said, as distinct from the Operations Review Committee, the inspector's principal functions are to audit the ICAC's operations and deal with complaints, but those complaints must be lodged by a member of the public. The inspector also has the ability to review the ICAC's procedures.

If the powers of the Operations Review Committee were to be clearly transferred to the inspector where there is a gap—and I believe there is—it would help the inspector to be more effective. I would be concerned if there were any future attempt to limit the powers of the ICAC, to frustrate its activities or to reduce its funding. I believe that the ICAC performs an important role and to do so it must have adequate funding. I know that there has been some tension over the years with various ICAC commissioners who believed that if the Government was not happy with them it would be reflected in the way the Government allocated funds for the ICAC in the budget. I urge the Government to give its full support to the ICAC and to ensure that the inspector, if necessary—and I believe it is necessary—is given any additional powers that the Operations Review Committee has, so that the inspector can do a full and comprehensive job.

**The Hon. JOHN DELLA BOSCA** (Minister for Finance, Minister for Commerce, Minister for Industrial Relations, Minister for Ageing, Minister for Disability Services, and Vice-President of the Executive Council) [5.30 p.m.], in reply: I thank honourable members for their contributions to the debate. I commend the bill to the House.

**Motion agreed to.**

**Bill read a second time and passed through remaining stages.**