



## **DAVID MORRIS MP**

**Shadow Parliamentary Secretary for Local Government**

**Member for Mornington**

### **Labor's Assault on Local Government Continues Legislative Assembly 15<sup>th</sup> September 2009**

**Mr MORRIS** (Mornington) — I come to this bill with a sense of *deja vu*, because again we are debating legislation that is necessary largely because of the rorts perpetrated on Victorian ratepayers by the Australian Labor Party.

A few short weeks ago we were debating the Local Government Amendment (Conflicting Duties) Bill. That bill, which is now an act, requires many decent, hardworking, law-abiding councillors to choose between their duty to their constituents as councillors and their duty to their families and themselves as breadwinners. It deprives them of the opportunity to participate freely in public life. It deprives them of what should be the right of everyone in a well-developed democracy such as Victoria — to participate to be part of the solution to society's ills.

The excuse given to us by the government on that occasion was that we had to ensure, and it could only be achieved through that legislation, the elimination of conflict in local government. It was said it was essential for us to go down that draconian path. The government said it was the only way to eliminate conflict, it was the only way to ensure probity, it was the only way to guarantee transparency.

The fact is that we always had adequate controls to deal with the issues that were raised in that legislation, and the fact that we are debating this bill today proves it. That legislation always was a smokescreen. It was a diversion. It was a desperate attempt to take attention away from the real situation, which was the activity and practice of Labor members of standing over employees. In typical fashion that bill went after the victims. It punished the employees who had been stood over by their bosses, and it did so retrospectively.

The Local Government Amendment (Offences and Other Matters) Bill makes it clear, as I said earlier, that that action was a sham. The total and absolute failure to enforce the existing provisions caused that legislation to be enacted — and it was a direct, full frontal attack on local democracy. And it was consistent with the overbearing, bullying approach taken by this government, whether we are talking about planning schemes and the requirement for councils to get permission before they can consider changing their schemes, whether we are talking about the planning appeal process or whether we are talking about, as we did most recently, the direct attempt to take over the planning process and take away the right of average citizens to be involved in the process that determines the bricks-and-mortar future of their communities.

In true Labor fashion penalties are being varied by this bill, but they are not being varied in the interests of the community, they are not being varied in what I would consider to be the general public interest and they are not being varied in a manner which will always lead to good public policy outcomes. This is about making sure the system serves the political objectives of the government. It all comes back to that.

Now there are some ‘technical’ amendments proposed by this bill. The amendments are necessary because the minister, unfortunately, failed to think through the implications of other recent amendments to the act, amendments that at the time the opposition and councillors said were a problem.

We told the minister they would not work, yet they went through the Parliament. Ever since then councils and councillors have been saying, ‘This is not working’ and the minister has been saying, ‘No, it’s fine; it is not a problem’. Again and again he has been saying, ‘There isn’t any problem with these provisions’, yet I know, and the member for Shepparton certainly knows, that every council we have spoken to in the months since these gift provisions were included has seen there is a problem with them. Every single council we have spoken to — and there be have many, many councils — has raised these provisions with us as a problem. There have been considerable financial and time costs to councils, and as a result there has been a considerable cost to ratepayers.

What should have been a relatively straightforward matter has occupied an inordinate amount of time. I must say I am pleased the minister has seen the error of his ways and has finally fixed this blunder, which should not have occurred in the first place.

Before I go on I must say that I very much appreciated the usual thorough briefing we received from Local Government Victoria. We seem to do that on an all-too-frequent basis. Despite what differences I might have with the minister on the legislation, I appreciate the briefing we were given.

The detail of the bill falls essentially into three areas. There are the amendments to the penalties — the Local Government Act predates the Sentencing Act so there are some inconsistencies that need to be dealt with; there is the creation of some additional offences; and there is some clarification to ensure that where it was intended that an offence should exist, it did in fact exist. The gift provisions I referred to previously are addressed, and there is some guidance regarding the making of local laws, which is relatively uncontroversial.

Clauses 5 to 19 largely relate to the penalties. As we have heard, there are some changes to the provisions for elections, for the handling of the voters roll and for campaign finance. The penalty for misuse of the voters roll has increased some sixfold for an individual and by considerably more than that for a body corporate.

There are some other important changes. There are the changes to the provisions relating to the voting process and to the extending and increasing considerably of the

penalty for interfering with the marking of a ballot paper. The bill extends the penalty to apply not just to scrutineers, as is currently the case, but to any natural person.

Clauses 20 to 34 relate largely to the behaviour of councillors and council staff. It is instructive to look at how the penalties will be varied by this bill. The penalty for acting as a councillor when incapable is increased 12-fold from 10 to 120 units; the penalty for misuse of position — appropriately enough, I agree — is increased from 100 penalty units to 600 penalty units or five years in prison. But when we get to the conflict of interest provisions that have — surprise, surprise! — bedevilled ALP-dominated councils, then there is really a little bit of tweaking and that is about it. The penalty for failing to disclose a conflict of interest is up from 100 to 120 units.

Similarly, the same offence but occurring in an assembly of councillors is up from 100 to 120 units. The same penalty is extended to staff exercising delegation, and that is appropriate. The penalties are roughly half that for staff reporting to council; they are up from 10 to 60 penalty units, and that is appropriate.

Then of course there is the issue — identified by the member for Shepparton — of section 55D. I will not repeat the details of the Latrobe City Council incident, but I want to make the point that there was clearly a breach of the act, and yet there is no penalty. If we do not have a penalty, there is a very real risk that people will try again and again to use the resources of a council in an election contest. We simply cannot afford to have this keystone of our democracy under threat. Where there is no penalty there will be breaches. If you breach the act, it does not matter because there is not a penalty.

This bill, like its predecessor, is very much a smokescreen, a diversion and a distraction from the real damage being done to the fabric of local government in Victoria by the ALP machine under the stewardship of ALP members — including members in this place, members in the Legislative Council, members in the federal Parliament and of course members of the branches; like the members of the St Albans branch.

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