



Speech by

JEFF SEENEY

MEMBER FOR CALLIDE

Hansard 11 November 1999

COMMUNITY SERVICES LEGISLATION AMENDMENT BILL

Mr SEENEY (Callide—NPA) (2.43 p.m.): I am pleased to participate in the debate on the Community Services Legislation Amendment Bill. As the member for Keppel indicated, we will be supporting the broad thrust of this legislation. However, we have foreshadowed a couple of amendments, which I will be supporting. These amendments will improve the legislation. They seek to ensure that the stated intent of the legislation is better achieved.

I remember when in 1982 the Land Act Amendment Bill introduced provisions to enable the Aboriginal councils and island councils to hold the community reserve lands through a deed of grant in trust, which quickly became known as a DOGIT. This form of land title was introduced in the face of some fairly severe criticism at the time. However, with the passage of years, it has proven itself to be a suitable land title to allow the people of these communities effectively to own and control their own community lands. I well remember the criticism directed at the legislators and bureaucrats involved in the development of that land title. It went on to be used not only for Aboriginal reserve lands but also for many other areas across the State. It allowed Aboriginal and island councils as well as other community organisations to develop a degree of autonomy and a sense of ownership of and control over their land. It allowed Aboriginal councils to take control of financial matters which before 1982 were in the hands of the Department of Community Services.

Today these councils administer a large amount of public money. They have functions that are not traditionally undertaken by other local governments, including the administration of community police, housing construction, artefact production and other business enterprises. In addition, they have a responsibility for the business and workings of local government for the council area and all the normal powers that local governments exercise. However, they do face some unique problems, not the least of which is the remoteness of the communities and the consequent limited banking and mailing facilities. Also, they have a limited resource pool within each community from which to draw council staff. There is also an absence of staff skilled in the production of accurate financial data and, in many cases, the ability to assess professional advice.

The difficulty for councils to apply accounting standards which are foreign to the Aboriginal and Islander culture and the inexperience of staff in running various council enterprises is also a problem. The nature of Aboriginal councils is somewhat different in many ways from that of other Queensland councils. Aboriginal councils are in the main people councils and they incorporate close family ties and a strong sense of community. Unlike other councils, they do not have a rates base. They do not collect rates from their communities as other shire councils and city councils do and they have no self-funding capability from that funds source. Therefore, the members of the community do not have the same personal financial investment in the council's activities as do ratepayers in other council communities.

However, these Aboriginal councils administer an extraordinary amount of public funds. The funding for the councils comes from both Commonwealth and State agencies, although the majority is Federal funding. The total receipts for all of the councils for the 1996-97 financial year was just over \$157m. That is a lot of money in anybody's language. During the 1996-97 year, councils effectively received \$42.6m in State Government grants and \$70.4m from the Commonwealth. The report of the Auditor-General on audits of Aboriginal councils performed for the 1996-97 financial year stated that the councils are responsible for the management of assets which at 30 June 1997 were reported at

\$413.2m, with liabilities totalling just \$8.8m. Consecutive reports of the Auditor-General have pointed to significant shortcomings in the financial administration of many of these councils and in the related expertise within councils and council staff. The Auditor-General has noted that there is a propensity for some councils to use grant and other tied money for purposes other than those for which it was originally intended. The Auditor-General has at times also raised concerns about the practice of some councils paying debts for community members by providing interest free loans from council funds.

Other issues raised by the Auditor-General over the past decade have included the fact that there have been inadequate or non-existent accounting records to ensure that the expenditure was incurred only for purposes related to the lawful functions of the council, poor procedures for the raising, collection and bringing to account of revenues, and inadequate supervision and control of trading activities and the associated stock and moneys. The Auditor-General also noted that most of the councils have very limited means of generating extra funds for operational purposes. However, it was noted that, although a few councils were experiencing difficulty in coming to terms with the minimum standards needed to satisfy accountability requirements, other councils were reported to have made significant gains and continue to perform well, displaying high levels of accountability and stewardship.

Quite apart from the Auditor-General's report, in the community across central and north western Queensland in particular and in the general community overall there is much anecdotal evidence that these funds—this public money—has not always been expended wisely. The community at large has every right to expect that the public funds granted to these councils are subject to the same degree of accountability and probity as funds expended in other areas. Regrettably, that has not always been the case.

The major focus of this Bill is to facilitate improvements in the financial accountability of Aboriginal councils and island councils. The Bill also proposes to simplify the establishment of those councils. In that respect, it will have, I am sure, almost total support across the Queensland community generally. This Bill proposes to clarify that the Minister is able to make accounting standards in the form of subordinate legislation. I do not think that anyone should have any argument that that is not a right and proper thing. Good accounting standards should prescribe to standards of financial management of councils and the content of financial statements prepared by the councils. The relevant council will be obliged to comply with any accounting standards made by the Minister.

In common with all other councils across Queensland, each Aboriginal and island council will be required to frame and adopt a budget on or before 31 August in the relevant financial year. Councils are currently only able to make a disbursement that is not provided for in the annual budget if the circumstances are emergent or extraordinary. This Bill proposes a new section that allows councils to be able to amend their budget throughout the budget year. That is similar to an existing provision in the Local Government Act 1993, which provides that a local government may amend its budget for a financial year at any time before the year ends. That provision has been successfully implemented by mainstream local governments across the State. Once again, it seems only right and proper that that should be applied to the Aboriginal and island councils.

This legislation proposes that the Governor in Council have power to appoint a financial controller for an Aboriginal or island council. The functions of a financial controller would include ensuring that the council adheres to its budget and giving advice about financial management to the council. This legislation proposes that a financial controller could be appointed for an Aboriginal or island council if the Minister were satisfied that the council—

had made a disbursement from the fund that is not provided for in the council's budget;

had made a disbursement from grant moneys for a purpose other than the purpose for which the grant has been given—that has been cause for much concern in the community when that type of thing has happened; or

was at the risk of insolvency.

So financial controllers would have the power to revoke or suspend the operation of the resolution of the council if the financial controller reasonably believed that the council resolution or order would either result in the unlawful expenditure by the Aboriginal council or result in expenditure from grant moneys for a purpose other than the purpose for which the grant was given or cause the council to become insolvent. Obviously, there are—and quite rightly so—some due processes to be followed before the Governor in Council can appoint a financial controller. It is required to give written notice of the exercise of power to the relevant council and the reasons for the exercising of the power.

I believe that this concept of a financial controller is a very good one and it would go a long way towards satisfying the general community's need to ensure that the funds that are administered by these Aboriginal and island councils are administered in a thoroughly accountable way. Obviously the Minister has the power, as she does with all local governments across the State, to dismiss the council and appoint an administrator. This option is a particularly brutal one from a local government's point of view and it represents a point of no return for the council involved whether that council be an Aboriginal

council or any other shire or city council. Consequently, Local Government Ministers of all political persuasions have over time been reluctant to use this power to dismiss councils and appoint an administrator. It can only be considered realistically when the financial situation of the council has degenerated past the point of absolutely no return.

The position of a financial controller as proposed in this legislation I believe is something of a halfway house, if you like. It is particularly relevant in the case of Aboriginal and island councils where, realistically, in many cases the option does not exist to dismiss the council even though the Minister has that option under the Act. Realistically, it is not an option out there in those Aboriginal and island communities, which these councils administer, for the Minister to dismiss the council. It certainly would not be in the interests of the community to have their council dismissed. The appointment of a financial controller would be a very effective halfway measure.

I do have some concerns, however, about the conditions that need to be fulfilled for a financial controller to be appointed by the Minister, and they will be the subject of the amendments that are being proposed by the Opposition. Basically, we will be suggesting that, along with the sections that are already listed in the legislation, our amendments will add another two sections which address the need to ensure that sound financial management strategies for funds under the control of the council have been implemented.

The proposed legislation gives the Minister the power to appoint a financial controller if the council is at the risk of insolvency. We will be contending that that section of the legislation should be extended to include a situation where the council is embarking on a course of expenditure which threatens the financial viability of the community or a course of expenditure that has failed to implement sound financial management strategies.

It could, I suppose, be argued that the section that is in the Bill at the moment which talks about the council being at the risk of insolvency covers those eventualities. However, by adding two amendments which address them specifically, I believe that the Minister—whomever that may be at the time—will more effectively be able to ensure that not only will public moneys be better controlled, but the future of these Aboriginal and island communities will be better guaranteed. These amendments will mean that there can be no doubt that a responsible Minister can intervene to protect the future of the community involved and to protect the interests of the general community who, in the end, provide the funds being administered.

The responsible Minister needs to be able to intervene early enough to ensure that both parties are protected. Given the wording of the legislation as proposed, it could easily be argued that the Minister has to wait until the community is at risk of insolvency. Our contention is that that is far too late. That clause needs to be clarified and strengthened to ensure that there is no doubt that the option exists for early intervention by the Minister in that small number of cases where an action is being taken or being proposed that would cause a significant deterioration in the council's financial viability.

It is important to note that there would be only a small proportion of councils that have a history that would warrant any intervention by any Minister. The majority of councils have had satisfactory results from the auditing process conducted by the Auditor-General. In his report of 1998 the Auditor-General noted that a number of councils had experienced liquidity difficulties during the year and five councils were technically insolvent at 30 June 1997. That is a relatively small number of councils and it illustrates that, for the most part, the various grant funds are being well managed.

However, in those isolated cases where that is not happening, there needs to be a clear authority for the Minister to act to ensure the interests of all parties are protected. This legislation quite obviously sets out to do just that, and I support the intent, as would any fair thinking person who understands the situation in this particular instance. It is only a question of how that intent is achieved. In that respect, I believe the legislation can be improved and we will be seeking to bring about that improvement with the amendments we have foreshadowed we will be moving in the Committee stage. I will certainly be joining with the Opposition in supporting the legislation. I commend the Minister for the Bill's introduction.
