



**New South Wales**

# **Legislative Assembly**

## **PARLIAMENTARY DEBATES (HANSARD)**

**Fifty-Sixth Parliament  
First Session**

**Thursday, 7 June 2018**

Authorised by the Parliament of New South Wales



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## LEGISLATIVE ASSEMBLY

**Thursday, 7 June 2018**

**The Speaker (The Hon. Shelley Elizabeth Hancock)** took the chair at 10:00.

**The Speaker** read the prayer and acknowledgement of country.

*[Notices of motions given.]*

### *Bills*

#### **GOVERNMENT SECTOR FINANCE LEGISLATION (REPEAL AND AMENDMENT) BILL 2018**

##### **Returned**

**The SPEAKER:** I report receipt of a message from the Legislative Council returning the abovementioned bill with amendments. I order that consideration of the Legislative Council's amendments be set down as an order of the day for a later hour.

#### **KOSCIUSZKO WILD HORSE HERITAGE BILL 2018**

#### **GOVERNMENT SECTOR FINANCE BILL 2018**

##### **Returned**

**The SPEAKER:** I report receipt of a message from the Legislative Council returning the abovementioned bills without amendment.

### *Documents*

#### **AUDITOR-GENERAL**

##### **Reports**

**The CLERK:** In accordance with section 63C of the Public Finance and Audit Act 1983, I announce receipt of a report of the Auditor-General entitled "HealthRoster benefits realisation", dated 7 June 2018, received this day and authorised to be printed.

### *Bills*

#### **PUBLIC HEALTH AMENDMENT (SAFE ACCESS TO REPRODUCTIVE HEALTH CLINICS) BILL 2018 (SHARPE)**

##### **Second Reading Speech**

**Mrs LESLIE WILLIAMS (Port Macquarie) (10:12):** I move:

That this bill be now read a second time.

Today across Victoria, Tasmania, the Australian Capital Territory and the Northern Territory women are attending reproductive health clinics for a whole range of reasons, and they will do so with their dignity, their privacy and their safety protected. Nobody will intimidate them or harass them as they walk towards the entrance likely distressed and fragile, nobody will force them to look at photos of dismembered fetuses, nobody will push leaflets of lies at them and nobody will shout "baby murderer" at them.

But in New South Wales today women in similar circumstances who will visit a reproductive health clinic, maybe because they have miscarried, maybe because they have to terminate a pregnancy because of a medical diagnosis, maybe because their own health is at risk if they carry to term or maybe because they have been a victim of a rape—these women will not be entitled to those same protections or the same privacy. Do I think it is acceptable for my daughter, my niece or my sister and their partners, after having to struggle to come to terms with the stark reality of their situation—often the loss of a longed-for child—as they access medical services to be confronted by so-called sidewalk counsellors who engage in intimidation, harassment and hindrance? I absolutely do not.

This bill for debate today is essentially about respecting the rights of others, respecting their views and respecting their privacy. As members of this Parliament we expect that common decency from each other, and today we can make sure that women using the services of a reproductive health clinic are afforded the same

common decency. This bill is about allowing women and men safe access to reproductive health clinics where abortions may take place. But this bill is not about abortions. Today is not the day to discuss our differing views on abortion; today is the day to protect the women of New South Wales. I want to thank my colleagues in the other place the Hon. Penny Sharpe and the Hon. Trevor Khan, as co-sponsors of the bill, for the invitation to take carriage of the bill in this House. I acknowledge their presence in the gallery today and I thank them for their support. I thank them also for their passion, their determination, their patience and their bipartisan approach and I want to thank them for safeguarding our daughters, our sisters, our nieces and our friends.

The Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 amends the Public Health Act 2010, inserting part 6A with the object, as outlined in clause 98B of the bill, of providing for safe access zones around reproductive health clinics at which abortions are provided, so as to protect the safety and wellbeing of, and respect the privacy and dignity of, those accessing the services provided at such premises, as well as those who need to access those in the course of their employment. Clause 98A of the bill defines a reproductive health clinic as any premises at which medical services relating to aspects of human reproduction or maternal health are provided, but does not include a pharmacy. Further, it defines a safe access zone as the premises of a reproductive health clinic at which abortions are provided and the area within 150 metres of any part of the premises of the reproductive health clinic at which abortions are provided, or a pedestrian access point to a reproductive health clinic at which abortions are provided.

The Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill details the three offences relating to safe access zones. It is an offence to interfere with access of persons to reproductive health clinics, to cause actual or potential distress or anxiety to persons in a safe access zone, and to capture and distribute visual data of persons in safe access zones. Part 98C clarifies that "interfere with" includes harass, intimidate, beset, threaten, hinder, obstruct or impede by any means, and further that a person who is in a safe access zone must not interfere with any person accessing, leaving, or attempting to access or leave, any reproductive health clinic at which abortions are provided. It is also an offence for a person without reasonable excuse to obstruct or block a footpath or road leading to any reproductive health clinic at which abortions are provided.

Clause 98D clarifies that a person in a safe access zone must not make a communication that relates to abortions, by any means, in a manner that is able to be seen or heard by a person accessing, leaving, attempting to access or leave, or inside, a reproductive health clinic at which abortions are provided and that is reasonably likely to cause distress or anxiety to any such person. Clause 98E outlines the specifics of the offence relating to the capturing and distributing of visual data of persons in a safe access zone and also provides that this section of the bill does not apply for security cameras, a person employed or contracted by the reproductive health clinic or a person acting on their behalf, a police officer acting in the course of their duties, or in other circumstances where there is a reasonable excuse. The penalties for all three offences are consistent, being for a first offence 50 penalty units or imprisonment for six months, or both, or for a second or subsequent offence 100 penalty units or imprisonment for 12 months or both.

Lastly, clause 98F of the bill outlines exemptions from application of the bill including: conduct occurring in a church or other building ordinarily used for religious worship, or within the curtilage of a church or other building; conduct occurring on the forecourt, or on the footpath or road outside New South Wales Parliament House; the carrying out of any survey or opinion poll by or with the authority of a candidate, or the distribution of any handbill or leaflet by or with the authority of a candidate, during the course of a Commonwealth, State or local government election, referendum or plebiscite.

I am absolutely resolute in my views about the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. My steadfast views are also shared by many in our community. The Country Women's Association [CWA], the largest women's organisation in Australia, passed a motion at its conference on this matter in 2016 and has since been lobbying for the establishment of safe access zones around reproductive health clinics. The CWA State President, Annette Turner, asked in her letter to the co-sponsors of this bill for their voice to be respected. She said:

By establishing an exclusion zone around reproductive health clinics, NSW will be brought into line with other jurisdictions including Tasmania, Victoria, the Northern Territory and the ACT. It will also ensure that women from many walks of life, and for varied personal reasons, can safely access services when needed without the threat of protest, intimidation and general harassment. For the CWA, the passage of this Bill should not be focused on a debate about the ethical and personal opinions in relation to abortion. We do not have a policy position on this issue but this is not what the bill is about. Debate should focus on women's rights to safely access reproductive services; even if those services are not something that everyone would use, or indeed, agree with.

The President of the Australian Medical Association [AMA] New South Wales, Dr Kean-Seng Lim, also expressed the views of his organisation on the issue. In a recent media release he stated:

AMA (NSW) supports this because people should be able to have unobstructed access to healthcare facilities and be able to approach them without harassment.

This is true of general practice, cancer treatment, surgery, or sexual health.

In the case of pregnancy termination, women do not seek these procedures out lightly and the absolute last thing anyone in those circumstances needs is abuse from strangers.

Similarly, there is no shame to be had in seeking the help of sexual health clinics and no-one has the right to make people feel there is.

Lastly, Executive Director Tim Leach of Community Legal Centres NSW and Executive Director Anna Cody of Kingsford Legal Centre urged us to support this legislation, saying:

Regardless of our views on abortion, we should all be able to agree that people have the right to access healthcare without fear of harassment.

Right now, not everyone in NSW can access reproductive healthcare in a way that is safe and fair. Safe access zones have already been introduced in Victoria, the ACT and Tasmania, and will shortly be introduced in the Northern Territory. Now it's time for NSW to follow their lead and ensure that everyone can access their right to health and their right to privacy.

I conclude by sharing the experience of someone in my own electorate of Port Macquarie, because it is personal stories such as this that leave me in no doubt about the importance of passing this bill today. He writes:

I have a deep Christian faith, without involvement in religion.

I believe in not taking someone's life or forcing my moral code on others.

So it follows that my personal stance is the right to choice.

I have escorted a young lady to a clinic in the past as support for a friend. The decision to go to a clinic in the first place is, I believe, one of the hardest decisions a woman can make.

The protesters outside cannot claim to be faithful people if they are harassing someone who has made an informed decision.

My personal experience showed the harm these protesters were hammering into the women attending the clinic.

They do not have a right to protest, they do not have a right to harass.

The protesters I encountered were in my opinion bullies and will not fare well when they are ultimately judged.

I understand that the self-appointed sidewalk counsellors referred to may engage in this activity with the best intentions, believing they are providing advice in the best interests of the woman. However, they are untrained and they are unqualified and are clearly providing counsel with a predetermined outcome—that is stopping women having an abortion. They are ignorant of the woman's circumstances and background and are indiscriminate when it comes to who they target with their views and their intimidating behaviour. This behaviour is abhorrent, it is unacceptable and for those women who have to endure it, it is highly distressing. Today we can put an end to this behaviour. I commend the bill to the House.

### Second Reading Debate

**The DEPUTY SPEAKER:** Order! There is going to be a lot of emotion in this debate and I want everyone to be heard. Out of respect for everyone, I do not want any interjections, not even a "Hear, hear!"

**Ms JENNY AITCHISON (Maitland) (10:25):** I say at the start of my contribution to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 that this is one of the most difficult speeches I have ever had to write. While this bill is about the right of women to access health services without being harassed or suffering emotional or physical violence, it touches on a deeply personal issue for many people. It is one of those issues where it is easy to cause offence and to appear to be judgemental of others. I come before the House with humility and respect for all who contribute to this debate. I ask that we think about the women whom this bill is designed to protect, and that we act with compassion, with respect and support for them in both our contributions and our votes.

It is hard to walk the line between the personal and the political, but that very journey is the reason that we are here today. There will be people in this Chamber who are in their faith strongly philosophically opposed to abortion, and there will be those who believe that each and every woman must have the ability to make that choice for herself. To exercise a conscience vote in this place is extraordinarily rare. I ask all members who exercise such a vote to ensure that they think about the women whose lives will be forever impacted by what we decide here today. As the Hon. Adam Searle said in the debate in the other place:

The legislation that we are debating today does not seek to stop protest, silent prayer or sidewalk counselling. It only says that people cannot do that in a particular space for reasons that are legitimate and appropriately and proportionately adapted to the evil of harassment of individuals, and to provide that safe zone. People can protest and have silent prayer vigils on the outskirts of the 150-metre zone; it does not stop them from protesting or having a prayer vigil.

Those who do not wish to talk about abortion, and who find it uncomfortable to hear some of the things that will be spoken about today, should think about how they would feel if they were walking towards an abortion clinic knowing they were to undergo that procedure. Think about the harm certain conversations would have on them at

that most terrible and vulnerable moment in their life when they have to make a difficult decision. At the centre of this bill we are being asked as politicians to put aside our personal views to allow women to act in accordance with their own consciences, to make a decision based on their own beliefs and circumstances, their knowledge of their own journey to this decision.

The journey that takes a woman to an abortion clinic does not start when she parks her car, or even as she walks into the building. It does not start when she takes a pregnancy test; it does not start at the moment of conception or when she has sex or commences a relationship with someone. It starts from the moment she is born as a woman, in the crucible of luck, genetics, nurturing and social and economic status which determine the circumstances of her life. Imagine some of these journeys. A young woman has been trying for 18 months to have a baby with her partner. She is diagnosed with cancer and advised that the prescribed dosages of chemotherapy and radiotherapy will probably make her infertile. This is probably her last chance to have this much longed-for baby, but having the baby may aggravate her cancer and may even kill her. She is devastated.

Another woman receives the joyous news that she is pregnant. However, just a few months later she receives the terrible news that her baby has died in utero but she has not miscarried. She is devastated. A young woman is sexually assaulted outside a nightclub. After a month or so she realises that she is pregnant. She does not know her attacker and she is still recovering from the physical and emotional violence of the assault. She has not told anyone about it. She cannot imagine how she can have a child. She has no job, no support, nowhere to turn and she does not want a constant reminder of her trauma in a stranger's baby. She is devastated.

A woman is in a violent relationship. Her partner has started to perpetrate violence against her during the pregnancy. At times he has even kicked her in the stomach. She knows that if she is able to carry the baby to term, he will use the fact that he is the father of her child to continue a lifelong relationship of abuse, which may end with her death and that of the child. She is devastated. A woman has been using contraception because she does not want to become pregnant. The contraception fails and she becomes pregnant. The life she imagined for herself is gone. She is devastated.

The journeys of these woman and many like them have been difficult and unique. None of us—not one of us—knows for sure what decision we would make if we walked in the shoes of any one of these women. None of us, surely, should put ourselves in a position to judge her. That goes to the heart of this bill. Women come to this difficult discussion from all perspectives, from all socioeconomic backgrounds, from all faith and belief systems, from all situations, from all locations and for all reasons. There is, in fact, no woman in this place who has not ever asked herself at some stage, or perhaps at many stages, in her life what she would do if she became pregnant when she did not want to have a baby. It is a decision that women who are sexually active make for themselves every month. For some people this has been a challenge to their faith or beliefs, but for most who find themselves dealing with that reality it is a terrible decision they have contemplated long and hard.

Everyone in this Chamber knows a woman who has had an abortion. Everyone knows many women who have struggled with that decision. Do we know who they are? Have we spoken to them about their decision? Was it a topic or a conversation that came easily? In all likelihood, no, because it is one of the most private decisions a woman will ever make. All of us know that these decisions are personal and that there is a difference between the political, the public and the personal. It is easy for any of us to make political or public statements of principle about what we think should or should not happen. We can go to a rally, we can go to a protest, we can go to a prayer meeting, or we can state a view. However, on one level none of us is accountable for that view until we face the situation ourselves.

We can say what we think we might do, and we might even believe that until we are in the situation ourselves—because there is no real consequence until it happens. When we do find ourselves in that situation, we then find there are often other issues impacting on us. In all the circumstances that I have outlined there have been medical, technological or social supports available to the women. However, we do not know what was available for that woman in that situation. Perhaps the child they want will cause their death, perhaps the pregnancy has already ended, perhaps they are in fear of their own life or that of their future child at the hands of a violent partner, and perhaps they are in fear of a terrible, lifelong reminder of their sexual assault.

This is where it gets messy. All of us come from different backgrounds, we are in different situations and life is complex, messy and difficult. We all have different resources to deal with it in support networks, in government services and even within ourselves. While we all have our own personal views about abortion, even if we try to imagine ourselves in those women's shoes we cannot really know what we would do until we face the reality of the situation ourselves. That is the difference between the personal and the political. We must respect the right of a woman who is making this incredibly difficult and personal decision to make it without being harassed, intimidated, interfered with, threatened, hindered, obstructed or impeded in any way when accessing, or attempting to access or to leave a reproductive health clinic where abortions are offered.



We must respect the right of a woman to make a decision without someone who has no knowledge of her personal circumstances judging her, showing her terrible images, photographing her or even acting in a way that would make her feel even worse about the choice she has made. To assume that any women would even consider going to an abortion clinic without thinking deeply about it is appallingly disrespectful to women. It undermines women's power over ourselves, our agency, our thoughtfulness and our intelligence. It is disrespectful and it robs us of our dignity. We must ensure that women, their partners and the clinic staff who are there to support them are safe and have dignified access to clinics where abortions and other reproductive services are provided.

It is important to note that these clinics provide services other than abortions. They offer an avenue for women to obtain information about contraception, to access counselling services, to look after their sexual health, and, in some cases, for men to access vasectomies in a safe, supportive and non-judgemental environment. What right has anyone to judge or to assume what services these women or their partners are accessing? I have spoken to a number of people on all sides of politics in this place about this bill and some have raised concerns with me. I think it is important to take this opportunity to address them. Some people have said they believe the law already prevents women being harassed. Unfortunately, the reality in New South Wales is that our legislation does not protect women from harassment or intimidating practices when accessing these legal health facilities. We have seen many cases of that in Albury and in Surry Hills.

The Hon. Penny Sharpe and other members referred to that in the second reading debate in the other place. I know also that the member for Port Stephens has had a great deal of experience of it in Albury, and she will address that in her contribution to this debate. I struggle to think of any other health facility or situation where one would be harassed or intimidated just because one has sought professional advice. Women and their partners are exposed to disturbing practices and images while attempting to access clinics. We have heard stories and seen in the media footage of people being attacked or having their access physically blocked by protest groups. When the police try to take action against such protesters, they have vexatious complaints levelled against them. Nowhere else in our society would we, or do we, tolerate such behaviour. Why have we allowed this to continue for so long? Today is the opportunity to stop it once and for all.

Some people have also suggested that surely these sidewalk counsellors have a right to help these women. As someone who trained as a counsellor, I cannot stress how profoundly offended I am by the term "sidewalk counsellor"; I am grossly offended by it. A professional counsellor would never seek to guide someone to a decision about any issue. Rather, people should be empowered to make the best decision possible for themselves. Thrusting a plastic foetus or a graphic photo in someone's face and telling them they are praying for them or that they are a baby murderer is designed to intimidate women. That is completely contrary to any counselling principle. It is a terrible form of emotional abuse of women who are often at their lowest point.

I understand that there are people in this place of all faiths. I grew up in the Catholic Church. However, if someone approached me and told me that they were praying for me in a way that suggested I was doing the wrong thing and in an attempt to persuade me to change my mind, I would see it as an appalling affront and assault. It is not physical, sexual or emotional assault; it is an assault on my faith. And I think that is completely wrong.

These actions cause a heightened sense of anxiety and cause distress to those subjected to their abuse. Unfortunately, the tactics employed by the so-called "sidewalk counsellors" jeopardise any efforts to support pregnant women by shaming all women—and their partners and the staff—who enter. I am concerned that these women may turn away from the services offered and potentially compromise their sexual, physical and mental health as a consequence of political tactics such as filming, overtly praying and judging them. As quoted by the Hon. Penny Sharpe, who I acknowledge is in the advisers' area, the practice manager at the clinic in Surry Hills said:

When our clinic opened in Surry Hills, the first thing we noticed was how distressed women were after being intimidated and harassed by those gathered out the front of the clinic. When these people are not present, women arrive at the clinic, calm and showing no visible signs of distress or sadness. But when women arrive after having been confronted, they are emotionally shattered. Often trembling or breaking down in tears as they approach the front desk. These women tell us that this isn't sadness at having an abortion it's distress at having their privacy violated at such a sensitive and emotional time.

Another issue that has been raised is around the legislation's impact on free speech. Comments vary about concerns that this bill could impinge on a protester's ability to speak freely, protest or pray. As I said earlier, they are not the objects of the bill, which does nothing to stop people doing those things outside the access zone. To those who are concerned that the bill impinges on their right to express their views and ideologies, I say that they are entitled to their opinion but, equally, the women and the staff have a right to access reproductive health facilities. At this point I also acknowledge the Hon. Trevor Khan from the other place, who is in the Speaker's gallery. He addressed this issue very well in the other place when he said:

Sidewalk counsellors are not standing outside hotels, gay bars, lesbian nightclubs, TABs or at the front of tobacconists. They are not standing outside brothels or adult book shops, hospitals, hospices or cancer care clinics.

These sidewalk protesters are not protesting. They are not exercising free speech. They are harassing and targeting a group of the most vulnerable women in our community at what is probably the most vulnerable time in their lives. I endorse the Hon. Trevor Khan's comments that those who purport to be protectors of free speech were notably silent when Minister Roberts, the then Minister for Industry, Resources and Energy, introduced the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill in 2016.

Are we at the stage where we put women's rights behind those of mining companies, gas wells, coal loaders, farmers and small businesses in New South Wales? As the Hon. Penny Sharpe mentioned in the other place, we have a 300-metre exclusion zone for whales migrating up the coast of New South Wales. Are we at a stage in New South Wales where we have put women's rights behind those of whales? There are echoes of the rally cry of the first female member of this place, who advocated unsuccessfully for a chair of obstetrics and gynaecology at one of our universities but who noted that there was a chair of equine obstetrics. She campaigned for the rights of women to equal those of horses.

I take a moment to talk about the penalties in the bill because concern has been expressed about them and some of the foreshadowed amendments address this issue. Under the proposed bill any person convicted of violating these rules will face 50 penalty units, which is a \$5,000 fine, or six months imprisonment for the first offence or 100 penalty units, which is \$11,000, or 12 months imprisonment for any second or subsequent offence. The maximum prison term will be imposed only if it is the perpetrator's second or subsequent offence. This may seem harsh to some, but not to me when I think about what they are putting those women through.

The people that this bill is designed to deal with are not concerned about abortion. The bill deals with people who have been particularly recalcitrant when it comes to imposing their views, their violence, their abuse, their intimidation and their harassment on vulnerable and innocent women—people who have bullied and harassed members of the public who are going about their private business, health workers who are doing their jobs and police who are enforcing the law. No-one is stopping those people from moving 160 metres away from the clinic and praying. They are not stealing a loaf of bread to feed their families; this is not something people have to do in order to meet their basic needs. There is no compulsion for them to protest within the 150-metre zone.

The protesters can act in accordance with their private and personal religious beliefs and faith without impinging on the private and personal rights of women to make their own personal and private decisions. The very basis of their actions is the assumption that any woman deciding to have an abortion made that decision on a whim and walked into the nearest clinic to get one. But, as I have said before, women take these decisions very seriously and carefully. The trauma that women suffer at the hands of protesters is appalling. It is something they will carry with them for life.

Finally, I mention the High Court case. In the other place there was much debate—I read all the contributions that were made in that place—along the lines that we should wait until the High Court makes a decision and then legislate. I do not want to get into a legal discussion about the sovereignty of New South Wales and that sort of thing. We do what we believe is right in representing our community in this place, we make laws and then we let the courts sort it out their way. But we are clear about what we want. However, I am not a lawyer so I will take advice on that point. Some people want us to wait. However, if we want further proof that approaching someone outside an abortion clinic is not exercising free speech or "political communication" we need look no further than at what is happening with the High Court case. Australia's Solicitor-General and the Attorneys General of Western Australia, South Australia, Queensland and indeed New South Wales have made submissions to the High Court in support of safe access zones. In a submission filed on behalf of the Attorney General, dated 25 May 2018, the Government stated:

The purpose of s 185D is not merely to protect persons from offence, hurt feelings or "transient emotional responses"... [it] is designed to protect persons, who are likely to be in an emotionally vulnerable state ... from emotional and psychological harm arising from the communications and to ensure that they are not deterred from accessing medical services. The importance of the purpose is underlined by the history of antiabortion protest activity in Victoria ...

We need to look at this activity in the context in which it occurs and we need to call it out for what it is: violence, harassment and intimidation of women. I urge all members of the House to consider the following points when making their decision. We are not acting to curtail free speech or political communication, we are not stopping people from praying or observing their faith and we are not imposing overly harsh penalties on people who do not want to harm others. We are simply setting boundaries around places where women are undergoing health procedures that may be some of the most difficult experiences of their lives. We are saying no to violence against and harassment and intimidation of women. We are drawing a line between private decisions and faith and public opinions and protest movements.

I ask members what they would think if they were subject to these kind of abuses at such a vulnerable time. It is easy to ask what they would think if it was their daughter, niece or granddaughter; they should put themselves in that position. I urge members who walked past the protesters today and felt uncomfortable—I spoke to a member yesterday who was completely uncomfortable even discussing this issue—to imagine how they would feel if they were going for an abortion. I was respectful of the member who was uncomfortable talking about this matter. I said, "That's fine; let's not discuss it", and I walked away. That person did not have to go into a clinic to have an abortion. There is a right place to have these conversations, and this is that place. This bill is about stopping the violence, the abuse, the harassment and the intimidation.

The reality is that current laws in New South Wales do not protect women from harassment or intimidating practices, and in 2018 that is completely incomprehensible. I struggle to think of any other health facility or situation where people would be harassed or intimidated just because they went there to seek professional advice. I say to those who are concerned that the bill impinges on their right to express their views and ideologies: You are entitled to your opinion, but your opinion does not give you the right to stop women and staff accessing these facilities.

In conclusion, I thank the many people who have brought this bill to fruition. I particularly thank the Hon. Penny Sharpe, who has steered the most difficult ship ever and given great advice to us all in this debate. I thank the Hon. Trevor Khan and Mrs Leslie Williams, the member for Port Macquarie, for the work they have done to get the legislation to this place. It is really important work. I thank Family Planning, and particularly Clare Pullen for the work she has done. I thank the Country Women's Association, and particularly Annette Turner—an amazing woman and a great advocate for women in regional New South Wales. I thank the NSW Nurses and Midwives' Association; the Women's Electoral Lobby, particularly Mary O'Sullivan and Jozefa Sobski, who are in the public gallery; and the Australian Medical Association. I commend the bill to the House. But, in closing, I say to members that we are very quick to protect our own rights. I am asking all members in this place to think of others and to protect their rights—the rights of the women who have to make these decisions.

**Mr ALISTER HENSKENS (Ku-ring-gai) (10:49):** So there is no misunderstanding, I wish to make a few things clear from the outset about my position on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I support the current law, which legally allows an abortion if the pregnancy constitutes a threat to the physical or mental health of a pregnant woman. As the member for Port Macquarie has already said, this bill is not about the legality of having an abortion. I do not support men or women being bullied in any situation, including if they are pregnant and want to access a place where they can have a lawful abortion. This bill is not limited to, and goes well beyond, that behaviour. In considering this bill I am not motivated by any religious affiliations or obligations and I am not a regular churchgoer. People can share or disagree with my views and still oppose this bill, because I hope to demonstrate that there are some real problems with the way in which this bill is drafted and will operate in practice.

A defining characteristic of a democratic system of government is the protection of various freedoms. I believe in the freedom of opportunity, the freedom of enterprise. I believe markets should be free, that expression should be free and I also believe in the freedom of religion. A serious concern I have with this bill is that it imposes a new kind of restraint upon the freedom of expression that has not occurred before. It is usual to criminalise speech in only limited circumstances. Those restrictions are usually confined in their nature. The speech that has been criminalised in the past has included exceptional cases, such as speech that incites the violent overthrow of our system of government—called sedition or seditious speech—or speech that is in contempt of court because it threatens the operation of our legal system, or speech that advocates terrorist acts, or speech otherwise inciting violence against our citizenry.

The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016, which this Parliament passed, is not an exception to these principles. That bill had as its premise that a person was unlawfully trespassing on the inclosed land in question. It dealt with the situation of aggravated unlawful conduct. The conduct punished was not directed to any words spoken by the protesters on any topic; the bill was directed towards the actions of the trespasser where they caused a serious risk to the safety of themselves or other people, or interfered by their trespass with the conduct of the business or undertaking. It was not the speech or its topic that was the object of the bill. The maximum penalty under that legislation was a \$5,500 fine and there was no prison term.

But this bill, by contrast, seeks to criminalise speech in support of one side of the argument on a matter of contentious social policy. It represents a dangerous step in eroding the freedom of expression. If a majority of members of Parliament tomorrow tried to make it a criminal offence to speak in support of the agricultural industry, I would oppose such a law. If a majority of members of Parliament tomorrow tried to make it a criminal offence to speak in support of the trade union movement, I would oppose such a law. If a majority of members of

Parliament tomorrow tried to make it a criminal offence to speak in support of environmental conservation, I would oppose such a law. But what principled position on the freedom of expression could anyone who supports this bill take if bills making the support of agriculture, unions or environmental conservation criminal were ever to come before this Parliament?

A true belief in free speech involves the adage that I disagree with everything you say, but I will defend to my death your right to say it. By creating these offences, this bill will make private abortion clinics into areas where people who feel strongly about free speech will make protests. Rather than reducing the amount of protests around abortion clinics and reducing the general anxiety around those premises, this bill creates a new context for civil protest. As I understand it, that has been the experience in Tasmania after its Parliament passed similar laws to this one. I believe this bill will achieve the opposite of its stated objectives. It is no answer to say in response to criticisms of the drafting of this bill that it is like the legislation of other States, because both the Victorian and Tasmanian legislation are currently under challenge in the High Court of Australia. I would add that I do not think the actions of the Victorian Government are generally necessarily a good template for the legislation of this Parliament.

The bill stretches well beyond its stated objectives in a number of ways. It creates a number of criminal offences punishable by imprisonment. What is now lawful conduct will become unlawful if it takes place within certain physical zones defined under this bill. The same conduct will continue to be lawful outside the zones created by this bill. Why should conduct 151 metres away from an abortion clinic be lawful, but the same conduct two metres closer to the clinic, at 149 metres, be criminal and punishable by imprisonment? Under the bill, the offender does not have to know that they are within the zones imposing criminal liability for them to commit the crimes created by this bill.

Indeed, the internal operations of the premises that cause the protection zones to be around them are largely secret, depriving citizens of awareness as to whether their actions will comply with or break the law. Page five of the New South Wales Legislative Council *Hansard* of 11 May 2017 shows that the Hon. Trevor Khan, who co-sponsors this bill, spoke against the Abortion Law Reform (Miscellaneous Acts Amendment) Bill 2016 in that place. Mr Khan last year noted that he was exercising a conscience vote on that bill—which he opposed—and in support of his opposition he called in aid his agreement with a passage from a Queensland parliamentary committee, which he then read into *Hansard* as follows:

The committee considers that constructive law reform should start with thorough policy development. Legislation ... should be the means to implement coherent policy rather than partially developed proposals ... The committee does not consider the introduction of a bill to be an appropriate catalyst for policy development and consultation which should appropriately be done before the introduction of a bill.

Mr Khan recognised 12 months ago that properly developing the principles behind a policy and the coherent implementation of a policy through careful legal drafting in the bill were important. I am going to take a similar approach to this bill, and I ask that other members do so as well. This bill has not come forward in the manner that Mr Khan quoted from the Queensland parliamentary committee 12 months ago. Indeed, the Legislative Council refused to send this bill to committee as was proposed in order that there could be better policy development. We are therefore left to review and debate a badly formulated bill with many apparent unintended consequences and without proper consultation.

As the Hon. Trevor Khan also made clear in the Legislative Council debates last year in relation to the Abortion Law Reform (Miscellaneous Acts Amendment) Bill 2016, it has been legal to have an abortion in New South Wales since 1971, when Judge Levine delivered his decision in *R v Wald* (1971) 3 DCR (NSW) 25. It was established that an abortion could be legally obtained if the pregnancy constituted a threat to the physical or mental health of the pregnant woman and it was confirmed by the New South Wales Court of Appeal decision in *CES v Superclinics (Australia) Pty Ltd* (1995) 38 NSWLR 47. In that case the Court of Appeal held that the relevant factors for determining whether the pregnancy constituted a threat to the physical or mental health of the woman included the social and economic circumstances that would apply subsequent to the birth of the child.

I say again that I support the law as stated in *R v Wald* and *CES v Superclinics (Australia) Pty Ltd*. But this is not a bill about the right to a legal abortion. Mr Khan also noted in his speech last year to the Legislative Council that 27,000 induced abortions take place in New South Wales every year. He noted that that figure was high relative to the rates in other western countries. He noted problems with access to a range of reproductive health services in country areas, including abortions. But I read his long speech and he made no express mention of protests outside abortion clinics being an issue with regard to access to an abortion.

Before considering the detail of the bill, it is necessary to go into the factual background of how it will operate in practice in order to properly understand it. I have informed myself of these matters based upon information given to me by a gynaecologist with relevant expertise who practises in my electorate and information obtained from a doctor working in a country area. In broad terms, there are two reasons why abortions are sought

by women. The first is when a woman has fallen pregnant and does not want to have the child. I will refer to these as abortions as a consequence of an accidental pregnancy. But abortions are not only provided for women as a consequence of an accidental pregnancy. Abortions are also obtained by women who want to have a pregnancy. Good medical practice requires screening at approximately 12 weeks after conception in order to assess the health of the baby and the mother.

The screening can reveal medical dangers to the mother or defects or other medical issues involved with the fetus. Birth defects can include, for example, anencephaly, which is when a fetus has an absence of a major portion of the brain, skull and scalp and the essential parts of a human body failed to come into existence during embryonic development. Only 75 per cent of fetuses with anencephaly survive birth and none of those that survive to birth live for more than a few hours or days at the most, even with the best medical assistance available. Abortions that take place because of risks to the physical health of the mother or problems with the viability of the fetus are referred to by the medical profession as medical abortions. Although the decision in *R v Wald* allowed lawful abortions when a woman's mental health warranted it, gynaecologists appear to consider a medical abortion to be justified only when there is a physical and not psychological reason for the abortion.

I do not agree with the downgrading of the importance of mental health as relevant. However, my explanation of the system will adopt the distinctions applied by doctors in order to understand it. Our medical system deals with abortions for so-called medical reasons and abortions due to accidental pregnancies in different ways. For abortions caused because of complications picked up by tests made under the supervision of a gynaecologist, patients are referred to professional counsellors. If they wish to proceed to a termination most private hospitals will perform them, except the Roman Catholic hospitals such as the Mater Hospital, and most gynaecologists will supervise the termination. Public hospitals will usually but not always provide counselling and will then perform the abortion without fee if the woman wants it. The procedure usually takes place in tertiary hospitals but sometimes also in district hospitals, depending upon the preferences of the gynaecological specialists and the area health district.

However, for abortions as a consequence of an accidental pregnancy the position is different. Women are pushed by the medical profession and the public health system towards a private abortion clinic unless the woman makes it clear that they are financially unable to pay for the termination in those private clinics. I was told that if the woman is a public patient and pleads poverty it depends upon the policies of the area health district whether abortions as a consequence of an accidental pregnancy are provided by a public hospital or not. If they are then they may take place in tertiary or district public hospitals. Therefore, during successive Labor and Coalition governments since the early 1970s, the medical administration of the termination of pregnancies has had a hierarchy of assistance—a kind of fault and no-fault system of pregnancy, which I do not agree with.

The distinction in the medical system's treatment of medical abortions and abortions as a consequence of an accidental pregnancy is not justified in a system of universal medical care where all women pay a Medicare levy. They ought to have equal treatment to medical services, including the lawful termination of their pregnancies. In this system, if a woman is unable to afford a lawful termination at a private abortion clinic then she is effectively deprived of the ability to have an abortion, even if she has a lawful medical reason for it. This bill does nothing to address these far more profound financial barriers to safe access to abortion. Instead, the bill seeks to perpetuate the current system of private, dedicated abortion clinics as the best and only venue for abortions that are currently not performed in hospitals.

I am advised also that when an abortion is performed in a hospital, it can take place in any part of the hospital depending on the circumstances and the demands of the hospital at the time. For example, an abortion can take place in the radiology section of a hospital if it is a drug-induced abortion and, depending on the medical consequences, a dilation and curettage may take place afterwards in a surgical ward. The abortion could also take place in the maternity section or a surgical room. As a practical matter, where the 150-metre exclusion zone starts and ends, and therefore whether somebody is committing a criminal offence, is not at all clear. It could depend upon the day-to-day decisions of a hospital. As the medical decisions of a hospital change by the minute and by the day, nobody with any certainty can know that any part of the hospital will not be used for the termination of a pregnancy. As a consequence, the only way in which a citizen of this State can avoid being in breach of the laws proposed by the bill is to assume that the 150 metres is around any part of a hospital that performs the termination of pregnancies.

I am not aware of any anti-abortion protests said to have occurred outside a hospital in New South Wales. In fact, of the 19 private abortion clinics that my office found on the internet that are based in New South Wales, there appears to be major complaints about the activities outside only two of them: the Fertility Control Clinic in Albury and the private clinic in Surry Hills. But when I go to the text of the bill, it is clear that the provisions apply to all 19 private abortion clinics and many hospitals, even though probably only approximately two of them have had any history of contested activity outside them.

Until I researched this bill, I had no idea, even after visiting the central business district of Sydney, particularly Phillip Street and Macquarie Street, on a fairly regular basis since 1985 that there were two abortion clinics on this street. I have never seen a protest outside either of them. The activities complained about outside the abortion clinic in Surry Hills, judging from the information available on the internet, include allegations of threats of murder to clinic users, windows being smashed, a wooden stake being pointed at the receptionist, a fight between a protester and the partner of a clinic user and the obstruction of patients entering the premises. If these events occurred—and there is always some contention about accounts such as these—they all involved the commission of existing criminal offences that do not require any new laws to be made to deal with them.

Complaints about the display of graphic signs and praying outside the clinic are a different matter and fall within protest laws, which I will discuss shortly. In democratic systems of government, public gatherings and protests are important means of political communication. The right to protest peacefully has its origins in English common law and goes as far back as 800 years to the signing of the Magna Carta. The right of assembly is a complex interaction of the common law, constitutional law and statute law and can include council by-laws. When a public protest departs from a peaceful demonstration or has other undesirable public impacts, the police already have a large number of tools at their disposal. Police can charge protesters with the common law offence of a breach of the peace whenever harm is done or likely to be done to a person or their property or when a person is in fear of being harmed through an assault, affray, riot, unlawful assembly or other disturbance.

Further, it is a criminal offence under section 546C of the Crimes Act to resist or hinder a police officer in the execution of their duty or to incite another person to do the same. Section 6 of the Summary Offences Act 1988 provides that it is an offence for a person, without reasonable excuse, to wilfully prevent in any manner the free passage of a person, vehicle or vessel in a public place, which includes the route of entry to an abortion clinic or hospital. Section 4 of the Summary Offences Act 1988 creates a crime where a person conducts himself or herself in an offensive manner in, or near, or within view or hearing of a public place. A public place is defined as any premises or part of a premises that is open to the public or is used by the public, whether or not on payment of money or other consideration, whether or not the place or part is ordinarily so open or used and whether or not the public to whom it is open consists only of a limited class of persons. The maximum penalty is three months imprisonment.

Under section 545C (1) of the Crimes Act, if five or more persons whose common object is, by means of intimidation or injury, to compel a person to abstain from doing what the person is legally entitled to do, an offence occurs punishable by a maximum of six months imprisonment. Other offences of public violence like an affray under section 93C (1) of the Crimes Act 1900, assault during public disorder under section 59A (1) or riot under section 93B (1) have even greater fines and maximum terms of imprisonment.

There is already on the statute books the offences of intimidation or annoyance by violence under section 545B (1) (a) (iii) of the Crimes Act, unlawful entry and offensive conduct on inclosed lands under section 4 of the Inclosed Lands Protection Act 1901 and destroying or damaging property of another person under section 195 of the Crimes Act. These provisions cover all of the reported incidents outside abortion clinics yet not one conviction under any of them has been reported in this debate. Rather than rush into this legislation, I believe it would be preferable to properly investigate why the existing laws have not been used by the police to deal with the conduct complained of before we go down the path of infringing upon our previous freedoms of speech.

I will now go to the detail of the proposed bill. The bill creates four offences in three different clauses in relation to what may occur within invisible and ill-defined areas created by the legislation. There are three exemptions under proposed section 98F (1) (a) to (c). The bill does not apply to conduct occurring within a church or its walls but it does apply to the footpath outside a church. The bill does not apply to the forecourt of, or the footpath or road outside, Parliament House in Macquarie Street but, because there are two abortion clinics at 195 and 135 Macquarie Street, the bill will create exclusion zones and apply to significant parts of Macquarie Street.

Because the legislation makes it an offence to offend somebody within the exclusion zone in any way, I contend that political marches down Macquarie Street that offend somebody on any kind of issue and that stray into the exclusion zones will probably be impossible without creating a criminal liability punishable by imprisonment. The bill does not apply to the carrying out of a survey or opinion poll of a candidate or the distribution of leaflets by a candidate for any local, State or Federal government election, referendum or plebiscite. A breach of proposed sections 98C, 98D or 98E will have consequences including a maximum criminal penalty for the first offence, six months imprisonment and a fine of \$5,500 and for a second or subsequent offence 12 months imprisonment and a fine of \$11,000.

Proposed section 98A makes some important definitions within the bill. A "reproductive health clinic" is defined as premises where medical services relating to any aspect of human reproduction or maternal health are provided, excluding a pharmacy. It is broad in its terms and would include the consulting rooms of any general

practitioner, obstetrician or gynaecologist or radiologist as well as any hospital that provides medical services in relation to any aspect of human reproduction or maternal health. Most general hospitals will satisfy this description, as would abortion clinics. "Safe access zones" are defined as an area concerning any reproductive health clinic where abortions are provided. I will refer to these as the "defined premises".

The defined premises includes therefore dedicated private abortion clinics but also public and private hospitals where termination of pregnancies occur even if the terminations of pregnancies are only for medical reasons such as birth defects. The areas created as so-called safe access zones include any part of the defined premises itself as well as 150 metres around any part of the defined premises and 150 metres around a pedestrian access point to the defined premises. As I have said, termination of pregnancies can occur within any part of a hospital, including the radiological department, surgical wards and consulting rooms. Nobody will actually know which part of the hospital they are conducted in on any given day. As a consequence, to comply with the law people would need to assume that every part of the premises of a hospital at which termination of pregnancies are ever performed has a safe access zone covering all of the hospital and the areas of 150 metres around it.

The bill also creates an exclusion zone of 150 metres around dedicated private abortion clinics. When applying to clinics or hospitals in an urban environment, the bill effectively sanitises what can be done within 150 metres of the defined premises. The establishment of an abortion clinic, which is a private decision by a medical practitioner, has the capacity to make adjoining business activity unlawful. It gives supreme planning authority to abortion clinics over all other businesses that are inconsistent with its operation if they are within 150 metres and impact upon the activity that can lawfully take place within those other premises. I will give an example of why the distance is much too great in an urban context. I have not measured it, but assume that a protester outside the Law Courts Building at Queen's Square will probably be within 150 metres of 195 Macquarie Street where an abortion clinic is located. If that protester wanted to protest against a matter concerning abortion laws being heard in the High Court in relation to Victoria and Tasmania, which does sit from time to time in that building, that could constitute a breach of this bill.

If they were to communicate with a person, they will not know if the person is an office worker or whether the person is going to walk the long 150-metre distance down Macquarie Street to the other side of Martin Place to attend the abortion clinic. The conduct will not be criminal if a person passes the protester but does not enter the abortion clinic, but it will become criminal if the person makes the decision to enter the abortion clinic. The actions of a stranger unknown to the protester should not determine whether the protester's actions are legal or not legal and if the protester could be sent to prison. That example also highlights that the exclusion zone covers not just public land but also extends into all offices and apartments along Macquarie Street. People will be restrained from the normal incidence of property ownership, which is to have communications and so on within private property.

Proposed section 98C (2) is broad as to the conduct governed by it and the people who would be impacted by the conduct of any person whether they are having an abortion or not. Because it applies to hospitals, it can apply to anyone going into or out of the hospital whether they are having an abortion or not. There is no defence of reasonable excuse as there is for other offences created under the bill. When we consider that a person may not even know that a hospital performs abortions or where a private abortion clinic is located, there should be a defence of reasonable excuse to this proposed section. The fact that the Victorian provision does not have such a defence is hardly an answer to the fairness of making people criminally liable for matters which they do not and in many cases could not reasonably know about. Proposed section 98C (2) states that it is unlawful for anybody to interfere with any person going into or out of or attempting to go into or out of a hospital or clinic where abortions are provided. That is, a person cannot interfere with any person going in or out of most hospitals as well as abortion clinics.

"Interfere with" is defined very broadly to include both physical and psychological interference. The conduct can be the speaking of words, the holding of signs or pictures or peaceful actions or gestures that interfere with another person. "Interfere with" has a number of meanings including to harass, beset or hinder somebody, which are terms usually interpreted very broadly according to decided cases and legal dictionaries. They may include any conduct which is "unwanted", or that can "confuse" a person, "upset" a person or make them feel "uncomfortable". The conduct is not confined to any subject matter and could be about abortions or not.

The conduct that upsets, confuses or is unwanted and attracts criminal sanction can be actions such as praying or speaking words on a topic which is unrelated to the topic of an abortion and could be directed to any person going in or out of the hospital including, for example, any person visiting somebody in hospital. It has been suggested that this is wrong because an objective test will be applied to any breach. I am not convinced that is correct. Nothing within the proposed section expressly states that an objective rather than a subjective test will apply. Proposed section 98D has an objective test of "reasonably likely" within it, but proposed section 98C does not.

Proposed section 98C clearly requires an actual person to be interfered with—suggesting that the standard to be applied is not that of an artificial person such as the ordinary reasonable person and whether that artificial legal person would be confused, troubled or worried. Is it possible to operate a hospital or abortion clinic and conduct oneself in such a way that would not upset ordinary reasonable people? Doctors and medical practitioners must be able to be frank about the severity of illness or treatment without committing a criminal offence under this bill. This bill criminalises conduct within their place of work.

Proposed section 98C does not but should exclude employees and any persons providing services in the hospital or clinic, as proposed section 98D (2) does. Even with that change, any contentious topics in a community that may be capable of upsetting any person cannot be discussed by non-employee or service providers within a hospital if it is a defined premises, within an abortion clinic or within the 150-metre exclusion zone around it without a person risking criminal charges and the sanction of going to jail.

It is suggested that this is wrong because of the objects of the legislation under proposed section 98B. But clearly the object of the legislation is to keep an environment where people are not interfered with. Its purpose, as stated in proposed section 98B (a) is to ensure respect for all people who access health services. Physical conduct that may constitute "interference with" includes any act which might "obstruct" or "hinder" or "impede" or "threaten" or "intimidate" by any means a person going into or out of the defined premises governed by the bill. These are again very low levels of physical interference which are already covered by the existing protest laws that I have referred to.

Picket lines, protest marches and strike activity impede and obstruct access to places as well as harass people in some circumstances. By reason of these matters it is reasonable to assume that proposed section 98C of the legislation will make criminal any protest march or picket line or strike activity outside a public or private hospital which performs abortions, and any political protests that may march into or are held within a safe access zone around them. In an urban environment this could be accidental, as I have already said.

There is nothing which would exclude proposed section 98C (2) from applying to industrial action. We all know—especially with respect to the Construction, Forestry, Maritime, Mining and Energy Union and other militant unions—the greatest displays of public harassment occur on union picket lines. People who break a picket line are called scabs and sometimes they and their families are physically threatened. The union movement has much to be afraid of in this offence, as does the Nurses and Midwives' Association and the Health Services Union especially because their strike activity outside hospitals will be criminalised under this legislation. But at the other end of the spectrum it also means that somebody silently praying within an access zone will also be committing a criminal offence punishable by imprisonment if it upsets or confuses any person going into or leaving a hospital that is a defined premises or an abortion clinic, even if, for example, the hospital is operated by a religious body.

Because the safe access zones include inside as well as outside the defined premises, chapels, prayer rooms or other religious areas within hospitals that perform terminations of pregnancies on medical grounds run by religious organisations—like the San hospital in Wahroonga in my electorate—may now make criminal the actions of those who use the place of prayer if they upset any non or anti-Christians within the hospital area who are about to leave it. The legislation could now stop private hospitals that perform medical termination of pregnancies and are run by religious institutions from continuing to do so in order to stay outside of the operation of this proposed law. If it causes them to do so it will be limiting choice with regard to the medical treatments available to women.

Proposed section 98C (3) deals with obstruction or blocking of a footpath or road leading to any defined premises if the person is in a safe access zone and the person has no reasonable excuse. The concept of "reasonable excuse" is no doubt intended to exempt strike action or protests of unions and other groups within exclusion zones and protect them if they are conducted "with reasonable excuse". But, for the reasons already explained, proposed section 98C (2) is so broad that it covers all of the activity covered by the proposed subsection, and there is not any exception for "reasonable excuse" included in it, making 98C (3) and its supposed protections redundant.

Proposed section 98D deals with actual or potential distress or anxiety caused to a person in safe access zones. This section makes criminal any communication in relation to abortions by any means that is able to be seen or heard by any person within the 150 metres going into or out of the defined premises and that is reasonably likely to cause distress or anxiety to any such person. It excludes employees or other persons providing services at designated premises. Again, this section has no work to do because of the breadth of proposed section 98C (2). Proposed section 98D and its purported protections are also redundant.

"Distress" under proposed section 98C (2) can be on any topic, including but not limited to abortions, and it will apply to employees and service providers and anyone else who goes into or out of the defined premises. The idea that expression on a given topic, regardless of its context, is criminal is greatly alarming. The offence under section 98E of capturing and distributing visual data of persons in safe access zones makes criminal any



capturing, publishing, distributing or recording of visual data of another person within a hospital or abortion clinic or within the 150-metre zone around them, including public streets, footpaths or private premises within the 150-metre exclusion zones in urban areas, if it occurs without their consent.

In this age of mobile phone cameras and vehicle dash cameras it will be impossible for people to comply with this provision if they are just going about their ordinary affairs on Macquarie Street—the street abutting this Parliament—because it has two abortion clinics in it. People may intentionally take a picture which incidentally includes other people on the street, may post it on Facebook knowing it contains other people, and be in breach of the proposed section. People in this situation would have to rely upon the precarious interpretation of whether that was a "reasonable excuse" under proposed section 98E (3) (e). Excluded from its operation are security cameras, service providers to designated premises, persons engaged by persons operating the designated premises if the data is provided to them or the police, or police within the course of their duties if their conduct is reasonable in the circumstances, or a person who has another reasonable excuse.

In summary, I will outline the features of the bill. First, this bill accepts and entrenches the practice of private clinics conducting abortions in this State—a kind of privatisation of abortions procured for profit in New South Wales, which I am surprised to see members of the Australian Labor Party support. This privatisation has occurred due to our public health system not providing widespread access to no-fee abortions to patients in our public hospitals. Second, this bill provides no access to women on low incomes who cannot afford the prices charged by private abortion clinics. Third, the bill creates an exclusion zone around virtually all public and many private hospitals in New South Wales because some terminations of pregnancies happen in them. Fourth, within the 150-metre exclusion zones in and around private abortion clinics and relevant public and private hospitals, people who speak on any topic, whether it is about abortions or not, which can be overheard by any person who goes in or out of the hospital or clinic and which upsets them, will be subject to a maximum six months in jail, and if they do it on a second or subsequent occasion, they could be sentenced to 12 months in jail.

Fifth, it will be impossible any longer to hold a public march all the way down the major street of political protest in this State, Macquarie Street, because there are two abortion clinics on it. Private or public decisions about where private abortion clinics or hospitals are located will determine where political protests can and cannot occur in New South Wales. No public marches or political rallies can occur within 150 metres of private abortion clinics and relevant public and private hospitals because they may upset somebody. If any trade union wishes to have a strike meeting, protest or a picket line outside of a hospital or another industry place of work which is within 150 metres of a private abortion clinic in urban areas, they will be subject to punishment including imprisonment in jail. Those Labor members of Parliament with affiliations, especially to the Health Services Union or the Nurses and Midwives' Association, will be especially betraying their membership by supporting this bill, because the bill will severely limit possible industrial actions.

As I said last year in an opinion piece published in the *Australian*, most Liberals very much value the right to free speech, which is challenged by this bill. The Liberal tradition has a strong regard for free markets, and free speech is essential for a society that wants a free market of ideas. Free speech is not just an end in itself. Free speech and robust discussion have actual utility by exposing less preferable ideas and highlighting those ideas that are better. It is no accident that our period of recent national prosperity and economic reform—from 1983 to 2007—was achieved on the back of a robust discussion about the best direction for our national economy. We must be sceptical about any laws or social norms that stop people engaging in free speech. When that happens, people focus on the possibility of an attack about the fact they are speaking or how they are saying things rather than the ideas that they want to articulate. In this way ideas are suppressed and people are kept in the dark about what others really think.

Under this bill, the expression of beliefs and ideas within certain poorly defined zones will constitute a criminal offence. The British philosopher John Stuart Mill wrote in his 1859 treatise "On Liberty" that stopping free speech and the free market of ideas has two effects. The first effect is to stop people from expressing ideas whatever their worth. The second effect is that by driving some ideas underground, where they may fester in subversive whispers and survive in private, other people who want to openly attack those ideas are deprived of the opportunity to do so. It is undesirable that inferior ideas are allowed to exist in people's minds because a clear counterargument is not allowed to be publicly articulated by those with better and inconsistent ideas. Bad ideas, when held up to the light of public scrutiny by our community, will be less well regarded because of a reasoned and well-articulated public denunciation of them. As Evelyn Hall once wrote:

I disapprove of what you say, but I will defend to the death your right to say it.

Those words were Evelyn Hall's encapsulation of Voltaire's philosophical belief in free speech. Freedom of speech is so important, and the freedom of political communication is one of the only rights implied in the Australian constitution and given protection by the highest court of our land. Free speech is not just a matter of moral and political philosophy, but a constitutional norm that lies at the heart of our democracy. Speech should not be

censured because one does not agree with the views spoken nor should it be criminalised without good reason. As I have already said, not all speech is without any regulation. Valuable speech and the Australian freedoms that so many people who came from around the world to enjoy, such as my father, must be protected.

Australia's important freedoms can be contrasted with the way other systems of government currently operate and have operated in the past. For instance, in May 1944 my uncle, Gerardus Henskens, was catching a train in the Netherlands, which was then occupied by the Government of Nazi Germany. A conversation took place between the people in the train. They discussed the news of a failed attempt on the life of Adolf Hitler. My uncle said five words about the assassination attempt that would end his life, "You can never kill weeds." He was arrested, interrogated, charged and convicted of the crime of "insulting the Fuhrer." He was sentenced to imprisonment in a concentration camp. My uncle survived long enough for his concentration camp to be liberated by the Russian army, but died in a hospital a few days later.

For this Parliament to pass a law that would imprison people for expressing their views puts it in a class of government that it should not be in. The example of my uncle should jolt members of this House into great care and attention to the detail of the bill. All other possible alternatives to the criminalisation of people praying or peacefully expressing their opinions should be exhausted before the bill is passed. Under the implied right to the freedom of political expression, as most recently decided in the case involving the former Federal Leader of The Greens, Dr Bob Brown, in *Brown v Tasmania* [2017] HCA 43, the criminalisation of political expression was given a blow by the High Court of Australia. It struck down a Tasmanian anti-protest law that had many features similar to the bill. In particular, the zones in which the Tasmanian protest law did and did not operate were unclear; similar to the exclusion zones created under the bill.

In determining whether a law that infringes on free speech is valid, the High Court restated in *Brown the McCloy* test. To answer the question of constitutional validity, the court must ask whether the bill resolves in a proportionate manner the conflict between those who want an abortion and those who express their opposition to abortion or speak to women about to undergo an abortion. On the issue of proportionality, the following factors are relevant: The bill applies to hospitals when no protests around them are recorded and patients are anonymous when they access the hospital. There is no need to change the free speech rights if greater access to hospital services for termination of pregnancies were provided. The bill applies to all 19 abortion clinics in New South Wales, even though the main complaints are against only two of them. The 150 metres is so far away in an urban environment that it will stop protests outside the New South Wales Supreme Court because of an abortion clinic across the road from Parliament House in Macquarie Street. There are more proportionate ways to define abortion access zones if they are desirable, but the bill fails in this regard.

Although I am not willing to say with definitive confidence what the High Court will so hold, there is a significant risk that the bill will be found to be disproportionate and therefore an unlawful infringement upon the right to the freedom of political expression implied within the Australian Constitution. I note also the bill is in breach of Article 19 of the International Covenant on Civil and Political Rights, to which Australia was a founding signatory approximately 70 years ago. Article 19 says:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Many people who support the bill feel very passionate about this issue and what they see as its symbolic importance. But many people also feel very passionate about our democratic freedoms, including the freedom of speech. Not a day went by when my father did not mourn the loss of his brother who was killed because he exercised his human right to free speech. As I have said, I support the current laws that allow a lawful abortion, but I cannot support this criminalisation of an alternative point of view where it is peacefully expressed and otherwise done within our current laws.

**The DEPUTY SPEAKER:** Order! I reinforce that every member deserves to be heard in silence. I will not tolerate any interjections, even if it is a "Hear, hear!"

**Ms KATE WASHINGTON (Port Stephens) (11:35):** I make a contribution to the small but important Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. First, I reiterate my thanks to and admiration for the Hon. Penny Sharpe for introducing the bill and for navigating a challenging political path with sensitivity and pragmatism. This resulted in the co-sponsoring of the bill by the Hon. Trevor Khan. I also sincerely thank him for his work among Government members. I will specifically address concerns raised by some members in the other place in the hope that members in this place who are still undecided will support the bill. I encourage those who have a conscience vote to listen to the speakers in support of the bill and understand why it is vitally important that the bill is passed today.

Some members in the other place who opposed the bill or abstained from voting on it assume that police already have the powers to manage protest situations. Mr Scot MacDonald suggested that police should simply

"do more". This and other comments that members in the other place made seem to not only lay blame on local police for being inattentive, but suggest that the current law is inadequate and simply needs to be applied more rigorously. For the benefit of any member who has similar concerns, I will describe some of the experiences of the community in Albury. For many years, decades even, a group of people in Albury have been trying to prevent women who are using the local Fertility Control Clinic from being harassed as they enter.

Let me describe the experience of women seeking to use the Fertility Control Clinic in Albury. Picture a leafy, residential street in an established part of inner-city Albury. The footpaths are paved, the houses are all of the same, older era, with low front fences allowing the well-groomed, pretty gardens to be seen and admired. It is a street that has seen some businesses move in as families have moved out, due to its amenity and proximity to the central business district. In the street there are families, dentists, accountants, lawyers and speech pathologists. They all form part of a valued community, evidenced by a flourishing community garden that has sprung up at the end of the street. The Fertility Control Clinic is just one of the businesses on the street, nestled amongst family homes and other allied health services.

Picture yourself walking along that manicured street, along the footpath, toward the Fertility Control Clinic that looks like any other house on the street. Your heart is heaving because you are about to undertake a health service that you never thought you would need or want. Then, you hear shouting, "You're a murderer." Someone waves a fake foetus in your face; people are showing pamphlets at you, saying, "You don't have to do this. There's another way." When you look around to try to make sense of what is happening, you see three men garbed as clergymen standing nearby.

However, you are going to the clinic because you have suffered the saddest thing in your life. Your heart is breaking because you have lost the baby you were carrying. You have suffered a miscarriage, but nature did not complete the task. Inconceivably, you need a medical procedure to complete what nature had started. And for your misfortune and mourning, you are accosted on a leafy footpath, harassed and intimidated, when you are at your lowest ebb. Shockingly, scenarios just like this have been playing out on this quiet, leafy street for decades. And it is time that they stopped.

This scenario, and others like it, is exactly why the people of Albury are angry. This is why for years now they have been demanding something happen. I know this because I went to the Albury High School and my parents live just around the corner from the Fertility Control Clinic. What the Albury residents have learnt is that no-one has had the power to make it stop. Neither the police nor council has had adequate legal authority to act. Indeed, due to the lack of clear powers, the law has actually been used to prevent authorities from acting. Legal action and threats of legal action have been used as tools both in Albury and elsewhere to discourage and prevent people from opposing those who exhibit harassing behaviour. It is only through the selfless efforts of people trying to stop the harassment that the inadequacy of existing laws has been exposed.

In Albury, a group called Rights to Privacy formed, united by their opposition to the harassment of women on the street. Formal complaints were made to the police by women who had been harassed, and yet nothing happened. The council was approached to review its by-laws. A petition was presented to the council with 5,500 signatures yet nothing happened. Another petition was launched and again more than 5,000 signatures were gained. Nothing happened. Years ago a contingent, which included my father, met with the local member of Parliament, Greg Aplin, to ask for his support to act, but they were told that it was a law and order matter. I am hoping that the member for Albury has since listened to his community's concerns and realised that, for change to happen, it must come from this House and it must happen today.

Some people in Albury are taking matters into their own hands. They would stand outside the clinic in an effort to support the women. In 2011, which is now seven years ago now, the Albury police invited residents and the protesters to a mediation in an effort to keep the peace and reach agreement on what was allowed. It was agreed at that time that the protesters would not wave plastic foetuses in women's faces, they would stop secretly filming and they would remove offensive signage. It did not stop. Those arrangements were ignored. In Albury, the police have been intimately involved in the situation. In fact, they have been passionate about fixing the problem and protecting the parties involved, but they have been powerless to act in any meaningful way under the law as it currently stands.

If this bill is passed today, the police will have clear powers to act. It will be against the law to harass, intimidate, beset, threaten, hinder, obstruct or impede by any means a person within 150 metres of a reproductive health clinic. Within this safe access zone, communications may not be made relating to abortion, and it will be unlawful to act in a way that is reasonably likely to cause distress to people accessing reproductive health services. Video recordings within the safe access zone may not be made, published or distributed without the person's consent. Women will be able to enter and leave reproductive health clinics without interference, and in a manner that protects their safety and wellbeing, and respects their privacy and dignity. Under this bill there finally will be consequences for failing to abide by the law.

I acknowledge and thank the many people who have given a voice to vulnerable women across the State who have stood up to the bullying tactics, written letters, attended rallies, meetings and mediation, and signed petitions. This bill has not just lobbed up out of the blue. It has progressed this far because of the actions of a dedicated few that soon turned into a movement of many—a movement that has become a roar, courtesy of many others, which includes the Country Women's Association, the Nurses and Midwives' Association, the Women's Electoral Lobby, Family Planning NSW, the Australian Medical Association and others. The Hon. Penny Sharpe has fought for this reform over many years and has taken up the cause on behalf of the New South Wales Labor team, for which I am very grateful. I also thank Dr Mehreen Faruqi, MLC, who has fought hard on this issue on behalf of The Greens and who has spent considerable time in Albury.

As a woman in this House, one of the reasons I am here is to give voice to women's experiences, to air the concerns of women, and to ensure that the law adequately supports women and our choices. This bill is another small but important step towards achieving that goal. I am grateful to all of my parliamentary colleagues—both men and women—who will support this bill today. Fundamentally, safe access comes down to respect—respecting women and our right to privacy and dignity. Women seek these health services for a variety of reasons that are deeply personal. They do not deserve to have their very personal judgement questioned, denigrated or publicly exposed. Yet that is exactly what has been done on many occasions when women who attend the Albury clinic have been obviously and intrusively filmed and their number plates recorded, with an implied and shameful threat of publication. [*Extension of time*]

Just imagine if men seeking treatment with Viagra or for penis enlargements were exposed to the same public scrutiny and denigration. But even those procedures are not a truthful comparison with safe access to health services, which is the subject of this bill, because those procedures essentially occur by choice. The women seeking reproductive health services often have no choice and nowhere else to go. Indeed, for people who live in Albury the only other place to go is Melbourne, which is more than 300 kilometres away. That option risks delay, which increases the risk of serious health complications. Yet too many women in the Albury area have made that choice, just to avoid the shameful harassment and intimidation meted out in Albury.

To be clear, this bill is not about abortion. It is about creating a safe zone so that women who are seeking a variety of reproductive health services, for whatever reason, can do so without being harassed, intimidated or abused. It is their business, and their business alone. I pay tribute to a local obstetrician and gynaecologist based in Albury, Dr Pieter Mourik, and his wife, Libby, who started raising this issue in Albury 20 years ago. It is a campaign that grew to become well known in Albury and Wodonga, thanks to the coverage by the *Border Mail* and support from across the broader community, including from Father Peter MacLeod-Miller from St Matthews Anglican Church.

During his career as a specialist in women's health, Dr Mourik was recognised as the Rural Australian Doctor of the Year in 2010 and received an Order of Australia in 2012. However, Dr Mourik paid a heavy personal price for his vocal opposition to the protesters. He was sued for defamation and had to settle to minimise his losses. And he was not alone. Others who were part of the campaign ought to be acknowledged today, but they also paid a personal price and still fear retribution. Out of respect for their privacy I will not name them today, but I thank them sincerely nonetheless. I know this bill has the support of all members on the non-Government side of the House and many members on the Government side of the House. If any member is uncertain, I urge them to support this bill to restore dignity and privacy to women who are seeking reproductive health services in New South Wales. In conclusion, I cite the words of a woman who has walked down the leafy street in Albury:

This intrusive behaviour is nothing short of mental torture and unwanted harassment. I was so distraught by ... [the] interference and unwelcome intrusion into my personal life that it made me ... angry and upset. Patients are entitled to privacy when entering medical facilities and should not be approached by strangers lurking in the street, with their hidden agendas. I believe I should have a right to privacy, and these protestors rob me, and other patients they accost, of the right to feel confident, safe and secure.

Today in this place, this bill presents all members of this House with the opportunity to ensure that women, in a most vulnerable and private time, feel safe and secure. It is not too much to ask. This bill will not prevent people from expressing their views: It just will not allow them to do it in a manner and in a place where they harass and intimidate women, eroding their privacy and dignity. I wholeheartedly commend the bill to the House.

**Ms FELICITY WILSON (North Shore) (11:48):** In making a contribution to debate on the Public Health (Safe Access to Reproductive Health Clinics) Bill 2018, I reflected on the portraits of Millicent Preston-Stanley, the first woman to be elected to this place, that we pass every day when we enter this building. I often consider her journey, the issues that she championed and the challenges she faced and I wonder how far we still have to go almost 100 years later. In her inaugural speech in 1925 she spoke of this place and the effects of its decision-making on women:

As women taxpayers and workers, they are subject to the laws you make, the inadequate wages you impose, the taxes you collect, the injustices you perpetuate, the anomalies you tolerate, and they suffer under the many vital and important matters you forget to

handle. They are also subject to the many unfortunate results which follow from the neglect of the Legislature to handle effectively many of the great questions which may be considered to be of vital importance not only to women, but to the entire nation.

While there remains a paucity of women's voices in this place, we legislators—women and men alike—have an opportunity today to speak for women in our community and to ensure that in 2018 this Legislature does not neglect the great question before us of a woman's right to safely access medical treatment, to have her privacy preserved and to have her dignity maintained. This is fundamentally a bill about women's rights to access legal health services without being threatened, harassed, intimidated or impeded. There is a great need for us to address this issue today—in fact, our action is long overdue. I have visited a reproductive health clinic run by one of my constituents and discussed this issue with doctors, nurses and staff.

While not all clinics are targeted at all times, this harassment occurs in multiple locations across New South Wales on a weekly basis—and has for at least a decade, if not much longer. The experience of women seeking to access reproductive health clinics, along with their employees, has been widely expressed in this Parliament, and throughout our community and the media. There are regular instances of abuse, intimidation, and harassment—women called "murderer" or "child killer", women presented with fetal dolls, women having holy water sprayed on them against their will, women being presented with images of fetuses, women having pamphlets containing misleading information thrust on them, and women being threatened with filming and photography to be shown to their colleagues, their friends and their employers.

Considering the challenging circumstances in which a woman or a couple arrives at these clinics, the trauma is undeniable. Friends of mine have had to access these clinics, having taken the hard decision—never taken lightly—to attend a reproductive health clinic, regardless of who is protesting out the front of the clinic. Our current laws are manifestly inadequate to deal with the conduct imposed on women. If the current laws were adequate then they would be enforced so that the misconduct would no longer occur. As long as that conduct persists, it is clear that these laws are inadequate. In 2008 the Law Reform Commission said that legislative protection needs to be addressed. At the moment the question is: Are we, as members of the New South Wales Parliament, enabling the harassment of women by not acting?

The bill proposes three offences: offence one is interfering with access of persons to reproductive health clinics; offence two is causing actual or potential distress or anxiety to persons in a safe access zones; and offence three is capturing and distributing visual data of persons in safe access zones. Once this law passes, these offences will mean that women can no longer be interfered with, and that includes harassment, intimidation, threats, hindering, obstructing or impeding by any means. This means that women will be safe from unwanted and harmful communications about abortion when accessing, leaving, or attempting to access or leave a reproductive health clinic at which abortions are performed. It will also protect women from people intentionally filming or photographing them, without their consent, in a safe access zone.

Many opponents of this bill equate the issue with abortion. However, the bill is a law and order issue: it is about protecting people accessing lawful health services. As it stands, abortion is legal in New South Wales. I have reflected on contributions from community members including the Country Women's Association [CWA], one of the largest women's organisations in New South Wales. The CWA was formed to support women's health and I am proud to be a member of the CWA, which has been lobbying for safe access zones since 2012. On this legislation, the CWA has said:

It will also ensure that women from many walks of life, and for varied personal reasons, can safely access services when needed without the threat of protest, intimidation and general harassment. For the CWA, the passage of this Bill should not be focused on a debate about the ethical and personal opinions in relation to abortion. We do not have a policy position on this issue but this is not what the Bill is about. Debate should focus on women rights to safely access reproductive services; even if those services are not something that everyone would use, or indeed, agree with.

There is a range of reasons why women attend reproductive health clinics, including for termination or abortion. They might be seeking contraception such as the placement of an intrauterine device. They might be completing a miscarriage with a dilation and curettage, which no woman wants to experience. We do not have the right to know why a woman is attending a reproductive health clinic, and we do not have the right to judge the woman either.

While much of the treatment of women outside reproductive health clinics is incredibly ugly, there are also well-meaning individuals who believe they are assisting women, and go by the name of "sidewalk counsellors", although they have no qualifications to bear the title "counsellor". I praise any volunteer or kind soul who offers compassion and support to women facing the horrific challenge of deciding whether to terminate an unwanted pregnancy; any woman wishing to seek out these services should be readily able to do so. They do not need the interference of any person standing outside a clinic.

However, considering that in New South Wales women must already have satisfied requirements to access a termination or abortion, once they attempt to enter a clinic this determination to change their decision

can only be seen as patronising and a reflection of the personal views of the so-called "sidewalk counsellors" on abortion, rather than the individual circumstances and needs of the woman. These individuals are untrained, unqualified and, unlike other counsellors, counsel with a predetermined outcome to prevent the woman from accessing an abortion. I believe that this is a deeply personal decision that no woman makes lightly. As the Australian Medical Association NSW outlined in its endorsement of safe access zones, the associations support is:

... because people should be able to have unobstructed access to healthcare facilities and be able to approach them without harassment.

In the case of pregnancy termination, women do not seek these procedures out lightly and the absolute last thing anyone in those circumstances needs is abuse from strangers.

*[Extension of time]*

Many contributors to this debate have raised free speech and protest. This bill is about women accessing health services safely and legally. It is not about freedom of speech. There are many avenues for the expression of views about abortion, but when those views are expressed in a manner to impede a woman's access to a reproductive health centre then there is a clear harm. While there are many interpretations of the classical liberal tradition of John Stuart Mill, it is clear to me that the right to freedom of speech is seen as absolute and as self-expression. In this way, free speech should not be denied to a person expressing their own moral agency and autonomy. However, the ability to express a view on abortion does not extend to the absolute right to express these views to all people and in all places. It is a right that is appropriately limited in certain circumstances to pursue reasonable public policy outcomes. In this case, the freedom of speech must be balanced with the right to privacy, the right to health and the rights of women.

The right to protest has also been broadly understood within the classical liberal tradition as contingent. The law may limit the right to protest by prescribing restrictions to certain areas, as this Parliament has done with mine protests. We are often put in a position to determine which competing rights or freedoms matter most. There is also the right to moral autonomy and bodily integrity, which is absolute and applies to women seeking legal health services. As has been expressed in this debate, when their moral autonomy is harmed by protesters seeking to prevent them from accessing these health services, the direct harm neutralises any right to protest. We can therefore support the right of women to have a safe access zone outside of abortion clinics and support the right to protest, as long as it does not cause harm. Nothing in this bill restricts protesters from protesting about abortion in a whole variety of other appropriate forums across the State. The bill enshrines the right to protest by ensuring that these can occur in carved-out areas, including churches and outside Parliament House. The bill also ensures that people are able to exercise religious observance or engage in religious activities—even within the zone—such as silent prayer, the singing of hymns or other religious activities, so long as these activities do not contravene any provisions of the bill. For example, clause 98D only covers a communication that relates to abortions by any means in a manner that is able to be seen or heard by a person. Under the bill therefore silent prayer would not be prohibited, as some have claimed. I believe that this bill strikes the balance between a woman's freedom to access health services, freedom from threats and intimidation, and a broader right to free speech, free protest and free expression of religion.

I move now to the penalties. The maximum penalties for these offences include fines and a maximum penalty of imprisonment in the first instance of six months. I reflect on this because many have argued that these penalties could be seen as extreme. If we do not incorporate penalties, including imprisonment, then we are saying that the impact on women's lives of this behaviour is less important than the impact of other criminal activities that we legislate on. Of course, we would only expect that imprisonment would be imposed on the most serious offenders if a court determines that a custodial sentence is appropriate. We would not expect this to be seen in regular circumstances. However, by way of comparison, many other offences of a similar nature to those in this bill have larger maximum penalties, including in jurisdictions in Victoria, Tasmania and the Northern Territory where these laws are now enshrined.

Breaching an apprehended violence order carries a maximum penalty of two years imprisonment, using a surveillance device without authority carries a maximum penalty of 100 penalty units or five years imprisonment, and common assault carries a maximum penalty of two years imprisonment. I finish by reflecting on the message this legislation sends to women in our community. In my own community of North Shore—and I believe across New South Wales—there is an expectation that women should have the right to be free from harassment, intimidation and threat, and that they should be free to access health services that they are legally entitled to without the abuse that they currently face. Just over a year ago in my inaugural speech in this place I said:

... I will always be a champion for women, for our lives, our rights, our freedoms, our ability to determine our own futures, to compete on a level playing field, to access opportunities unconstrained by our agenda.

I am proud to be able to use my voice in this place for women in our community. I thank those who put together and introduced this legislation, notably my colleague in this place Mrs Leslie Williams, the member for Port Macquarie and Parliamentary Secretary, and in the other place my colleague the Hon. Trevor Khan and the Hon. Penny Sharpe. I note that this bill is the culmination of many years of work and extensive consultation across the community. I particularly acknowledge the Hon. Trevor Khan and the Hon. Penny Sharpe for the work that they have done in reaching out to the community with its expanse of views, for being willing to listen to alternative opinions and for crafting legislation that reflects the diversity of views to meet the objects of the bill while being broadly acceptable to those differences of opinion. I am proud to put my support on the record for this legislation and I commend the bill to the House.

**Ms JENNY LEONG (Newtown) (12:03):** I speak on behalf of The Greens in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. The Greens support the bill. I acknowledge the member for Port Macquarie for introducing the bill into this place, and it is absolutely true when she said that today is the day to protect women in New South Wales. While The Greens and I may have very strong views on what we should be doing about abortion law reform in this State, about protecting human rights and women's rights, the bill before us today is a simple one. It is about providing women with the ability to access health clinics, abortion clinics, and with the right to safe and accessible health expertise without being harassed, intimidated or bullied.

It is clear that that is what this bill is about, and I would urge all members who are listening closely and contemplating their decision to understand that. It is about making sure that women are not faced with harassment and intimidation when they undergo the most personal procedures that one could ever imagine. I inform members of the recent situation when I was pregnant and found myself in my local public hospital. It is confronting to be engaging with the reality of being pregnant and having contractions in a public hospital when people know you are the local member. It was a joyous time, a little traumatic and a little bit intense—it was a five-day labour and not the most pleasant of experiences. The reason I share that is because that situation was a positive and wonderful experience, and the reality of having people know what was happening to me at a very private and intimate time—even though it was a joyous time—was confronting.

I have had the other experience as well, and I have had to engage with other discussions around having a termination. I know that these are decisions that women make with a lot of personal consideration and discussions with the people closest to them and with medical experts and people who are advising and supporting them. When a woman makes that decision—whether to seek guidance and support in a women's health clinic to be able to have a child, or to have a termination—the idea that any individual thinks that it is appropriate to harass and intimidate her and her support people as they walk into the clinic, or the professionals who work in the clinic, is completely unacceptable. That is what we are discussing today. We seek to provide a level of support and protection to those women, their families and support people and to the people who work in the clinics so that they do not face that harassment and intimidation.

As members of Parliament we sometimes face harassment and intimidation as we walk into this place. The right of freedom to protest and to peaceful assembly is something that I will always protect. But there is no article in any United Nations convention that enshrines the right to harass or intimidate women. I encourage any members who are speaking against this bill to bring in the details of any United Nations convention or covenant that sets out the right to harass or intimidate women, because I would be interested to see that. As we have heard, the substance of this bill creates offences for the following actions within the 150-metre safe access zones: For interfering with access of persons to reproductive health clinics; obstruct or block a footpath or road leading to any reproductive health clinic; making a communication that relates to abortions that is reasonably likely to cause distress and anxiety; and capturing and distributing visual data of persons without their consent. It is clear that all of those acts would be abhorrent and should be punished. Women should be able to be free from that kind of harassment and intimidation.

The electorate of Newtown did have a number of clinics, but there is one clinic on Devonshire Street that has been the focus of much discussion. I mention that specific clinic because it is not just the women and the support people entering the clinic who experience harassment and intimidation. Devonshire Street—when it is not the focus of a large amount of light rail construction—is a busy thoroughfare for many people in Surry Hills walking to Central Station. There is trauma inflicted not only on the people accessing the clinic but also on residents who, on their daily commute, have to walk past the images and the intimidatory practices on that street. It is confronting for many people and the harm caused is not acceptable. Richard from Redfern wrote to me, supporting the bill, and stating:

I work on Devonshire Street and these people always block the footpath and are rude and aggressive.

These are not the words of a woman who has made a serious decision about access to reproductive health services; they are the words of a man who does not believe this behaviour is acceptable. Other members have provided

examples of the impact this harassment and intimidation is having on women. It is clear from this debate that many organisations, groups and people have been consulted. Fair Agenda, the Country Women's Association, GetUp!, the Human Rights Law Centre, the Women's Electoral Lobby, the Australian Medical Association (NSW), the National Association of Community Legal Centres and many others all support safe access zones. This legislation is the culmination of a number of campaigns and a great deal of work to ensure that women's safe access to reproductive choices is on the agenda.

I acknowledge that the Hon. Penny Sharpe and the Hon. Trevor Khan have been in the gallery of this Chamber to observe some of this debate. I also acknowledge my colleague from The Greens Dr Mehreen Faruqi, who introduced a bill in the other place designed to remove abortion from the Crimes Act 1900 and to progress the debate about women's access to safe reproductive choices in New South Wales. I urge all members to focus on what we are considering. We are saying that women accessing reproductive health services and abortion clinics should be able to do so without fear, harassment or intimidation. That is the purpose of this bill and that is what we should be ensuring as members of Parliament. If we cannot pass legislation to protect women and to ensure that they are free from harassment and intimidation when they access legal and professional health advice, what are we doing here?

I conclude by reminding members that last year this Chamber unanimously supported a motion I moved recognising that we support women's rights to make choices that are right for them. That includes respecting their right to access safe and legal abortion. As I said, that motion was passed without dissent. I said during that debate that I appreciate that individual members may choose not to access an abortion. However, it is our duty to respect the fact that women have the right to choose what is in their best interests, and it is a woman's right to access professional reproductive advice.

By supporting this bill, we are saying not only that a woman has those rights but also that she has the right to do so free of harassment, bullying, intimidation or fear. She has a right to do so safely and in a way that does not cause her harm when she is doing one of the most difficult things she could ever do. I urge all members to recognise that that is the only purpose of this bill; it does nothing else. By supporting this bill, members will be saying they will protect women in New South Wales so that they are able to live free from harassment and intimidation. I commend the bill to the House.

**Mr DAMIEN TUDEHOPE (Epping) (12:13):** I foreshadow that I will be moving amendments to the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018, and I have circulated those amendments. In its initial iteration on 30 March 2017 in the other place, this bill was introduced by the Hon. Penny Sharpe as the Summary Offences Amendment (Safe Access to Reproductive Health Clinics) Bill 2017, and it received a second reading on the same day. The speech given by the honourable member bears a remarkable similarity to the speech given by her in support of this bill, which has morphed into the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. This of course begs the question: Why the change? Why not proceed with the original bill? These questions bear examination because they shed light on the schizophrenic nature of the bill now before this House, having regrettably been passed by the Legislative Council.

The initial bill as proposed was an amendment to the Summary Offences Act. On its face, it was clearly a law and order bill. Being a law and order bill, why is the existing law insufficient to deal with its subject matter? One could quite rightly ask whether the Commissioner of Police has asked for additional powers to deal with issues that are the subject of this bill. If the answer was no, as I understand is the case, then why are we introducing these new criminal offences? That would have been a logical question sufficient to undermine the rationale for the bill.

However, there is another reason for not proceeding with this law and order bill—that is, the cynical assessment that a law and order bill could never be the subject of a conscience vote, and if it were opposed by the Government it would be lost on party lines. If the bill were to succeed, Government members would need to be given a conscience vote so that those members who wish to vote in favour of it could do so with impunity and without breaching party solidarity. Enter the Deputy President, the Hon. Trevor Khan. Mr Khan supports the bill, and I do not criticise him for that—although, as will become evident, I disagree with him. In consultation with the Hon. Penny Sharpe, the tool adopted to trigger a conscience vote by Government members was to introduce it as a bill amending the Public Health Act, hence the bill we have before us.

In my submission, this bill represents a failure of the policy that should stand behind legislation relating to public health decisions. By bringing what was previously a law and order issue under the Public Health Act, the proponents are seeking to argue that an evidence-based approach underpinned the necessity for this policy as a health issue. What is the health issue that is being addressed, and what is the body of academic evidence that supports the necessity for this legislation? Stories, opinions and ideologies do not make good health policy; research does. Where is the research that is relied upon by the supporters of this bill to justify the assault on freedom of association and freedom of political expression that we are being asked to support? I have scanned the



speeches given in the Legislative Council and can find not one reference to a study that demonstrates there are health impacts associated with seeing someone praying outside an abortion clinic. I have seen no studies that seek to show a link between an approach by a sidewalk counsellor and continuing health issues. I agree with Anna Walsh, who observes:

To qualify as a bona fide public health issue, as opposed to a law and order issue, Parliament should be satisfied that there is evidenced based research that can identify what activities occur outside abortion clinics in New South Wales, prove that these activities cause harm to women that can be differentiated from any harm consequent to undergoing abortion, and conclude that these activities represent a genuine public health risk that can only be controlled by the proposed insertion of these particular safe access zone laws ... If it is claimed that the expression of viewpoints causes harm to others, such an allegation must be supported by evidence with a metric for assessing harm that befits the notion of 'public health'. It would certainly be a novel proposition. Of course, the movers of this bill identify behaviour which is objectionable and which should be dealt with by the police using the powers now available to them. This bill is, was and always will be law and order legislation. Every member of this House should oppose it on the basis that there is sufficient law in place to deal with the behaviour concerned without the necessity of attacking free speech in the extreme manner in which this bill does. Abortion and all related issues are often portrayed as women's issues and it is said that men cannot have a view. With respect, that is nonsense. We all ought to have a view on achieving good health outcomes for everyone. At the conclusion of the debate in the Legislative Council, the Hon. Matthew Mason-Cox moved that the bill be referred to a committee. It is unfortunate that proposal was not supported because it would have been an indication that members in the other place were serious about considering health outcomes for women who access abortion clinic

When I was in practice as a lawyer I did a number of cases for women who had been hurt by abortion. One sticks out as relevant. This lady discovered she was expecting her fourth child. Her husband was exceedingly unhappy because of financial pressures placed upon the family and demanded that she have an abortion against her wishes. She approached a clinic and made an appointment. On the day in question she kept the appointment but changed her mind whilst at the clinic. She returned home having decided to continue the pregnancy. Her husband was very distressed and again demanded that she proceed with an abortion. Reluctantly she made an appointment. On arrival at the clinic she was again reluctant to proceed only to be told that she had reached the point of last opportunity. That was her counselling—the only counselling she received. She proceeded with the abortion. The consequence was that this lady developed severe depression and became unemployable. Her comment to me was: "I wish someone had spoken to me before I went ahead and offered me alternatives." I also received an email that stated:

I have the right to express my deep concern against this bill from my own private experience.

I was in the unenviable position of being on my own, in my early 20's, with an unplanned pregnancy. I had sought the help of a medical doctor at a hospital who confirmed my pregnancy and advised me to abort the child. Even though I asked for a second and then a third opinion, I wasn't offered another alternative which caused me great distress. Against my better judgment, I went ahead with this termination. Fair enough, I was in a foreign country and it would've been a difficult choice no matter what I did, however I knew at the time that going ahead was not the right way.

Without going into details, I ended up suffering physical, emotional and psychological damage over a long period because of that decision. Since and as a result of the abortion, I lost 6 babies in total, (2 ectopic, 4 miscarriages including 2 with 'Invitro-Fertilisation'). I sustained permanent damage which caused the inability to carry a child to full term.

How I wish I had been offered a better alternative for myself and my baby by caring, knowledgeable people! That child could've had a life, enriching another couple who could not!!

Those persons who have voluntarily provided their time to talk to women about possible alternatives have largely been demeaned and patronised in the speeches made both here and in the other place. They are pigeonholed as judgemental. Their crime is suggesting that there may be an alternative worth considering—and why would they not? The evidence is on their side. I wish to table a paper summarising the studies carried out in relation to the impact of abortion on various mental health issues. The paper identifies the link between abortion and substance abuse in at least 15 studies, the link between abortion and anxiety, the link between abortion and depression in at least 17 studies and the link between abortion and suicidal behaviour. [*Extension of time*]

If we were really concerned about women's health then these studies would underpin a committee inquiry into the manner in which women are hurt by abortion and what we should be doing to improve outcomes for them. This would be an inquiry which would be informed by research and would make wide-ranging recommendations for the abortion industry. The other thing which must be said is that, as a result of the alternatives offered by sidewalk counsellors to women who are seeking to access abortion clinics, hundreds of children are alive today because someone offered them an alternative. Are we really saying to all those children that we wish they did not exist? It must be said, of course, that every abortion that does not occur has a financial impact on the provider, which they have a vested interest in preventing. This bill is draconian in its form and intent. It seeks to criminalise dissent. Persons who are entirely law-abiding would, as a result of this bill, become liable to imprisonment for words which may cause potential anxiety and distress. As one author observed:

What 'communication' about abortion does not have the potential to cause anxiety or distress to someone entering or leaving an abortion clinic? Not measured against a standard such as the 'reasonable person', the potential impact on a sensitive person who hears or sees a communication about abortion is sufficient to conclude that a crime has been committed. A plain reading of the text of Clause 98D covers the sensitive person's overhearing of a communication not meant for them. This is an extreme and unjustified violation of freedom of speech.

I acknowledge that some of the extreme examples of bad behaviour which have been referred to by speakers here and in the Legislative Council are unacceptable. Having said that, it is my view that the current provisions of the criminal law are adequate to deal with the issue. I should point out that many of the examples are historical and have been properly handled or, alternatively, the veracity of the account has never been checked or is incapable of being checked. In my own experience, people who engage in prayer vigils and sidewalk counselling are peaceful and caring citizens, most of whom would never contemplate committing a criminal offence. For ideological reasons and to protect the business model of the clinic owner, what this bill does is to turn those people into criminals. The tragedy is that there are many who will be voting for this bill who know this and would, if given a choice by their party, vote against this bill. What a sorry place we have come to. I want to conclude by answering the rhetorical question put by the Hon. Trevor Khan when he said:

I therefore ask members to ask themselves these simple questions: How would you want your daughter or granddaughter or other member of your family treated if she had decided to attend one of these clinics?

Relying on a scenario which he says arises, he answered the question with a resounding no. For my part, I ask the same question with this scenario: How would you want your daughter or granddaughter or other member of your family treated if she had decided to attend one of these clinics? Would you want her treated with respect and dignity? Of course. Would you want her to be condemned to a potential future of depression and mental illness? The answer, of course, is no. Would I want someone who is brave and loving enough to say to her, "There is another way," and to offer alternatives and support? The answer to that question is a resounding yes. I seek leave to table a document.

**Leave not granted.**

**Mr DAMIEN TUDEHOPE:** The article, for the purposes of those who have an interest in the subject matter of that study, is "Does abortion cause mental health problems?" by Priscilla Coleman, dated 2012. For the reasons I have articulated, I oppose the bill and I will address further issues in relation to the amendments.

**Ms JODIE HARRISON (Charlestown) (12:28):** I wholly support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I start by thanking the Hon. Penny Sharpe for introducing the bill. I also thank the Hon. Trevor Khan, who through co-sponsorship of the bill has demonstrated that the dignity and medical privacy of women is not a partisan matter but instead a matter of common decency. Before I go any further in my speech, the previous speaker asked how we would want our daughters treated if they were in the position of needing a termination. I can firmly say that if I found my daughter in the position of needing to consider the future of a pregnancy, once she had made the decision, I would want her to go through with whatever that decision may be with the respect and support of her friends, family and the community, as it is nobody's business but hers.

Throughout my contribution to the debate, I acknowledge that this bill does not relate exclusively to cisgender women; it also protects men and non-binary people entering and in the vicinity of reproductive health clinics. As the law currently stands, people in New South Wales do not have the right to enter all health facilities free from harassment with their privacy protected and dignity intact. The bill aims to allow people to access reproductive health clinics safely and unimpeded. The clear objectives of this bill are: to ensure that the entitlement of people to access health services, including abortions, is respected; and to ensure that people are able to enter and leave reproductive health clinics at which abortions are provided without interference and in a manner that protects their safety and wellbeing and respects their privacy and dignity, including employees and others who need to access such clinics in the course of their duties and responsibilities. That is what I would want for my daughter.

We must first be clear that the bill is not about abortion. The bill is not pro-life or pro-choice. However, I put on the parliamentary record that at a Charlestown candidates forum held by the Australian Christian Lobby in March 2015, prior to the last election, I was asked for my view on abortion and at that time I stated that I was pro-choice, and I remain so. Having said that, in relation to this bill, a person can disagree with abortion and still agree that the harassment of women is not appropriate. A person's decision to terminate a pregnancy is a private medical and very personal matter between them and their physician. It is no-one else's place to interfere in that decision-making process. The bill ensures that people, be it patients or staff, who access reproductive health clinics can do so free from harassment and pressure.

By establishing an exclusion zone around reproductive health clinics, New South Wales will be brought into line with other jurisdictions, including Tasmania, Victoria, the Northern Territory and the Australian Capital Territory. It will ensure that women from many walks of life, for many and varied personal reasons, can safely access medical services when needed without the threat of intimidation and general harassment. No person should be intimidated or coerced to remain pregnant against their own informed decision. The bill will also ensure that clinic staff are free from harassment when entering and leaving work. The staff at these clinics are duty bound to

ensure that women are making decisions for themselves, but the unfortunate reality is that they too come into the firing line of sidewalk counsellors. I am a unionist, and firmly believe workers have a legal right to a safe and healthy workplace. A reproductive health clinic should be no different.

Women attend reproductive health clinics for many reasons. They might not be seeking a termination; they may be struggling with fertility or have suffered a miscarriage. These women deserve the right to seek medical treatment without unwanted offers of "sidewalk counselling". I thank the Hon. Sarah Mitchell for sharing her heartfelt story during the upper House debate. Through recounting her personal experience, she shed light on some of the emotional distress experienced by women who may, for whatever reason, require access to these health services. In New South Wales, women are offered alternatives and counselling prior to accessing these services. Their decision has been made. At the stage a person enters a clinic, they simply need to be granted privacy.

If a woman wishes to reconsider the decision to terminate her pregnancy, it should not happen on a footpath. Women should be able to seek counselling at their own behest in a private space where they feel safe. They are not seeking help in making their decision walking into a clinic, so the offer of so-called "help" at this time is completely unwarranted. Women should not feel intimidated, pressured or, even worse, bullied on a footpath. We do not tolerate bullying in any other place, so why should we allow it to happen outside reproductive health clinics? Some in this debate would have us believe this bill shuts down freedom of speech and the right to protest. That is completely and utterly untrue. The bill has no impact on a person's right to state that they are anti-abortion, nor their reasons for that view. A person can continue to state their views on abortion anywhere, at any time, except when it is most likely to cause distress to fragile, vulnerable people seeking a medical service.

What individuals often currently experience out the front of a reproductive clinic via "sidewalk counsellors" is not a protest. A protest is defined as being "a statement or action expressing disapproval of or objection to something"; not someone. Standing outside the office of an elected or appointed decision-maker is a protest. Picking a random corner, park or street is a protest. Holding up placards on Macquarie Street outside Parliament House, as happened this morning, is a protest. Targeting individuals as they are about to go to work or receive medical treatment is harassment. It is as simple as that. I have no objection to sincere protest. What I object to is harassment and intimidation of a woman, and sometimes her partner, at a time when they are potentially fragile. Women seeking abortions are seeking a medical service that neither affects nor is the business of anyone else.

As the Hon. Penny Sharpe and others detailed during the upper House debate, the State has laws in place to protect whales and forestry businesses from invasive activity; however, we are yet to allow women the same privilege. It is difficult to fathom that it is 2018 and we have not yet done this. More than 50 years ago, on 13 May 1968, at the International Conference on Human Rights the world declared family planning to be a basic human right obligation of every country, government and policymaker. The World Health Organization has now recognised nine standards that must be met in every community for every individual. These standards include, but are not limited to: informed decision, that every person must be empowered to make reproductive choices with full autonomy, free of pressure, coercion or misrepresentation; and privacy and confidentiality, that all individuals must enjoy the right to privacy when seeking family planning information and services. We have a chance here and now to act to ensure this basic human right for the women we represent. We need to act together here to eradicate reproductive coercion.

A fortnight ago the Republic of Ireland, a country that was once almost synonymous with Catholicism, voted to repeal its Eighth Amendment, allowing women the right to an abortion. New South Wales is yet to do the same. The vote served as a reminder that we are falling behind in women's rights. This bill does not provide abortion law reform; it does, however, rid the women of New South Wales of unnecessary trauma. Other views expressed in this debate were that the exclusion distance of 150 metres, as well as the penalty provisions for breaches, are too heavy handed in respect of the stipulated objective of protecting women from intimidation and harassment. I acknowledge this argument. However, proportionality is highly subjective and I believe the 50 units maximum penalty for a first offence to be entirely reasonable for the three offences outlined in the bill. It is also consistent with the penalties for intimidation under the Crimes Act 1900 and the Crimes (Domestic and Personal Violence) Act 2007.

I have no doubt that some who protest and provide "sidewalk counselling" have the best intentions to help women and children. However, there are other real means to help people in need. I urge those people to help precious infants who have been born on our streets; they can help in our schools and in our hospitals. They can help through a number of charities aimed at improving the lives of babies, children and women. These are the ways in which a child's life can truly be changed for the better by well-meaning people. In closing, I truly believe that if this bill passes through the House today—as it should—it will be a huge victory for the right of people in

Charlestown and across New South Wales to access a legal medical service free from intimidation and harassment. I wholeheartedly commend the bill to the House in its current form.

**Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (12:38):** I do not recollect, in my 27 years in Parliament, a bill being sponsored jointly by a member of the Opposition and a member of the Government. The introduction of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is significant in that members across the political divide have worked collaboratively on something they feel is important to the community. This issue is difficult to deal with because almost all of us are particularly sensitive to the topic of abortion. Whilst this bill does not directly change the law in relation to abortion, it certainly brings to one's mind all of the complex issues. I cannot imagine any more difficult issue to deal with than abortion. I think all members in this place would agree that a decision about abortion would be very onerous for a woman. If that woman had a partner, it would be an onerous decision for that woman and her partner.

I have a personal view that a person should not make a decision to seek an abortion lightly because it is a very serious decision. Having said that, I am strongly of the view that individuals who are going through the most difficult of circumstances should be able to make that decision. If a woman is making that decision without a partner, it is a very onerous decision for her. If she has a partner, then it is a very onerous decision for both of them. When the decision is made that an abortion is wanted and needed then a woman should be able to have such an abortion in a medically appropriate facility. She should be able to do that without any concern that others will seek to impose their views on her at a time when she is most vulnerable. This bill effectively ensures, through the creation of a safe zone around abortion clinics, that a woman and her partner—if there is one—can walk into a facility and walk out again, after having received medical attention, without further pressure being placed on them at what must be one of the most difficult times in their lives.

For many years I have known women who have had abortions—from long ago when it was frowned upon by all sections of the community. These days there are still very strong views but abortion is not now considered to be completely inappropriate; I think it is now considered, more broadly, that a woman should have the right to make that decision, although many would share my view that it should be a last resort. It certainly should not be treated lightly or without due consideration and without giving due weight to all the possible implications—not only for the unborn child, but also for the woman and the physical and long-term mental impacts that it may have on her, her partner and her broader family.

For a woman who has made that decision, having weighed up all those issues, the walk into an abortion clinic must be one of the longest walks any person can make; the walk out again would be equally long. I am sure that she would be challenging herself as she made that walk, right up until the moment that the procedure occurred. During the walk out of the clinic she would be going through the anguish of thinking, "Have I done the right thing?" This bill seeks to stop any harassment and intimidation or threatening, obstructing or impeding of her in her access to a clinic or when leaving it, so I think it should be supported. It effectively creates a safe access zone where a woman and her partner, if there is one, can enter a facility without additional stress, emotional torment and risks of physical threat. That is why I know that I should support the bill.

I acknowledge that there are very strong views across the community on abortion—I think that is implicit in what I have just said—and whether it should be available or ever pursued. The reality is that in New South Wales abortion is legal in particular cases and in certain circumstances. Under the Crimes Act, abortion is lawful where there are grounds to consider that the abortion is necessary to prevent the woman from serious danger to her life or physical or mental health. Any medical practitioner carrying out an abortion has to be satisfied that those criteria are met before the procedure is undertaken.

Nothing in this bill will change that test. Nothing in this bill will change that requirement for a lawful abortion. This bill is simply about making sure that a woman who wants to undergo this lawful medical procedure—hopefully after appropriate, grave consideration—can do so without being harassed, intimidated or threatened. It also ensures that the people who are providing the service—the health practitioners, the nurses and the administrative staff who work in clinics—are not harassed, intimidated, threatened or obstructed when they enter a facility. Members come to work in Parliament each day knowing that there is a good chance there will be community members outside expressing their concerns, and sometimes even their contempt, for what we are about to do in this place. [*Extension of time*]

The right to protest is something that I think each one of us in this place would champion vigorously. Protesting outside Parliament—protesting in public places generally—is entirely appropriate, acceptable and necessary in a democracy. But we, as we come to work, are not anguished by what we are doing in a personal sense—by something that will be a weight upon our lives forever. That is the sort of anguish that I am sure is in the mind of most people when they approach a facility for an abortion—that very final action. As an individual, I believe this bill does achieve the appropriate balance. I have heard arguments saying that it impedes free speech.

It does not. Free speech and the right to protest can occur outside the Parliament. It can occur in the streets around Sydney, and the streets right across this State and nation, in the parks everywhere. All this bill is saying is that in a place where people are highly sensitised to what is about to happen, making a huge decision, there should not be others adding to the burden of that decision. On that basis, I support the bill.

**Ms TAMARA SMITH (Ballina) (12:50):** On behalf of The Greens I contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I think it is important to remember that this bill is about safe access. I understand why people are discussing and raising the issue of terminations in New South Wales, and we are working on law reform in that area. But this bill is about safe access. It is about the shaming, harassment and gaslighting of women. We have heard comparators—attempts at comparators—around protesting, which truly boggles my mind. There is no comparison here. At the risk of trivialising the issue, when I listen to some of the arguments against this bill I think we might be in a scene from *The Handmaid's Tale*. This is about a safe access zone for women. It is not about gagging free speech, and it is certainly not about stymieing the right to protest.

But this debate raises for me the idea that women do not know their own mind. The idea that for some reason—on this question of their reproductive rights, their right to receive medical advice and treatment in one of the most democratic countries in the world—they do not know their own mind by the time they have arrived at a health clinic is truly disturbing. In this day and age the patriarchal view is still so strong that people are suggesting perhaps women do not know their own minds. I say at the outset that that is a draconian, outdated and sexist view of women. As we have heard from many of my female colleagues, the idea that women do not know their own minds and do not understand the issues surrounding their reproductive rights is ludicrous. The idea that we should prioritise the ideological views of people who harass women and their families outside these clinics is truly bizarre.

The Greens strongly support the creation of safe access zones around reproductive health clinics to stop the harassment of patients and to provide them with safety, peace of mind and medical privacy. A year ago, this Parliament debated the first bill in its history to decriminalise abortion and create safe access zones. The provisions of access zones in that bill were similar to the bill before the House today, with a few differences. The abortion law reform bill that my Greens colleague Mehreen Faruqi, MLC, introduced did not pass in the other place but my colleague in this place Jenny Leong—whom we have heard from today—passed a motion stating that in this place, the Legislative Assembly, we support the right of women to make a choice that is right for them, which includes respecting their right to access safe, legal abortions. I commend my colleague Mehreen Faruqi for her work in this space and I also congratulate the co-sponsors of this bill in the upper House, the Hon. Penny Sharpe and the Hon. Trevor Khan.

Women exercising their choice to have an abortion should not have to run a gauntlet of aggressive opponents reproaching them in the most horrifying terms. We know that anti-choice protesters harass patients in the hope that they can intimidate them away from a clinic or at least make them feel bad or ashamed about having a pregnancy termination. They stand outside reproductive health clinics, trying to shame or guilt women, and attempt to influence them on matters that are their entirely private, personal medical choices. These actions belie their claims of free speech or rightful protest. We would not accept this behaviour for any other medical procedure—or for any other life choices for that matter—and we should not put up with it in this context.

Everyone should be able to access medical treatment without intimidation, in privacy, with dignity and in safety, no matter what their choices are. To address this, the bill creates buffer zones of 150 metres from the premises of a reproductive health clinic and creates offences for certain behaviours within these zones. People are still free to sit outside the 150 metres and carry on with whatever they like. They are still free—I believe—to stand inside the zone and sing hymns. But what we are talking about here is safe access zones. Those who oppose safe access zones often cite a right to freedom of speech and a right to protest, which do not have any relevance here. What happens outside an abortion clinic is neither free speech nor protest—it is harassment and intimidation. It is high time this Parliament drew a line between what counts as political protest and what is clearly harassment. We have seen this recently in the courts, which are doing our work for us.

The Australian public overwhelmingly supports women's right to access reproductive health services—including abortions—and to do so in safety. In fact, the largest survey of public opinion in Australia has shown a consistent rise in support for women to be able to make that choice. According to the Australian Election Study, support for women to be able to obtain abortions now stands at 69 per cent, which is the highest it has ever been. In New South Wales the support for reproductive rights cuts across political party lines and goes well into the high 80s in percentage terms for both the decriminalisation of abortion and the enactment of safe access zones.

We know that some of the tactics of the anti-abortion lobby include walking in front of women to slow them down, standing so close to the entrance of a clinic that they make those walking in extremely uncomfortable and also harassing people in other ways. These tactics are straight out of the strategy playbook of huge anti-abortion groups in the United States. Clause 98C of the bill makes it an offence to interfere with anyone in a safe

access zone. This offence captures the acts of harassing, intimidating, besetting, threatening, hindering, obstructing or impeding by any means. We definitely need these laws.

Alarming, women are filmed entering or leaving clinics. Of course, this is intended to name and shame women. Clause 98D of the bill makes it an offence to make any communications related to abortion within safe access zones. This would cover all of the above and many other methods used to interfere. Victoria, the Australian Capital Territory, the Northern Territory and Tasmania have all enacted safe access zones outside abortion clinics. Today this Parliament has been given another opportunity to do the right thing. I note the Women's Electoral Lobby—in particular, I congratulate Diane Frewin—for its work on this issue.

The Women's Electoral Lobby supports the safe access zones bill for the following reasons: All citizens have a fundamental right to privacy in accessing medical and health services, and health and community service workers are entitled to safety in carrying out their work. The successful passage of this bill will be a recognition of the fundamental right of women to receive a medical service free from intimidation and harassment. There is no comparator. It will ensure that women across the State can access abortion services safely and securely, and free from intimidation, interference and harassment.

I remind members that abortion offences remain in the New South Wales Crimes Act 1900 and abortions are accessible only through legal loopholes and workarounds created by case law. That is the great unfinished business of this Parliament. I am proud of my party's role in putting debate on decriminalising abortion and creating safe access onto the political and public agendas. I hope in the near future members can return to this Chamber with a view to making another change—a change that will ensure patients and their doctors in clinics within these access zones are not operating under the shadow of criminality, and that women have the unambiguous legal right to make decisions about their own bodies.

I wholeheartedly commend the bill to the House. I remind the House that the bill is about safe access. It is about women being able to seek medical advice and treatment. It is about reproductive health rights, women being free from shaming, gaslighting and intimidation, and the understanding that women are aware all of the issues surrounding their reproductive rights. Women do not need to be second-guessed; they know their own minds and they know their own bodies. Women are now able to access reproductive services safely and free from intimidation, which is well and truly overdue.

**Mr KEVIN CONOLLY (Riverstone) (13:00):** I oppose the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 because it is draconian in its scope, penalties and intent. I believe there is a clear mismatch between the objects of the bill and the proposed provisions. Further, it is likely that it is unconstitutional. It is inappropriate for this House to introduce such a bill while Acts similar to that on which the bill is based are under challenge in the High Court. The bill represents a massive overreach in the use of legislative power, extending way beyond any proportionate exercise of that power in the circumstances. It singles out one opinion to banish from the public domain. This is offensive to the concept of a pluralistic society. If the bill passes into law in New South Wales the opinions of some citizens will not be able "to be seen or heard"—those are the words in the bill.

This is an extraordinary proposition—that people need so much protection they may not be able to be allowed to see or hear something with which they may potentially disagree or which may cause them distress or anxiety. There is no similar provision in any other legislation in this country. It is only in this sphere, and for ideological reasons, that such Acts are proposed. I acknowledge that the bill is not about abortion per se, but it is impossible to consider it without an understanding of the abortion issue. I am pro-life and as such I readily understand the motivation of people who are prepared to stand outside a clinic and cop abuse, criticism and hostility from people who do not want them standing there because they passionately believe they are doing good. They believe that a human being has a right to life. They believe in the sanctity of life and want to help any woman who wants their help to preserve a life. They offer that help freely, knowing that they will cop heaps for doing so.

It should not come as any surprise or any remarkable revelation to say that for the baby involved, abortion is never safe. Abortion never ends well for the baby. I use the term "baby" knowing it is something you "can't say" in this context, but it is necessary for members as legislators to understand the motivation of people who do this. After all, they are the ones who are going to be criminalised by the bill. Surely it is not beyond the capacity of members of Parliament sitting in judgement of those people to try to understand their motivation. It starts with the belief that an unborn child is a baby.

That is the reason why people are prepared to put themselves in the position of being abused, hassled, objected to, yelled at and all the rest that happens to these sidewalk counsellors because they have chosen to speak to women in this situation. There has been a litany of allegations about the behaviour of sidewalk counsellors. Most of that is unjustified and unproven. If there are cases where things of that nature have happened, as the member for Epping said, the law exists to deal with such matters. Those people should be prosecuted if they have

behaved in the manner alleged; no member would disagree with that. If people are going to intimidate, bully, actively threaten people or any of those things that have been alleged—and some remarkable allegations were made—the law exists and it should be used. I would support that.

Equally, the member for Epping and others told of sidewalk counsellors standing peacefully, wishing to talk to anybody who would like to talk to them, and to offer help if somebody was willing to accept their approach. Why should that behaviour be criminalised? Clearly there are standards of acceptable behaviour in the community which should be enforced and which the existing law is there to enforce. But why should silent prayer, a silent protest with a single sign, the offer of conversation and help if somebody wants it, be criminal? Yet that is what the bill quite explicitly proposes. Any of those actions, no matter how gently put, how quiet, how static or how peaceful, any form of communication about abortion in a particular area would be criminal. Why should that be so? That is draconian. It is disproportionate. It does not belong in the laws of this State to do that to people who out of conscientious conviction are prepared to act peacefully. If they are not going to act peacefully, throw the book at them; use the law. If they are going to act peacefully, if they are going to act in a spirit of generosity and respect to people but out of sincere conviction about the need to protect the life of an unborn child, why should that be criminal?

There are important issues at stake, some of which have been ventilated by other speakers in this debate. I refer to the international human rights agreements, to which Australia is a signatory. Article 6 of the International Covenant on Civil and Political Rights is very direct. It says that every human being has the right to life. There are strongly held views on both sides of the abortion issue. I accept that the bill is not fundamentally about that issue. Yet members of this House cannot help but acknowledge that there are many in the community who hold the view that an unborn child has the right asserted by Article 6 of the international covenant. Therefore, members need to understand and accept that genuine motivation of those people acting in conformity with what they believe is that covenant of human rights. The law should prescribe unacceptable contact which offends community standards, which is violent, intimidatory or bullying, but allow peaceful, proper, respectful and dignified actions to be legal, even if ideologically and philosophically different and we do not agree with the person acting in that manner.

I believe the bill is unconstitutional based on the Victorian and Tasmanian legislation subject to challenge in the High Court. The court's reasons for its judgement in *Brown v Tasmania* strongly suggest that these Acts will be found invalid due to their impact on the implied freedom of political communication. Given the reality of that challenge and the timing, with the court due to conclude its deliberations in a couple of months, there is no reason for this Parliament to rush and pass legislation of this kind, which very shortly could be found to be unconstitutional. I refer to Article 19 of the international covenant previously referred to relating to free speech, which says:

Everyone shall have the right to hold opinions without interference.

And importantly: ... the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. The article goes on to state that there should only be such restrictions as are necessary for the respect of the rights or reputations of others, and for the protection of national security or of public order, public health or morals. It is not an unfettered right—there is a need to demonstrate that free speech does not offend any of those other items. If we had a law that impacted on free speech it would have to meet that test; it would have to be necessary to do those things. I do not believe that this bill comes anywhere near being necessary. There are many other ways to deal with a perceived problem, if there is one, rather than a draconian hammer-blow kind of bill such as this which would cut off all communication about a subject in a particular area.

I believe there has been no community call for such legislation. I have been a local member for seven years and in those seven years I do not believe anyone has asked me to introduce such a bill or to bring about such a change. Other members may have received such a request, but there has been no overwhelming community call for such legislation. As we heard from the member for Epping, if the police thought they did not have the tools necessary to do their job to keep law and order in these contexts they would have come forward and suggested that new powers be created to enable them to keep law and order. They have not done so. [*Extension of time*]

One reason why members generally have not been receiving such requests is that existing legislation and common law deals with these issues. If there is not proper enforcement of the law we would start there. If we needed to amend general law and order legislation we would go there before introducing a specific bill to criminalise an action. The test of whether something is reasonably likely to cause distress or anxiety is an incredibly low bar for criminalising an action. We have no comparable legislation that would do that. Normally, it should be pretty hard to commit a crime. A fairly conscious decision would have to be made to breach an Act or a standard of public decency. People would know that they were doing it. It should not be possible to commit a crime accidentally or inadvertently—something as simple as somebody taking offence at or being caused anxiety

by something that someone has said. This is an incredibly low threshold and one which I do not believe is acceptable for legislation in this House.

If the ban on communication about abortion applied in the 150-metre zone it most likely would apply on private property—even a person's own home. It could well apply in a registered club, a meeting hall or a community centre. It could apply potentially in the office of a political party, a registered third-party campaigner or in a private business if it happened to be located in that place. These impacts on communication would be seen generally as unreasonable—that people cannot have a conversation on their own property or in their own homes if it could possibly be seen or heard from some other premises. That ban is totally disproportionate to the issue we are purportedly attempting to resolve. People could be jailed for peaceful protest, for prayer, or even silently praying with a single sign or a slogan on a T-shirt. I think it is unlikely but a lawyer could even be charged for advising a woman about the current law relating to abortion if he did so within 150 metres of a clinic. I know of no other situation in which somebody could break the law by telling people about the law.

Yet any communication on the subject would be prohibited. This is an extraordinarily blanket provision and a dramatic overreach. It is seeking out a response totally disproportionate to the issue that we are attempting to resolve. I understand that the women who are approaching clinics in these situations are sensitive. It is a stressful, momentous and difficult time for a person. There is an onus on anybody who approaches them or who seeks to offer counsel or assistance to recognise that and to behave respectfully. If we need to find a way to address that let us do so. However, to criminalise any communication about a subject in a particular place is a massive overreach and it is massively disproportionate to the issue concerned.

There are many other things I would have liked to have said, but I will finish by reading a message that I received from Pete Bouris who works in an office on Holt Street in Surry Hills near one of the clinics that is the subject of this discussion. He has been working there for 2½ years and he regularly goes to the cafe outside the front of the building for his morning cup of coffee and a chat with some friends. Over a period of 2½ years he has frequently observed the people standing on the streets. His message is as follows:

Tuesdays, Fridays and Saturdays. Generally, there are between five and ten people present, although only three of them stand outside the clinic, with the balance of the group standing on the other side of the road...

However, as we have heard, when there have been roadworks on Devonshire Street they have had to reposition themselves. The message continues:

In the two and half years, I have observed them, the members of the prayer group, prayers and counsellors, have been respectful and peaceful. I have never witnessed any member of the prayer group harass, intimidate, or verbally abuse any person going into the clinic. Rather, I have witnessed passersby verbally abuse the group, and on several occasions, I have witnessed people entering the clinic verbally abuse the prayer group. I felt it was important to let you know my observations, based on the length of time I have observed this group. It is very surprising to hear people suggest that this prayer group is a violent presence in my community ...

I oppose the bill.

**Ms YASMIN CATLEY (Swansea) (13:16):** I am pleased to support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018, which will create a safe access zone for women and health workers who are accessing reproductive health clinics in New South Wales. The overview of this bill states:

The object of this Bill is to provide for safe access zones around reproductive health clinics at which abortions are provided so as to protect the safety and well-being of, and respect the privacy and dignity of, those accessing the services provided at those premises as well as those who need to access those premises in the course of their employment.

The bill does that by creating a new offence, whereby the obstruction of a footpath or road leading to a reproductive health clinic, or the interference of a person who is accessing the facility within a 150-metre exclusion zone will be prohibited. The penalties attached to this new offence, as prescribed by this bill, are measured and proportionate to the harm that these protesters are inflicting on patients and are in line with similar offences in New South Wales. Importantly, it also creates an offence around the intentional capture of visual data without another person's consent within that 150-metre exclusion zone and the publication or distribution of that data. No woman should be subjected to intimidation and harassment when accessing lawful and essential health services, and health professionals should not be subjected to intimidation and harassment when going about the course of their employment.

It has always been my strong view that women are entitled to make decisions about their own bodies and accessing reproductive healthcare facilitates for the making of those free and informed choices. Deliberately inhibiting access to those facilities by violating the privacy and dignity of people trying to access reproductive health services is something that has gone on for far too long. This bill will see us take an important step towards affording women the dignity and respect that they deserve when making decisions about their own bodies. I know that some opponents of this bill have suggested that this infringes on our civil liberties, including the right to



freedom of speech and the right to protest. Community Legal Centres NSW, an invaluable organisation, made the important point that the right to free speech is not limitless. It states:

It can and should be subjected to limits in specific instances where it impacts on other people's rights and safety, such as the right to healthcare.

I understand that some people feel strongly about abortion. However, those people can still have their say by engaging in the ordinary avenues that are available for political dialogue. Furthermore, I am satisfied that there are sufficient provisions in this bill to protect the rights of protesters beyond these specific circumstances. This includes distributing election material during election periods, protesting in the vicinity of Parliament House and/or on the grounds of a church or other venue ordinarily used for worship. As has been noted in earlier debates, this bill does not seek to prohibit the engagement in public debate about law reform or public and political matters. Instead it seeks to prohibit the intimidation and harassment of individual women and their partners while they are going about their private lives and accessing medical services, which are inherently personal and private.

Safe access zones already have been introduced in other jurisdictions around Australia that include Victoria, the Australian Capital Territory and Tasmania. Soon the Northern Territory will have safe access zones. This legislation has broad support across the community, including from the Community Legal Centres NSW, the Country Women's Association, the Council for Civil Liberties, and Marie Stopes International, to name just a few. Indeed, at a recent Children by Choice conference, one of the calls to action was the introduction of safe access zones in all Australian jurisdictions. More than 200 delegates from across Australia and New Zealand attended, including members from the Queensland Law Reform Commission, the Royal Australian College of General Practitioners, the Royal Australian and New Zealand College of Obstetricians and Gynaecologists and health and community professionals who are working with women experiencing unplanned pregnancy in schools, hospitals, sexual health clinics and other fields of practice.

I note the presence in the Chamber today of the Hon. Penny Sharpe. The stories shared by my colleague the Hon. Penny Sharpe in the upper House—stories of women who have been subjected to the kind of behaviour that this bill will prevent—have been incredibly moving. I am grateful that those women shared their stories to help ensure that this essential legislative reform passes. I thank those women for their bravery. I thank my friend and colleague the Hon. Penny Sharpe for bringing this bill to Parliament. I also thank the Hon. Trevor Khan for co-sponsoring the bill. I acknowledge that the member for Port Macquarie, who introduced the bill in this House, also is present in the Chamber, as is the member for Maitland. I thank them all very much for supporting those brave women.

Marie Stopes International, which is one of the larger reproductive health services providers in the Hunter region, has long been advocating for safe access zones around its clinics to protect patients and staff from the indignity they currently are forced to endure at the hands of self-appointed sidewalk counsellors. I know of one young woman who described her experience attending a clinic in Broadmeadow. About to begin her final year of university, she discovered she was unexpectedly pregnant. The decision to terminate the pregnancy was not a difficult one, but the anxiety prior to her appointment was crippling—not because she was tormented by the decision she had made, but by what she may face outside the clinic on that day. The additional security measures taken by the clinic to protect her privacy, and to protect the privacy of other patients, clearly were necessary; but that simply added to the anxiety of what was a simple medical procedure that she required. The Central Coast Women's Health Centre, which is a feminist health organisation run by women for women living on the Central Coast, also has been campaigning to have the laws changed through its network of women's health centres around New South Wales. On this issue, the centre's members have said:

The Central Coast Community Women's Health Centre strongly supports this Bill.

We believe all women deserve the right to enter all health facilities free from harassment or fear of intimidation. Women who need an abortion should be able to access this healthcare with dignity, free from the judgement and abuse of strangers who know nothing about her life, or the circumstances that may have brought her to the clinic.

There are many reasons why a woman may require an abortion and it is often a very difficult decision, taken with great care after lengthy consultation with her medical practitioner and family. Her privacy and her decision should be respected and supported by appropriate community and legal protection.

The practice of self-declared "sidewalk counsellors" who wait outside these clinics and behave in a threatening and intimidating manner by pushing at those trying to enter brochures with graphic, inaccurate and offensive images, taking photos and video without permission, blocking entry to clinics, calling women "child murderers", and harassing staff at these clinics is highly intimidating and must be stopped.

Creating a safe access zone around health services that provide abortions is absolutely necessary to protect patients' rights to medical privacy. Safe access zones are needed to allow the nurses and doctors and other staff to enter and leave their workplace without risking their safety.

Thank you for the support for this Bill. It is much needed to support all women in our community.

As a member of Parliament who represents a regional electorate, I know that women living in regional and remote areas face large barriers when it comes to accessing reproductive health services. In the Swansea electorate, there are no abortion service providers, and women must travel to either Wyong or Broadmeadow if they need to access those services. Women must overcome not only the financial barriers in place, with abortions costing hundreds of dollars, but also the barriers posed by limited transport options. In overcoming those barriers, it is simply unjust that the women must then face a barrage of abuse and harassment once they arrive at the clinic. [*Extension of time*]

The significant and lasting impacts that that kind of abuse and harassment have on women and their partners when they access reproductive health services have been well documented and discussed at length throughout this debate. A recent study into the barriers faced by women in rural and remote areas in accessing abortion services found that despite welcome legal and pharmaceutical reform in Australia, results from this small study indicate that there is a long way to go to remove barriers on issues rural women experience in the process of accessing reproductive health care, including the pervasiveness of abortion stigma. The stigma exists, despite the fact that one in three women will access abortion services in her lifetime. At the end of the day this is a medical procedure that many women access, and no other medical procedure attracts such a level of harassment, abuse or infringement on people's privacy.

It is apparent to me that existing laws are insufficient to protect the privacy and dignity of women who are accessing important health services in this State. Therefore, this legislative action is necessary. In conclusion, I draw to the attention of the House the comments of a prominent academic at the University of New South Wales, who noted that "the passing of this legislation would produce the odd result of providing protection for a practice that is otherwise outlawed." It is true to say that the regulation of abortion services by the Crimes Act 1900 is anachronistic. I hope that will change in the near future, and certainly while I am a member of this House. This bill is the next step in ensuring that women will be able to attain abortion services in a way that is accessible, lawful and, most importantly, safe. I therefore commend the bill to the House.

**Mr JOHN SIDOTI (Drummoyne) (13:29):** My contribution to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 will be brief. I appreciate that abortion is a very difficult issue for everybody—including my parliamentary colleagues, my constituents and members of my family. It is still a huge issue for me. But, ultimately, this bill is not about abortion. That is a debate for another time. This bill is about being respectful to women. That is a law and order issue. Whatever is a person's view on abortion, I do not think it is appropriate for women to be harassed and intimidated outside reproductive health clinics. We do not know the reasons and motivations for women attending. However, it is certain that, whatever the reasons, the decisions have not been made lightly. The decision causes the women involved much personal distress and anguish. The last thing they need at such a vulnerable time is for complete strangers to confront them with graphic images and, at worst, yell out obscenities. That is not the way I was brought up to behave.

I was raised to give women the highest respect. What is going on outside some of these clinics is not the highest respect. It is not respectful at all. Free speech is an important right that we must protect. But it cannot be absolutely protected at the cost of all other rights. Women have a right to dignity and privacy. I believe this bill balances the right to free speech with women's right to dignity and privacy. I respect all people's views on controversial social issues such as abortion. It is important for there to be a public debate about it. It is a debate that is necessary. But there are more appropriate ways for people to express their views on abortion than by harassing vulnerable women. I have given careful thought to how I will vote on this bill. My mind and my heart tell me that this is a balanced bill. It will ensure that women are respected. I will be supporting the bill.

**Debate adjourned.**

**TEMPORARY SPEAKER (Mr Greg Aplin):** I shall now leave the chair. The House will resume at 2.15 p.m.

#### *Announcements*

#### **MEMBER FOR NORTH SHORE**

**The SPEAKER:** I wish the member for North Shore a happy birthday.

#### *Visitors*

#### **VISITORS**

**The SPEAKER:** I extend a very warm welcome to David Barnett, husband and guest of the Minister for Family and Community Services, Minister for Social Housing, and Minister for the Prevention of Domestic Violence and Sexual Assault. I welcome students and teachers and the principal of Terrigal Public School, guests of the member for Terrigal. I also welcome Ella Anderson, daughter and guest of the member for Tamworth.

*Members***REPRESENTATION OF MINISTERS ABSENT DURING QUESTIONS**

**Mr ANTHONY ROBERTS:** I advise the House that the Minister for Police, and Minister for Emergency Services, will answer questions today in the absence of the Attorney General.

*Question Time***SYDNEY STADIUMS**

**Mr LUKE FOLEY (Auburn) (14:22):** My question—

**The SPEAKER:** Order! I call the member for Keira to order for the first time. There will be no interjections.

**Mr LUKE FOLEY:** My question is directed to the Minister for Sport. A report prepared by the consultancy Asset Technologies Pacific for the Sydney Cricket and Sports Ground Trust gives the total cost of security, safety and compliance works at the Sydney Football Stadium as \$19.5 million. Why has the Minister claimed that the cost is \$141 million?

**Mr STUART AYRES (Penrith—Minister for Western Sydney, Minister for WestConnex, and Minister for Sport) (14:23):** It is critically important that the people of New South Wales know that we have explored all of the requirements under the Building Code of Australia and the disability access code to ensure that we meet all of the requirements for building a stadium for the future. As stated in the business case that we have released publicly, that compliance has been assessed by some of the best quantity surveyors and managers of buildings in this State. In order to meet the requirements for the Sydney Football Stadium we have to spend \$141 million as a base level for meeting the standards under those codes.

It also showed that we would need to spend in excess of another \$350 million to maintain the safety and security compliance requirements for the Sydney Football Stadium into the future. When changes to the way the stadium network functions are added, the improvement in the quality of services and the renewal of other parts of the stadium that were coming to the end of their asset life, Infrastructure NSW demonstrated that a refurbishment of the Sydney Football Stadium would cost in excess of \$700 million. Infrastructure NSW also stated in the business case that a replacement of the stadium would cost \$730 million. The Government was in the position of deciding whether to refurbish the existing stadium—and have long-term maintenance costs that would far outstrip the costs of a new build—or have a brand new, world-class stadium at Moore Park at a cost of \$730 million. The long-term costs of running the stadium if we went with the new build were in the best interests of taxpayers. We want to ensure that not only do we have first-class facilities that attract major events to Sydney, but also that if we choose to refurbish the facility we will be making the best financial decision on behalf of the people of New South Wales.

All of this information is available in the business case that has been released by Infrastructure NSW. It has been assessed by Cabinet and we have made a very clear decision that the \$730 million investment in a new stadium at Moore Park is in the best interests of the people of New South Wales. It puts us back in the game when it comes to world-class, high-quality sporting infrastructure. Members should look at the other capital cities. Since the 2000 Olympics, Suncorp Stadium has been rebuilt in Brisbane. In Victoria, AAMI Park has been developed, and there have been changes to Rod Laver Arena and Margaret Court Arena. An entirely new stadium has been rebuilt at the Adelaide Oval. This year the new Perth Stadium opened. New South Wales has slipped to the back of the pack when it comes to sporting infrastructure. The business case that we have released shows clearly that the best investment option for the people of New South Wales is to knock down and rebuild the Sydney Football Stadium.

**APPRENTICESHIPS**

**Mr AUSTIN EVANS (Murray) (14:26):** My question is addressed to the Premier. What is the New South Wales Government doing to create more trade apprenticeships and to give young people the skills they need for the jobs of the future?

**Ms GLADYS BEREJIKLIAN (Willoughby—Premier) (14:27):** I thank the member for Murray for his question. I know that jobs are important to his community, as they are to all members in this Chamber. Madam Speaker and all of our colleagues know that we are the party for the workers. That is why today, with the Deputy Premier and the Minister for Transport and Infrastructure, I announced that New South Wales is leading the nation in hiring apprentices and creating jobs. Today I announced that from now on for all major projects 20 per cent of the tradies must be apprentices. In 2014 the Government set a target of creating 1,000 apprenticeships. That has been doubled on all government projects. Over the next four years we will be creating 4,000 apprenticeships. We

appreciate how important it is, not only to give people jobs but also to ensure that we have the skills in the pipeline to create the jobs of the future. We know those opposite do not like to hear about this because in government they created unemployment, negative jobs growth and negative economic growth. They had a deficit, nearly lost the triple-A credit rating and the list goes on.

**The SPEAKER:** Order! The member for Port Stephens will come to order.

**Ms GLADYS BEREJIKLIAN:** I thank the industry. The Chief Executive Officer of the NSW Business Chamber, Mr Stephen Cartwright, was present today to ensure that industry gave its ringing endorsement to this proposal. I was pleasantly surprised—not only did they give us their support but they also urged us to keep going. This is the message we send out to the rest of Australia: Follow the lead of New South Wales, because no matter where we are building—whether it is in the bush, in the regions or in the cities—we will ensure every project has a cohort of apprentices. Those apprentices will not only be trained while they are working on significant and major government projects but also have an opportunity to pursue their careers outside of government projects in future.

We know that because of this Government's investment in employment and major infrastructure there is a lot of private investment coming in. That means we need tradies all round—not only on government projects but also on all projects across New South Wales. That is extremely important. The Government knows that this plan announced today will work because it has been trialled at five locations. It has already been trialled on the city metro and this morning we met with three fantastic apprentices: Tracey and Gage from Mount Druitt and Harry from Bankstown. They are electrical apprentices from Western Sydney working on the metro project. Tracey said I was allowed to say that she is middle aged. Normally one associates apprenticeships with young people. Tracey was about my age and was very pleased to be taking up an apprenticeship in electrical trades for the first time in her life.

This is a policy for everyone. Of course, it will support young people in particular who want to get into trades, but it is also there for people who want a change in career or to forge a career moving forward. Apart from the Sydney Metro and WestConnex—projects members opposite do not support—we have also trialled it in a regional area at Lismore Base Hospital. I thank the member for Lismore for his support. I notice the Leader of the Opposition took his bus there and called for more spending on health—outside the new hospital we built in Lismore. That is okay. Members opposite are lazy, lazy, lazy. They do not really know what is going on.

This plan was also trialled at the Clarence Correctional Centre. I thank the member for Clarence for his support. Apprenticeships have been created on that project, which is very important for his community. Another project those opposite do not support is the Broken Hill pipeline. I thank the member for Barwon for his support. Many apprentices are progressing that project now. This Government is not only getting on with creating the jobs for today but also ensuring that we have the skills we need for the future. I know members opposite do not care about these issues; they just care about the headlines. They do not care.

**Mr Anoulack Chanthivong:** That's not true. If you cared about TAFE—

**Ms GLADYS BEREJIKLIAN:** If you cared about workers you would have done something.

**The SPEAKER:** Order! Interjections from Opposition members will not be tolerated.

*[Extension of time]*

**Ms GLADYS BEREJIKLIAN:** Some facts that members opposite want us to forget include that when they were in government 40¢ to 60¢ of every dollar they spent on TAFE went into administration, not frontline courses for apprenticeships.

**The SPEAKER:** Order! I call the member for Londonderry to order for the first time. I call the member for Londonderry to order for the second time.

**Ms GLADYS BEREJIKLIAN:** They slashed vocational education and training funding by more than half a billion dollars.

**The SPEAKER:** Order! I call the member for Cessnock to order for the first time.

**Ms GLADYS BEREJIKLIAN:** I know when I speak on these issues it falls on deaf ears, because all members opposite care about is the headline, tomorrow's story. They do not care about investing in apprenticeships or workers and they do not care about infrastructure or the future.

**The SPEAKER:** Order! I call the member for Rockdale to order for the first time.

**Ms GLADYS BEREJIKLIAN:** The one thing we know they do care about is their own publicity. Yesterday I spoke about the member for Maroubra suddenly becoming more active. He has been out meeting with the candidates for Ryde, Oatley, Riverstone and Heathcote, and the member for Newcastle. Guess what we found?

Since 8 May the head office Lady Boss has stopped posting anything by the Leader of the Opposition. The only things she is posting are from the member for Maroubra. There have been two videos in the past two weeks.

**Ms Jenny Aitchison:** Point of order: My point of order is under Standing Order 129. We have had a respectful debate. Why does the Premier have to bring it down to this level? It is not relevant.

**The SPEAKER:** Order! There is no point of order. The member for Maitland will resume her seat.

**Ms GLADYS BEREJIKLIAN:** As I was saying, most importantly, NSW Labor's Facebook account, controlled by the general secretary—she calls herself the Lady Boss—has not posted any material featuring Luke Foley since 8 May. In the past week alone there have been two videos from the member for Maroubra.

**Mr Clayton Barr:** Point of order: My point of order relates to Standing Order 129.

**The SPEAKER:** Order! The Premier has completed her answer.

### CENTRAL WEST ROADS

**Ms PRUE CAR (Londonderry) (14:34):** My question is directed to the Minister for Roads, Maritime and Freight. In March the Minister was jumping for joy because she had finally determined the Castlereagh corridor. Does the Minister stand by this final determination, which will destroy hundreds of family homes, or will she be having an honest conversation with the people of the Central West about her jump turning into a backflip?

**Mrs MELINDA PAVEY (Oxley—Minister for Roads, Maritime and Freight) (14:35):** The conversations I have with the people of the Central West are about the fact that this Government has trebled the road funding going to that part of the world, and they are the conversations they want to have. I am supported by people like the member for Bathurst, who wants to ensure that there is more support and infrastructure in his region.

**The SPEAKER:** Order! I call the member for Rockdale to order for the second time.

**Mrs MELINDA PAVEY:** As the member for Londonderry knows, the Government is also planning for the future of Western Sydney. As the Premier has said repeatedly, we are proud and pleased to be consulting with and listening to the people of Western Sydney. We will go through the consultation process with decency and honesty and will deliver a plan that puts the people of Western Sydney—

**The SPEAKER:** Order! Members who continue to interject will be removed from the Chamber for three hours under Standing Order 249A. They should consider what that would mean.

**Mrs MELINDA PAVEY:** This Government is prepared to do the hard work. However, we are also prepared to consult and to listen to what people have to say so that we get our policy and planning position right. The consultation period has just concluded and the Government will go back to the people of Western Sydney and the Central West with other news about their future.

### RURAL AND REGIONAL HEALTH SERVICES

**Mr STEPHEN BROMHEAD (Myall Lakes) (14:36):** My question is addressed to the Minister for Health. How is the New South Wales Government investing in rural and regional hospitals after years of neglect by Labor?

**Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (14:37):** It was a pleasure to join with the Premier in visiting the Myall Lakes electorate on Thursday and Friday last week. We saw evidence of the amazing work the member is doing and how his community is responding. I will deal with the facts. I am not talking about Labor's phoney facts but the real facts about what has gone on in New South Wales. Under the Labor Government, NSW Health staff were left to work in hospitals that were more than 50 years old. Members of the Opposition failed time and again to ensure that our hospitals and the staff—who are committed to caring for patients—were given the facilities they needed. Over 16 years, the Labor Government failed to ensure that that goal was at the centre of its policy.

**The SPEAKER:** Order! I call the member for Kogarah to order for the first time.

**Mr BRAD HAZZARD:** For more than half of that time—

**Ms Kate Washington:** You should stop talking about us all the time.

**The SPEAKER:** Order! I call the member for Port Stephens to order for the first time.

**Mr BRAD HAZZARD:** We won't be talking about the member for Port Stephens after the next election because she won't be here.

**The SPEAKER:** Order! I again warn members that if they are removed from the Chamber it will be for three hours. I call the member for Prospect to order for the first time.

**Mr BRAD HAZZARD:** For more than half of that time, the person pulling the Labor Party strings was its general secretary—none other than the Leader of the Opposition, Luke Foley.

**Mr Greg Warren:** Point of order: My point of order relates to Standing Order 129. The Minister is being totally irrelevant. We are flattered by his reference to 16 prosperous years of Labor.

**The SPEAKER:** Order! The member will resume his seat. There is no point of order.

**Mr BRAD HAZZARD:** We must be in different time zones. The member is certainly having prosperous times in Campbelltown as a result of this Government spending more than \$650 million on his local hospital. The general secretary of the Labor Party was pulling the strings and he made sure that the Labor Government did not spend money on hospitals. Of course, he is now the Leader of the Opposition and the Labor Party continues not to commit funds to hospitals in this State.

As I said, the Premier and I were in Taree last Friday, and we visited the Manning Hospital. What a wonderful visit. The staff were incredible and the Premier and I had a fabulous time talking to them. They were happy to have us there and also to know they have a government that is committed to providing funding for their hospital. The Government had already allocated \$20 million for incredible new building works before the visit, and we were able to inspect the project, which is well underway. The Premier responded to active lobbying by the local member—who made it very clear on behalf of staff that more money was required for the hospital—by announcing the allocation of another \$20 million, taking the hospital upgrade budget to \$40 million. That additional funding will pay for the fit-out of the expanded medical imaging department and provide new MRI, CT, ultrasound and fluoroscopy equipment.

This Coalition Government has funded far more than the upgrade of Manning Hospital. It has spent \$10 million on Cooma Hospital, \$120 million on the Goulburn Hospital redevelopment, \$30 million on the Inverell Hospital redevelopment and \$52 million on stage 3C of the Lismore Base Hospital redevelopment.  
[Extension of time]

**The SPEAKER:** Order! If the member for Bankstown and the member for Lakemba are not interested in listening, they can leave the Chamber.

**Mr BRAD HAZZARD:** We have spent \$73 million on the Macksville District Hospital redevelopment, \$450 million on the new Maitland Hospital—and I know the member for Maitland appreciates that—and \$582 million on Tweed Hospital stage one and the car park, which will be fantastic. It does not matter where people are, the Liberal-Nationals Government is delivering. What would the former general secretary of the Labor Party do if he were in government?

**Mr David Harris:** Point of order: My point of order relates to Standing Order 129. The Leader of the Opposition has never been the general secretary of the Labor Party.

**The SPEAKER:** Order! The member for Wyong will resume his seat. There is no point of order, particularly under Standing Order 129.

**Mr BRAD HAZZARD:** There is a question on everyone's lips, and it is certainly on Chris O'Keefe's lips. At 1.33 p.m. today he asked online, "Can anyone tell me what Luke Foley wants to do for the people of this State?"

**The SPEAKER:** Order! I call the member for Bankstown to order for the first time. I call the member for Kogarah to order for the second time.

**Mr BRAD HAZZARD:** He went on to say, "He is nine months from an election and a suite of considered, bold policy is nowhere to be seen."

[Interruption]

The member for Kogarah should have a look on the internet. There is next to nothing on the internet.

**The SPEAKER:** Order! I warned the member for Kogarah about calling out. I direct the member for Kogarah to remove himself from the Chamber for three hours under Standing Order 249A.

**Mr BRAD HAZZARD:** There goes one of the possible future leaders, tracking down Mr Foley.

**Mr Chris Minns:** Pack it in, mate.

**Mr BRAD HAZZARD:** Should that not be dealt with, Madam Speaker?

**The SPEAKER:** Order! The Clerk will stop the clock. I will deal with the comments that the member for Kogarah made on his way out. I now change my ruling from Standing Order 249A to Standing Order 249 so the member will not return until this time tomorrow—not that we are here tomorrow. Standing Order 249 is more serious and is being applied due to the member's attitude.

*[The member for Kogarah left the Chamber at 14:44 accompanied by the Deputy Serjeant-at-Arms.]*

**The SPEAKER:** I have been advised by other occupants of the chair that members are using some pretty foul language and abusing them as they leave the Chamber. Members who continue to use such language will be named—it is pretty serious. I do not care whether a member likes a decision of the Speaker or a Temporary Speaker. Members must not abuse them with foul language as they leave the Chamber. This is not the first time it has happened and it is not only the member for Kogarah who has done it. Question time will not descend into chaos as it did two weeks ago. I have warned members about their behaviour. They should not be surprised if they are removed from the Chamber for three hours under Standing Order 249. I will not let members back in if they request to come in to vote for or against something. I hope it is clear to members that if they wish to abuse me on their way out of the Chamber they will suffer the consequences.

#### NEWCASTLE PORT CONTAINER TERMINAL

**Mr TIM CRAKANTHROP (Newcastle) (14:45):** My question is directed to the Minister for Roads, Maritime and Freight. Given the proposal for the T4 coal export terminal at Newcastle has been scrapped, will the Minister now lift the anti-competitive restrictions that were placed on the development of a container terminal at the port at the time of privatisation—

**The SPEAKER:** Order! Government members will come to order. I would like to hear the question.

**Mr TIM CRAKANTHROP:** Will the Minister now lift the anti-competitive restrictions that were placed on the development of a container terminal at the port at the time of its privatisation so that Newcastle can strengthen and diversify its economic base?

**The SPEAKER:** Order! Members have been warned.

**Mrs MELINDA PAVEY (Oxley—Minister for Roads, Maritime and Freight) (14:46):** It is important to reflect on the actual facts around the freight industry, container terminals and the needs of this State before we go down the track of listening to the member for Newcastle, who is clearly a member who cannot be trusted with facts and information. The facts are—

**Mr TIM CRAKANTHROP:** Point of order: It is Standing Order 73. The Minister is making personal imputations by saying I cannot be trusted—absolute rubbish. I do not think the Minister can be trusted or the Premier as she makes dodgy deals to cut our whole northern—

**The SPEAKER:** Order! As the member has made those comments, he can resume his seat. There is no point of order. That is disgraceful. I call the member for Newcastle to order for the first time. Members will not show disrespect to the Chair.

**Mrs MELINDA PAVEY:** I will call out members of Parliament when they are dodgy with the facts and the truth.

**The SPEAKER:** Order! I call the member for Cessnock to order for the second time.

**Mrs MELINDA PAVEY:** The member for Newcastle fails to ultimately explain the simple fact that what is in 85 per cent of containers that come into New South Wales is distributed within a 40-kilometre radius of Port Botany. It is industry that decides, based on the population, where those containers are unloaded.

**The SPEAKER:** Order! I call the member for Cessnock to order for the third time.

**Mrs MELINDA PAVEY:** The simple, pathetic arguments put up by the member for Newcastle—

**The SPEAKER:** Order! I call the member for The Entrance to order for the first time. I call the member for Gosford to order for the first time.

**Mrs MELINDA PAVEY:** Even his own father-in-law knows he has no understanding of business and economics and how the State should be and needs to be run.

**The SPEAKER:** Order! I call the member for The Entrance to order for the second time.

**Mrs MELINDA PAVEY:** He is also opposed to the \$120 million investment in Newcastle that was delivered by the lease of the Newcastle port.

**The SPEAKER:** Order! I call the member for Newcastle to order for the second time. The member will cease interjecting.

**Mrs MELINDA PAVEY:** I will not be lectured to by that simple member who does not understand economics or what is required for the industry.

**The SPEAKER:** Order! I call the member for Lakemba to order for the first time.

**Mrs MELINDA PAVEY:** Does the member for Newcastle understand that—

**Ms Kate Washington:** Point of order: It is Standing Order 73. The Minister has made continuous attacks on and imputations against the member for Newcastle in circumstances where—

**The SPEAKER:** It might be relevant if the member for Newcastle had not done the same to the Minister five minutes beforehand. The member will resume her seat. There is no point of order.

**Ms Kate Washington:** It is continuing and I would ask—

**The SPEAKER:** The accusations from the member for Newcastle directed to the Minister were exactly the same, so I am calling it quits. The Minister has the call. I deem all members on one or two calls to order to be on three calls to order.

**Mrs MELINDA PAVEY:** The simple fact is that it would cost \$850 a container to transport by road from Newcastle to the markets where the products in 85 per cent of the containers need to go, which is ultimately Sydney.

**The SPEAKER:** Order! I direct the member for The Entrance to remove himself from the Chamber for a period of three hours.

*[Pursuant to sessional order the member for The Entrance left the Chamber at 14:50.]*

**Mrs MELINDA PAVEY:** There is a difference between being a passionate local member, supportive of your communities—

**The SPEAKER:** Order! There is too much noise in the Chamber.

**Mrs MELINDA PAVEY:** He has never been a passionate local member supportive of the coal industry, which is the biggest output from the Port of Newcastle. He is embarrassed by coal. He is embarrassed by the workers. He is embarrassed by the people who do the heavy lifting in his electorate. He speaks with a forked tongue on the facts about containers.

**Ms Kate Washington:** Point of order—

**The SPEAKER:** I ruled on the member's previous point of order. What is the member's current point of order?

**Ms Kate Washington:** I had thought, Madam Speaker, that you had said the ledger was even and the Minister would no longer continue to attack the member for Newcastle. I would ask that Standing Order 73 be applied.

**The SPEAKER:** Order! The member will resume her seat. There is no point of order.

**Mrs MELINDA PAVEY:** I am simply attacking the proposition put forward by the member for Newcastle. His plan would impact on the cost of product getting into the homes of the people of New South Wales. That is not based on facts. It is not based on economic output. It is just based on lies and stupidity.

**The SPEAKER:** I warn members that 17 of them are deemed to be on three calls to order.

#### NSW STATE EMERGENCY SERVICE

**Mr THOMAS GEORGE (Lismore) (14:52):** My question is addressed to the Minister for Police, and Minister for Emergency Services. How is the New South Wales Government supporting the hardworking volunteers of the NSW State Emergency Service across the State?

**Mr TROY GRANT (Dubbo—Minister for Police, and Minister for Emergency Services) (14:52):** The New South Wales Government has a proud record of investing in the men and women who wear orange across our State and answer the call, morning or night, when their community is doing it tough in some of the most adverse weather conditions known to man. More than 9,500 NSW State Emergency Service volunteers stand ready every day to answer the call for help—of which there have been some 32,000 in the past 12 months—to enable their community to feel confident that they are well equipped with the very best tools, because we on this side of the House are giving them support. We have been providing them with record support so that in times of



floods, storms and emergencies they have the vehicles, boats and equipment that ensure the life-saving tasks they perform are done safely, with maximum efficiency and in a minimum of time. Put simply, as technology advances we cannot afford for our volunteers to be left behind.

Since 2012 the New South Wales Government has invested \$46 million for the procurement, maintenance and control of the 637 strong SES operational vehicle fleet. Before that investment, those vehicles, boats and trailers were owned by councils and paid for by ratepayers. The NSW SES did not exactly know how big its fleet was. The condition and age of vehicles varied greatly and they were deteriorating quickly. I was advised that in some cases vehicles were not suitable for volunteers to undertake their life-saving statutory roles. With the record \$46 million investment, the New South Wales Government bought hundreds of vehicles from councils, taking the liability off councils, ratepayers and communities. During the trial period, the investment has secured almost 200 new vehicles across two generations of development, design and engineering, including storm vehicles, rescue trucks and first responder vehicles.

As the Minister, it was an absolute privilege to hand over many of the state-of-the-art vehicles to units in all corners of the State across all electorates and to meet with the volunteers who use them and carry out their important work. The Government support of the NSW SES fleet has not stopped there. In fact, thanks to the Treasurer and the Premier of New South Wales, it has grown. Today, I was proud to join the Treasurer to announce another \$56.4 million over the next four years for nearly 500 new vehicles, marine vessels and trailers for our heroes in orange. This funding will give our dedicated SES volunteers 270 vehicles, 124 marine vessels and 95 trailers. In the next financial year alone our units will receive five snowmobiles, 30 trailers, 37 boats, and 78 cars and trucks. I am proud that the Liberal-Nationals Government will have invested more than \$100 million in the NSW SES operational fleet in the 10 years since 2012. This is in addition to other record funding and support from the Government to the emergency services agency.

There was \$13.5 million for an NSW SES headquarters, which I opened with the Parliamentary Secretary for Education and the Illawarra and South Coast, and the member for Wollongong. It is a state-of-the-art facility that houses 200 staff. In addition, the Government has committed \$24.3 million to the Strategic Disaster Readiness package. They are only two examples of the investment that the Government is making, in addition to the fleet investment. I thank the member for Lismore for the opportunity to advise the House of this news. As the member for Lismore and many others in the House know, the member for Lismore's electorate and local units were subject to an amazing volume of storm and flood activity. In response, his local units are set to get five flood boats and four vehicles in the next 12 months.

**The SPEAKER:** Does the member for Blue Mountains have a problem with this information?

**Ms Trish Doyle:** No.

**The SPEAKER:** Then the member will cease interjecting. I call the member for Blue Mountains to order for the first time.

**Mr TROY GRANT:** The volunteers from Murwillumbah, Tabulam, Urbenville, Lismore and Tenterfield, whom I have met with on numerous occasions, will receive these vehicles. The people who worked on the front line against ex-tropical Cyclone Debbie, which I referred to, deserve this investment in their equipment, as do all of our heroes around the State. During the cyclone, the volunteers worked around the clock and provided invaluable assistance. They are true community heroes. Each time I meet with those who battled against what Mother Nature threw at us last March, I am filled with pride. In fact, on 30 March last year the NSW SES managed the most rescue events in a single 12-hour shift in its 10-year history at the State Operations Centre. It was an absolutely remarkable effort that saved countless lives.

#### **BLUE MOUNTAINS AND PENRITH TRAINS**

**Ms TRISH DOYLE (Blue Mountains) (14:58):** My question is directed to the Minister for Transport and Infrastructure. In November 2017, the new timetable removed a stop at Redfern for trains from the Blue Mountains and Penrith. Three months have passed since the Minister promised to reinstate the stop at Redfern, but services are still not stopping there. When will the Minister listen to commuters and provide a stop at Redfern?

**Mr ANDREW CONSTANCE (Bega—Minister for Transport and Infrastructure) (14:59):** I thank the member for her question. Finally, she has asked a question about something other than trains not fitting through tunnels. The trains will fit through the tunnels. I am glad to have been asked this question because those opposite seem to miss the point on a couple of things about the timetable. When we introduced the timetable, one of the things that I indicated was that we would allow the community to respond to it and would make some minor changes if we had to, to try to improve the network. When we introduce a timetable, one of the smartest things we can do is see how the community settles into it. We did that in Newcastle with the bus timetable and we will do it with the timetable here.

**Mr Stephen Kamper:** Put the glasses on now.

**Mr ANDREW CONSTANCE:** I will read something in a minute. As part of that, we indicated that we would look at the Redfern and Blue Mountains situation and rectify it. I note that Labor Party members, particularly the member for Strathfield, have had a lot to say about the timetable. It is interesting that, according to the Labor Party, everything seems to be the timetable's fault, even though it is delivering hundreds of additional services to the people of Western Sydney. I note that the member for Seven Hills represents an electorate where the frequency of the trains has increased dramatically.

We have seen an enormous increase of 750 services on the weekend to many parts of Western Sydney. Of course, the Labor Party has committed to reversing the changes and going back to the old timetable, slashing hundreds and hundreds of services to the people of Western Sydney. On 23 May 2018 I was somewhat bemused about the timetable because the member for Strathfield issued a media release stating that the timetable was at fault for delays in the on-time running performance the week before. As any good transport Minister would, I went to Sydney Trains to try to find out exactly what went on during the week of 14 May.

**Ms Trish Doyle:** Point of order: The question was about Redfern.

**The SPEAKER:** The member asked a question on timetabling. The Minister is being relevant.

**Mr ANDREW CONSTANCE:** I decided I would find out what went on during the week of 14 May and do an analysis of what happened, supposedly because of the timetable.

**Ms Jodi McKay:** Point of order: My point of order relates to Standing Order 129. The question was about Redfern and a commitment made by the Minister that has not been fulfilled.

**The SPEAKER:** I have already ruled on that. The member will resume her seat. The Minister is being relevant to timetabling.

**Mr ANDREW CONSTANCE:** Labor was trying to create the impression in the community that the timetable was not working. I had a look at what went on during the week of 14 May. On Monday 14 May there was a sick passenger on the train at Yennora, which delayed 16 peak services, and a sick passenger at Green Square, which delayed a train. On Tuesday 15 May vandals in the rail corridor at Parramatta delayed services and an intoxicated passenger fell onto the rail corridor. On Wednesday 16 May there was a police operation at Loftus, which delayed the trains.

**Ms Trish Doyle:** Point of order: My point of order relates to both Standing Order 129 and Standing Order 59. The Minister's answer is tedious. We need to hear about Redfern.

**The SPEAKER:** I have already ruled on that point of order. There is no tedious repetition. Members should study the standing orders and use them appropriately, instead of time wasting.

**Mr ANDREW CONSTANCE:** Those opposite are very happy to issue press releases saying that the timetable is at fault, when there were drunk passengers and sick passengers causing delays to services. That is outrageous given there has been enormous growth. In one 12-month period patronage increased on Sydney trains by 11 per cent. This Government is investing \$1.5 million in more trains and more services, delivering 24 new Waratah trains on the tracks. The Government will also upgrade services across Western Sydney, where there has been an enormous surge in demand.

The Government is very proud to build a completely new passenger rail network for Sydney called the Sydney Metro, which those opposite do not support. It is a bit rich for Labor members to claim that there are timetable problems when there are other issues at play across the rail network. Those sorts of problems existed under every timetable over the last century. As a result, on occasion, passengers have been delayed. The specific answer to the question of the member for Blue Mountains is: two weeks.

#### NEW SOUTH WALES COUNTERTERRORISM MEASURES

**Mr KEVIN CONOLLY (Riverstone) (15:05):** My question is addressed to the Minister for Counter Terrorism, Minister for Corrections, and Minister for Veterans Affairs. What is the Government doing to ensure that New South Wales has the strongest counterterrorism measures in the country?

**Mr DAVID ELLIOTT (Baulkham Hills—Minister for Counter Terrorism, Minister for Corrections, and Minister for Veterans Affairs) (15:05):** I am grateful to the member for Riverstone for asking me a question about security and safety because, Lord knows, I will not get a question about security and safety from the Leader of the Opposition. He is way too busy being compromised by foreign powers and overseas interests. He is way too busy taking cash from murderers. In fact, the other day I found something—here it is—that belonged to him.

**Mr David Harris:** Point of order—

**The SPEAKER:** The Minister will resume his seat. I will hear the point of order, but I remind members not to take continual, time-wasting points of order.

**Mr David Harris:** If what the Minister is saying does not contravene Standing Order 73, then nothing does.

**The SPEAKER:** Both censure motions contravened that standing order.

**Mr DAVID ELLIOTT:** I am tabling the contents of the brown paper bag. It can be converted to foreign currency for him if he needs it.

**The SPEAKER:** The member for Wyong will resume his seat. I take his point of order; I warn the Minister about making those kinds of comments.

**Mr DAVID ELLIOTT:** I will table that document because the Leader of the Opposition—

**Ms Yasmin Catley:** Point of order—

**The SPEAKER:** The Clerk will stop the clock. If the member for Swansea's point of order wastes our time we will sit here until 4 o'clock.

**Mr DAVID ELLIOTT:** The Leader of the Opposition promised that he would give back a quarter of a million dollars, but he has not. It is blood money.

**Ms Yasmin Catley:** The Minister is using a prop. I ask whether the Minister got that from Newcastle.

**Mr DAVID ELLIOTT:** The member could buy Newcastle with the amount of money that the Leader of the Opposition has taken.

**The SPEAKER:** The member cannot ask the Minister anything. The member for Swansea will sit down and stop shouting. If she does not, I will direct that she remove herself from the Chamber. I remind the Minister about the use of props.

**Mr DAVID ELLIOTT:** The prop has disappeared, but the fact remains that the Leader of the Opposition owes the people of New South Wales a quarter of a million dollars.

**Mr Guy Zangari:** Point of order: I take two points of order. The first relates to Standing Order 129. The question was about counterterrorism and what the Minister was talking about had nothing to do with counterterrorism strategies. The second is Standing Order 73. The Minister is seeking to impugn the reputation of the Leader of the Opposition. If he wishes to do so, he must do so by way of substantive motion.

**The SPEAKER:** I think the matter of the return of certain money has been canvassed widely in the press. The member will resume his seat.

**Mr DAVID ELLIOTT:** It is a statement of fact. He has taken the money of a murderer. Just as you signed a false statutory declaration, he took money from a murderer.

**The SPEAKER:** The member for Cessnock, the member for Lakemba and the member for Fairfield will resume their seats. I remind those members that they are on three calls to order.

**Mr Guy Zangari:** How about what you do in your ministerial car late at night?

**The SPEAKER:** The member for Fairfield will remove himself from the Chamber for three hours.

*[Pursuant to sessional order the member for Fairfield left the Chamber at 15:08.]*

I warn members who shout at me that they will be asked to leave the Chamber for 24 hours. I have ruled on the point of order about props: I warned the Minister. I ruled on the point of order about making critical comments: I warned the Minister.

**Mr Clayton Barr:** Point of order—

**The SPEAKER:** What is the member's point of order?

**Mr Clayton Barr:** My point of order relates to Standing Order 250 (5). The Speaker instructed the Minister to sit down while the point of order was being taken against him. The Minister sat down but he then ignored your instruction and got back to his feet.

**The SPEAKER:** The Minister would never ignore my instructions. The member will resume his seat; he is being facetious and childish.

**Mr Andrew Fraser:** To the point of order: The member for Cessnock just breached Standing Order 250 (5). If he wishes to stand by that standing order he should be asked to leave the Chamber.

**The SPEAKER:** The member for Coffs Harbour is correct, but I am a tolerant Speaker.

**Mr Jihad Dib:** Point of order: I ask that you direct the Minister—

**The SPEAKER:** Is the member for Lakemba arguing with me?

**Mr Jihad Dib:** No, I am explaining.

**The SPEAKER:** What is the member's point of order?

**Mr Jihad Dib:** I ask that you direct the Minister to speak through the Chair.

**The SPEAKER:** The member will resume his seat.

**Mr Jihad Dib:** We have been talking about behaviour; the Minister should not behave like that.

**The SPEAKER:** Goodie, goodie; well done!

**Mr Jihad Dib:** Madam Speaker, you were talking about people's behaviour. There was no need for that snide comment.

**The SPEAKER:** The member for Lakemba will remove himself from the Chamber for three hours.

*[Pursuant to sessional order the member for Lakemba left the Chamber at 15:11.]*

I ask the Minister to direct his comments through the Chair. The point of order is upheld, but the member for Lakemba's comment was out of order.

**Mr DAVID ELLIOTT:** I will gladly return to the leave of the question, which related to safety and security. The Leader of the Opposition is unsafe; he has an unsafe pair of hands. He does not have an idea when it comes to dealing with public policy in relation to security and safety. That was the tenor of the question.

**Ms Jodi McKay:** Point of order—

**The SPEAKER:** I ask the Clerk to stop the clock.

**Ms Jodi McKay:** My point of order relates to Standing Order 73. If the Minister wants to launch an attack on the Leader of the Opposition he should do so by way of substantive motion. I ask that you direct him to answer the question.

**The SPEAKER:** I ask the Minister to return to the leave of the question. That is a valid point of order at this stage of the answer. The Clerk should start the clock.

**Mr DAVID ELLIOTT:** In my own defence, I have only repeated what is in the public domain, on the public record.

**The SPEAKER:** I have said that.

**Mr DAVID ELLIOTT:** In 2016 I requested a full and thorough investigation into the management of radicalised inmates. The report is in. Two hundred staff have been interviewed and I am delighted to report to the House that no evidence of widespread radicalisation exists in the prison system. While the Government welcomes the recommendations, which confirm that it follows best practice when it comes to the challenge of managing radicalised inmates. Those inmates may or may not include Milton Orkopoulos, who was incarcerated for sex offences; Eddie Obeid, who was incarcerated for fraud; Ian Macdonald, who was incarcerated for misappropriation; or Phuong Ngo, who was incarcerated for murder. I understand that Ray Harty, another Labor politician, is allowed to come. Those five delinquents could officially make up a quorum for a Labor branch meeting.

But I want to get on with the serious business of dealing with counterterrorism in our corrections facilities. The Government has spent \$47 million over the past three years to expand the high-risk management corrections unit, also known as Supermax, to create a multipurpose unit. This investment will enable the better management of inmates who have been charged with or convicted of terrorism-related offences. The increase in capacity will be from 45 to 75. That is an unfortunate number—some would call it a very unsavoury number—given the amount of terrorist activity that is going on around the world, but we are prepared. We have established a dedicated counterterrorism unit within Corrective Services, with specialist teams to combat radicalisation across prisons. We are working alongside police and other intelligence-gathering agencies to manage the risks associated with inmate radicalisation.

Public safety is the Government's number one priority. In October last year the Premier committed the Government to the National Facial Biometric Matching Capability, which will provide law enforcement with advanced facial matching technology. The budget this year will provide police with additional resources they need to implement the scheme. In relation to identity theft, it costs Australia \$2.2 billion and affects approximately 5 per cent of all Australians. This will help prevent the use of fake or stolen identities, which is a key enabler of terrorism and other related crime. Last year the Government launched the Step Together helpline to reduce the risk of violent extremism before law enforcement intervention is required.

Along with the Minister for Police and the Attorney General, the Government has given police certainty when it comes to the use of lethal force in response to an act of terrorism, with the Terrorism Legislation Amendment (Police Powers and Parole) Bill 2017. The Act provides immunity and criminal prosecution for police who use force in good faith during a declared terrorist attack. Stronger parole provisions creating presumption against parole for anyone who demonstrated support or links to terrorism now exist. [*Extension of time*]

That presumption will apply to offenders with links to terrorism irrespective of the offence for which they are in custody. A post-sentence framework to complement the Commonwealth's Criminal Code Amendment Act, which created a national post-detention scheme for terrorism offenders, is also being constructed. This allows the Supreme Court to impose an extended supervision or a continued detention order upon an inmate if the offender poses an unacceptable risk of committing a terrorism-related offence post sentence. The Government is also working on legislation to restrict extremist material and propaganda being circulated or distributed amongst correctional centres. This will ban the viewing, possession and distribution of extremist materials in New South Wales jails, which inhibit the prisoners' rehabilitation, and stop the increased risk of radicalisation to other inmates.

#### NSW POLICE FORCE DRUG DETECTION POWERS

**Ms JENNY LEONG (Newtown) (15:16):** My question is directed to the Minister for Police. Given that drug sniffer dogs get it wrong 75 per cent of the time, what powers is the NSW Police Force relying on to confiscate tickets from innocent festival goers who are searched and on whom no drugs are found?

**Mr TROY GRANT (Dubbo—Minister for Police, and Minister for Emergency Services) (15:16):** As members in this House are well aware, far too many deaths are occurring at dance parties and music festivals across this country from attendees consuming illicit drugs. Each of these tragic deaths, often of young adults, highlights the risks posed by these substances. No-one can ever be certain what they are taking or how it might affect them. Government authorities, including the NSW Police Force, continue to work with event organisers to ensure that dance parties and music festivals are as safe as possible. Police currently use drug detection dogs to great effect at such events as a means of deterring users, catching suppliers and detecting drugs hidden around the event location. These are all strong reasons for the continued use of detection dogs—a position I support fully.

I am aware that police have issued warnings to festival goers ahead of the Above and Beyond Festival, scheduled on Saturday 9 June 2018 at the Sydney Showground—the event that the member for Newtown's question relates to. Drug detection dogs will patrol that venue. The number one priority of the NSW Police Force is to ensure the safety of all music fans, event staff and performers attending the festival. The NSW Police Force will take all appropriate action within the law to ensure community safety.

**Ms Jenny Leong:** Point of order: My point of order relates to Standing Order 129, relevance. I asked what powers the NSW Police Force would rely on to confiscate tickets from innocent partygoers.

**The SPEAKER:** It was a specific question but the Minister has been relevant. I cannot direct the Minister to be more specific than he is being, other than to be relevant.

**Mr TROY GRANT:** I am happy to continue to be relevant and happy to answer the member for Newtown's question, if she does not interrupt me and prevent me from doing so. I have been advised that on occasions when the NSW Police Force denies entry to the Above and Beyond Festival based upon actual or suspected possession of drugs, it will be doing so with the support and agreement of Sydney Showground, the licensee and the event promoters.

#### FREIGHT RAIL INVESTMENT

**Ms STEPH COOKE (Cootamundra) (15:19):** My question is addressed to the Minister for Roads, Maritime and Freight. How is the New South Wales Government delivering a freight rail renaissance across New South Wales, as well as any related matters?

**Mrs MELINDA PAVEY (Oxley—Minister for Roads, Maritime and Freight) (15:20):** And a renaissance it is. What a great day it was last Monday with the member for Cootamundra and the member for Murray—a great day investing in regional New South Wales, supporting our farmers, supporting our communities

and supporting the workers. It was fantastic, with a \$60 million investment in the rail line to increase the capacity to 25-tonne axle loads. Those opposite would not understand what that means.

It means the containers full of cotton and the containers of Casella wine from the Riverina can be placed on the railway tracks, and the speed of the rail can be improved from 50 kilometres per hour to 80 kilometres per hour. It is an incredible achievement that people of New South Wales gave the Government the capacity to deliver. When the poles and wires were leased, one-third of the funding went to regional New South Wales and \$400 million to fixing freight transport across the country. It was a great day in Leeton when that announcement was made. The Speaker understands the importance of freight movements from our roads onto our rail. [*Extension of time*]

The Speaker understands the importance of the Manildra flour mill and the Government's \$40 million investment to support not only the Manildra Group but also other companies. The Government is able to do this because it is a good government that supports regional communities. We must compare and contrast with the past. Twelve railway projects were announced by the Labor Party when it was in office, and only half of one of those projects was delivered. None of those projects was in regional New South Wales. The Leader of the Opposition is bereft of ideas when it comes to the future of regional New South Wales, let alone the whole of New South Wales.

Sadly, my Opposition counterpart, the shadow Minister for Roads, Maritime and Freight, is the same. The member for Albury and the member for Upper Hunter were in attendance when I and the shadow Minister were given the opportunity to address the Institute of Public Works Engineering Australasia. It was an incredible opportunity for the shadow Minister to outline what the Labor Party might do for regional New South Wales and New South Wales as a whole.

**Ms Jodi McKay:** Apparently my speech was better than yours. That's what I'm hearing.

**Mrs MELINDA PAVEY:** The member for Strathfield may say that in her shiny, brand-new suit, as if she is going for an important job. It is a very lovely colour. The only policy initiative that the Labor Party put forward in a 29-minute speech was a review of Federal funding. That was the only idea. There was no comment on the Government's investment in road and rail across the regions and no plan for this State. There was only a plan for a new job for the member for Strathfield.

### *Business of the House*

## **SUSPENSION OF STANDING AND SESSIONAL ORDERS: ORDER OF BUSINESS**

### **Order of Business**

**Mr ANTHONY ROBERTS:** I move:

That standing and sessional orders be suspended at this sitting to:

- (1) Provide that community recognition statements and private members' statements not be proceeded with.
- (2) Permit consideration of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 (Sharpe) after the matter of public importance.
- (3) Permit divisions to be conducted during consideration of the bill.

**Motion agreed to.**

## **SUSPENSION OF STANDING AND SESSIONAL ORDERS: ALLOCATION OF TIME**

**Mr ANTHONY ROBERTS (Lane Cove—Minister for Planning, Minister for Housing, and Special Minister of State) (15:25):** I move:

That standing and sessional orders be suspended at this sitting to provide for the following speaking time limits for the debates on the motions of censure, notices given this day by the Minister for Transport and Infrastructure and the member for Maroubra:

- |     |  |                |
|-----|--|----------------|
| (1) | Mover:   | 10 minutes     |
| (2) | Member named leading debate in opposition to the motion:             | 10 minutes     |
| (3) | One further non-Government member and one further Government member: | 5 minutes each |
| (4) | Mover in reply:  | 5 minutes      |

**Mr MICHAEL DALEY (Maroubra) (15:26):** The Labor Opposition consistently has opposed the truncation of censure motion debates. If the Government wants to back itself in, be hairy-chested and think that today is its, let us have a full-blown debate for the time that is set out in the standing orders.

**Mr ANTHONY ROBERTS (Lane Cove—Minister for Planning, Minister for Housing, and Special Minister of State) (15:26):** If we thought they were up to it we would give it to them, but they are not.

**Mr GREG PIPER (Lake Macquarie) (15:26):** By leave: On behalf of the crossbench, I raise our concern with the limitations being placed on the ability to participate in the debate. There are two minor parties on the crossbench as well as two Independent members. We feel an obligation to vote on sensitive motions before the House, yet we feel that we are limited in being able to contribute and to explain our positions. On behalf of the crossbench, I ask that the Government consider broadening participation.

**Mr ANTHONY ROBERTS (Lane Cove—Minister for Planning, Minister for Housing, and Special Minister of State) (15:27):** By leave: If non-Government members want to reach an accommodation, that is fine. I understand why the member for Lake Macquarie would want to participate in debate on the censure motion relating to the Leader of the Opposition, but there is certainly no reason that the crossbench would want to contribute to a debate on a censure motion against the Premier. It is up to the crossbench to sort that out. Leave will not be granted today.

**The SPEAKER:** The member for Lake Macquarie makes a fair point, and I thank him for it. The question is that the motion moved by the Leader of the House be agreed to.

**The House divided.**

Ayes .....45

Noes .....33

Majority.....12

#### AYES

Anderson, Mr K  
Barilaro, Mr J  
Conolly, Mr K  
Coure, Mr M  
Dominello, Mr V  
Fraser, Mr A  
Goward, Ms P  
Hazzard, Mr B  
Johnsen, Mr M  
Notley-Smith, Mr B  
Pavey, Mrs M  
Provest, Mr G  
Sidoti, Mr J  
Toole, Mr P  
Williams, Mr R

Aplin, Mr G  
Berejiklian, Ms G  
Constance, Mr A  
Crouch, Mr A  
Elliott, Mr D  
George, Mr T  
Grant, Mr T  
Henskens, Mr A  
Kean, Mr M  
O'Dea, Mr J  
Perrottet, Mr D  
Roberts, Mr A  
Stokes, Mr R  
Tudehope, Mr D  
Williams, Mrs L

Ayres, Mr S  
Bromhead, Mr S (teller)  
Cooke, Ms S  
Davies, Mrs T  
Evans, Mr A. W.  
Gibbons, Ms M  
Gulaptis, Mr C  
Humphries, Mr K  
Marshall, Mr A  
Patterson, Mr C (teller)  
Petinos, Ms E  
Rowell, Mr J  
Taylor, Mr M  
Upton, Ms G  
Wilson, Ms F

#### NOES

Aitchison, Ms J  
Barr, Mr C  
Chanthivong, Mr A  
Donato, Mr P  
Foley, Mr L  
Harrison, Ms J  
Kamper, Mr S  
McDermott, Dr H  
Park, Mr R  
Scully, Mr P  
Warren, Mr G

Atalla, Mr E  
Car, Ms P  
Crakanthorp, Mr T  
Doyle, Ms T (teller)  
Greenwich, Mr A  
Hoenig, Mr R  
Leong, Ms J  
McKay, Ms J  
Parker, Mr J  
Smith, Ms T. F.  
Washington, Ms K

Bali, Mr S  
Catley, Ms Y  
Daley, Mr M  
Finn, Ms J  
Harris, Mr D  
Hornery, Ms S  
Lynch, Mr P  
Mihailuk, Ms T  
Piper, Mr G  
Tesch, Ms L  
Watson, Ms A (teller)

#### PAIRS

Brookes, Mr G  
Griffin, Mr J  
Maguire, Mr D

Cotsis, Ms S  
Haylen, Ms J  
Lalich, Mr N

**Motion agreed to.***Petitions***PETITIONS RECEIVED**

**The CLERK:** I announce that the following petitions signed by fewer than 500 persons have been lodged for presentation:

**Pet Shops**

Petition opposing the sale of animals in pet shops, received from **Mr Alex Greenwich**.

**Low-cost Housing and Homelessness**

Petition requesting increased funding for low-cost housing and homelessness services, received from **Mr Alex Greenwich**.

**Social Housing Maintenance**

Petition requesting that the Government retain and properly maintain social housing, received from **Mr Alex Greenwich**.

**Lightweight Plastic Bags**

Petition requesting the banning of lightweight plastic bags in New South Wales, received from **Mr Alex Greenwich**.

**Sydney Football Stadium**

Petition requesting that the Government upgrade rather than rebuild the Sydney Football Stadium and invest the money saved into health, education and community sports facilities, received from **Mr Alex Greenwich**.

**The CLERK:** I announce that the following petition signed by more than 500 persons has been lodged for presentation:

**Newcastle Live Music**

Petition calling on the Government to support live music in Newcastle and to consider mandating soundproofing of all developments of new live music venues, received from **Mr Tim Crakanthorp**.

*Motions***LUKE FOLEY, LEADER OF THE OPPOSITION****Censure**

**Mr ANDREW CONSTANCE (Bega—Minister for Transport and Infrastructure) (15:34):** I move:

That this House censures the Leader of the Opposition for:

- (1) Misleading the people of NSW by failing to declare thousands of dollars in benefits received on an international trip and disclose his dealings around his visit to China.
- (2) Failing to donate to charity the murder money donations received from Ron Medich as promised in 2010 and again on 24 April 2018.

It is not every day that a censure motion is moved against the Leader of the Opposition, but this is a matter of serious concern. A number of key issues need to be addressed in this censure motion as a result of the Leader of the Opposition misleading the people of New South Wales. The matters I will raise this afternoon are as serious as those which led to the resignation of Senator Sam Dastyari.

**Mr Ryan Park:** What has he got to do with this place?

**Mr ANDREW CONSTANCE:** It is interesting that members opposite say that because Mr Dastyari is going to be raised in this debate this afternoon. A number of issues have come to light since the *Australian* report two days ago, in which the shadow Parliamentary Secretary to the Leader of the Opposition, Ernest Wong, a member in the other House, emailed officials at the NSW Department of Industry in Beijing and indicated to them that the Leader of the Opposition and he would be travelling to China on 7 June last year—12 months ago to the day, ironically—and that they would be hosted by the Chinese Government.



It is telling that there has been no comment from the Leader of the Opposition about the thousands of dollars of benefits that he received from a foreign power for meals and transportation as part of that trip. He is required to disclose those benefits. I add that in the same *Australian* article to which I referred earlier this week, it was indicated by the Leader of the Opposition through his office that the trip was paid for out of the Leader of the Opposition's budget. He said the other day that gifts were declared. That is now not the case. That is the first mislead of the New South Wales community in relation to this trip, but it gets more serious than that.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I direct the member for Rockdale to remove himself from the Chamber for a period of three hours.

*[Pursuant to sessional order the member for Rockdale left the Chamber at 15:38.]*

**Mr ANDREW CONSTANCE:** As part of that trip, we know from the shadow Parliamentary Secretary to the Leader of the Opposition that he was hosted by the International Department of the Communist Party of China. It is also concerning that upon his return he held a press conference in which he made some comments criticising the Australian media and their report on China—the Australian media's "cold war mentality" in relation to the treatment of China.

It is somewhat ironic that after the Leader of the Opposition returned from China and gave interviews to the Australian-Chinese media—and we remember a certain Senator Sam Dastyari doing the same thing—the exact words of "cold war mentality" were used by a Chinese Government official a couple of weeks later. That is not a coincidence. Apart from the fact that the Leader of the Opposition received benefits and then used language such as "cold war mentality", it is unacceptable that he has not declared those benefits. This mirrors one of the reasons that Senator Dastyari had to resign. The second reason that Senator Sam Dastyari had to resign related to a \$100,000 donation—no, not a donation but a gift—from a Chinese Australian businessman, Mr Huang Xiangmo. I raise that because—

**Mr Ryan Park:** Jeez, you speak slow.

**Mr ANDREW CONSTANCE:** Well, you need to listen. The reason I raise that is that on 4 December 2017, the New South Wales Labor leader Luke Foley had to indicate that he had been to the Mosman home of this businessman. What he said to the radio station was, "Look, it was a couple of years ago." Interestingly, the disclosure summary of the Leader of the Opposition in relation to visiting this gentleman said that he did it on 23 January 2017, a couple of months before visiting China. The purpose of that meeting, according to the Leader of the Opposition, was a "catch-up". So he misled the listeners of 2GB and the people of New South Wales in terms of his association with that individual.

He visited China a couple of months later, failing to disclose thousands of dollars in benefits, including meals and transportation with the International Department of the Communist Party of China, which has a very clear objective in terms of dealings with politicians from around the world. It is well known that it is there to influence the thinking of Australian politicians. Then he returned and did a press conference with the Chinese-Australian media, using the same language used by Chinese officials. Therein lie the exact same issues that former Senator Sam Dastyari faced before he was forced to resign. This goes to the heart of the integrity of the Leader of the Opposition. My colleague the Minister for Police will outline the issues as they relate to the failure to return moneys relating to the death of Mr McGurk.

The Leader of the Opposition failed yesterday. He had an opportunity to answer the questions around the disclosure of these benefits from a foreign power. He had the opportunity to explain the language that he was using after his trip. He now has the opportunity to explain what "catch-ups" means in relation to the businessman who gave Sam Dastyari \$100,000 for his legal bills. He needs to provide an explanation as to why the funds and the murder money have not been returned to the community, as he promised back in April and as the Labor Party promised back in 2010. We all know the former career that the Leader of the Opposition had in Sussex Street, and now we also know of the tension that exists between him and the general secretary.

The reality is the Leader of the Opposition has misled the people of this State. He lacks integrity in what he does and says. Quite frankly, those opposite know full well that the Leader of the Opposition is in very real trouble. He needs to explain his conduct on this issue; he cannot hope that it will go away. The Parliament is seeking answers to why the Leader of the Opposition failed to disclose the benefits and the gifts he received. We want to know why he used the same language as was used by Chinese officials when describing the Australian media's reporting on China. We also want answers in relation to the murder money that he said would be returned to the community. Guess what? That money still has not been returned. The Leader of the Opposition deserves to be censured. This matter goes to the heart of the integrity of the Leader of the Opposition, who has, I think, failed the people of this State by continuing to mislead them.

**Mr LUKE FOLEY (Auburn) (15:45):** Two days ago, according to those opposite, I was a white supremacist. Now I am the Manchurian Candidate. They cannot have it both ways. The Government is trying to impose a standard on me that it refuses to impose on its members. I have with me the China visit reports of former Premiers O'Farrell and Baird and current Premier Berejiklian as well as their subsequent pecuniary interest returns.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! The Leader of the Opposition has the call.

**Mr LUKE FOLEY:** Not once has any of them declared a meal—a working breakfast, lunch or dinner—in their pecuniary interest returns, because that has never been the practice. I urge members to look at the reports and pecuniary interest returns of the Minister who moved this censure motion. He is not a bloke who declares a working lunch or dinner abroad in his pecuniary interest returns. There was no requirement to do so until yesterday. The lot opposite, like drunks in a pub, are swinging wildly, without using any science, in a desperate attempt to hit members on this side of the House.

I refer to the current Premier's post-China visit report. She had a business luncheon and a business dinner in Shenzhen, hosted by the Shenzhen Party secretary. Those communists are indoctrinating her! Then the Premier went to a reception hosted by HSBC—they indoctrinated her years ago. The Premier has not disclosed those meals on her pecuniary interest returns. I have gone through the pecuniary interest returns of former Premiers O'Farrell and Baird, as well as their mission reports. The Minister said I would not disclose whom I met with in China, but I have put a six-page itinerary on my website. I have no obligation to put such a report on my website, but I did so after I returned from China. Whom did I meet? In Beijing I met with the International Department of the Communist Party of China—yes, I did—and then I met with the National Development and Reform Commission, a separate organisation. Then I travelled to Henan province on the high-speed rail. We paid for that, not the Chinese.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I direct the member for Keira to remove himself from the Chamber for a period of three hours.

*[Pursuant to sessional order the member for Keira left the Chamber at 15:48.]*

**Mr LUKE FOLEY:** We might want to have a fraternal relationship with Henan province. It is just a small province, with 107 million people, but it produces 10 per cent of China's agriculture and is the leading developer in science and technology. I met with the Henan Provincial People's Government as well as directors and doctors of Henan Provincial Health Department and People's Hospitals. I met the head monk, the Abbot of the Shaolin Temple—stick with me; do not condemn me for that. Then I went to Guangzhou, where I met with the International Exchange Department of Jinan University.

I visited the New South Wales Government Office of Trade and Investment and was told that the office cannot attract any attention from the New South Wales Government. I met with the Vice-Governor of Guangdong Provincial Government. I met with the Vice Mayor of Shenzhen Municipal People's Government. I met with the general manager of UBTECH, which has partnered with the University of Sydney to establish an artificial intelligence laboratory. I met with 10 separate organisations. Do you know what? Here is the startling revelation: we had lunch and we had dinner with representatives of some of those organisations, not all 10. Scandal!

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! Members will come to order. The Leader of the Opposition has the call and will be heard in silence. Members who continue to interject will be removed from the Chamber.

**Mr LUKE FOLEY:** As I said, I met with representatives of 10 separate organisations, and those meetings have been on the public record for the best part of a year. There was no obligation on me to disclose those meetings, but I did so. Those opposite have not put any meals abroad on their pecuniary interest returns and yet they impose a different standard on me, just to have a shot. We on this side of the House are proud of the Labor Party's relationship with the People's Republic of China. It took former Prime Minister Gough Whitlam to recognise the PRC. Do we not think that was a good idea for our nation? Neville Wran was the first Premier of any Australian State to travel to the PRC, in 1977. He was attacked by Coalition members at the time. It took Neville Wran's Labor Government to sign a sister state relationship with the province of Guangdong in 1979, which was condemned by the Leader of the Liberal Party at the time. It was John Howard who attacked Chinese immigration in the 1980s.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! The Treasurer will come to order.

**Mr LUKE FOLEY:** It was John Howard—the hero of those opposite—who refused to condemn Pauline Hanson in the 1990s.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I call the member for Campbelltown to order for the first time.

**Mr LUKE FOLEY:** In 2016, when Pauline Hanson returned to the Federal Parliament and said that Hurstville had become an Asian ghetto, those opposite sucked up to her for a preference deal. We will not be lectured by those opposite on relations with China. For years, I have been on the record supporting constructive engagement with the People's Republic of China. Do we not think our economic prosperity this century depends on an engagement with China—trade with China, friendship with China—using the half million Chinese-background Australians in our State as a bridge between our two great nations and two great cultures?

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I call the member for Drummoyne to order for the first time.

**Mr LUKE FOLEY:** In 2015, two years before I ever went to China, I stood before the Labor Party and told Federal colleagues and unions that it is in our national interest to sign the China-Australia Free Trade Agreement. On page 1 of the *Australian* on 2 September 2015—two years before I went to China and was, if you believe those opposite, brainwashed by the communists—I said:

Labor has led the way on engagement with China. The next step is a free trade agreement. Our future prosperity will rely on increased exports, particularly in non-mining goods and services.

...

I agree with Bob Hawke when he says that the China-Australia free trade agreement should not be torpedoed.

I had to campaign to get the current Premier to go to China. Those opposite promised to visit China every year, but there were more than two years between visits. I had to do press conferences and put out press releases to get the Premier on a plane to go there. The NSW-Guangdong Joint Economic Meeting, which is scheduled to take place every two years, did not take place for more than three years. Officials of the Guangdong Government told me that they could not get any interest from New South Wales to hold it. What neglect of the relationship! In the very short time remaining to me, I will refer to the Medich money. In April, I made it clear when I said:

I won't have the Labor Party keep a murderer's money.

...

The bloke was convicted of murder yesterday afternoon. Today I'm making it clear that any donations made to the party by him will go to charity.

That is what is happening.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! The Deputy Premier will come to order. The Treasurer will come to order.

**Mr LUKE FOLEY:** We are being knocked over in the rush of charities wanting to be supported by the Labor Party—they are so grateful. But what hypocrisy from those opposite: the New South Wales Liberal Party has been ordered to repay nearly \$250,000 after money given to the party by two wealthy candidates at the last State election was found to have been illegal, political donations. What are those opposite doing? Are they paying back the illegal donations? No. They are in court appealing it. They refuse to pay it back. The hypocrisy of those opposite.

When it comes to China, those opposite can say whatever they like about me but they are jeopardising our relationship with our most important partner this century. It is as if the rise of China had not happened. It is a quarter of humanity with an economy as big as the United States, and they want to make it out to be a hostile power. Look at the ridiculous comments of the Special Minister of State yesterday. He is playing with fire simply to hurl a few insults at the Labor Party and its leader. Imagine what happens if the Chinese turn off the tap on Chinese students coming here. Talk to the vice-chancellors. Those opposite are irresponsible and they risk the national interest.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! Debates on censure motions are difficult enough. Members will cease interjecting across the Chamber. Members will respect each other and the member with the call.

**Mr TROY GRANT (Dubbo—Minister for Police, and Minister for Emergency Services) (15:56):** It gives me no joy to speak in this Chamber today to support a censure motion against the Leader of the Opposition for failing to donate to charity the murder money donations received from Ron Medich as was promised in 2010 and again by the Leader of the Opposition on 24 April this year. On 3 September 2009, Michael McGurk was shot dead in front of his family home. While any murder is brutal, this case is particularly shocking because Mr McGurk was slaughtered in front of his then nine-year-old son, Luc. The man who has been convicted of orchestrating that callous murder, Ron Medich, gave the New South Wales Labor Party a quarter of a million dollars, which is now commonly referred to as "blood money"—and rightly so. The Labor Party promised in 2010 that that money would be donated to charity, before it backflipped and then backflipped again.

Despite the Leader of the Opposition's latest backflip—and despite being, in his own words, knocked down with opportunities—to this day he is yet to give that money to charity. Three weeks ago I met Martha Jabour and other representatives of the Homicide Victims' Support Group to discuss their plans for Grace's Place. The Leader of the Opposition knows of Grace's Place and that project very well. He joined me with the sister of Anita Cobby and many others from the Homicide Victims' Support Group at a fundraising dinner to raise money for this world-first facility that is being developed by the Homicide Victims' Support Group. It is a world-first residential trauma recovery centre, specifically targeted to children who have had their loved ones murdered. This is exactly the sort of facility that \$250,000 in blood money from Michael McGurk that is in the possession of and being utilised by the Labor Party should be donated to. This is exactly the sort of facility that, had it existed at the time, could have supported Luc McGurk.

Like other children of homicide victims, Luc McGurk and his family live with that horror, receiving the best possible support available to them. If the Leader of the Opposition is serious—and I do not believe him to be a bad man—he has an opportunity today to give comfort to this House, to this community but, more importantly, to Luc and his family and say that he will no longer sit on this blood money and will do the right thing and donate it to Grace's Place. Three weeks ago I took the liberty of discussing the idea with the Homicide Victims' Support Group. I asked whether it would be prepared to accept this money to be donated specifically for the purpose of getting Grace's Place up and running. It thanks the New South Wales Government—specifically, the Minister for Health, the Minister for Corrections, the Attorney General and me—for the funding support that we are currently providing, together with the Federal Government, as we progress to making this dream a reality.

The group supports receiving this money and told me it would be the right thing to do. I may be biased on this point, but money from Michael McGurk's murder could not be donated to a better charity. It is clear that on 28 April the Leader of the Opposition made a commitment to give it to charity. It is now 7 June; this is not a hard decision. If a man with any principles or ethics and with any desire to lead this State, make promises to the community and lead a government cannot keep a promise as simple, clear and concise as this, the community of New South Wales can have no faith in any future promise he may make. It is with deep regret that I support this censure motion and call on the Leader of the Opposition to immediately donate the blood money to the Homicide Victims' Support Group.

**Mr MICHAEL DALEY (Maroubra) (16:00):** I have been here for 12 years and I have scarcely been more disgusted by what has gone on in this Chamber than what I have just heard. The dictionary defines "blood money", firstly, as "money paid in compensation to the family of someone who has been killed". A donation from someone who turns out to be a disgusting murderer does not fit that definition. The second definition is "money paid to a hired killer". The donation received by the Labor Party from someone who turned out years and years later to be a disgusting murderer does not fit that definition of "blood money" either. I am not sure whether the Premier or the Minister for Police has contacted the Leader of the Opposition in relation to that money possibly going to Luc McGurk. Have you raised that with us officially at all?

**Mr Troy Grant:** It's your money.

**Mr Dominic Perrottet:** You've got the money. What's the problem?

**Mr Troy Grant:** It is your leader's pledge; the onus is on him. He knows the Homicide Victims' Support Group, he knows Margaret Jabour. He attended a fundraiser with me where they asked for money. My job is not to do your job.

**Mr MICHAEL DALEY:** What we have here is, frankly, a horrible attempt by the Minister for Police to come into the Chamber and talk about a little boy whose father has been murdered. There is not a single person in this House who is not horrified, disgusted and disappointed for that little boy.

**Mr Troy Grant:** Give the money to them. Do the right thing.

**Mr MICHAEL DALEY:** But you stand here today and say that there has been a failure by the Leader of the Opposition or by our head office because we have not given that money when neither you nor your Premier have raised that matter with us. You are a disgusting fraud.

**Mr Troy Grant:** It is easy: Write a cheque. You would do it. Get him to write a cheque. You would give him the money.

**Mr MICHAEL DALEY:** Do not dare come in here and invoke the life of a murdered man's son in relation to this money—a donation given to this party years ago by someone who turned out to be a murderer. He should rot in jail—that is where he belongs—and he should go to hell when he dies in jail.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! The member for Maroubra will direct his remarks through the Chair.

**Mr MICHAEL DALEY:** Now, Mr Temporary Speaker, after the disgusting debacle that has befallen this House, you are trying to bring some level of civilisation back to this place. This place is out of control and the comments of the Minister for Police—whom I thought more of—are absolutely unbecoming. It might be that the money could go to Luc McGurk if a formal application is made. But the Minister for Police could have raised that as a possibility before walking in here and trying to denigrate this place by ambushing the Leader of the Opposition with that suggestion and implying that it is a failure on his part or on Labor's part not to give it to him. We will talk to Martha Jabour—thank you for the suggestion. I can tell the House that the Australian Labor Party [ALP] head office is going through a transparent process to give that money to charity.

[Interruption]

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! The member for Maroubra has the call.

**Mr MICHAEL DALEY:** I do not want to name the charities that have contacted the ALP, but I can tell members they are charities that relate to children's cancers, and adult and children's rare cancers. There are numerous children's foundations and numerous women's shelters. Victims of crime groups and even returned services league charities have approached the ALP in relation to the return of that money.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I call the Minister for Corrections to order for the first time.

**Mr MICHAEL DALEY:** It will be returned, as the Leader of the Opposition and the General Secretary of the Labor Party have indicated. I have a litany of material that I would like to raise in relation to this matter, but I am so disgusted by this motion I am having no further part in it.

**Mr ANDREW CONSTANCE (Bega—Minister for Transport and Infrastructure) (16:05):** In reply: That is fairly interesting. The Leader of the Opposition is being censured today for misleading the community because in 2010 the Labor Party promised to deliver that money back to the community and this year the Leader of the Opposition gave the same pledge. Guess what? The money has not been returned to the community. That is what this is about. It is misleading the community. The tension between the head office of the Labor Party and the Leader of the Opposition has been clearly reported. But what matters most are the words of the Leader of the Opposition to the people of this State. That is why he is being censured.

I take umbrage at the Leader of the Opposition, who, when I was Treasurer of this State, ran a racist campaign against the Chinese participating in the lease of the poles and wires. That is exactly what Labor did. Subsequently, the Leader of the Opposition has talked about "white flight" in Western Sydney. Imagine what that says to the Australian Chinese community, who work damn hard. We are proud of our relationship with China in terms of our business investment and two-way trade. This goes to the heart of the Leader of the Opposition's failure to disclose thousands of dollars worth of meal and travel entitlements in relation to his trip. Very interestingly—and I will quote this—something was not addressed in his response. We heard about his itinerary, which is out there; he has put together a report.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I remind the member for Bankstown that she is on three calls to order.

**Mr ANDREW CONSTANCE:** This is what the Leader of the Opposition said on returning from his trip in relation to the Australian media. He said:

I'm very concerned a series of reports on the Australian media seem to be suggesting we turn our backs on friendship with China. He went on to say:

I think there is a Cold War mentality on display here when you read some of these articles.

After a number of reports about Chinese Government influence in Australia earlier this year, the Chinese ambassador urged Australians to give up their cold war mentality. That has been reported on.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I remind the member for Prospect that he is on three calls to order.

**Mr ANDREW CONSTANCE:** The key point is that the Leader of the Opposition receives benefits from the International Department of the Communist Party of China and comes back and gives a press conference and repeats the same words as the Chinese officials. That has nothing to do with the relationship between Australia and China, and New South Wales and China. We are very proud of that. But it goes to the heart of what the Leader of the Opposition is saying publicly. Again, earlier this week in the *Australian* his office said that his trip, including flights and accommodation, was paid for out of the Leader of the Opposition's budget. That is what he said publicly. That is not right. That is misleading the community, because his own Parliamentary Secretary in the other place in emails to New South Wales Government officials in Beijing confirmed that the Chinese Government

was going to pick up the tab. That is reported. The Leader of the Opposition did not answer that charge today, which is further evidence of the type of misleading that is going on. The Leader of the Opposition is also misleading the community in relation to the murder money: "We are paying it", We are going to pay it." It has not been paid.

**Mr David Elliott:** Eight years.

**Mr ANDREW CONSTANCE:** Yes, 2010—eight years ago. The Leader of the Opposition comes into this place and tries to deflect what is at the heart of this censure motion: his ongoing misleading of the people of New South Wales about his conduct.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I warn the member for Cessnock for the final time.

**Mr ANDREW CONSTANCE:** This afternoon, quite rightly, the Minister for Police made a very sensible suggestion. The whole point is it goes to the integrity of the Leader of the Opposition, who promised that the money would be returned and it has not been. That is why he is being censured this afternoon. Members opposite can carry on, but they are very uncomfortable about what the Leader of the Opposition is on about. They were all uncomfortable about the "white flight" comment. The one thing I do know about the Leader of the Opposition is that he has had an endorsement by Pauline Hanson. I am pretty sure no-one on this side of the House has had that: "Good on you Luke Foley for your comments about white flight."

I am sure the Chinese community were filled with absolute horror when the Leader of the Opposition talked about what is going on in Western Sydney, particularly in places such as Parramatta. It is the local government area where most Chinese who come to this country settle in the first instance. This side of the House has a proud record of dealings with China. The one thing we do know is that we are also part of a nation that is expressing some concerns—and quite rightly. It seems to me that the Leader of the Opposition wants to denigrate us for bringing into question his conduct and his failure to disclose benefits. [*Time expired.*]

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! The question is that the motion be agreed to.

**The House divided.**

Ayes .....43

Noes .....31

Majority.....12

#### AYES

Anderson, Mr K  
Barilaro, Mr J  
Constance, Mr A  
Crouch, Mr A  
Elliott, Mr D  
George, Mr T  
Grant, Mr T  
Henskens, Mr A  
Kean, Mr M  
O'Dea, Mr J  
Perrottet, Mr D  
Roberts, Mr A  
Taylor, Mr M  
Upton, Ms G  
Wilson, Ms F

Aplin, Mr G  
Bromhead, Mr S (teller)  
Cooke, Ms S  
Davies, Mrs T  
Evans, Mr A.W.  
Gibbons, Ms M  
Gulaptis, Mr C  
Humphries, Mr K  
Marshall, Mr A  
Patterson, Mr C (teller)  
Petinos, Ms E  
Sidoti, Mr J  
Toole, Mr P  
Williams, Mr R

Ayres, Mr S  
Conolly, Mr K  
Coure, Mr M  
Dominello, Mr V  
Fraser, Mr A  
Goward, Ms P  
Hazzard, Mr B  
Johnsen, Mr M  
Notley-Smith, Mr B  
Pavey, Mrs M  
Provest, Mr G  
Stokes, Mr R  
Tudehope, Mr D  
Williams, Mrs L

#### NOES

Aitchison, Ms J  
Barr, Mr C  
Chanthivong, Mr A  
Donato, Mr P  
Greenwich, Mr A  
Hoenig, Mr R  
Lynch, Mr P

Atalla, Mr E  
Car, Ms P  
Crakanthorp, Mr T  
Doyle, Ms T (teller)  
Harris, Mr D  
Hornery, Ms S  
McDermott, Dr H

Bali, Mr S  
Catley, Ms Y  
Daley, Mr M  
Foley, Mr L  
Harrison, Ms J  
Leong, Ms J  
McKay, Ms J

## NOES

Mihailuk, Ms T  
 Piper, Mr G  
 Tesch, Ms L  
 Watson, Ms A (teller)

Park, Mr R  
 Scully, Mr P  
 Warren, Mr G

Parker, Mr J  
 Smith, Ms T.F.  
 Washington, Ms K

## PAIRS

Lee, Dr G  
 Maguire, Mr D  
 Speakman, Mr M  
 Ward, Mr G

Cotsis, Ms S  
 Finn, Ms J  
 Haylen, Ms J  
 Lalich, Mr N

**Motion agreed to.****GLADYS BEREJIKLIAN, PREMIER****Censure****Mr MICHAEL DALEY (Maroubra) (16:18): I move:**

That this House censures the Premier for:

- (1) Putting Sydney stadiums before schools and hospitals.
- (2) Presiding over a multibillion blowout of WestConnex, and incompetently managing the CBD light rail project and other major projects including the new intercity fleet.
- (3) Putting developers ahead of communities by supporting inappropriate overdevelopment in many suburbs.
- (4) An ideological program of privatisation that has seen families hurt by soaring electricity prices.
- (5) Persistent attacks on the environment through backward-looking legislation on land clearing, the Kosciusko National Park and undermining water resources compliance.
- (6) Letting lobbyists such as Michael Photios control the Government.

The ascension of the member for Willoughby to the premiership has been a careful study. If I were to encapsulate what the punters think of her, I would have to say that she has been a profound disappointment since she took the reins in January last year. When she became Premier after all the madness of Mike Baird, I think it was true to say that the people of New South Wales were willing to see what she had to offer and to give her a go. They were not sure what to make of the new Premier.

However, the Opposition made some predictions, and they have certainly come true. She is a B-grade Minister and good No. 2 rather than a No. 1. One need look only at the fervent efforts of the Minister for Transport and Infrastructure, who has had to clean up the mess she left behind when she moved on from that portfolio. She has been a profound and utter disappointment. Members do not need to believe me; they can simply ask the Minister for Transport and Infrastructure.

There has been no growth in her leadership—in fact, she makes Peter Debnam look good. There has been no growth in policy terms and she has not stamped her authority on this Government. She has made too many wrong calls, too many misjudgements, and too many errors in implementation, both in philosophy and projects. That began in 2011 and continued in 2012, when the first thing the Premier did as a senior Minister and then as the Treasurer was to sack 20,000 to 30,000 public servants. The best and brightest people left Roads and Maritime Services, Transport for NSW, and the Department of Planning and Environment.

Members opposite might respond by saying that saved money and ask why it was important. It was important for a number of reasons. The people who left were senior middle managers who generate the ideas, the innovation and the legislation. That tier of the public service has been defoliated. As a result, this place in particular has completely and utterly stalled. There have been no new ideas, no reforms and no improvements. The management of projects in both social and capital terms under this Premier's leadership—if one can call it that—has been a disaster. Often when I speak to community groups I ask a couple of simple questions. First, I ask who can name a single major infrastructure or transport project that this Premier has taken from pre-election to fruition in the past seven years. The answer is no-one.

**Mr Luke Foley:** The Tibby Cotter Bridge!

**Mr MICHAEL DALEY:** I stand corrected; there is the \$13 million Tibby Cotter Bridge, which is a monument to O'Farrell and Premier Berejiklian. Members opposite might say that is unfair and that the Government is working on infrastructure. I will cast it another way. Government is all about social reform and improving the lives of the people of this State; it is not about only concrete and steel. I ask community groups the same question, but in different terms. I ask them to tell me of one major social or policy reform the Premier has taken from pre-election to fruition in New South Wales. We have greyhounds, council amalgamations, the Fire and Emergency Services Levy, and a raft of other things which have fallen flat or which did not get off the launching pad.

This Government has delivered no great economic reforms. It has been relying on an avalanche of stamp duty for seven years. I would like the Treasurer to answer one simple question. He forecast that the Government would collect \$4 billion in stamp duty, but it collected \$11 billion. Where did the money go? He should try not to hyperventilate. This Premier, like the Premier she learned from, is a one-trick pony. This Government has sold \$50 billion worth of assets. Nothing is safe—no building and no business. Members opposite have sold Land and Property Information and the Sirius building. There have been sales as far as the eye can see, and all of them have had a catch.

There is always a property play. There is always a dodgy, hidden detail—a deal behind the deal—contrived by the master banker, Mike Baird, and the apprentice banker, Gladys Berejiklian. If members do not believe me they can ask the people of Newcastle why they will not get a container terminal for the next 96 years because of a dodgy deal and a dodgy clause in a contract made to fatten the lamb. Look at the light rail. If anyone wants to write a textbook on how not to do infrastructure in New South Wales, the light rail is their study. The contract was signed before the planning and traffic forecasts were done—and they still have not been done. Risks in great abundance were foisted onto the contractor. Three people showed an interest in contracting for the job. Two of the big ones pulled out. The Premier still ploughed ahead and has left this dog's breakfast with the contractor Acciona in the lap of the Minister for Transport and Infrastructure.

A \$1.6 billion project became a \$2.6 billion project. In a first for this State, the Government is in court in litigation not with a hostile force but with its own partner, its own contractor on this project. There has been litigation from more than one partner, 800 trees cut down, communities and councils ignored and traffic chaos. And that has all been replicated on WestConnex, with its poor treatment of families and people living along the route with further claims for millions of dollars. That is all because—despite what the Premier likes to tell the people of New South Wales—when it comes to infrastructure that she has conceived of and presided over not only has she not done her homework but she has proven conclusively that she is not capable of doing it.

If members do not think the examples I have cited are enough I will cite the one that Opposition members love most: the stadiums policy. Members who are in opposition long for a government to make a misstep—a mistake so grave that it reverberates through communities with lightning speed. We have all heard about the vomit principle. The people who are suffering from the vomit principle are those who have to digest the stadiums policy that is about to be foisted upon them for multibillions of dollars. It has reverberated right through the community and it knows about this. You cannot fool the punters. Paul Keating was correct when he said that the mob usually gets it right.

It is unsound, it is unjustified and it is one of those projects that is still being dodgy with its dollars. Peter FitzSimons and a raft of citizens have asked the Premier to answer the simple question about how the numbers stack up. The Hon. Don Harwin, the leader in the other place, was almost frogmarched out of here by security this week because the Premier still refuses to release the business case. We are thankful that the failures of the Premier have highlighted the difference between those opposite and us. We are the party that does not believe in \$3 billion cuts to health. We do not believe in \$1.7 billion cuts to education. We will not support the gutting of TAFE or the selling of public housing. We will not support the inertia of members opposite on housing affordability. We will not support their dodginess in planning by creating unfair densities across suburbs—Labor electorates in the western suburbs getting clobbered while their leafy North Shore is left alone.

We will not suffer the chaotic infrastructure delivery of those opposite or their litigation with their partners, their destruction of trees or their water theft. We will not support the madness that has descended upon Sydney under this Premier. We support the ordinary citizens who get up to go to work every day and should not have to suffer a Premier who talks a big game, who promises much but has been a profound and utter disappointment to this State in so many ways. She is a disappointment to the people who sit on the other side of this House white eyed and grey faced because they know that after more than 12 months in the job the Premier simply does not have what it takes.

**Mr JOHN BARILARO (Monaro—Deputy Premier, Minister for Regional New South Wales, Minister for Skills, and Minister for Small Business) (16:29):** What we have seen this afternoon belittles this place. It disrespects the many who were here before us. Censure motions are serious matters. They often go to the



integrity of someone: their beliefs, who they are, who they represent and what they represent. That is what censure motions should be about. The censure motion that was supported in this House this afternoon was in relation to the integrity of the Leader of the Opposition and comments that he has made in the public domain on a number of fronts, which I will touch on shortly. The censure motion put forward by Labor is a desperate attempt to run a protection racket for the failing Leader of the Opposition.

The censure motion by members opposite is about investment by the Government. It is against our infrastructure spend. Their censure motion is against this Government's creation of jobs and against delivering on community aspiration. Their censure motion is against the success of this Government, led by a very strong Premier of integrity who has the tenacity to champion the cause on behalf of the people of New South Wales. This Premier who served as Treasurer has delivered the windfalls and prosperity this State now enjoys. That is their motion. Their censure is against the prosperity that this State is enjoying: the \$81 billion in infrastructure spending over the next three years and, since 2011 under the forward estimates, the more than \$200 billion for the people and for the infrastructure required to service this great State. Their censure motion is against a Premier who has delivered the lowest unemployment rate in this country, running at 4.8 per cent. This is a censure motion against a Premier who is leading a government that has surpluses as far as the eye can see—nil government debt—which means we on this side can respond to the needs of the communities we represent. When they attack the Premier of this State, their censure motion is against the people of New South Wales.

It is clear that their censure motion was dreamt up in the minutes before question time, with no real issue on which to attack the Government or the Premier whose integrity I have just spoken about. I have the privilege and honour to serve her as Deputy Premier and I know she has the integrity that none on the other side could claim or dream of. We know what is happening on that side. We know we have a fraud in the Leader of the Opposition. We have a fake in the Leader of the Opposition. Today this censure motion is a folly of a failing Luke Foley, the Leader of the Opposition.

This censure motion is a deliberate attempt to distract from the issues that those opposite are facing as a party. We know the member for Strathfield is behind the destabilisation of the Leader of the Opposition. She is talking to us. She is leaking to the journos. She is undermining the leader. She is slowly collecting support. Of course, that does not include the member for Maroubra at this stage or the member for Kogarah, because they have competing interests. But what unites them is the end of Luke Foley as the Leader of the Opposition, and we know that. One only need look at recent reports. For example, a headline in the *Australian* reads "Party office, Luke Foley at odds as leadership speculation mounts". Another article in the *Australian* was entitled "NSW Labor leader Foley fails to declare China perks". We heard that this afternoon.

The successful censure motion moved in this House this afternoon struck at the integrity of the Leader of the Opposition. To protect him the Opposition is trying to play a game of censure. As I said, censure motions should be taken seriously. The Minister for Transport and Infrastructure and the Minister for Police articulated the case for a censure of the Leader of the Opposition, which was successful, based on his lack of integrity. The Leader of the Opposition does not have the support of those behind him. We know that the member for Strathfield has leadership aspirations. She is telling us what is going on and she is talking to the same journalists that are talking to us. We know what is going on. The member for Strathfield is getting ready and doing the numbers.

Again, this censure motion against the Premier is a distraction from what is happening behind closed doors in the Labor Party. Another article published by the *Australian* was entitled "NSW Labor leader echoes Chinese criticism of Australian media". The reason behind this censure motion today is to distract us from what is happening in the Labor Party. We know that the Leader of the Opposition is in serious trouble—not only because he did not declare donations or because he received thousands of dollars of purse during his trip to China and is spruiking a message on behalf of a foreign government. That is only part of it. It is clear that someone is in trouble when they move away from what they genuinely believe in their heart, such as the Leader of the Opposition did after he went on his racist rant about "white flight" a number of weeks ago. Many Opposition members have spoken to me since I attacked those comments. I will not name them because I respect their trust, but Opposition members have spoken to me about the disgust they felt when the Leader of the Opposition, the fraud Luke Foley, launched a racist attack on the many migrants who this nation is proud of and who are important to the great migrant story.

That story is represented by the Premier of this State in her courage, sacrifice and hard work and by her leadership in the community. We are privileged to have such a Premier. She is someone that I respect and honour. She has an integrity that cannot be matched by those opposite. This afternoon, by chance, we have all seen the report by Chris O'Keefe on his judgement call on the Leader of the Opposition. Good journalists such as Chris O'Keefe can see through the fraud and fake Luke Foley. They can see that those opposite stand for nothing and have nothing else to say. They have gone on this attack and come into the House to play politics. They use

the coward's castle of parliamentary privilege to throw mud. It is typical of Labor members to be grubs in the gutter throwing mud.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I call the member for Drummoyne to order for the second time. I call the member for Drummoyne to order for the third time.

**Mr JOHN BARILARO:** They are led by many, as well as by their leader. Of course, the member for Strathfield is sharpening her knife. She is patient and working quietly, and I predict that the winter recess will be cold for Luke Foley. In his article, Chris O'Keefe acknowledges that the Leader of the Opposition and the Labor Party stand for nothing and have nothing to say. What are they doing for the people of New South Wales? This afternoon, they came into the House to attack the Premier through a censure motion that says that they are against the investment of this Government, led by the Premier. They are against the infrastructure spend of this Government, led by the Premier. They are against the creation of more than half a million jobs by this Government, led by the Premier. They are against the Government's delivery of the aspirations of our great communities, including the migrant community. Of course, Opposition members are offended by the Premier because she stands up to Luke Foley, his racist calls and his dog whistling for the sake of votes. The censure motion should and will fail, unlike the previous censure motion, which struck at the core of the Leader of the Opposition, who lacks integrity and is a fraud in New South Wales politics.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I call the member for Myall Lakes to order for the first time.

**Ms JODI McKAY (Strathfield) (16:39):** This is an important censure motion because it calls out the Premier for her incompetence and mismanagement. It is telling that during debate on a censure motion such as this she is not in the Chamber. She is not here to defend herself. That is not leadership. If she were a good leader she would be here, supported by her team, defending herself and prosecuting her case. But she is not here. The motion captures a litany of failures of the Premier that all Opposition members know about. We prosecute the issues in our communities because we know that the Premier is letting those communities down. There is WestConnex, the CBD and South East Light Rail, the intercity fleet and, of course, the trains that do not fit the tracks. There is her ideological obsession with privatisation and her attacks on the environment. There is overdevelopment, which is swamping our communities and the community of the loud and boisterous member for Baulkham Hills.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! The member for Strathfield does not need the assistance of the member for Macquarie Fields.

**Ms JODI McKAY:** There is also her cosy relationship with Michael Photios. But I will start with WestConnex—a project that has blown out to \$17 billion. It started at \$10 billion and went to \$11 billion and then \$12 billion. Now it is at \$16.8 billion. At least, that is what the Government tells us, but we know that there is a \$1 billion contractor claim pending on that proposal. We know that the Government has no idea how to build the Sydney Gateway or the Rozelle interchange. Then there are the tolls, tolls and tolls that are an unfair tax on Western Sydney imposed by the Premier. They were personally imposed and defended by her. She believes that the tolls should be in place until 2060 and should rise above the consumer price index. She is punishing the people of Western Sydney. We know, because we represent them.

Then there is the CBD and South East Light Rail, which is the worst-managed project in this State's history and was started by the Premier. She signed a contract and passed the ball to the Minister for Transport and Infrastructure. It is a debacle. We know that not only because of the \$1 billion contractor claim on the project or because it is running a year late but also because scores of businesses are going broke, people are losing their jobs, and people are having to dip into their superannuation funds. When those business owners are asked how they are feeling they say that they are doing it tough. The Premier does not care. That is one of the reasons why she has to be censured today. Let us talk about the northern beaches and the Premier's decision to build a \$14 billion tunnel.

**Ms Jenny Aitchison:** She's got the wrong priorities.

**Ms JODI McKAY:** Exactly—talk about priorities. The Premier has decided to build a \$14 billion tunnel while leaving the people of Western Sydney in the lurch.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! The member for Strathfield has the call and will be heard in silence.

**Ms JODI McKAY:** She is focusing on her northern beaches tunnel. That is another reason why she has to be censured. Her priorities are all wrong. It is all about her developer mates. That is what it is about.

For the Premier, this is not about the communities that have seen electricity bills go up by 60 per cent since the Government sold off our electricity assets. The Government sold \$50 billion of public assets, but its

members do not give a damn. They walk into this place and attack the Leader of the Opposition, who is a staunch and passionate advocate for Chinese Australians, as am I. I remind the member for Drummoyne that 80 per cent of his constituents are Chinese Australians. The member for Drummoyne and the member for Oatley both represent strong Chinese-Australian communities but they supported that attack on the Chinese-Australian community.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I ask the member for Drummoyne to come to order.

**Ms JODI McKAY:** Let's talk about the inter-city fleet. It is a \$2 billion project where the trains do not fit the tracks. The Minister for Transport and Infrastructure walked into the Chamber just as I mention his failures. The litany of failures mentioned in this censure motion are the responsibility of the Premier. That is why this House must censure her today. [*Time expired.*]

**TEMPORARY SPEAKER (Mr Lee Evans):** I remind the member for Drummoyne that he is on three calls to order.

**Mr DOMINIC PERROTTET (Hawkesbury—Treasurer, and Minister for Industrial Relations) (16:46):** The first thing that the member for Strathfield said in speaking to her censure motion was that leadership is about being in this Chamber to defend yourself. No, it is not. Leadership is about having a conga line of people who want to defend you. That is what we have on this side of the House, whereas the Opposition could not even find two people to come into the Chamber to defend the Leader of the Opposition on a censure motion. This motion is littered with mentions of infrastructure, jobs and a whole range of matters, but Government members know about the mess and destruction that Labor left behind when it left office. The Premier, when she was Minister for Transport, turned around a project that had been promised by Labor since 1985, when I was three years old.

**TEMPORARY SPEAKER (Mr Lee Evans):** I call the member for Wollongong to order for the first time.

**Mr DOMINIC PERROTTET:** Guess when that project will be completed? It will be completed next year.

**TEMPORARY SPEAKER (Mr Lee Evans):** I call the member for Macquarie Fields to order for the first time.

**Mr DOMINIC PERROTTET:** The Labor Party has attempted to block infrastructure, asset recycling and everything else that the Government has done to turn this State's fortunes around. The Opposition has been a roadblock to this State's economic prosperity. At the helm of this State as it returns to being number one has been the Premier of New South Wales, Gladys Berejiklian. That goes to competence. But leadership is more than competence.

**TEMPORARY SPEAKER (Mr Lee Evans):** I call the member for Wollongong to order for the second time.

**Mr DOMINIC PERROTTET:** It is about integrity, courage, honesty, principle, leading by example and doing what is right, not just what is in one's own political interest. Those are the principles that the Premier lives by every single day of the week. Those are principles that this Government lives by every single day of the week. On the other side of the House it is always politics—politics before principle. Opposition members walk around fighting in their little protest groups. It is okay for politicians to tailor their messages to their audiences, but the Leader of the Opposition tailors his convictions to his audience. That is the difference between leadership and playing politics.

Today we have talked about blood money. Members on the opposite side of the Chamber have asked, "Why didn't you tell us to put the money somewhere?" It is not the Government's money; it is the Opposition's blood money. The reality is that the Leader of the Opposition was given that money six weeks ago. Why has he not given the money back? It is because he is always looking at the political angle—how this money can buy political votes. Those opposite are thinking, "How can we scatter it around electorates to get elected?" That is what they do.

Doing the right thing never comes easily to members of the Labor Party. That is why three members of a previous Cabinet are in jail. That is why two other members of a Labor Cabinet are facing trial. I could not imagine sitting in a Cabinet with colleagues of whom three would end up in jail. It is a culture that is at the heart of the Labor Party. We know that a fish rots first from its head, and I draw that analogy with the leader of the Labor Party and the Labor movement. The people of New South Wales will never forget the corruption on the other side of the House.

**TEMPORARY SPEAKER (Mr Lee Evans):** Order! I call the member for Macquarie Fields to order for the second time.

**Mr DOMINIC PERROTTET:** The people of New South Wales know that Labor has not changed. Why? Because Labor Party members have not changed. Matt Brown, from Kiama, wants to come back to politics because he knows that his behaviour is still accepted in the Labor Party. It is a corrupt party at heart.

**TEMPORARY SPEAKER (Mr Lee Evans):** I call the member for Macquarie Fields to order for the third time. I direct the member for Macquarie Fields to remove himself from the Chamber for three hours under Standing Order 249A.

*[Pursuant to sessional order the member for Macquarie Fields left the Chamber at 16:51.]*

**Mr DOMINIC PERROTTET:** Is it a coincidence that Chinese donations have been rocking up in the member for Kogarah's office? It is a coincidence that Sam Dastyari made dodgy deals with the Chinese government? It is a coincidence that Bob Carr, the former Labor Premier, has been giving notes to a former Premier—Kristina Keneally—so that she can ask questions in the Australian Parliament on behalf of another State jurisdiction? Is it a coincidence that the Leader of the Opposition travels to a foreign country without disclosing his meetings, his interests or who paid for his trip? It is not a coincidence. One thing is for sure: the Labor Party is corrupt at its heart. It has not changed, and the leadership of that party has not drawn it out. Those opposite talk about the eight years of the Liberal-Nationals Government. But in those eight years the Opposition has not been able to change its corrupt culture. On this side of the House we are proud to have a Premier who demonstrates integrity and leadership. *[Time expired.]*

**Mr MICHAEL DALEY (Maroubra) (16:52):** In reply: While I was waiting to speak I noticed the hapless Minister Elliott opposite holding up a brown paper bag with a dollar sign written on it. I suggest that the Minister stays out of gold Bentleys, because that paper bag must have been left somewhere in this building by Andrew Cornwell. When he left a labrador on the slab and walked out, he copped 10 large ones from one of the Liberal donors in the Hunter. Yet the Treasurer has the hide to talk about people who have been the subject of punitive remedies before the law. The Treasurer should look at the Government's representation in the Hunter. It is very scant because of stuff that happened there exactly like that. I will say now what I said last week: the Minister does not need to come in here and make himself look like an idiot every day—that is our job. I agree with the Treasurer about some things. He said that leadership is about courage and about leading by example. That is true, but it is also about doing the homework and attention to detail. This afternoon when the Treasurer sought to have the Government flee from this censure motion, the Leader of the House had moved a motion—which we opposed—which says:

That standing...orders be suspended ... to provide for ... speaking time limits for the debates ...

(1) Mover: 10 minutes

That is me—

(2) Member named leading debate in opposition to the motion:

—and that is the Premier. When you want to talk about courage and leading by example, the Government members should be saying, "Where is the Premier?" As soon as question time finished, the Premier was out the door. I cannot imagine Neville Wran running out of the Chamber after the House had resolved that the Premier should stand and defend him or herself against a censure motion. Bob Carr would have run into the Chamber and begged to speak. I cannot imagine Nick Greiner or John Fahey fleeing from a censure motion. Even the hapless Peter Debnam and John Brogden, who were chased out of this place, would have stood here and defended themselves. But the Premier, in contravention of a resolution of this House, has shamelessly ducked out the back door. I love Jacob Saulwick's headline in the *Sydney Morning Herald* today:

Independent scrutiny? No, we'll take the other path on stadium rebuild.

It is not just the stadium rebuild over which the Premier is ducking independent scrutiny—

**Mr David Elliott:** The member is supposed to be defending the Leader of the Opposition.

**Mr MICHAEL DALEY:** No, this is my censure motion. No wonder there is contraband, drugs, guns, needles and mobile phones in the Supermax prison if the Minister for Corrections is standing at the watchtower. You klutz, that debate finished 10 minutes ago. Maybe the Minister should go upstairs, take a Bex and have a lie down on the bench next to the Premier, as she is obviously upstairs with a cold pack on her head now. If I were her and I had people like him presiding over the House, I would not leave it for a second. I would sit at the table to make sure the Minister was never in control of the place. No wonder the member for Fairfield is dusting the Minister left, right and centre.

**TEMPORARY SPEAKER (Mr Lee Evans):** The member for Maroubra will address his remarks through the Chair.

**Mr MICHAEL DALEY:** There are claims made by the Premier that underpin her right to the role, that is, that she is a person of intelligence and experience who does her homework. She did not do her homework on stadiums before schools and hospitals, she did not do it on the WestConnex, she did not do it on the CBD light rail project nor on a whole raft of other projects. The Premier did not go to the Blue Mountains with a tape measure and measure the tunnels. Bob the Builder would have done that before he sent Roley up the tracks, but it was too hard for her to do it. The Premier has not done her homework by pulling the ear of the Minister for Planning, who flip-flops all over the place and confuses this city by hurtling towards growth. She did not do it on privatisations, But she did do her homework on the dodgy deals that underpin all of those privatisations that have seen electricity prices rise and have seen the people of the Hunter robbed of a container terminal. The Premier deserves a censure for not being here to defend herself from this motion. This is a capital F fail by a B-grade No. 2 Premier today.

**TEMPORARY SPEAKER (Mr Lee Evans):** The question is that the censure motion be agreed to.

**The House divided.**

Ayes .....23  
Noes .....50  
Majority.....27

#### AYES

Aitchison, Ms J  
Barr, Mr C  
Chanthivong, Mr A  
Foley, Mr L  
Hoenig, Mr R  
McDermott, Dr H  
Scully, Mr P  
Washington, Ms K

Atalla, Mr E  
Car, Ms P  
Daley, Mr M  
Harris, Mr D  
Hornery, Ms S  
McKay, Ms J  
Tesch, Ms L  
Watson, Ms A (teller)

Bali, Mr S  
Catley, Ms Y  
Doyle, Ms T (teller)  
Harrison, Ms J  
Lynch, Mr P  
Mihailuk, Ms T  
Warren, Mr G

#### NOES

Anderson, Mr K  
Barilaro, Mr J  
Constance, Mr A  
Crouch, Mr A  
Donato, Mr P  
Fraser, Mr A  
Goward, Ms P  
Gulaptis, Mr C  
Humphries, Mr K  
Leong, Ms J  
O'Dea, Mr J  
Pavey, Mrs M  
Piper, Mr G  
Rowell, Mr J  
Stokes, Mr R  
Tudehope, Mr D  
Williams, Mrs L

Aplin, Mr G  
Bromhead, Mr S (teller)  
Cooke, Ms S  
Davies, Mrs T  
Elliott, Mr D  
George, Mr T  
Grant, Mr T  
Hazzard, Mr B  
Johnsen, Mr M  
Marshall, Mr A  
Parker, Mr J  
Perrottet, Mr D  
Provest, Mr G  
Sidoti, Mr J  
Taylor, Mr M  
Upton, Ms G  
Wilson, Ms F

Ayres, Mr S  
Conolly, Mr K  
Coure, Mr M  
Dominello, Mr V  
Evans, Mr A.W.  
Gibbons, Ms M  
Greenwich, Mr A  
Henskens, Mr A  
Kean, Mr M  
Notley-Smith, Mr B  
Patterson, Mr C (teller)  
Petinos, Ms E  
Roberts, Mr A  
Smith, Ms T.F.  
Toole, Mr P  
Williams, Mr R

#### PAIRS

Cotsis, Ms S  
Finn, Ms J  
Haylen, Ms J  
Lalich, Mr N

Brookes, Mr G  
Griffin, Mr J  
Lee, Dr G  
Speakman, Mr M

**Motion negatived.**

*Visitors***VISITORS**

**TEMPORARY SPEAKER (Mr Lee Evans):** I acknowledge in the gallery former Minister for Education Adrian Piccoli.

*Committees***STAYSAFE (JOINT STANDING COMMITTEE ON ROAD SAFETY)****Report: Heavy Vehicle Safety and Use of Technology to Improve Road Safety**

**TEMPORARY SPEAKER (Mr Lee Evans):** The question is that the House take note of the report.

**Mr GREG APLIN (Albury) (17:08):** As Chair: The Staysafe committee tabled its report entitled "Heavy Vehicle Safety and Use of Technology to Improve Road Safety" on 24 May 2018. The committee examined the subject of heavy vehicle safety technology following a referral from the Minister for Roads, Maritime and Freight. I thank the Minister for her referral and her ongoing interest in the Staysafe committee. We invited submissions on technologies being employed to manage driver fatigue and other safety risks, with a view to understanding their reliability and cost and how quickly they were being taken up by the industry.

The Minister made a second referral asking us to examine the 2017-18 holiday road toll. We are all concerned that our outstanding performance in reducing the road toll has been interrupted since 2014. We have experienced a recent spike in fatalities and members will recall that the 2017-18 holiday period was marked by several notable and disturbing heavy vehicle crashes. The Committee went back to its stakeholders and asked them to consider the road toll as well. As usual we were fortunate to enjoy excellent briefings from road safety agencies, including the NSW Police Force which conducted Operation Rolling Thunder over the holiday period. The committee's deputy chair, the Hon. Scott Farlow, and I took the opportunity to visit the Toll Group depot at Eastern Creek to see safety technology already installed in trucks. We visited also the Roads and Maritime Services inspection station at Wetherill Park to see trucks going over the pits.

In addition to a comprehensive submission from the New South Wales Government, the committee received submissions from 43 other stakeholders. We invited 14 witnesses, representing transport operators, regulators and researchers, to appear at our public hearing on 6 April 2018. Of our eight recommendations and 10 findings, of particular interest was the focus on simple and available technologies—not just looking at the cutting edge. There are many simple non-electronic technologies that can be installed now to make trucks safer. Items as simple as convex mirrors can be fitted to improve visibility around and beside trucks. Other proven technologies are available but they need to be more widely installed. These include adaptive cruise control, lane departure warning and automated emergency braking. However, the news about fatigue management technology is less promising. In-cab cameras, which monitor driver condition to detect fatigue, are available and are being installed. But the evidence of road safety authorities was clear: these technologies require more research and development before they can be certified as accurate and reliable.

Similarly, driverless truck technologies are under development but the safety benefits of these are still only emerging in the trials. The committee found there was a lack of consensus in the industry about the best forms of regulation and the most reliable technologies. Some stakeholders expressed concern about the use of telematics to find breaches and prosecute operators rather than to improve safety. The committee found there is more consultation to be had between road safety agencies and the industry to clarify the purpose of different technologies and how they will be used. The committee did find consensus around the need for a national approach to heavy vehicle safety. New South Wales is the through State. There is limited value in any one State acting alone. We must all be certain that a truck registered in one State is safe, reliable and well regulated in whichever State it is operating. The committee recommended that the New South Wales Government pursue national harmonisation of heavy vehicle safety regulation.

I turn now to the road toll. We are all concerned at the spike in fatalities we have experienced. However, this is not the time to reverse our road safety strategies and jeopardise our recent achievements. The 2017 road toll is still the fifth lowest figure on record, but the spike must be addressed. We heard compelling evidence from heavy vehicle stakeholders about their experiences on the road. Safe driving around trucks is a problem. All drivers need to understand the importance of road sharing, of being truck aware and of showing respect and consideration to all road users. We also heard concerns about driver and road user distraction, and the poor safety record of country roads continues. We recommended the road safety agencies redouble their efforts in campaigning for safe driving and road use in these areas. However, we cannot be complacent. The spike is real. If the number of fatalities does not return to trend in 2018, a re-examination of our strategy is vital.

The committee members and I look forward to the Government's response to our report and recommendations and to continuing road safety improvements in New South Wales. I thank my fellow committee members: the deputy chair, the Hon. Scott Farlow, and his Legislative Council colleagues Dr Mehreen Faruqi and the Hon. Daniel Mookhey, and my Legislative Assembly colleagues Mr Adam Crouch, the member for Terrigal, Mr Thomas George, the member for Lismore, Mr Nick Lalich, the member for Cabramatta, and Eleni Petinos, the member for Miranda. As always, their contributions were well informed by their close examination of the evidence and their experience in the community. I also thank the staff who supported us, particularly David Hale and Jacqueline Isles, who worked hard to bring this report in on time. I commend the report to the House.

**Report noted.**

**COMMITTEE ON INVESTMENT, INDUSTRY AND REGIONAL DEVELOPMENT**

**Report: Inquiry into Zonal Taxation - Final Report**

**TEMPORARY SPEAKER (Mr Adam Crouch):** The question is that the House take note of the report.

**Mr MICHAEL JOHNSEN (Upper Hunter) (17:16):** As chair of the Committee on Investment, Industry and Regional Development I speak to the committee's report entitled "Inquiry into Zonal Taxation – Final Report", tabled on 31 May 2018. I thank the Deputy Premier for his February 2016 referral to the committee to inquire into the possible benefits of zonal taxation for regional economies, infrastructure and services in New South Wales. In January 2018 we published an interim report on the issues raised by submission-makers about possible zonal taxation approaches. In January we also reopened the inquiry for further submissions, particularly about regional payroll tax and commercial and industrial property stamp duty. We held a public hearing on 26 March and spoke with people from across the State, including from Albury, Broken Hill and Tweed Heads, about ways to encourage regional economic and business growth through zonal taxation.

The committee made eight recommendations. We recommended that a zonal taxation approach using a "metropolitan" and a "regional" zone be implemented for payroll tax and commercial and industrial property stamp duty. The metropolitan zone should cover the Greater Sydney region, and the regional zone would be the rest of the State. We know that the New South Wales economy is doing well. However, much of the State's growth is driven by Greater Sydney, and we want to make sure that regional areas share in the State's success. We recommended a number of tax measures for the proposed regional zone, in the interests of pursuing regional growth and employment, encouraging people and businesses to move to regional areas, and ensuring regional areas remain competitive for business investment compared to interstate regions.

The committee recommended that a one-year payroll tax exemption be introduced for businesses from Sydney, interstate and overseas when they relocate to regional New South Wales. We also recommended a stamp duty exemption for the purchase of commercial and/or industrial property in regional New South Wales by relocating businesses. These measures will encourage more businesses to move to our regions. During the inquiry we heard that the State's current payroll tax threshold of \$750,000 is an obstacle for regional small business growth and employment. Specifically, payroll tax was described as a "handbrake on business". In order to encourage existing regional businesses to expand and hire more employees, we recommended that the payroll tax threshold in the regional zone be increased to \$1 million from 1 July 2019.

This increase means more regional businesses would be completely free from payroll tax and the associated administration costs. We heard that regional businesses could use payroll tax savings to employ more people and in this way increase local employment. A further increase in the threshold to \$2 million in 2022 will allow regional businesses to plan for future increases in staff. We also heard that stamp duty is an obstacle for young farmers looking to buy land for their first farm. We recommended that the Government consider stamp duty concessions for young farmers buying their first farm. Our recommendations are bold efforts to ensure a prosperous future for regional New South Wales. They are focused on bringing more jobs into our regions and we need to ensure regional New South Wales remains competitive for business relocation and investment.

Considering the infrastructure pressures currently facing Greater Sydney—which are expected to only increase—more Sydney-based businesses should seriously look at regional New South Wales as an alternative for relocation and as a place for potential growth. There are many instances of great opportunities for businesses to relocate from the Greater Sydney region, from interstate or indeed internationally to regional New South Wales. The cost of land is, in most cases, significantly cheaper and it would not be unusual for a business from Sydney, for example, that may be sitting on a capital value of land of, say, around \$2 million or \$3 million to relocate and set up for around \$1 million. If there are some further incentives for that business, it would only make it more attractive for them to do so. They could effectively increase their business with additional capital that they have released and the State could provide some form of incentives through the recommendations and the measures that we have spoken about.

I look forward to the Government's response to the recommendations. I thank my fellow committee members, of which you are one, Mr Temporary Speaker. I thank you for your contribution, and I also thank the other members—the member for Albury, the member for Wyong, the member for Ballina, the member for Cessnock and the member for Wollondilly—for their contributions. In particular, I thank the committee staff for the absolutely wonderful work they have done on our behalf and on behalf of the Parliament. We did put tight time frames on things, we did push to get things done as quickly as we could, and I very much appreciate everyone rolling up their sleeves and making this report come to reality. I commend the report to the House.

**Mr DAVID HARRIS (Wyong) (17:21):** I too speak on the report entitled "Inquiry into Zonal Taxation – Final Report" and I endorse the words of the chair. I joined the committee towards the end of the report being put together, but I believe it was a committee that worked together constructively. Whilst there was some robust discussion at times, that discussion was always well-meaning and focused on what is best for regional New South Wales. I too thank the staff for the job they did in supporting the committee, particularly when there were several changes of membership of the committee. The staff kept the flow going all the way through to the final report. The work of committees in this place cannot be underestimated—they do an incredible job—and the role of the committee staff is important. Like Hansard, they are very good at sometimes making members look probably a little bit better than we are.

I agree with the chair of the committee that the evidence showed us that regional New South Wales is an important area economically for the State. We have what has been described in some quarters as a two-paced economy, where the metropolitan economy has been going very strongly and regional economies have not quite been keeping up. The statistical data we were supplied with in the 2016-17 financial year shows that while the Sydney area increased by 101,600 people, the rest of the State only grew by some 20,000 people. We have a responsibility as a Parliament, on both sides of the House, including the crossbenches, to ensure that the economic benefits are spread across the whole of the State. With most of the members on the committee being from regional areas, we certainly made sure that was foremost in our thinking.

We should also recognise, and I think it is recognised in the report, that we are in competition with other States, and that—I am sure the member for Albury will speak about this—creates tensions, particularly in our border areas. New South Wales tax policy has to keep up with what other States are doing so that our businesses are not enticed away and force a movement to different areas. Recently Victoria introduced in its budget a variation in the tax rate—the city and the regions have two different tax rates.

It makes sense that we would look at recommending similar things to ensure that our regional areas are competitive. Regional New South Wales is a great place to live and part of the solution for Sydney is ensuring that people move there, which would ease pressure on Sydney's infrastructure. That can be achieved by ensuring that regional areas have the services they need and that there is employment. This report contains some recommendations that will encourage the movement of jobs to regional areas, and hopefully the Government will consider them seriously. I urge members to read the report. I am sure it will create some conversations between Government members, and hopefully they will consider the evidence the committee has gathered.

**Mr GREG APLIN (Albury) (17:25):** It has taken a decade to do this, but I assure members that the final report of the Committee on Investment, Industry and Regional Development on its inquiry into zonal taxation is worth the wait. It seems that every day there are stories in the Sydney media about congestion in this metropolis. Billions of dollars must be spent just to keep on top of the population growth and its implications for lifestyle and for business. We all know the pain that comes from taking action—digging up the city, cutting down trees, blocking access for pedestrians, and for customers there is also the dirt.

However, we know that the solution, or at least a significant part of the solution, lies in encouraging families and businesses to shift to regional areas. One does not get a 10-minute commute, clean air, a mansion for \$400,000 and a short drive to wineries and ski fields without creating a pathway—an enviable yellow brick road—that will transition locked-in Sydneysiders to a new, healthier and happier life. The report produced by the Committee on Investment, Industry and Regional Development provides us, at last, with a meaningful strategy to facilitate this most necessary internal Australian migration.

In brief, the committee took submissions, spoke face-to-face with organisations and debated as only a cross-party committee can do. A large number of possible directions have been distilled into just eight key recommendations. The committee rejected the potential chaos of multiple separate tax zones in favour of just two: a greater Sydney area zone and the rest. It rejected the idea of different payroll tax rates to build the payroll tax threshold to a level that will spare small and emerging businesses from the whole deal of paying payroll tax at a vulnerable stage in the life of their business.

The committee supports the strategy of a stamp duty exemption for the purchase of commercial or industrial property when relocating from the Greater Sydney area to a regional base, and a one-year payroll tax



exemption for businesses relocating to regional New South Wales from interstate, from overseas or from Greater Sydney. It advocates for a stamp duty concession for new young farmers who are buying their first farming property. Good on them. We should make it easier for an enthusiastic new generation to get farming. That would be in everyone's best self-interest. We must separate the Greater Sydney area from the rest of the State, and lay out a roadmap that presents not only a grab bag of separate incentives and concessions for moving business to the regions but also a compelling narrative that has an inescapable logic.

It can be tempting to delay these kinds of changes to another day. "Things are going well now in New South Wales," a person might say. "Business is booming, so why change what isn't broken?" To that I reply it will not always be this way. We look at mentoring programs for digital entrepreneurs, we send advisers around the State, we have government Facebook pages and websites and pamphlets about doing business. However, we know that the shift to the regions is moving slowly and that it is not an exciting topic.

This report is different; it is not about more clicks on social media but about cash in the pocket of a business-minded person. Money is a barrier to leaving the assumed security of starting a business or keeping a business in Sydney and the Greater Sydney area. The Government can make these financial incentives and concessions convincing now because it has the State's finances under control. It can show the young people of Australia that great opportunity and an enviable lifestyle await them in regional New South Wales. We should pull down more barriers for this life-changing—indeed, necessary—wave of internal migration. As deputy chair of the committee, I commend the report to the House and endorse the eight recommendations.

**Mr CLAYTON BARR (Cessnock) (17:28):** I will contribute briefly to debate on the report of the Committee on Investment, Industry and Regional Development entitled "Inquiry into Zonal Taxation" as I know there are more important issues to deal with. I had the pleasure of serving on the committee with Mr Temporary Speaker Crouch, which was a fascinating journey and experience. Those members who have read the minutes and the report would be aware that I have some concerns about the report. On the whole, I think it is a good report. I state at the outset that I like the idea that there are levers we can pull to increase regional movement so that people can move to the regions to work, live and prosper.

My concerns about the report are primarily that a significant amount of evidence was given to us which suggested that people were not in favour of zonal taxation or they did not believe that zonal taxation would work. It will be interesting to see the Government's response to that report. I hope that zonal taxation works, and works wonders. We have a significant problem as too many people are leaving our regions and moving to the cities, the metropolises and the larger centres in regional New South Wales—for example, people are leaving Gilgandra to go to Dubbo. I look forward to the Government's response. I enjoyed the topic and the inquiry and I thank the committee staff who worked incredibly hard and the various chairs of the committee. I congratulate the member for Upper Hunter on concluding this inquiry and on tabling the report.

**TEMPORARY SPEAKER (Mr Adam Crouch):** I also congratulate the member for Upper Hunter on concluding this inquiry. As a member of the committee, I am pleased that the report has been tabled.

**Report noted.**

## LEGISLATION REVIEW COMMITTEE

### Report: Legislation Review Digest No. 56/56

**TEMPORARY SPEAKER (Mr Adam Crouch):** I postpone consideration of this report until the next Thursday on which committee reports are dealt with.

### *Matter of Public Importance*

## RAMADAN

**Mr STEPHEN BALI (Blacktown) (17:31):** Ramadan is observed by Muslims worldwide as a month of fasting as they commemorate the first revelation of the holy Quran to Muhammad. Fasting occurs for adult Muslims apart from some exceptions. Muslims refrain from eating and drinking from dawn until sunset. Iftars are the post-fast breaking feasts that are generally held each evening and I know that many parliamentary members have attended them at various locations. I have immense respect for those who fast, regardless of their religion, as it is an important demonstration of their belief in their faith by making a sacrifice to improve their outlook on life. Apart from fasting, Ramadan also requires the saying of prayers, the undertaking of good, positive acts and acts of charity, and refraining from sinful thoughts and acts.

There are many mosques in the electorate of Blacktown and across the City of Blacktown which generally coordinate many acts of charity and service to the community. I will mention a few. The Afghan Osman Mosque in Fourth Avenue, Blacktown, provides many community activities and runs language schools, youth activities

and conducts various sporting events. Its aim is to produce productive, informed and progressive community members to be the leaders of tomorrow. The Quakers Hill Mosque on Eastern Road was established in 2009 and runs programs that promote knowledge of Islam and builds positive relationships with people of all faiths. It also supports a clothing bin for donations.

The Rooty Hill Masjid and school play important roles in our community. They have been part of our community for decades and now the school has expanded to be one of the premier schools in the region. The current president, Dr Khan, has ensured that the school community values are based on knowledge, attitude, and the excellent manners that will make students Muslim role models and great Australian citizens. The Masjid Qubaa Mosque in Mount Druitt was established under the guidance of Sheikh Dr Shabbir Ahmed. The mosque has educated its members to live in peace and harmony with all citizens. It strives to present a family-inclusive environment to solve family issues and eliminate the occurrence of domestic violence. I was pleased to attend the opening of the mosque in February 2017 with the Pakistani High Commissioner, Abdul Majid Yousfani. The Baitul Huda—House of Guidance—is a mosque in Marsden Park which is part of the Ahmadiyya Muslim Community. They hold many events that members from both houses of Parliament have attended. Under the spiritual guidance of Imam Kauser, the Ahmadiyya Muslim community live their lives by the motto "Love for all, hatred for none". They have said that they are loyal to Australia and want their kids to be loyal to Australia.

But actions speak louder than words. They participate in Clean Up Australia Day and undertake interfaith symposiums that not only raise awareness about Islam but also bring in community leaders from politics, other religions and community services organisations to discuss issues in a way that demonstrates that there is more that unites us than divides us. They also hold Australia Day celebrations. All Muslim communities in the Blacktown city area provide a source of pride for our multicultural community. Blacktown city boasts 188 cultures—I have heard that there are 215 across New South Wales—and 182 languages are spoken from 177 birth nations out of the 195 in the world. We have almost everyone in Blacktown city. Our Muslim community provides a wonderful source of support and pride to the overall community life of the city. I bid everyone Ramadan Mubarak.

**Ms MELANIE GIBBONS (Holsworthy) (17:35):** I acknowledge the special time of the holy month of Ramadan. I am pleased that the member for Blacktown has raised it as the matter of public importance. It is an important time that should be acknowledged in this Chamber and a time when everybody comes together. Particularly after the day we have had today, it is important that we come together—it has to happen occasionally. During Ramadan we attend many dinners and break our fasts with our Muslim friends and members of the community. The member for Liverpool must not be eating at home at all during the month of Ramadan—he attends so many functions. I also attend many Ramadan events and many iftars.

On 31 May I was part of a fabulous iftar dinner hosted by Affinity Education at Amity College in Prestons. It was a fabulous event in which Catalina Florez of Network Ten was the master of ceremonies. That night, the guest speaker was Professor Mary Crock, a professor of public law at Sydney Law School. She also has expertise in immigration, citizenship and refugee law. She is an interesting lady who spoke about the vulnerabilities of refugee children and refugees with disabilities, the challenges that they face in their home countries, in going to other countries and the support that they are given. Her husband has a disability and a special focus on that area as well.

On 18 May I attended the Islamic Charity Projects Association iftar dinner at Al Amanah College. My colleague the member for Liverpool was there, as were many of our colleagues and consuls general. It is the one event in my electorate at which many members of Parliament come together and it is always nice to see them there. We were joined by the Minister for Multiculturalism. It is always nice to break the fast at that time. The dinners and the month of Ramadan are a good chance to see where we are heading and think about how we want to give back to our community. It gives us an opportunity to take a good look at ourselves and think about the person we want to be. No matter our background or spiritual or religious beliefs, it is an ideal opportunity for us all to do that.

I was thrilled to attend the Affinity dinner at Parliament House hosted by the member for Parramatta and the member for Lakemba. They put on a fabulous event that filled the Strangers' Dining Room and brought together people from every background. It was good to see that acknowledged. The Premier's iftar dinner is scheduled for tomorrow night and then we will all be back in Liverpool on Saturday night for the Ramadan Eid Bazaar at the Whitlam Leisure Centre. Sashi Lal, who is organising that event, is phenomenal. We always try to attend her events.

The Muslim Scouts Australia annual Ramadan dinner is on Sunday. That dinner will be supported by Dr Ghayath Al Shelh, OAM, Vice President of the Islamic Charity Projects Association [ICPA]. That association empowers youth from Arabic and Islamic backgrounds and does a special job promoting its organisation and kids through Scouts. Liverpool has one of the two existing Muslim scouting groups. Recently they moved into a hall

in Lurnea. It is exciting to see them broaden their interaction with, and become part of, our community. These kids may not have been in Australia very long and their parents may not yet have the community connections that will develop with time. That support is available through Scouts, where they learn to become leaders and part of a community. It is nice to see that. I acknowledge the work that Faten El Dana, OAM, does with the Islamic Charity Projects Association. As I am running out of time, I say to everyone, "Ramadan mubarak and have a very happy rest of the month ahead."

**Mr PAUL LYNCH (Liverpool) (17:40):** I am delighted to participate in the debate on this matter of public importance. I congratulate the member for Blacktown on bringing it to the attention of the House. Ramadan is, self-evidently, an important time for the Islamic community. It is now a much broader event and significant for the wider community. Certainly anyone who lives in Liverpool is entirely aware of Ramadan, of Eid al-Adha and Eid al-Fitr. I have constituents, close friends and staff who observe Ramadan. The increasing importance of Ramadan in the broader community is seen through a very simple phenomenon. When I was first elected as the member for Liverpool—as I point out some time last century—I would receive an occasional invitation to an iftar, which is a dinner to break the fast at sunset.

The number of these invitations has now grown exponentially. This reflects not just a growth in the Islamic community but also a greater interest by the Islamic community to invite others, including elected representatives, to share those traditions and a willingness on the part of elected representatives and the broader community to be part of that celebration. I have inevitably received quite a large number of invitations this year and have been to a range of events with my colleagues, in particular Councillor Charishma Kalianda. I was invited by the Islamic Sciences and Research Academy Australia [ISRA] to its sixth Spirit of Ramadan iftar dinner on Saturday 19 May at the Novotel, Parramatta.

ISRA is an organisation I know well. It was established in 2009 in Sydney and provides Islamic education within the Islamic scholarly tradition, which includes being involved in university courses based at Charles Sturt University. The sixth iftar dinner featured Father Chris Riley, among others, as a guest speaker. Apart from several parliamentarians, there was a wide range of community representation, including Parramatta Lord Mayor Andrew Wilson and Councillor Sameer Pandey. I acknowledge the role of ISRA's Executive Director, Dr Mehmet Ozalp.

On 18 May I attended the twenty-fifth annual Ramadan dinner of the Islamic Charity Projects Association held at the Al Amanah College, Liverpool. I think I have been to all 25 dinners. A wide range of community and consular figures were in attendance, including First Secretary Noura Saleh from the General Delegation of Palestine to Australia, New Zealand and the Pacific. Last Sunday I attended an iftar at the same venue for Spears Sports Club with Dr Ghayath Al Shelh, OAM, and Imam Ibrahim Chafei.

On 26 May I attended a community iftar at the Orion Centre in Campsie that was organised by the Australian Lebanese Muslim League. I note the contribution on the night of Lebanese Muslim Association President Samier Dandan. This is another Lebanese Muslim organisation I have had dealings with for many years. I look forward to attending the annual iftar dinner for the Cabramatta West Mosque tomorrow. Its iftar will be held in conjunction with the Lebanese Muslim Association and the Rahma Mosque. It is a pleasure to acknowledge Ramadan in this place.

**Mr STEPHEN BALI (Blacktown) (17:43):** In reply: I thank the member for Holsworthy and the member for Liverpool for their valuable contributions. One thing that came out in all three of our speeches was the number of invitations to dinners we have received. It is not just a matter of the dinners; it is also about the bringing together of communities. These events are important because they show this is not an inward-looking religion that only does iftars for those within the religion, as may be commonly portrayed by the media. The invitations also often bring in community people from various different religions, assisting with interfaith dialogues, as well as people from community service organisations. We all come together to share our stories and our development of Australia.

It is great to see the achievements of the many Muslim communities, mosques and so on. Whether it is in charity, with the Scouts, as mentioned by the member for Holsworthy, undertaking Australia Day activities or participating in Clean Up Australia Day, their involvement is amazing and it builds the social fabric of Australia. And it is now not just about the iftar. As I sat down after my initial speech on this matter, I received a text message from the Secretary of Rooty Hill Mosque, Nasib Mohammed, asking me to an after-Eid breakfast. I can understand why I am putting on weight.

**Mr Paul Lynch:** You will have to fast during the day.

**Mr STEPHEN BALI:** Yes. The Ahmadiyya Muslim community put on a talk for a range of people about fasting. The member for Oatley was there as was the Hon. David Clarke and the Leader of the Opposition, Luke Foley. We talked about our experiences of fasting and so on and bringing communities together. With these

events the Muslim community is bringing people together so they get a clear understanding of the religion, which can help avoid a situation in which negative elements end up on the front pages of the newspapers. I commend and thank all members of both Houses who attend the various iftars and functions because our roles as community leaders are to bring the community together and ensure everyone gets heard.

*Bills*

**PUBLIC HEALTH AMENDMENT (SAFE ACCESS TO REPRODUCTIVE HEALTH CLINICS) BILL  
2018 (SHARPE)**

**Second Reading Debate**

**Debate resumed from an earlier hour.**

**TEMPORARY SPEAKER (Mr Adam Crouch):** Order! The behaviour of members has been exceptionally good today, given the topic, but I remind members of Standing Order 52. All members will be heard in silence throughout this debate.

**Ms TRISH DOYLE (Blue Mountains) (17:47):** I speak in support of the historic Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018, as a woman, as a Labor woman and as someone who needed to visit a reproductive health clinic at a very difficult time in my life and was harassed by these judgemental, supposed "sidewalk counsellors" shouting at me that I was a "baby killer". I speak as the New South Wales co-convenor of EMILY's List and as a loving mum. I speak for those without a voice and those who need me to articulate their concerns. I speak for fairness and feminism, and I speak as a privileged member of Parliament.

Here are some facts: 80 per cent of Australians support a woman's right to choose. Being pro-choice is not being pro-abortion. Abortion is one of the most common medical procedures that Australian women will experience in their lives. Having an abortion is a criminal act in both Queensland and New South Wales—that means it is a crime for half of the women in Australia. One in three pregnancies in Australia is unintended. That is one of the highest rates of unintended pregnancy in the developed world. One in 25 women who has an abortion has to travel interstate to have it.

The majority of women who have an abortion already have at least one child. One-third of people who contact Children by Choice for pregnancy options and counselling are suffering domestic violence and one-fifth are victims of reproductive coercion. More than 70 per cent of terminations are the result of failed contraceptives. Three-quarters of young women report that they did not learn anything from their sex education classes in school that would have helped them deal with sex and respectful relationships. Every one of those facts shows that reproductive freedom is unfinished business in Australia.

Access to information about choices when one discovers they are pregnant and access to safe, legal and affordable abortion is not the beginning and end of the fight for reproductive rights in Australia, but it is an important step. I quote a woman who has been an active, outspoken, honest and compassionate advocate in this space for many years. She is a wise and dear friend and a member of EMILY's List. When Federal member for Sydney and Deputy Leader of the Opposition in the Australian Parliament, Tanya Plibersek, MP, spoke at a function last year on reproductive freedom she said:

What is reproductive freedom? I want to say upfront that when I'm talking about reproductive freedom, I get that it's a lot messier than demanding rights, changing laws and providing health services.

We'd like to hope we can control our bodies, but too many of us have had unexpected pregnancies or struggled to become pregnant when we desperately wanted a child, to imagine that we really control our bodies.

We do the best we can to influence our fertility, but life and relationships and accidents—both tragic and happy—all play a role.

But when it comes to something as important as carrying and raising a child, we deserve as much say as possible, as much choice as possible. Every child born should be loved and wanted. I actually think that's a pretty uncontroversial thing to say.

Many Australians agree with her. Why do we need safe access zones? Because our outdated laws are a serious barrier to the provision of health care. In New South Wales, Queensland and South Australia, a woman can only terminate her pregnancy if her mental or physical health, or life, is at risk. It then becomes the doctor's prerogative to decide whether she can have an abortion. Trying to make your way through intimidating and threatening behaviours to seek further information or undergo a termination after a doctor's interrogation is why we need safe access zones. Abortion is the only medical procedure in the country for which this is the case. Abortion is the only medical procedure for which the patient's wishes are inconsequential. That is why we need safe access zones.

Recently, notable success has been achieved in changing outdated laws. In March last year the Northern Territory Labor Government passed reforms to abortion law that made medical terminations available for the first time. However, attempts to decriminalise abortion have failed time and again. We must continue to

push to advance women's reproductive rights throughout the country. As a proud feminist and member of EMILY's List, whose existence and objective is to support progressive women into Parliament, I suggest that the mission of EMILY's List is as important as ever. Women of New South Wales, your membership is as important as ever. Good, progressive men of New South Wales, your support of a woman's right to choose is as important as ever.

I have been contacted by a few right-to-lifers throughout the debate on safe access zones. They tell me that democracy depends on freedom of speech. Freedom of speech does not mean one can spit on, shout at, deride, abuse, intimidate, publicly shame or judge, step in front of or harass people who are just trying to exercise their freedom to walk into a health clinic. The right-to-lifers who say they offer support are deluded if they think that the behaviour I outlined is respectfully and compassionately offering another course of action. What utter garbage. There is no respect or compassion in denying people access to health care.

We need to talk about unplanned pregnancy in this space today and safe access zones. We need to talk about pregnancy and abortion, though this is not a bill about legalising abortion. There is clearly a lot of work that needs to be done around practical and legal access to abortion, and decriminalisation of abortion. That needs to be said in this debate. A lot needs to be done to change attitudes. I acknowledge the many ethical and personal views around abortion. Reproductive choice—reproductive freedom—is about much more than that. Australia has one of the highest rates of unplanned pregnancy in the developed world.

Most women spend a lot of their lives trying not to get pregnant when the time does not seem right. We are not always very successful. One in three pregnancies in Australia is unintended, and that can be a lovely, happy surprise. However, often it is not. One in five pregnancies is terminated. Contraceptive failure is the cause of 70 per cent of those unwanted pregnancies. Lots of Australian women are not using the best form of contraception for them because they are not informed about their options. This is the essence of the debate today: options—accessing and understanding options and making informed decisions. [*Extension of time*]

Reproductive coercion also needs to be mentioned in this debate. Reproductive coercion can take on a number of forms but most people know essentially what it means. It happens when your partner controls or sabotages your birth control; when they make threats or are violent if you insist on using a condom; and when they take off the condom without telling you. It is disturbing that that is so common that it has a name: stealthing. It should be known as rape. It is when a man emotionally blackmails or coerces a woman into falling pregnant or keeping a pregnancy they do not want or, on the flipside, forces a woman to have an abortion as a sign of their love and fidelity, all the way through to forced sex and rape. This is not okay. But it is shockingly common.

Children by Choice has found one in eight of its clients has experienced reproductive coercion. Reproductive coercion is a way for perpetrators of violence to exercise power over their partner's life. A third of women reporting domestic violence also reported reproductive coercion. It is a sickening truth, but the risk of women experiencing domestic violence increases when they are pregnant. And it is a form of violence that has lasting impacts. Having a child creates a legal tie with a woman's abuser that can last a lifetime and makes it far harder to leave a violent relationship. Combatting reproductive coercion needs to become part of our national effort to prevent domestic and family violence.

Anti-choice demonstrators often use the fact that some women may be coerced into having a termination as a reason that no women should ever be able to choose one. Certainly, we should be ensuring no-one is ever forced to have an abortion. We should also recognise that harassing, attacking or shaming vulnerable women who are trying to end a pregnancy is also a form of reproductive coercion. All Australian States should have safe access zones to prevent this. In considering a meaningful response to this important legislation today, I spoke with a number of people and have read much material. But this issue, like it is for many, is also deeply personal, the fabric of my being and part of my history—part of who I am and my experiences.

My friend and feminist activist Helen Westwood, a former member of the Legislative Council and tireless advocate with the Women's Abortion Action Campaign in its early days, worked around this issue for years. She said, "I, like most Australians, am absolutely committed to women determining their reproductive rights." That is what this is about. Long-term EMILY's List member Alison McLaren states:

Every woman deserves the right to access reproductive health care without being harassed or made to feel bad when she already faces a very difficult decision. Campaigner, activist and young trade unionist Rosie Ryan states: Women should be able to access health care without contending with harassment and intimidating behaviours. There is no other health care decision where people have to deal with that. Being able to determine when and how you have a child is fundamental to a woman's rights and freedom.

Providing safe passage to information and health care for women and their partners or supporters during a difficult time is the decent thing to do. That is why we need safe access zones. Whether it is legislating for safe access zones or for reproductive freedom, it is clear that our current approach is not good enough. For half of the women in Australia, abortion is a crime. Reproductive health care can be prohibitively expensive, even if someone can

find a service that will help them. However, one in three pregnancies is unplanned and one in five is terminated. If the intention behind all these barriers and restrictions is to stop women having abortions, it is not working. We need to improve reproductive freedom through decent sex education to ensure young people have safe, fun, healthy and respectful relationships when they are ready.

We need a comprehensive approach to improve use of effective contraception. Reproductive freedom is intimately tied to gender equality. To secure gender equality we must be pro choice. To be pro choice is to offer safe access to options. Australia still has unfinished business in reproductive health. Today, we can make history in and for New South Wales. I acknowledge the work of many women and men who have campaigned and worked on abortion law reform and women's rights throughout history. I thank the many young women in universities across the State who have mobilised and activated awareness raising campaigns to support those of us in this place who have been pushing for reform. In particular, I acknowledge Bethany Higgs from my electorate of the Blue Mountains, who has been in the public gallery all day. I thank her for her feminism and efforts.

I thank the fabulous Women's Electoral Lobby, the Women's Abortion Action Campaign and those who work in women's health clinics, the health system and abortion clinics for sharing their stories of horror and hope. They deserve this legislation and protection in their workplace. I thank the Women's Legal Service, Family Planning NSW, the Rape and Domestic Violence Service, Community Legal Centres NSW and the Country Women's Association. I thank EMILY's List for its advocacy to support people who can introduce effective, pro-choice legislation into our Parliament. When women support women, women win. I thank the Hon. Trevor Khan, Dr Mehreen Faruqi and the member for Port Macquarie for their collaborative and progressive work in this space. I especially thank the Hon. Penny Sharpe for all her incredibly work in negotiating us to this point. She is a champion and a quiet achiever. This small but critically important step forms part of her story.

**Mr RAY WILLIAMS (Castle Hill—Minister for Multiculturalism, and Minister for Disability Services) (18:02):** I speak in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. There are times when the Liberal Party gives its members the right to a conscience vote and the majority of us take the opportunity to share the reasons we do or do not support a bill. I take that opportunity today on my own behalf and also on behalf of the people who support me in my electorate. I respectfully acknowledge the remarks by all the previous speakers. Bills such as this one are emotive and bring out a compassionate side of politicians that the community rarely sees. From the outset, I say that I oppose the bill. I cannot in good conscience accept the premise that this bill will create a criminal act that could culminate in the jailing of a person who may be counselling, speaking to, praying for or supporting another person to preserve human life. I cannot accept that premise, and that is what this bill would do.

I make it very clear that every person in New South Wales and, indeed, Australian society should be free under our Constitution and in our democracy to undertake their lives freely and to access whatever services they need. If a woman has been inhibited, intimidated or bullied while seeking to enter a reproductive health clinic, then for that I am extremely sorry. I am saddened because I would imagine that Australians would be more respectful than that. If that has been the case, then I understand the sentiments of people who support this bill.

After 11 years of parliamentary duties and a life in which I have interacted with many people, I am yet to hear from a person or a woman who has experienced such intimidation or bullying. I do not deny it. If that is the case then that is the case. But when a bill comes before the House, it usually invokes quite a lot of correspondence to my inbox—no doubt other members experience the same—and there is usually lobbying from one side or the other. I have yet to hear from a woman or a person who has personally experienced such intimidation. I thought I may have when this bill was brought to the House. So I cannot make an informed decision whether or not that has been the case.

I say from the outset that I support the rights of all women to make choices on behalf of their bodies. I make that clear because of the values and principles instilled in me by my mother, who maintained that I should always support a woman's right to make that choice. Forgive me, I am a little emotional. I have wrestled with this issue because my mother and father had the tragedy of the death of my brother before his third birthday. He was born looking absolutely perfect, for all intents and purposes a lovely baby boy. The rare photos that we have of him are beautiful. Yet, sadly, a smile could not be captured on his face because he was in absolute pain every day that he drew breath on God's earth. He passed away in a painful and traumatic state. He was disabled—he had cerebral palsy—but he looked perfect in every way, shape and form.

His mother loved and adored him—as all good mothers would—as did my father. It almost tore them to pieces; it almost ended my family. My father vowed never to have children again, ever, but my mother was very strong-willed and determined to have healthy children. God bless her for that because if she had not I would not be standing here today as her second child. My mother instilled in me to always allow a woman to make the choice on behalf of her body. I respect and stand by her decision and I respect that decision on behalf of every woman.

As my father did before me, I have spent a lifetime advocating on behalf of women who were abused. My father abhorred abuse and felt that those who committed it were great cowards. As someone who for years has publicly advocated for infrastructure for my area, I cannot ignore the fact that this bill removes the right for people to advocate for the very important reason of preserving life. We are all here by virtue of the fact that we were raised by loving parents. I hope every person has the right; in some cases, that may not be the case. I will always stand by the right of people to freely advocate and speak out on issues about which they feel so very strongly—as I have and, indeed, as my family have. I could never support a bill that will make a criminal act out of something that is so important.

I have listened to the remarks of previous speakers. Almost 100,000 pregnancies are terminated every year. Whilst my mother advocated strongly to support women who made the choice to terminate a pregnancy, she also instilled in me the importance of being responsible, to not create life that is unwanted. I respect the fact that some pregnancies are not by choice, that they happen under traumatic and difficult circumstances. I hope that I have made clear the reasons I cannot support the bill.

For me, it is a matter of free speech. Free speech for all underlies democracy and the Constitution of this country. I am worried where it will stop once we bring in laws to prevent people from speaking freely on issues. On many occasions—I cannot count the number—I have arrived at Parliament House and there have been union protesters hurling abuse and obscenities at politicians. Members have broad shoulders and respect the right of union members to protest, but people should protest respectfully. I hope whichever way the vote goes on this bill that people remain respectful to one another. I oppose the bill before the House.

**Mr JAI ROWELL (Wollondilly) (18:11):** I acknowledge that the member for Newcastle had the call but as I have to attend to a personal family matter he has allowed me to put my view on the record. I thank the member. I do not think that any member of this House would tolerate abuse, neglect or intimidation of a person—woman, man or child—because of their race, religion, creed or a decision they have taken. However, we must support laws that fix problems. I do not believe that the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill fixes a gap in legislation. Laws are already in place to stop bullying, harassment and intimidation. I would be the first to stand up to anyone in my electorate who did any of those things to a woman who was going into one of those places.

The bill before the House is undercooked. I am concerned that there may be unintended consequences for people who are praying or have a billboard. Previous speakers have spoken at length about the consequences for people who might not know the location of a clinic—we have been told that there is one across the road from Parliament House—but may make a statement that offends somebody. The penalty for doing something of that nature—as compared to penalties for the harsher act of intimidation—are for a first offence six months in jail. That provision needs to be changed. I hope that in the Committee stage of this bill amendments are introduced that will reflect those concerns. With a change to the penalties, the bill would be more acceptable to many members in this place.

I have had a number of representations from people in my community who believe that this bill is about abortion. It is not about abortion. This legislation is about people being intimidated, abused or bullied as they go into clinics for abortions. It also affects people who, unfortunately, have lost a baby and are going to a clinic for a procedure as a result of that loss. I do not condone any intimidation, abuse or bullying but I do not believe this bill properly addresses the issue. This bill is a political wedge. I hope that sensible amendments are made to the bill later this evening. I oppose the bill in its current form.

**Mr TIM CRAKANTHROP (Newcastle) (18:13):** I support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. This is an important reform that is certainly well overdue. I thank Penny Sharpe, MLC, for introducing this legislation in the other House. I also acknowledge co-sponsor Trevor Khan, MLC, and member for Port Macquarie, Leslie Williams. I thank Penny, in particular, because she has been working on this issue for many years. She came to my electorate and met with women who are deeply concerned about this issue. There is strong support for this reform in my community of Newcastle.

In my electorate we are fortunate to have a Marie Stopes clinic. This is a place where many procedures are conducted—not only terminations but also curettes and vasectomies. I have a picture of the clinic. Outside the clinic there is a narrow footpath and a narrow grass verge on a busy road. This is where protesters stand and harass people who come to the clinic. Not only is this traumatic for the people entering the clinic, it is also dangerous, with such a busy road and a narrow verge. Unlike the member for Castle Hill, who spoke before me, I have met people who were absolutely harassed and traumatised when visiting the clinic in my electorate.

I have close personal friends—a husband and wife—who went to the clinic. They went not for a termination, but to get a curette. Tragically, they already knew their baby was dead, having visited a doctor and had an ultrasound. They had to run the gauntlet of people harassing them about keeping a baby they knew was

dead. I ask members who will vote against this legislation how they would feel in that situation. I have more examples of the personal pain and anguish felt by people who have been harassed while attempting to attend these clinics. This is the first example:

Many years ago I opted to terminate my pregnancy. I was hounded from the time I got out of the car until I was inside the clinic. People were yelling, they held signs and forced pamphlets into the hands of those who passed. They had NO right to question my decision and force their opinions down my throat.

A small child who was with her parents had one of the pamphlets in her hands. She had no idea what she was seeing.

Here is a second story:

The key reason behind my anxiety and traumatic stress response post-abortion is the shame and stigma perpetuated by such people...Allowing protests outside clinics traumatises women seeking abortions to save their own lives—medically, emotionally, financially, socially, and academically. Now working in mental health, I can barely hold in my tears when I see other women present with the same stories, the same shattering kept silent for months to years that has slowly pulled them apart at the centre. This self-destruction is usually not about whether or not they ended a life, it is constructed around the guilt and public stigma enforced by those who reject a woman's bodily sovereignty.

Allow safe zones, allow safe medical practice, reject the stigma, and encourage support for women who need nothing but, regardless of their choice. It comes down to one woman, one womb, one fetus; and strangers who choose to torment women living other lives with hate speech should at least be kept at a distance to promote respect for supportive and holistic healthcare.

I have another example:

I don't know if you can possibly imagine the horrendous psychological agony involved with having to be physically manhandled and verbally abused as I approached and entered the premises, after making the decision I had had to make. I hope you, or your wives or daughters, never have to experience that. And the terrible guilt my partner felt for not "protecting" me—as I'd asked him, for me, to hold his head high and not to respond to them in any way.

To compound my suffering, I had complications post-termination, and I had to attend a second time for a more extensive procedure. I was abused and accused—while I was sick with internal bleeding. They got to abuse me two times for the price of one!

Here is a further example: I attended a clinic with my mother. I was 18, pregnant and scared. My boyfriend, now husband of nearly 30 years was at his job fretting. The monsters out the front of the clinic had lined the footpath on both sides. They were loud and pushy, shoving big posters at us and placing brochures in our faces. They were calling us names, invoking bible passages at us and jostling us. My mother shielded me as best she could. We did not engage them, there was no point for as far as they are concerned they are right and you are wrong. The people in the clinic were wonderful, I do not in any way regret my abortion or think about it in a negative way, I was counselled and firm in my mind that I could not care nor provide for a baby. What still scares me and gives me nightmares are the awful people who abused and tried to stop me from attending the clinic. They didn't know me or my story—why I was there, yet they stood in judgement of me, abused me and told me what I had to do with my body. I was 18, of legal age to drink alcohol, I could drive a car and vote. My Government had deemed me an adult. Yet these people tried to take away my rights as a human being, my right to my body. To force me to do as they wanted.

There is another example:

When I had to take my daughter to a clinic we were filmed and abused by people standing outside. My daughter was terrified and I was just so angry about it. I mean how dare they attack us like that. It felt so personal. Still makes my blood boil!

Finally:

I've been to a clinic in NSW with my partner, and as soon as these people with their signs could see we were going inside they just swarmed on us. They basically blocked the door and my partner had to push ahead of me to try and stop them from getting at me until we got inside. It was very physical and scary, lots of yelling and everything. They really stressed us both out, it was horrible.

The bill is short and very simple. It will create new offences by prohibiting certain behaviour within a radius of 150 metres of a reproductive health clinic where abortions are performed. The new laws will direct that a person who is in a safe access zone must not harass, intimidate, interfere with, threaten, hinder, obstruct or impede by any means any person accessing, leaving, or attempting to access or leave, any reproductive health clinic at which abortions are performed. As can be seen from the previous examples, that is certainly incredibly traumatic for many people. The bill will stop people from obstructing a footpath or road—such as the very narrow verge on a dangerous road in my electorate—leading to reproductive health clinics, or make a communication that is likely to cause distress or anxiety to those accessing a clinic.

The laws will also prohibit people from intentionally capturing visual data of another person—that is, recording people as in the example just given—by any means, without that other person's consent, if that other person is in a safe access zone and is accessing, leaving, or attempting to access or leave, or is inside, a reproductive health clinic at which abortions are provided. The bill does not change the current laws in relation to abortion. The laws will not impact on gathering at or outside the Parliament of New South Wales or any place



outside the 150-metre zone. The bill does not put any restrictions on the carrying out of preparations for elections, such as surveys and distributing information leaflets.

Does this law impact on people's right to protest or freedom of speech—which is a matter raised by those opposing this legislation? The answer is no. Freedom of speech and freedom of assembly are rights that all modern democracies support and uphold, as we do in New South Wales. The bill does not interfere with that. The behaviour and actions of "sidewalk counsellors" outside reproductive health clinics is not protest or the type of speech that is acceptable in any other circumstance. It is simply the intimidation and harassment of individual women who are accessing a medical service.

It has also been confirmed by numerous respected legal authorities, including the Law Society of New South Wales and the Human Rights Law Centre, that safe access zone laws such as this are consistent with human rights law. No-one is suggesting that people cannot speak out about their views on abortion or protest against abortion if they wish to, but the place to do so is in front of Parliament House or in other public places. Protesting is not harassing or abusing women on the footpath outside the clinics they are seeking to enter. I support the bill and commend it to the House.

**Mr GREG APLIN (Albury) (18:24):** I contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. After consulting with my electorate of Albury, through conventional and social media, the response, though measured in the hundreds not the thousands, has been overwhelmingly, passionately in favour of the establishment of an exclusion zone. There has also been valuable correspondence from other perspectives calling for protection of traditional and implied rights. I appreciate this input and perspective too. I have taken all this into account and I have decided to support the objects of the bill. As one correspondent wrote:

I'm a member of the public and very much a representative of the "silent majority" as I don't normally voice my opinion in public. I'm not a member of any political party and do not participate in public forums/protests/activism. In response to your request for public views on the proposed exclusion zone laws for Abortion Clinics: Yes, please support this bill.

The bill is not about abortion or its legal status. Having stated my position, let me say a few words about Albury and its role in today's proceedings. It is rare that Albury gets a mention in the same breath as Sydney. It has certainly come as a surprise to find that the two names of fertility control centres put forward to justify the need for an exclusion zone for safe access are Surry Hills in Sydney and Englehardt Street in Albury. Even our own Department of Health does not know if there are other similar clinics with street vigils in New South Wales. Speeches from some members calling for statewide exclusion zones repeat the same two names: Surry Hills and Albury. Can it be that Albury's situation forms a critical basis for this legislation and a debate over fundamental freedoms? The clinic is a short walk from my office. According to council records, the fertility control clinic commenced operating from the premises known as 586 Englehardt Street, Albury, with development consent granted on 12 November 2003. It does not open daily but for one day a week.

An alternative source of fertility advice and medical treatment is found 10 minutes away in Wodonga, where there are no difficult issues of legality to negotiate. It is not uncommon for women to express to doctors their preference for the services of one clinic over another. Victoria has exclusion zones. The Wodonga clinic is a modern medical centre which offers services for a wide range of health conditions. Multiple doctors are in attendance and parking is at hand. By contrast, the Englehardt Street clinic is situated in an old cottage on the edge of the Albury central business district, where properties are a mix of commercial and residential. It does not offer the generic nearby parking, quality of premises, the anonymity or the depth of support services provided by the Wodonga medical clinic.

Why do we not have these essential services within a hospital precinct, with the highest levels of security, anonymity and medical backup? Albury Wodonga Health has hospital campuses in both Albury and Wodonga. They are 15 minutes apart. There should be a fertility clinic at Wodonga hospital, where there are no grey areas surrounding legality of abortion, and where those holding street vigils and those who protest against them would be told to leave the precinct. In reality, the issues prompting this bill would be answered. Over the past four years in particular I have sat down with organisations representing various views on this: with police, with council and with New South Wales Ministers. I have sent messages to public rallies and spoken to the media, doctors and ordinary residents. People talk about rights. The matter of personal rights can be summarised in the words of this correspondent:

Our fear is that increased regulation will impose on free speech and religious freedom. Further regulation would appear to impose on how and when people gather in our community, whether of a religious nature or otherwise.

What rights are we seeking to balance here? First, there is the right to be free from harassment and intimidation, but not necessarily a right to privacy, as that word is commonly understood. Secondly—and this is where it gets complicated—Australia does not have a right to free speech. We have a limited right implied from matters

determined by the courts, not coming from the Legislature. And that is an implied right to freedom of political communication. This is not the same as free speech. Though there is an undoubted political context to the bill, I do not consider the issue of an exclusion zone outside a fertility clinic to be a situation where political communication is denied, hampered or criminalised. People can speak elsewhere. As a legislative review briefing puts it in relation to the bill:

Given that the provision is designed to protect the safety, well-being and dignity of patients, and the person may be able to prove a "reasonable excuse" [that is, a defence to a charge] the restriction is proportionate in the circumstances. I support this interpretation. In 2014 Albury council discussed the matter of an exclusion zone. The council report states:

Council officers are able to record any evidence of alleged harassment or intimidation (or any other criminal offence) and provide that evidence to Albury Local Area Command. Despite Council's Compliance Officers attending and observing the area most weeks, no evidence has been gathered that would warrant reporting to the Albury Local Area Command. Furthermore, Council officers have not witnessed the obstruction of the footpath during their attendance in the area.

Earlier this year Albury council prepared another report, which looked at whether council had power to impose an exclusion zone of some nature under section 632 of the Local Government Act. That report, based on legal advice, confirmed council had power to do this. The report included this statement on enforcement:

One area of concern is related to identifying and verifying that an offence has occurred. Whilst there have been numerous representations made to Council about harassment and intimidation occurring in the vicinity of the Fertility Clinic in Englehardt Street there has been a distinct lack of evidence to support and warrant action.

The report also stated:

Council officers have not witnessed the obstruction of the footpath during their attendance in the area.

Council's most recent resolution on the matter on 28 February this year was to take "no further action" in regard to safe access zones in their own right. It would wait for State Parliament. Police manage the issue on the street. I was able to obtain statistics on incidents reported to Albury police and investigated by them in the years 2016 and 2017. In those two years, four incidents were reported to Albury police—three by vigil holders and one by the clinic's security guard. The police determination was that no offences had been committed. Of course there are strong reasons why the women do not go to the police about their experience. The emotional stresses are already remarkable without adding another layer. The reality in Albury is not anything like what has been presented to Parliament by many of those wishing to institute an exclusion zone, nor by those speakers invited to address rallies in Albury who missed out on seeing the clinic during its open hours on Thursdays. It is hard to justify the use of highly charged expressions like being forced to "run the gauntlet of protesters" and "daily abuse and intimidation", or from the *Daily Telegraph*:

They scream ... "child murderers" [and] try to block [women] from entering the clinic.

Community-minded local police and council officers continue to find no conduct by the vigil holders which they categorise as unlawful harassment or intimidation. Should this bill succeed, it will be the police who have the job of enforcement. That does not mean that nothing is going on. As I have said, the clinic is close to my office and there is no doubt the presence of vigil holders is intimidating. They are mostly silent, older women present in small numbers, with a maximum of two permitted by police to be on the same side of the street as the clinic. This adds pressure to vulnerable women at a difficult time. There have been occasions, now mostly in the past, when vigil holders have been more intrusive than, arguably, they are now—some moving forward to speak, holding a fetus figurine, offering printed materials, whispering or praying under their breath. Even today, in its more regulated form, it is a presence that many find distressing.

When from time to time someone brings the issue into the media again, tensions on the street escalate. Supporters hover around the clinic waving their signs and, at some point, the loonies are attracted. I am sorry if this is not the picture we have been led to expect. For 15 years Labor and Coalition governments in New South Wales have insisted on leaving the issue in the hands of local police as a law and order matter. In meetings I have raised other possibilities, but change has not been supported by governments until now. Is there something fundamentally wrong with those who publicly grieve for what they consider to be lives lost? Or is there something fundamentally wrong with those who publicly protest about that viewpoint and its public expression on the street outside a fertility clinic? No, there is not, in my opinion. There is no black-and-white answer for a society that would like to say it values tolerance and acceptance of a wide range of cultures, beliefs, multiculturalism; it requires a compassionate greyness.

Opposing views and beliefs are common in Australia. They are not to be feared or demonised. They are to be heard and understood because we too easily fear what we do not understand. Those who have gathered outside Albury's clinic have been driven by their conviction about the nature of life itself. This is not trivial. They have honoured their commitment. To these folk I say, "Continue to follow your conscience, to hold vigils and to pray if that is your way, but take it elsewhere. You have that choice, whereas the women using the fertility clinic's

services do not." People who want to pray, grieve or make a point are not prevented from doing so in another place. It is time for them to move on from outside the clinic for the good of the community. [*Extension of time*]

In Albury we have two groups of people, each of whom is immovable in their beliefs. The community wants to change the status quo, see that all parties are kept safe and take this issue off the street. Today is the day to establish an exclusion zone and put an end to public animosity. I ask the people of Albury to show kindness and understanding to one another.

**Ms JODI McKAY (Strathfield) (18:34):** I add my support to the Public Health Amendment (Safe Access to Reproductive Health) Bill 2018 introduced into the Legislative Council by the Hon. Penny Sharpe, co-sponsored by the Hon. Trevor Khan, and introduced in this place by the member for Port Macquarie. I do so because I believe this bill is about common decency. It is about ensuring that women are free from harassment, intimidation and abuse. As we have heard today, some women will visit a reproductive health clinic to seek a termination. But to presume all women visiting a clinic are making a decision to terminate an unwanted pregnancy is at best naive. Women visit reproductive health clinics for a range of reasons. For instance, they may be seeking contraception advice, be victims of sexual assault, be seeking advice on managing menopause or they may be facing the end of a very much wanted pregnancy.

How are we to know the circumstances of those women, and who are we to judge them harshly? It is important to note that judgement is often inflicted on these women as they make the long and difficult journey to a reproductive health clinic. That is what this bill seeks to prevent. For me it is not why women attend these clinics that is important. What is important is the fundamental right that every woman—in fact, every person—has at all times to be free from intimidation, harassment and abuse and to freely and safely make the choice that is best for them. That is not the case in New South Wales. I sincerely believe this bill is not about abortion. It does not seek to alter the law in relation to abortion or to decriminalise it. I know that issue will dominate the contributions of some to this debate. As I said, for me and many others this bill is about common decency. For members on this side of the House it is not a matter of conscience that a woman should be free from violence and abuse. We understand and accept the right of every person to be safe.

Last week I had a discussion with a young man in my electorate. I will not mention his name. He wrote me a lovely handwritten note—not an email—to ask me to vote against this bill. I very much appreciated his effort in contacting me, and I said so in our conversation. He is one of those people who visit the Surry Hills and Westmead clinics and approach women as they enter them. We had a long conversation, which he kept steering towards the wrongs of abortion. My point to him was to remove that from the debate. I asked him, "In any other circumstance do you believe a woman should be treated the way they currently are when they visit the clinics?" It was a question he did not and could not fully answer. We respectfully agreed to disagree, but I was grateful for the opportunity to talk to him. I am also grateful to the many people who have written to me about this. I thank them all for taking the time to contact me.

I note the arguments put forward by those opposing this bill. They prosecute their position through the argument of freedom of religion and freedom of speech. I am generally an advocate for both of those, but this is not about speech or religion. It is about the right of a woman to be safe at all times. This bill does not prohibit someone from voicing their views on abortion in any other forum. It applies only within 150 metres of clinics where terminations are performed. For me, being pro-choice does not mean I am a supporter of abortion. I am far from that. Being pro-choice means that I respect the right of a person to make the choice that is best for them, free of judgement and criticism and certainly free of abuse. Once they have made their choice our health system should facilitate the appropriate care and support they need in a very difficult situation. I thank the many women who have contacted me about this issue, such as Renata from my electorate, who said:

It is absolutely unacceptable that women can be shouted at by strangers or be told that they are going to hell if they are attempting to access an abortion clinic. A woman who needs an abortion should be able to access this healthcare with dignity, freedom from the judgement and abuse of strangers who know nothing about her life, nothing about the circumstances that have brought her to the clinic.

Many in this House will know that I had strong feelings on Zoe's Law when it was introduced into this place in 2012. I was not a member of Parliament at that time, but I did discuss the issue with many members who were serving during that term. During that debate medical and legal experts guided my view—it was an evidence-based view that was formed by understanding all the arguments. I have brought that same approach to this bill. I note the comments of the Australian Medical Association, which said:

AMA (NSW) supports this because people should be able to have unobstructed access to the healthcare facilities and be able to approach them without harassment. This is true of general practice, cancer treatment, surgery, or sexual health. In the case of pregnancy termination, women do not seek these procedures out lightly and the absolute last thing anyone in those circumstances needs is abuse from strangers.

I have also discussed this issue with serving police officers, who admit the current move-on law, which allows protesters to return the same day, is inadequate. Then there are the witness statements that are required for the matter to progress through to the court. It is unreasonable to expect a woman to provide a statement on the abuse and harassment she has experienced at what is a very difficult time. The choice she has made is not one taken without thought and a great deal of anguish. It is for those reasons, and from speaking to women who have been in this situation, that I support this bill. It is also important to note that this is not just a city issue. The support of the bill by the Country Women's Association [CWA] certainly strengthens the argument that this is an issue for all women, no matter where they live. I draw the attention of the House to the CWA's reason for supporting the bill. It said:

For the CWA, the passage of this Bill should not be focused on a debate about the ethical and personal opinions in relation to abortion. We do not have a policy position on this issue but this is not what the Bill is about. Debate should focus on women's rights to safely access reproductive services; even if those services are not something that everyone would use, or indeed, agree with.

That statement captures my reasons for supporting the bill. I take this opportunity to highlight the great inequality that exists around access to women's health services more generally in rural New South Wales. I know the CWA is a strong advocate for equal access to women's health services. I thank the member for Port Stephens for telling the story of women who attended the Albury clinic, and I thank the member for Albury for his contribution to the debate. I know that for the member for Albury in particular this would not be an easy decision to make and I certainly appreciate the effort he has gone to in order to reach a conclusion that allows him to vote on this bill.

I will not go through the details of the bill—that has already been done by speakers in this debate before me in this place and in the Legislative Council. But I will say that I support this bill wholeheartedly, and I thank those members in the Legislative Council and in the Legislative Assembly who understand the responsibility they have to ensure that women everywhere, no matter the choices they make, are free of intimidation, abuse and harassment. The current law is simply not adequate. I particularly thank the Hon. Penny Sharpe and the Hon. Trevor Khan—they have shown time and time again what can be achieved by working together on very difficult issues.

I thank our shadow Minister, the member for Maitland, who led for the Opposition in the debate. I also thank the member for Canterbury, who could not be here today. She is an unwavering champion of issues impacting women. I thank the member for Port Macquarie, who is in the Chamber today, and also Dr Mehreen Faruqi from The Greens. And, of course, I thank my Labor colleagues, who, despite holding varied views on abortion, came together to support this important legislative change, believing fundamentally in the right of a woman to be safe at all times. I commend the bill to the House.

**Ms PRU GOWARD (Goulburn—Minister for Family and Community Services, Minister for Social Housing, and Minister for the Prevention of Domestic Violence and Sexual Assault) (18:44):** I speak on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 with a heavy heart. Indeed, I cannot recall a bill that has caused me more personal distress. I would so much like to support this bill—I know what it would mean to the women affected—but I cannot. I am and have always been a strong supporter of a woman's right to an abortion. I have never wavered and I have supported, both publicly and privately, measures that enable women to access safe terminations. It is clearly a matter for a woman to decide. While the advice of a doctor is a welcome safeguard, it is primarily her decision.

I am saddened and distressed by protests at abortion clinics and believe the hurling of abuse or making threats to women considering a termination is distressing, insensitive and intolerant. The heartbreak and the anguish that it has caused some women—not all—who have chosen an abortion and suffered these attacks, I share deeply. I appreciate the honourable and concerned motivations of others in this place who see this bill as a means of eliminating or at least reducing this pressure on those who have chosen this course. If people wish to support the denial of safe terminations then it is to this place, the Parliament, that they should come; not to the doorstep of a reproduction health clinic to upset further private citizens who are making their choice to lawfully access a service. Legislators make these decisions in this place and democracy depends upon it.

I support calls for a parliamentary or another independent inquiry into why our existing police powers do not adequately prevent the harassment or intimidation of women seeking a termination. I acknowledge the argument of my colleagues that this issue is primarily one of law and order. However, I am also a strong and visceral believer in the right to free speech. This is not confined to the right to express a political opinion freely, which is an implied right in the Australian Constitution as deemed by the High Court. Free speech includes the expression of unsavoury personal views, religious or even racist views we may not share. It is a time-honoured practice that parliaments, particularly Western democratic parliaments, protect free speech. As has been attributed to the great Voltaire during the time of the French Revolution by Evelyn Hall:

I disapprove of what you say, but I will defend to the death your right to say it.

It is a principle practiced by many governments and leaders, including, I recall, by the Labor Prime Minister, Bob Hawke. The right to offend, to make jokes about, to sneer at, to criticise, to argue with, to condemn, to disagree with a decision by a government or a law is fundamental to Western freedom. Every one of us, parliamentarians and non-parliamentarians alike, live with this. This is our world. Social media have ensured that it is now endemic and it is often deeply offensive and hurtful. It is considered the price that we pay for freedom, and we rely on the collective goodwill of the community to limit commentary to what is respectful and acceptable.

Parliaments have always recognised that there are limits to free speech—not to protect parliaments, not to silence opposition to our authority, but to protect civility and to preserve the capacity of each one of us to live peaceably alongside one another, whatever our differences. It is reflected in the rise of cities, the complexity of modern civilisation, the extraordinary capacity of modern communications to reach us anywhere, all the time. Since the first human rights or antidiscrimination Acts were introduced into Australia almost half a century ago, it has always been recognised that there must be, for the sake of this precious peace and civility, limitations on our rights to free speech.

Incitement to commit a crime, including murder, demonstration of how to commit a crime, vilification of minority groups, and speech that would be reasonably seen to harass or intimidate are very much a part of modern limitations on free speech. As an aside, I have always noted with some chagrin that vilification never extends to gender-based vilification. However, with that exception, our vilification laws have reasonably identified aspects of diversity that demand respectful discourse, and sexual harassment law certainly recognises the power of language.

Invariably, in each of these laws there is a subjective but also an objective test of what constitutes harassment or intimidation to ensure that anti-discrimination law does not of itself become censorship but reflects community standards. I note that this bill contains no objective test, which is a very real departure from other laws limiting free speech and a very real and significant failing. As a former Australian sex discrimination commissioner, I am acutely aware of the importance of the objective test. There is a very good reason that laws encroaching on personal freedom, such as freedom of speech, require objective tests along with subjective tests. It is to ensure that there is some reasonable community standard against which conduct or comments can be assessed and so that each of us is better able to regulate our own conduct and our own speech so that we do not commit unlawful harassment or intimidation. It is about the prevention of incivility.

I am dismayed that this bill makes no provision for what the community might think is reasonable in these circumstances. If each of us is expected to guess what degree of offence we will cause any person without reference to what is reasonable and then face jail if we get it wrong, I doubt that anyone in this Chamber would speak again. In the absence of a reasonableness or objective test, this bill in its current form is a very powerful weapon of censorship. I have also considered the question of precedent. It is easy to make the case that there is a unique vulnerability experienced by women approaching a reproductive health clinic for an abortion. For that reason, there must be geographic boundaries. Not only is 150 metres a somewhat arbitrary boundary, there remains the problem that, at whatever distance, it could be the beginning of a long march towards intolerance and the destruction of Western freedom.

Censorship has always been a favoured means of social oppression used by totalitarian regimes. History shows us that it often begins gently and sensitively. That can be particularly so when it involves our personal anguish for a particular group of vulnerable people, such as pregnant young women. It can appear very reasonable to suggest that certain ideas or positions ought not be allowed because they offend against the State or the rights of those vulnerable individuals. Therefore, it is not difficult, as the citizenry adapt and become more comfortable with that limitation, to accept the next limitation and then the next and the next censorship, until we are all silent. I know that my position will please no-one, but it is the position of my conscience. For these reasons, I will not support the bill.

**Mr DAVID HARRIS (Wyang) (18:52):** I support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I argued with myself for a while about whether I would contribute to this debate. I always intended to support the bill, and my reasons for doing so are very personal. I listened to the debate in the upper House and I have listened to the debate in this place, and I respect every member's position. These debates reveal many personal experiences. That is why it is important that we have a variety of people in this place who have a range of experiences and knowledge to represent our diverse communities.

I came very quickly to the conclusion that this bill is much needed and important. When you get married and, as my wife and I did, you get the news that you are expecting your first child, it is a very joyous time. Obviously, those first few weeks are very happy times, but at the same time they are a little bit scary, particularly as first-time parents and you hope that everything is okay. Unfortunately, it does not always end up that way. In our case, we had what doctors describe as a "late miscarriage"—one that occurs after 12 weeks and before

24 weeks of pregnancy, which occurs only 1 to 2 per cent of the time. My wife has a rare blood type and she had to go to the emergency ward. It was quite a difficult time.

Listening to the stories and hearing about what happens outside these reproductive health clinics really upset me. As other members have said, this debate is not about abortion: it is about the right of people to access health services, which is a basic right that every person, particularly women, should have. Today as I walked in, someone outside was holding up a sign depicting a dead fetus, and all I could think of was our anguish at that time. If someone had done that to us, I do not know what I would have done. I cannot understand how people who think that they are well-meaning, and with no knowledge of people's situations or anguish, can do something like that. It upsets me. We have had two beautiful daughters—one is 15 and one is 17. They are about to move into that stage of life where they will have to start making decisions about reproductive health. If my daughters ever have to access such a clinic for any reason I could not, as a father, condone anyone forcing their views on them.

I hope that we have brought up our daughters so that they can have discussions with us and health professionals to reach the right decision for them. To have someone who does not know them, and who does not understand them or their situation—as I have heard in some of these stories today—would be so outrageous that it is unbelievable. We are all faced with very difficult situations and we all have views. This legislation does not stop people from having those views. They can protest and make their views known in other places. But I cannot cope with people standing outside the door when people are at their most vulnerable.

When a person, particularly a very young person, is raped, I cannot, in good conscience, support people judging them. Those who are doing the judging are, in their hearts and minds, doing the right thing, but in reality they could be doing more harm than good. It is not right for people to pass judgement on those who are dealing with miscarriage, rape and other medical issues, such as the unborn child having severe physical disabilities that could result in the death of either the child or the mother. Those people are highly susceptible to depression and to long-term mental health problems. People trying to force their views onto them does not help. If someone wants to find out about alternatives, there are other ways to do it. I cannot understand people trying to put brochures in their hands, waving posters at them or filming them.

All this legislation means is that an area within 150 metres of such clinics will become an exclusion zone so that people—people like my wife and I, who did not want to be in that situation—can safely go about doing what they have to do. The bill will also ensure that any part of the premises of a reproductive health clinic at which abortions are provided, or a pedestrian access point to a building that houses a reproductive health clinic at which abortions are provided, are protected by being a clear zone.

The objects of the bill are clear. They ensure that the entitlement of people to access health services, including abortions, is respected. They also ensure that people, including employees and others who need to access such clinics in the course of their duties, are able to enter and leave reproductive health clinics at which abortions are provided without interference and in a manner that protects their safety and wellbeing and respects their privacy and dignity. I cannot oppose a bill that does that. As I said, I am not sure whether we were lucky because we had to go straight to the hospital. I am not sure if those who oppose the bill have experienced this situation and understand what people are going through—or maybe they have and think that they are helping—but although it was nearly 20 years ago, I still get emotional about it. Even though that child did not survive, it is still our first child. That is what members have to remember. That is what those people, in some cases, are going through.

It is not a choice that people make. It is not what they want to do, but they are trying to get the help that they need. That is different from what some people say. As I said, standing up and telling our personal story is very difficult but politicians are people and do experience all parts of life. I grew up in a family with a mother, a father and two sisters. I now have a family which consists of a mother and a father and two daughters. I cannot in all conscience support people intruding into other people's lives and into their health experiences and needs. I support the bill. I thank the Hon. Penny Sharpe, who is in the gallery now, the Hon. Trevor Khan and my good friend the member for Port Macquarie. They are good, decent people and, with this bill, they are doing a good, decent thing. I thank them for it.

**Mr BRUCE NOTLEY-SMITH (Coogee) (19:02):** I speak on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. To put my position on the public record, I support the basic right of every woman who attends a reproductive health service to do so without interference from strangers as she enters a clinic. In this regard, I make the point that any medical consultation or treatment, irrespective of the reason, is a time of worry and upset for the person involved. That is why, in all hospitals and medical clinics, all patients are treated with privacy and respect concerning their treatment. In the case of women attending a legal medical reproductive clinic, every single woman has her own specific reason for being there and, as with any medical consultation, the issues are private between medical practitioner and patient.

We do not know and can never know the individual stories of each woman. However, the personal reflection by the Hon. Sarah Mitchell when speaking in support of the bill in the other place is firsthand evidence of the difficult and complex decisions that women have to make about conception, miscarriage and termination. It is a time of stress and vulnerability. The Hon. Sarah Mitchell said, "On that day, I was a mess ... and I cannot imagine what it would have been like to have been entering a place for treatment to have been harassed by people handing me pamphlets or being prayed for by people who genuinely believed what they were doing was well meaning, but in reality their approach would have pushed me over the edge when I was at my most fragile."

I agree that at the time of making these difficult medical decisions women need support. They need support from medical professionals with genuine qualifications, objectivity and experience in counselling. Moreover, they need the support of our Government to ensure that they are not harassed by protestors masquerading as counsellors, who have no qualifications and are not subject to professional regulation. The protestors' actions are based solely on assumptions and social judgements about the lives of women entering a reproductive clinic.

Having listened to this debate, I note that there is a fundamental disconnect between the descriptions given by supporters of what the protestors are doing and the experience of others, including women entering the clinics. On the one hand, supporters claim they are silent protestors who want to provide people with legitimate alternatives. However, this very activity, no matter how passive, results in women feeling threatened, harassed and intimidated. Just imagine what it would be like to have a complete stranger walk up to you in the street to ask you questions about the medical treatment that you are about to have, no matter the type of treatment. That is a violation of privacy.

The bill provides for an exclusion zone of 150 metres. Such a zone does not infringe on the right to protest against abortion. People who have strong views on this issue can protest outside the perimeter and in other public places and on all the communication platforms—and there are a myriad available to protestors. The bill is not about abortion, it is about ensuring that those who work in or attend reproductive health clinics can do so safely without fear of intimidation or harassment. It is about respecting the safety, dignity and privacy of women who attend health clinics for advice and treatment on a whole range of reproductive health issues, all of which are legal, private and personal.

Many members have spoken about this bill as a threat to freedom of speech or freedom to offend. I have no problem with freedom to offend. For many, my existence has been offensive. As a man who has been openly gay for many years, I know what it is like to have people who do not agree with me, my lifestyle or my choices. When I am making decisions about my health and want to consult with my health practitioners, I do not want to be lectured to or at. This bill is not about freedom of speech, or freedom to offend, or freedom of political communications. It is about the freedom for me as an individual to lead my life free from harassment and intimidation. It is about the freedom for any person—any woman, in this case—to lead her life free from harassment and intimidation. It is about the freedom for people to get on with their lives with the privacy and dignity that we expect would be afforded to each and every one of us. I commend the bill to the House.

**Ms PRUE CAR (Londonderry) (19:09):** I will comment briefly on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. If the bill is passed in this place this evening, as it passed in the other place two weeks ago, it will be one of those momentous occasions where we have done something fantastic for the people of New South Wales, and for the women of New South Wales in particular. The bill is a perfect example of how this Parliament can work, for once, for the common good—especially following today's farcical events in the House. With this bill, we can show that this Parliament is all about members working together for what many of us believe is the common good.

I make particular mention of my wonderful colleague in the other place the Hon. Penny Sharpe, who has fought this battle since long before it was, I suppose, trendy to do so. She has fought over many years and with many community activists. I also mention the Hon. Trevor Khan in the other place and the member for Port Macquarie for bringing it to this Chamber. I note the contributions of all of our colleagues on both sides of the aisle, as the Americans say. I single out my friends the member for Maitland and the member for Port Stephens for their particularly moving contributions in which they spoke about the range of reasons why women might access these clinics. I am very proud to be part of the Labor Opposition that will be supporting this bill.

This bill, as many members have said, is not about what takes place inside the reproductive health clinics. The bill is very simple and members' remarks about it are similar. I put on the record as well that the bill is simply about ending the restriction on a woman's fundamental right to access a service. The bill is not about abortion. I note that the member for Coogee said that, as did many members on this side of the Chamber. As it is a matter of personal priority, it would be remiss of me not to put on the record that I hope one day this Parliament brings an end to the ludicrous situation of abortion being in the Crimes Act. I hope the Parliament does that. I know that

the common law overrides it in this State, so I will park that to one side. However, I do hope that one day women in this State are afforded their rights in relation to reproduction.

This bill is about the rights of women when they access services at reproductive health clinics. Members have heard about the range of reasons women might access these services. Some of them are hard to hear. I am not one of those women in this place who can talk of a personal experience in this regard. Many of my colleagues have spoken of their experiences or the experiences of their constituents. I have been pregnant and I cannot think of anything worse than having to make a decision, for whatever reason, to have a termination, maybe out of choice or maybe, as we have heard, requiring the procedure due to a miscarriage. It is very difficult to say and hear but that is the experience of many women whom we are representing and have a responsibility to in this place. As a female member of Parliament, I would not be able to go to sleep tonight if I did not represent those women.

This bill is about women going to a reproductive health clinic by themselves or with their partners, their husbands—or with their wives now, thank God—and having to run the gauntlet, being told they are murderers by people who might be well meaning but are not qualified to call themselves counsellors. Some women are told they are going to hell. They have fake fetuses shoved in their faces and holy water splashed on them. There is no way in good conscience that I cannot support a bill that enables those women to make a choice. It is common for doctors to recommend that that is what they do. They should be able to enter the premises free of harassment. The bill is not about someone's right to tell us their view on what those women might be doing. The bill is about women being able to access a service free of harassment so that they and/or their partners are not running a gauntlet on what is one of the most, if not the most, difficult days of their lives. Nowhere else in the community would this ever be tolerated. We are a fair society in this State and tonight this Parliament will reflect that. The bill is about the privacy, safety and dignity of all women. They have a right to access a health service safely and free of harassment so that they can make choices about their bodies, their health and their future.

As a mother, I do not want my son to grow up in a world where this intimidating behaviour is tolerated by government. In these debates a lot of members talk about their daughters, but I like to talk about my son because I want to raise a man who knows that such behaviour is wrong. I want him to grow into a young man who knows that a woman has the right to control what happens with her body and that she should be able to access a service free of harassment in New South Wales in 2018. The bill will right a wrong that should have been righted a long time ago. If this bill is passed tonight, I will be proud to talk about this day. When debating all landmark reforms—and there have not been many while I have been in Parliament—we must recognise that we are here only because the community has asked us to be here.

This place moves slowly and lags behind community opinion. We are here only because activists have worked tirelessly to get us to this point. In many cases, they have sacrificed their careers. Let us do the right thing for women in New South Wales and give them the right to access health service procedures that they choose or that a doctor has recommended for them. They should be able to do that free of harassment. I am proud to support the bill, and I commend it to the House.

**Mr DAVID ELLIOTT (Baulkham Hills—Minister for Counter Terrorism, Minister for Corrections, and Minister for Veterans Affairs) (19:17):** The Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is a difficult bill for any male member in this House to express a public opinion on. I disclose to the House that I am a white, Anglo-Celtic, Christian, Protestant, heterosexual male—which means that I am probably least qualified to speak about this issue in this place. I have not had to deal with the trauma of an abortion. My wife and I have been married for 22 years and have two healthy children. So it is with a great deal of anxiety that I make a contribution to debate on the bill.

Even though I am on the public record as being pro life, I acknowledge that, as a Liberal, I am committed to exercising and providing as much freedom of choice in all aspects of our community as possible. I use that freedom of choice to oppose this legislation in order to uphold freedom of discussion, freedom of opinion and freedom of debate. I am confident I speak on behalf of my community when I say that, while I am not offering judgement on a woman's right to seek safe medical attention, I believe this legislation sets a very dangerous precedent. I am very concerned that people have used faith as a reason or a motive for a decision relating to this issue. I know plenty of people of faith who are pro choice; I know plenty of people of no faith who are pro life. So I have not been swayed by the argument that this is somehow a religious issue. I believe this is very much a secular issue, and it is my right to express a secular opinion on this legislation in the public domain.

As others have said, I am not convinced that any of the examples of offensive behaviour around a reproductive clinic cannot be addressed by existing police powers. I have discussed this matter with a number of senior police, who reminded me that harassment is an offence and can be addressed by existing legislation. I offer my sympathy to the many members of this House who have been denied a conscience vote. I note that Neville Wran offered the Labor caucus a conscience vote on gay law reform in 1984 but on this particular issue the Labor



caucus has been denied a conscience vote. I feel a great deal of pain for those members opposite who have expressed their concerns to me that they were denied that opportunity.

I have not met anybody in my electorate who has called for this reform. I am not saying that women have not been harassed or caused unnecessary anxiety when they approached a reproductive clinic, I am simply saying that I do not feel that in my electorate, and certainly in any electorate in the Hills district where I live, women or men are crying out for this legislation at this time. In this free and democratic nation we have a staunch and guarded tradition of free speech, freedom of association and freedom of opinion.

We promote our candidates during elections. We support our sporting teams. We post opinions on social media. We evangelise our faith. We consider and highlight the fact that we have no faith. We sit on juries. We vote. We write letters. We volunteer and we associate with whomever wherever and whenever we like. Those freedoms were hard fought for. It is my submission that this law sets a dangerous precedent in threatening those very freedoms that I have outlined. I value those freedoms. I conclude my remarks with the words of Sir Thomas More, who said "I would uphold the law if for no other reason but to protect myself."

**Mr ALEX GREENWICH (Sydney) (19:22):** I start by commending the member for Albury for his contribution to this debate. It was one of the most compassionate, reasonable, measured and representative speeches that I have heard in this Chamber. The Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is a vital reform that will ensure women can safely access the health care they need at reproductive health clinics without harassment, intimidation or obstruction. As the member for Londonderry said, today should be a proud day for the New South Wales Parliament. We are always at our best when we work together, across party lines, to support vulnerable people and create a safe environment for our constituents. This is what this bill achieves.

The Minister for Multiculturalism, and Minister for Disability Services, the member for Castle Hill, said it was his mother who instilled in him the importance of a woman's right to choose. For me, it was my grandmother Jacqui, who shared with me when I was 10 years old that she had written to the then President of the United States of America—she was American—George Bush. She told him that he had no right to tell a woman what she should do with her body. She instilled that value in me, and it is because of that value that I am proudly pro-choice and a proud supporter of this bill.

Reproductive health clinics that provide abortion services have become a target of activists who try to hinder, harass, moralise, intimidate and distress women and staff. They are not "counsellors". As the member for Maitland said during her contribution to the debate, a counsellor is a qualified professional. Counsellors have offices; they do not operate on the street. They are not counsellors and they are not providing useful information that could help women; they are harassing women. Women can get the information they need about their treatment from their treating doctor; not from strangers who know nothing about their situation.

The reproductive clinic in Surry Hills neighbours on my electorate and I hear from many constituents living adjacent to it about the offensive conduct of protesters. Parents with children have told me they have to take detours to take their children to child care or school to protect them from the distressing, offensive and gruesome images on posters and pamphlets. There are many reasons for attending a reproductive health clinic, abortion being just one. Clinics also provide contraceptive advice and administration, sexually transmitted infection checks and curettage procedures, to name a few. Whatever the reason for attending, including if it is for an abortion, it is a personal, private health matter that has nothing to do with anyone else.

The argument that this bill breaches free speech principles has no weight. Safe access zones cover only 150 metres around reproductive clinics that provide abortion services, which does not prevent people who oppose abortion from speaking out and handing out flyers in any other public place. The member for Baulkham Hills talked about the importance of political freedom and how people's political views should not be infringed upon in Australia. On election day, we have rules that create a zone around polling booths where people cannot canvass. We do not consider that a breach of free speech, and I do not consider the bill to be a breach of free speech either. Furthermore, constituents who have regularly contacted my office during the six years that I have been a member of Parliament and who have seen the conduct of protesters at reproductive clinics tell me that their behaviour could hardly be considered to be making political comment. What they are doing is interfering with women's attendance for medical treatment. Women have the right to determine the treatment they need and to access it safely.

I find the libertarian argument against this bill puzzling. It comes from some who believe in government so small that it fits into a woman's body. I believe in government that respects people's right to get the medical attention they need without interference from those wishing to impose their beliefs aggressively on those seeking medical attention. The bill is important and I encourage members to ensure that it passes so that women can access the treatment they need free from harassment. Along with many previous speakers, I commend the Hon. Penny

Sharpe, the Hon. Trevor Khan, the member for Port Macquarie and the member for Maitland for working together to introduce this bill. It shows that this topic transcends politics.

Anyone who has worked on legislation with the Hon. Penny Sharpe and the Hon. Trevor Khan knows the rigorous and robust process they follow, including looking at best practice in other jurisdictions, to ensure the best outcome. They have achieved that with this bill, and calls for an inquiry are simply tactics to delay the bill. Let us make today a proud day for this Parliament and pass the bill without hostile amendments and make life less tough for women seeking access to health care.

**Mr DOMINIC PERROTTET (Hawkesbury—Treasurer, and Minister for Industrial Relations) (19:28):** I speak in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. In 2013, a forestry worker named John Creighton was killed on the North Coast, struck by a falling tree branch. The Coroner's report stated that his death related "directly and solely to the presence of unlawful protesters" on private property. The protesters were executing a guerrilla tactic called "black wallaby"—placing themselves near trees being cut down and endangering their lives. Mr Creighton was brought to the site as a lookout to ensure the safety of workers and protesters, and this is where he was killed. As the member for Coffs Harbour said at the time, "Mr Creighton should not have been there. He did not need to be there. A family has lost their father because of the actions of green protesters."

In 2016, this Government introduced legislation aimed at protecting public safety, following numerous dangerous incidents involving protesters at mining and logging sites—things like tampering with detonators, suspending themselves from cranes, scaling coal loaders, chaining themselves to gates and locking onto bulldozer blades. The purpose of that bill was to deter unlawful activities that threaten safety, while ensuring people were still able to communicate their opinions through peaceful protest. In other words, that bill criminalised dangerous action, not opinion. But here are some of the things Labor and Greens members said about that bill during the debates. Labor MLC Walt Secord said that the bill:

erodes a fundamental right in Australia ... the right to lawfully protest.

Labor MLC Sophie Cotsis said:

...peaceful protest and the right to peaceful assembly. That is how we get things done. That is how we get change.

Greens MLC David Shoebridge said:

Protest has changed our world. Protest has democratised our world. Protest has civilised our world.

The member for Keira said that the legislature:

...should always stand up for the right of people to oppose, to protest in a peaceful manner and to stand up for what they believe in.

The member for Summer Hill said:

Locking yourself to a gate is not extremist ... it is courageous ... It is an act by people who have been made to feel powerless and voiceless, and who are peacefully taking a stand.

The member for Newtown said:

The power and intimidation of the police force in New South Wales ... has been inflicted on peaceful protesters for too long, and is already too great.

...

[We value] our right to freedom of expression, freedom of assembly and freedom of association.

The member for Cessnock said:

I wonder what I will say to my children in the future when they say, "Daddy, why do we not have freedom of speech? Why do we not have the right to voice an opinion? Why do we not have the right to protest?"

And lastly, Labor MLC Penny Sharpe, the co-author of today's bill, said this:

We live in a free society where the right to peaceful protest is part of our democratic contract and what it is to be a citizen. It is part of our right to object, to stand up for the things we believe in, and to have a different view ... It is fundamental to who we are and who we should be.

I came here tonight as a Liberal, prepared to argue the case for free speech and the right to political expression. But it is clear I do not need to. Our opponents understand all too well the fundamental importance of the right to free speech. They just do not want to extend it to those with whom they disagree. Twelve months ago, Labor and Greens members stood in this place to defend the right of people to undertake dangerous actions for a cause they support. Today, they line up to vote for a bill that criminalises speech for a cause they oppose. This makes their words hollow and their principles worthless.

At its heart, the Left is a protest movement. Left-wing students routinely occupy university offices; climate change protesters vandalise the Opera House; anti-whaling protesters board boats; WestConnex protesters block construction; and union protesters form picket lines outside factories and block people from going to work and doing their jobs. At all this, the Left is silent. This bill today exposes the rank hypocrisy of a movement that thrives on protest. The Left demands the right to protest wherever it wants, whenever it wants, however it wants—no matter the inconvenience, the cost and, yes, the harm to anyone else. That is the right it demands for itself. The reality is that anything the Left does not agree with is immediately labelled as harassment or hate speech because it is easier to label someone than it is to debate their ideas.

There is no intellectual or philosophical substance here. This bill has nothing to do with principle and everything to do with the abuse of power. Let us make no mistake: It is those who preach endlessly about inclusion that today are creating zones of exclusion. I know that some here will be voting for this bill with the genuine intention of protecting women from harassment. That is a noble aim and we all share it. But every day in this country, hundreds of peaceful protesters gather outside abortion clinics, and they have for decades. If there was a daily pattern of violence, intimidation and harassment going on, as those opposite claim, these offences would have been addressed by police under current laws. But this is not happening.

There are already laws that protect people from harassment and intimidation. We have a criminal code that prevents and punishes violence, and no-one has shown in this debate that the measures in the criminal code are insufficient. While greater legal minds than mine can deal with the technicalities of the law, I am here to talk about the principle. These protesters are not chaining themselves to doors. They are not on private land; they are on public land. They are not tampering with explosives. They are not endangering their lives, the lives of others or the lives of police. Yet they are guilty of having the one thing the political left cannot tolerate—a different point of view. They are of the view that unborn human life deserves protection, an offer of help and of hope. For having that different point of view, under this bill they will be thrown into prison.

This bill is not about abortion. It is about mobilising the machinery of the State to silence those with different views. That is why the bill establishes what it calls "safe access zones". But let us call them what they really are—censorship zones, where police will be asked to arrest people simply for expressing their opinions. As our opponents have pointed out—and I could not have said it better myself—silencing free speech is wrong. That is why I oppose recent calls by other institutions to establish their own exclusion zones around areas like churches. These zones are wrong no matter where they are, and I say to their proponents that tyranny is not fought with tyranny. This bill is unprincipled in the extreme. It is the epitome of bad law. Its prohibitions are so broad that I am sure it will be subject to legal challenge, and it may well be unconstitutional. It is fundamentally a crude attempt to sanitise our public places, to silence those who refuse to turn a blind eye to the value of both mother and child, and to remove from our public spaces any trace of the witness who is a daily reminder of the dignity of every human life.

It is no surprise that the collectivists opposite have a binding party position on this issue. Their ideology is rooted in the very idea of trampling freedom, denying agency and erasing individual rights in favour of the State. What a damning indictment it is that a party which cannot even offer its own members internal freedom is now in the business of denying freedoms to others. In contrast, the Liberal Party recognises that we are a free people; that respect for humanity starts with respect for human life; that our rights of life, liberty and property are the bedrock of freedom; and that we have sent our fathers, sons and daughters to the far corners of the world to fight for this freedom, and to die for it.

Yet today we are debating a bill that is about taking freedom away. This legislation has emanated from the extreme left of the Labor Party, supported by The Nationals that should know better. What is the point of Liberals and conservatives being in office, if they are not in power to oppose bills like this? Our party is in the business of increasing liberty, not restricting it. This bill is bad law, bad precedent and bad politics, and anyone who is a friend of freedom should reject it. I encourage those who would vote for this bill to consider this: It is very easy to take away someone else's freedom, but next time it may just be their freedom that is taken away. Therefore, I oppose this bill.

**Mr GREG PIPER (Lake Macquarie) (19:38):** I acknowledge and pay tribute to all speakers on both sides of the debate today, and those who will speak later. I was speaking to the member for Wallsend and reflecting that a few of us from my era—and some who entered Parliament before 2007—have seen a number of bills that have tested our moral compasses. They are bills which have made us think deeply about the issues, and members who are not prepared to think deeply about the issues really should not be here. As has been said, this is one of the more difficult bills to deal with. In many ways, it is a relatively modest bill. However, it has certain fundamental implications, depending on how we view the issue of our fundamental freedoms within New South Wales and within Australia and the fundamental rights of persons, particularly women who want to safely access reproductive health clinics.

I support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. This bill is not about the question of abortion. It is not about whether one agrees with abortion, whether one's religious beliefs align with the right of a woman to have a choice, why a woman has made the choice she has, or indeed whether that woman has made the right choice. This bill is about protecting women who, while seeking lawful medical attention or advice, are exposed to unwanted and unsolicited advice from people who seek to impose their beliefs—religious or otherwise—in sometimes absolutely unacceptable ways. It is also about protecting workers who are merely trying to get to work without having to confront a wall of bullying, harassment and public shaming.

Like most questions and bills debated in this place, this is a matter of balance. To find the right balance on such a deeply personal and yet strikingly divisive issue, we must give a weighting in favour of the women directly affected. People have a right to express their views and opinions, but people also have a right to their own personal privacy and dignity—particularly in sensitive cases like this—without the sometimes significant amount of intimidation, coercion and shaming that can occur whether or not protesters or sidewalk counsellors believe that that is what they are doing. The vast majority of people who have considered the termination of a pregnancy—if not all of them—have given it a significant amount of thought. Most likely, they have discussed it with a partner, a close friend, a family member, or a suitably qualified medical adviser or general practitioner. It is not a decision that the vast majority of people make in a rushed or capricious way. People should not be subjected to unsolicited, unqualified and unwanted advice—if that is what these sidewalk counsellors wish to call it. On the other hand, we might call it intimidation or moral judgement.

As the member for Maitland mentioned, the term "sidewalk counsellor" is misleading and an abuse of the term "counsellor". Counsellors are appropriately qualified persons. With that qualification, they have responsibilities in the way that they carry out their work. There are ramifications for any breach of their professional responsibilities. That is not true for sidewalk counsellors, and therefore the term should not be used. We should respect the right to free speech, but we need to moderate the extreme application of that principle because there are people on the extreme edges of this debate who often pursue their beliefs in an unacceptable manner. I know that there will be extreme views on both sides of this debate, but I believe we need to address the right of the person who is accessing a clinic. Voltaire has been widely quoted in this debate. He has probably been quoted reasonably, although I daresay his words have been paraphrased. What he said was: I disapprove of what you say, but I will defend to the death your right to say it. That is fine and dandy coming from somewhere in the 1700s, but I suspect that needs to be put into context, where there is a balance in the ability of people to be defended or to be on the other side of that particular quote. If somebody is in a vulnerable situation—physical, emotional, psychological—they are not in a position to have their rights to privacy dismissed by the glib quoting of a 1700s author. Like most members of this House, I have received a vast amount of literature on this issue from groups or individuals who feel their presence outside an abortion clinic is merely a well-intentioned effort to provide counselling to a woman in need. Many of these people genuinely believe that to be the case.

From my own experience, most of these people or groups have strong religious beliefs at their core—not necessarily exclusively. This is evidenced in their emails to my office, which invariably reference biblical texts. Again, they are perfectly entitled to those opinions and freedoms, but freedom of speech does not and should not mean unfettered freedom to intimidate, harass, bully or shame persons accessing such facilities. That is what happens in reality, at least on occasion, outside these clinics. One of my constituents who took the time to email me had this to say:

I regularly walk past a women's health clinic which provides women with access to abortions. I often see protesters outside harassing women and holding offensive signs.

The behaviour of these protesters makes me feel uncomfortable just as a passer-by. I cannot imagine what it would be like to need access to an abortion and to have to run the gauntlet of protesters at that difficult time.

He went on to say:

I have friends and family members who have had abortions. In every case it was a difficult but necessary decision and the experience was uncomfortable and distressing.

I hate to think of adding the judgement and abuse of strangers who know nothing about these women's lives, or the circumstances that may have brought them to the clinic at a really difficult time.

That is exactly right. None of these sidewalk protesters have any idea about the people they are approaching. They do not know if the woman they are plying with photos of aborted fetuses is the victim of rape; they do not know anything about her that has led to her decision. They know nothing of the circumstances of the person entering the clinic, and nor should they, unless that person has sought to share that information. Creating a safe access zone around health services that provide abortions is necessary to protect the rights of these women and their partners, including their rights to medical privacy or even their right to get to work without some sort of public shaming.

I note that the bill does not prevent those who want to mount a protest or public rally to advance their views or ideologies in public spaces from doing so. They can continue to do so right outside these very doors. The

bill does, however, seek to prevent them from doing so within 150 metres of a place where abortions can be performed legally. I am satisfied that the bill will provide a level of protection for women that is long overdue and is reflective of a society that respects those women and their decisions and protects our freedom of speech as is implied in the Constitution—not absolute freedom—and our freedom of opinion to an extent that it does not extend to bullying, intimidation and the sorts of public shaming that happens outside these clinics.

If this is not achieved through the bill, then members or future legislators should do what is common in this place, and that is to revisit the legislation to ensure that the intentions of the bill are indeed realised. Supporters of the bill are asked by those who oppose it to respect the right of protesters to express their views. Respect should be paramount in such a consideration and my views and support align firmly with the need to respect women's rights at such times. I thank the various members who have brought this bill, the Hon. Penny Sharpe in the other House and Leslie Williams, the member for Port Macquarie, in this House. On behalf of my wife, whom I referenced in this debate, I commend the bill to the House.

**Ms TANYA DAVIES (Mulgoa—Minister for Mental Health, Minister for Women, and Minister for Ageing) (19:48):** I contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I have wrestled at length with the contents and implications of this bill in my consideration of its objects. As a local member of Parliament, I have not considered this lightly; instead, I have thought deeply about the implications inherent within the bill. I have read and listened to contributions to the debate on this legislation in the upper House and this place. As well, I have read representations from constituents and experts. Let me be clear from the outset: the bill before us today is not about abortion. This bill does not support either the pro-life or the pro-choice debate. I do not approach this legislation based on my faith, or the fact that I spent eight years trying to carry to full term a second child. I lost babies and as a result had to undergo a dilation and curettage.

This is not about my personal experience; this is about the countless number of women in New South Wales who will need to access reproductive services in the future, and the right to communicate with them, support them and engage with them freely. I emphasise that I feel very deeply for the women who find themselves in a crisis pregnancy. I have never experienced a crisis pregnancy, but I feel immense compassion for those women, as, I believe, many of us do. Some of these women have said that they wished they were not in that situation—some who were physically or emotionally coerced or bullied into an abortion, some who have complex medical conditions, and others who find themselves confronted by many other crises.

The decision to seek a termination is a deeply personal one and one that many women reach after an extremely difficult process. That is why these women ought to be the recipients of kindness, compassion, support and love. The harassment, intimidation, threats, abuse, filming, photographing and bullying must stop. I repeat: this type of behaviour must stop. There is no question or debate on that matter. But what is also clearly evident from individual experiences is that not all women are provided with all the options available to them when they are considering their choice. I have heard these stories and listened to their desperate disappointment, and regret that they were not told about all their options. These are real cases, real women, and their stories weigh heavily upon my heart. We know that when some women are presented with other options to abortion and real tangible offers of assistance—when they have all the information at hand—they can make a truly informed decision.

The people of compassion and respect who do this work and provide this information, support and assistance to women considering an abortion—people who are sometimes called "sidewalk counsellors"—should not be grouped into the category of those who are abusive, rude, insulting and threatening. They are very different types of people, with different motivations, methods and aims. But this bill seeks to group all of these people into one category. In her second reading speech, one of the proponents of the bill, the Hon. Penny Sharpe, stated: Those sidewalk counsellors do not know, and they do not care. They do not care about those women... I completely disagree with her assertion. These volunteers care deeply about women. They offer support and information that they know will not necessarily always be provided within the abortion clinic. They are providing other information that some women choose to accept. They do not force their views onto these women. They are simply offering women another choice, yet this bill will criminalise that offer of choice and the sharing of information. The decision to terminate is momentous. Such a decision should be approached with all the available information at hand. Who am I to take that information away? Who are we to take that information away? But this bill will do exactly that in some situations. Those who support the bill will say that every woman considering her options is provided with all the available information, but that is not always the case.

I have read stories of women who were not told the truth about the development of their babies, the possible long-term health effects of the procedure or the availability of support and assistance if they chose to keep their babies. They could not find the support they desperately wanted. A friend of mine was one of those women. As a teenager and nine weeks pregnant she was told by her doctor not to worry about her decision to abort as she was just carrying cells in her body. After the termination she suffered tremendous grief. She described it as having had a mental breakdown. She had learnt about the stages of pregnancy and what was happening within her body at the

time of the termination. She was not told the facts or the realities of the procedure or what would come next. She was not fully informed to allow her to make the best decision for herself. No one woman's journey is the same. Our experiences and feelings about pregnancy may vary but one thing is certain—namely, women must be fully informed of the choices and paths available to them. [*Extension of time*]

This bill is counterproductive to that objective because it denies support and informed choice to vulnerable women when they need it most in some circumstances. As I said earlier, the harassment, intimidation and the threats must stop. We already have provisions within our legislation to protect people from such behaviours and actions but the proponents of this bill claim they are not being adequately addressed. For example, the Crimes Act provides that it is an offence for an individual or group who uses intimidation or violence to compel a person to refrain from undertaking a lawful activity; the Summary Offences Act deals with the impediment of the free passage of a person in a public place; and police are provided with move-on powers to deal with public disorder and manage disruptive protesters in the Law Enforcement Act.

If there are deficiencies in the operation of these provisions they should be fixed. However, if those deficiencies do exist they will not be remedied by the introduction of the set of offences this bill will deliver. Further, the penalties proposed by the bill are excessive, disproportionate and out of step with comparative legislation in New South Wales. This bill sets a low bar for what constitutes an offence. Proposed section 98C prohibits interference with persons accessing or leaving a reproductive clinic within the safe access zone. Anna Walsh, Adjunct Associate Professor at the School of Law at the University of Notre Dame Australia, said: As it provides a non-exhaustive definition of interference that includes 'harass, intimidate, beset, threaten, hinder, obstruct, or impede by any means' these examples do not constrain the interpretation of this provision, and can lead to a wider application by the courts, especially if the assumption underlying the bill, that people who participate in prayer vigils and sidewalk vigils counselling cause harm to women, is assumed as a fact. Where is the evidence of that? We have evidence of women who have received information from volunteers that has provided them with another pathway and, after being informed about the alternatives and support, those women have chosen not to proceed with an abortion. I have met some of these women personally. To withhold all the facts from a woman is to disrespect her ability and right to make an informed choice.

I acknowledge the previous speakers who have canvassed the details around the legalities and potential conflicts with constitutional law. They adequately covered these areas and I will not repeat them. I do not support the bill as it stands. I cannot support a bill that does not properly distinguish between the freedom of sharing of information and harassment, and a bill that will set a precedent of one set of rules for some people and another set of rules for others. This bill will criminalise communication that is presented to women in some cases that shares with them all of the facts about all of the options available, and therefore will criminalise the freedom of speech. For these reasons I cannot support the bill.

**Ms SONIA HORNER (Wallsend) (20:00):** I place on record my support for the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I also place on record that our experiences in life before we come to this Parliament are important and shape the way that we behave. I will look the members of the Government—or those who have a different view to mine—in the eye and say this with a strong heart: I am proud that my upbringing has created many experiences for me. My mother was 14½, pregnant and grew up in orphanages, like her brothers and sisters, and she had to make some difficult choices without having the chance to consider her decisions.

In the Housing Commission family I come from, I have seen many things. I taught in the bush and I saw people who were wealthy cockies and I saw poor people. One of my best friends lived on a mission in Walgett, and she remains my great friend still. I think I have seen it all. I have seen many things and I bring those experiences with me as I walk into Parliament, as I did when I first entered Parliament in 2007. That has shaped the way that I behave and what I say to the House now. I can say this to all members with a strong heart, and it is something that I am proud of. I do not have to hang my head. I can look at the Government members and say quite strongly what I feel. I support this bill.

In 2011 the wife of one of my staff members suffered a miscarriage. She was required to have a medical abortion. This involved her attending a local clinic and, despite having suffered a lot of trauma and heartache about the pregnancy, she and her husband were forced to endure insults and had big posters and brochures shoved in their faces. They were called names. They were subjected to protesters quoting Bible passages at them and they were jostled the whole way—which is surprising because my staff member is a big bloke. That was a traumatic experience for both of them. I am sure no member of this House would want their staff member or someone they know, their partner, their wife, their sister, their daughter or their granddaughter subjected to the intimidation and insults that they were subjected to. Yet women across New South Wales who attempt to access health clinics that provide reproductive health services, including abortion, cancer screening and contraception, are subjected to harassment and intimidation by individuals and organised groups.

The self-described "sidewalk counsellors" wait outside these clinics and distress staff and clients. They hand out material bearing graphic, inaccurate and offensive images. If they are anything like the images I and my colleagues were subjected to when we were walking into Parliament from Macquarie Street recently, they are very confronting and made me feel very uncomfortable. They take photos, as a woman did outside Parliament this morning, and videos without permission as a means to further frighten clients—and they do frighten clients. They physically block entry to clinics, calling women "child murderers" and threatening women with ill-founded medical consequences if they enter a clinic.

Recently, this has been particularly problematic at the Surry Hills and Albury clinics. It is and has been for a long time a problem locally at Broadmeadow. Unfortunately, it occurs on a daily basis at clinics in the Hunter. All women deserve the right to enter any health facility free from harassment and with their privacy protected. Currently in New South Wales, women do not have the right to have their privacy protected. That worries me greatly. Currently four jurisdictions—Victoria, Tasmania, the Northern Territory and the Australian Capital Territory—have successfully introduced 150-metre safe access zones around reproductive health clinics. We must do the same here in New South Wales. This bill seeks to introduce such a measure.

The purpose of a safe access zone is to prohibit certain behaviour within a radius of 150 metres of a reproductive health clinic where abortions are provided. The bill provides that a person who is in a safe access zone cannot harass, intimidate, interfere with, threaten, hinder, obstruct or impede, by any means, any person accessing, leaving, or attempting to access or leave any reproductive health clinic at which abortions are provided. The bill seeks to stop people obstructing a footpath or road leading to reproductive health clinics or from making a communication that is reasonably likely to cause anguish or anxiety to those accessing, leaving or attempting to access or leave a clinic.

While it is too late for those who have been subjected to the insults and taunts that I have mentioned—and I know that they have been in my locality in Broadmeadow—the passing of the bill will mean that women will be able to go to the doctor and not have to explain themselves to strangers who harass them on the street. Some calls and emails to my office over the past few weeks have talked about the right to freedom of speech. Freedom of speech and freedom of assembly are rights that all modern democracies support and uphold, and we do so in this Parliament. This bill does not interfere with that right.

The behaviour and actions of these sidewalk counsellors outside reproductive health clinics are not protests or types of speech that are acceptable in any other circumstance. They are simply intimidation and harassment of individual women who are accessing a medical service. No person seeking lawful medical service advice or legal treatment and care should be forced to encounter abuse, threats or intimidation. Everyone has the right to a level of freedom of speech but also everyone has the right to be protected from intimidation and harassment and to keep their dignity and privacy. I commend this wonderful bill to the House.

**Mr JONATHAN O'DEA (Davidson) (20:08):** I too wish to make a contribution to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. As has already been stated by a number of speakers, this bill is not about the rights or wrongs of abortion. The legal position on that issue is currently settled in New South Wales and this legislation will not affect that law, whatever views people have on the subject. There are questions about balancing the right to protest or even communicate against the right to legally enter health premises without undue physical obstruction, invasion of privacy or even being potentially subject to anxiety. I certainly have no problem with reasonably protecting the rights of women wanting to enter a health clinic without undue interference, harassment or bullying. However, where should we draw the line? Where should the balance be struck?

Government members have a free vote on this bill. This freedom causes one to think more deeply about legislative responsibility and, for me, some restless hours. I understand the legitimate desire to ensure certain behaviours are not permitted in the direct proximity of a reproductive health clinic and thus to protect the physical safety and reasonable privacy of women. The current law, including existing provisions in the Summary Offences Act and the Crimes Act, already provides considerable protections, although there appear to be difficulties at least with enforcement.

I recognise the desirability from a public policy perspective of sanctioning aggressive or invasive interference when people are trying to access reproductive health clinics. While overlapping with existing laws, this bill certainly does that, although arguably it goes inappropriately further. While there have been disturbing past examples given of unacceptable behaviour, there have also been instances of women appreciating the positive support and sensitive counselling offered in the proximity of a clinic. This bill perhaps focuses too much on what cannot be done at the cost of what can be done.

I believe its effect is to preclude a reasonable presence that might positively assist certain women to consider a different path to abortion. Some women have clearly appreciated the opportunity to discuss or be

supported in an alternate decision rather than choose to have an abortion. Should this opportunity be effectively denied within 150 metres of such a clinic? Stories of women who felt rushed and pressured into having an abortion are not uncommon. A pregnant woman deserves support, especially when she may be facing pregnancy alone. Is it inappropriate for these women to have genuine support and assistance offered respectfully at a time of potential emotional need as they approach a health clinic?

The proposed legislation would effectively criminalise the work of well-intentioned volunteers in supporting women who may feel pressured into the abortion option. Should legislators risk removing a type of assistance that numerous women have found valuable? I do not think a right to protest in a certain locality is greater than the right of pregnant women to obtain advice and treatment in confidence free from intimidation. However, the proposed legislation goes beyond stopping proximate protests and extends in my view to effectively precluding the noticeable presence of people with a pro-life view. While a right to expression should not be unrestrained, it should not be quashed in an environment where it could be valuable.

A substantial number of women who travel to a clinic for an abortion would already be in an emotionally sensitive state. Indeed, that is part of the reasonable rationale for greater measures than normal to ensure safe access and privacy near health clinics. However, that same heightened sensitivity would also make them more predisposed to becoming anxious at a pro-life presence, even where it is well meaning and communicates genuine support in a restrained, respectful and peaceful way. I am particularly unable to support the proposed new section 98D, which could see someone criminally convicted and potentially jailed for a communication that potentially causes distress or anxiety to persons. In that regard, I believe the bill involves an unbalanced overreach. Section 98D is headed "Causing actual or potential distress or anxiety to persons in safe access zones". The proposed criminal offence provision reads:

- (1) A person who is in a safe access zone must not make a communication that relates to abortions, by any means, in a manner:
  - (a) That is able to be seen or heard by a person accessing, leaving, attempting to access or leave, or inside, a reproductive health clinic at which abortions are provided, and
  - (b) That is reasonably likely to cause distress or anxiety to any such person.

New section 98D does not require malice, or even intent, to cause anxiety, simply a "reasonable likelihood" of it as a potential consequence of a communication about abortion in the relevant geographic area. To create a criminal offence for causing potential distress or anxiety is setting a very low benchmark that I am not comfortable with as a legislator. It could also become a precedent to justify the introduction of other similar offences in other contexts, essentially based on the reasonable likelihood of making someone anxious.

The politically selective context for this special legislation and its inconsistency with other contexts has also been questioned. Some people have asked why the same rules should not apply for activity outside a church or a brothel. Another possibly analogous example involves a union picket line. I understand picket lines that do not breach the peace or interfere unlawfully with citizens' rights are a legitimate form of industrial protest. However, it is not lawful to physically prevent entry to premises or to bar entry by threats or intimidation. Those on a picket line can seek to dissuade other people from entering, but they breach the law if they threaten, intimidate or physically block entry. That seems fair enough. However, what about if a picket line presence or communication about breaking the line were reasonably likely to cause distress or anxiety? Can members imagine what would happen if a union picket line communication were made illegal and union members even jailed because their communication inadvertently caused, or was reasonably likely to cause, someone anxiety?

I note that similar legislation in other Australian jurisdictions is being challenged in the High Court based on an alleged breach of a right of political communication. My concern is not predicated on that argument, although such court challenge does make the validity of at least some of the provisions of this bill somewhat uncertain. My main concern is that the threshold test or benchmark for finding an offence under new section 98D, and potentially sending someone to jail, is simply too low—dangerously so. I do not doubt the good intentions of those proposing this bill. However, I believe it is not appropriately balanced, with the pendulum swinging too far one way. Therefore, I will support an amendment to delete new section 98D.

With respect to all my colleagues in this place, it is fraught with danger for us to try to legislate for people to show respect and decency to others. Democracy is based upon respectful tolerance and expression of opposing views, not their suppression. In my opinion, it is unacceptable that someone could be jailed for doing or saying something in good conscience and without bad intent that is reasonably likely to make someone anxious. Accordingly, I cannot support the bill as it stands.

**Mr STEPHEN BALI (Blacktown) (20:19):** I speak in support of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I acknowledge all the members who have spoken in this debate. I note the explanation and the detailed discussion about the bill provided by its sponsors in this House, the member



for Port Macquarie and the member for Maitland. I thank the Hon. Penny Sharpe, the Hon. Trevor Khan and many others from the other place for their work in focusing this bill on access to services as opposed to any view one may have on abortion. The core issue in this bill is the intimidation and harassment of women or staff attempting to gain entry to reproductive health clinics. It is unfortunate that over a very long period many women have been harassed or intimidated when entering these clinics.

Whilst many people have stood peacefully outside the clinics, offering prayers and information flyers, unfortunately, some have been provocative, harassing and intimidating both to employees and women attempting to access the clinics. This is totally unacceptable and cannot be condoned in any way. If people standing outside these clinics were always peaceful and not intimidating, there would be no requirement for legislation. Unfortunately, this is not the case, and hence there is a need for this bill. People standing outside and intimidating women entering clinics is a nationwide problem, given that there is currently a case before the High Court that has seen Australia's Solicitor-General and the Attorneys General of New South Wales, Western Australia, South Australia and Queensland all making submissions to support safe access zones.

The criticism of this bill has centred around whether it curtails free speech. We are not talking about protesting against the Government, an organisation, a policy or principles; we are talking about the harassment or intimidation of individuals when they are at their most vulnerable. I feel it is abhorrent that people are mixing up the issue about protests and restriction of free speech with the rights of a person entering a health clinic. This is intimidation of the individual—plain and simple. I am amazed that the conservatives, particularly the member for Hawkesbury, are standing up to defend free speech and protests, and yet history shows they previously banned protests in Queensland. The member for Maitland outlined earlier today that this Parliament has introduced legislation that banned protests against coal loaders, coal seam gas and mining companies. Indeed, you can be imprisoned for seven years for protesting outside a BHP Billiton facility. There is also a 300-metre exclusion zone for whales.

How dare the conservatives lecture us on free speech and protesting? Yes, protesting is an essential part of our democratic process, but the ability to protest must not cause physical or mental harm to anyone—particularly women facing a difficult decision. A decision to terminate a pregnancy must be one of the most difficult decisions that a woman can make. Many factors would go through one's mind in trying to weigh up such a decision. Generally, a woman would have discussed this issue with her own support group and made a decision based on her particular circumstances and her own personal values. It is unacceptable for people who are not known to the woman to stand outside a clinic and try to affect her very important decision, particularly when they have inappropriate material or verbally harass her. This would generally have no impact on her final decision.

This bill does not change any aspect of the abortion laws but simply introduces the concept that no-one will be harassed or intimidated as they enter a clinic. Whether or not a person decides to terminate a pregnancy is based on their belief constructs or faith, which are built up over their lifetime, rather than on some type of footpath therapy outside the clinic. I respect the various faith groups and individuals for their stance regarding terminating a pregnancy, but this bill does not change that in any way. It does, though, respect the right of the individual when they are at their most vulnerable not to be harassed or intimidated.

Faith organisations and individuals are allowed to speak freely about abortion issues in their places of worship, in schools or at community gatherings. The only restriction is keeping people 150 metres from a clinic. It is important that faith organisations try to regain the moral authority that they have lost by their own actions in the past few years. Terminating a pregnancy is both a moral and ethical dilemma that individuals face. I believe that faith organisations need to increase their moral authority through their actions and I do not believe harassing people will endear them to anyone.

I am also informed that the intimidation actions do not occur in front of all clinics, which seems odd to me. If it is important for appropriate counselling to be made available, it should be available at all clinics and not only some. I do not advocate sidewalk therapy at all clinics but instead I support appropriately qualified counsellors giving advice on a full range of alternatives at each clinic. I believe that the key issue ought to focus on the quality of counselling that people are getting inside the clinic. Are independent counsellors fully discussing their circumstances? The Government must ensure that a person entering those facilities receives the full range of advice. An informed decision at that point is important. If a woman so requests, clinics must provide appropriate, independent advice.

I understand current concerns that private clinics provide services to generate a profit. A common criticism is that the clinic is there to make money by providing abortion services, so why would people there try to talk someone out of it? There need to be more knowledgeable people than me in psychology and counselling. I call on the Government to ensure that a checklist is developed to consider a comprehensive review of the circumstances faced by a woman and that various options have been discussed and explained. A woman's dignity must be respected. We have also heard that women regretted the decision they made to abort when they learned

that an offer of assistance or support was available, or they did not fully comprehend the ramifications of their decision. In her speech the member for Mulgoa said that women attending reproductive clinics were not given the right advice. We must ensure that we have independent, professional counselling at the clinics rather than sidewalk therapy in a desperate attempt to intimidate a person.

It is the Government's responsibility to make sure that this is part of the licensing arrangements of reproductive clinics and that it is available to all. The member for Epping called for further inquiries and said that there was no evidence to support the bill. Yet he was happy to say that hundreds of people had not had abortions because of the sidewalk counselling. I wonder where he got his evidence from. Any basic observation would suggest that that would be impossible if protests took place at only a couple of clinics. The Government should act now to ensure that appropriate independent counselling services are available inside the clinic. The bill focuses on the dignity and respect of women when they are at their lowest ebb. The bill does not stop free speech or protesting; all views will be able to be debated and discussed in appropriate places. The bill stops the intimidation of individuals. The real issue is that the Government must ensure that independent, professional services are to be provided at these clinics and not on the sidewalk. I support the bill.

**Mr ANTHONY ROBERTS (Lane Cove—Minister for Planning, Minister for Housing, and Special Minister of State) (20:28):** I contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 and state at the outset that I do not support the legislation. The New South Wales Liberal Party is blessed with many excellent legal minds, such as the member for Epping and the member for Ku-ring-gai. Both have made concise legal objections to the bill that I will not repeat but I hope that their persuasive arguments resonate with members today. My philosophical objections to the legislation are clear.

I thank members for the way in which they have conducted the debate today. This is a vexed issue and one that stirs passions on both sides of the ideological gulf—between those who do and those who do not support abortion. There have always been, and always will be, what the media glibly refer to as culture wars. There always has been and will continue to be robust public debates on divisive social issues. The transit of this legislation in 2018 through both Houses of Parliament stands as a stark reminder that it is possible, even when the character of public debate seems darker and more hateful than ever, to achieve a level of respect and courtesy, if not consensus.

The character of debate in this and the other Chamber is determined by the character of its members. In recent years, while the character of public debate outside this place has grown more chaotic and immature, debate in this place is the very opposite. The public might only see the raucous displays of question time, but it is important to recognise the serious and sober way in which members legislate on such serious matters and, for that, I thank them all. For me, this bill comes down to a simple question of freedom, religious freedom, and freedom of political expression.

It will be noted by those who support this bill that as Minister for Energy and Resources I supported legislation enacting exclusion zones for protests around critical mining infrastructure. That legislation justifiably curtailed the right to protest in the direct vicinity of infrastructure vital to energy supply and the wellbeing of the economy. It restricted individuals from indulging in acts of protest, and at times stupidity, that could endanger their lives, the lives of workers, or the lives of emergency workers. It was a good law. I note that compared to similar laws passed in other jurisdictions it was not successfully challenged in the courts.

This bill is different because it does not target an act of protest, but an act of faith. It is, and should always be, illegal to intimidate or harass an individual in public or in private. It should, and always will be, a serious offence to assault anyone. I believe it should be a grave and serious offence to intimidate or harass a pregnant woman, especially at such a vulnerable time as when she is accessing reproductive health services—whether or not one agrees with her choice. To engage in peaceful, public ministry, to pray, and to passively protest an act fundamentally at odds with one's religious faith is a fundamental freedom guaranteed by our Constitution and the social contract signed by all who live in a civil Western society. To criminalise this act is to curtail that freedom. I would wholeheartedly support harsh penalties for those engaging in offensive conduct against pregnant women, not just on footpaths outside abortion clinics, but anywhere in this great State.

The text of this bill restricts any communication at all. I spoke before about the character of public debate in the modern era. I am a conservative, and my conservatism is informed chiefly by my belief in God, the Queen, our system and our country. Even I struggle to find common cause with many of the loudest voices in modern discourse. While I might share an ideology with them, it is as if we are speaking different languages. It is not the language of John Howard or Robert Menzies. As a conservative of the Catholic tradition, the current trend toward hateful invective from some on the new Right is alien to me. A lot of commentators on our side of politics, and a lot of new personalities from minor parties making names for themselves on right-wing issues, are doing us all a disservice.

The idea that the Left would meet this challenge by outlawing any speech at all is gravely concerning. It speaks of a seed of tyranny at the heart of progressive ideology. Freedom of faith and philosophy means disagreement and it means that sometimes one can be offended. Yesterday in this place, during my contribution in question time, it was noted my views on democratic freedom for the people of Taiwan put me at odds with Commonwealth foreign policy regarding communist China. The difference is that in our country, in our democracy, I am free to hold that view without fear of persecution or imprisonment, a freedom that is precious and worryingly rare. This bill, however well intentioned, will allow individuals of faith to be persecuted and potentially imprisoned for their views and the way they express them, however peacefully, simply based on where they express them. Indeed, this legislation is objectionable. I conclude my contribution with a quote from that great saint, Pope John Paul II, who said:

When freedom does not have a purpose, when it does not wish to know anything about the rule of law engraved in the hearts of men and women, when it does not listen to the voice of conscience, it turns against humanity and society.

I ask members to listen today to the voices of conscience opposed to this bill. Freedom of faith does have a vital purpose in today's chaotic world and we should defend it, even where its application makes some uncomfortable.

**Ms LIESL TESCH (Gosford) (20:35):** I fully support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 and the right of women to make their own reproductive choices without harassment. I support the creation of safe access zones around reproductive health clinics to cease the harassment of patients and to provide them with peace of mind, safety and medical privacy. Decisions around reproductive choices are extremely personal. The very concept that members of the general public, strangers with their own views, see fit to interfere and try to pass their own judgements onto women they do not know is ridiculous. I was brought up in a family who supported me in developing the values I bring to this Chamber as a member of NSW Labor—fairness, equality and justice. I proudly support the women who make very personal choices around their own reproduction. I am proud to be representing the people of Gosford in Parliament today and standing up for women's rights. Step by step we continue to make change.

In essence this legislation is challenging the generalist stereotypes around abortion and women's rights to attend reproductive health clinics with dignity and privacy around their personal decisions. It is important to understand that women attend these clinics for a variety of reasons: for professional information regarding their reproduction and reproductive health choices, to have a contraceptive implant, for an STD check-up, for medical procedures that may be related to a miscarriage, or for pregnancy termination for a number of reasons such as sexual assault, health conditions or just personal choice.

It is important to note that women have the absolute right to seek information and make decisions around fertility and contraception, and to seek professional advice from experts in the field. Women have the right to seek their own counsel and legitimise their own choice using the networks and support people they choose. This bill has been introduced so women can safely access important medical services without ideological or philosophical communication from others. It is about women making an informed decision to access medical services and allowing them to do just that. This legislation supports the dignity and integrity of women who make their own decisions. It is important that ongoing personal attacks on women outside clinics are stopped.

Many of my colleagues in this place and the other place have shared stories of women being harassed, photographed, mocked and interfered with on their way to visit a medical professional for personal reasons. As a member of Parliament coming into my workplace today, I was exposed firsthand to what women have told me happens at clinics, and in this situation I was confronted. I was not nursing a sensitive personal decision about my reproductive wellbeing on the way to my workplace this morning, yet I saw an exact symbol of what we need to stop: a woman with a sandwich board displaying an enlarged photo of a fetus. Women making the decision to access reproductive clinics and visit their doctors do not choose to be counselled by sidewalk counsellors who do not necessarily possess professional qualifications—and who may in their own heads consider themselves well-meaning volunteers. It is often a fragile time in a person's life.

Today I support the women of New South Wales who have the right to make choices without the interference of "the monsters on both sides of the street, pushing, shoving and shoving posters in our faces and pushing brochures at us". We all know that those decisions are deeply personal and should in no part be influenced by the input of absolute strangers who provide no consolation. It is sad that we need to call on legislative and policing processes to address those who harass women entering reproductive clinics. Given what has happened to women in this State, it is time to support this legislation to ensure it does not happen in the future. Women who are in vulnerable circumstances that lead them to attend clinics and reproductive health centres are often going through challenging times in their lives. Being publicly judged and harassed by others who have differing viewpoints to their own is not acceptable in any circumstance. This legislation will put a stop to that.

I speak on behalf of the people who have called and written to my office in support of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill. I have the support of the Australian Medical Association [AMA], which is in favour of the bill. It states, "People should be able to have unobstructed access to healthcare facilities and be able to approach them without harassment" as they do for general practice, cancer treatment, surgery, or sexual health. It also states:

In the case of pregnancy termination, women do not seek these procedures out lightly and the absolute last thing anyone in those circumstances needs is abuse from strangers.

Similarly, there is no shame in seeking help from sexual health clinics and no-one has the right to make people feel there is. The bill has been conflated with many other issues. It has been said the bill is about free speech and abortion and that it is not a health issue but a regulatory issue. The bill does not impinge on anyone's ability to freely speak their views in any forum. The media will still be able to speak about abortion. The people and groups who have been outside this Parliament for two weeks protesting on both sides will still be able to do so if the bill passes. Passionate advocates on both sides of the argument will still be free to walk from Martin Place, down George Street and all the way along Parramatta Road saying whatever they like. This bill will not change any of that.

Those opposed to the bill have put up a straw man. No-one would accept someone standing outside the Central Coast Regional Cancer Centre wearing a sandwich board displaying pictures of people suffering from radiation poisoning and telling people that they should be ashamed for filling their bodies with radiation. The community would be up in arms, the police would be called and that person would be moved along. So why is it okay to treat people who are entering a reproductive health clinic seeking private medical advice in this way? What happens in any clinic is a matter for the people seeking the care or consultation. It does not affect anyone but the people involved. No-one has the right to insert themselves into that decision. The bill will ensure that everyone—no matter the reason, the procedure or the views of the community—will be able to go about looking after their private medical health without harassment.

I thank the men and women across New South Wales who have been working to support women whilst awaiting the introduction of this bill. I thank the people involved in the groundswell and the growing number of voices in support of this bill being passed. Their united presence at the front of Parliament in support of women having safe access is felt in the Chamber this evening. I thank the women's health centres across New South Wales, including those in the Gosford electorate, which have been campaigning in support of the bill. I thank Gynaecology Centres Australia for providing non-judgemental, safe, comfortable and unbiased pregnancy termination and abortion services in the Gosford electorate. I thank the Country Women's Association for lobbying for the establishment of safe access zones around reproductive clinics since passing a motion two years ago.

I thank Dr Mehreen Faruqi for her work to ensure the bill arrived in Parliament. I commend the Hon. Penny Sharpe and the Hon. Trevor Khan for introducing the bill. The bill is not about the legalities of abortion in New South Wales. It is about the integrity of access to medical services. Patients have a right to privacy when seeking medical treatment. They should not be harassed by strangers who are lurking somewhere nearby delivering messages that are of no interest to the patient. It will introduce a law that will protect women, their partners and families and also protect the health workers at these clinics promoting a safer, fairer and more respectful New South Wales. This bill is about protecting the personal autonomy of women of New South Wales. I commend the bill to the House.

**Mr ROB STOKES (Pittwater—Minister for Education) (20:44):** I am grateful for the opportunity to contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I am unable to support the bill in its current form. It is important for me to say that it is not appropriate to harass, stalk, intimidate or assault a woman who is seeking medical care, particularly on the advice of medical practitioners. She should feel absolutely safe when doing so. One of the fundamental tenets of our society is that all of us owe a duty to protect one another. Our entire social contract is built on the understanding that we should love one another, care for one another, support one another and protect one another. Indeed, in any formulation of the social contract there is a sense that, while we might all be imbued with natural freedoms, with the use of reason we voluntarily relinquish some of those freedoms to a sovereign who will exercise some of those freedoms in our place to preserve our remaining freedoms.

It is difficult to think of a more foundational freedom than the freedom from fear, the freedom from intimidation, from the fear of being attacked. That transcends other freedoms, including the freedom of speech. I accept that in certain circumstances the freedom of speech should be curtailed when it is reasonable, where it is uniform, where it is proportionate and where it is necessary. I accept all the horrific anecdotes from both sides of the House of completely unacceptable conduct by people involved in this debate. Their behaviour is completely unacceptable and the full force of the law should be directed against people who harass, stalk, intimidate and assault women who are seeking medical help. Of course it should.

Of course these types of things are emotive. Of course these types of things are difficult. But ultimately our job as lawmakers in the Parliament is to dispassionately interrogate the words of a statute, the necessity of the provisions of a statute, their implications and potential consequences. I accept it is reasonable to have limitations on communication, but in so doing we must recognise that there is this tension between freedoms. It is so important to try to preserve as many freedoms as possible, always wary of the fact that the more we seek to define our freedoms, ironically, the more at risk we are of limiting them. In relation to reasonableness, my concerns with the legislation are its lack of specificity around the element of mens rea, of a guilty mind, in relation to the intentionality of causing distress or, for example, of intentionally hindering a person. I would feel much more comfortable with this legislation if there were an element of intent in relation to actions that might, in the minds of others, cause them to feel threatened or harassed.

The other reasonable issue is of knowing. The legal description of a safe access zone is difficult to ascertain. It is a bit nebulous. If a clinic is located within a wider building or campus, does the radius of the safe access zone refer to the area around the clinic or around the procedure room, or does it relate to the campus as a whole? This could have huge spatial consequences as to freedom of communication. It is also important to understand that the difference between these things may make it confusing for someone, quite legitimately, to understand whether they are in a safe access zone. In fact, many people in this State would have no idea of the location of reproductive health clinics at which abortions are performed. As a result, it is difficult to satisfy the issue of intent because it is not clear where the safe access zone is in the first place. That goes to reasonableness.

I am concerned also that limitations to free communication should, wherever possible, be uniform. I heard an excellent contribution by the member for Gosford, who said everyone should have free access to health facilities to undergo medical procedures. I could not agree more, but that is not what the bill does. The bill identifies one category of vulnerable people. Of course pregnant women seeking a termination are a vulnerable group in our community who need support. But we do not get to select individual groups of vulnerable people accessing medical facilities when a better approach, surely, would be to declare all of New South Wales a free access zone for everyone to go about their lawful activities free from threats of intimidation, violence, harassment, stalking or any of those terrible things. To seek to identify particular categories of vulnerable persons in particular areas and put spatial and temporal limitations in specific legislation without the need for intention or elements of knowingness around criminalised activity is legally troubling.

We also must ensure that laws that restrict free communication are proportionate. I am unconvinced that the bill is necessarily proportionate in applying potentially custodial sentences for activities that could, for example, include wearing a T-shirt or having a quiet conversation that is overheard. I accept entirely that the egregious examples we have heard of people holding placards saying terrible things, or shouting or attacking people, or deliberately impeding action should be—and already are—criminal activities. That leads on to my final point—I guess from my liberal tradition—which is that we must be very careful not to introduce more and more laws, which is not of itself a good thing as it does not necessarily make us safer. When we introduce laws we should look at how necessary they are.

I have listened to a wide variety of members who have talked about the Crimes Act, the Crimes (Domestic and Personal Violence) Act, the Summary Offences Act, the Law Enforcement (Powers and Responsibilities) Act and the Anti-Discrimination Act, as well as a range of civil and criminal torts, including trespass and unlawful imprisonment, to name a few, that all cover harassment, intimidation, stalking and of all the conduct that people quite rightly have been flagging as completely inappropriate activities towards a vulnerable pregnant woman who is seeking a termination. There is a whole range of reasons I cannot imagine—the despair, challenge and terrible decisions—that some women in that position must face. That is why there are so many laws to ensure that the vulnerable in our community are protected from harassment, intimidation, stalking and all those other things. Earlier, the member for Lake Macquarie said to me on an unrelated matter that in this place if you can make decisions, which we are charged to do, that impact people's lives and not struggle with it, then you should not be here. As I have listened to people, I sense that they are struggling with what to do. There is a shared humanity in this place—a shared humanity of love and compassion that goes out to the vulnerable among us. After all, that is why we are here, because we recognise the role of Government in protecting the vulnerable. However, on the face of it, for the legal defects that I have mentioned I am unable to support this law. But I certainly condemn any activity by anyone who seeks to— [*Extension of time*]

I would entirely support a general law that sought to provide safe access to all facilities for all procedures. I would support any provisions that make sensible extensions, where there are gaps identified in the general law, to protect all citizens of New South Wales from the sort of heinous acts that have been indicated. But I am concerned that we do not get freer and safer the more laws we pass. Ultimately, freedoms by their nature involve a judgement by people exercising those freedoms. This is a good debate because as a civil society, we need to recognise that just because people might be free to say or do certain things, perhaps they should not. Certainly in relation to this issue, harassment, violence, intimidate, threats and stalking are already voluminously covered by

a range of criminal and civil penalties. From what I have read and listened to, I do not believe that it is necessary in this case to have an additional law providing further protections on top of those that exist.

**Mr RYAN PARK (Keira) (20:56):** I speak in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I pay tribute to my very good friend the Hon. Penny Sharpe in the other place. She is a tireless advocate for things that are often very difficult and challenging for lawmakers. What I admire about Ms Sharpe is that she never, ever gives up. She is a tireless advocate for some of the most marginalised in our community and a role model for so many on our side of politics. There is certainly no stronger advocate for women and women's issues than my good friend the member for Maitland. Whether it be protecting people against domestic violence, protecting people from sexual assault, making sure that perpetrators are dealt with appropriately, or supporting women to enter politics, the member for Maitland is often the first person to do the tireless work that will ensure we have a much more equal and fair society—one that the Labor Party believes in.

I wholeheartedly support this bill. I note the comments from the Minister for Education; I respect the comments and the way in which this debate has been conducted. But the comment about supporting legislation to enable all people to access health services is interesting, because that is not what we do anyway. In this place we develop laws for specific reasons. I was a chief of staff to a police Minister. During the Asia-Pacific Economic Cooperation [APEC] summit of 2007, we had legislation that essentially banned people from doing traditionally normal and sensible things. During that period, as a citizen accessing the northern end of the city I had my car raised and examined. I was frequently questioned about where in the city I was going. Contributors to this debate have said that we do not make laws for specific circumstances; we do. At times we have to. This is a case where we have to.

I am a husband and a brother, so I cannot come close to experiencing what a woman who is entering one of these clinics experiences when she is harassed by individuals about a choice which she is already finding deeply challenging. I cannot walk in her shoes—nor can more than 50 per cent of the members in this House, but we seem to be making an enormous proportion of contributions to this debate and offering a great deal of legal expertise. The reality is that this legislation will only protect women for a distance of 150 metres around a clinic. All they want is to be able to go in there and seek medical treatment from a medical professional. I do not think they are asking too much.

We have to pass this legislation because what is happening at the moment is uncivilised. A woman in a civilised society should not have to experience the sorts of things we have learnt about during the course of this debate. I look at this from another point of view. If a male was going to have a vasectomy—some members may have experienced that—I am not sure that he would get harassed or harangued. He would not have placards put in his face. I wonder what would happen in this place if men did experience that kind of thing.

I saw what happened during APEC. There was a threat at that time and although there had been no violence, laws were made in this place which locked down parts of this city—a global city—to cover that specific occasion and to deal with that specific issue. Now we need to pass a law that protects women accessing health services in the same way that I would expect this House to pass a law if I were accessing vasectomy services and someone was throwing things in my face. I would expect the oldest Parliament in this country to stand up for me. I would expect women to have an understanding of what it would be like to walk a mile in my shoes.

I ask this very simple thing of the House today: Let us not imagine that we do not pass legislation with respect to unique circumstances. That is done all the time by every colour of Parliament. Every single colour of political party has done that and will continue to do that. Today we are attempting to protect individuals for a very small area: a radius of 150 metres. The individuals who want to engage in this sort of inappropriate behaviour can do it at the 151-metre mark.

Women are asking this Parliament to protect them as they take those final few paces into clinics. They want to be protected from harassment, intimidation and persecution. That is what we expect. Those arguing against the legislation should not say that we do not pass laws for unique circumstances; we do. We will continue to pass laws for unique circumstances. I ask all members today to imagine walking for a moment in the shoes of these women. They are not going out to have a latte or social chitchat; they are seeking medical treatment, often as a result of some horrendous or difficult experiences. They are thinking about challenging things and all they want is the freedom to access those services. I ask that members show some compassion for those women. We are not banning protesters; they can protest at the 151-metre mark, for heaven's sake.

This is just like the so-called exclusion zones during the Asia-Pacific Economic Cooperation [APEC] summit. Remember those? This place, this Parliament, this Chamber passed laws to prevent people from moving around this city for a period, with no intelligence other than that we wanted to protect some heads of State. Fair enough; that was a fair, good and appropriate decision. All I am asking is that we protect vulnerable women as

they make a difficult life choice and that these protesters protest at a distance from where these women access these important services. I thank my colleagues the Hon. Penny Sharpe and the member for Maitland for bringing this bill forward. I thank the members in the other House who had the courage to support this bill. I hope this Parliament does what I believe it should and continues to ensure that women have access to important health services.

**Mr ADAM MARSHALL (Northern Tablelands—Minister for Tourism and Major Events, and Assistant Minister for Skills) (21:05):** I will make a brief contribution to the debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. While the issues this bill seeks to resolve are not necessarily top of mind for most people in the Northern Tablelands electorate, they are nonetheless incredibly important. I am not moved to make a contribution this evening because of the personal situations of family members, because of people I have reached out to, or because of people who have approached me. I am moved to do so because I believe at my core that people who may be at their most fragile deserve the right to access the health services, professional guidance and advice that they seek and require free from any interference.

It is important to note that women access reproductive health clinics not only to terminate a pregnancy but for a wide variety of reasons. I am somewhat bemused by the argument that the right to freedom of speech of people to, without invitation, "counsel" women as they enter these clinics is paramount, but less or no regard is given to the undoubtedly equal right to freedom of choice in mind and action of those entering the clinics—women who are simply going about their business, completely within the law of the land. At the surface, this argument appears to be founded on the belief that the right to freedom of speech of those who want to "counsel" women outside clinics extends beyond the point of merely exercising this freedom to an extent which then interferes or compromises the same equal right of women to have their often difficult decisions and actions respected and not impeded. Surely the rights of these counsellors do not and cannot trump the rights of women legally entering these clinics.

I am reminded of another example in another area of society which was always keenly debated around the Gunnedah Shire Council table when I was a member of that council. Every adult in this State has the right to smoke cigarettes but they do not have an unfettered right to smoke anywhere or at any time. People cannot smoke in certain zones within pubs and clubs, within short distances of children's playgrounds, near schools, near hospitals or on passenger aircraft. The list goes on. Successive parliaments and local councils have made decisions and supported laws to curtail smokers' freedom of choice—their right to smoke—so as not to encroach on non-smokers' rights to not be forcibly exposed to passive smoke.

These decisions and exclusions also protect the rights of those who are vulnerable and who may not be in a position to defend their own rights, like children, the sick, the elderly, or even women who are at their most fragile and sensitive and about to enter a reproductive health clinic. Far better legal minds than mine have pored over the details of this bill and will continue to do so. I support the principle of ensuring that women have safe and unimpeded access to health clinics, therefore I indicate my support for the bill. However, I will give consideration and support to some of the amendments that have been foreshadowed by the member for Epping.

**Mr RON HOENIG (Heffron) (21:09):** I contribute to the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018, which I and the Opposition support. The member for Epping has proposed a number of amendments to that bill. Four have been agreed to by the Hon. Penny Sharpe and the Hon. Trevor Khan from the other place. I support those amendments. As long as I can remember, I have always vocally and ferociously supported a woman's right to choose. I use those words "a woman's right to choose" rather than "pro-choice" or "pro-life" because I believe fundamentally that it is a woman's right to choose.

From my own anecdotal experience during my lifetime, whether it be from those close to me, those whom I have represented or those whom I have assisted, I appreciate the trauma undergone by women who have sought and obtained pregnancy termination and the psychological or psychiatric impact to various degrees that a termination of pregnancy or loss of an unborn child has upon them. I venture to say that no male could possibly understand that trauma. I believe that no male has a right to impede or intrude in that public policy because they would never understand.

It therefore follows that no person should interfere in any way with the right of a woman—who, having made that decision to terminate a pregnancy, must be in a sensitive psychological or psychiatric condition—lest they do greater harm to somebody who is already suffering. The harm does not have to be to the extent of some of the obscene behaviour that has been identified by other members who have contributed to this debate. The mere presence of protestors could have a dramatic and permanent effect upon those persons seeking to access reproductive clinics. If the law does not protect those vulnerable women, then what purpose is the law and what purpose is justice?

I listened carefully to the contribution of the member for Ku-ring-gai, whose contribution I valued. I appreciate his research and input, which has assisted me in my consideration of the bill. I wish the member for Ku-ring-gai would contribute to other legislation with the benefit of his experience and ability to research in the same way. That would significantly add to the decisions made by this House. However, at some point this House needs to draw the line. At some point it needs to move to protect vulnerable women in these circumstances. At some point this Parliament will realise that it cannot wait for government intervention.

I pay tribute to the Hon. Penny Sharpe and the Hon. Trevor Khan, members of the other place and the co-sponsors of the bill before us tonight. Dealing with issues such as safe access to reproductive health clinics, which relates to the divide between pro-choice and pro-life matters, can often be viewed by governments as the third rail of politics. Such issues seem to be difficult and divisive and are therefore treated as not being political issues in which governments wish to intrude. It takes considerable courage and determination to pursue the passage of a private member's bill and to secure the support of members of the other place. After it passed the Legislative Council, the bill was introduced into this House, where the co-sponsors have persuaded the Labor Party to support the bill and have persuaded the conservative parties to consider it as a conscience vote. Getting the bill before us to this stage is a considerable achievement, because in most cases the normal democratic processes of government do not enable such legislation to reach this stage.

Whilst I value the input of the member for Ku-ring-gai, I note that no piece of legislation emanating from this Parliament is perfect. There are always unintended consequences of legislation. But whilst every bill can be improved, the fact of the matter is that the bill before us, which is designed to protect vulnerable women, is as good as can be achieved. I congratulate the co-sponsors of this bill in the other place for their determination in moving this legislation. I commend not only members of the other place but also members of this House for their democratic conduct in dealing with this bill. I note that Australia is known for robust democratic processes. Pro-choice and pro-life issues have divided nations for generations. In the United States—the land of the free—this issue determines who gets appointed to the Supreme Court. Before a Supreme Court justice is appointed, the Congress and the Senate need to be satisfied that the appointee is either pro choice or pro life. This issue inspires vicious debate in the land of the free, which apparently upholds the pillars of democracy. However, in the Parliament of New South Wales we have witnessed calm, genuine debate on this sensitive issue.

The fact that the member for Epping has foreshadowed that he will move amendments to the bill demonstrates the maturity of the debate and signifies that democracy in this country is achieved successfully through debate. I know that the member is vehemently opposed not just to the bill but to the right that this bill seeks to protect. But he has proposed amendments not with the intention of destroying the aim of the bill but, in his view, to improve the bill to give effect to its objects. I do not accept the member's belief that his amendments achieve that aim. I believe the member for Epping fundamentally disagrees with the objects of the bill. However, this bill is a testament to how democracy works in this State. It is a testament to how individual members of Parliament can protect some of the most vulnerable members of our community. I thank the co-sponsors of the bill in the other place and the mover of the bill in this House for the way they have approached this difficult and sensitive legislation.

**Mr STUART AYRES (Penrith—Minister for Western Sydney, Minister for WestConnex, and Minister for Sport) (21:18):** I speak to the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. At the outset, I recognise the work of the two members of Parliament who assisted in the drafting of this bill: the Hon. Penny Sharpe and the Hon. Trevor Khan. Although the bill does not deal specifically with a woman's right to choose what happens to her body, that right goes to heart of this debate. I fundamentally believe in a woman's right to choose what happens to her body. New section 98C refers to interfering with access of persons to reproductive health clinics. It defines "interfere with" to include harass, intimidate, beset, threaten, hinder, obstruct or impede by any means. Those matters should be a topic of discussion not only in this bill but also in other legislation.

In this Parliament we create laws that allow those people who are most vulnerable to be protected. Indeed, there is no greater purpose for this place than to protect those people. Not every woman who has an abortion is vulnerable, though many are. I do not know which women are vulnerable and which are not. So this debate is an important discussion. New section 98E reflects the change in modern society with the onset of media and the way in which we communicate with each other. This section deals with the capturing and distributing of visual data of persons in safe access zones or those accessing a reproductive health clinic. The collection of that visual data and its distribution should be stopped. It is invasive and it should not be used at any stage against a person who has to make such a decision. I absolutely recognise that we must create some limitations around free speech—and we see this in a number of Acts—but my main concern with the bill, as it is currently drafted, is new section 98D, which states:

**98D      Causing actual or potential distress or anxiety to persons in safe access zones**



- (1) A person who is in a safe access zone must not make a communication that relates to abortions, by any means, in a manner:
  - (a) that is able to be seen or heard by a person accessing, leaving, attempting to access or leave, or inside, a reproductive health clinic at which abortions are provided ...

That new section goes too far. It does not contain a reasonable test to allow us to determine where that appropriate limitation is for free speech, and that has created quite a significant conflict for me. When I was first spoken to about the bill coming to this place I thought I would almost certainly be supportive of it. It is consistent with most of my values, it is consistent with the principle of protecting vulnerable people and it is consistent with making sure that women are supported in our community. If an amendment to new section 98D is proposed, I will almost certainly support the bill.

However, no matter the strength of the intention and the quality of the people who have drafted this bill, the limitation on free speech in new section 98D goes one step too far. People should be provided with an opportunity to speak their mind in an appropriate fashion. We should absolutely stop harassment, intimidation and stalking. We should rule out every other form of action that breaches the law—whether it is one metre or 151 metres away from the front door. However, we should not remove the capacity for a person in a free society to make a communication that relates to abortion by any means or in any manner. For me, that is one step too far.

**Mr DAVID MEHAN (The Entrance) (21:23):** I begin my contribution to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 by congratulating the architects of the bill from the other place, the Hon. Penny Sharpe and the Hon. Trevor Khan. They are members of opposing parties and their bipartisan approach to the creation of this legislation is a good example to us all. I make some comments in response to points raised in the debate, first by the member for Ku-ring-gai. He made some valid points about the laws that are in place controlling protests in our society.

His submission was that there are enough laws in place to control the behaviour complained about by those advocating for this bill. He was right but it begs the question: Why has that not happened? It has not happened at all and that is why we are here. That is why the bill has been drafted. Despite all the laws currently in place to regulate protest in public areas, the behaviour that is complained of and the examples that we have heard about tonight and during this debate still continue. The people who are being harassed when exercising a personal and private decision about the health of their own bodies have not been protected by those laws. Accordingly, this legislation needs to be supported.

The Treasurer and member for Hawkesbury talked a lot about freedom and freedom of expression. He said conservatives in this House should be defending freedom at all times. Well said. Many members have talked about how hard their deliberations over the bill have been and what it will mean for freedom and the right of people to exercise their religious freedom. I did not see any of that last year when this House, in an afternoon, made amendments to Crown law legislation in this State that allowed the Government to move on homeless people who had set up their homes in Martin Place, not too far from this Parliament. That legislation proceeded with undue haste and with no concern whatsoever for the feelings of the human beings at which it was directed. So let us not get too hypocritical. We are making a decision tonight to protect a group of people in our society who are making a personal decision about the health of their bodies. The Labor caucus has decided to support the bill and accordingly I support the bill as well.

**Mrs MELINDA PAVEY (Oxley—Minister for Roads, Maritime and Freight) (21:27):** I speak in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. This bill is not about abortion or its legal status. I reflect on communications I have received from my electorate. This is about my conscience and I have to vote on that, but I also have to consider the opinions of the wonderful people of Oxley. I will go straight to the point as it is late in the night and we need to get through this issue as quickly as possible. It is a significant issue.

I have received correspondence of a personal nature from four members of my electorate—from Nambucca Heads, North Macksville, Wauchope and Kempsey. Their correspondence was about abortion. To me, this bill is about access to fertility clinics. In good conscience I say respectfully to those people who have taken the time to write to me that this is about access to fertility clinics. I also have correspondence from Peter Huxley of the Presbyterian Church in Wauchope—a good man who does a good job in his church and his community. He prayed that I turn back to my roots. I can tell him genuinely that I never deviated from my roots or from the roots of my community. He wrote saying:

I urge you to vote against the bill because abortion has a number of alternatives and many of them are good ones.

I agree with that. A woman at her greatest moment of despair could be making a choice between keeping a child or having an abortion. In my electorate it can take up to three or four weeks to see a general practitioner [GP]. In communities such as Macksville, Nambucca, Kempsey, Scotts Head and Stuarts Point, people cannot get to see a

GP in a timely manner. It is of great concern to me that people, young people in particular, cannot readily access medical services and be able to make good choices about their health care. I make that point because it is an issue that I am terribly concerned about and I am working with the Federal Government to try to alleviate that problem.

We have so many doctors trained and available to work within New South Wales and Australia, yet we still have a critical shortage of GPs who are able to be accessed. I am particularly concerned for young people throughout my electorate because a part of the service that a GP can provide is access to birth control. As I said at the outset, this bill is not about abortion or its legal status. I acknowledge some very good contributions that I have heard today. At the forefront of those is the contribution of the member for Albury. The member for Albury has been dealing with this issue for a number of years. His contribution was incredibly balanced on the issues that we face with access to fertility clinics. He said:

What rights are we seeking to balance here? First, there is the right to be free from harassment and intimidation, but not necessarily a right to privacy—a word that is commonly understood.

I think there is much contention about the 150-metre exclusion zone, but I think people have a right to privacy. Being on a public street does not give a person much of a right to privacy, but I would argue that having a 150-metre barrier gives a person a right to a certain amount of privacy and a right not to be photographed by a camera or recorded on a video that they might be concerned about later. I also acknowledge the heartfelt contribution of my colleague in the upper House the Hon. Sarah Mitchell, who pointed out that a variety of people access these clinics. Sarah highlighted a situation where someone might have to go and have a dilation and curettage—a D&C. I had to learn what that meant because I have never had to experience one. Someone who has to undergo that procedure should not have to run the gauntlet of people who no doubt are well-meaning.

I accept that there is a political context to this bill, but I do not consider the issue of an exclusion zone outside a fertility clinic to be a political issue that should be denied, hampered or criminalised. I will support this bill because the point is—and it was well made by the member for Albury—people can speak elsewhere about their issues, that is the beauty of our society and our community, but people should not be harassed.

**Mr CLAYTON BARR (Cessnock) (21:33):** I make a brief contribution to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I will be supporting the bill. The bill has been introduced because some people cannot abide by the laws of our land. They go to these places and they do not respect the right of people to be free from bullying, harassment and intimidation. That is why the bill is here. Some people will be screaming, crying and jumping up and down about the implementation of the bill. I ask those people to look in the mirror and examine their conduct over recent years.

Rights and responsibilities are attached to all the laws of our land. To have a right, a person has to conduct themselves in a responsible way. If they do not do that, then I am afraid rights sometimes have to be taken away. That is essentially what the laws of our land are all about. People cannot claim to have the right to drive on the road at any speed because they have a responsibility to be safe for the broader good. In this instance, the broader good is the health of the women who are making their decisions. This bill is before the House because of the conduct of some. If anybody is uncomfortable about the implementation of these laws they should look at the conduct of those persons who have created the need for this bill, which I will be supporting. I commend the bill to the House..

**Mr MICHAEL DALEY (Maroubra) (21:35):** I will make a brief contribution to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinic) Bill 2018. I thank the Hon. Penny Sharpe and the Hon. Trevor Khan in the other place. They have both been champions of progressive causes and have each notched up another win in bringing this bill to the Parliament. I thank members in both Houses for their contributions. Whilst I have found some of the comments a little bewildering from a merit point of view, there is no doubt that this debate has been carried out with mutual respect. In her second reading speech the member for Port Macquarie quite rightly said:

This bill is not about abortions. Today is not the day to discuss our differing views on abortion. Today is the day to protect the women of New South Wales.

It is also not a day to debate religion. It is about protecting women from unreasonable and potentially intimidatory behaviour at a vulnerable time in their lives. The Hon. Penny Sharpe, who has worked tirelessly to get us to this stage, remarked in the other place:

Access to reproductive health services is not a Left or Right issue. It is an issue of privacy and respect.

She went on to say: The current laws are failing women. No person seeking lawful medical advice and care should be forced to run a gauntlet of abuse. Every person has the right to expect their Government to protect them from being intimidated and harassed. We have an obligation to provide that protection, and with this bill we have the ability to do so. In her contribution the member for Charlestown relevantly noted that we already have exclusion

zones in New South Wales. They apply to boats, aircraft and drones. As a result of other bills passed by this House in my time, exclusion zones also apply to people in and around licensed premises and even to whales. As one member remarked tonight, booth workers are excluded from travelling within six metres of a polling place on election day. That does not seem to offend any of us—although sometimes on election day we fight furiously about mere centimetres. As I said, this bill is not about religion or abortion. It is all about balance. It is about balancing people's rights to protest, project their views and seek to contact people whom they think might need or want their help with the right of people—mostly young women—to access medical services without intimidation and harassment.

I wonder about the mental gymnastics that some people must have done to convince themselves that they should oppose this bill on the basis that it is fettering the right to protest, when a couple of years ago they were happy to vote for laws that were passed by both Houses that contained a seven-year term of imprisonment for the criminal offence of protesting near a coalmine or outside the head office of BHP Billiton. On any reasonable and objective basis, they are irreconcilable points of view. I reflect on the inadequacy of the current legislation and take on board the comments of a manager of a private clinic, who explained why the existing system is failing women so badly. She stated:

When a move-on order is issued, the protester always lodges a formal complaint to the station commander, the Police Minister, the Ombudsman, or the order is challenged in court.

If the police can't produce a victim statement to support their actions, they have been reprimanded and even forced to issue an apology to the protestor.

So the police now insist on taking formal statements from all women before they issue a move-on order and will explain that there is a likelihood that she will be subpoenaed to provide evidence in court.

Considering the distress that the woman and her partner have just been through, they almost universally decline to provide the statement rather than risk the need to go to court to face their tormentors again.

How many times have we heard that? Some members have suggested that this bill is somehow a conspiracy to silence people with different views and that it removes the right to protest. That is wrong and it is an unsustainable position to take. People can protest as much as they want, only not at a distance that brings with it the more than mere possibility that it will and can cause an acute and intense amount of pressure, all concentrated on an outnumbered and already distraught young woman. People should not whinge about their lack of right to protest. Rather, they should keep in mind their primary school mathematics and remember that there are 360 degrees in a compass. They can pick a point and exercise their democratic right to walk 150 metres towards any point on that compass and knock themselves out.

**Ms GABRIELLE UPTON (Vaucluse—Minister for the Environment, Minister for Local Government, and Minister for Heritage) (21:42):** This is an important debate. Like many members of this House, I have followed it throughout the day from my office. I have witnessed the courage—particularly on this side of the House—that honesty requires, and I thank my colleagues for speaking so openly. We are at our best tonight. A conscience vote recognises the sensitive and personal nature of the issues being considered in this House. From the contributions made tonight, it is clear that we have come to this bill from different perspectives. We have read different things into it, and I welcome that. In fact, that is our strength.

I have spent time thinking deeply about the impacts of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. Late at night I have read the letters and emails that have been sent to my electorate office on the issue. They represented many views, but they were all passionate and committed, and some were strident. I have also wrestled with the issues that this bill raises for me. I bring to this House my personal beliefs, my ethical framework and my life experiences. I am first and foremost a wife and a mother of two young adults. They are the most important roles I will play in my lifetime, and they are roles that I am privileged to have. My Catholic faith also informs me. It is all part of who I am and I am proud of it.

I do not support abortion, but I have never been put in a situation where I have had to make a choice about a pregnancy. I pass no judgement on women who make the choice to terminate their pregnancy. I cannot imagine their agonising dilemma. I come to this House having trained as a lawyer. I respect and have studied the law for many years. It is also central to who I am. I believe strongly that our laws must be clear and consistent, and must not create unintended consequences. I also believe we have a duty as members of this House to dispassionately judge the bills before us, and to not follow them blindly, particularly when they are matters of conscience and we have a free vote. I believe this bill is not clear nor is it consistent with the current law. I believe it creates quite serious, unintended consequences. For these reasons, I will not support the bill.

Let me also be clear, as others have said: interference, obstruction, harassment or intimidation of anyone at any time is unacceptable. We already have laws on the books to address such intolerable behaviour. Interference and obstruction are already illegal. This bill seeks to create special circumstances around interference or obstruction in a special situation. And I cannot—and will not—support a new set of special laws: one set of laws

for one set of people in one situation and another set of laws for another set of people in another situation. The maximum fine for a breach is out of step with similar offences in other places in the law. I cannot support the harsh criminalisation, with jail terms of up to six months for a first offence and of 12 months for subsequent offences. This is inconsistent with the law we have already on our books and I think it is entirely disproportionate.

Do we need our existing laws dealing with intimidation and harassment be better enforced in this situation? We probably do, and I think that should be our focus. In addition, section 98D, of which my colleagues in this House have spoken, creates a new offence of communicating about abortions in a manner that is able to be seen or heard by a person accessing a reproductive health clinic that is reasonably likely to cause distress or anxiety to any such person. I ask: what is the bar set for this new offence? It seems to be low, but I am not really clear what bar it is judged by. What is the standard that we will apply to judge what is reasonably likely to cause distress or anxiety to any such person? We simply do not know. Again, those harsh penalties of criminalisation for a new offence that has such a low bar—with jail terms of up to six months for a first offence and 12 months for subsequent offences—are entirely disproportionate for this section 98D, whatever it means.

As I have gone through the bill, other examples are unclear to me. For example, do the safe access provisions apply to public and private hospitals? It must not be the case. If it is, what does that mean for people's ability to work and to visit such important places, and for people's ability to do important voluntary and charitable work in and around them? Is the safe access zone limited only to public places? Does it apply to people on their verandahs and inside or outside their homes, or is it only when they go to the kerbside just outside their homes? I am not clear. I believe our laws must be clear, they must be consistent and they cannot create unintended consequences. I cannot support the approach to the law that has been taken in this bill. I cannot support this bill.

**Mr DARYL MAGUIRE (Wagga Wagga) (21:48):** I make a contribution to the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. From time to time in this House, bills are presented that divide opinions and bring out the best in parliamentarians. This is one of those times when members from all sides of Parliament express views having considered the legislation and offered a variety of opinions. That is how Parliament works. That is the great thing about democracy and this, the oldest Parliament in Australia. For a number of days and weeks, the media have made regular inquiries with me and my office about what I proposed to do about the bill when it was presented in the Parliament. My answer is always the same: I never offer an opinion on how I will vote, but I always say that I will listen to the debate and I will always read the correspondence that comes in before I make a decision. Something may be said in the debate, as the previous speaker said, that will change my opinion. To be responsible, it is best to have an open mind and to listen to the contributions.

To all members who have contributed to the debate so far, I am proud that we can do so in a Parliament that is respectful, considerate and understanding, and that goes about the business of dealing with this difficult legislation in a way that allows people to express their opinions and be listened to in silence, and to have that opinion considered. I have not had a lot of difficulty with the bill because I do not see it as a piece of legislation about religion. I do not see it as a bill that supports abortion. I see it purely as the ability of an individual to go about their business of seeking services at a medical clinic. It is as clear as that to me.

The Government supports a lot of non-government organisations that provide information to women who find themselves in these difficult situations. I support the right of a woman to decide what happens with her body—I always have and I always will. But the Government funds a lot of organisations. One in particular is the Women's Health Centre, which gives information in a balanced way, without giving directions but allowing the individual to make up their mind about what is best for them. I am sure that governments of all persuasions will keep funding those organisations so that when those challenges occur in a woman's life, or in a family's evolution, they can access that information and make those decisions. The bill is very clear for me. It may not necessarily be for a termination that someone visits a surgery or a service. People need to access a medical institution for a lot of things. Abortion is only one of the many services that women, men, children and others could seek in their respective lifetimes.

I have also considered the circulated amendments. I have listened carefully to members pick on particular pieces of the bill, but I will not support the amendments unless, when they are debated in consideration in detail, there is some overpowering reason I should change my mind. I have seen a lot of legislation come to this place and some of it has unintended consequences. The Parliament is not perfect, but it is the best organisation we have, compared to all the others around the world. If we pass this legislation as it is put, it can be challenged through our legal system. That is where the legislation will be determined by the courts.

Trying to micromanage a piece of legislation is fraught with danger. If broad guidelines are set any discussion, indecision or challenge can then be decided by the courts. This is the way to go rather than members pretending to be experts in the field. I am happy to support broad legislation in its current form. If I am shown a compelling reason to change my mind, I reserve the right to do so. Based on the amendments I have seen so far

I believe the legislation as put forward, whilst not perfect and possessing a few items that concern me, should be passed. Any amendments will just prolong the passage of this legislation. I believe the legislation will be passed. In the future some aspects of the bill may be challenged. The great thing about living in this country is that you can challenge the Parliament and the intent of the legislation. I suspect that may happen.

There are lots of opportunities in this great country for organisations and individuals to express their views. There is access to media, and there are avenues for people to communicate virtually any message. Very little is prohibited. I respect those organisations that hold strong views and I respect those that have a contrary view, and in this country everyone has an opportunity to express those views. I thank the members behind the introduction of the bill. It is not easy to bring forward a piece of legislation. It does create challenges, discussion and debate and sometimes it can be emotional. It can dig at the foundations of your beliefs. That is what the Parliament does. I thank those members behind this legislation. In the future there may be issues with regard to the bill, but it is better to pass the bill in its current form and then work to refine the detail as the challenges arise.

**Mr ANDREW FRASER (Coffs Harbour) (21:57):** I have been through eight elections—

**The DEPUTY SPEAKER:** You are the Father of the House.

**Mr ANDREW FRASER:** —and having done so I can tell members that after the first five I was invited to the Women's Electoral Lobby and, as the conservative in the room, asked what my opinion was in relation to abortion. I have always responded on the basis that I believe anything to do with abortion was a woman's right to choose and not mine. If legislation relating to abortion is before the House I will leave the Chamber and let the women resolve the issue, because they are the ones most directly affected.

Having sat in the House, or my office, and listened to the speeches today, I have to say I have concerns, not with the principle of the legislation but with the proposed penalties within the legislation. I listened carefully to the contribution by the member for Vacluse, Minister for the Environment and former Attorney General, and I fully support her comments regarding penalties in the legislation. I believe that people, especially women, should be able to seek advice from fertility clinics, maternity clinics, or abortion clinics without harassment or intimidation.

Mr Deputy Speaker, you would remember as well as I do that a number of years ago protesters in the forest in your electorate created a situation such that a Forestry NSW worker was killed. I do not believe the penalties in that legislation were as harsh as the ones in this legislation, and I do not believe anyone has been convicted of an offence in relation to that. There are exclusion zones.

**Mr Andrew Constance:** The courts do not see it that way.

**Mr ANDREW FRASER:** The courts do not see it. The unfortunate part about it is that it is almost a double standard when we start looking at applying the penalties in this legislation compared to penalties applying to other demonstrations and other rights to protest. As I said, I support the intent of the legislation in relation to women who, in traumatic circumstances in many cases, are attending fertility clinics and have to run a gauntlet of zealots one way or the other—I do not care which side of the argument you are on. They are entitled to their privacy. They are entitled to seek advice from those clinics or, as another member has said, to attend for a dilation and curettage or for an abortion for whatever medical or personal reason.

I will listen carefully to the amendments proposed to this legislation. I was told by the police Minister when I discussed the issue with him that it was a law and order bill, and I believe it is a law and order bill. But we need to look at the sections within the legislation that propose penalties that are far harsher than penalties for similar offences in legislation we have passed in this House. I will continue to listen to the debate on this issue tonight. I will listen to the amendments as proposed. I ask members to ask themselves whether they truly believe the penalties proposed in this legislation are too harsh, because I think they are. As I said, I have listened carefully to the debate and will continue to listen to it. I respect all members and it would be nice if all debates in this Chamber could be conducted in such a civil manner as this one, on an issue that is regarded by some as a pro-abortion bill yet by others as a law and order bill.

**Mr ANDREW CONSTANCE (Bega—Minister for Transport and Infrastructure) (22:02):** On listening to the debate and having looked at the bill, I indicate that this is not a bill about termination. This is a bill, as with a number of bills we have debated in this place, that has been introduced to safeguard and protect privacy. We have seen it recently with the revenge porn legislation, and legislation has been introduced in relation to exclusion zones when it comes to protest actions. What is particularly important in this legislation is section 98E of the bill, which talks about the capturing and distributing of visual data of persons in safe access zones.

We can debate the specifics around penalties or around what the distance should be, but I have not heard any dissent in relation to the right of someone to seek out a health service and to do so with absolute privacy and

dignity, particularly in light of the circumstances of that individual. Every individual is different. Everyone's life pathway is different. Given the way in which we are living in this new world of technology and social media, what has stuck out in my mind is how this legislation deals with the capturing of digital data and how that might be used.

There is no doubt that women in country areas who access reproductive health clinics do not have the same degree of anonymity as women in metropolitan areas do. It is important that we provide safe access, which is the intent of the bill. It is not about the pro-life movement or the pro-choice movement. It is about doing what is right for those women who are in a vulnerable position because they are taking a personal journey in their lives, which will have enormous significance for them.

As a matter of conscience, I support the bill because it is about providing women with safe access to a reproductive health clinic without interference from others, regardless of whether they are qualified to provide counselling services. If someone wants to espouse their free speech on this issue, they can do so via the appropriate avenues. That is why we have Parliament and parliamentarians. We have free speech in this country, so long as it does not impinge on the rights of an individual, particularly someone who is going through a traumatic experience. I reiterate that I cannot begin to imagine what it must feel like for a person who is going through a difficult time in her life to have a camera, an iPhone or other device that has the ability to capture an image pushed in her face whilst she is entering a reproductive health clinic. It must be difficult knowing that that image could be posted on Facebook or Instagram or distributed on Twitter.

Safe access is an important objective of this legislation. I have been in Parliament for 15 years and I have seen bills not only passed in this place but also tested in the courts. There may well be elements of this bill that will be tested in the courts. That is when Parliament can rectify any anomalies. We should not be so hung up on that issue. I do not believe that the bill is about termination because its clear objective is to support those in a difficult situation when they enter a reproductive clinic, which will have counselling support services. I support the bill. I will listen intently to the amendments and will vote as I see fit.

**Mr JAMIE PARKER (Balmain) (22:08):** I have listened carefully to the debate that has taken place this evening on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. The contribution of members does credit to this Parliament. The bill tests the conscience of members, their morals and their values. I appreciate the contribution made by all members whether or not they support the bill. I support the bill and will reflect on some of the issues that have been raised. Some members see this bill as a rights issue, a right to freedom of speech that should be protected at all costs. They believe that this bill undermines that right. In my view, this is not an argument about rights. If it is, let us talk about rights in this context.

The right to freedom of speech and other rights have been imposed upon by the State, by this Government, through a variety of arrangements for good reason. I remind the Chamber that this Parliament, this Government, has changed, amended and introduced new laws that significantly affect rights. For example, a cohort of people in our community, that is, outlaw bkie gangs, have the right to silence. That law when it was originally introduced was challenged by that cohort of people. This Parliament decided to remove the right in relation to assumptions to bail. One of the most important rights a person has is their right to liberty. This Parliament decided to reverse the onus of proof in relation to bail for particular crimes.

It is clear that the Parliament can and does amend and adjust rights, whether or not it is correct, to address certain circumstances. This Parliament has enacted laws which corral and reduce the rights of people in relation to terrorism and counterterrorism issues. The Government has done that with public safety in mind in order to protect our community. To say that this Parliament should not make a law about freedom of speech ignores the nuances that are involved in any discussion around rights. The Greens say that people do have the right to freedom of speech, but it needs to be understood and governed in a particular context. That is one of the reasons The Greens have argued strongly for a bill of rights. We believe the State needs a bill of rights so that issues can be debated, properly ventilated and codified in law. In this way, the rights and responsibilities of all citizens will be clear. I encourage those members who have supported the argument of rights in this case to work with us to produce a bill of rights so that the rights and responsibilities of the citizens of this State are clearly stated.

The argument about rights involves a debate about balancing rights. I refer to the case of an individual protesting against the State, for example. We protect an individual's right to protest and to freedom of speech when the power relationship is that of an individual citizen against the State or an individual citizen against a large corporation, a mining company or other groups. In this case, it is an individual woman deciding to enter premises for a medical procedure. It is perfectly legal and they should be able to do so with dignity and with no shame. The people and organisations that attend these places for the purposes of protest and so-called prayer are, in fact, impinging on that person's right. What about that person's right to privacy? How do we balance freedom of speech against privacy?

In my view, the balance should be to protect the individual citizen. This is an important piece of legislation relating to the right to privacy for an individual citizen. The Minister for Transport and Infrastructure highlighted very clearly that this is an issue of the right to privacy, whether it is a person's right to enter unhindered and not be harassed or to do so in a way that a photograph or video will not be taken of them and distributed. As to the issue that women need counselling, the medical profession provides fair and balanced information and people can search the internet for all the different options. There is no doubt that every woman makes this decision carefully.

My final point is that protesters at these medical facilities are indiscriminate in their protests. Some women may be attending the facility for a dilation and curettage after a miscarriage or for a range of other reasons, yet they are all subject to the same macabre images, the same pressure and the same intimidation. For that reason alone, people who enter these premises do so very reluctantly and they feel the pressure of the crowd of protestors. If people want to pray, they can pray from home or wherever they like. Prayers travel a long way. Protesters do not have to be within 150 metres to make sure their prayers reach a woman or anyone else.

The final point I make is that in my electorate there was a clinic that I walked past every day. A large group of people used to stand on the footpath, with the entrance to the clinic only metres away, and women entering it would have to run the gauntlet of those people. From the feedback I have received from people as a result of the bill, it is clear that it is an intimidating and difficult process for women. If people want to express their points of view, they are more than welcome to do so. I respect the right of people to have religious views and not to support abortion. But in this context, where it is legal, if people would like to change the law they should vote and make a decision to participate in our democracy. On balance, the right to privacy, the right to dignity, the fact that abortion is a legal medical procedure, and the indiscriminate nature of these protests are all concerns that ensure I will support the bill. I thank all who contributed to the bill that we are considering this evening.

**Mr MARK COURE (Oatley) (22:15):** I have been contacted by a number of constituents in my electorate about the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. As there is a conscience vote on the bill, I have taken into consideration the many views and opinions expressed over the past few weeks. However, I have to speak on what I believe is right—and I will speak very briefly. I start by saying that I support the right to choose and the current laws in New South Wales. However, I cannot support the bill in its current form without amendments. While I have no problems with the concept of safe access zones for women seeking reproductive health services, I have underlying problems with the heavy-handed penalties associated with the bill.

A woman deserves safe access to a reproductive clinic to undergo whatever check-ups or procedures she chooses without any form of harassment, intimidation, judgement or vilification. Access to reproductive services and seeking professional advice in such clinics should not be an emotionally traumatic experience for any woman because of the comments or actions of a judgemental stranger. I will never be able to understand the struggle many women experience when making the decision to have an abortion, and I am sensitive to the fact that I am speaking on a subject that I will have no personal understanding of, either now or in the future. Every woman who chooses to have an abortion has her own personal journey that led her to that point and under no circumstances is it for us to judge.

Having said that and having heard the contributions tonight, I wish to outline my reservations with the bill and how these few elements have led to my decision. I do not support the bill based on the provision of jail time as a deterrent. Our prison structures are already suffering from overcrowding. Imposing a form of punishment—deterrent or fine—on anyone who disparages, harasses or threatens a woman making the choice to have an abortion is justifiable and necessary. All actions have consequences. However, I strongly believe warnings and monetary fines would suffice and serve the same purpose as inflicting harsh jail sentences on offenders. Practically speaking, jail time as a sentence for this kind of behaviour will only slow down our judicial system, further impede our jails and lead to more overcrowding.

I also question why such harsh penalties are needed in the first place. The Summary Offences Act 1988 already makes it illegal to bully, harass or intimidate anyone. That is the law. The member for Ku-ring-gai has already spoken in great detail about existing laws, stating that current provisions cover the offences committed against women entering abortion clinics. Harassment, threats and cruel comments are not acceptable in any situation, nor should they be tolerated by anyone—that goes for women entering abortion clinics, kids being bullied at school or domestic violence in a marriage. However, the Summary Offences Act 1988, alongside other Acts mentioned by previous speakers, already criminalises the unlawful activities we are debating today. There are already laws in place that prohibit obscene, offensive public behaviour and language. Why should we inflict more heavy penalties when other aspects of the law, which are also applicable to safe access zones, already cover such offences? Like other members, I have concerns about new section 98D:

**Causing actual or potential distress or anxiety to persons in safe access zones**

To conclude, I again state that I believe a woman's choice is a woman's choice and acts of violence, harassment or intimidation should not be tolerated outside an abortion clinic—or anywhere, for that matter. However, I do not believe this bill is the solution. I believe there is significant legislation already in place that protects against the harassment and crimes that have been mentioned. I restate that I do not disagree with the concept of safe access zones outside abortion clinics. But I cannot support the penalties associated with this bill, nor do I believe it is necessary given the legislation that currently exists in our State. Furthermore, I see serious complications associated with the definition of the 150-metre zones. For these reasons, but particularly the penalties associated with the bill, I will be voting against it. The bill creates unintended consequences.

**Dr HUGH McDERMOTT (Prospect) (22:20):** I speak in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I thank the many people and organisations that have written to me, providing thoughtful words on this very important issue. As a practising Catholic and a father of three daughters, I completely understand the depth of genuine feeling surrounding abortion laws and the rights of both women and religious groups in New South Wales. However, today's bill is not about abortion rights, nor is it about free speech. It is about women's health, emotional wellbeing and safety.

Women are entitled to support when facing one of the most difficult decision of their lives. They should absolutely have access to financial, practical and emotional advice and support if they are considering having an abortion. In all cases, it is a difficult decision to make and many tough personal circumstances contribute to that individual decision. No one person knows all the circumstances that a woman faces when having to make a choice regarding whether to terminate a pregnancy. I believe every woman and every couple must have the right to seek advice on their own terms, and I do not believe that is always the case.

I strongly believe many people who pray outside abortion clinics do so with the best intentions and do not intend to cause emotional harm to people seeking terminations in those centres. They want to offer goodwill, support and alternative options. They believe they are saving lives. Like them, I believe in the sanctity of all human life. This is one of the main reasons I would have opposed the recent bill on voluntary euthanasia if it had come before this House.

However, there are clear instances where women in difficult emotional situations have had extremely negative experiences in the vicinity of clinics. Women have reported feeling unsafe and harassed. It has been described as a "gauntlet" on what may be one of the worst days of their lives. Such actions are unacceptable; they are not the actions of compassion, guidance and support that are very much needed. I believe women should never be put in the position where they are under physical or emotional threat or coercion. Therefore, I believe action must be taken to make sure that women feel safe and supported and that respect and personal privacy are maintained. Though I believe that this bill is not perfect and that it has certain flaws in its drafting, and that in time it will be amended by this House or challenged in the courts, it has at its core the safety of women facing difficult and fraught circumstances, as I have discussed. As such, I will be supporting this bill.

**Ms ELENI PETINOS (Miranda) (22:24):** I contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. Any bill that touches on the issue of abortion will be contentious. It is a deeply personal matter which evokes strong opinions at both ends of the spectrum, all of which should be respected. However, this bill is not about abortion, and it should not be treated as an opportunity for each member to put his or her view on abortion. Claims have been made that anyone opposing this bill is supporting harassment and threatening behaviours towards women. This is categorically untrue, inflammatory and cruel. No member in this place would condone that kind of behaviour towards anyone, especially women.

I say from the outset that I cannot imagine the pain and anguish that a woman presenting for an abortion at a reproductive health clinic must be experiencing. I certainly do not condone any heinous behaviour towards them at such a difficult time. If this bill limited itself to outlawing harassment, intimidation or threats of violence outside abortion clinics it would be redundant but inoffensive because the plain fact is that that behaviour is already illegal in this State. For this reason I remain unconvinced that we need any additional legislation.

The briefing note attached to this bill states that its object is to "provide for safe access zones around reproductive health clinics at which abortions are provided so as to protect the safety and well-being of, and respect the privacy and dignity of, those accessing the services provided at those premises". The necessary implication of this statement however is that there is a problem with the current system. I am advised that in New South Wales there are around 19 reproductive health clinics where abortions can be performed. I understand that only two of those locations have a history of problematic incidents. Given the evidence, I question why the remedy needs to be legislative and not a matter of enforcing existing laws.

This bill criminalises behaviour and impinges upon free speech. I endorse the words of the Minister, the member for Pittwater, who noted that the more we seek to define our freedoms the more we are at risk of limiting



them. Aristotle said that the law is "reason free from passion". One of the many privileges and challenges for members in this place is having the opportunity to dispassionately scrutinise the merits of proposed bills and consider their application in our State. With this in mind, and leaving aside the emotive nature of the debate, I submit that the bill in its current form is flawed.

Proposed section 98C (2) states that it is unlawful for anybody to interfere with any person going into or out of, or attempting to go into or out of, a hospital or clinic where abortions are provided. That is, people cannot "interfere with" any person going in or out of most hospitals and abortion clinics. "Interfere with" is defined very broadly to include both physical and psychological interference. I want to highlight the particularly low burden of psychological interference, which I find troubling. In this context, "interfere with" includes the concept of causing any "upset" to a person and is defined to include "beset", which also involves notions of causing any trouble or worry to someone. More importantly, the conduct which causes upset, trouble or worry—conduct which can attract criminal sanction—can be actions like praying or speaking, even on topics which may be unrelated to abortion.

Given the low threshold to committing a criminal offence under this bill the penalties are high, inconsistent with, and disproportionate to, the existing law. The maximum penalty for the first offence is 50 penalty units or imprisonment for six months, or both; and the maximum penalty for any second or subsequent offence is 100 penalty units or imprisonment for 12 months, or both. I find it difficult to reconcile that an individual could face imprisonment for upsetting or worrying someone, particularly when there is no mens rea component to the proposed offence. Surely intention is relevant to sentencing.

Proposed section 98D makes it an offence for a person who is in a safe access zone to communicate in relation to abortions in a manner that is able to be seen or heard by a person accessing, leaving, attempting to access or leave, or inside, a reproductive health clinic at which abortions are provided and that is reasonably likely to cause distress or anxiety to any such person. The penalties for proposed section 98D reflect those I outlined earlier with respect to proposed section 98C (2). Thus any individual making any communication on abortion will fall foul of this Act if they are deemed reasonably likely to cause distress or anxiety. The title of proposed section 98D raises more alarm:

**Causing actual or potential distress or anxiety to persons in safe access zones.**

This clearly indicates that it does not even matter whether an individual is distressed or made anxious. Instead, if there is the potential for her to feel that way, that constitutes an offence under this bill. The price for violating proposed section 98D is truly severe: up to six months in prison or a \$5,500 fine for a first offence. That rises to up to 12 months in prison or an \$11,000 fine for anyone who repeatedly offers to potentially help a woman outside a clinic—and some of these people believe they are helping. This section sets such a low bar that it will be impossible for anyone—no matter his or her intention—to make any communication about abortion without breaking the law. Why else would it be necessary to create an exception in this section for staff of the clinic?

Many members have spoken today about a woman's right to choose. Let us not forget that also means the right to choose life and protect the life of her unborn baby. Last year, I attended an event in this Parliament on this issue. There is one story which to this day comes to my mind when abortion is raised. With the indulgence of the House, I will share it. It comes from Jaya Taki, whose former partner was a National Rugby League [NRL] player. Jaya had an abortion at the clinic directly across the road from Parliament. Through tears, she had this to say about her experience:

I was coerced into an abortion...I'd like to say forced. The reasons for abortion were just due to the fact that my partner didn't want to take any responsibility and I was told things like 'I'll hate you and I'll hate this baby'...I remember thinking that you have a counselling session beforehand, and that's when they decide if you can have an abortion or not. And the first question she said was: 'How long have you been together?' I said, '4 months'. She said 'Yeah. I can see why you want an abortion.' And I remember thinking 'Please ask me more questions. Please ask me if this is my choice.' And she said 'Yeah, I get it. You don't want a baby that early in your relationship.'

No-one supported me and I thought that that was my final chance. I was hoping that she would sign off and say 'This woman cannot have an abortion.' Instead she gave me an envelope and said 'Make sure you put your money in there, and that—keep that because that is your code for the Medicare rebate. You want that. It is about 31 dollars.'

I do not think any member of this House would be able to listen to Jaya's story without being heartbroken. How is it that a woman can feel threatened and coerced into having an abortion that she does not want? While I appreciate that Jaya's story does not represent all instances in which people will access a reproductive health clinic, I cannot help but wonder whether Jaya's outcome would have been different if she had encountered a sidewalk counsellor on her way in that day. Deciding how to vote on this bill has been difficult. If it succeeds, it will not change the status of abortion, but it will impinge upon free speech and the way that others go about their daily activities. I fundamentally believe the offences are sufficiently legislated for. It is my submission that the legislation is flawed with respect to offences such as those under proposed section 98D and that the penalties are

disproportionate and heavy-handed. For this reason, while I do not condone harassing, threatening or intimidating any woman who seeks to access reproductive health clinics, I unfortunately cannot support this bill in its current form.

**Mr JOHN BARILARO (Monaro—Deputy Premier, Minister for Regional New South Wales, Minister for Skills, and Minister for Small Business) (22:33):** I make a short contribution to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. In all debates in this House I respect differing views. I acknowledge the correspondence that I have received as the member for Monaro from people on both sides of the debate, urging me to vote one way or the other. It is rare in this House that members are given a free vote or conscience vote. I prefer to consider it more as a free vote; I hope all votes in this place are done with good conscience and for the right reason.

A free vote means members are not bound by a party position or influenced by others. Members can genuinely vote in line with their own values, beliefs and life experiences. But as local members we must also be representatives of the communities that elected us and be their voice in this Parliament. Therefore, we must take a balanced view when we debate these issues and vote on them. I thank the members of my community who have contacted me either through Facebook, social media, email or phone calls, and friends and colleagues who have been in touch on my mobile phone. The way that I approach this bill is that it is not about abortion. It is quite wrong when the press refers to it that way. The bill is about safe access for women who -need to attend a health clinic for whatever reason. That is the principal portion of the bill.

My decision is governed by my life experiences. As a father of three daughters, I believe that I have instilled in them that regardless of what happens in their lives their mum and dad are there to support them. They can speak to us and we will support them in any circumstance. If that is not the case and if any one of my daughters at any stage of her life has a need to visit one of these clinics for an abortion or for another reason, I hope that she would be able to do so without fear of harassment but with the feeling she was entering a safe place. The bill is about giving women an opportunity to seek services without harassment and in a safe way. As a father, that is what bothers me. I would hate to think that my daughters were not able to feel safe entering those clinics.

People talk about their faith. I grew up as a Christian. If people believe in the power of prayer, then they also believe that they do not have to be in front of a clinic to pray. They can do that in the comfort of their own home. For those who think this is an attack on Christian values, prayer and freedom of speech, it is not—not in the way that I see it. I touch on my own life experiences. I am 47 years of age. More than 27 years ago, along with a young woman, I had to attend one of these clinics. Twenty seven years on, I still think about it. This is probably the first time I have spoken about it publicly. You are young and stupid, you are influenced by people around you that probably know better. They have given you advice that it is the right thing to do. They say, "Don't wreck your life, you're too young." I could not imagine what it would have been like to be confronted by protesters in any way, shape or form.

When you attend a clinic you are scared. The fear is already inside you. You do not know if you are making the right decision, but you are too scared to turn to people that maybe could give you better advice. That decision was made well before we turned up to the clinic, remembering that I had travelled from Queanbeyan to Sydney for that purpose. By the time we arrived at the clinic it was already too late to change our minds. For whatever reason, we made the decision. Twenty-seven years on, that decision still haunts me. I do not know if we made the right choice. Later in life I got married and had children. We suffered a number of miscarriages and I started blaming myself, seeing them as punishment. These are things that people go through. Those were my fears. There is no right or wrong; it is about personal experiences.

As Leader of The Nationals I know that we had a strong debate in our party room on this issue and I know the vast majority of my colleagues will support this bill. I also know that some members of this House will pick apart some of the clauses in this bill in relation to penalties and other aspects. They will ask themselves: Is this an attack on freedom of speech? But we know there is no such thing as a perfect bill. We debate many bills in this House, and last night the upper House sat late to debate the Kosciuszko Wild Horse Heritage Bill. Our view is that that bill will help to recognise the heritage value of sustainable wild horse populations within parts of Kosciuszko National Park and protect that heritage through a wild horse heritage management plan. Is the bill perfect? No. Was it robustly debated? Yes.

All the components of the bill before us tonight may not be perfect, but the principle of this bill is right. It is about safe access for women to reproductive health clinics. We know that not all women who attend these clinics do so to have a termination. Some of those who attend clinics for a termination may require that service because they are receiving invasive cancer treatment, and they are making a decision that is already tearing them apart at a time when they are at their most vulnerable. Protesters outside these clinics do not know the reasons for women attending the clinics. My wife attended a clinic after having a miscarriage, but anybody protesting outside the clinic would not have known the reason for her visit. I had that life experience when I was young and possibly

stupid, and that experience sticks with me today. I think the bill before us addresses the principle of giving people the right to seek the services they need without physical, emotional or mental harassment. That is why I support this bill, and I thank my colleagues for the opportunity to contribute to this debate. I also thank everyone for the respectful way the debate has been conducted, because it shows we respect the different views and values of members of this place.

**Mr KEVIN ANDERSON (Tamworth) (22:41):** I contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. Although this bill has only been known of for a short time, it has caused a fair amount of concern that has been expressed by all sectors of my community. I thank those who have taken the time to contact my office or my staff to express their views. Everyone has the right to express themselves. Many constituents have wanted to find out my view on this bill. My view is clear: This bill is not about abortion but about law and order, and I will support it. A number of aspects of this bill are worthy of amendment, in particular proposed section 98C, interfering with access of persons to reproductive health clinics. I believe the maximum penalty of 50 penalty units, or imprisonment for six months, or both, for a first offence is too harsh. I understand the member for Epping will be moving amendments to address that, and I look forward to debate on his amendments.

In my view a protester is a protester, not a self-titled street counsellor, and peaceful protest is the way to go. I believe where a protester endangers the life of a person, causes harm to a person, intimidates a person, threatens a person, obstructs a person, impedes a person or harasses a person, that protester is breaking the law. There are laws in place for that. A self-defined "street counsellor" in the context of this bill gives this issue a warm feeling and softens the whole parameter of protest. I disagree with that. I totally agree that everyone has the right to protest in a safe manner, where it does not harm or impede others. How is a street counsellor who protests against abortion different from those people who protest about mining? Those people are also expressing their views on what they think is right.

**Mr Andrew Fraser:** Or forestry.

**Mr KEVIN ANDERSON:** I acknowledge the interjection of the member for Coffs Harbour. Why are those people not street counsellors? In my view counsellors should have some form of qualification, and with that comes accountability and liability. What happens when someone offers advice, the advice is acted upon and something goes wrong? Is that counsellor then held to account? He or she should be held liable. The loose term of "street counsellors" gives it a warm and fuzzy feeling, but it is hoped that the protests are peaceful, as we hope are protests on every issue. This is an important bill. It gives people the freedom to undertake what they wish in their personal and private lives but it also gives them the freedom to protest. May they continue to be peaceful protests. I look forward to the amendments being made to proposed sections 98C and 98D. I repeat: this bill is about law and order. I commend the bill to the House.

**Mr VICTOR DOMINELLO (Ryde—Minister for Finance, Services and Property) (22:46):** I speak to the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I do not know of any law that is perfect. But that is probably for the best because perfection does not reside in the society nor any of its parts that the law is meant to protect. This debate is a tension between freedoms—freedom of speech and freedom from harassment. The member for Epping has informed me of his proposed amendments to this bill. I will support those amendments in globo because they strike a balance between those fragile freedoms. I commend the member for Epping for his contribution. He is an outstanding member of Parliament. I also deeply respect the conviction and compassion of those who oppose this bill—they come from a good place. The broad consensus of those who oppose this bill is that the greater cause, indeed the higher purpose, is to ensure that a woman receives independent counselling inside the clinic. That is far more important than restrictions to freedom of speech.

However, if the member for Epping's amendments do not succeed then I shall, with reservation, support the bill. That reservation is on the basis that this bill is not perfect and other speakers have made clear those imperfections. I do not judge any woman for having or not having an abortion, for I cannot imagine the trauma and anguish a woman must go through in coming to that decision. My heart bleeds at the thought that someone walking down that road, to that clinic, will be feeling an even heavier burden. What is the harm caused to the individual if one is not permitted to gather in a chosen place but, rather, can only gather at another place within reasonable proximity? What is the harm caused to the individual if they are, or perceive that they are, being harassed, intimidated or even simply judged at a time when all they need is support and love? A prayer 50 metres away from a clinic or 250 metres away from a clinic will have the same impact, as God does not answer to Google Maps. The harm to the individual for this incursion on their rights is minimal. However, the harm to a woman who walks that road may be far more profound and lasting. For that reason, if the member for Epping's amendments are lost I shall support the bill.

**Ms MELANIE GIBBONS (Holsworthy) (22:48):** I make a contribution to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. This debate is full of emotion and varying

opinions—and that is as it should be. We have all walked different paths, had different experiences and listened to a variety of voices to make our decisions. Some of us hold our beliefs tight, yet this Chamber has treated this debate and each of our colleagues with a great deal of respect. I am happy that members on this side of the House have a conscience vote, where we can make up our minds based on the arguments presented to us.

This is not the usual way for us to handle legislation, and having a conscience vote shows how important our views are to us. To say that forming my position on this bill was easy, would be a lie. I have considered my own views and values, and I have consulted widely in coming to my decision. I have formed the opinion that this bill is about a woman's right to move freely and safely and not about the act of abortion itself; therefore, I will support the majority of this bill. Many of the amendments hold merit as well.

People should not feel harassed at what must be one of the most horrific times of their lives. I cannot imagine that any woman makes this decision lightly. It is not one that people entering a clinic should be made to feel guilty or bad about. They should not have to deal with any extra stress at this time or be worried about being pressured walking up to a clinic. They should not have to be worried that they may have to walk the gauntlet on the way in or have their right to privacy infringed. It is not the time to be handed a brochure or have someone try to influence them. I would hope that a woman is confident in her decision before arriving that day, but if not, professional counselling is available beforehand or inside the clinic. This is personal, private one-on-one professional counselling.

There are people who call themselves "sidewalk counsellors". While they may be well intentioned, these people, for the most part, are not professional counsellors. The fact that they refer to themselves as counsellors, not as perhaps guides or supporters, is a misnomer. I understand that many of these people on the footpath may have the best interests of the woman and her child in mind, but they are trying to take the few moments before a woman enters a clinic to influence her, to change her mind. That is not counselling and in reality the extra pressure and stress could be damaging to her mental wellbeing in the long run. I respect the people who seek to help with prayer. As other speakers have said, the beauty of prayer is that it does not need to take place right near the person or people you are praying for. You do not need to pray in front of them for it to be effective.

As I have already said, last minute help or support is available inside the clinic. From reading correspondence sent by Right to Life Australia, perhaps it should be restricted to one-on-one counselling so that there can be no undue influence from partners or the like. Perhaps more consultation, brochures and other information should be provided inside the clinic. A woman should not have to stand at a locked door and press a buzzer to obtain entry to a clinic, but they often do. It is disappointing that the clinic feels the need to install such measures at all. That they have to highlights to me what these women may have to deal with. It acknowledges that there are feelings of intimidation or the risk of violence.

We should also acknowledge the people who work inside the clinics, in the same buildings or next door to the clinics. As parliamentarians, we are used to protests, seeing placards and being handed information as we come to work, but other people should not be subject to this when going about their business. I do not like the idea of abortion, but the reality is that it happens. I know of no woman who sees it as an easy option, but it should be a private decision and handled in a respectful manner. The bill reduces outside influences and helps make a challenging time a little less difficult. I commend the bill to the House.

**Mrs LESLIE WILLIAMS (Port Macquarie) (22:53):** In reply: Today has been a long but a very important day. I thank all members who spoke in debate on the bill. The debate has been respectful and members have brought their considered views to this bill, which represents a small but significant change to the law in New South Wales for the benefit of women. It is debates like this one, brought to us through bipartisan cooperation, that reflect the Parliament at its best. A lot of things have been said about the bill during the debate today and I will not seek to address every issue raised in turn, but before I address some of the issues I remind members about the purpose of this bill. This bill seeks to protect women who are at their most vulnerable. The bill is essentially about respecting the rights of others, respecting their views and respecting their privacy—the same respect we expect of each other.

Regardless of what your view on abortion may be, it is currently legal across New South Wales for women to have abortions in certain circumstances. Nothing in this bill seeks to change that. That debate is for another day. As I outlined in my contribution earlier today, women seek the services of a reproductive health clinic for a range of circumstances—such as when they have received a particular medical diagnosis, their own health may be at risk or they may be the victim of a sexual assault. That decision is not one that is taken lightly; it is an incredibly onerous decision. Nobody should then intimidate, harass or otherwise interfere with someone who is attempting to access or leave a reproductive health clinic who is in that mental headspace. It is a matter of common decency. As the Hon. Brad Hazzard noted in his contribution today:

When you make the decision to have an abortion you should be able to have such an abortion in a medically appropriate facility and you should be able to do that without any concerns at all that others will seek to impose their views on you at your most vulnerable time.

When members cast their vote tonight, I urge them to think about those vulnerable young women who deserve to have the right to access lawful health services respected and in a manner that respects their privacy, their safety and their dignity. I will now turn to some of the issues raised in the debate today. To those who say this bill is an unwarranted and unnecessary curtailment of freedom of speech and protest, I say this: I am a vigorous supporter of the right to free speech and protest. However, I recognise that these rights are not absolute and that we appropriately limit them in certain circumstances, whether it be in the interests of security, public health or for another legitimate public policy purpose. We especially limit the right to protest in circumstances that are concerned with people's safety—in this case, the safety of women seeking to access or leave a reproductive health clinic, or the safety of employees of a reproductive health clinic going to work each day.

Nothing in this bill prevents people from protesting wholeheartedly about abortion in a variety of other forums, such as on Macquarie Street or in the forecourt of Parliament, as we saw earlier today. Indeed, this bill provides a specific exemption for protest about abortions occurring inside church grounds and at Parliament House, should they fall within a safe access zone. I again remind members that what these so-called sidewalk counsellors are doing is attempting to influence the private medical decision of a vulnerable young woman, not protesting per se about abortion. If people wish to engage in a debate about abortion law reform, they should speak to members of Parliament or protest at Parliament, Hyde Park or Martin Place but leave the women accessing or leaving reproductive health clinics alone.

Whilst it is, of course, appropriate for women to receive access to independent, qualified, professional counselling, that is an issue relating to broader abortion law reform for another day. Assertions have also been made in this debate that the bill restricts the freedom of religion. Nothing in this bill inhibits the ability of people to hold religious beliefs or specific religious beliefs about abortion or the sanctity of life. This bill does not target those people with deeply held religious beliefs. Rather, this bill seeks to target the exercise of any activity relating to abortion in a specified zone where that activity infringes on people's right to privacy, safety and dignity.

Whatever one's religious beliefs may be, it is not appropriate that people be labelled child killers or baby murderers, be subjected to rubber fetus dolls or graphic imagery on display or be told that they are going to hell. That is a particularly targeted form of mental, emotional and spiritual abuse that is unacceptable to people seeking to access a lawful health service, regardless of the well-meaning motivations of those who would otherwise seek to prevent them accessing that service. Some members have correctly observed that a High Court challenge is underway in respect of the Victorian and Tasmanian legislation. However, members should be aware that the challenge relates only to a single section of the legislation. It is the same as the communications offence provision in proposed section 98D of this bill. Members should also be aware that the New South Wales Government, the South Australian Government, the Queensland Government and the Commonwealth Government have all filed submissions in support of the validity of the provision.

In short, the Parliament has previously passed legislation in the full knowledge that it would be the subject of a court challenge. Therefore, the mere existence of a High Court challenge is not a reason to reject this bill, nor is it a reason to delay it. Further, any suggestion that the bill has not been the subject of rigorous consultation is simply wrong. I note that it has been in bipartisan development for at least a year, and members have closely collaborated with various legal, medical, women's and advocacy organisations. As I noted earlier today, the Country Women's Association has been lobbying since 2016 for the establishment of safe access zone legislation. The Australian Medical Association also supports this bill in the belief that people should be able to have unobstructed access to healthcare facilities and to approach them without harassment. Indeed, that is a long-held view of the organisation.

In addition, Victoria, Tasmania, the Australian Capital Territory and the Northern Territory have already passed legislation similar to the bill before us today. A majority of Coalition members in the Victorian Parliament supported that State's legislation in both Chambers. They recognised that it was entirely appropriate for their Parliament to pass similar legislation to protect women, they recognised that a government should protect the ability of people to access lawful health services, and they recognised that women deserve to have their dignity, their privacy and their safety protected at a distressing and vulnerable time of their life. It is time for this Parliament to do the same and to recognise similar protections in this State. As the member for Bega and others have said, it is about doing what is right. I thank members for their patience and urge them to vote for this bill.

**The DEPUTY SPEAKER:** The question is that this bill be now read a second time.

**Motion agreed to.**

**The DEPUTY SPEAKER:** I thank every member who has taken part in the debate today for their sincerity and the respect they have shown each other. I hope that respect and sincerity continue until the conclusion of these proceedings.

**Consideration in detail requested by Mr Damien Tudehope.**

**Consideration in Detail**

**The DEPUTY SPEAKER:** By leave: I will propose the bill in one group of clauses and schedules.

The question is that clauses 1 and 2 be agreed to.

**Clauses 1 and 2 agreed to.**

**Mr DAMIEN TUDEHOPE (Epping) (23:04):** I move amendment No. 1 standing in my name on sheet C2018-066B:

**No. 1      Reproductive health clinics**

Page 3, Schedule 1 (proposed section 98A), line 9. Insert "or a public or private hospital" after "pharmacy".

I will explain what that means. It has been referred to by some members as well. Why should a public hospital or private hospital not be exempt premises for the purposes of this bill? I proffer a number of reasons for that. The size and scale of hospitals are such that it becomes vague and uncertain as to where the zone would begin and end. The heading of the definition itself refers to "reproductive health clinic" which most people in ordinary discourse would not believe to be a public or private hospital. Because of the location of teaching facilities in close proximity to hospitals, the potential for inadvertent breaches of the law by students, teachers and staff becomes problematic. As drafted, the bill may catch unintended protest activity. I rely on the observations made by the member for Ku-ring-gai who said:

As I have said, termination of pregnancies can occur within any part of a hospital, including the radiological department, surgical wards and consulting rooms. Nobody will actually know which part of the hospital they are conducted in on any given day. As a consequence, to comply with the law people would need to assume that every part of the premises of a hospital at which termination of pregnancies are ever performed has a safe access zone covering all of the hospital and the areas of 150 metres around it.

When applying to clinics or hospitals in an urban environment, the bill effectively sanitises what can be done within 150 metres of the defined premises. The establishment of an abortion clinic has the capacity to make the activity of adjoining businesses unlawful. It gives supreme planning authority to abortion clinics over all other businesses that are inconsistent with its operation if they are within 150 metres and impact upon the activity that can lawfully take place within those other premises. In my view, this is a small amendment but one which would give clarity to the definition of exempted premises and would be a beneficial amendment to this bill. I urge members to support it.

**Mrs LESLIE WILLIAMS (Port Macquarie) (23:07):** The co-sponsors will not be supporting this amendment. I encourage all members who agree with the intent of this bill to join me in voting against this amendment. The amendment is neither necessary nor appropriate. The problems that people experience on a daily basis are occurring at specialised reproductive health clinics; not at hospitals, be they public or private. Further, given the size of hospitals, it is impossible to know why particular people are passing through their doors. That said, it is our concern that once this bill passes, the perpetrators will alter their conduct so as to demonstrate and harass people outside of hospitals if they become alive to the fact that certain people are accessing reproductive health services at particular hospitals.

It is not logical to allow the conduct to occur outside a hospital, but not a specialised reproductive health clinic merely because it is a hospital. The contention raised by the member for Ku-ring-gai in respect of the supposed complications the 150-metre zone creates or hospitals—in that it is impossible to determine the extent of the zone given the uncertainty as to which room of a hospital the reproductive health services are provided in—is not in practice made out for two reasons. The first is that proposed section 98A (b) (ii) specifically defines the safe access zone as being the area within 150 metres of a pedestrian access point. There is no uncertainty about this.

The second reason, flowing from the first, is that the terms of the bill are very clear. The part is concerned with ensuring that people can access reproductive health services with their privacy, dignity and safety intact. It is concerned with persons accessing, leaving or attempting to access or leave a reproductive health clinic. The bill will not capture exchanges in hospital corridors among people when they have no involvement or interest whatsoever in the reproductive health services a hospital may provide. For this same reason, nor should members be concerned about the reach of safe access zones around hospitals being so wide that they will capture conduct within buildings of certain faith-based institutions that are not churches. I urge all members to vote against this amendment.

**The DEPUTY SPEAKER:** Order! I just complimented members on the respect they showed all day and I asked that the same respect be shown during debate on the amendments. I remind members that at least 15 of them are on three calls to order.

**Mr ALISTER HENSKENS (Ku-ring-gai) (23:10):** The purpose of the amendment is to exclude public or private hospitals from the operation of the exclusion zones. When you look at clause 98A, safe access zones include the area within 150 metres of any part of the premises. The safe access zone actually includes all of the premises that constitute the reproductive health clinic, which includes a hospital and 150 metres around it. There has been no suggestion of any protests outside of a hospital, and the amendment will ensure that this legislation does not apply to hospitals.

The reason that there is no fear about protests outside of hospitals is that nobody knows whether a young woman is going into a hospital to visit her grandmother or whether she is going into a hospital to obtain an abortion. There is anonymity around a hospital as opposed to an abortion clinic, which is dedicated, by and large, to that outcome. That is the reason for the amendment. I encourage members to consider it seriously. This has major ramifications for people who work within hospitals and the operation of hospitals.

**The DEPUTY SPEAKER:** The question is that amendment No. 1 on sheet C2018-066B be agreed to.

**The House divided.**

Ayes .....20

Noes .....59

Majority.....39

#### AYES

Conolly, Mr K  
Dominello, Mr V  
Goward, Ms P  
Henskens, Mr A  
Perrottet, Mr D  
Taylor, Mr M  
Upton, Ms G

Crouch, Mr A (teller)  
Elliott, Mr D  
Grant, Mr T  
O'Dea, Mr J  
Roberts, Mr A  
Toole, Mr P  
Williams, Mr R

Davies, Mrs T  
Fraser, Mr A  
Gulaptis, Mr C  
Patterson, Mr C (teller)  
Stokes, Mr R  
Tudehope, Mr D

#### NOES

Aitchison, Ms J  
Atalla, Mr E  
Barilaro, Mr J  
Bromhead, Mr S  
Chanthivong, Mr A  
Coure, Mr M  
Dib, Mr J  
Evans, Mr A.W.  
Foley, Mr L  
Hancock, Mrs S  
Hazzard, Mr B  
Humphries, Mr K  
Leong, Ms J  
Marshall, Mr A  
Mehan, Mr D  
Parker, Mr J  
Piper, Mr G  
Smith, Ms T.F.  
Washington, Ms K  
Wilson, Ms F

Anderson, Mr K  
Ayres, Mr S  
Barr, Mr C  
Car, Ms P  
Constance, Mr A  
Crakanthorp, Mr T  
Donato, Mr P  
Evans, Mr L.J.  
Gibbons, Ms M  
Harris, Mr D  
Hoenig, Mr R  
Kamper, Mr S  
Lynch, Mr P  
McDermott, Dr H  
Mihailuk, Ms T  
Pavey, Mrs M  
Provest, Mr G  
Tesch, Ms L  
Watson, Ms A (teller)  
Zangari, Mr G

Aplin, Mr G  
Bali, Mr S  
Berejiklian, Ms G  
Catley, Ms Y  
Cooke, Ms S  
Daley, Mr M  
Doyle, Ms T (teller)  
Finn, Ms J  
Greenwich, Mr A  
Harrison, Ms J  
Hornery, Ms S  
Kean, Mr M  
Maguire, Mr D  
McKay, Ms J  
Park, Mr R  
Petinos, Ms E  
Scully, Mr P  
Warren, Mr G  
Williams, Mrs L

**Amendment negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (23:20):** I move my amendment No. 2 on sheet C2018-066B:

No. 2      **Safe access zone**

Page 3, Schedule 1 (proposed section 98A), lines 13–17. Omit all words on those lines. Insert instead:

- (b) any public place within 50 metres of the premises of a reproductive health clinic at which abortions are provided.

Amendment No. 2 relates to the contentious distance provision in the bill. New section 98A (b) in schedule 1 provides for a distance of 150 metres for the safe access zone. My amendment includes two things: first, it limits the safe access zone to public places only; and, secondly, it reduces the distance to 50 metres. I listened carefully to the speech of the member for Hawkesbury, the Treasurer. By and large, I agreed with all he said. As a matter of preference, my view is that the distance be zero. But in an attempt to be entirely conciliatory, I have compromised all my principles and sought to reduce the area to 50 metres, which I submit to members is an entirely appropriate distance for a safe access zone. In fact, some members have made reference to electioneering and that the distance for campaigning near an election booth is 10 metres.

In the United States the distance of safe access zones was considered by the Supreme Court in *McCullen et al v Coakley, Attorney General of Massachusetts* and the distance for the bubble zone was 13.5 metres. That distance was held by the court to be too far to be a proportionate safe access zone under the Massachusetts legislation. In Canada, which is the standard I have adopted for the purposes of this amendment, the appropriate distance for a safe access zone is 50 metres. Public places should be limited to roadways and streets adjacent to the premises. It should not cover people's lounge rooms, dining rooms, offices or other places. I would have thought this is a reasonable amendment capable of support by all members. However, my entirely reasonable proposal remains in the hands of the House.

**Mrs LESLIE WILLIAMS (Port Macquarie) (23:23):** The co-sponsors will not be supporting this amendment. I encourage all members who agree with the intent of the bill to join me in voting against this amendment. Safe access zones in Victoria, Tasmania and the Northern Territory are 150 metres. It is appropriate that consistency between jurisdictions be achieved and having 150-metre safe access zones in New South Wales achieves this. The experience in these jurisdictions has proven 150 metres to be an effective distance and there have been no calls to reduce the distance of these safe access zones. If we look to other jurisdictions to establish what distance our safe access zones should be, the first place to look is other States and Territories in Australia and not elsewhere such as Canada or other countries that have different distances.

Further, 150 metres is a logical distance that ensures that perpetrators are kept sufficiently clear of the entrances to reproductive health clinics. In city, urban and regional areas a distance of 50 metres would make it possible for persons to avoid being caught by the bill on the basis that they are, for example, 51 metres away. This is just simply too close. One hundred and fifty metres provides a sufficient bubble around reproductive health clinics to ensure that people can access clinics free from interference, especially if they are using public transport or car transport, as the walking distance from public transport stops or car parking spaces are often significantly more than 50 metres away from reproductive health clinics.

The Solicitor General of New South Wales makes this observation in his submissions to the High Court in the matter of *Clubb v Edwards & Anor*, which is currently before it. Any concern that a distance of 150 metres will fail at the stage of proportionally testing in respect of the implied freedom of political communication can be put to rest. With regard to their submission to the High Court the Solicitors General of New South Wales, Victorian, Queensland, South Australian, Western Australian, and Tasmanian as well as the Solicitor General of the Commonwealth are of the view that a distance of 150 metres is valid on the basis that it is suitable, necessary and adequate in balance. As second law officers of their jurisdictions and thereby being the chief legal counsel of their respective jurisdictions, their legal advice should be taken as the most robust and informed. I urge all members to vote against this amendment.

**The DEPUTY SPEAKER:** The question is that amendment No. 2 on sheet C2018-066B be agreed to.

**The House divided.**

Ayes ..... 14  
Noes ..... 65  
Majority..... 51

AYES

Ayres, Mr S  
Davies, Mrs T  
Goward, Ms P  
Stokes, Mr R  
Upton, Ms G

Conolly, Mr K  
Dominello, Mr V  
Patterson, Mr C (teller)  
Taylor, Mr M  
Williams, Mr R

Crouch, Mr A (teller)  
Elliott, Mr D  
Petinos, Ms E  
Tudehope, Mr D



## NOES

Aitchison, Ms J	Anderson, Mr K	Aplin, Mr G
Atalla, Mr E	Bali, Mr S	Barilaro, Mr J
Barr, Mr C	Berejiklian, Ms G	Bromhead, Mr S
Car, Ms P	Catley, Ms Y	Chanthivong, Mr A
Constance, Mr A	Cooke, Ms S	Coure, Mr M
Crakanthorp, Mr T	Daley, Mr M	Dib, Mr J
Donato, Mr P	Doyle, Ms T (teller)	Evans, Mr A.W.
Evans, Mr L.J.	Finn, Ms J	Foley, Mr L
Fraser, Mr A	Gibbons, Ms M	Grant, Mr T
Greenwich, Mr A	Gulaptis, Mr C	Hancock, Mrs S
Harris, Mr D	Harrison, Ms J	Hazzard, Mr B
Henskens, Mr A	Hoening, Mr R	Hornery, Ms S
Humphries, Mr K	Kamper, Mr S	Kean, Mr M
Leong, Ms J	Lynch, Mr P	Maguire, Mr D
Marshall, Mr A	McDermott, Dr H	McKay, Ms J
Mehan, Mr D	Mihailuk, Ms T	O'Dea, Mr J
Park, Mr R	Parker, Mr J	Pavey, Mrs M
Perrottet, Mr D	Piper, Mr G	Provest, Mr G
Roberts, Mr A	Scully, Mr P	Smith, Ms T.F.
Tesch, Ms L	Toole, Mr P	Warren, Mr G
Washington, Ms K	Watson, Ms A (teller)	Williams, Mrs L
Wilson, Ms F	Zangari, Mr G	

**Amendment negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (23:32):** I move my amendment No. 3 on sheet C2018-066B:

No. 3      **Objects**

Page 3, Schedule 1 (proposed section 98B), lines 19–26. Omit all words on those lines. Insert instead:

The object of this Part is to ensure that people are able to enter and leave reproductive health clinics at which abortions are provided without interference, and in a manner that protects their safety and well-being and respects their privacy and dignity, including employees and others who need to access such clinics in the course of their duties and responsibilities.

At this point, I feel like a boxer in the third round who is going to come home strong.

**The DEPUTY SPEAKER:** Order! The member for Epping should speak to the amendment.

**Mr DAMIEN TUDEHOPE:** This amendment seeks to amend the stated objects of the bill to delete proposed section 98B and have only one object of the bill, as set out in the amendment.

**Mrs LESLIE WILLIAMS (Port Macquarie) (23:33):** The House will be pleased to know that the co-sponsors of the bill are willing to accept this amendment. The amendment would have no substantive effect on the operation of the bill; it merely removes a perceived tautology in proposed section 98B paragraphs (a) and (b). I encourage all members to vote in favour of this amendment.

**Ms JENNY LEONG (Newtown) (23:33):** The Greens do not support amendment No. 3 on sheet C2018-066B. We appreciate that it is late and that members have been having a respectful debate, but it is important—especially for those sitting on this side—to hear what we would be amending. The amendment removes the following object of Part 98B of the bill:

The objects of this Part are:

- (a) to ensure that the entitlement of people to access health services, including abortions, is respected,

Whether in my office or in the Chamber, I have been listening to the views of members currently sitting on this side. Those members were basically saying that they believe we should ensure that the entitlement of people to access health services, including abortions, is respected. It is their entitlement to do that. The Greens cannot support the deletion of this object. I am unclear why we would support it. From what we have heard, it is clear that members who do not support this bill have a patriarchal and patronising approach to women's ability to make the right health choices for themselves.

I urge members not to support the removal of this important part of the objects of the bill. It is a clear principle that this House has supported before in a motion that I moved last year. Nobody objected to it then as a concept; I do not believe that we should object to it now. I appreciate that it is late but it is important that we hold true to the basic principle of this bill to ensure that the entitlement of people to access health services, including abortions, is respected. That should be something we respect.

**Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (23:36):** As Minister for Health, looking at the issue raised by the member for Newtown and in the spirit of the fact that we are doing this on a non-partisan basis, I am interested to hear further on why we would remove that object. I would have thought that part of what we require is to ensure the entitlement of people to access health services is respected. The fact that it includes abortions—

**Mr Damien Tudehope:** Which is illegal.

**Mr BRAD HAZZARD:** No, it is not illegal. The issue is not about abortion. Abortion is legal in this State provided it is approved by a doctor for physical or psychological reasons. I ask for clarification. Members should understand exactly what we are talking about. I am not committing one way or the other at this stage, but I would like further clarification from the member for Epping.

**Mr DAMIEN TUDEHOPE (Epping) (23:37):** I respect the question from the Minister for Health. The reason that—

**The DEPUTY SPEAKER:** Order! An explanation has been asked for and everyone would like to hear it.

**Mr DAMIEN TUDEHOPE:** Notwithstanding the observations made by the Minister for Health, abortion is illegal in this State except in certain circumstances and those circumstances have to be made out. It is my submission that this particular proposed section does not recognise the fact that there is an illegality that attaches to abortion, which is potentially not acknowledged by this object. The object of this bill is adequately addressed in paragraph (b). It is not diminished by paragraph (b). The important component that is sought to be achieved by this bill is summarised in paragraph (b) and I would have thought that was sufficient for the purposes of ensuring that the objects were properly identified.

**The DEPUTY SPEAKER:** Order! I ask that members refrain from disrupting the House.

**Mr DAMIEN TUDEHOPE:** For the purposes of the Minister for Health, that is the rationale behind the amendment.

**Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (23:39):** This debate has been conducted in a spirit of great understanding on both sides of the argument, but I believe that the object should not be removed from the bill. I emphasise that I have no desire to line up with any particular members in this place but I am prepared to line up on behalf of the women of this State who want to have their entitlement to access health services—including abortions—respected. Therefore I will be backing the proposition put by the member for Newtown.

**Mrs LESLIE WILLIAMS (Port Macquarie) (23:40):** I thank the member for Epping for his further explanation of his amendment. In the light of his contribution I will be advising members who support the intent of the bill not to support the amendment.

**Mr KEVIN CONOLLY (Riverstone) (23:41):** We have heard many speakers during the debate tonight say that this is not a debate about abortion. The inclusion of this object in the bill makes it so. It is a statement asserting an entitlement to abortion. If members were genuine about what they said earlier—that it is not a debate about abortion—they should not include that objective in the bill.

**The DEPUTY SPEAKER:** The question is that amendment No. 3 on sheet C2018-066B be agreed to.

**The House divided.**

Ayes .....24  
Noes .....56  
Majority.....32

AYES

Aplin, Mr G  
Crouch, Mr A (teller)  
Elliott, Mr D  
Grant, Mr T

Bromhead, Mr S  
Davies, Mrs T  
Fraser, Mr A  
Gulaptis, Mr C

Conolly, Mr K  
Dominello, Mr V  
Goward, Ms P  
Henskens, Mr A

## AYES

Humphries, Mr K  
Perrottet, Mr D  
Stokes, Mr R  
Tudehope, Mr D

O'Dea, Mr J  
Petinos, Ms E  
Taylor, Mr M  
Upton, Ms G

Patterson, Mr C (teller)  
Roberts, Mr A  
Toole, Mr P  
Williams, Mr R

## NOES

Aitchison, Ms J  
Ayres, Mr S  
Barr, Mr C  
Catley, Ms Y  
Cooke, Ms S  
Daley, Mr M  
Doyle, Ms T (teller)  
Finn, Ms J  
Greenwich, Mr A  
Harris, Mr D  
Hoenig, Mr R  
Kean, Mr M  
Maguire, Mr D  
McKay, Ms J  
Notley-Smith, Mr B  
Provest, Mr G  
Speakman, Mr M  
Washington, Ms K  
Wilson, Ms F

Anderson, Mr K  
Bali, Mr S  
Berejiklian, Ms G  
Chanthivong, Mr A  
Coure, Mr M  
Dib, Mr J  
Evans, Mr A.W.  
Foley, Mr L  
Griffin, Mr J  
Harrison, Ms J  
Hornery, Ms S  
Leong, Ms J  
Marshall, Mr A  
Mehan, Mr D  
Park, Mr R  
Scully, Mr P  
Tesch, Ms L  
Watson, Ms A (teller)  
Zangari, Mr G

Atalla, Mr E  
Barilaro, Mr J  
Car, Ms P  
Constance, Mr A  
Crakanthorp, Mr T  
Donato, Mr P  
Evans, Mr L.J.  
Gibbons, Ms M  
Hancock, Mrs S  
Hazzard, Mr B  
Kamper, Mr S  
Lynch, Mr P  
McDermott, Dr H  
Mihailuk, Ms T  
Pavey, Mrs M  
Smith, Ms T.F.  
Warren, Mr G  
Williams, Mrs L

**Amendment negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (23:46):** I move my amendment No. 4 on sheet C2018-066B:

No. 4     **Interfering with access**

Page 3, Schedule 1 (proposed section 98C (2)), line 31. Insert ", without reasonable excuse," after "must not".

This is the lawyers' amendment. There is always potentially a provision where someone may be able to demonstrate reasonable cause in respect of an action that is complained about. Those who oppose this amendment will say that there can never be any reasonable cause for the circumstances outlined in proposed section 98C. One simple demonstration would be two persons walking counter to each other who adopt the same route and potentially interfere with each other. Under the proposed section, that interference would be a criminal offence with a potential jail term. We might say that that is a ridiculous notion, but that is the manner in which circumstances may arise where there is a reasonable explanation that should be identified as a provision.

Legislation of this nature should always provide to a defendant charged with a criminal offence an opportunity of raising a defence of reasonable cause. To adopt the position that there is absolute liability in respect of these offences creates a situation where a person must plead guilty on every occasion that they are charged. We should not adopt legislation that does not provide for a defence of reasonable cause. I thought that my previous amendments were reasonable. I urge on the House that this is a reasonable amendment, and I urge members to support it.

**Mrs LESLIE WILLIAMS (Port Macquarie) (23:48):** The co-sponsors will not support this amendment. I encourage all members who agree with the intent of this bill to join me in fighting against this amendment. It is not appropriate that there be a defence of reasonable excuse to harassment, intimidation, besetting, threats, hindrance, obstruction or impediment by any other means.

Previous allegations that the definition of "interfere with" creates too low a bar for an offence and therefore requires a defence of reasonable excuse is false, as an objective standard is applied and the courts have consistently interpreted such words to have high bars. There is no reasonable excuse provided to similar offences in other statutes in New South Wales. The concern that industrial activists would be caught by proposed section 98 C (2) before "interfere with" is defined to include "obstruct" is simply not made out in practice. There have been no issues in respect of this in Victoria, where no defence of reasonable excuse is provided. As a matter

of practice, the very nature of industrial activism falls within proposed section 98 C (3) to which there is a defence of reasonable excuse. I urge all members to vote against this amendment.

**The DEPUTY SPEAKER:** The question is that amendment No. 4 on C2018-066B be agreed to.

**The House divided.**

Ayes .....17  
Noes .....63  
Majority.....46

**AYES**

Conolly, Mr K  
Davies, Mrs T  
Goward, Ms P  
Perrottet, Mr D  
Stokes, Mr R  
Upton, Ms G

Coure, Mr M  
Dominello, Mr V  
Grant, Mr T  
Petinos, Ms E  
Taylor, Mr M  
Williams, Mr R

Crouch, Mr A (teller)  
Elliott, Mr D  
Henskens, Mr A  
Roberts, Mr A (teller)  
Tudehope, Mr D

**NOES**

Aitchison, Ms J  
Atalla, Mr E  
Barilaro, Mr J  
Bromhead, Mr S  
Chanthivong, Mr A  
Crakanthorp, Mr T  
Donato, Mr P  
Evans, Mr L.J.  
Fraser, Mr A  
Gulaptis, Mr C  
Harrison, Ms J  
Hornery, Ms S  
Kean, Mr M  
Maguire, Mr D  
McKay, Ms J  
Notley-Smith, Mr B  
Parker, Mr J  
Piper, Mr G  
Smith, Ms T.F.  
Warren, Mr G  
Williams, Mrs L

Anderson, Mr K  
Ayes, Mr S  
Barr, Mr C  
Car, Ms P  
Constance, Mr A  
Daley, Mr M  
Doyle, Ms T (teller)  
Finn, Ms J  
Gibbons, Ms M  
Hancock, Mrs S  
Hazzard, Mr B  
Humphries, Mr K  
Leong, Ms J  
Marshall, Mr A  
Mehan, Mr D  
O'Dea, Mr J  
Patterson, Mr C  
Provest, Mr G  
Tesch, Ms L  
Washington, Ms K  
Wilson, Ms F

Aplin, Mr G  
Bali, Mr S  
Berejiklian, Ms G  
Catley, Ms Y  
Cooke, Ms S  
Dib, Mr J  
Evans, Mr A.W.  
Foley, Mr L  
Greenwich, Mr A  
Harris, Mr D  
Hoenig, Mr R  
Kamper, Mr S  
Lynch, Mr P  
McDermott, Dr H  
Mihailuk, Ms T  
Park, Mr R  
Pavey, Mrs M  
Scully, Mr P  
Toole, Mr P  
Watson, Ms A (teller)  
Zangari, Mr G

**Amendment negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (23:54):** By leave: I move my amendments Nos 5, 6 and 13 to 16 on sheet C2018-066B in globo:

**No. 5 Penalties**

Page 3, Schedule 1 (proposed section 98C), lines 38 and 39. Omit "or imprisonment for 6 months, or both".

**No. 6 Penalties**

Page 3, Schedule 1 (proposed section 98C), lines 40 and 41. Omit "or imprisonment for 12 months, or both".

**No. 13 Penalties**

Page 4, Schedule 1 (proposed section 98E (1)), lines 20 and 21. Omit "or imprisonment for 6 months, or both".

**No. 14 Penalties**

Page 4, Schedule 1 (proposed section 98E (1)), lines 22 and 23. Omit "or imprisonment for 12 months, or both".

**No. 15 Penalties**

Page 4, Schedule 1 (proposed section 98E (2)), lines 30 and 31. Omit "or imprisonment for 6 months, or both".

No. 16     **Penalties**

Page 4, Schedule 1 (proposed section 98E (2)), lines 32 and 33. Omit "or imprisonment for 12 months, or both".

All these amendments relate to penalties applied to various offences throughout the bill. The amendment I seek in relation to each of the penalty provisions is the removal of the term of imprisonment. I submit that it is the view of many people in relation to the drafting of this bill that people should not face a jail sentence if found guilty of any of these offences. These people do not fit the normal criminogenic profile of people we lock up. I heard an earlier comment that we want to fill Minister Elliott's new jails with these people, but I urge members to reconsider the term of imprisonment attached to these offences. I ask members to support these amendments to remove the terms of imprisonment.

**The DEPUTY SPEAKER:** I clarify that the question is that Mr Tudehope's amendments Nos 5, 6 and 13 to 16 on sheet C2018-066B be agreed to.

**Mrs LESLIE WILLIAMS (Port Macquarie) (23:56):** Each of the amendments we are debating relates to the removal of the custodial sentence from the maximum penalty for a first offence. The co-sponsors will not support these amendments. I encourage all members who agree with the intent of this bill to join me in voting against these amendments. I note that there are several amendments that concern the penalties contained within the bill, and I will provide reasons in detail in respect of these amendments. However, my reasons will apply equally to all of the amendments concerning penalties, irrespective of them relating to first offences or second and subsequent offences.

It is appropriate that a maximum penalty for any offence include a custodial sentence. It reflects the Parliament's abhorrence for conduct that is criminalised. It is important to note that the maximum penalty means just that, a maximum penalty. It is not a mandatory penalty. As a matter of course, sentencing in New South Wales proceeds on the basis that a custodial sentence is a last resort. In such cases, the term of imprisonment reflects the seriousness of the conduct of the offender. Where a person's conduct is so grievous that it warrants them being handed a sentence that imprisons them, it is only appropriate that the courts have such an option open to them.

The penalties in Victoria, Tasmania and the Northern Territory do not distinguish between a first and a second or subsequent offence. The New South Wales proposal is more modest and, in any case, the maximum penalties in all those jurisdictions include 12 months imprisonment. By way of comparison to Victoria, a first offence in New South Wales will attract a maximum penalty that is approximately one-third the value of the maximum fine and half the term of the maximum custodial sentence. There is a range of offences in New South Wales that are similar to those in the bill, which carry similar if not higher penalties. Breaching an apprehended violence order carries a maximum penalty of two years imprisonment or 50 penalty units, or both. Using a surveillance device without authority carries a maximum penalty of five years imprisonment or 100 penalty units, or both. Common assault carries a maximum penalty of two years imprisonment. Revenge porn carries a maximum penalty of three years imprisonment and 100 penalty points. A bill that is currently before this Parliament concerning inciting violence and hatred proposes maximum penalties of three years imprisonment. All these offences have maximum penalties that include custodial sentences. I urge all members to vote against these amendments.

**The DEPUTY SPEAKER:** The question is that amendments Nos 5 and 6, and amendments 13 to 16 on sheet C2018-066B be agreed to.

**The House divided.**

Ayes .....22

Noes .....58

Majority.....36

**AYES**

Anderson, Mr K  
Coure, Mr M  
Dominello, Mr V  
Gibbons, Ms M  
Henskens, Mr A  
Petinos, Ms E  
Taylor, Mr M  
Williams, Mr R

Aplin, Mr G  
Crouch, Mr A (teller)  
Elliott, Mr D  
Goward, Ms P  
Patterson, Mr C (teller)  
Roberts, Mr A  
Tudehope, Mr D

Conolly, Mr K  
Davies, Mrs T  
Fraser, Mr A  
Grant, Mr T  
Perrottet, Mr D  
Stokes, Mr R  
Upton, Ms G

## NOES

Aitchison, Ms J	Atalla, Mr E	Ayres, Mr S
Bali, Mr S	Barilaro, Mr J	Barr, Mr C
Berejiklian, Ms G	Bromhead, Mr S	Car, Ms P
Catley, Ms Y	Chanthivong, Mr A	Constance, Mr A
Cooke, Ms S	Crakanthorp, Mr T	Daley, Mr M
Dib, Mr J	Donato, Mr P	Doyle, Ms T (teller)
Evans, Mr A.W.	Evans, Mr L.J.	Finn, Ms J
Foley, Mr L	Greenwich, Mr A	Gulaptis, Mr C
Hancock, Mrs S	Harris, Mr D	Harrison, Ms J
Hazzard, Mr B	Hoening, Mr R	Hornery, Ms S
Humphries, Mr K	Kamper, Mr S	Kean, Mr M
Leong, Ms J	Lynch, Mr P	Maguire, Mr D
Marshall, Mr A	McDermott, Dr H	McKay, Ms J
Mehan, Mr D	Mihailuk, Ms T	Notley-Smith, Mr B
O'Dea, Mr J	Park, Mr R	Parker, Mr J
Pavey, Mrs M	Piper, Mr G	Provest, Mr G
Scully, Mr P	Smith, Ms T.F.	Tesch, Ms L
Toole, Mr P	Warren, Mr G	Washington, Ms K
Watson, Ms A (teller)	Williams, Mrs L	Wilson, Ms F
Zangari, Mr G		

**Amendments negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (00:04):** I move my amendment No. 7 on sheet C2018-066B:

No. 7      **Offence of causing distress**

Page 4, Schedule 1 (proposed section 98D), lines 1–14. Omit all words on those lines.

This is a proposal that seeks the omission of proposed section 98D, which is the most worrying part of this bill and has been identified by other members as being a particular provision that is subject to challenge and that is not capable of support. The reason this provision is so worrying is that the language is wide and prohibits communication that relates to abortion by any means in a manner able to be seen or heard by a person entering or leaving an abortion clinic that is reasonably likely to cause distress or anxiety to any such person. It sets a very low bar.

The heading to the section—which may be used to assist in interpreting ambiguous wording in the section—notes that the communication need only cause potential distress or anxiety. Absurd results will follow. What communication about abortion does not have the potential to cause anxiety or distress to someone entering or leaving an abortion clinic? Not measured against a standard, such as the reasonable person, the potential impact on a sensitive person who hears or sees a communication about abortion is sufficient to conclude that a crime has been committed. A plain reading of the text of proposed section 98D covers the sensitive person's overhearing of a communication not meant for them. This is an extreme and unjustified violation of free speech.

Family or friends accompanying women into or out of an abortion clinic would be unable to discuss abortion when in the zone. As bizarre as this may sound, it is a real consequence of the bill as currently drafted. People walking past the clinic and wearing apparel—including perhaps a T-shirt with an image of a child on it that associates them with a pro-life view—would be engaging in criminal behaviour. So too would pregnancy counselling services situated within the zone that have signage, such as Sara's Place in Surry Hills. Supporters of the bill must clarify what they mean and consider what are appropriate amendments.

The bill permits an exception in proposed section 98D (2) for prohibited communication expressed by clinic employees. The cleaner employed by the abortion clinic therefore may talk about abortion in the zone and cause potential anxiety or distress to someone entering or leaving the clinic. The lack of logic in providing a blanket exception for clinic employees displays an absurd presumption in the bill that only people employed by an abortion clinic can be trusted to say the right things about abortion that does not cause harm to a woman's health. I urge all members to reject proposed section 98D as it currently stands.

**Mrs LESLIE WILLIAMS (Port Macquarie) (00:08):** The co-sponsors do not support this amendment. I encourage all members to agree with the intent of this bill and join me in voting against this amendment, which seeks to gut the bill. Proposed section 98D, the communications offence, is necessary because it seeks to protect people accessing or leaving reproductive health clinics from subtler forms of abuse, particularly

of a mental, emotional or spiritual nature. There is a reasonable expectation that people should be able to access reproductive health services without being called child killers or baby murderers, or being shown graphic images of aborted fetuses.

Further, if the deletion of the communications offence is motivated by some concern about the implied freedom of political communication, then this concern has already been allayed by the Solicitor General for New South Wales. It is important to recognise that the Victorian legislation includes an offence very similar to proposed section 98C and an offence similar to proposed section 98D. The Victorians, like the other States with safe access zone laws, have sought to deal with the issues separately because they rightly perceive that proposed section 98C, or a like offence, specifically deals with physical interference, harassment and intimidation, whereas by its very nature proposed section 98 deals with verbal or visual communications.

It is also important to recognise that if one looks at the submissions made in the matter *Clubb v Edwards*, the current High Court challenge to the Victorian safe access zone laws, each of the Solicitor Generals of the States, including in New South Wales, as well as the Solicitor General of the Commonwealth, identified that provisions such as proposed section 98D perform a proper purpose in protecting vulnerable women from interference and distress. The justifications for proposed section 98D have been covered by many speakers in this debate today, but proposed section 98D is fundamental to what we are trying to do in this place today—it is necessary. We need proposed section 98D to protect young vulnerable women from communications that are reasonably likely to cause distress and anxiety—from communications that are appalling, disgusting and vile. I urge all members to vote against this amendment.

**The DEPUTY SPEAKER:** The question is that amendment No. 7 on sheet C2018-066B be agreed to.

**The House divided.**

Ayes .....21  
Noes .....59  
Majority.....38

#### AYES

Ayres, Mr S  
Crouch, Mr A (teller)  
Elliott, Mr D  
Grant, Mr T  
Patterson, Mr C (teller)  
Roberts, Mr A  
Tudehope, Mr D

Conolly, Mr K  
Davies, Mrs T  
Fraser, Mr A  
Henskens, Mr A  
Perrottet, Mr D  
Stokes, Mr R  
Upton, Ms G

Coure, Mr M  
Dominello, Mr V  
Goward, Ms P  
O'Dea, Mr J  
Petinos, Ms E  
Taylor, Mr M  
Williams, Mr R

#### NOES

Aitchison, Ms J  
Atalla, Mr E  
Barr, Mr C  
Car, Ms P  
Constance, Mr A  
Daley, Mr M  
Doyle, Ms T (teller)  
Finn, Ms J  
Greenwich, Mr A  
Harris, Mr D  
Hoenig, Mr R  
Kamper, Mr S  
Lynch, Mr P  
McDermott, Dr H  
Mihailuk, Ms T  
Parker, Mr J  
Provest, Mr G  
Tesch, Ms L  
Washington, Ms K  
Wilson, Ms F

Anderson, Mr K  
Bali, Mr S  
Berejiklian, Ms G  
Catley, Ms Y  
Cooke, Ms S  
Dib, Mr J  
Evans, Mr A.W.  
Foley, Mr L  
Gulaptis, Mr C  
Harrison, Ms J  
Hornery, Ms S  
Kean, Mr M  
Maguire, Mr D  
McKay, Ms J  
Notley-Smith, Mr B  
Pavey, Mrs M  
Scully, Mr P  
Toole, Mr P  
Watson, Ms A (teller)  
Zangari, Mr G

Aplin, Mr G  
Barilaro, Mr J  
Bromhead, Mr S  
Chanthivong, Mr A  
Crakanthorp, Mr T  
Donato, Mr P  
Evans, Mr L.J.  
Gibbons, Ms M  
Hancock, Mrs S  
Hazzard, Mr B  
Humphries, Mr K  
Leong, Ms J  
Marshall, Mr A  
Mehan, Mr D  
Park, Mr R  
Piper, Mr G  
Smith, Ms T.F.  
Warren, Mr G  
Williams, Mrs L

**Amendments negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (00:13):** By leave: I move my amendments Nos 10 and 11 on sheet C2018-066B in globo:

**No. 10 Penalties**

Page 4, Schedule 1 (proposed section 98D (1)), lines 9 and 10. Omit "or imprisonment for 6 months, or both".

**No. 11 Penalties**

Page 4, Schedule 1 (proposed section 98D (1)), lines 11 and 12. Omit "or imprisonment for 12 months, or both".

Both of these amendments are provisions relating to the removal of terms of imprisonment in respect of penalties under those two provisions. I rely on the submissions that I previously made in relation to the removal of those terms of imprisonment.

**Mrs LESLIE WILLIAMS (Port Macquarie) (00:14):** For the same reasons I gave in respect of amendment No. 5 and the amendments relating to penalties, the co-sponsors will not support these amendments. I urge all members to vote against them.

**Mr JONATHAN O'DEA (Davidson) (00:14):** I and a number of other members are broadly sympathetic to the object of the bill. However, we have indicated a problem with proposed section 98D. It is all encompassing in that it covers all communications about abortion in a geographic area. It does not require any malice or intent; the behaviour could be inadvertent, well-meaning, or well-intentioned. The provision also sets a very low threshold—that is, a likely consequence of anxiety or distress. I do not believe the nature of the offence is as serious as the other two offences in the bill. Accordingly, I argue that it does not warrant a jail offence. I acknowledge that the intention of the Parliament is to include it. However, there is a good argument for saying that there are more serious offences and that the behaviour dealt with in proposed section 98D should not be seen to be as serious. As a consequence, I support the amendments.

**Mr STUART AYRES (Penrith—Minister for Western Sydney, Minister for WestConnex, and Minister for Sport) (00:16):** I hope all members take a moment to consider these amendments. There is no doubt that many people want to get this bill right. Proposed section 98C refers to harassment, intimidation, besetting, threatening, hindering, obstructing and impeding. We have agreed thus far that that behaviour will incur a custodial sentence of a maximum of six months. If these amendments are rejected, someone who causes distress or anxiety will be subjected to the same penalty as that provided for in proposed section 98C. I do not believe it is reasonable for the offences in proposed section 98D to attract the same penalty as those in proposed section 98C.

Supporting these amendments will not water down or weaken the overall object of the bill; it will merely recognise that the offences in proposed section 98D are less serious than those in proposed section 98C. My second reading contribution was largely supportive of this bill, but proposed section 98D is my biggest concern. We now have the opportunity to ensure that the penalty incurred more appropriately reflects the action we are trying to deter.

**The DEPUTY SPEAKER:** The question is that amendments Nos 10 and 11 on sheet C2018-066B be agreed to.

**The House divided.**

Ayes .....26  
Noes .....54  
Majority.....28

**AYES**

Anderson, Mr K  
Conolly, Mr K  
Davies, Mrs T  
George, Mr T  
Grant, Mr T  
Marshall, Mr A  
Perrottet, Mr D  
Stokes, Mr R  
Upton, Ms G

Aplin, Mr G  
Coure, Mr M  
Dominello, Mr V  
Gibbons, Ms M  
Henskens, Mr A  
O'Dea, Mr J  
Petinos, Ms E  
Taylor, Mr M  
Williams, Mr R

Ayres, Mr S  
Crouch, Mr A (teller)  
Elliott, Mr D  
Goward, Ms P  
Kean, Mr M  
Patterson, Mr C (teller)  
Roberts, Mr A  
Tudehope, Mr D



## NOES

Aitchison, Ms J  
 Barilaro, Mr J  
 Bromhead, Mr S  
 Chanthivong, Mr A  
 Crakanthorp, Mr T  
 Donato, Mr P  
 Evans, Mr L.J.  
 Greenwich, Mr A  
 Harris, Mr D  
 Hoenig, Mr R  
 Kamper, Mr S  
 Maguire, Mr D  
 Mehan, Mr D  
 Park, Mr R  
 Piper, Mr G  
 Smith, Ms T.F.  
 Warren, Mr G  
 Williams, Mrs L

Atalla, Mr E  
 Barr, Mr C  
 Car, Ms P  
 Constance, Mr A  
 Daley, Mr M  
 Doyle, Ms T (teller)  
 Finn, Ms J  
 Gulaptis, Mr C  
 Harrison, Ms J  
 Hornery, Ms S  
 Leong, Ms J  
 McDermott, Dr H  
 Mihailuk, Ms T  
 Parker, Mr J  
 Provest, Mr G  
 Tesch, Ms L  
 Washington, Ms K  
 Wilson, Ms F

Bali, Mr S  
 Berejiklian, Ms G  
 Catley, Ms Y  
 Cooke, Ms S  
 Dib, Mr J  
 Evans, Mr A.W.  
 Foley, Mr L  
 Hancock, Mrs S  
 Hazzard, Mr B  
 Humphries, Mr K  
 Lynch, Mr P  
 McKay, Ms J  
 Notley-Smith, Mr B  
 Pavey, Mrs M  
 Scully, Mr P  
 Toole, Mr P  
 Watson, Ms A (teller)  
 Zangari, Mr G

**Amendments negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (00:20):** I move my amendment No. 12 on sheet C2018-066B:

**No. 12 Exceptions**

Page 4, Schedule 1 (proposed section 98D (2)), lines 13 and 14. Omit all words on those lines. Insert instead:

- (2) This section does not apply to:
  - (a) an employee or other person who provides services at the reproductive health clinic, or
  - (b) a registered psychologist or qualified counsellor who is offering or providing counselling services, or
  - (c) a person making a communication with the consent of an affected person.
- (3) For the purposes of this section, **communication** does not include prayer.

Amendment No. 12 creates exceptions in relation to those persons who would be subject to prosecution for offences under proposed section 98D. I have already identified that the draconian nature of the section is such that it should be rejected in its entirety. I specifically go to the additional provision relating to the consent of an affected person. For example, if a person is talking to someone who has attended the clinic with them and they have an argument about a circumstance relating to their attending the clinic, the discussion between them may be consensual but in circumstances where it causes anxiety or distress. My submission is that those persons who engage in conversation with the consent of the affected person should not be the subject of a potential prosecution and should be exempted.

A lot of discussion has been engaged in in this place that, in many respects, demeans the activity of persons who identify themselves as "sidewalk counsellors". In various circumstances, their qualifications have been called into question. One member suggested that a person who offers counselling that goes for only a minute or two would not be offering counselling at all, but would be potentially harming the person whom they are counselling. I beg to differ. If the counselling is such that it engaged the person in a discussion where they may wish to seek an alternative or a delay in relation to the procedure they are engaging in, it may be entirely beneficial.

Additionally, I have included a provision in relation to prayer. There are some persons in this place who have identified prayer as something you can do anywhere, at any place and at any time. If you believe in God, you will know that God does not necessarily confine Himself—or Herself, for that matter—to the circumstances outside an abortion clinic.

**Mr Ron Hoenig:** How do you know?

**Mr DAMIEN TUDEHOPE:** A good question. In a prosecution in the Australian Capital Territory a magistrate identified a person who was silently playing the rosary as potentially engaging in a protest. The mere existence of rosary beads in respect of that defendant was sufficient for a magistrate to at least consider that that activity was a protest for the purposes of this offence. In my submission we ought not be engaging in

circumstances where we identify persons who are praying as persons who are engaging in communications which would cause offence. I urge members to support the amendment.

**Mrs LESLIE WILLIAMS (Port Macquarie) (00:25):** The co-sponsors will not be supporting this amendment. I encourage all members who agree with the intent of this bill to join me in voting against this amendment. Proposed section 98D subsections (2) (b) and (2) (c) and subsection (3) are unacceptable. The purpose of this bill is to stop unwanted and unsolicited interference from strangers in people's personal and private medical decisions. While it is appropriate that people have access to qualified counselling services, such access should be initiated by persons accessing reproductive health services and not be thrust upon them unwillingly.

Proposed section 98D (2) (b) clearly seeks to enable the continuance of conduct by sidewalk counsellors, contrary to the objects and the intention of the bill, by inviting registered psychologists and so-called qualified counsellors to answer the call and move their counselling practices to the sidewalks outside reproductive health clinics. Conversely, if proposed subsection (2) (b) is concerned with contact inside reproductive health clinics this is to be said: Proposed subsection (2) (b) is unnecessary as the term used in subsection (2) (a) of "an employee or other person who provides services at reproductive health clinics" would necessarily include registered psychologists or qualified counsellors.

Further, "qualified councillor" is not defined and it is unclear as to whether "qualification" means to have completed a university degree and, if so, what degree, or whether the qualification is a weekend course undertaken at a local TAFE, or in the back of the local scout hall. Subsection (2) (c) seeks to exempt conduct with the affected person's consent. I wish to make two observations about this. The first is that genuinely consenting communications will not be caught by the operation of the bill. It has been alleged that family members of women who are attending clinics for terminations will be sent to jail because they say something distressing to such women. In reality, this simply will not happen.

The second is how this exemption for consent would happen in practice. If a sidewalk counsellor approaches an affected person accessing a reproductive health clinic and says, "Could I speak to you for a moment?" to which the affected person inadvertently responds, "Yes" but then the sidewalk counsellor proceeds to communicate in a way that is reasonably likely to cause distress or anxiety, the affected person has consented to that communication and no prosecution can arise from that. That is unacceptable. In trying to avoid an alleged perverse consequence the amendment creates a new one.

I turn to proposed section 98D (3). A number of complaints previously have been with regard to silent prayer, and hence observations have been made that silent prayer cannot constitute a communication about abortion. However, we can all accept that some prayers may not, in fact, be silent. Indeed, under this definition "prayer" could extend to various forms of dark mutterings or even quite vocal chanting and in those cases it is appropriate to conclude that the only reason people would be undertaking that activity near a reproductive health clinic was to intimidate or dissuade young vulnerable women from entering the clinic. Therefore, this amendment cannot be accepted. I urge all members to vote against this amendment.

**Mr ALISTER HENSKENS (Ku-ring-gai) (00:29):** Similar to what the member for Davidson did previously, I ask that the two proposed amendments in subsection (2) and subsection (3) of amendment No. 12 be separated. I also ask that the proposed amendment in subsection (3) be altered so that it reads, "For the purposes of this section, *communication* does not include silent prayer." The reason for that change and the separation of subsections (2) and (3) is that under proposed section 98D a person who is seen to be silently praying can be put in jail under this provision. I think it is important that the two proposed amendments be separated in that manner.

**The DEPUTY SPEAKER:** I am seeking advice because I do not think we can do that simply by permitting the member for Ku-ring-gai to say what he just said.

**Mr ALISTER HENSKENS:** The advice from the Clerk is that we deal with the two subsections together and then I will move an amendment that they be separated and include a slight alteration to the wording.

**The DEPUTY SPEAKER:** No, I do not think that is right. We will continue with amendment No. 12 as moved by the member for Epping. We will vote on that and the member for Ku-ring-gai can then move a further amendment. The question is that amendment No. 12 on sheet C2018-066B be agreed to.

**Amendment negated.**

**Mr ALISTER HENSKENS (Ku-ring-gai) (00:32):** I move my amendment No. 1:

No. 1      **Silent Prayer**

Page 4, Schedule 1 (proposed section 98D (2)), lines 13 and 14. Omit all words on those lines. Insert instead:

(2)      This section does not apply to:

- (a) an employee or other person who provides services at the reproductive health clinic, or
  - (b) a registered psychologist or qualified counsellor who is offering or providing counselling services, or
  - (c) a person making a communication with the consent of an affected person.
- (3) For the purposes of this section, **communication** does not include silent prayer.

In the debate that took place with regard to proposed amendment No. 12 of the member for Epping, a large number of reasons were given as to why we should oppose the amendment. They differed between the proposed subsection (2) being inserted in section 98D and the proposed subsection (3). Also in respect of proposed subsection (3) it was suggested that prayer may not be silent and may also involve the spoken word, so I propose that the word "silent" be included before the word "prayer" so that it is clear that members are being asked whether they wish to criminalise silent prayer.

**Ms JENNY LEONG (Newtown) (00:33):** I have a lot that I would like to say to the member for Ku-ring-gai and the member for Epping but I will not. Instead I point out to members that this subsection is in proposed section 98D, which contains the words: A person who is in a safe access zone must not make a communication that relates to abortions, by any means ... It is my view, and I believe it is the view of other members who pray more than I do—because although I went to Catholic school for 13 long years I am now an atheist—that when one is silently praying, they are not communicating. They may be communicating with a higher being, but they are not communicating with anybody else. Therefore, there is no need for the amendment that is proposed by the member for Ku-ring-gai. Silent prayer is a form of communication only with a higher being that may or may not be real, depending on your religious beliefs; it is not a form of communication with any other being. Therefore, there is no need for part 3 to be amended or inserted in this bill.

**Mr ALISTER HENSKENS (Ku-ring-gai) (00:34):** I respond to the member for Newtown in this way: The wording of the section is that a person must not make a communication—in this case a communication with God by prayer—that is able to be seen or heard. If a person is silently communicating with God, but it is seen by somebody else, then that is a criminal offence punishable by imprisonment. My amendment seeks to make clear that amendment No. 12 will not criminalise prayer and put those people who are seen praying in a safe access zone in jail.

**The DEPUTY SPEAKER:** The question is that Mr Henskens' amendment No. 1 be agreed to.

**The House divided.**

Ayes .....20  
 Noes .....60  
 Majority.....40

#### AYES

Conolly, Mr K	Coure, Mr M	Crouch, Mr A (teller)
Davies, Mrs T	Dominello, Mr V	Elliott, Mr D
Goward, Ms P	Grant, Mr T	Henskens, Mr A
Kean, Mr M	O'Dea, Mr J	Patterson, Mr C (teller)
Perrottet, Mr D	Petinos, Ms E	Roberts, Mr A
Stokes, Mr R	Taylor, Mr M	Tudehope, Mr D
Upton, Ms G	Williams, Mr R	

#### NOES

Aitchison, Ms J	Anderson, Mr K	Aplin, Mr G
Atalla, Mr E	Ayres, Mr S	Bali, Mr S
Barilaro, Mr J	Barr, Mr C	Berejiklian, Ms G
Bromhead, Mr S	Car, Ms P	Catley, Ms Y
Chanthivong, Mr A	Constance, Mr A	Cooke, Ms S
Crakanthorp, Mr T	Daley, Mr M	Dib, Mr J
Donato, Mr P	Doyle, Ms T (teller)	Evans, Mr A.W.
Evans, Mr L.J.	Finn, Ms J	Foley, Mr L
Fraser, Mr A	Gibbons, Ms M	Greenwich, Mr A
Gulaptis, Mr C	Hancock, Mrs S	Harris, Mr D
Harrison, Ms J	Hazzard, Mr B	Hoenig, Mr R

## NOES

Hornery, Ms S  
Leong, Ms J  
Marshall, Mr A  
Mehan, Mr D  
Park, Mr R  
Piper, Mr G  
Smith, Ms T.F.  
Warren, Mr G  
Williams, Mrs L

Humphries, Mr K  
Lynch, Mr P  
McDermott, Dr H  
Mihailuk, Ms T  
Parker, Mr J  
Provest, Mr G  
Tesch, Ms L  
Washington, Ms K  
Wilson, Ms F

Kamper, Mr S  
Maguire, Mr D  
McKay, Ms J  
Notley-Smith, Mr B  
Pavey, Mrs M  
Scully, Mr P  
Toole, Mr P  
Watson, Ms A (teller)  
Zangari, Mr G

**Amendment negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (00:39):** I move my amendment No. 17 on sheet C2018-066B:

**No. 17 Exemptions**

Page 5, Schedule 1 (proposed section 98F (1)), line 25. Insert at the end of the line:

, or

- (d) the provision of pregnancy support services, or the advertising of those services, within a safe access zone.

This is an amendment by way of an addition of exempt premises in proposed section 98F. Members may recall that certain exempt premises are identified for the purposes of being exempt in relation to this part. They include a church or other building, which is reasonably expansively defined; conduct occurring in the forecourt, footpath or road outside Parliament House, which is a regular occurrence; and the carrying out of any survey or opinion poll by or within the authority of a candidate for the distribution of a handbill or leaflet or with the authority of a candidate during a Commonwealth, State or local government election.

I had sought to add to that provision premises which provide pregnancy support services, or advertise those services, within a safe access zone. I put that submission primarily to address the circumstances which exist in Surry Hills where a pregnancy support service exists opposite an abortion clinic. In those circumstances, under the provision of this section, that pregnancy support service would potentially not be exempt and the mere advertising of services could well cause distress and anxiety and be a communication for the purposes of section 98D. In the circumstances, I submit that the inclusion of the additional exemption should be supported by this House.

**Mrs LESLIE WILLIAMS (Port Macquarie) (00:41):** The co-sponsors will not be supporting this amendment. I encourage all members who agree with the intent of this bill to join me in voting against this amendment. The amendment seeks to create an exemption for the provision of pregnancy support services, or the advertising thereof. It is unclear how widely "pregnancy support services" could be construed, particularly given that no definition is provided in the amendment. The purpose of the bill is to protect persons accessing reproductive health clinics from unwanted interference into personal and private medical decisions.

Pregnancy support services are already appropriately catered for under the bill. As has already been addressed in this debate, bona fide support services will generally fall outside the operation of the bill. However, if the conduct expands whereby interference with persons accessing, leaving or attempting to access or leave reproductive health clinics is occasioned then such conduct shall be captured by the bill. I urge all members to vote against this amendment.

**The DEPUTY SPEAKER:** The question is that amendment No. 17 on sheet C2018-066 be agreed to:

**The House divided.**

Ayes .....21  
Noes .....58  
Majority.....37

**AYES**

Anderson, Mr K  
Coure, Mr M  
Dominello, Mr V  
Goward, Ms P

Aplin, Mr G  
Crouch, Mr A (teller)  
Elliott, Mr D  
Grant, Mr T

Conolly, Mr K  
Davies, Mrs T  
Fraser, Mr A  
Henskens, Mr A

## AYES

Patterson, Mr C (teller)  
 Roberts, Mr A  
 Tudehope, Mr D

Perrottet, Mr D  
 Stokes, Mr R  
 Ward, Mr G

Petinos, Ms E  
 Taylor, Mr M  
 Williams, Mr R

## NOES

Aitchison, Ms J  
 Bali, Mr S  
 Berejiklian, Ms G  
 Catley, Ms Y  
 Cooke, Ms S  
 Dib, Mr J  
 Evans, Mr A.W.  
 Foley, Mr L  
 Gulaptis, Mr C  
 Harrison, Ms J  
 Hornery, Ms S  
 Kean, Mr M  
 Maguire, Mr D  
 McKay, Ms J  
 O'Dea, Mr J  
 Pavey, Mrs M  
 Scully, Mr P  
 Toole, Mr P  
 Watson, Ms A (teller)  
 Zangari, Mr G

Atalla, Mr E  
 Barilaro, Mr J  
 Bromhead, Mr S  
 Chanthivong, Mr A  
 Crakanthorp, Mr T  
 Donato, Mr P  
 Evans, Mr L.J.  
 Gibbons, Ms M  
 Hancock, Mrs S  
 Hazzard, Mr B  
 Humphries, Mr K  
 Leong, Ms J  
 Marshall, Mr A  
 Mehan, Mr D  
 Park, Mr R  
 Piper, Mr G  
 Smith, Ms T.F.  
 Warren, Mr G  
 Williams, Mrs L

Ayres, Mr S  
 Barr, Mr C  
 Car, Ms P  
 Constance, Mr A  
 Daley, Mr M  
 Doyle, Ms T (teller)  
 Finn, Ms J  
 Greenwich, Mr A  
 Harris, Mr D  
 Hoenig, Mr R  
 Kamper, Mr S  
 Lynch, Mr P  
 McDermott, Dr H  
 Mihailuk, Ms T  
 Parker, Mr J  
 Provest, Mr G  
 Tesch, Ms L  
 Washington, Ms K  
 Wilson, Ms F

**Amendment negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (00:45):** I move my amendment No. 18 on sheet C2018-066B:

No. 18

Page 5, Schedule 1. Insert after line 29:

**98G**

**Defence**

It is a defence to a prosecution for an offence under this Part if the person charged establishes that the person did not know, and could not have reasonably known, that the person was in a safe access zone at the time of the alleged offence.

Amendment No. 18 provides:

...a defence to a prosecution for an offence under this Part if the person charged establishes that the person did not know, and could not have reasonably known, that the person was in a safe access zone at the time of the alleged offence.

I will be astonished if this amendment is not supported. To not provide for a defence in circumstances—

**The DEPUTY SPEAKER:** Order! It has been a long day. The member will be heard in silence.

**Mr DAMIEN TUDEHOPE:** It would strike me as astonishing if the lawyers did not accept that there would be a defence of not having knowledge of or reasonably knowing that the defendant was in a safe access zone when they inadvertently said something that falls under proposed section 98D. To not be able to provide a defence that the defendant did not even know that they were in a safe access zone strikes me as astonishing. In fact, overseas where there are similar laws, the owners of clinics in which abortion services are provided are required to make markings on the street identifying for people when they enter into a zone so that there can be no doubt. I should not have to say more to seek support for this amendment. I urge members to support the amendment.

**Mrs LESLIE WILLIAMS (Port Macquarie) (00:47):** The co-sponsors of the bill will not support the amendment and I encourage all members to join me in voting against it. In respect of the proposed section 98G, it is not appropriate that a defence of ignorance to the existence of a safe access zone exist. It is a reasonable expectation that if a person wishes to conduct themselves in such a way that would be caught by the operation of the bill, then they should inform themselves of the existence and application of the law. Specifying 150-metre

zones around reproductive health clinics and entrances is not something that is unable to be understood or calculated owing to some abstraction or ambiguity.

It is well known that for personal and domestic violence orders, exclusion areas are made around the residences and places of work of the person in need of protection. Similarly, in respect of legislation protecting, for instance, whales, there is a distance, although it is reasonable to anticipate that the whale will move up and down the coast, hence the zone moves with the whale. In neither personal violence legislation nor legislation dealing with whales does a defence such as this exist. It is clear that when people congregate near reproductive health clinics for the purposes of providing so-called "sidewalk counselling" they are engaging in very deliberate conduct, whether it is for a good motive or not. They do not do it inadvertently or by mistake. In other areas of the city, they do not suddenly produce plastic fetuses or posters or start handing out pamphlets. They do it in the vicinity of reproductive health clinics for very clear and deliberate reasons. In any event, a defence at common law exists in *Proudman v Dayman*.

**Mr ROB STOKES (Pittwater—Minister for Education) (00:50):** I support this amendment on the basis that it appears to be a reasonable defence in the example of someone who unwittingly might come into a safe access zone without knowing it and perhaps hinder or obstruct someone without knowledge. Does the *Proudman v Dayman* defence that was noted apply, given that this appears to be an absolute liability offence? I seek clarification.

**Mr Stephen Bromhead:** It is not an absolute liability offence.

**Mr ROB STOKES:** Okay. I am just asking for clarification.

**Mr KEVIN CONOLLY (Riverstone) (00:51):** In light of the low bar that is set by proposed section 98D in particular, where any form of communication about abortion could potentially cause distress, one does not need to have been deliberately going to a site to have an incidental conversation if a person is not aware of where they are. I suggest that the members of this House are far more aware and alert to the law than are most people in this State; yet I have been here seven years and did not know that there were two clinics in Macquarie Street. I could easily have been walking down the street with another member, talking about a subject that may give another person cause for anxiety. That is a very low bar. It needs the defence that somebody could not reasonably have known that they were committing that offence if they did not intend to.

**Ms JENNY LEONG (Newtown) (00:52):** I ask for clarity on whether amendment No. 18 on sheet C2018-066B includes proposed sections 98G and 98H, or just proposed section 98G. On my copy of the amendments, No. 18 includes both, but the member for Epping interrupted the member for Port Macquarie, saying that it did not include that part.

**Mr DAMIEN TUDEHOPE (Epping) (00:52):** No, I apologise to the member for Newtown. I meant to address proposed section 98H as well. The Clerk suggested I do them together.

**The DEPUTY SPEAKER:** Order! Amendment No. 18 includes proposed sections 98G and 98H, which will be dealt with as one.

**Mr DAMIEN TUDEHOPE (Epping) (00:53):** I will deal with them together. Proposed section 98H includes a provision that before a prosecution under this part is commenced, the approval of the Director of Public Prosecutions [DPP] is obtained. The safeguard contained here is to prevent circumstances where the subject matter of the complaint is such that the Director of Public Prosecutions, reasonably instructed, forms the view that the matter should not proceed further.

In introducing legislation relating to incitement to violence in racial and sexual identity matters the Government insisted that the consent of the DPP be obtained before those proceedings were commenced. My submission is that, because of the nature of this legislation, it is not unreasonable to request that the consent of the DPP be obtained before a prosecution is commenced to ensure that the subject matter of the prosecution is serious enough for the purpose of proceeding with the prosecution and that the evidence is sufficient to be able to establish that the offence has been made out so that persons are not the subject of frivolous or vexatious litigation because they are in a safe access zone.

I make one further observation in relation to the offence. The member for Port Macquarie spoke about the amendment relating to the reduction of the safety zone to 50 metres from 150 metres and made the observation, which I thought had some merit, that persons could not know whether they were 51 metres or 49 metres away from the clinic. In those circumstances she thought that people could be confused by the measurement of 50 metres. I get that. In the circumstances of this defence, the person who is 151 metres away and says something is potentially not guilty of an offence but the person who is 149 metres away is guilty of an offence, even though

they may not have known that they were within the 150-metre zone. I suggest that both amendments are entirely reasonable and I urge members' support.

**Mrs LESLIE WILLIAMS (Port Macquarie) (00:56):** In respect of the proposed section 97H it is not appropriate that the approval of the Director of Public Prosecutions [DPP] be sought before prosecutions are commenced. Approval of the DPP is not required for police to prosecute offences against other Acts that are similar in nature and have similar penalties to those contained in the bill. The requirement of DPP approval seeks to set up an administrative hurdle to the commencement of prosecutions by police, making it more difficult for offenders to be prosecuted, and does nothing else in the way of enhancing the administration of justice.

The approval of the DPP is not required by the police before commencing a prosecution against a person who has been excluded from a hotel and who then re-enters the exclusion zone of 25 metres from the licenced premises. The approval of the DPP is not required when a person breaches a personal violence order. The approval of the DPP is not required when someone breaches a provision of the Surveillance Devices Act. The approval of the DPP is not required for the vast majority of offences that exist in the Crimes Act, such as assault and the like.

With the passing of this law, young, vulnerable women who are attending clinics will be entitled to expect police to protect them from interference, harassment and breaches of their dignity and privacy. That should happen if the capacity of police to undertake their duties is not hobbled, which this amendment is clearly designed to do. In addition, Victoria, Tasmania, the Northern Territory and the Australian Capital Territory do not require DPP approval in similar circumstances. I urge all members to vote against this amendment.

**Mr RON HOENIG (Heffron) (00:58):** I do not wish to be disrespectful to the member for Epping but it is an extraordinary attempt to circumvent the provisions of the Act. The member for Epping would know, as would a number of members who support this amendment, that costs are a sufficient deterrent for vexatious prosecutions. There is no need to make an additional hurdle. The amendment has absolutely no substance.

**The DEPUTY SPEAKER:** Order! I will wait until there is silence.

**Mr ALISTER HENSKENS (Ku-ring-gai) (00:50):** By leave: I move:

That Mr Tudehope's amendment No. 18 is amended to separate proposed section 98G from proposed section 98H.

This amendment would mean that the member for Heffron's contribution can be considered in relation to separating proposed section 98H from proposed section 98G. In opposing the proposed defence in proposed section 98G, the member for Lake Macquarie said that a person is exempt if they did not know and could not have reasonably known that a person was in a safe access zone. In speaking against the proposal that people who do not know and could not have reasonably known that a person was in a safe access zone, the member for Lake Macquarie used the example of exclusion zones around whales. I say to members that there is a big difference between a whale, which is obviously easy to see, and the existence of abortion clinics in this State.

Until this bill was presented to the House, I had no idea of the location of one abortion clinic, let alone the 19 abortion clinics that exist in this State. Indeed, this morning I said that there are two abortion clinics in Macquarie Street when in fact there are three. I ask every member to think about whether they would be able to name the 19 abortion clinics in New South Wales. If they cannot then it should be a defence, and people should not be sent to jail if they do not know the location of abortion clinics that could criminalise their conduct.

**Ms JENNY AITCHISON (Maitland) (01:03):** At one o'clock in the morning I would love to talk about whales, but if this debate has come down to examples of where a person should not be prosecuted for breaching an exclusion zone then we should look at a clear example. We know that apprehended domestic violence orders contain exclusion zones that cannot be breached by the person against whom the order has been granted. That person does not necessarily know where the person they cannot approach is at every moment of the day. However, they do know that if they breach the exclusion zone they are liable for prosecution. This means that cascading actions would have to be taken to secure a conviction in circumstances outlined by the member for Ku-ring-gai, because the member suggests that a person could accidentally find a person attending an abortion clinic and start praying, even if doing so silently. This is ridiculous, so I suggest we discount this argument and vote against the member for Ku-ring-gai's amendment.

**Mr TROY GRANT (Dubbo—Minister for Police, and Minister for Emergency Services) (01:04):** I support this amendment. I challenge the assertion of the member for Maitland that apprehended violence orders are comparable to the example given by the mover of this amendment. The address for an exclusion zone is identified in an apprehended violence order. This amendment gives no such locality, address or identification of any such premises within that 150-metre zone. I find it astonishing that citizens of New South Wales who, for the reasons given by the mover and other speakers, may inadvertently or unknowingly enter a zone that is not identified by way of address, GPS, signage or other means have no access to a defence. This is New South Wales, not North Korea.

**Mr ANDREW FRASER (Coffs Harbour) (01:06):** My understanding of the legislation is that if someone wished to hold an anti-abortion demonstration outside Parliament House they would be allowed to do so. Tonight I have learnt that there are three abortion clinics in Macquarie Street. If they are within 150 metres of Parliament House then anyone holding a legitimate anti-abortion demonstration outside Parliament House would be in breach. Therefore, this amendment should be agreed to. I also give the example of someone staying in bed and breakfast accommodation within 150 metres of an abortion clinic in Albury who has pro-life signage on their car. That person could be convicted. I suggest that members should think very carefully about this.

I said in my second reading contribution that I support the intent of the legislation but tonight this legislation has been shown to be flawed. I suspect, as a consequence of what has been passed tonight, that people and this legislation will end up before the courts. I have not voted for every one of the amendments moved by the member for Epping, but some amendments have not been agreed to on the basis of philosophy. We are not discussing philosophy tonight; we are discussing law. I urge members to support this amendment.

**Mr STEPHEN BROMHEAD (Myall Lakes) (01:09):** The proposed amendment, and in particular the defence, has to be read in context with proposed sections 98C and 98D, which relate to the conduct that affects the person. It is not about a demonstration out the front of Parliament House, and there may be an abortion clinic within 150 metres. It is not affecting the persons who are at the abortion clinic or going to the abortion clinic. There is always the common law defence and in this particular case it is the conduct of the person. Why would a person be engaged in certain conduct within 150 metres of an abortion clinic? People do not go down the street talking about abortions.

**The DEPUTY SPEAKER:** Order! The member for Maroubra will resume his seat.

**Mr STEPHEN BROMHEAD:** In the circumstances of the bill and proposed section 98C and proposed section 98D the defence does not apply. It is not about where they are, it is about the conduct towards an affected person. That is why we should not support the amendment and support the bill.

**Mr BRAD HAZZARD (Wakehurst—Minister for Health, and Minister for Medical Research) (01:10):** I support the Opposition on this amendment, but I point out to the member for Coffs Harbour—because I know he is putting these matters with appropriate weight—that under proposed section 98F the exemption already exists for Parliament House. Proposed section 98F (1) (b) states:

(1) This Part does not apply so as to prohibit:

...

(b) conduct occurring in the forecourt of, or on the footpath or road outside, Parliament House in Macquarie Street, Sydney ...

We should vote on the amendment.

**Mr ANDREW FRASER (Coffs Harbour) (01:11):** Further to the amendment, I ask members to have another look at proposed section 98D, which says:

(1) A person who is in a safe access zone must not make a communication that relates to abortions, by any means in any manner:

...

(b) that is reasonably likely to cause distress or anxiety to any such person.

While I hear what the Minister for Health has said, the reality is if there is one across the road and there is an anti-abortion demonstration out the front of Parliament House, surely that will cause someone distress. Therefore, as I said before—

**Ms Jenny Aitchison:** No.

**Mr ANDREW FRASER:** Yes. The member for Maitland can shake her head, but there is a poorly worded clause in the bill that says, "reasonably likely to cause distress". There could be a demonstration in front of Parliament House and someone could be convicted. I repeat what I said before: this is about the interpretation by the courts of the law made by us and I believe that this House needs to look at it in a manner that refers to legality and not to philosophy.

**Ms JENNY AITCHISON (Maitland) (01:12):** I respectfully say to the member for Coffs Harbour that the Minister for Health has addressed this issue. Proposed section 98F says:

Exemptions from application of Part

(1) This Part does not apply so as to prohibit:

...

(b) conduct occurring in the forecourt of, or on the footpath or road outside, Parliament House in Macquarie Street, Sydney ...



It is addressed.

**Mr AUSTIN EVANS (Murray) (01:13):** I have agreed to opposing every amendment that has been moved to date, and I hear what the health Minister says about the exemption existing for Parliament House, but proposed section 98D (1) (a) refers to "a manner that is able to be seen". The example given by the member for Coffs Harbour of someone wearing a pro-life T-shirt or someone who has a pro-life sticker on his or her car, or something like that, passing through a safe access zone—not necessarily the one out the front of Parliament House, but any zone that exists—of which he or she is not aware, to me is a legitimate defence. If someone does not know the zone is there, are we now saying that he or she cannot wear a pro-life T-shirt anywhere in the State because there could be an exclusion zone? If a person does not know that there is an exclusion zone it is a reasonable defence.

**The DEPUTY SPEAKER:** The mover of the amendment wants to separate proposed section 98G and proposed section 98H. The question is that amendment No. 18, proposed section 98G, on sheet C2018-066B, be agreed to.

**The House divided.**

Ayes .....29  
Noes .....51  
Majority.....22

**AYES**

Anderson, Mr K  
Barilaro, Mr J  
Crouch, Mr A (teller)  
Donato, Mr P  
Fraser, Mr A  
Gulaptis, Mr C  
Maguire, Mr D  
Perrottet, Mr D  
Stokes, Mr R  
Upton, Ms G

Aplin, Mr G  
Conolly, Mr K  
Davies, Mrs T  
Elliott, Mr D  
Goward, Ms P  
Henskens, Mr A  
O'Dea, Mr J  
Petinos, Ms E  
Taylor, Mr M  
Williams, Mr R

Ayres, Mr S  
Coure, Mr M  
Dominello, Mr V  
Evans, Mr A.W.  
Grant, Mr T  
Kean, Mr M  
Patterson, Mr C (teller)  
Roberts, Mr A  
Tudehope, Mr D

**NOES**

Aitchison, Ms J  
Barr, Mr C  
Car, Ms P  
Constance, Mr A  
Daley, Mr M  
Evans, Mr L.J.  
Gibbons, Ms M  
Harris, Mr D  
Hoenig, Mr R  
Kamper, Mr S  
Marshall, Mr A  
Mehan, Mr D  
Park, Mr R  
Piper, Mr G  
Smith, Ms T.F.  
Warren, Mr G  
Williams, Mrs L

Atalla, Mr E  
Berejiklian, Ms G  
Catley, Ms Y  
Cooke, Ms S  
Dib, Mr J  
Finn, Ms J  
Greenwich, Mr A  
Harrison, Ms J  
Hornery, Ms S  
Leong, Ms J  
McDermott, Dr H  
Mihailuk, Ms T  
Parker, Mr J  
Provest, Mr G  
Tesch, Ms L  
Washington, Ms K  
Wilson, Ms F

Bali, Mr S  
Bromhead, Mr S  
Chanthivong, Mr A  
Crakanthorp, Mr T  
Doyle, Ms T (teller)  
Foley, Mr L  
Hancock, Mrs S  
Hazzard, Mr B  
Humphries, Mr K  
Lynch, Mr P  
McKay, Ms J  
Notley-Smith, Mr B  
Pavey, Mrs M  
Scully, Mr P  
Toole, Mr P  
Watson, Ms A (teller)  
Zangari, Mr G

**Amendment negatived.**

**Mr DAMIEN TUDEHOPE (Epping) (01:07):** I move my amendment No. 19 on sheet C2018-066B:

CHECK

**No 19 Offences**

Page 5, Schedule 1. Insert after line 29:

**98H Proceedings for Offences**

Proceedings for an offence under this Part must not be commenced without the approval of the Director of Public Prosecutions.

**The DEPUTY SPEAKER:** The question is that amendment No. 19, proposed section 98H, on sheet C2018-066B, be agreed to.

**Amendment negatived.**

**The DEPUTY SPEAKER:** The question is that schedule 1 be agreed to.

**Schedule 1 agreed to.**

**Third Reading**

**Mrs LESLIE WILLIAMS (Port Macquarie) (01:19):** I move:

That this bill be now read a third time.

**The House divided.**

Ayes .....62

Noes .....18

Majority.....44

**AYES**

Aitchison, Ms J  
Atalla, Mr E  
Barr, Mr C  
Car, Ms P  
Constance, Mr A  
Daley, Mr M  
Donato, Mr P  
Evans, Mr L.J.  
Fraser, Mr A  
Gulaptis, Mr C  
Harrison, Ms J  
Hornery, Ms S  
Kean, Mr M  
Maguire, Mr D  
McKay, Ms J  
Notley-Smith, Mr B  
Patterson, Mr C  
Provest, Mr G  
Tesch, Ms L  
Washington, Ms K  
Wilson, Ms F

Anderson, Mr K  
Bali, Mr S  
Berejiklian, Ms G  
Catley, Ms Y  
Cooke, Ms S  
Dib, Mr J  
Doyle, Ms T (teller)  
Finn, Ms J  
Gibbons, Ms M  
Hancock, Mrs S  
Hazzard, Mr B  
Humphries, Mr K  
Leong, Ms J  
Marshall, Mr A  
Mehan, Mr D  
Park, Mr R  
Pavey, Mrs M  
Scully, Mr P  
Toole, Mr P  
Watson, Ms A (teller)  
Zangari, Mr G

Aplin, Mr G  
Barilaro, Mr J  
Bromhead, Mr S  
Chanthivong, Mr A  
Crakanthorp, Mr T  
Dominello, Mr V  
Evans, Mr A.W.  
Foley, Mr L  
Greenwich, Mr A  
Harris, Mr D  
Hoenig, Mr R  
Kamper, Mr S  
Lynch, Mr P  
McDermott, Dr H  
Mihailuk, Ms T  
Parker, Mr J  
Piper, Mr G  
Smith, Ms T.F.  
Warren, Mr G  
Williams, Mrs L

**NOES**

Ayres, Mr S  
Crouch, Mr A (teller)  
Goward, Ms P  
O'Dea, Mr J  
Roberts, Mr A (teller)  
Tudehope, Mr D

Conolly, Mr K  
Davies, Mrs T  
Grant, Mr T  
Perrottet, Mr D  
Stokes, Mr R  
Upton, Ms G

Coure, Mr M  
Elliott, Mr D  
Henskens, Mr A  
Petinos, Ms E  
Taylor, Mr M  
Williams, Mr R

**Motion agreed to.**

**The House adjourned, pursuant to standing and sessional orders, at 13:26 until  
Tuesday 19 June 2018 at 12:00.**