New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Sixth Parliament
First Session

Thursday, 24 May 2018

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LEGISLATIVE COUNCIL

Thursday, 24 May 2018

The PRESIDENT (The Hon. John George Ajaka) took the chair at 10:00.

The PRESIDENT read the prayers.

Announcements

PUBLIC GALLERY CONDUCT

The PRESIDENT: Before we begin, I wish to say a few words to the many visitors in the public galleries who have come to watch proceedings today. I welcome them to the Legislative Council on behalf of all members. For those who have never visited before, I need to explain that just as we have rules that apply to members in this House, we also have rules for visitors who watch debates. Whatever one thinks about what is said, visitors need to watch debates quietly. Absolutely no applause, cheering or any other gestures will be permitted. Visitors are not to attempt to talk with members in the Chamber. If visitors have to say something to other visitors, please say it quietly as no audible conversations are to take place. No photography or filming is permitted, apart from media photographers authorised to do so. Please follow any instructions by officers of the Parliament. Again, I welcome you all.

Motions

PERINATAL DEPRESSION AWARENESS

The Hon. COURTNEY HOUSSOS (10:03): I move:

(1) That this House notes that:

(a) post and antenatal depression and anxiety affects more than 100,000 expecting and new parents each year in Australia;

(b) up to one in 10 expecting mums and one in 20 expecting dads struggle with antenatal depression;

(c) more than one in seven new mums and one in 10 new dads are diagnosed with postnatal depression each year; and

(d) even more are thought to suffer from anxiety.

(2) That this House acknowledges Perinatal Anxiety and Depression Australia [PANDA] a not-for-profit organisation which has been supporting families struggling with perinatal anxiety and depression for almost 30 years by:

(a) raising awareness of perinatal anxiety and depression;

(b) reducing stigma; and

(c) encouraging early intervention to minimise the impact of these illnesses on individuals, partners, families, friends and workplaces.

(3) That this House congratulates Terri Smith, CEO of PANDA, and her team on providing vital practical and emotional support to thousands of expecting and new parents across Australia.

Motion agreed to.

UNIVERSITY OF NEW SOUTH WALES INEQUALITY CHALLENGE

The Hon. COURTNEY HOUSSOS (10:03): I move:

(1) That this House notes that:

(a) flexible working arrangements benefit workers over the course of their careers;

(b) flexibility in the workplace is a key driver of gender equality;

(c) existing models and ideas of job sharing can be reimagined to fully realise this goal of equality; and

(d) on Thursday 17 May 2018, the University of New South Wales Grand Challenge on Inequality held a presentation entitled "Reimagining job-sharing: towards gender equality at work", featuring Professor Rosalind Dixon and Elizabeth Broderick, AO.

(2) That this House congratulates:

(a) the University of New South Wales on the Grand Challenge of Inequality, an innovative program promoting discussions for both the public and private sectors;

(b) Professor Rosalind Dixon and Professor Richard Holden for their leadership of the Grand Challenge on Inequality;

(c) Elizabeth Broderick, AO, former Sex Discrimination Commissioner for her informative contribution; and

(d) Professor Eileen Baldry, Deputy-Vice Chancellor for Equality and Diversity.

Motion agreed to.

UNIVERSITY OF NEW SOUTH WALES ARTS AND SOCIAL SCIENCES EXHIBITION

The Hon. COURTNEY HOUSSOS (10:04): I move:

(1) That this House notes that the University of New South Wales [UNSW] Sydney Arts and Social Sciences Facing Equality photography exhibition:

(a) is a portrait series which forms part of the UNSW Grand Challenge on Inequality; and

(b) seeks to encourage students to imagine new and different possibilities for themselves.

(2) The UNSW Sydney Arts and Social Sciences Facing Equality participants included:

(a) Mr Jihad Dib, MP, shadow Minister for Education;

(b) the Hon. Courtney Houssos, MLC;

(c) Mr Graeme Innes, AM;

(d) Ms Dagmar Schmidmaier, AM;

(e) Ms Sarah Agboola;

(f) Ms Caitlin Barrett;

(g) Ms April Long;

(h) Ms Nakari Thorpe;

(i) Ms Jennifer Vo-Phuoc;

(j) Mr Dimas Oky Nugroho;

(k) Mr Kumar Jha;

(l) Ms B. J. Newton;

(m) Mr Denton Callander;

(n) Ms Zahra Stardust;

(o) Mr Bernard Cheng;

(p) Mr Jamie Moreno;

(q) Mr Li Zhou;

(r) Ms Zlatka Hammer;

(s) Ms Mary Oyaya; and

(t) Mr Sam Alderton-Johnson.

(3) That this House congratulates:

(a) Professor Rosalind Dixon and Professor Richard Holden on their leadership of the UNSW Grand Challenge on Inequality;

(b) Professor Eileen Baldry, UNSW First Deputy Vice-Chancellor Inclusion and Diversity; Professor Susan Dodd, Dean of Arts and Social Sciences; Ms Diane Macdonald, Ms Melinda Holcombe and Mr Andrew Hall on their work on the Facing Equality photography exhibition; and

(c) Mr Bill Manos on his generous philanthropic support of this initiative.

Motion agreed to.

SAY NO TO BULLYING POSTER COMPETITION

The Hon. BEN FRANKLIN (10:05): I move:

(1) That this House notes that:

(a) Trinity Sheridan from Alstonville Public School won the 2018 National Interrelates "Say No to Bullying" poster competition;

(b) the competition aims to empower children to say no to bullying and encourage children to believe in their own individuality and identity without fear of being bullied;

(c) the theme for this year's competition was "bullieve in yourself" focusing on self-belief;

(d) 45,000 primary school children entered the competition, with 33 finalists being recognised at an award ceremony at Government House in Sydney; and

(e) Trinity's winning poster was a powerful depiction of what it means to be bullied and how important it is to believe in yourself.

(2) That this House congratulates:

(a) Trinity for creating a powerful poster against bullying and for winning this year's competition; and

(b) Ajandri Kelly, Lexi O'Connor and Emma Flanagan from Lennox Head Public School for winning Highly Commended awards for their posters.

(3) That this House recognises the importance of starting the conversation early and standing up against bullying, particularly in our schools.

Motion agreed to.

LACHLAN SHIRE CLOSED CIRCUIT TELEVISION

The Hon. DANIEL MOOKHEY (10:05): I seek leave to amend Private Members' Business item No. 2256 outside the Order of Precedence for today of which I have given notice by omitting paragraph (2) and inserting instead:

(2) That this House requests that the Attorney General assists Lachlan shire by providing information regarding any applicable New South Wales funding programs.

Leave granted.

Accordingly, I move:

(1) That this House notes that:

(a) Foster Street, Lake Cargelligo had the second highest incidence of crime of any street in the Lake Cargelligo Sector in 2015;

(b) Lachlan Shire's grant application for the installation of closed circuit television cameras in Foster Street, has twice been denied funding under the Australian Government's Safer Streets Program; and

(c) seven local organisations have provided written letters of support for the funding application, including the New South Wales Police Force, Lachlan Local Area Command.

(2) That this House requests that the Attorney General assists Lachlan shire by providing information regarding any applicable New South Wales funding programs.

Motion agreed to.

TZU CHI FOUNDATION

The Hon. ERNEST WONG (10:06): I move:

(1) That this House congratulates the Tzu Chi Foundation for its successful threefold celebration in Eastwood on 13 May 2018 with the Buddha's Day Blessing, Mother's Day Parents-Honouring Ceremony and the Global Tzu Chi Day.

(2) That this House notes that:

(a) the Buddhist Compassion Relief Tzu Chi Foundation, Republic of China known as Tzu Chi Foundation is a Taiwanese international humanitarian and non-government organisation with over 10 million members worldwide throughout 47 countries;

(b) the foundation is operated by a worldwide network of volunteers and employees and has been awarded a special consultative status at the United Nations Economic and Social Council;

(c) the foundation is the largest Buddhist organisation in Taiwan;

(d) the foundation established its branch in Sydney in 1996, and has since expanded to Melbourne, Brisbane, the Gold Coast and Perth; and

(e) the foundation is not only a fundraising charity organisation but a hands-on volunteering institute assisting victims of all kinds of disasters around the world from earthquakes to floods, cyclones to tsunamis and provides some aspects of free medical and dental services, education, and environmental protection.

(3) That this House acknowledges that Tzu Chi Australia provided volunteers to assist victims of the devastating Tathra bushfire in March 2018, and on 22 April 2018 at Tathra Surf Club, Tzu Chi Australia held an aid distribution program for all affected residents.

Motion agreed to.

CHILD SEXUAL ABUSE REDRESS SCHEME

Mr DAVID SHOEBRIDGE (10:07): I seek leave to amend Private Members' Business item No. 2260 outside the Order of Precedence for today of which I have given notice, by omitting paragraphs (2) and (3) and inserting instead:

(2) That this House recognises the devastation caused by abuse and accepts that victims were let down and betrayed by institutions that should have kept them safe.

(3) That this House urges other States, Territories and non-government institutions to stand up and commit to joining the National Redress Scheme to ensure victims of child abuse have the recognition they deserve and an opportunity to heal.

Leave granted.

Accordingly, I move:

(1) That this House notes that:

(a) on 22 May 2018, Archbishop Philip Wilson was found guilty of concealing child sexual abuse;

(b) Magistrate Stone delivered the verdict, saying Wilson knew he was hearing credible allegations, and failed to inform the police because he wanted to protect the church and its reputation; and

(c) the Australian Catholic Bishops Conference issued a statement in response to the guilty verdict as follows:

"Archbishop Philip Wilson has today been found guilty of failing to inform police about allegations of child sexual abuse. Archbishop Wilson maintained his innocence throughout this long judicial process. It is not yet clear if he will appeal the verdict.

The Catholic Church, like other institutions, has learned a great deal about the tragedy of child sexual abuse and has implemented stronger programs, policies and procedures to protect children and vulnerable adults. The safety of children and vulnerable adults is paramount for the Church and its ministries."

(2) That this House recognises the devastation caused by abuse and accepts that victims were let down and betrayed by institutions that should have kept them safe.

(3) That this House urges other States, Territories and non-government institutions to stand up and commit to joining the National Redress Scheme to ensure victims of child abuse have the recognition they deserve and an opportunity to heal.

Motion agreed to.

SIXTIETH ANNUAL GOOD DESIGN AWARDS

The Hon. BEN FRANKLIN (10:08): I move:

(1) That this House notes that:

(a) the sixtieth annual Good Design Awards were held on 17 May 2018 at the Sydney Opera House;

(b) the awards are the highest honour for design innovation in Australia;

(c) the Byron Bay Railroad Company was recognised with two awards, the Good Design Award Gold Winner in the Product Design category and the Good Design Award Winner in the Engineering category for their Byron Bay solar train;

(d) the Byron Bay Railroad Company was recognised with these awards for restoring and converting a 68-year-old diesel train to become the world's first solar train; and

(e) this not-for-profit train runs a number of services each day between North Beach Station and Byron Beach Station.

(2) That this House congratulates the Byron Bay Railroad Company on being recognised with these awards and for being leaders in the design industry.

Motion agreed to.

DOMESTIC VIOLENCE AWARENESS CAMPAIGN

The Hon. BEN FRANKLIN (10:09): I move:

(1) That this House notes that:

(a) the Ballina Domestic Violence Liaison Committee launched the "Domestic Violence is Foul Play" awareness campaign on Wednesday 16 May 2018;

(b) the campaign encourages local sporting clubs to work together to improve the safety of women and children in their clubs and to be leaders in the community by promoting and demonstrating healthy relationships;

(c) 33 people from 12 local sports clubs attended the launch and heard from guest speakers including local police, victim support services, perpetrator behaviour change services, a lived experience survivor and the campaign ambassador former Manly Sea Eagles Captain Jamie Lyon;

(d) by signing up to this campaign, sport clubs will adopt a code of practice, a code of conduct, have access to training on effective intervention in domestic violence and promote their stand against domestic violence to the wider community; and

(e) the campaign was first established in the Clarence region by the Clarence Valley Domestic and Family Violence Committee with its success demonstrated in the campaign being expanded to Ballina.

(2) That this House congratulates:

(a) the local community groups who have brought this program to life:

(i) Ballina's Hope Haven Women's Refuge;

(ii) the Family Centre Ballina;

(iii) FSG Ballina; and

(iv) Northern Rivers Community Gateway.

(b) the sports clubs which have signed up to this program and have committed to be leaders in the community and stand up against domestic violence.

(3) That this House encourages more sports clubs to sign on to this program to stand against domestic violence and encourage more communities around the State to adopt programs like "Domestic Violence is Foul Play".

(4) That this House recognises the importance of programs like "Domestic Violence is Foul Play" in demonstrating that domestic violence is never acceptable.

Motion agreed to.

Documents

SYDNEY STADIUMS

Tabling of Report of Independent Legal Arbiter

The Hon. ADAM SEARLE (10:09): I move:

(1) That the report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, dated 22 May 2018, on the disputed claim of privilege on documents relating to the order for papers regarding Sydney stadiums, along with all the submissions received by Mr Mason during his evaluation of the documents, be laid on the table by the Clerk.

(2) That, on tabling, the report and submissions are authorised to be published.

Motion agreed to.

Committees

STAYSAFE (JOINT STANDING COMMITTEE ON ROAD SAFETY)

Report: Heavy Vehicle Safety and Use of Technology to Improve Road Safety

The Hon. SCOTT FARLOW: I table report No. 4/56 of the Joint Standing Committee on Road Safety, Staysafe, entitled "Heavy Vehicle Safety and Use of Technology to Improve Road Safety," dated May 2018. I move:

That the report be printed.

Motion agreed to.

The Hon. SCOTT FARLOW (10:10): I move:

That the House take note of the report.

Debate adjourned.

Documents

SYDNEY STADIUMS

Report of Independent Legal Arbiter

The CLERK: I table the report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, on the disputed claim of privilege in relation to Sydney stadiums, together with invited submissions from members and other interested parties in relation to the claim of privilege.

Petitions

PETITION RECEIVED

Human Trafficking

Petition denouncing human trafficking as a form of modern slavery and calling on the Government to support the introduction and passage of the Modern Slavery Bill 2018, received from the **Hon. Paul Green**.

Business of the House

SUSPENSION OF STANDING AND SESSIONAL ORDERS: ORDER OF BUSINESS

The Hon. NATASHA MACLAREN-JONES: I move:

The standing and sessional orders be suspended to allow the moving of a motion forthwith relating to conduct of the business of the House this day.

Motion agreed to.

ORDER OF BUSINESS

The Hon. NATASHA MACLAREN-JONES: I move:

That the order of Private Members' Business for today be as follows:

(1) Private Members' Business item No. 2160 outside the Order of Precedence standing in the name of Reverend the Hon. Fred Nile relating to the Anti-Discrimination Amendment (Religious Freedoms) Bill.

(2) Private Members' Business item No. 2080 outside the Order of Precedence standing in the name of the Hon. Penny Sharpe relating to the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018.

(3) Private Members' Business item No. 2142 outside the Order of Precedence standing in the name of the Hon. Taylor Martin relating to the Central Coast Food Futures Forum.

(4) Private Members' Business item No. 2025 outside the Order of Precedence standing in the name of the Hon. Mark Pearson relating to the live animal export industry.

Motion agreed to.

Bills

ANTI-DISCRIMINATION AMENDMENT (RELIGIOUS FREEDOMS) BILL 2018

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by Reverend the Hon. Fred Nile.

Second Reading Speech

Reverend the Hon. FRED NILE (10:21): I move:

That this bill be now read a second time.

The Anti-Discrimination Amendment (Religious Freedoms) Bill 2018 is arguably one of the most important pieces of legislation that I have introduced into this House under the name of the Christian Democratic Party. In recent years we have seen organisations and people of faith pushed to the margins of the public square. Many often forget that civil liberties are inherently connected to religious freedom, which is perhaps the oldest category of human rights. Therefore, it is not surprising that the customs and rituals that form our civilisation and define our social contract have sprung from the fountainhead of our common Christian tradition.

That tradition constitutes its roots, but a rootless society and civilisation cannot survive for long. Yet core institutions of our civil society, many of which have predated the State, have lately been the subject of debate and redefinition. Overseas experience teaches us that this invariably leads to a situation where the beliefs of people who continue to adhere to the orthodox notions of morality become impossible to express without the threat of discrimination or even persecution. In my submission to the Ruddock review, I provided a list of 38 examples from the United States and Europe that show, beyond a shadow of a doubt, that social engineering in the area of family policy has resulted in threats against the following categories of rights of individuals, especially those who profess a religious faith and those who uphold the Judeo-Christian ethic. These people are disproportionately represented as among those who were targeted. For example, the right to enjoy and dispose of one's private property according to one's conscience; the unfettered freedom to contract in business relationships; the freedom of conscience, association and assembly; the ability to express one's faith in the public square; and the freedom of speech and communication.

We have begun to see similar trends here in Australia, and that is both disappointing and a portent of what may be to come. The bill intends to protect and preserve the integrity of individuals, organisations and churches that form part of the faith-based communities of New South Wales. It intends to protect and preserve their civil and human rights, their ability not only to believe but to profess the doctrines of their faith, and to live according to their moral convictions and ethical world view. The bill intends to shield them from discrimination,

vilification and detrimental treatment, and to allow them to run their institutions, businesses and associations in accordance with the tenets of their faith.

I acknowledge my chief of staff, Edwin Dyga, who was integral in coordinating the drafting of the bill, and who also drafted the recommendations in our submission to the recent Ruddock review. Unsurprisingly, the spirit of some of those recommendations have found their way into my bill. The bill has been prepared after extensive consultation with key stakeholders in the community, including the Anglican and Catholic Archdiocese of Sydney—I am pleased to welcome Anglican Archbishop Glen Davies in the visitors' gallery. The stakeholders also include the Australian Christian Lobby, the NSW Jewish Board of Deputies, Freedom for Faith, Coalition for Marriage, a number of senior legal academics and professionals who provided valuable feedback, and concerned citizens. I also acknowledge my colleague the Hon. Paul Green and his staff for providing support in the consultation process with the churches and other organisations.

The bill makes religious belief and religious activity prohibited grounds of discrimination under part 3B. These terms are defined in new section 38U, and the circumstances of breach are outlined in new section 38V. The bill also introduces another prohibition against detrimental treatment of faith-based entities, which is the focus of part 5A. The "faith-based entity" is a new term which is defined under new section 4. The note to that new section contains a non-exhaustive list of examples of what such an entity might be. The list is intended to be inclusive and expansive. That will ensure that civil liberties connected to religious freedoms are protected for a broad spectrum of belief and activity. For instance, I note subsection (4) (e) is mindful of the case of *Christian Youth Camps Ltd v Cobaw Community Health Services Ltd*, a 2014 decision of the Victorian Supreme Court of Appeal.

The subsection seeks to avoid the narrow legal construction of faith-based entity, so that the body or association of persons claiming to be one does not have to be established for, but may simply be operating in accordance with, a religious ethos, faith-based mission or objective. That will avoid the injustice of genuine and sincere faith-based organisations being excluded from due protection by a restrictive legal interpretation. Hence, the last examples of faith-based entities in the note to new section 4 include venues that provide space for social or educational activities and organisations that promote culture, including voluntary associations. Those are the little platoons that Edmund Burke wrote about, and they remain the cornerstone of our civil society.

Thus, the bill seeks to protect the cultural expression of religious belief so that individuals and their communities can live in accordance with their moral and ethical world view. That is also consistent with the provision of Article 18 of the International Covenant on Civil and Political Rights [ICCPR], which was ratified and assented to by Australia in 1980. By way of contrast, I note that some jurisdictions take a more restrictive approach to what religious activity means, such as Title VII of the US Civil Rights Act of 1964, in which section 2000e(j) holds that the term is essentially limited only to worship.

However, the wording in new section 38U is informed by the 2013 decision of the European Court of Human Rights in *Eweida v United Kingdom* which held that for a "practice" to be religious, it need not be "prescribed" as necessary by that religion. All that is needed is that it is motivated by and closely and directly connected to the professed belief. This section is likewise drafted in contemplation of the decisions of *Syndicat Northcrest v Amselem*, which was a 2004 decision of the Supreme Court of Canada, and the 2005 decision of the House of Lords in *R v Secretary of State for Education and Employment*. Lord Nicholls cited with approval the determination of Canadian Justice Iacobucci, when it was held that a religious conviction, opinion or belief is genuine if it is held in good faith, and is not fictitious or capricious, or a cover for some ulterior purpose.

It is the intention of this bill to take this more inclusive, holistic and, I would say, far more realistic approach to the terms "religious belief" and "religious activity". This is because we acknowledge that religion plays an important role in the daily lives of the faithful, and in particular how they conduct themselves as individuals, how they run their businesses and civil organisations, how they relate to each other as citizens, how they transmit their cultural beliefs and practices to their children, and how they generally see and interact with the world.

New section 38V contains prohibitions against direct and indirect discrimination, and broadly tracks the prohibited forms of discrimination that can be found in the Anti-Discrimination Act. This new section outlines the circumstances where discrimination on the grounds of religious belief and activity can occur. Differential treatment of a faith-based entity or a requirement that a faith-based entity comply with prejudicial conditions can ground a complaint.

New section 38W renders it unlawful to discriminate against individuals in the workplace environment in situations where their employment applications are being considered and where the terms of their employment are set. The new section addresses legitimate employee concerns such as the right to participate in religious

observance, and the expression of their faith through wearing religious clothes or symbols. These protections are subject to a test of reasonability, so that employers are not unfairly burdened.

I note that stakeholders have expressed some concern about what may be considered "reasonable" in this context. I acknowledge that this test is largely determined by community standards. However, it is the purpose and objective of the protections afforded under this bill for them not to be interpreted in a restrictive fashion. While the rights guaranteed in new section 38W are to be meaningful, they should not place an outrageous burden on employers either. If a claim of right by an employee harms the employer's legitimate commercial or operational interest, it may be the case that the claim is not reasonable. Conversely, if an employment term or employer's requirement is not based on his legitimate interest then the term and requirement itself may not be reasonable. This is a balancing act that occurs in the context of legislation that aims to guarantee religious liberties, and this is how the concept of "reasonability" should be interpreted here, and in other parts of this bill.

Furthermore, new subsections (6) and (7) reserve certain rights for employers in relation to retaining an employee or setting the terms of his employment. This is a protection for employers who may need specific employees for faith-based reasons. The reservation of right assesses an applicant's qualifications, or an existing employee's past performance, against whether the person would be able to carry out the relevant duties. That determination considers any "unjustifiable hardship to the employer" against the "inherent requirements" of the employment.

I am mindful of a tension that is inevitable in drafting laws such as these—for example, exemptions proposed to faith-based entities because of religious sensitivities that impact on their conduct, which may include staffing needs and the like. But it has been argued that if they alone were to have an unfettered discretion as to what is deemed to be necessary according to those sensibilities then that might open the door to arbitrary decisions on their part. On the other hand, an strict objective test would need to be determined in a secular court, which is perhaps the least qualified jurisdiction to make any pronouncements concerning religious or faith-based matters. A compromise has to be reached, which is fair and which is acceptable by society at large.

I should therefore emphasise that it is the purpose, objective and intention that reference to an "inherent" requirement in new section 38W (6) is to be understood expansively—for example, to include an occupational requirement that the faith-based entity asserts is necessary to maintain its cultural framework; after all, something is "inherent" if it is necessary to guarantee the cultural integrity of a faith-based entity. Therefore, an expanded notion of this threshold is contemplated by the drafter and legislator.

New sections 38X, 38Y and 38Z broadly replicate similar key provisions in respect of commission agents, contract workers and partnerships. New section 38ZA makes it unlawful for government councillors to discriminate on the grounds of religious belief or activity. New sections 38ZB, 38ZC and 38ZD extend protections against discrimination on the prohibited grounds in industrial organisations, qualifying bodies such as the Law Society or the Australian Medical Association, and employment agencies. New section 38ZE contains an important reservation of right on the part of employers who are faith-based. The exemption relates to "genuine occupational qualifications" in circumstance where a particular person is required for the purposes of "authenticity, cultural sensitivity or other religious, ethical or moral injunctions or requirements". What is "genuine" is therefore to be interpreted along the inclusive and expansive terms connected to the purpose of the new sections.

New sections 38ZH, 38ZI, 38ZJ and 38ZK establish prohibitions on discrimination in education, and in the provision of goods and services, accommodation, and registered clubs. The prohibitions here relate to discrimination against applicants for membership or tenders for services provided, as well as their access to benefits associated with the membership or said service. In *Tassone v Hickey*, a 2001 decision of the Victorian State Administrative Tribunal, a minister of one religion was held not to be in breach of the State's anti-vilification laws by refusing to allow a particular religious service to take place on the church premises. New section 38ZI is intended to incorporate this reasoning. New section 38ZL provides exceptions for special needs programs, and new section 38ZM contemplates that sporting organisations may be arranged around the cultural expression of ethno-religious identity and are therefore also exempted.

New division 5, section 38ZN is an important provision in this bill and must be emphasised. There is a concept in the law of equity that states that its remedies must only be used as a shield, not a sword. This new section codifies the spirit of this doctrine here. Under new section 38ZN, the President of the Anti-Discrimination Board may decline a complaint where it was contrived or otherwise disingenuous, malicious or dishonest. This new section is intended to prevent bad faith complaints such as was witnessed in the infamous 2006 Victorian case of *Catch The Fire Ministries v Islamic Council of Victoria*.

New part 5A of the bill contains the provisions relating to "detrimental treatment" by government or a public official. New section 53A outlines the circumstances where a faith-based entity is subject to "detrimental

treatment". These include: where it is obligated to comply with a requirement or condition that would conflict with its "faith-based doctrines, tenets, teachings or beliefs" in such a way that this would derogate from its "mission, purpose or ethos"; or where compliance would make its treatment essentially unfair; or where the faith-based entity is treated less favourably than others.

Prohibition against detrimental treatment in the provision of government funding, applications for grants, and the supply of goods and services are dealt with in new sections 53B, 53C and 53D. The amendment to section 54 (1) (a) makes it clear that acts done under statutory authority concerning public health, child protection and national security are not subject to the prohibitions under the bill. The amendment to sections 55 (2) and 56 (1) (a) protects the charitable status of faith-based entities. This was an issue that was of particular concern to many of our stakeholders. Section 56 contains the key provisions that exempt faith-based entities from the Act.

A new subsection (b1) explicitly protects chaplains, employed, appointed or volunteering in a private educational authority. New subsections (2) and (3) make it clear that the protections afforded under the bill are not extended to terroristic advocacy in the name of a religion or faith. Subsection (4) clarifies that it is not the intention of these changes for (2) and (3) to be used to "censor, stifle or stultify" debate, even critical debate in the public square. New section 56A importantly provides an explicit protection for the freedom of religion, and references Article 18 of the International Covenant on Civil and Political Rights, bringing it formally into the framework of New South Wales law. In particular, an individual who believes that a marriage is a union between one man and one woman will be protected by new sections 56B (1) and (2) if he or she wishes to express, teach or comply with that belief in practice, worship or observance, whether in public or private. Moreover, under section 56B (3) that individual will be protected from being compelled to participate in any way in relation to any marriage or marriage-related ceremony that does not comply with the individual's faith-based convictions.

This section is intended to address the controversies that have been encountered in the United States and the United Kingdom where individuals were obliged to supply goods and services in breach of their conscience. Likewise, new section 56C extends protections to individuals who adhere to the traditional notion of family and marriage from discrimination in employment. This section also protects a teacher from being required to teach so-called gender-fluid ideology "in a school of any kind". In light of the recent Federal legalisation of so-called "same sex marriage" and the threat of Safe Schools-like programs making their way into the curricula, this was another area of concern on which our stakeholders demanded urgent legislative action.

New section 58 protects local councils from any action under part 3B or 5A of the bill in relation to resolutions concerning any application for the construction of a place of worship. In line with the spirit of section 56, the bill makes changes to the principles of the Education Act 1990 so that the rights of the parents to educate their children is paramount and is to be respected by the State. New section 83E (5) to the Education Act will also make it clear that a school that teaches according to the traditional notions of marriage and family is not to be considered a non-compliant school under that Act.

The bill is a necessary amendment to the laws relating to anti-discrimination in New South Wales. We have seen a great deal of mischief being done in the name of freedom by liberalising social norms. It is now undeniable that this has resulted in large sections of the community being themselves targeted for vilification. Faith-based organisations and the people who run and work with and in them have rights that should be explicitly acknowledged and protected by law. I commend the bill to the House.

The PRESIDENT: Order! There should be no applause from those in the public galleries. Earlier I indicated that audible noises, such as clapping and speaking, are not permitted in the public galleries. The public is most welcome to be here but we ask you to be here in silence.

Debate adjourned.

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

Second Reading Debate

Debate resumed from 17 May 2018.

The PRESIDENT: Before I call the Hon. Trevor Khan I indicate to all honourable members that I have been provided with a list from Government members and Opposition members and I have been provided with the name of one crossbencher. I propose that—as we started with an Opposition member—I will call members in the order of Opposition, Government and crossbench until all named speakers have made their contributions.

The Hon. TREVOR KHAN (10:45): As a co-sponsor of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 with the Hon. Penny Sharpe, I speak unapologetically in support of the bill. Despite what some in this place or in the media may say, it is not a matter of left versus right; it is a matter

of common decency. It is about respecting the safety, dignity and privacy of women who attend reproductive health clinics. Women attend reproductive health clinics for a range of reasons: to have an intrauterine contraceptive device [IUD] inserted or removed; to have a sexually transmitted infection [STI] check; for advice on a range of reproductive health issues; for a dilatation and curettage—which regrettably may be because they have had a miscarriage; or for a termination for a whole variety of reasons. Sometimes they are attending because of a failure of birth control or because they are the victim of a sexual assault. There are women who—despite desperately wanting to continue with their pregnancy—cannot because they are undergoing a range of treatments and face a choice between their life or continuing with the pregnancy.

It is not our place to judge these women. We do not know their stories or what has caused them to attend the clinics. These women are of varying ages, circumstances and religions, and some have no religion at all. However, all these women are attending the clinics for a variety of good and valid reasons, many of which are deeply personal and distressing. What they are doing is certainly not unlawful. That is what I said in opposing Dr Mehreen Faruqi's abortion decriminalisation bill, and today I say it again.

Let us also be clear about this: The people who are approaching these women, offering what they call counselling, are doing something unique. 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. They are standing outside reproductive health clinics. More importantly, they are targeting the women entering those clinics. They say they are offering counselling, but here is what one said in a recent Facebook post to me: Wanting to protect unborn children is not harassment but it is the right thing to do. The suffering of the mother wanting to kill her child is a minor consideration, in comparison to the cruelty of ending the life that has just emerged. Consider those words, "The suffering of the mother is a minor consideration …". Listen to the judgement contained in those words, "The suffering of the mother is a minor consideration …". In those words you have exposed the motivations of these sidewalk counsellors. These people are not trained and dispassionate. They are approaching the women for an already preconceived outcome he use of the word "counsellor" by these people, I suggest, is incredible. So much for the safety, dignity and privacy of women.

I wish to deal with some other matters. I am not going to go on at length about the implied freedom of political communication. In drawing up this bill, the Hon. Penny Sharpe and I were very much alive to the issue and sought to balance the rights of women to come and go from reproductive health clinics against the implied freedom of political communication. I will, however, add this one caveat: I do not concede that what these so-called sidewalk counsellors are doing is burdening political communication; they are not engaging in political communication at all.

What these sidewalk counsellors are doing is designed to discourage women from entering the clinics. They are seeking to influence a personal and private medical choice. That is no more a political communication than two neighbours having an argument over a back fence. But let us assume, for a moment, that I am wrong on that point. In balancing the rights to political communication against the safety, dignity and privacy of women entering these clinics, the Hon. Penny Sharpe and I added extra elements to this bill that are not included, for instance, in the equivalent Victorian legislation. For instance, there are exemptions relating to activities on church property, the distribution of authorised material during election periods, and activities outside Parliament. In addition to this, the maximum penalties prescribed in the bill before this Parliament are stepped, and therefore more modest than those provided under the Victorian legislation.

I ask members on this side of the Chamber—my side—to remember that in November 2015, a bill similar to the one that we are debating today passed through the Victorian Parliament. It passed with a party position having been adopted by the Labor Party and a conscience vote being granted to the Liberal and Nationals members—precisely the same situation that we are facing here today. Let us be quite clear. The issue of implied freedom of political communication was a live issue in Victoria. The issue of religious freedom was not just a live issue—it was hotly debated.

What is being proposed in the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill today in New South Wales is not new. It is not unique. It is not novel. The Liberal and Nationals members of the Victorian Parliament had to wrestle with precisely the same issues that we are being presented with here, and the majority of them who voted in the Legislative Assembly and the Legislative Council voted in favour of their equivalent bill. Let us be clear about how overwhelming the vote was in both Houses. In the Victorian Legislative Assembly, it was 69 votes in favour compared to 13 against, and in the Legislative Council it was 31 in favour and eight against. Those votes did not represent a win for the proponents of the bill: It was a rout! Clearly, the majority of Nationals and Liberals who voted on the bill agreed with the observation of the Victorian Health Minister when she said:

> It is intimidating and demeaning for women to have to run the gauntlet of anti-abortion groups outside health services.

But it was not just the Victorian Health Minister who spoke on the Victorian bill. Amongst those who spoke was the Liberal shadow health Minister, Mary Wooldridge, who said:

> From my perspective, I think at the heart of the bill is the issue of women who want to safely and without intimidation access legal health services.

She went on:

> I do not think this is an issue about freedom of speech; I think there are provisions in here that allow in many fora for people to express their wide-ranging views on abortion.

I say again that the majority of Liberal and Nationals members who voted in both Houses of the Victorian Parliament supported the bill. The majority saw this not as a left versus right issue, Labor versus Liberal—or Liberal versus Nationals for that matter. The Liberal and Nationals members of the Victorian Parliament saw this as a matter of common decency. They saw this as the necessity of providing for the safety, dignity and privacy of women who attend reproductive health clinics. That is what they saw, that is what they voted on and that is why they voted overwhelmingly in favour of the bill. They went through the balancing act, considered what was appropriate, inspected their consciences and came down in favour of women. I might deal further with the question of this balancing act between the issue of the right to free speech or protest and the broader issue of protection of a group of people in our community. In March 2016, *Hansard* records a Minister saying this:

> The changes made by this bill create a workable model that ensures that the ongoing protection of the right to protest is balanced with the need to protect the safety of others and the conduct of lawful business activities. The Government is committed to ensuring that people are able to exercise their right to communicate their opinions and ideas about matters of concern through peaceful protest.

The Minister went on:

> This right, however—as with any right in a democratic society—must be balanced with the rights and interests of others and the community as a whole. The amendments made by this bill address concerns raised by business, protesters and members of the public about the risks that some protesters take that threaten the safety of others.

Goodness gracious me! With a few tweaks, I could have saved time in preparing for my speech here today by merely cutting and pasting what the Minister had to say. I was quoting from the second reading speech of the Hon. Anthony Roberts when he introduced the so-called "mine protest legislation". I have looked at the *Hansard* and I have read the contributions of members on this side and from members on the conservative crossbench. I looked for a murmur of dissent on the issue of the freedom of speech and the protection of the right to protest. I found nothing. I found instead unanimous support from this side of the Chamber. All of us on this side of the Chamber voted for that bill.

All of us supported the proposition that there are limitations on rights of free speech and protest, because those interests have to be balanced against other rights. For instance, they have to be balanced against the right to safety, balanced against the right to protect workers and members of the public from harassment and intimidation, and balanced against the interests of businesses. So what I say to members on this side of the Chamber—my side—is this: If we were comfortable with protecting the operation of businesses, ensuring the operation of gas wells, coal mines and coal loaders, and ensuring the safety of their workers and members of the public—which I certainly am—why should we not be prepared to protect vulnerable women from harassment, intimidation and interference by complete strangers?

I want to deal with another point. I anticipate that speakers opposing this bill will refer to the fact that there are challenges afoot to the Victorian and Tasmanian legislation. That is quite right. It is somewhat ironic that this may well be said today in the light of the debate that occurred way into the early hours of this morning with regard to the electoral funding legislation. What must be made clear, however, is that the proceedings taken in the High Court are not taken against the entirety of the Victorian or Tasmanian bills. In both of those cases, which are being heard together, the proceedings are with regard to one section of their respective laws. That section is what we could describe as the communication offence, which in our bill is clause 98D. There are no proceedings against the equivalent of clause 98C, which is the interference offence, and there are no proceedings against the equivalent of clause 98E, which relates to capturing and distributing visual data. In short, even if the High Court challenge were to succeed, it would impact upon only one clause of this bill. The proceedings would not be fatal to the legislation as a whole.

This bill should be passed unamended. It will not be good enough for members in this place to say nice things, or to talk of matters of high principle, and then gut the bill. Women should not be interfered with, intimidated or harassed anywhere, but certainly not near reproductive health clinics. Nor should people communicate with women by giving them distressing material or call them baby killers or child murderers. It is time to arm our police with the tools they need to protect women—vulnerable women—in our community. I am coming to the end of my contribution. 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? Would you want her treated with respect and dignity? Would you want her privacy protected? Would you want a complete stranger telling her what she can and cannot do? Would you want her photographed? Would you want her called a child killer or baby murderer? I believe the answer is self-evidently, no.

Like the Hon. Penny Sharpe, I recognise that people have strong opinions on abortion. That is fine. As I have said before, that is debate that can be had. It is a debate that can happen outside Central railway station, where thousands of people pass by each day. It is a debate that can happen in Hyde Park as people come and go to work. It is debate that can happen in Martin Place as people go about their business. It is a debate that can happen in Hunter Street, Newcastle, or the main street of Orange or Tamworth or Cootamundra. It is a debate that can happen outside this very Parliament. It is debate that can happen in letters, emails and telephone calls. It is a debate that can happen on television, on Twitter or on Facebook. However, it is a debate that should happen with the public. It should not be targeted at young and vulnerable women. Members, do not contemplate a compromise on this bill. Do not accept amendments that may be suggested by opponents. This is not the time for timidity. Do what the majority of your colleagues did in Victoria and pass this bill, pass it today, and pass it unamended. I invite members to join with me in saying: Leave the women alone.

Dr MEHREEN FARUQI (11:02): I speak on behalf of The Greens in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I am sure that none of my colleagues in the Chamber will be surprised to hear that The Greens strongly and enthusiastically 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. Members may remember that almost exactly 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 I introduced did not pass this House, but it started a much-needed conversation about abortion laws in New South Wales and an unstoppable momentum to create change.

Therefore, I am very glad that we are back here today with another opportunity to create safe access zones around abortion clinics. I congratulate the co-sponsors of this bill, my colleagues in the Upper House the Hon. Penny Sharpe and the Hon. Trevor Khan. Women and all people 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 protestors harass patients in the hope that they can intimidate them away from a clinic or at least make them feel bad about having a pregnancy termination. They stand outside reproductive health clinics, trying to shame or guilt women by attempting to influence them or to interfere with their 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 for abortions either.

Everyone should be able to access medical treatment without intimidation and in privacy with dignity and in safety, no matter their choices. 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. Those who oppose safe access zones often cite a right to freedom of speech and a right to protest as the reason to do so. However, what happens outside abortion clinics is neither free speech nor protest. It is harassment and intimidation. For example, last week, a media outlet released footage from outside a reproductive health clinic in Surry Hills that shows an anti-choice protestor repeatedly punching the partner of a woman who was inside the clinic. I have been outside this clinic a few times and I have observed the behaviour of these so-called "protestors".

I have stood hand in hand with the My Bodies, My Choice group to protect women accessing the clinic. Many of us have walked or driven past it numerous times and have seen these people camped outside the front and back entrances to the clinic with their sandwich boards, plastic foetus dolls and pamphlets. The footage I referred to is yet another reminder that the target of anti-choice protestors is very specific: It is the women going in and out of those clinics, it is their partners or their friends and family, and the staff. This is not about encouraging debate on the issue of abortion; it is about targeting individuals for making a choice with which they do not agree. This is about controlling women's bodies.

It is high time this Parliament drew a line between what counts as political protest and what is clearly harassment. 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 obtain abortions. 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 or standing so close to the entrance of a clinic that they make those walking in extremely uncomfortable, and also harassing them in other ways. These are straight out of the strategy playbook of huge anti-abortion groups in the United States. New 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. Alarmingly, women are filmed entering or leaving clinics. Of course, this is intended to name and shame women.

Imagine being a young person in a small town where access to abortion is already limited and the one clinic nearby is surrounded by people waiting to take photos, chanting loudly and harassing. That is what happens in Albury. I have been to Albury many times where this sort of behaviour is commonplace and where there is only one reproductive health clinic serving a large catchment area. There is one doctor who comes from Melbourne on Thursdays to perform pregnancy terminations. When women who find themselves with unwanted pregnancies are lucky enough to be able to access this clinic, they discover that they must go through a regular and, I must say, extremely hostile group of habitual so-called "protestors", whose weekly stunt is to picket the Fertility Control Clinic on Englehardt Street.

Less than half a kilometre away from this clinic, across the Murray River in Victoria, women have won the right to safely, privately and legally access reproductive health clinics. Those who want to avoid this intimidation go to Melbourne, with time, cost and inconvenience, for no other reason than in New South Wales we allow this intimidation to continue—hopefully, not after today. Members in this Chamber should be no strangers to the troubling stunts of these anti-choice protestors, as they have been covered by the media many times. We know they have handed out plastic foetuses to women, they throw holy water at women accessing the premises, and staff at this clinic are worried about their safety. Back in 2014, when I first gave notice of my bill, one woman described her experience of accessing this clinic to the *Guardian*:

> I panicked very badly; my anxiety was so heightened I hyperventilated. I was so distressed knowing they were going to race at me.

She then went on to describe how the group surrounded her and blocked her from entering the clinic, telling her she was making the wrong decision and holding up graphic images to her face. No reasonable person can call this repulsive behaviour free speech or protest. This is nothing short of coercion and heckling, which is completely and utterly unacceptable. Among the disturbing tactics there is also the use of graphic signs, shoving pamphlets in the direction of patients, and ranting loudly at people. We would never accept this for those close to us and we should never let this happen to anyone else either.

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 with those accessing reproductive health clinics. Victoria, the Australian Capital Territory, the Northern Territory and Tasmania have all enacted safe access zones outside abortion clinics. We can too. Today this Parliament has been given another opportunity to do the right thing. We must take it up to ensure women and all people who need reproductive health can access it in safety and privacy.

Opponents of safe access zones will often describe the behaviour of anti-choice protestors as "sidewalk counselling". Not only is this a wildly inaccurate description of what really goes on but it is also deeply offensive, because therein lies the implicit suggestion that women have absolutely no agency, that they cannot make considered decisions or that they are simply incapable of seeking out and weighing up their options. These often hostile people think they can swoop in as saviours by yelling at women or shoving pamphlets in their faces and that that will suddenly make them reconsider their decision.

Another argument that has long been pushed is the insistence that abortion leads to depression and even suicide. Of all the myths surrounding abortion, this is perhaps the most odious. There have been several attempts to try to substantiate this claim, but there is not a shred of evidence to support it. It has been dismissed as baseless by the world's leading psychology and psychiatric bodies. Offensive terms such as "haunted women"—a perpetual favourite of these groups—have rightly not been enough to convince the medical profession. We may all be entitled to our opinions and beliefs but we are certainly not entitled to our own facts. One study after another has debunked this myth and yet it is peddled time and again by these "sidewalk counsellors".

One email I have received imploring me to oppose the bill said that "this bill would deprive women of their last chance to avoid making a decision that will haunt them for the rest of their lives". This is, again, nothing more than a misogynist assertion that women are unable to make fully informed decisions about their own bodies and the complete fabrication that they will be "haunted" by abortion. So it is time to put these myths and these sexist dogmas where they belong: in the dust bin of history. It is time to come together and vote for legislation that gives medical privacy and safety to all people accessing reproductive health services.

The successful passage of this bill will be a victory for the fundamental right of women to a medical service free from intimidation and harassment. It will ensure that women across the State can access abortion services safely and securely, and free from intimidation, interference and harassment. I must also remind members that abortion offences still sit 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 very proud of my role in bringing the debate on decriminalising abortion and creating safe access onto the political and public agendas. I was humbled by the acknowledgement I received in the form of the Edna Ryan award for Grand Stirrer of 2017 for inciting others to challenge the status quo. I am inspired by the campaign to decriminalise abortion in Ireland, where people will vote tomorrow in an historic referendum on abortion rights. Like us, for too long women in Ireland have paid a heavy price for the notion that abortion rights are politically unpalatable. I am hopeful of a positive result but, no matter what happens tomorrow, the momentum is now there to get to the finish line.

I am proud of my colleagues the Hon. Penny Sharpe and the Hon. Trevor Khan for bringing this bill to Parliament. But most of all I am proud of the community of people in our State who have campaigned long and hard for women's right to choose. I hope the upper House of New South Wales Parliament, which is all members present, will listen to the public and vote for this bill today. I hope the lower House will do the same when this bill is transmitted there for consideration. I hope that in the near future we can return to this Chamber with the view to make another change—a change that will ensure those 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.

The Hon. WALT SECORD (11:16): As the shadow Minister for Health, and Deputy Leader of the Opposition in the New South Wales Legislative Council, I contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. The bill's second reading was moved by the Hon. Penny Sharpe on 17 May and the bill is co-sponsored with the Deputy President and The Nationals member of the Legislative Council, the Hon. Trevor Khan. I also acknowledge that on 23 May The Nationals member for Port Macquarie and Parliamentary Secretary for Regional and Rural Health, Leslie Williams, indicated that she will be a co-sponsor of the bill in the Legislative Assembly, if it passes this Chamber. That is a welcome development and indicates that there is growing support across the mainstream political spectrum for the bill. Indeed it is not a Left or Right issue.

The Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 proposes establishing 150-metre so-called "safe access zones" around clinics, with penalties for people caught harassing women inside the zones. It also makes it an offence to record or distribute a recording of a person inside the safe access zone without their consent. However, this provision does not apply to the operation of security cameras or the activities of staff of clinics or police officers. Each offence carries a maximum penalty of six months jail or a $5,500 fine, or both, for a first offence. A repeat offender could face a maximum of 12 months jail or a fine of $11,000, or both. This is the second attempt to legislate in this area of law in New South Wales. The bill is very simple and clear, largely inserting a new part 6A into the Public Health Act 2010.

This bill has been drafted to ensure that the right to protest or campaign on the issue of terminations is not curtailed. This is achieved by providing three exemptions to the operation of safe access zones. Specifically, the provisions in the bill do not apply to: the conduct occurring in a church or other building that is ordinarily used for religious worship, or within the curtilage of such a church or building; the conduct occurring in the forecourt of or on the footpath or road outside the New South Wales Parliament on Macquarie Street, Sydney; or the carrying out of any survey or opinion poll with the authority of a candidate, or the distribution of any handbill or leaflet by or with the authority of a candidate, during a Commonwealth, State or local government election, referendum or plebiscite.

We are the fifth Australian jurisdiction to move to legislate in this area. Victoria, the Australian Capital Territory, Tasmania and the Northern Territory have already passed legislation implementing exclusion zones. Yesterday I had a discussion with my partner about the bill. She migrated to Australia from Moscow in 1991 and she said, "I thought these kinds of laws would have been in place for years." My contribution will be brief but, as the person who hopes to be Labor's next health Minister, I have a responsibility to articulate my position on this issue to the community. My support for the bill should not come as a surprise to members of this Chamber. My view on a woman's right to choice has long been on the public record, and predates the introduction of and discussion on this bill. Furthermore, I have stated in written opinion pieces and in formal settings, such as this Chamber as recently as 16 November 2017, that I support exclusion zones around reproductive health clinics. I held that view well before the bill was approved by the Labor shadow Cabinet and Labor caucus.

As background, my views on reproductive rights have been shaped by my mother, a strong and spirited woman who asserts—and has always asserted—a woman's right to choice. I recall that one of the early discussions

we had when I was a pre-teenager asking about sexuality and reproduction was about a woman's right to have access to safe and affordable terminations if necessary. My views were shaped also by my unusual upbringing as a bi-cultural child on a Canadian First Nations settlement in southern Canada in the 1970s. I saw firsthand the difficulties of unwanted teenage pregnancies amongst my classmates and how the lack of access to any form of termination services affected women and their children for their entire lives. I note that women in rural, regional and remote Australia face similar difficulties when trying to access safe terminations.

I follow the activity around the Fertility Control Clinic in Albury, which has been in the spotlight because of the tactics used by anti-choice protestors. Some of the tactics used at Albury have been particularly gruesome and I do not intend to give them credence or further publicity. Finally, I support the bill also on a straightforward health access principle. I do not support anyone obstructing another person's access to a legal medical facility. I acknowledge that Australian Medical Association (NSW) President Dr Kean-Seng Lim made similar statements about the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. On May 17 Dr Lim 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.
>
> AMA (NSW) supports safe access zones.

On a separate matter, the Country Women's Association [CWA] of New South Wales, a traditionally conservative body and one of the largest representative member bodies in this State, has expressed its support for the bill. On 23 May the Country Women's Association said that it has been advocating for the establishment of safe access zones around reproductive clinics since passing a motion on the matter two years ago. The CWA said the bill would:

> …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 the 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.

Over the past decade or so, I have heard the arguments from both sides of the debate about access or exclusion zones. Both sides have been properly and fully ventilated in this debate. I recognise and appreciate that there are genuine and heartfelt views on both sides. However, I admit that I had a small element of doubt in my mind about whether those advocating the exclusion zone laws may have been overzealous in their position, so I decided to see for myself. In late August 2017, I visited the exterior of a facility in Surry Hills where terminations are performed. It was around midday, and I encountered a single protestor, who was standing in the door of the facility intentionally blocking access and causing maximum inconvenience to anyone entering. The protestor was wearing a large sandwich board and was distributing highly emotive material and pamphlets. It was eye opening.

The protestor was not in any sense a so-called "sidewalk counsellor" as the opponents of this bill claim. Make no mistake, she was there to harass and intimidate women, their partners and their friends who were entering the facility without any regard to their personal circumstances. She was there to judge, demean and intimidate the women entering the facility. I was absolutely outraged. She was there to violate their privacy. Frankly, I do not know how a woman in distress could enter the facility without her experience with the protestor compounding her anguish after she had made such a tough and life-changing decision to terminate a pregnancy. Hence, I saw firsthand the need to restrict access by protestors. They are not "sidewalk counsellors".

As I said earlier, no person seeking lawful medical advice or legal treatment and care should be forced to encounter such difficulty. Everyone has the right to a level of freedom of speech, but everyone also has the right to be protected from intimidation and harassment and have their dignity and privacy protected. There is a place for protest for those who oppose these clinics. That place is here on Macquarie Street, where protestors can hold the lawmakers of this State to account. It is not in the doorways of reproductive health clinics, where protestors subject our vulnerable aunts, sisters, nieces, daughters, partners and friends to intimidation and misery. I support the bill. I thank the House for its consideration.

The Hon. LOU AMATO (11:27): Yesterday I had a meeting with three young women in their early twenties who are worried that this Parliament wants to throw them into prison. An invitation to the meeting—

which was an opportunity to gauge the tragic consequences of supporting the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018, was sent to most members of the Legislative Council and the Legislative Assembly. Unfortunately, only a handful of members bothered to turn up. For those who are interested, this is the story of those three young women. Many women who attend abortion clinics are deeply distressed. Most wish that there could be another option and are unaware that other options exist. To make up for the utterly disgraceful failures of government to provide these women with at least the knowledge of other options, there are some young women who offer street counselling and support.

These women receive no payment and do not intimidate or harass. They do not judge or wear distinctive clothing, and they do not distribute any printed material. All they do is offer to talk to any woman who needs support before entering an abortion clinic. They perform this work as exemplary citizens who do nothing more than support women to make informed choices. They even obtained a section 1 from police before offering street counselling services. Yes, they are pro-life and are aware that abortion causes hurt to women. But they never force their opinion upon anyone. If a woman takes up their offer of help, they give it freely; if a woman declines their help, they wish them a good day—nothing more.

I refer to some of the free services they offer, including the opportunity for women to take a few moments to talk about how they feel without judgement; financial support through the many organisations with which they are partnered; accommodation support if needed; emotional counselling and parental support; and any other support necessary, including contacting tertiary institutions to arrange more flexibility in study schedules for those who are students.

Many young pregnant women have benefited from these exemplary women, who are providing a support service that governments have miserably failed to deliver. Obviously, to lessen our shame for our own failure to make information available to women so they can make an informed decision about abortion, we need to silence those who do. Instead of learning from these caring women providing real support, there are some who feel that we should threaten them with imprisonment. Everyone here knows exactly what this bill is about. If the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is the best we can come up with to provide women with real choice and protection, then we should hang our heads in shame, for we have failed.

There are a number of legal flaws in this bill that render it invalid due to constitutional issues. The bill prohibits—expressly prohibits—any communication relating to abortion within a 150-metre exclusion zone. The restriction of communication is a direct attack upon implied freedom of political communication; therefore, the bill is invalid. The 150-metre exclusion zone effectively burdens the implied freedom of communication that exists within our cultural and legal framework. Good government rejects any proposed legislation that is unreasonable and inappropriate, with an end result that restricts our constitutionally prescribed system of responsible government through unrestricted political communication. The bill makes allowance for political communication in proposed section 98F (1) (c), which states:

> 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.

However, political communication is restricted to a particular time frame and can occur only during a political election, referendum or plebiscite authorised by a political candidate. The provision clearly contravenes the implied freedom of political communication which currently exists for all Australians at all times. The implied freedom of political communication that we cherish as a democracy is considerably restricted by this bill.

The bill places severe criminal penalties on persons communicating political opinion about abortion within a 150-metre exclusion zone of a reproductive clinic. The bill does not define the number of exclusion zones or the geographical location of any exclusion zones. Nor does the bill explicitly define what a reproductive clinic is. Almost all general practitioners practice some form of reproductive medicine, whether it be in the form of regular check-ups of women's reproductive health or referrals to reproductive specialists. General medical practices that prescribe RU-486—the morning-after pill—which induces a non-surgical abortion would be included within the 150-metre exclusion zone. In 2017 there were 10,861 general practitioners in New South Wales, many of whom are single-doctor practices. Identifying those doctors who engage in reproductive health is essential if the bill is to be workable.

The object of good government is not to create injustice, which this bill is unable to avoid since no definitive data can be produced by the authors of the bill clearly identifying exclusion zones. It is interesting to note that the smallest possible size of an exclusion zone is 70,000 square metres. However, there may be considerable overlap where medical practices are situated in close proximity to each other, further expanding the size of an exclusion zone. Since any democratic political debate relating to abortions within these zones is punishable by criminal penalties, the test of good government fails due to the lack of exclusion zone data. It is doubtful that definitive exclusion zone data is obtainable and, even if such data were available, it would be subject

to continual boundary changes as new medical practices are opened, moved or closed. Good government does not engage in the drafting of laws that are impossible for its citizens to obey.

The communicating prohibition of the bill does not exempt the parents, friends or close relatives of a young woman attending an abortion clinic. The bill would not meet the community's expectations of justice if parents were prosecuted for offering parental assistance and guidance within a 150-metre exclusion zone that, as stated previously, will be difficult if not impossible to identify. One must not forget a parent could face six months imprisonment and a fine of $5,500 for a first offence.

Churches and places of religious worship are exempted from the prohibition of communicating about abortion as long as the communication occurs within the building or curtilage of the place of worship. Considering many places of worship—such as chapels—are contained within larger Commonwealth-funded medical complexes that may or may not provide reproductive health services, the definition of curtilage in medical complexes containing places of worship is somewhat ambiguous.

The proposed section 98E of the bill prohibits the capturing and distributing of visual data of persons in safe access zones without that person's consent. This proposed section is rather problematic as the definition of a "person" is ambiguous. At first glance, the "reasonable persons" test would indicate that a person is not to capture visual data of any person in a safe access zone who is in the process of travelling to or from a reproductive health clinic. Considering that most likely no data will ever surface delimiting actual "safe zones" and that the definition of a "person" includes all persons inside the safe zone, the bill is unworkable.

At law, the definition of a "person" is extended to include an incorporated entity, which could also bring security cameras operated by organisations under the criminal violations of proposed section 98E. However, the bill makes exemptions for police officers, reproductive health clinic security cameras and private security cameras operating from premises adjacent to or near a reproductive health clinic. A security camera operating from a private organisation 100 metres from a reproductive health clinic would not be considered near or adjacent but would be within the 150-metre exclusion zone and therefore in breach of proposed section 98E.

As stated previously, the "reasonable persons" test fails, as there is no obvious method of determining who is actually travelling to or from a reproductive health clinic. Considering an abortion clinic is situated directly across the road from Parliament House, locations such as Martin Place, the Mint and other iconic Sydney locations would be inside an exclusion zone, prohibiting photography unless the person is able to provide a reasonable excuse—I refer members to proposed section 98E (1) (e). Since a "reasonable excuse" is not defined in the bill, it is difficult to imagine that this extremely poorly written bill is anything but a direct attempt to restrict the implied liberties of a free society.

The bill restricts our implied freedom of political communication, which is necessary to maintain representative government. The unrestricted exchange of ideas facilitates good government in the formulation of laws that are representative of community expectations. Even an idea in the minority is not to be restricted and is essential for representative government. In *Nationwide News Pty Ltd v Wills* and *Australian Capital Television Pty Ltd v Commonwealth*, the High Court held in majority decisions that implied freedom of political communication is essential for representative government, which is the direct incidence of the Commonwealth Constitution. Implied freedom of political communication was reaffirmed in *Unions NSW v New South Wales*. In *Nationwide News Pty Ltd v Wills*, Justice Brennan stated:

> Once it is recognized that a representative democracy is constitutionally prescribed, the freedom of discussion which is essential to sustain it is as firmly entrenched in the Constitution as the system of government which the Constitution expressly ordains.

The implied freedom of political communication in *Nationwide News Pty Ltd v Wills* was expressed by Justices Deane and Toohey as:

> The doctrine presupposes an ability of represented and representatives to communicate information, needs, views, explanations and advice. It also presupposes an ability of the people of the Commonwealth as a whole to communicate, among themselves, information and opinions about matters relevant to the exercise and discharge of governmental powers and functions on their behalf.

As most members are aware, the majority decision handed down by the High Court on 18 October 2017 in the case of *Brown vs Tasmania* upheld our constitutional right of implied freedom of political communication. That case also defined the use of proportionality as a test of constitutional validity. Again I remind everyone that the authors of this bill are unable to provide definitive safe zone data, which excludes any logical examination on whether the loss of constitutional freedom is proportional to the implications of the bill.

In *Lange v Australian Broadcasting Corporation*, the High Court considered three important questions: First, is the freedom of political communication effectively burdened by the law? Secondly, for the law to be legitimate it must be compatible with the maintenance of the constitutionally prescribed system of government. Thirdly, the law must be reasonably appropriate and its intentions must be for the advancement and maintenance

of the constitutionally prescribed system of government. This bill fails on the above three questions alone in spite of other glaring failures. The freedom of political communication is burdened by the bill. The bill is not compatible with the maintenance of a constitutional system of government and the bill is a burden on freedom that is not appropriate nor justified by the authors. Existing laws are already in place to protect the citizens of this State against harassment and violence which are proportionate and do not effectively burden our constitutionally prescribed freedom of political speech.

The bill is, in many ways, an international embarrassment. Australia is a signatory to the International Covenant on Civil and Political Rights [ICCPR], which is a multilateral treaty adopted by the United Nations General Assembly with resolution 2200A (XXI) on 19 December 1966. Article 19 of the ICCPR treaty states:

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include 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.

Although the ICCPR has not been embodied in an Australian bill of rights, we as a nation, in good faith and in the spirit of freedom, are a signatory, thus giving our word as a nation that we as a democracy cherish the freedom of expression, ideas and speech which is quintessential to our culture and our democratic process. The bill places a burden on the State to justify the communicating prohibitions contained within the bill. Considering existing laws are in place to protect citizens against harassment or violence, the legislation is redundant and the burden of the State to provide justification for the prohibition on free speech is problematic. Even if such justification was possible, the bill is unworkable as detailed safe zone areas have not been defined. For the legislation to be workable, detailed safe zone areas must be produced by the authors of the bill and presented to this House so as to facilitate an informed debate. Without detailed safe zone information, debate of this bill is impossible and it must be rejected on this omission alone. In addition, there are other ambiguities, such as the word "person" is not defined nor can it be defined in the bill's current textual format.

The Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 attacks our constitutional freedom to assemble and exchange ideas. If it is passed, there is strong legal precedent that the bill could be challenged in the High Court and possibly invalidated. Such a situation would be an embarrassment to this Parliament and evidence of gross incompetence and a tragic lack of understanding of the Australian legal framework to which we have been elected to respect and uphold. As a good Government, it is our duty to ensure that we maintain our implied freedom of political communication, which is necessary to maintain representative government. I certainly cherish our freedom of speech. Therefore, I oppose this bill and any bill which imposes on our freedom of speech.

Reverend the Hon. FRED NILE (11:43): I thank the Hon. Lou Amato for his forthright presentation, which the Christian Democratic Party fully supports. The Hon. Lou Amato referred to the abortion clinic that operates in a white building just across the road from Parliament House. How do I know that abortions are performed there? There is no sign on the building and, as far as I know, there is no requirement for a registered list of abortion clinics in Sydney or in New South Wales. A few years ago I was contacted by people who work in that building. They told me that at one stage the sewerage pipes in the building were blocked and the toilets could not be used. They had to get plumbers in to find out what was blocking the sewerage pipes. Members would be disgusted to know that it was baby body parts—little arms, little legs, parts of bodies or babies that had been aborted just across the road in that white building. This bill is seeking to stop Australians who have a strong belief in the sanctity of life from even saying hello or smiling at people or from walking into the area.

The Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is the most draconian bill I have ever seen. It seeks to create a 150 metre so-called safe access zone, a no-go zone. I have asked what would happen if some members of Parliament walked there. We may be within the 150-metre radius of that building without doing anything because it is across the road from Parliament House. This is a serious matter. I acknowledge the enthusiasm of the members who promote the bill, the Hon. Trevor Khan and the Hon. Penny Sharpe. I am always interested in the language that is used to disguise what is happening in an abortion clinic. I noticed that the Hon. Trevor Khan spoke about "reproductive health clinics". He could not say "abortion clinics". That is what this bill is about: abortion clinics. They call it a reproductive health clinic—we would not know what goes on in there.

The PRESIDENT: Order! I remind people in the public gallery that they are not permitted to speak. If they continue to do so, they will be removed.

Reverend the Hon. FRED NILE: The mover and supporters of the bill should speak frankly about the issue and face the facts before the House. As members and the President know, when the bill was introduced by the Hon. Penny Sharpe, I took a point of order to raise an important legal issue. I said:

> ... this bill raises complex issues about the fundamental freedoms of speech and assembly, and the implied freedom of political communication that the High Court has found exists in the Commonwealth Constitution. This implied freedom of political communication requires Commonwealth, State and Territory laws and executive action to comply with this implied freedom. The High Court will shortly hear an appeal by Ms Kathy Clubb regarding Victoria's version of these "safe access zone laws" around abortion clinics and, if successful, that law will be invalidated. This will raise issues about the validity of safe access zone laws operating in other States.
>
> This case follows the High Court's decision in *Brown v Tasmania*, where the plurality invalidated safe access zone provisions in a law on the basis that it breached the implied freedom. Given that this bill is largely a replication of Victoria's safe access zone laws, debate on this bill should be postponed until the verdict of the High Court is known.

In other words, debate should be postponed until the High Court makes a decision. In response to my point of order, the President allowed the bill to continue and that is why we are debating it now. I thank the many lawyers who have supported us with important statements. I will read one that was supplied by a team of lawyers. I thank three lawyers who have supported us with this background material: Anna Walsh, who is an adjunct associate professor at the University of Notre Dame and has many other qualifications; Michael McAuley, a barrister specialising in a Master of Bioethics and another adjunct associate professor at the University of Notre Dame in Sydney; and Professor Michael Quinlan, Dean of the School of Law at the University of Notre Dame in Sydney.

We thank those lawyers for the time they have spent in preparing a legal opinion on the legislation before the House. They have provided a concise critique of this bill, which proposes to create 150-metre so-called safe access zones around reproductive health clinics in this State at which abortions are performed. The lawyers note that the bill prohibits three types of behaviour within those zones:

> These behaviors can be broadly summarized as impeding access to abortion clinics; making communications in relation to abortion that are reasonably likely to cause anxiety or distress to any person accessing, leaving or inside an abortion facility and, capturing or distributing visual data of people within the zone.

The opinion continues:

> With its ambiguous language, the Bill has a potentially wide ambit of operation. It not only infringes the fundamental rights and freedoms of people to protest about abortion outside an abortion clinic and, potentially, to engage in political communication on this topic, but arguably extends to those maintaining a silent prayer vigil outside a clinic, or who stand outside clinics with information about options other than abortion in order to empower women to make an informed decision about their pregnancy.

I emphasise the word "empower", because we held a recent forum at which some women who spoke had had an abortion and told us about their lack of knowledge about the procedure and their regret at having an abortion. They urged us to oppose this legislation and to support women who come under a lot of pressure from boyfriends, husbands, relatives and others when they find that they are pregnant. They are pressured into thinking that a simple solution is to abort the baby they are carrying. Often these lonely, distressed women are virtually dumped at an abortion clinic by their partner or relative. Instinctively, a pregnant woman—a mother—senses that there is something wrong about a plan to abort a baby in her womb.

A number of women said that they had been supported and assisted by people protesting outside abortion clinics, and had therefore not proceeded with having an abortion. They told us how grateful they were for this support. At the forum we heard from a male participant, who told us how pleased he was that his mother had not gone ahead with having an abortion, because he would not be here if she had done so. I return to the commentary by the three highly qualified lawyers:

> This Bill is the third attempt in two years to enact safe access zones in New South Wales, and is proceeded by the failure of the Summary Offences Amendment (Safe Access to Reproductive Health Clinics) Bill 2017 Act, and the Abortion Law Reform (Miscellaneous Acts Amendment) Bill 2016. Adopting a different tack to most other states, it utilizes the *Public Health Act 2010* (NSW) which empowers the government to, amongst other things,—

We should remember that the Public Health Act is the vehicle that members are using to promote this bill. The Act has, as its objectives from the Government, to:

> … make laws to promote, protect and improve public health and control risks to it, and in so doing, can justify the infringement of individual rights and freedoms.
>
> 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—

I emphasise "prove" and note that this has not been done—

> 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.

The only person facing a public health risk is the baby in the womb; the mother is not facing a public health risk, and neither are the promoters of this bill. The legal opinion continues:

> The objects of the Bill are to ensure that a person's entitlement to access an abortion clinic is respected, and that their safety and wellbeing, privacy and dignity are protected when entering or leaving it. The Bill assumes as a fact that the presence and

> activities of people outside abortion clinics in New South Wales are a source of harm to people entering. Justice and fairness demand that this assumption be scrutinized, and all stakeholders affected by this proposed law be invited into any discussion.
>
> Whilst one must respect a person's entitlement to enter an abortion clinic, unlawful abortion—

contrary to what has been said in some contributions to this debate—

> is still a crime in New South Wales, and doctors may be prosecuted. Operating as a principled exception under the *Crimes Act*, it is only lawful where a doctor has an honest belief that abortion is a proportionate response to a grave threat of harm to a woman's life or health. Abortion is not 'standard of care' clinical practice, and women have no entitlement to demand a doctor perform abortion on her, just because she has provided informed consent.

That is the current law. The opinion continues:

> The way in which the law characterizes abortion in New South Wales is very different to the way the law operates in Victoria, Tasmania, the Australian Capital Territory and the Northern Territory. These four jurisdictions have decriminalized abortion, regulate it under health legislation, and have enacted safe access zone laws outside abortion clinics. In those jurisdictions, abortion is 'standard of care' and women may demand abortion up to a specific gestational age, and doctors must assist them to achieve one, even if they have a conscientious objection to it.

We could spend a lot of time condemning the laws in these four jurisdictions. The legal opinion continues:

> A democratic society permits the expression of different viewpoints on controversial or moral issues. If the state takes a particular position on such an issue in its law, it must not punish those who disagree with them, nor embed a presumption into other laws that the issue is resolved and everyone must agree. 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.
>
> Clause 98C of the Bill prohibits interference with persons accessing or leaving an abortion clinic within the zone. 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—

non-violent, non-intimidating prayer vigils— and sidewalk vigils counseling cause harm to women, is assumed as a fact. Where is the evidence for that? It is also an offence under the Crimes Act for either an individual or a group of five or more persons to use violence or intimidation to compel a person to refrain from undertaking a lawful activity. Under both the Crimes Act and Summary Offences Act it is an offence for a person to use threats of violence that leads a person of reasonable firmness to fear for their safety. Under the Summary Offences Act it is an offence to impede the free passage of a person in a public place, and police have wide powers to control unruly protests.

Without the bill, the current law says that all these offences are capable of capturing genuine harassment and interference with people trying to enter abortion clinics. Reference in this discussion to complaints received by police about the behaviour of people outside abortion clinics should be considered carefully, with notice taken as to whether it resulted in a fine or conviction. It seems clear that they do not cover peaceful, silent prayer vigils and respectful sidewalk counselling. The bill therefore seems to fill a gap created by changing the current understanding of lawful behaviour. Penalties for breaches of the bill are severe and disproportionate.

Under the Public Health Act a non-medical doctor tattooing someone's eyeball, or a person who knows they have a notifiable disease or scheduled medical condition and fails to take reasonable precautions against spreading it, is penalised 50 units, which equals $5,500, or imprisonment for six months, or both. Despite the lack of parity between these offences and breaches under the bill, the bill applies the same penalties for a first offence and doubles the penalties for a second offence. It always amazes me that people who introduce this type of draconian legislation are the ones who are always speaking about toleration, free speech, et cetera, but when they come to drafting a bill, they finish up with a most draconian piece of legislation. Regarding causing actual or potential distress or anxiety to persons in a safe access zone, clause 98D of the bill is very concerning because the language is wide and prohibits communication that relates to abortion by any means in a manner that is able to be seen or heard by a person entering or leaving an abortion clinic that may be likely to cause distress or anxiety to any such person.

I could continue with more of the legal opinions that show that the bill is inherently faulty in its construction, for which reason it should not be passed by this House. There may be other discussions about what happens outside abortion clinics, but this bill is not the way to deal with that issue. I call on all members to join with me when the Christian Democrats vote against the legislation.

The Hon. DANIEL MOOKHEY (12:02): Parliament is the forum in which to clash over the legality of abortion—in public with the media's glare flashing at us, in front of the voters who have the right to sack us—without impinging on any woman's right to privacy. This is the precise opposite of what happens on Surry Hills streets or Albury's pavements. There another clash takes place: Women exercising choice about their bodies clash with strangers standing in judgement. In her eloquent second reading speech the Hon. Penny Sharpe spoke of the anxiety healthcare workers have for the women they serve. She asked:

> How many will have leaflets full of lies about the dangers, risks and consequences of abortions shoved in their hands? How many will have holy water splashed in front of them, how many will have the intimidating experience of a camera or a phone shoved in their faces? How many women will these self-appointed sidewalk councillors call "baby murderers"? How many women who are going to the doctor to receive the lawful treatment they need to look after their health—as is the right of every person—will arrive shaken and distressed by having had to push their way through people trying to shame and bully them? How many women and their partners, seeking to see their doctor about a range of issues associated with their reproductive health, will be pushed and shoved as they try to enter the clinic?

If these exchanges are political speech, they are no threat to Cicero's standards. Dare I say, they are not even threatening the standards we are accustomed to here in the New South Wales Legislative Council. We can act to end the harm to mental health inflicted on women accessing lawful health treatments. We can join with Victoria, Tasmania, the Northern Territory and the Australian Capital Territory and ensure that the telos of our democracy remains civility, so that we avoid the United States trajectory where social judgement is masquerading as political speech, where we stop seeing each other as citizens and instead see each other as partisans sitting across a cultural divide, with politics becoming a source of division and conflict in our society, not a form of solidarity and cohesion.

When members decide their vote they can save New South Wales from that path. I am not at all naive about the fierce convictions held by some about the legality of abortion. Last year when the House was asked that question I made it known that I favour immediate legalisation. I honour now, as I honoured then, those who disagree with me, and I of course support their right to peacefully assemble and campaign for their cause. They have that right today, and if Parliament passes the bill they will maintain that right the day it is proclaimed into law. Assembling for a protest 150 metres away is no infringement on the right to protest. It certainly is not an impediment akin to that which has been imposed on, for example, those seeking to protest the mining of prime agricultural land.

I heard the arguments mounted by some who oppose the bill. They seem to fall within two categories. The first is that we as a Legislative Council and as a parliamentary Chamber, sovereign in our own affairs, with our own constitutional authority, ought to wait for the High Court to complete its deliberations on a challenge mounted against Victoria's laws. A most novel procedure and precedent would be set if we were to follow that advice. Essentially, we would be saying that the legislative power of our State shall always be subject to the writ of whoever it is who is rocking up to the High Court on whatever day they want with whatever claim they want. We have a view here that we do not make unlawful laws. We wait for the High Court to settle the questions that are put before it and we act accordingly. We have done that in respect of every form of legislation and we did that last night. There is no reason today why we should delineate or otherwise deviate from that principle on this issue.

The second argument that has been mounted is the nature of what is occurring in front of these abortion clinics. Reference is made to people who describe themselves as sidewalk counsellors. As I hear that term I cannot help but recall a matter I was involved in.

The PRESIDENT: Order! I interrupt the member. I am aware that some of those in the public gallery are using electronic devices, and they are permitted to do so, but it appears that one person in the public gallery may be filming. I remind all visitors that filming or taking a photograph from the public gallery is not permitted.

The Hon. DANIEL MOOKHEY: If anyone wants to film me I am happy to pose outside.

The PRESIDENT: Do it outside, not in the Chamber.

The Hon. DANIEL MOOKHEY: When I hear the term "sidewalk counsellors" I recall a matter I was involved in as a very junior legal officer at the Transport Workers Union, where I found myself in the Industrial Commission defending a member—

The Hon. Penny Sharpe: Hence the shock.

The Hon. DANIEL MOOKHEY: With respect, everyone is worthy of a defence. He downloaded a diploma of psychology from the University of Antigua. He was very proud that he had that qualification: He said it cost him $10 and he did not have to do any work. He took that qualification into his workplace and decided that the best way for him to show off his new-found qualification and skill was to provide psychological diagnoses of his colleagues and publish them on the internet. Lo and behold, he lost his job. Dare I say, I was not successful in my argument for him to keep his employment. My point about that anecdote—apart from the fact that people lose their jobs for extraordinary reasons—is that we do not use the term "counsellor" lightly. We do not allow that term to be purported as a service lightly. It is a medical service requiring great skill and qualification, and it requires regulation.

I know this, because we regulate it. Parliament prescribes the procedures around which a person can purport to provide a medical service. The last time I checked, no legislation in any jurisdiction says that standing on a pavement and providing, without solicitation, what is purported to be medical advice qualifies a person to

use the term "counsellor". I have no doubt that there are people who wish to provide counselling in that scenario. If they wish to do so they should obtain their qualifications and offer their services. If a person is in need of a service they should go about obtaining that service in the ordinary way. We do not allow the services of other medical professions to be offered on a sidewalk, nor would the Parliament ever allow any medical service to be offered in such a way.

I will finish by making some reflections about how this bill has come to the House. Often the legislation that we pass originates in one of the great departments of state. A fine public servant briefs a Minister on the need for legislative change, and a dutifully obedient Minister wins over the Executive and brings the legislation to both Chambers for sanction. That did not happen in the case of this bill. This bill resulted from struggle. Brave women for years petitioned and marched for social reform. They stared down the deadening hand of stigma. To paraphrase the immortal words of that fine politician Mitch McConnell, "They persisted."

They found their parliamentary champions in the Hon. Penny Sharpe and the Hon. Trevor Khan. I pay my respects to the deft leadership they have shown in respect to this bill. This Parliament may well pass this bill into law. If we do we will set a unique precedent. A bill which calls for the State's citizens to show civility to each other will have become law because we, as parliamentarians, showed civility to each other. A law meant to address the discord and divisions we have about a fiercely contested issue will pass because we politicians have set aside our own discord and divisions and acted in the public interest. The real danger is that having done this once, our citizens may well expect us to do it again. Some colleagues might see that as reason enough to reject the bill. I, however, count that as the final reason for supporting this bill.

[*Business interrupted.*]

Visitors

VISITORS

The PRESIDENT: On behalf of all honourable members I welcome into the public gallery of the Legislative Council student leaders from high schools in New South Wales who are attending a secondary schools leadership program conducted by the Parliamentary Education Unit.

Bills

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

Second Reading Debate

[*Business resumed.*]

The Hon. TAYLOR MARTIN (12:11): Regardless of one's views on the matter of abortion, the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is an example of bad law-making. This bill seeks to outlaw individuals or groups who may congregate outside medical clinics in order to stop an abortion from taking place. The allegations made by the proponents of reform in this area, that this bill is needed to legislate against and enforce against harassment, are false. There are already mechanisms available to do that within New South Wales legislation. It is already an offence under the Crimes Act for an individual or a group to use intimidation or violence to compel a person to refrain from undertaking a lawful activity. Furthermore, under the Summary Offences Act it is an offence to impede the free passage of a person in a public place. Under the Law Enforcement Act 2002, police are provided with move-on powers, powers to deal with public disorder and the ability to manage disruptive protesters.

The offences I have just given as examples are already capable of dealing with anyone who presents in the proximity of a sexual health clinic and acts in a way which impedes a person's ability to go about their business. Offences under current Acts are already capable of dealing with genuine harassment. This brings us to examine proposed section 98D of the bill. For the benefit of those in the gallery or viewing the webcast, the explanatory note to the bill says:

> **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 maximum penalty for the first offence is 50 penalty units or imprisonment for 6 months, or both, and the maximum penalty for any second or subsequent offence is100 penalty units or imprisonment for 12 months, or both.

Family members who are within the proposed 150-metre zone may be unable to engage in a last-minute conversation about what is about to take place. It would certainly rule out the existence of Sara's Place in Devonshire Street, Surry Hills, which offers assistance to women going through these tough times in their lives. The bill is also unclear about whether this could lead to prosecution of people who work for organisations that

provide counselling services that happen to be within a safe access zone. As I understand it, this has caused some distress for people at Sara's Place in Surry Hills.

Sara's Place provides a valuable service to pregnant women who are open to receiving information about all options available to them. The organisation has a lifesaving impact on women who have been pressured, blackmailed, and/or subjected to physical violence to force them to complete an abortion. The reason for the concern by Sara's Place is that it is located in what will become a safe access zone if this bill is enacted. I, along with the organisation, am concerned that the services that Sara's Place provide could be profoundly impacted. Could this amendment be used to shut down the vital services it provides to women? I seek leave to table a letter from Jennifer Gurry, the founder and director of Diamond Women's Support Service, inquiring about the impact of this proposed legislation on Sara's Place and the services that it offers women.

Leave granted.

Document tabled.

This bill sets a very low bar for what constitutes an offence. Proposed section 98C prohibits interference with persons accessing or leaving an abortion 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.

This is the real problem with what is being proposed in this bill. A person who is standing somewhere on the footpath, not obstructing anyone, not intimidating anyone and simply handing out a flyer outlining alternatives to abortion could be in breach of this proposed law. That person would face the threat of six months jail for the first offence and 12 months jail for the second and subsequent offences. The threat of jail for handing out a flyer is not an absurd suggestion because the heading to proposed section 98D sets an incredibly low bar for what is considered to be an offence.

All that is required for it to be an offence is that it causes actual or potential distress or anxiety to persons in the safe access zone. The bar is so low that it is possible that a friend or family member, while accompanying a woman to an abortion clinic, could potentially fall foul of this section merely for asking if she is sure she wants to go through with the procedure. Surely this is out of line with community expectations. The right to assemble is a fundamental belief of many in this place and, of course, within our community. The right to assemble can be traced all the way back to the Magna Carta. The 2015 briefing paper "Protests and the law in NSW" by the Parliamentary Library stated: The common law right to assembly has been expressly recognised by Australian Courts, including the High Court of Australia and the NSW Supreme Court. It quoted Daniel McGlone in "The Right to Protest", which said that this illustrates an "acceptance of the role of protests as part of democratic systems of government". The briefing paper highlights a number of examples of what courts of law in this country have said: Freedom of assembly and speech are important democratic rights, precious democratic rights and common law freedoms. Peaceful assemblies are perfectly reasonable and entirely acceptable modes of behaviour in a democracy, and integral to a democratic system of government and way of life.

Anti-protest laws have recently faced challenge within the legal system. One recent example is the case of Bob Brown protesting for trees in Tasmania. That challenge was successful, with the High Court striking the Tasmanian legislation down. This bill may also be unconstitutional in its current form. Ultimately, if the bill passes, it will likely be decided in the High Court at some point in the future whether we have met the test to restrict that freedom. The High Court will likely do that later this year with the Victorian and Tasmanian versions of the legislation. I do not wish to make a prediction on those cases, but I know that, just because a court says that we may be able restrict those assemblies, it does not mean that we should legislate to do so. Oddly, in her second reading speech the Hon. Penny Sharpe compared her proposed safe access zones to the declared approach distance for whales of 300 metres. She said:

> I note that in New South Wales, the whales that are currently migrating up our coast are given 300‑metre exclusion zones by law for their health and wellbeing. It is ironic that in New South Wales we have not been prepared to give women that same protection.

That is a strange analogy. The exclusion zone around whales is actually as low as 30 metres for swimmers. The zone of 300 metres which the honourable member referred to is for watercraft that could significantly injure animals that make unpredictable movements in the water. In addition, the Biodiversity Conservation Act 2016 does not threaten jail time should anyone be nearby praying the rosary in their boat.

The PRESIDENT: Order! Members will cease interjecting. All members have an opportunity to contribute to the debate. The member will be heard in silence.

The Hon. TAYLOR MARTIN: But most of all, the reason we give whales a wide berth during this period is that we value young life in its formative stages. What a strange analogy to use when we are discussing the ending of a young life. In the lead-up to this debate, I have met with and received correspondence from many people who participate in footpath prayer vigils and counselling services. Those people told me and my colleagues that they do not seek to intimidate, harass or obstruct women from attending abortion clinics. Rather, they offer support for women who feel abortion is their only choice, whether it is due to financial restraints, a lack of support services or even reproductive coercion, which is a form of domestic abuse that the volunteers hope to help women deal with. It is a sad reality that some women experience a form of reproductive coercion in which a male forces his partner to have an abortion. I received an email from one woman, who said:

> As a young university student, I was pressured by a boyfriend to take an abortion pill—something I will forever regret. There was no one to offer me the moral support I needed to make my own decision or to give any informed consent.

This story is not unique. At a recent panel convened by the organisation We Support Women, we heard from one student who attends an abortion clinic weekly to hand out pamphlets that have the contact numbers of counsellors and doctors willing to provide free pre- and post-natal care. The student said that she had witnessed women enter an abortion clinic against their own accord. She continued, "Often there is someone—a partner or parent—physically pushing them along. Sometimes, the women are even crying as they enter." This bill could result in that student going to jail simply for handing out a pamphlet that offers free medical care.

In her second reading speech, the Hon. Penny Sharpe claimed, "Those sidewalk counsellors do not know, and they do not care. They do not care about those women." I disagree strongly and I believe the opposite is true. Those sidewalk counsellors care deeply about women. They are volunteering their time for honourable reasons. They offer support that those women will not receive once they enter an abortion clinic that operates on a profit motive. One young woman I met said, "Even if there was only one woman who, because of us, did not feel as though she had no choice but to terminate her pregnancy, we would do it all and more." At the panel we heard of nine little boys and girls who are in the world and receiving support because sidewalk counsellors were there to offer it. Groups in other jurisdictions claim to have assisted in saving hundreds of lives and in supporting families through tough times and tough decisions so that they come out the other side.

The term "pro-choice" is used a lot in debates like this one. What could be a better example of choice than to offer support—and another choice—to those women? I respectfully disagree with the Hon. Penny Sharpe. While the proponents of the bill seek to protect women from the upset that can be caused by those who are not behaving in line with what the community expects outside those clinics, there are also those who do the right thing for the right reasons. I believe they do so because they care for that woman and her child, long after the day of that visit, and the memory of it, is gone. They care about the anguish that can linger for life after that decision has been made and the procedure done.

This is a poor bill. It is an attack on our values. It is poorly written. Questions remain about its potential impacts throughout New South Wales and about its constitutionality. The reasons given as justification for the bill are questionable at best, but certainly those actions should not attract a 12-month conviction. But most of all, is allowing volunteer counsellors to offer support to women—if that was to even save one life—not enough justification to allow them to do so? I cannot support the bill.

Ms DAWN WALKER (12:26): I speak in support of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I do this as a woman—and as one of the few women in this place. I am a strong supporter of our right to make decisions about our own bodies. Debates like this one today emphasise the incredible privilege to be in this House as one of the handful of women members of Parliament and to contribute to this important debate.

I thank the Hon. Penny Sharpe and the Hon. Trevor Khan for introducing the bill to the House. I also thank and acknowledge my colleague Dr Mehreen Faruqi, who has worked tirelessly for women's reproductive rights. As a proud feminist, I support a woman's right to choose. But you do not have to be a feminist to believe that women who are seeking medical treatment should be able to do so without fear of being harassed. I want members to imagine that they are going to their doctor but, on your way in, people are lining the entry way and trying to stop you. They are telling you that you are making the wrong decision and that you do not need to see a doctor. No matter why you are going there, you are being told that you would be better off without treatment—in fact, you should just head home. It is a pretty shocking scenario to consider. Personally, I find it inconceivable.

But that is what women entering reproductive health clinics around the State today are forced to endure. It does not stop there. Women are being intimidated and manipulated, with plastic foetuses shoved into their hands and graphic, disturbing images shoved in their faces. It is not decent and it is not right. Let us be clear: The bill is about respecting a woman's right to access essential medical services. It allows women to access facilities that provide reproductive health services safely and with dignity. It also protects the workers of such clinics from

harassment, obstruction, intimidation and the like. Those people turn up to work each day to do their jobs, just like you and me, but must face the apprehension of what awaits them when they walk into work. These people are doing jobs that help the community by providing health care, and they should not have to be anxious when they arrive at work.

It was chilling to hear examples of the tactics used by these so-called protesters. No matter their intention, the result has been women feeling threatened, intimidated and traumatised as they try to access basic and essential medical care. It is unconscionable. Every woman who has been victimised is a person. They are someone's daughter, someone's partner, someone's sister or someone's mother. They are being yelled at, pushed and bullied on their way to the doctor.

How can we turn away from enabling this Parliament to legislate safe access zones to protect these women? The current legislation is obviously not robust enough to protect women from this treatment, and as such I welcome this bill. Today I googled "how to get an abortion in New South Wales". I was presented with a list of pregnancy termination services, including an over-the-phone service that provides women with safe medical terminations without having to go to a clinic. The service allows women to access termination medications remotely. This is increasingly favoured by women as a safe and private way of having a termination, thus avoiding the potential for stigma and judgement and, importantly for this debate today, facing the ordeal of anti-choice demonstrators at family planning clinics.

It is reprehensible that women in New South Wales would be making decisions about their reproductive health based in any way on an apprehension of attending a health clinic because of a fear of harassment. It is our responsibility, and it is the Government's obligation, to ensure that all our citizens are safe. This obviously includes women accessing reproductive health care. I have received many emails from the public since this bill was proposed, as I am sure all members have. The vast majority support the bill, which is reflected in the cross-party collaboration. I take this as a positive sign that members of this Parliament will take this responsibility seriously and pass this important legislation.

The PRESIDENT: Order! It appears that someone in the public gallery is again recording. I ask the person in question to cease. That is my final warning. If I see one more person recording, I will have the Usher of the Black Rod remove them.

Ms DAWN WALKER: I ask all members to consider the real issue at hand when they vote on this bill—that is, the ability for all women in this State to access essential medical care without being harassed.

The Hon. JOHN GRAHAM (12:32): I support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I will speak first about one of the flash points for this debate—that is, the situation in Albury, where this debate has been particularly important in the local community. Members have already told the House that Albury has only one publicly funded women's health clinic—the Englehardt Street centre—which serves a catchment of 300,000 citizens. The Helpers of God's Precious Infants group have for some significant time made their views clear outside the centre by engaging in activities that other members have already canvassed. A social worker in Albury, who did not want to be named, was reported by the *Guardian Australia* as saying:

> Many women end up travelling to Melbourne or Sydney for the procedure because they can't face the protesters, Some teenage girls do self-harm because they don't feel safe going to the clinic here, or they're worried they will be identified by the protesters and the whole city will know about it.
>
> They don't have the resources to go to Melbourne or Sydney, their parents may not know, and they are so stressed and traumatised, they attempt suicide.

That is an upsetting view about what is happening on the ground. What is the Albury community's view of this bill? We know something about that because the member for Albury, Greg Aplin, has called for feedback, and I congratulate him on doing so. He received a 97 per cent approval response for exclusion zones. A newspaper report states:

> Only a handful of 200-odd respondents to Albury MP Greg Aplin did not declare support for a NSW parliamentary bill which would ban protests and harassment within 150 metres of reproductive clinics.

That is consistent with the email messages that he received. This issue has been comprehensively discussed across the State, but it is particularly important for people living in towns like Albury and other places in the bush where equal access to reproductive health services is vital. That is not only my view; we have heard that it is also the view of the Country Women's Association. Annette Turner, the State president of the association, wrote:

> The CWA of NSW was formed out of desperate need back in 1922. Country women were fighting isolation and an appalling lack of health facilities.

> We also write to offer our strong support for this Bill. That is an incredibly important view to put because this is an issue in the city but it is doubly important in the bush. Getting access to services is critical and we must acknowledge the way in which these issues bite in those communities.

I grew up in Albury and I was a member of the local church community. In fact, I served at St Patrick's Church as an altar boy for some years, but I was sacked. I was charged with holding the prayer book for the priest. However, I grew quickly and all of a sudden no-one in the congregation could see the priest; all they could see were his arms stretching out on each side of the prayer book. I was given the message that it was time to quit. One of the great things about living in Albury was the sense of community—which is not always evident in the city—and people knowing and looking out for each other. However, that also brings its own pressures because everyone knows everyone else's business. It is often more difficult in that situation when people are facing personal issues and they do not want to grapple with them or they are least able to grapple with them. There are other pressures and we do not want to add to them. Equal access to these services in country New South Wales is a crucial part of this discussion.

Members have repeatedly referred to the constitutionality of this bill. In my view, any effect on political communication is relatively insubstantial. This bill will not affect the right to protest on the steps of the Parliament, to advertise in the media, to write to elected representatives—which we have had plenty of in relation to this debate, and that is a good thing—or to direct other communications aimed at changing public opinion about abortion laws or influencing elected representatives. All these things are not affected. I support the right to protest. I encourage people to protest on this issue. That should be the case. That is not inconsistent with the measures in this bill. In fact, we could go further to support the right to protest in this State. One thing we could do, following the recent decision of the High Court in relation to the Tasmanian protest laws, is repeal the New South Wales protest laws in relation to other matters.

My colleague the Hon. Penny Sharpe attracted some attention in this debate by pointing out that we have a 300-metre exclusion zone for whales in New South Wales and that perhaps 150 metres for women is not unreasonable. I add this observation: It is not just the whales who get a better go. Under the anti-protest laws in New South Wales, inanimate objects such as coal seam gas wells are better protected from protests. I say that because I support the right to protest, but I support the right to peaceful, respectful protest. That set of ideas must be at the heart of the way in which we deal with these issues. It has to be based on respect for the strong views on both sides of this discussion.

The ideas of health, wellbeing and safety are at the heart of this bill. The prohibitions in this bill about communication are not directed at preventing "hurt feelings" or securing "the civility of discourse". These are purposes that have troubled the courts in the past. These measures are directed at protecting the safety and wellbeing, and the privacy and dignity, of persons attending or working at these clinics. That is a very important view to assert. I note correspondence from the New South Wales Council for Civil Liberties in which Therese Cochrane wrote:

> The regular—and often extreme—harassment and intimidation of women accessing NSW clinics is indisputable—as is the inadequacy of current NSW law to provide protection from this harassment.
>
> Similar provisions exist in 2 states and 2 territories.

I make a couple of final observations. When the law changes, it has a real impact on people's lives. As a useful illustration of this, on 25 May 2017 Philip Goldstone from Marie Stopes Australia wrote:

> While I am based in NSW, I have the privilege of working in Marie Stopes clinics across the country. There is a marked difference between places that have safe access zones and those that don't. Since the zones were implemented in Victoria in 2016, the experience of entering our Maroondah clinic has changed. Where once staff and patients were yelled at and had graphic images thrust at them that are designed to misinform and manipulate, they are now able to attend the clinic in peace.

These laws do have a real impact on the lived experience of citizens. They will have a real impact on the lived experiences of citizens in New South Wales if, as I hope and expect, this bill is passed. I look forward to that day. I particularly thank my colleague the Hon. Penny Sharpe, who has led this discussion and debate over a long period for the Labor Party, and led it in the way for which she is known—with gentle, persuasive and persistent advocacy. That is an important factor in why we are here today. I also recognise the role of the Hon. Trevor Khan and all those on both sides of the Chamber who have supported this bill. I also thank two Victorian colleagues, Jill Hennessy and Fiona Patten, who have been pretty crucial in the Victorian discussion. Many of the facts and sources of information are due to the work they have done on this debate in Victoria. Whatever side of the debate a person is on, this is a more informed debate because of the work done by the Victorian Parliament in this area. I commend the bill to the House.

The Hon. SHAYNE MALLARD (12:44): I will speak briefly on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 to put my position on the public record. I will be voting in support of this bill because I believe that women attending reproductive health clinics to undertake a legal

procedure deserve to do so with respect, dignity and privacy and, importantly, not fearing for their personal safety. Further, I believe that from evidence I have seen and experienced myself that this is not the case at the moment. The existing laws are inadequate in addressing this specific confrontation for women accessing these services.

Whether women are procuring a termination or another service from the medical centre, they deserve to do so without personal harassment or direct intimidation. I have witnessed the protests outside the clinic in Surry Hills and have felt for the young women attending the clinic, and their families and friends who may accompany them during this emotional and difficult time. I note that some patients exposed to the so-called footpath counsellors may be attending the clinics in question to access other medical services. I have also considered the safety of the staff who work at the clinics or even nearby to the clinics or in the same building. I am also concerned about their wellbeing and safety. All of these people deserve protection from this unique form of personal harassment. They deserve to have their privacy and their personal safety protected by this Parliament.

Young women using these services are probably at their most mentally vulnerable time in their life. To be harassed to the point of bullying at such a time in my view oversteps the acceptable boundary in regard to their mental health and wellbeing and their personal safety. In a sense this bill addresses the duty of care the State must enact for such women. I acknowledge, and other contributors have mentioned, that this debate has perhaps become for some in the community and in this place a de facto debate about the rights or wrongs of abortion. I do not see it that way. This is not a debate—or legislation—about the legality or illegality of abortion. That debate has occurred. The Parliament and the courts have established the criteria and ethics around a woman's right to be in charge of her own body. We should respect that outcome. I strongly respect and support it.

It should be remembered that this legislation does not prohibit protesting. People who feel passionately about this issue can still protest outside a designated protest perimeter. They can also protest via the entire array of recognised channels, including protesting outside this Parliament—as has happened today—organising petitions and rallies, sending emails and letters to members of Parliament, using social media and many other methods of protest. I conclude by quoting a comment from my Facebook page about this legislation. A young man named Benjamin wrote on my wall:

> Shayne, I have my reservations about abortion. I really do. In a perfect world they wouldn't exist, but we don't live in a perfect world. I am not capable of understanding the decision women have to make in these matters and so I reserve judgement. Regardless of one's stance on this matter I think the average person of common sense would accept that protesting belongs outside parliament, not on the steps of a medical facility. I do think this law is needed.

Those are wise words from a very young man. I acknowledge the co-sponsors of this private member's bill, the Hon. Penny Sharpe and the Hon. Trevor Khan, for the investment of their political capital, passion and energy to bring this bill to the House. I thank them for doing that. I also acknowledge the member for Port Macquarie, Mrs Leslie Williams, in the other place, who, should the bill be passed in this place, has undertaken to introduce the bill to the Legislative Assembly. I thank her for undertaking that important responsibility.

Finally, a bill like this, jointly sponsored across the aisle, across the political divide and, for some, affording a conscience vote, does not weaken the position of a government or a leader, as some have contended. Nor does it undermine the important discipline of the party room and Executive model of the Westminster system of government. In my view, private members' bills can bring out the best in our Westminster parliamentary system and in our parliamentarians. I believe the community would like to see more of this and see more opportunities for members to canvass differing views not only on both sides of the Chamber but among the benches in the Chamber. With those views now on the record, I commend the bill to the House.

Mr DAVID SHOEBRIDGE (12:48): I give my strong support to the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I start by acknowledging the work of the co-sponsors, the Hon. Penny Sharpe and the Hon. Trevor Khan, in bringing this bill to the House. I acknowledge that the work across the aisle has been extremely productive. I acknowledge also the work of my colleague Dr Mehreen Faruqi in putting this issue on the agenda in this House and the work she did in a prior private member's bill, which would have provided very similar but perhaps slightly greater protections around reproductive health clinics. The support I give to this bill is 100 per cent endorsed by my party. In this regard, I have the good fortune of being a member of The Greens, a party whose membership unambiguously and fully supports this legislation and a woman's right to choose and have control over her own body and reproductive cycle. I feel privileged to be a member of a party that is 100 per cent behind me on this. We do not have any internal debate on the issue; we have unanimity in our support for the bill. I acknowledge that makes it easier for me to come forward and strongly support the bill.

The bill creates offences for the following actions within 150 metres of safe access zones: interfering with access of persons to reproductive health clinics, including by harassment, intimidation, besetment, threatening behaviour, obstruction or impediment by any means; obstructing or blocking a footpath or road leading to any reproductive health clinic at which abortions are provided; making a communication that relates to abortions that is reasonably likely to cause distress or anxiety; and capturing and distributing visual data of persons

without their consent. The maximum penalties for the offences are relatively modest in the context of our criminal law system. Maximum penalties are:

(a) for a first offence—50 penalty units or imprisonment for 6 months, or both, or

(b) for a second or subsequent offence—100 penalty units or imprisonment for 12 months, or both.

Notably, there are some exemptions in the bill. The provisions of the bill do not apply in the following areas:

(a) conduct occurring in a church, or other building, that is ordinarily used for religious worship, or within the curtilage of such a church or building, or

(b) conduct occurring in the forecourt of, or on the footpath or road outside, Parliament House in Macquarie Street, Sydney, or

(c) 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.

This is a reasonable and moderate approach to a very real problem. It is a problem for women and, I believe, for our society. Why are we doing this? I have received many submissions from community legal centres, lawyers and women across the State. I will highlight some of the concerns and rationales put forward by Community Legal Centres NSW. In its submissions on 23 May 2018, the organisation pointed to the Albury-Wodonga example. I have been to Albury and spoken to Mayor Kevin Mack and Deputy Mayor Amanda Cohn. I commend the work of Deputy Mayor Amanda Cohn there. She has done extraordinary work in standing up for her community and women in her community who have been the victims of appalling threats and intimidation. Amanda Cohn has been a champion of the cause. The Community Legal Centres submission states that the:

> … reproductive health clinic providing abortions in Albury-Wodonga serves a catchment area of over 300,000 people.

People in the area have approached Community Legal Centres because of what has been happening to them. The submission goes on to state:

> Picketing of the clinic by the Helpers of God's Precious Infants for over a decade and non-consensual filming of patients has led to people (particularly teenagers) being too afraid to attend the clinic and in some cases has caused people to self-harm or attempt suicide as they felt trapped by their situation—unable to have the procedure done within Albury, and lacking the resources to travel elsewhere.

There is a socioeconomic effect of this as well. Women with less financial capacity are bearing the brunt down in Albury. The submission goes on to state:

> Conduct of the anti-abortion protesters has included:
>
> - kneeling down to pray as garbage trucks drive past to collect the bins, implying that the clinic has been throwing foetuses in the garbage;
> - handing plastic foetus-shaped dolls to people entering and leaving the clinic; and
> - printing graphic images onto placards and placing them around the entrance to the clinic.
>
> …
>
> Crucially, the introduction of safe access zones does not prevent those with differing opinions on abortion from having their say, it simply provides space so that all people, including patients accessing healthcare and healthcare workers, can get to reproductive health clinics without harassment, interference, obstruction or recording without their permission. No-one should have their safety threatened on the way to a medical appointment.

Many stories about what this bill will mean for women have been provided to me, but I read onto the record one story that was recorded by Gina Rushton in a BuzzFeed news piece entitled "This Is What It's Actually Like To Have An Abortion In Australia." The article describes the experiences of an Albury woman who approached the clinic in Albury. The article states:

> [An Albury woman] fell pregnant to her fiancé in 2014.
>
> Three months earlier she had been raped by a friend, the 29-year-old told BuzzFeed News.
>
> "When I fell pregnant I was still dealing with the trauma of the rape, struggling to get out of bed and attempting not to kill myself every day," she said.
>
> "I knew I couldn't look after myself let alone someone else."
>
> The couple decided to terminate the pregnancy.
>
> "If we had carried the child to full-term, I would have had to go off anti-depressants and I wouldn't be here today."
>
> [The woman] was anxious about the procedure: "I was terrified about being knocked out and I was having nightmares about being raped while I was under [a general anaesthetic]."
>
> There is one abortion service provider in the NSW border city of Albury where [the woman] lives.

…

"But when we drove down the street it was like I had this big target on me and they held up their rosary beads while we parked."

As the couple walked along Englehardt St to the clinic, [the woman] said an "old guy" approached them.

"He told us: 'They kill babies in there, you know you will burn in eternity forever'; and he said that I was a horrible person for killing my baby," she said.

"I just hid my face and cried a lot and my partner told them to fuck off."

[The woman] said she was one of five couples in the waiting room that day.

"All the girls were crying and I heard one of them whisper to her partner that it was the hardest walk she's ever had to do."

After the operation, [the woman] asked her fiancé to collect her at the clinic's rear entrance.

"As we were driving out, someone came up to the windscreen and started taking photos of us," she said. "[The protesters] say they take photographs for their own protection but my privacy was destroyed over something that was a really difficult decision."

[The woman] said she wished NSW had safe-access zones.

I wish it did too. There has been a significant amount of comment from those opposing the bill that suggests that the bill would somehow be unconstitutional. Those arguments are specious and false. I am grateful for the work of Jane Needham, a former president of the New South Wales Bar Association, and two juniors, Ingrid King and Aruna Sathanapally, for providing advice. The trio provided a memorandum of advice to Albury City Council to try to move forward on this. When it comes to the constitutionality of these types of measures, the memorandum pointed out:

The implied freedom of political communication under the Australian constitution is not an individual right to communicate. Rather it is a more limited protection to that communication which is necessary for the effective operation for the system of representative government created by the Constitution.

There is a two-step test for the compatibility of a measure with the implied freedom, as set out by the High Court in *Lange v Australian Broadcasting Corporation* (1997)189 CLR 520:

(a) Does the measure effectively burden freedom of communication about government or political matters either in its terms, operation or effect?

(b) If so, is the measure reasonably appropriate and adapted (that is, proportionate) to serve a legitimate end, the fulfilment of which is compatible with the constitutionally prescribed system of representative and responsible government?

That is the test. There is undoubtedly a very small restriction on political communication within 150 metres of reproductive health clinics. However, the real question is the second step. The submission states:

In respect of the second step (reasonably appropriate and adapted) it is necessary to first identify that the measure serves a legitimate end, and then that it is proportionate to that end.

The High Court has taken a broad approach to what constitutes a "legitimate end". Relevant to the present measure, the following have been held to be legitimate ends:

(a) Protecting physical safety or community safety, in L*evy v Victoria* (1996-1997) 189 CLR 579

(b) Preserving public health, safety and amenity in *O'Flaherty*.

…

[This kind of law] pursues a legitimate objective that is preserving public health and safety in respect to access to family planning services, by protecting visitors to [reproductive health clinics] from harassment, intimidation and distress in the immediate environment of a clinic that provides those services. This argument is assisted by the nature of the conduct by [the likes of the Helpers of God's Precious Infants in Albury], which is reasonably likely to cause distress to women seeking termination of a pregnancy, as well as others seeking to access other family planning services, and may deter people from accessing the public health services which are provided by the clinic.

In short, the measures in the bill are reasonable, appropriate and adapted to serve a legitimate end. As I said, it is easy for me, as a member of The Greens, to come here with the strong support of my party and support this bill. I am glad that Labor has a caucus position that is binding for all of its members and I commend Labor for that. I commend also the members of the Coalition who, through their own strength of principle, are coming forward and supporting this legislation. We are in preselection season—it is a hard season to stand up with principle and support things that may be opposed strongly by members of certain political parties. I commend Leslie Williams for her decision to introduce the bill to the Legislative Assembly and the Hon. Trevor Khan for his support of this bill. I commend all of the Coalition members who come across and support this bill so we get a majority in this House and the Legislative Assembly and finally get safe access zones in New South Wales.

The PRESIDENT: I will now leave the chair. The House will resume at 2.30 p.m.

The PRESIDENT: According to sessional order, proceedings are now interrupted for questions.

Visitors

VISITORS

The PRESIDENT: I take this opportunity to welcome to the public gallery a visiting delegation from the Seoul Metropolitan Council. Welcome to the Legislative Council. We hope that you enjoy your time here during this very quiet question time.

Questions Without Notice

LIDDELL POWER STATION

The Hon. ADAM SEARLE (14:30): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Why has Liddell Power Station been granted an exemption from New South Wales air pollution regulations and allowed to emit toxic nitrogen oxide at a rate that is double that allowed at comparable power stations in this State?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:30): There was some exchange across the Chamber before I got up to speak. The Hon. Adam Searle is right: I do represent the Minister for the Environment in this place. The other interjection was about the fact that it was a matter for the Minister for the Environment. I am not sure who on this side of the Chamber said that, but they were right. This is a matter for the independent regulator, the New South Wales Environment Protection Authority and the Minister for the Environment. I am advised that the New South Wales Protection of the Environment Operations (Clean Air) Regulation includes a provision to improve the operation and associated emission limits of older plants over time so that they meet emission limits that are applicable to new plants.

The provision has regard to what is technically and physically feasible at an individual plant. The licence limit for oxides of nitrogen from Liddell Power Station was set following an application for an exemption that was supported by detailed assessment information. This information was reviewed by the Environment Protection Authority [EPA], which found the risk of adverse impacts to be low. I am advised that the licence limit is an improvement on the previous licence limit. As part of the exemption, the EPA required AGL to investigate the feasibility of additional controls for the power station under a pollution reduction program. AGL has submitted its report to the EPA. The EPA is considering the report as part of its implementation of recommendations from its detailed review of power station emissions and monitoring that was published in March 2018.

This will not affect New South Wales generators' ability to continue to provide electricity to New South Wales customers. This is important because a secure and reliable supply is one of my key objectives. That is also accompanied by a desire to provide the most affordable and cleanest power supply possible. The energy trilemma is a difficult one to deal with but if we did not have the Liddell Power Station in the equation right now we would not have more affordable power prices. We saw what happened to power prices when the Northern Power Station in South Australia shut and when the Hazelwood Power Station in Victoria shut. There was upward pressure on prices as a result. We need the Liddell Power Station to keep providing power. However, I am delighted that there are plans in place to replace it should it shut in 2022, as announced by AGL.

It is important to ensure that if Liddell shuts in 2022 there is a reliable power supply in its absence. As the Australian Energy Market Operator has said, dispatchability and dispatchable power is the key. It is something that the Federal Minister is focused on and I am focused on as well. Without doubt, the National Energy Guarantee is the key and that is my principal focus, because then we will get the investment we need.

The Hon. Shaoquett Moselmane: Your time is up.

The PRESIDENT: I give a final warning to the Hon. Shaoquett Moselmane. If he screams out one more time, "Your time is up" while there is at least one second on the clock, I will call him to order. It is not his job to give directions, it is mine.

WALSH BAY ARTS PRECINCT

The Hon. SHAYNE MALLARD (14:35): My question is addressed to the Minister for the Arts. Will the Minister update the House on the redevelopment of the Walsh Bay Arts Precinct and are there any alternative policies?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:35): I thank the Hon. Shayne Mallard for his question and his undoubted enthusiasm for the arts sector in New South Wales, with a particular interest in the arts policy. We are dedicated to the revitalisation of arts and culture, and having world-class facilities for our world-class organisations is the key to this goal. Walsh Bay's transformation to become an exemplary arts precinct is a step closer with the recent approval of project works by the local building management committee and the approval of two State significant planning

applications. Included was the approval of the Shore 3/4 strata owners, the arts resident companies, the domestic residents, the strata groups, the building management organisation and the precinct management association, which were joined in support by the Walsh Bay Arts Chamber of Commerce.

The redevelopment of the Walsh Bay Arts Precinct is a key priority project for the Government. This Government recognises the significant role cultural infrastructure plays in enabling the people of New South Wales to access the arts. The redevelopment includes creating new arts facilities and performance venues in Pier 2/3 and refurbishing facilities in Wharf 4/5 for resident performing arts companies. These include the much loved Sydney Theatre Company, Sydney Dance Company, Bangarra Dance Theatre, Gondwana Choirs, Sydney Philharmonia Choirs and the Song Company. We are redeveloping Pier 2/3 into a cultural venue as the new home for the Australian Chamber Orchestra, Bell Shakespeare and the Australian Theatre for Young People. These three vital performing arts groups will find rehearsal rooms, studios, classrooms and function spaces to make their own.

All of the new fit-outs at Walsh Bay are being designed and are fit for purpose in conjunction with the respective organisations as we aim to give them what they need to create excellent art and wow the people of New South Wales. The Walsh Bay performing arts companies are some of the best in the world. They all take their programs across the State and around the globe. The Walsh Bay Arts Precinct redevelopment will double the arts and cultural offering at Walsh Bay and will enhance Sydney's reputation as a global cultural capital. This Government has been clear: It supports arts and culture in New South Wales. But can the same be said about the Hon. Walt Secord as the shadow Arts spokesperson? It is seven days since we heard a policy announcement from the honourable member in the Arts portfolio: And what was that? It was on—wait for it—theatre etiquette.

The Hon. Walt Secord: Point of order: My point of order relates to relevance. The question was about the Walsh Bay development and about the various rentals that have been made involving that development.

The Hon. Shayne Mallard: To the point of order: I asked the question. I asked whether the Minister was aware of alternative policies.

The Hon. Walt Secord: To the point of order: The Minister was talking about theatre etiquette. That does not relate to alternative proposals at Walsh Bay.

The Hon. DON HARWIN: To the point of order: The alternative policy that I will be talking about is about theatre. Theatre etiquette is certainly a subset of theatre. I am being relevant.

The PRESIDENT: Order! I thank the Hon. Walt Secord for an excellent point of order. I do not uphold the point of order.

The Hon. DON HARWIN: We have heard about theatre etiquette from Walt. I am not talking about etiquette. I am building theatres. I am building new performance spaces.

The Hon. Walt Secord: Point of order—

The PRESIDENT: Order! The Minister will resume his seat. The Clerk will stop the clock.

The Hon. Walt Secord: The Leader of the Government has repeatedly insisted that members of this Chamber be referred to by their full title. I think it would be a wonderful traditional to call each other by our first names—I would be called Walt—but I would like him to be reminded that I am the Hon. Walt Secord.

The PRESIDENT: Order! I uphold the point of order. The Minister, of all people, knows better. All members will be referred to by their correct titles.

The Hon. DON HARWIN: I have proposals to rebuild the Riverside Theatres. I have proposals for a new 15,000-seat theatre at Ultimo. The Hon. Walt Secord is opposing both of those theatres. He is talking about theatre etiquette; I am increasing performance spaces across the State. [*Time expired*.]

INTELLECTUAL PROPERTY MANAGEMENT COPYRIGHT AGREEMENTS

The Hon. WALT SECORD (14:41): My question is directed to the Minister for the Arts. Given that New South Wales is the only Australian jurisdiction without a formal copyright payment agreement, why is the Government refusing to pay appropriate copyright fees to artists, authors and content creators as part of the intellectual property management framework for the New South Wales public sector? Is that too highbrow for him?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:41): It is not too highbrow for me. I will take the question on notice and provide a response for the honourable member.

ANIMAL WELFARE ADVISORY COUNCIL MEMBERSHIP

Dr MEHREEN FARUQI (14:42): My question without notice is directed to the Minister for Primary Industries. How many current members of the Animal Welfare Advisory Council [AWAC] are there? Who are they? Why is this information not available publicly?

The PRESIDENT: Order! The Minister does not require any assistance from Government members.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:42): I thank the member for her important question. The Animal Welfare Advisory Council performs a number of important roles and it provides advice to me in my role as Minister. AWAC has certainly had a role in providing feedback on proposed changes to policy or legislation, including a bill—the Companion Animals and Other Legislation Amendment Bill 2018—which is sitting on the table of this House after the second reading speech. AWAC also provides me, as Minister, with advice on broad animal welfare issues. If the member is trying to suggest that there is some sort of conspiracy about—

Dr Mehreen Faruqi: Point of order: My point of order is to relevance. I am not suggesting anything. I asked a specific question about how many members there are currently on the Animal Welfare Advisory Council and who they are.

The Hon. Catherine Cusack: And you asked why it wasn't public.

The PRESIDENT: Order! If the Hon. Catherine Cusack wants to speak on the point of order she should seek the call.

The Hon. NIALL BLAIR: To the point of order: The member quite clearly, in the last part of her question, was suggesting that the membership of this committee is not published on the website.

Dr Mehreen Faruqi: Fair enough.

The Hon. NIALL BLAIR: I can only draw the inference that the member is suggesting that there is a problem with that. That was the part of the question that I was starting to directly address as part of my answer.

The PRESIDENT: In any event, the Minister was being generally relevant.

The Hon. NIALL BLAIR: If there is any concern that the membership is not published, and if the member is suggesting that this is something of a conspiracy, I can guarantee that that is not the case. When I took over the ministerial portfolio of Primary Industries in 2015 we renewed the membership of AWAC. In a lot of cases the membership of AWAC is filled by representative organisations. The organisations have a chair on the council and the organisations nominate a person to represent them on AWAC. I am more than happy to take the question on notice. First, I will come back with the full membership of AWAC, including the organisations that are represented. Also, I will provide the member with an up-to-date list of which persons represent those organisations on AWAC. I will also ask the agency why that information is not more readily available. This is an area that the Government is clearly dedicated to. Earlier this week members would have heard me referring to the Government's animal welfare action plan.

Legislation and systems are in place in relation to animal welfare, which the Government believes could be improved. Government members know that animal welfare is part of the DNA of a lot of organisations that work with, or have interactions with, animals in this State. The broader public in New South Wales also cares about animal welfare issues. I have no problem in coming back to the member with that information. I will provide that detail to her. I will also continue the discussion in relation to animal welfare in New South Wales and the roles of the organisations that are authorised under our prevention of cruelty to animals legislation to enforce animal welfare systems in New South Wales. I will continue the discussion about the organisations that help guide policy, because I want to ensure that everyone is fulfilling their responsibilities in New South Wales.

ROCK FISHING SAFETY

The Hon. WES FANG (14:47): My question is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on how the New South Wales Government is working to reduce the number of deaths in rock fishing?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:47): New South Wales has some of the best fishing locations in the world, and thousands of rock fishers enjoy casting a line along our amazing coastline every day. Unfortunately, though, rock fishing can be a dangerous activity because conditions can be so varied. Every year on average eight rock fishers drown. The New South Wales Government is committed to reducing those figures, and we know that lifejackets can play a big role in achieving that goal. The Government has recently completed a 12-month trial of

the mandatory wearing of lifejackets for rock fishers in the Randwick council area and now it is time to see the mandatory wearing of lifejackets rolled out in other local government areas.

The Minister for Emergency Services, Troy Grant, and I recently announced that all coastal councils now have the opportunity to opt-in to making it mandatory for rock fishers to wear lifejackets in their local government areas. Up to $30,000 and a rock fishing toolkit are available to assist with implementation. In addition, the Department of Primary Industries is taking the lead on the program from now on, in recognition that it is best placed to reach out to the fishing community. Things will stay the same in terms of compliance.

In Randwick, police and council rangers have been leading compliance and issuing warnings, with the National Parks and Wildlife Service and the Department of Primary Industries–Fisheries officers also authorised to enforce the Act. I know that many rock fishers already wear lifejackets. Some are top quality and are designed especially for rock fishing, but because they were bought from overseas they do not satisfy the Australian Standard. We have listened to fishers and have committed to reviewing the situation. We will work with fishers to find out which jackets are best suited for rock fishing to encourage more fishers to wear them.

We know that there is more to do in educating rock fishers about safety, and fishers have confirmed that. Therefore, we are recruiting a dedicated engagement officer to work on this program. The officer will also help to educate rock fishers on the rocks when they are fishing so we can ensure that safety messages are being heard. Our safety messages are not only for fishers in Randwick; we want to ensure they are also getting to people up and down the New South Wales coast. People should wear a lifejacket, they should never fish alone and they should stay alert to the weather conditions.

We will promote good footwear choices because non-slip options involving cleats and spikes can significantly reduce the risk of slipping or being washed into the water. If the worst happens and an angler is washed in, we are advocating light clothing options to provide the best chance of survival. All rock fishers should know how to swim and plan an escape route if they are washed into the water. We do not want to lose any more rock fishers because they were ill-prepared for the sport. "If in doubt, don't go out" is the mantra all rock fishers should adhere to. No fish is worth risking a life.

This Government is working hard to ensure that no more rock fishers needlessly risk their lives while enjoying a great Australian pastime. This is an important change that the Government has facilitated. No longer do we want rock fishing to be the domain of emergency services. It is important that we have emergency services to respond when there is an incident, but we need to work with fishers to find ways in which we can make them safer. Department of Primary Industries fishers are best placed to do that; a full-time engagement officer is best placed to do that. We must also have conversations about what gear the fishers want to wear and ensure it is appropriate and safe for them to wear. We want to stop people drowning in New South Wales, and we must work hard together to get this right. [*Time expired*.]

CARBON EMISSIONS TARGETS

Mr JUSTIN FIELD (14:51): I direct my question to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. The question relates to his Energy portfolio, but I am also asking of him as the Minister representing the Minister for the Environment. Last week the Australian Capital Territory Government announced interim carbon emissions targets and a commitment to bring the ACT to zero net emissions by 2045, which is five years earlier than previously set and five years earlier than this Government's aspirational target. Will the Government follow the ACT's lead and commit to interim targets to ensure a net zero emissions pathway for New South Wales and bring forward this State's net zero emissions target date as well? If not, why not?

The Hon. Dr Peter Phelps: The ACT Government also said it would have no landfill by 2020.

The PRESIDENT: Order! I am waiting for the Minister's colleague to cease screaming.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:52): Mr Justin Field is correct in noting that the New South Wales Government has an aspirational target of achieving zero net emissions by 2050. That policy was adopted before I became Minister for Energy and Utilities; in fact, it was adopted when Mike Baird was the Premier, when Anthony Roberts was the Minister for Energy, and when Attorney General Speakman was the Minister for the Environment. There are no plans to change that policy, and there are also no plans to follow the ACT path.

Shane Rattenbury is a colleague of Mr Justin Field and an Australian Capital Territory Minister, and I have known him for some time. He was the Speaker of the Legislative Assembly in the Australian Capital Territory while I was the President of this place. I have a high regard for Mr Rattenbury and he is a valued colleague on the Council of Australian Governments Energy Council. Despite that, we have many disagreements

about how some of these policy matters should be handled. This Government has no plans to adopt the interim targets that have been suggested, but it is doing a number of other important things. It has been working to unlock the benefits of clean energy, a sector in transition, without jeopardising the State's economic development. The Climate Change Fund has helped households and businesses in New South Wales to save energy and money, to unlock the benefits of clean energy and to enhance community resilience.

In November 2016 the Government released the NSW Climate Change Policy Framework, which aims to maximise the economic, social and environmental wellbeing of New South Wales in the context of a changing climate, and current and emerging international and national policy settings and actions to address climate change. That underpins the Government's aspirational long-term objective, which is to achieve net zero emissions by 2050 and to make New South Wales more resilient to a changing climate. This is a measured and responsible target. It also aligns with our leading corporates and reflects the State's international commitments under the Paris Agreement. In addition, this Government is working closely with the Commonwealth Government and other State and Territory governments through the Council of Australian Governments Energy Council and the Energy Security Board to deliver national market reform.

The National Energy Guarantee seeks to ensure a reliable electricity supply and to contribute to Australia's international greenhouse gas reduction commitments. For too long this nation has been crippled by energy policy inaction. This is our chance to break that cycle and to implement the necessary reforms. New South Wales will continue to work through the Council of Australian Governments Energy Council and the Energy Security Board on the National Energy Guarantee design over coming months to ensure that it is in the best interests of New South Wales consumers. I look forward to hosting a critical Council of Australian Governments Energy Council meeting that will take place in the first half of August in Sydney. That will be the point at which we will need to make a decision on the National Energy Guarantee. It will provide business with the certainty—[*Time expired*.]

Mr JUSTIN FIELD (14:56): I ask a supplementary question. Will the Minister elucidate his answer with regard to the Climate Change Policy Framework that the Government released in November 2016, which made clear that the action plans would be released in 2017? What is the status of those action plans?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:57): The Climate Change Fund has supported a wealth of programs. In 2017 AGL's Nyngan Solar Farm began exporting energy into the New South Wales grid following funding support from the NSW Climate Change Fund and the Australian Renewable Energy Agency. The Home Power Savings Program, which is part of the fund, helped 220,000 low-income households to reduce their energy use. In September 2017 the Premier announced a new Energy Bill Relief Package. A number of components of that package are funded by the Climate Change Fund.

Mr Justin Field: Point of order: My point of order relates to relevance. I did not ask about the fund per se but the action plans announced by the Government in November 2016.

The PRESIDENT: Order! The Minister was being generally relevant to the supplementary question.

The Hon. DON HARWIN: Expenditure from the fund is underpinning that policy framework. The New South Wales Government's $112.5 million Energy Bill Relief Package will help households and small businesses to upgrade to more energy-efficient equipment through partnering tradespeople and suppliers. These include discounts for energy-efficient equipment upgrades for small businesses, discounts for households wishing to access energy-efficient lighting and air conditioning, discounts for concession card holders to upgrade old fridges and televisions to energy-saving models, and supporting energy-efficiency upgrades for public housing clients. I am also pleased to note that via the Climate Change Fund, the New South Wales Government has co-funded with the Australian Renewable Energy Agency a $14 million New South Wales-specific demand response program. This program is enhancing New South Wales' energy security by providing 61 megawatts of spare capacity in the past summer, and it will increase to 80 megawatts of demand response in 2019-20. The program will help to support the establishment of a demand response market in Australia, and this is an absolutely critical element of our energy transition. [*Time expired.*]

FARM INNOVATION FUND

The Hon. MICK VEITCH (14:59): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister back New South Wales Labor's call for top-up funding for the Farm Innovation Fund and, if so, when will the additional funding be made available?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:59): I thank the member for his question relating to drought. You always

know it is a tough day to get your stuff in the media when you have to raise a question asking about your own media release to try to shine some light on that fact. I am glad the member is advocating for a continuation to the Farm Innovation Fund. His predecessor, when the Government first announced the Farm Innovation Fund, called it an act of bastardry. And how did Steve Whan end up? Well, he is in a pretty good place at the moment. He is doing a pretty good job.

The Hon. Mick Veitch: Point of order: I do not think it is fair that the Minister cast aspersions against one of his great supporters at the moment. I think he should stick to the question before the Chamber.

The PRESIDENT: Order! The first part is not a point of order, and the member knows that. However, I do believe the Minister was starting to stray from being generally relevant when he was praising a former member. I do not see how that is relevant to this question. The Minister has the call.

The Hon. NIALL BLAIR: That was the response of the Opposition back in—

The PRESIDENT: I had no problem with that part—it was the comment about his great life afterwards that I had a problem with.

The Hon. NIALL BLAIR: I appreciate that, Mr President, and I certainly do believe that he is doing a good job in his current role. However, when we announced the Farm Innovation Fund the Opposition was critical of that program. I am going to leave that aside, because what we have now is an acknowledgement not just from the farmers in this State but also from the Opposition that this fund is working.

The Hon. Mick Veitch: But it is fully subscribed.

The Hon. NIALL BLAIR: It is not a backhanded compliment. I am giving the member the benefit of acknowledging the fact that this is a tough time for our farmers and this fund has been hitting the mark. I know the member is concerned that when he goes onto our website to look at how much money is left in the fund it has been so popular and in so much demand that we are getting close to what we had set aside when we first announced this fund. In fact, we have spent almost $250 million from the Farm Innovation Fund. In the 2017-18 financial year to 20 May we had approved 366 loans totalling more than $67 million. Since the commencement of the program, 1,298 loads totalling more than $216 million have been approved. That shows that farmers have been engaging with this program.

The Hon. Mick Veitch: Are you going to give them extra money? Are you going to top it up?

The Hon. NIALL BLAIR: Let me get to the point—

The Hon. Mick Veitch: I am watching the clock here; you're going to run out of time.

The Hon. NIALL BLAIR: I am going to give you a generally relevant answer. We now have a drought coordinator out in the field speaking to farmers and giving information directly back to my office. I have constant engagement with the department about how the demand for this program is progressing. We have seen what we were previously at—around $1 million a week—ramp up to $3 million a week. We are aware of the program because we are the ones who put it in place. We are aware of the program because we are the ones who are administering it. We are the ones who are advocating and promoting it. I will give an assurance to the farmers of this State that we are going to stand by them through this period. We are going to make some decisions based on the feedback from the drought coordinator and they will be consistent with how we have supported our farmers. We are going to stand by them.

STOLEN GENERATIONS APOLOGY

The Hon. TAYLOR MARTIN (15:04): My question is addressed to the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Will the Minister update the House on how the New South Wales Government is supporting the healing of Aboriginal communities?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:04): I thank the member for his question. At the outset I take the opportunity to note that National Sorry Day is coming up on 26 May, this Saturday, and the significance this day has for the Aboriginal community. The New South Wales Government is acutely aware of the importance of acknowledging the past mistreatment of Aboriginal people and the profound suffering that the policies of successive parliaments had inflicted on them—in particular, the stolen generations.

In 2016 what was formerly known as the Legislative Council General Purpose Standing Committee No. 3 inquired into and reported on the New South Wales Government's response to "Bringing them Home", a report that rightly called for reparations but importantly also firstly outlined the need for an apology. Other measures highlighted were the need for action, measures focused on restitution and rehabilitation, monetary compensation,

and guarantees against repetition. In my current position as the Minister for Aboriginal Affairs and also as a former member of that committee it has been very important to me to ensure that our response to the recommendations has been enacted swiftly, effectively and respectfully.

Members of the House are well aware that it was only recently that ceremonies were held both nationally and in New South Wales to mark the decade since the national apology to the Aboriginal people of this country. That apology acknowledged the past mistreatment of Aboriginal people. It acknowledged the profound grief and suffering that the laws and policies of successive parliaments had inflicted on them—as I said, in particular, to the stolen generations: those many thousands of children whose culture and identity were undermined and whose stories of trauma and suffering are profoundly affecting to all who hear them.

When considering the impact of apologies it is interesting to note that within academic research the role of apologies by States is a somewhat contested concept. An interesting insight I have found relates to what has been identified as the "apology paradox": the fact an apology does not and cannot undo what has been done but, on the other hand, it does make a profound difference. As noted by the Human Rights and Equal Opportunity Commission inquiry into the stolen generations, the first step in healing must be an acknowledgement of the truth and the delivery of an apology. With that in mind, I am proud to inform the House about the work underway to ensure that those stolen generations survivors who have received a reparation payment from the Stolen Generations Reparation Scheme also receive a personal apology.

As members know, the New South Wales Stolen Generations Reparations Scheme commenced in mid-2017 and provides reparation payments and personal apologies to Aboriginal people who were removed by the Aborigines Welfare Board. As at 20 April 2018, 143 eligible applicants have indicated that they want to receive a personalised apology for their removal from their family, community and culture. These apologies are drafted from impact statements that reflect each person's experience. Survivors can nominate to receive a written apology or they can ask for a face-to-face meeting to talk directly about their experience and the impact, and receive a direct personal response from a senior government official, followed by a written apology.

So far 17 survivors have requested these face-to-face meetings, and work is underway to commence this process in July this year. To date, as Minister I have signed 27 personalised apologies which have been sent to survivors. A further 30 apologies are currently being prepared. The crafting of the apologies is undertaken with great sensitivity. Aboriginal Affairs is working with a further 79 stolen generations survivors to collect additional information about the impact of the Aborigines Welfare Board removal policy on their lives. Survivors can find talking about their removal as a child and its lifelong consequences traumatic, but it is important to work with survivors to ensure that the apology they receive reflects their personal circumstances. We know these apologies cannot undo the past, but ensuring that an apology is respectfully provided not only demonstrates the Government's acknowledgement of harm caused by forcible removal policies; it also shows a genuine commitment to addressing this harm.

NEWCASTLE LIGHT RAIL

The Hon. PAUL GREEN (15:08): My question without notice is directed to the Minister for Resources, representing the Minister for Transport and Infrastructure. The revitalisation of the Newcastle central business district is coming at a cost to local businesses. Reduced trade and poor communication are causing owners to have to shut their shopfronts for days at a time. The project is meant to bring improvement, yet is seen as resulting in people losing their livelihoods. Will the Minister report to the House what is being done to communicate with these business owners, help them trade more effectively and compensate those who have lost their livelihood?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:09): I thank the Hon. Paul Green for his question. Business disruption is a very serious issue that is faced during a number of capital projects. The Newcastle Light Rail is a very good project, but, nevertheless, there are issues that need to be dealt with. The transport Minister is dealing with these issues and has plans in place to deal with them. I will get a full answer for the honourable member as quickly as possible.

HOMELESSNESS

The Hon. ERNEST WONG (15:10): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Leader of the Government, representing the Minister for Finance, Services and Property. Given that according to census data New South Wales had the highest increase in homelessness in Australia, what is the Government's response to calls from community groups to allow them to secure the 11 William Street, Woolloomooloo, site to create a harmony and balance betterment centre to assist homeless people and others affected by drugs and alcohol, rather than selling the site to property developers?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:10): I imagine that the question was asked of me in my capacity as the Minister representing the Minister for Finance, Services and Property, given that it involves the sale of property. I am happy to obtain an answer for the Hon. Ernest Wong.

WESTERN SYDNEY INFRASTRUCTURE

The Hon. NATALIE WARD (15:11): My question is addressed to the Leader of the Government. Will the Leader of the Government update the House on how the New South Wales Government is supporting Western Sydney and whether there are any alternative policies?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:11): The Government delivers for Western Sydney. We are building infrastructure to support growth in our western suburbs. In this place, I have talked endlessly about the Government's record arts investment in Western Sydney and have talked about how we are delivering road and rail infrastructure through WestConnex and the Sydenham to Bankstown metro—projects that Labor wants to scrap. We are supporting the Western Sydney Airport, while Labor cannot make up its mind. We have seen more than 26,000 residential dwellings approved in the year to October 2017 and almost 20,000 new builds completed in the same period. The Government is transforming the Westmead health precinct. We upgraded the Liverpool Hospital and are investing in Nepean Hospital. We are planning for the future and are building for the future.

I say this more in sorrow than in anger, but this is in complete contrast to the Labor Party and the Leader of the Opposition in the other place. Today, the Leader of the Opposition has been dog whistling about too many migrants ruining our suburbs. Today, on the front page of the *Daily Telegraph*, the Leader of the Opposition said, "Syrian and Iraqi refugees are swamping Sydney suburbs."

The Hon. Adam Searle: Point of order—

The PRESIDENT: Order! The Leader of the Opposition is entitled to seek a point of order and will be heard in silence.

The Hon. Adam Searle: The Leader of the Government is reflecting on a member of the other place. If he wishes to continue he must do so by way of a substantive motion. Reading out the headlines and subheadlines from the *Daily Telegraph* is hardly proof of anything anyone might have said.

The Hon. Catherine Cusack: You guys do that every day.

The Hon. Adam Searle: Point of order: The Hon. Catherine Cusack and other Government members have interjected. They have been listened to with courtesy; I ask for the same courtesy when I have the call.

The PRESIDENT: In response to the second point of order, the Leader of the Opposition is correct. I will start calling Government members to order. I have already indicated that the Leader of the Opposition is entitled to be heard in silence while raising a point of order. I need to hear what he has to say because I need to make a ruling.

The Hon. DON HARWIN: To the first point of order: I am not quoting from a headline or subheadline; I am quoting from the *Daily Telegraph* comments made by the Leader of the Opposition Luke Foley on the issue that was raised in the question.

The Hon. Adam Searle: Further to the point of order: The Leader of the Government has accused the Leader of the Opposition in the other place of dog whistling. If he wishes to take that line of attack he should proceed by way of a substantive motion.

The Hon. Scott Farlow: To the point of order: The Leader of the Government was asked a question about what the Government is doing to deliver for Western Sydney and alternative policies. The Leader of the Government is canvassing alternative policies that were proposed by the Leader of the Opposition, Luke Foley.

The PRESIDENT: The Leader of the Government quoting exact statements made by another member, whether in this place or the other place, does not constitute a situation where imputations are being made. The Leader of the Government has indicated to me that he is giving direct quotes of statements made by the Leader of the Opposition. As honourable members are aware, I accept what is being asserted by a member when addressing the Chair. I am sure the Leader of the Government is well aware that he is not to make imputations against any other member without doing so by way of a substantive motion.

The Hon. DON HARWIN: According to the Leader of the Opposition in the other place, a "slow decline" of suburbs can be shown if white families move out. The Labor leader defines a successful suburb as one

with a majority of "white-Anglo families." It will not have escaped the attention of anyone on the Government benches that Mr Foley singled out migrants from Syria. It will not have escaped—

The Hon. Walt Secord: Point of order: The Opposition has been quiet and patiently listened to the Minister give his answer. He is straying into a substantive attack on the Leader of the Opposition. I ask that you bring him back to the substance of the question.

The Hon. DON HARWIN: To the point of order: The question was about supporting Western Sydney and alternative polices. I am using direct quotes from an article in today's *Daily Telegraph* about how to improve suburbs in Western Sydney.

The Hon. Peter Primrose: To the point of order: Mr President, earlier, you ruled that it is perfectly in order to directly quote the words used by a member as reported in the media. However, I suggest that the Leader of the Government is putting a gloss on that by attributing motivations, policy directions and so on. I ask you to call him to order. If he wishes to continue this line of discussion, he should do so by way of a substantive motion, as suggested by the Leader of the Opposition in this place.

The Hon. Scott Farlow: To the point of order: By the Hon. Peter Primrose's own admission, the Leader of the Government is making commentary. He is not making a substantive attack, which would be precluded under the standing orders; he is reflecting on how the comments made by the Leader of the Opposition fit with alternative polices, as canvassed in the question of the Hon. Natalie Ward.

The Hon. Catherine Cusack: Mr President—

The Hon. Walt Secord: This will be good. Shoosh!

The PRESIDENT: The Hon. Walt Secord is aware that all comments are directed through the Chair. When he yelled out "shoosh", I thought he was telling me to shoosh. I am sure that that was not the case. I remind him that his comments are directed through the Chair—and I do not like being shooshed.

The Hon. Catherine Cusack: To the point of order: The standing orders are clear that Ministers are entitled to answer a question in any way they see fit as long as their answer is relevant to the question. All these points of order are about the content of the Minister's answer and I ask the Chair to rule that they are all out of order. The Minister is answering the question, as he is entitled to.

The Hon. Adam Searle: To the point of order: The Minister can give his answer any way he likes as long as it is consistent with the standing orders. Misquoting from newspaper reports is not an appropriate way to conduct himself.

The PRESIDENT (15:20:3): Order! I will make a ruling on two aspects. I do not mean to take time but I have no choice because of the numerous points that have been made. I have already indicated that if a Minister is quoting directly a comment attributed to a member, then that is not an imputation against the member. When I am told that it is a direct quote of what the member said, I have to accept that that has occurred. On the other hand, if the Minister is simply quoting what a journalist said or implied I remind members of the ruling of then President Willis in 1997:

> A member is entitled to quote from an article which is part of the print media, provided that he does not associate himself with an accusation that is disparaging or reflecting on a member of another House. The member is restricted to doing so only by way of substantive motion.

I repeat that if the Minister is directly attributing a quote to the Leader of the Opposition, it is permitted. On the other hand, if he is attributing quotes to reporters or other persons in the media and is reflecting on the member and creating imputations by that reflection, it is out of order. The Minister has the call.

The Hon. DON HARWIN: It would not have escaped anyone's attention on this side of the Chamber that the Premier is the daughter of a Syrian migrant. There is a smack of September 2005 here.

The Hon. Walt Secord: Point of order: the Leader of the Government is misleading the House and drawing inferences that do not exist. The Premier is an Armenian migrant, not Syrian.

The PRESIDENT: Order! That is not a point of order; it is a debating point.

The Hon. DON HARWIN: Her parent is from Aleppo in Syria and you know that well.

The PRESIDENT: Order! The Minister will not respond to interjections. The Hon. Walt Secord will not make debating points or simply give his interpretation of a debating point by way of a point of order. The Minister has the call.

The Hon. DON HARWIN: The spectre of September 2005 is clear. I was here as a member at the time. The Leader of the Opposition of the day, John Brogden, said something that he probably should not have—definitely should not have—about the Premier of the day and his wife. The following day, he was gone. For all the confected outrage from the Opposition, where are they? We will remember where they are in the next 48 hours.

The Hon. Penny Sharpe: Point of order: On relevance, the Minister has had wide latitude. This has nothing to do with policies for Western Sydney; it is just a rant against the Leader of the Opposition in the other place. The Minister should do so by substantive motion, not now.

The PRESIDENT: Order! The Minister is straying into reflecting and making imputations against the Leader of the Opposition, and is straying from simply quoting him. The Minister will cease making imputations against the Leader of the Opposition.

The Hon. DON HARWIN: Where are members of the Labor Party today? I would be interested to know if the member for Prospect said something in the Legislative Assembly. The article was talking about Fairfield Local Government Area, Wetherill Park, Bossley Park and Smithfield. The article said that too many migrants from Syria and Iraq were putting pressure on those suburbs and making them worse. I wonder if the member for Prospect is going to defend his constituency in the other place today. [*Time expired.*]

The Hon. Natalie Ward: Mr President, I ask a supplementary question.

The PRESIDENT: Order! All members will resume their seats. I will not allow the supplementary question. When the Hon. Don Harwin was President, he made it clear that supplementary questions from Government members to Ministers would not be permitted unless the Minister was prevented from answering his question. When that ruling was made, the clock was not stopped during question time. However, we now stop the clock, so it is hard to argue that the Minister lost time due to disruptions. It will be rare for me to allow a Government member to ask a supplementary question.

WESTERN SYDNEY INFRASTRUCTURE

Reverend the Hon. FRED NILE (15:25): My question without notice is addressed to the Hon. Don Harwin, representing the Premier, Gladys Berejiklian. Will the Government inform the House about its plans to alleviate the pressure on Sydney, particularly on the western suburbs, caused by a growing population and the need to provide appropriate services such as education and employment opportunities to those communities? What is the Premier's response to the Leader of the Opposition, Luke Foley, whom the *Daily Telegraph* quoted today as criticising the so-called white flight from the Sydney western suburbs?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:26): Reverend the Hon. Fred Nile has asked me a question about Western Sydney and its infrastructure. This afternoon, I outlined at some length details of what the Government is doing. I also congratulate the Premier. Unlike the Leader of the Opposition, who has crossed the line, the Premier has made it clear in a responsible and respectful way that she sees the value of migration to Australia. She accepts that it is a policy setting made by the Federal Government.

However, the Premier said that the impact of that on State governments is a serious issue and that the New South Wales Government wants to have more dialogue with the Federal Government about how migration impacts the need for infrastructure and services in cities like Sydney that take a large part of our migration program. That is the responsible way of handling the matter and that is what the Premier is doing. The Government has built 77 new hospitals or rebuilt hospital projects. Unlike the previous government, this Government has not been shutting schools. We have built 3,000 new classrooms, many of them in Western Sydney. The Government has plans for a rail project, one of which—the Sydney Metro Northwest—is nearing completion within 12 months.

The Hon. Dr Peter Phelps: Which the Labor Party hates.

The Hon. DON HARWIN: Which the Labor Party hates. Another one is the Sydenham to Bankstown metro, which I talked about earlier. The Labor Party wants to cancel it. The project will increase the capacity of Sydney's public transport system by 60 per cent. This Government has plans for much-needed roads that will help unblock our city's congestion and make sure that the people of Western Sydney get home from work sooner, instead of sitting at traffic lights, so that they have more time to spend with their families. That is the responsible way of doing it; that is what this Premier and this Government are working on. We are working for the people of Western Sydney and we are not going to engage in the Opposition Leader's sort of approach.

Instead of sending out coded messages via the media, the Opposition needs to be coming up with some policy substance. It needs to demonstrate that next time, if it gets its hands on government, it will be different to what it was last time. I think everyone in this Chamber knows that it will not be. It will be the same old Labor

Party that talks big but does not deliver. We know who did most of the talking or wrote most of the talking points for the previous Government—

The Hon. Walt Secord: Point of order—

The PRESIDENT: Order!

The Hon. DON HARWIN: —the person who has the loudest voice but has the least to say.

The PRESIDENT: Order! The Minister will resume his seat. I call the Leader of the Government to order for the first time. I should not have to scream over him to get his attention.

The Hon. DON HARWIN: The time for questions has expired. If members have further questions, I suggest they place them on notice. Mr President, I apologise for shouting.

ANIMAL WELFARE ADVISORY COUNCIL MEMBERSHIP

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:31): Earlier in question time Dr Mehreen Faruqi asked me a question about the membership of the Animal Welfare Advisory Council. Maybe she is in her office—am I on camera 1 or camera 2? I will go camera 1. I have been provided with the following response:

> The current Animal Welfare Advisory Council [AWAC] is comprised of 10 members, including appointed members Chair Dr Kersti Seksel, who is from the Australian Veterinary Association; Suzanne Robinson, representing the NSW Department of Primary Industries; Detective Inspector Cameron Whiteside of the NSW Police Force; Steve Coleman from the Royal Society for the Prevention of Cruelty to Animals in New South Wales; Kate Mills from the Australian Veterinary Association; Mark Fraser from the Pet Industry Association of Australia; Dianne Peisley from the Livestock and Bulk Carriers Association; Eliz Braddon from Local Land Services; Steve Amesbury from Wildlife Rescue South Coast; and Stephen Bradshaw from the Australian Rodeo Federation. We have a vacancy and nominations pending for the Animal Welfare League NSW—currently the observer is Karen Davies; and a vacancy and nominations pending for the NSW Farmers' Association—currently the observer is Annabel Johnson.

Visitors

VISITORS

The PRESIDENT: On behalf of all members, I welcome into the President's gallery Hannah Taylor, who is here today to witness question time. Hannah is the eldest daughter of the Hon. Bronnie Taylor.

Documents

TABLING OF PAPERS

The Hon. SCOTT FARLOW: I table the following papers:

(1) Annual Reports (Statutory Bodies) Act 1984—

- (a) Report of Charles Sturt University for year ended December 2017;
- (b) Report of Macquarie University—Volumes 1 and 2 for year ended December 2017;
- (c) Report of Southern Cross University for year ended December 2017;
- (d) Report of University of New England for year ended December 2017;
- (e) Report of University of New South Wales—Volumes 1 and 2 for year ended December 2017;
- (f) Report of University of Newcastle for year ended December 2017;
- (g) Report of University of Sydney for year ended December 2017;
- (h) Report of University of Technology Sydney—Volumes 1 and 2 for year ended December 2017;
- (i) Report of Western Sydney University—Volumes 1 and 2 for year ended December 2017; and
- (j) Report of University of Wollongong—Volumes 1 and 2 for year ended December 2017.

(2) Smoke-free Environment Act 2000—2018 Report on the Review of Exemption for Private Gaming Rooms

I move:

That the reports be printed.

Motion agreed to.

Business of the House

PRECEDENCE OF BUSINESS

The Hon. DON HARWIN: I move:

That General Business take precedence over Government Business until the conclusion of proceedings on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 this day.

Motion agreed to.

Bills

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

Second Reading Debate

Debate resumed from an earlier hour.

The Hon. ERNEST WONG (15:34): I wholeheartedly support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I thank the Hon. Penny Sharpe for introducing it and the Hon. Trevor Khan for his co-sponsorship. For a woman who seeks advice and possibly treatment from a reproductive health service, it is one of the most crucial moments of her life. It is an experience unique to women. For a woman to navigate this course, the key element in the process is privacy. Privacy in this situation, however, is not merely a principle; it is a practicality without which the process cannot function. For a woman, privacy is the key to developing the circumstances for decisions that she must make. Correspondingly, for those providing her with advice, privacy is essential for developing constructive interaction and for understanding each woman's circumstances and individual needs.

What, fundamentally, does privacy encompass? Privacy is the right to the immunity of the person and the right to one's personality. How is privacy experienced? Privacy can only be experienced in a certain area from which all others can be excluded and only those of one's choice admitted. Privacy is indeed part of Australia's conventions of conduct, with concurrence from both major political parties. In 1973 the Whitlam Government signed the United Nations [UN] International Covenant on Civil and Political Rights. In 1981 the Fraser Government set up the nation's first Human Rights Commission [HRC] to give effect to the convention's principles. The establishment of the HRC thereby included a commitment to the convention's article 17, which stated that:

> No one shall be subjected to arbitrary or unlawful interference with his privacy …

The covenant's article 17 was broadened to extend to women by the 1979 UN Convention on the Elimination of All Forms of Discrimination Against Women—the first international legal instrument to define discrimination against women. Australia signed the convention in 1983. Article 12 states that:

> Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care …

In focusing on this particular area of the convention, the Office of the UN High Commissioner for Human Rights remarked that health services that do not discriminate against women "are those that are delivered in a way that respects [a woman's] dignity [and] guarantees her confidentiality". For women in particular, an accompanying feature of that entitlement to privacy is that engagement with reproductive health services must be free from interference. As a nation we have pledged ourselves to eliminate discrimination against women and to uphold the privacy of women. Yet how can women have the privacy they need to embark on one of the most personal of activities when they are beset with harassment? It goes without saying that privacy intrusions of this kind and in this situation can cause psychological and even physical harm at precisely the moment when a woman can be most under stress. This was clearly emphasised by the President of the New South Wales branch of the Australian Medical Association, Dr Kean-Seng Lim, when he said recently that:

> … 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 … 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.

I agree with this and I commend this proposed legislation to the House.

Mr SCOT MacDONALD (15:38): I speak in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. The bill is seriously flawed. I think it is cracking a walnut with a sledgehammer. I think the 150-metre radius is excessive. As another member pointed out, the bill would be sterilising the equivalent of seven hectares from the possibility of debate and engagement. It is a large area; in regional areas, it could be a significant part of a town or small city.

To me, the penalties seem excessive. To talk about imprisonment in these penalties seems quite out of proportion to the offences. I have concerns around proposed section 98E, which relates to broadcasting and taking

photos. I have concerns about its workability and its unintended consequences. I am perplexed about the protestations about protest. I think it was last week we talked about people trying to put restraints on intrusive protest. The next debate we had, The Greens insisted loudly that there is a right to protest intrusively around animal welfare issues. There is a lot of cherry-picking of values and standards in this debate.

Having said that, I will not vote against the bill. It is clumsy and infringes on freedoms but, in spite of those flaws, I do think women are entitled to go about their lives free of harassment and pressure. The police should be doing more in this space. As previous speakers have mentioned, the tools, regulations and ordinances are there. I am concerned about why the police are not making themselves more known and getting a bit of discipline and order around this. However, for all of the flaws of the bill—and they are many—they do not override genuine concerns around making people feel undignified or questioning their motives. This bill is a signal. However poor a signal, it is an important one. I think of what my family would do, whether that be my daughter or my nieces, and how they would act and feel in these circumstances. I cannot countenance the idea that they would be walking up to get some sort of assistance or reproductive assistance—whether that might be advice or otherwise—and that they might be imposed upon and lectured. I hope people in those circumstances avail themselves of all the information that is and should be available and make an informed choice.

I see deep flaws in this bill. It is seriously wrong that we could imprison people for some of these infringements. I hope the lower House will look at that. I have received a range of communications from a range of people. Some of the messages were boutique correspondences, some were from organisations and some were from emails. The messages I took a little more notice of than others were from the Country Women's Association [CWA]. I went to the CWA Conference with the Hon. Bronnie Taylor. There were 500 or 600 people attending. We heard some good speeches from the Deputy Premier and the Hon. Bronnie Taylor. I respect the CWA. I do not always agree with it; I think it has the wrong viewpoint on coal seam gas. Nevertheless, it is in alignment with a constituency that I feel close to—regional people and regional women. When CWA members write that they are comfortable with this policy, it resonates with me. I will not vote for or against this bill; I will abstain. I do not like abstaining. I have not abstained in the seven years that I have been in this place, as I think it is a bit of a cop-out in some ways. Such are the flaws in the bill that it needs a lot of revision. For that reason I will not vote for it but I also cannot vote against it.

The Hon. MARK PEARSON (15:44): I support the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018, co-sponsored by the Hon. Penny Sharpe and the Hon. Trevor Khan. I commend them for their work in bringing this bill to the House. It is my view that a woman's decision to abort is a private medical matter between a woman and her physician and that no-one should interpose in that decision making process. Just because a woman engages in heterosexual activity, it does not mean that she wants to become pregnant. There are many issues concerning consent, physical and mental health issues, an unsuitable stage of life, or simply a decision by an emotionally mature and informed woman not to have a child. No woman should be intimidated or coerced to remain pregnant against her informed decision. It is an unacceptable imposition upon her autonomy.

Realistically, a woman who is heterosexually active over the decades of her fertile years will always have a small risk of pregnancy, even when contraception is used. Abstinence is not a realistic option. We know that sex is good for our physical, psychological and emotional wellbeing. Seeking out sexual intimacy is a human instinct. In the twenty-first century, medical advances mean that there are safe remedies for failed contraception leading to pregnancy. No woman should be harassed or intimidated for availing herself of these advances.

I understand that there are those who believe a fetus has the right to be born and that this right overrides the woman's right to choose to end her pregnancy. I do not subscribe to that view. As a representative of the Animal Justice Party, I am more concerned about the potential for sentience and sensibility and therefore the conscious suffering of the fetus, and so I have turned my mind to that issue. According to the Australian Institute of Health and Welfare, 94.6 per cent of abortions occur under 13 weeks and only 0.7 per cent occur at more than 20 weeks. There is no scientific evidence that a fetus has sentience or sensibility before 20 weeks gestation. Of those 0.7 per cent of abortions performed after 20 weeks, the vast majority were as the result of severe fetal abnormality, according to figures from a women's health survey in Victoria in 2007. The fractional remainder were related to the woman's psychosocial issues, issues that are best addressed by a medical professional and social workers—legitimate counsellors, not people with a right-to-life agenda.

I have received emails complaining that the proposed exclusion zone around abortion provider premises is an infringement on the freedom of speech and the freedom of assembly of abortion protesters. The proposed exclusion zone would allow patients to enter and exit medical facilities without physically proximate haranguing by protestors. While I am clearly a strong supporter of the right to protest, I accept that these are special circumstances. It is not in the best interest of vulnerable, often extremely distressed women who are about to undergo a surgical operation to run a gauntlet of often abusive protesters. I note that protesters are still allowed to

attend at a perimeter of 150 metres around the abortion clinics and make known their objections, as is their right. I support their right as much as I disagree with their sentiment.

The Hon. WES FANG (15:49): I will make a short contribution to the debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 to place on record why I will be supporting this bill. We are all aware of the issues on both sides of this debate, and the issues have been well ventilated to this point. I am sympathetic to the concerns raised in relation to the issues of freedom of speech and the right to protest. However, I do believe the right to privacy and the ability to seek medical treatment without harassment are a greater priority.

This bill is a reasonable response to manage the balance between these issues. This bill is not about abortion. It is about ensuring those who attend reproductive health clinics can do so without facing intimidation or harassment. As we have heard, there are a number of reasons to attend a reproductive health clinic. Yes, those seeking a termination are amongst them, but so are those seeking help with fertility and those who may have suffered a miscarriage. In all these cases, those attending a clinic are in a delicate position, and being exposed to abuse, harassment or stress, whether direct or indirect, intentional or unintentional, is unacceptable. They deserve the ability to seek medical treatment without the fear of harassment, or unwanted offers of "sidewalk counselling".

It is this issue alone—the desire to support women as well as their partners, who are often forgotten in this debate, when they are often at their most vulnerable—that has shaped my opinion. I know not all of those who assemble outside these centres have malicious motives. Indeed, in most cases, their motives are the opposite, and I know they often have the very best of intentions and a genuine desire to offer counselling. However, the counselling that is of most benefit is provided by someone who is trained, qualified and impartial. It should not be targeted at all women entering a reproductive health clinic. Most importantly, it should only be provided at the request and consent of the woman. It should never leave them feeling distressed, harassed or threatened. As it stands, we cannot say that this is the case.

I approach this issue not through the prism of left or right, libertarian or conservative, but rather what I believe is fair and just. I acknowledge some of the arguments against passing this bill. I understand that restricting protests, or counselling, or praying outside these centres can be argued as limiting the right of free speech. But it is something I can accept, because I believe the right to privacy and the right to seek their desired medical treatment without harassment is of paramount importance. The community as a whole will be better served with the passing of this bill. I commend the bill to the House.

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:52): I make a contribution to the debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018, and I say at the outset that I will be supporting this bill. Members on this side of the House have a free vote, and for me supporting this bill was a very easy decision to make, because I believe that at its core this is a bill that will allow women in New South Wales to be treated with dignity and respect when accessing medical treatment. I will touch briefly on the issue of abortion. I appreciate, understand and respect that members in this House, and indeed in the wider community, have differing views on abortion and whether it should be legal in New South Wales. I also respect that we all have our own reasons for why we feel the way we do about abortion, whether we are pro-choice or pro-life. I respect people's right to have those personal views—I really do—but I do not believe that abortion is what this bill is about.

Nor do I believe that it is fundamentally about impediments to free speech. Those who are opposed to abortion can still voice their opinion on this issue. They can still protest. As the Hon. Trevor Khan said in his contribution, they can do that in front of audiences of thousands every day at Central Station, in Hyde Park, out the front of Parliament House or in many other places around New South Wales. When it comes to free speech versus privacy, I think this bill has the balance right. Yes, there will be small areas, or zones, where people will not be able to protest, but as others have said in their contributions to this debate, that is something that we already have in place in New South Wales. We have zones in place to protect workers and gas wells. We have zones in place to protect whales. With this bill we will have zones in place to protect women.

I believe that this legislation is seeking to allow women to access reproductive health clinics safely and without being harassed, intimidated, threatened or filmed. As other members have said in this debate—and indeed the Hon. Penny Sharpe mentioned it in her second reading speech as the mover of this bill—the reality is that women and their partners are accessing these clinics for a range of reasons. It is not, and will never be, immediately evident to anyone standing outside those clinics why someone is walking through the front doors. Yes, I accept that the person could be a women who is attending to terminate a pregnancy. But it could also be a woman who is going there simply for advice around long-term contraception or emergency contraception. It could be for sexual health testing. It could be for personally traumatic reasons, such as having to terminate a pregnancy because of a serious fetal abnormality. Maybe a woman has just received a devastating cancer diagnosis, with a necessary

treatment plan that is incompatible with her pregnancy continuing, and she has tough decisions to make. A woman could be visiting a clinic because she has just miscarried a much-wanted and already much-loved baby.

These are not hypotheticals. The reality is that every day women in New South Wales are entering these clinics for advice or treatment at a time when they are at their most vulnerable. These women were at the forefront of my mind when I made the decision to support this bill. In speaking to this bill, I will offer a more personal perspective on it, because I have been in a situation of being a woman needing to access health services when at a low ebb. As members know, I have two beautiful girls. Some members would also be aware that I am one of many women who unfortunately suffered miscarriages, and I had two miscarriages between the births of my two girls. I have spoken about it publicly before and I may have mentioned it in the House. I know it is common and that others in this place who have personal experience of this as well, whether personally or with their wives or partners. It is common, but it is still a hard thing to deal with and talk about.

My first miscarriage was in September 2016 quite early on in the pregnancy. I was only about five weeks along and it was a natural miscarriage. While it was upsetting, I knew it was something that lots of women go through and that in many ways can be part of the road to parenthood. I fell pregnant again not long after my first miscarriage, but unfortunately we lost that baby as well, in January last year. I have to say that that miscarriage really knocked me around. I was about 10 weeks along and had absolutely no clue that anything was wrong until we attended a routine doctor's appointment to find that our baby had no heartbeat. I try not to get emotional but it is tough to talk about losing a baby. I was in shock because I had had no symptoms, I had morning sickness and everything pointed to my pregnancy being okay. But it was not.

To cut a very long story short, it was a day that started with a doctor's appointment with my husband, and we were hoping to see our baby's heartbeat for the first time. We then went to having an emergency higher resolution ultrasound and a surgical procedure that afternoon to remove our baby as that was the best clinical option for me. I reiterate that thousands of women go through this experience, but it was an extremely difficult day for us as a family, one that can still make me emotional when I think or talk about it. I am a pretty strong woman, even a tough woman some days, but that day I was a complete and utter mess. It was tough on my husband as well to see me suffering and for him as a father to have lost a baby that he also wanted and loved. The Hon. Wes Fang mentioned the effect on partners, and I know that fathers who lose a baby find it very tough. Compared to many couples we are so lucky—we have our two beautiful girls—but many people are not that lucky, and their miscarriages continue without ever having a successful conception.

As a woman, mother and parliamentarian my heart breaks for these women, those who are miscarrying or who are going through their own difficult journeys associated with fertility and conception, because I know how distressing it can be. Such women walk into these clinics on a daily basis. I choose to raise my experience of miscarriage today, because I think it is relevant to this debate. For me it was a traumatic experience, although I was treated with respect and dignity the whole time. I cannot imagine what it would have been like to have been entering a place for treatment after losing my baby and to have been harassed, called names, shown pictures, filmed or even to have been handed pamphlets or prayed for by people who may genuinely believe what they are doing is well meaning. But in reality their approaching me could—and most likely would—have pushed me over the edge when I was at my most fragile.

I have heard reports that indicate that peaceful protesters ask women why they are at the clinics, but on the days of my miscarriages I could barely talk with my husband and my doctors because I was so upset. There would have been no way on earth that I could have articulated what treatment I was seeking and, to be frank, nor would I have wanted to share that information with a complete stranger. It just would not happen. I know that this is the case for women entering these clinics, because they are intimidated—even if they are not going there for a termination—and I do not think that is right. I am sure no member of this House would want to see someone like me subjected to intimidation or additional trauma in the circumstances I was in, nor would they want that for their wives, or their sisters, or their daughters, or their granddaughters if they were in the same situation.

As I said earlier, from the outside no-one would have been able to tell why I was going into the hospital that day. After losing my baby, if I was forced to have the procedure in a clinic, no-one would have known the reasons for my being there. It is simply not possible for protestors outside the doors to know the personal and intimate reasons that every woman is walking through the clinic door. All women are subjected to the same treatment and behaviour, and I do not think that is right. I believe that, as members of Parliament, we have a responsibility to protect women when they are at their most fragile and vulnerable. As a mother of two girls, I feel a personal responsibility to put in place legislation that will protect them and their privacy should they ever need to access a reproductive health clinic, for any reason, in the future.

It is 2018 and women in New South Wales have the right to be respected and to be treated with dignity when they are seeking health treatments and advice at reproductive health clinics. That is what this bill will achieve, and that is why I am supporting it.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): According to sessional orders, proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

The House continued to sit.

The Hon. PAUL GREEN (16:01): On behalf of the Christian Democratic Party, I contribute to debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. First and foremost, the Christian Democratic Party is a pro-life party. We support increased funding for support, such as pregnancy crisis counselling sessions that offer practical help and are positive pro-life alternatives for pregnant women. At the same time, we also support the fundamental human right of freedom of conscience. I am fully aware it is very difficult for a woman to make the decision even to consider an abortion, let alone walk into a clinic to have one.

But we must be mindful to review our attitudes and practices to ensure that there are appropriate safeguards for the wellbeing of the unborn child, the woman and others impacted by this decision. The bill aims to provide safe access zones around reproductive health clinics at which abortions are provided in order to protect the safety, wellbeing, privacy and dignity of those accessing those services, as well as those people who need to access them in the course of their employment. As members of Parliament representing the people of New South Wales, we need to be conscious of the fundamental right of freedom of conscience. Australian political discourse is full of examples of people seeking peaceful, non-disruptive communication.

The express purpose of the law to restrict free communication is difficult to justify. I do not condone the harassment, intimidation or threatening of any person at any time. I note the contribution by the Minister for Early Childhood Education. We also had an ectopic pregnancy. It was a very personal and hard time, and it is tough reliving that experience every year. But the majority of people who protest are not disruptive by any means. This is a major point. They wait patiently for the opportunity to have a little chat, if the person so wishes. This is diametrically opposed to other groups who claim to protest peacefully by chaining themselves to trees, gluing their hands to public galleries, defacing icons or chanting profanities at businesses, landowners or even law enforcement.

The bill erodes the freedoms of thought and of conscience that are recognised as fundamental human rights, and is disproportionate to the perceived need the bill seeks to address. I recall that Mr David Shoebridge introduced a motion about the right to protest or to make one's point peacefully. I could not find the motion, but he referred to the United Nations Universal Declaration of Human Rights. I think that backs up my argument: We may not like what people are saying, where they are protesting or what they are protesting about but people generally have a right in a democracy to stand silently, pray, or do whatever they may do to express their point of view.

As members of Parliament, we need to assess sensibly and consciously the actual practical impacts of the bills we consider. Safe access zones will exist in many areas of New South Wales and their locations may not be easily identified. It will also be difficult to define what is "reasonably likely to cause distress and anxiety to any such person". Let us be honest, a woman attending a clinic did not make the decision lightly. Perhaps a support person accompanying the woman happens to ask, "Are you sure you really want to do this?" Would that be considered a hindrance or an obstruction? I know the Hon. Penny Sharpe will respond to my question when she replies to the debate.

The Hon. Penny Sharpe: Yes.

The Hon. PAUL GREEN: Would that be considered a hindrance or an obstruction, or reasonably "likely to cause distress and anxiety"? The communication prohibition is likely to have a discriminatory effect. We are concerned about that. Without mentioning particular situations, the marginalisation or persecution of minority groups in other countries—I am thinking of China—started with a thought, then someone enforced that thought, then someone introduced a law, and then a lot of people were persecuted because of their faith or their convictions. I am sure that is not the way we want to proceed. We live in a great country and a wonderful democracy. It is imperative that we do not create laws that marginalise people or stop people from expressing their views—especially peaceful views—democratically.

I note that many women in the Chamber have spoken about issues that are very personal to them—and rightly so. I will put on record a woman's point of view. Ms Rachael Wong is Managing Director of the Women's Forum Australia. It is an independent think tank striving to create pro-woman cultural change through research, education, mentoring and advocacy, with a particular focus on addressing behaviour that is harmful and abusive to women. Ms Wong notes:

> One of the key objects of the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is to protect the safety and well-being of women seeking abortions. However, we believe that the bill will in fact be counter-productive to the object by denying support and informed choice to vulnerable women when they need it most.

She attached her policy document, the summary of which says:

> The implementation of 150-metre "safe access zones" is unnecessary given the operation of current provisions in NSW with respect to the conduct of protestors, including violence and intimidation, harassment and obstruction.
>
> The bill criminalises freedom of expression and dialogue around one of the most significant issues affecting women, and silences a particular point of view about abortion.

Another concern is:

> The bill may undermine the safety and well-being of women that it seeks to protect.

She further notes:

> The bill denies support and informed choice to vulnerable women when they need it most by cutting them off from family, friends or sidewalk counsellors who may seek to offer them information or support.
>
> Such support is crucial in a situation in which many women feel as if abortion is their only choice, and are often driven to make a decision to abort for the very reason that they are lacking in financial, emotional, physical or psychological support—

or, dare I say, even spiritual support. She continues:

> The bill restricts women's choices while reinforcing a "choice" that is known to carry with it risks of physical and psychological harm. By making it a criminal offence to express views that might dissuade vulnerable women from going through with an abortion, the Bill benefits the abortion industry, which has a financial conflict of interest in women undergoing abortions. Rachael Wong continues:
>
> The bill makes it a crime to say or do anything which may not have actually caused any harm ("distress") to anyone.
>
> There is no evidence justifying the imposition of criminal penalties against those who peacefully protest, or offer information or assistance to women outside abortion clinics.
>
> The penalties proposed by the Bill are ill-conceived, excessive, disproportionate and out of step with comparative legislation in NSW.

Those are just some of the observations from a woman whose perspective I have chosen to use in this debate. She also talks about what the bill does, and states:

> The Bill creates "safe access zones" of a 150-metre radius around broadly defined "reproductive health clinics" at which abortions are provided. The Bill criminalises certain behaviour within these zones, including:
>
> - Interfering with (including harassing, intimidating, besetting, threatening, hindering, obstructing or impeding) a person accessing or leaving the clinic (or attempting to do so) (proposed s 98C);
> - Making a communication in relation to abortion that is reasonably likely to cause distress or anxiety to a person accessing, leaving or inside a clinic (proposed s 98D); and
> - Capturing and distributing any visual data of persons in a safe access zone (proposed s 98E)
>
> The penalties for such behaviour include a fine of 50 penalty units ($5,500) or 6 months imprisonment for a first offence and 100 penalty units ($11,000) or 12 months imprisonment for a second offence.

The concern for me is that many of these protestors are very caring people. They are not out to destroy. We have heard of some cases of behaviour that Christian Democratic Party members do not condone. These sidewalk counsellors really care about people. I am concerned that they will be criminalised for their care or for their outreach ministry when they try to make sure that a woman has all the options in front of her before she reaches a point of no return. The Hon. Taylor Martin spoke about the Diamond Women's Support and tabled a letter from that organisation. I will not talk too much about that but I will say Ms Gurry from the Diamond Women's Support service received a letter from the Hon. Penny Sharpe and the Hon. Trevor Khan—they were decent enough to respond to her correspondence. That letter states:

> Thank you for your letter of 23 May 2018.
>
> Whilst it is a matter for you to obtain legal advice, we make the observation that there are five elements of the offence created by clause 98D of the bill. Those are:
>
> - A communication that relates to abortion;
> - In a safe access zone;
> - That is able to be seen or heard by a person;
> - Who is accessing or leaving, or attempting to access or leave a reproductive health clinic;
> - That is reasonably likely to cause distress or anxiety.
>
> Clearly the provision is designed to address the circumstance of people being approached as they are going to or from a reproductive health clinic.

> We understand your service, whilst in relatively close proximity to the Private Clinic on Devonshire Street, does not involve intercepting those who are going to or from that reproductive health clinic and therefore, in our view, you are not caught by the terms of the bill.

I seek leave to table that letter.

Leave granted.

Document tabled.

I turn now to my own experiences as a young nurse prior to me having full Christian convictions. I was working in a hospital that offered that service to women. I remember, as a young man, hearing a little heartbeat on the monitor, and then it was no more. That affected me in a way that meant I could not do what were known as "TOPs", or termination of pregnancies, or "D and Cs", which is dilation and curettage. These relate to women's health. The procedure that really disturbed me was to see what were called "the products" of a D and C and what they were put through. I will not go into detail because it is quite distressing.

My experiences as a nurse changed my view. I reflect on that. Many women reflect on their choices, over time. I have known of women who have had abortions who think about that child every year—who would they be, what would they be like? It would not get much harder than to be reflecting for a lifetime on that choice. I just want to make sure that women are given every choice, because a lot of women feel they have no choice. Because of my experiences as a nurse, I decided to add my voice for the unborn. Like many other Christians, I hold the Scriptures dearly and sincerely to my heart. For Christians, the Scriptures are a roadmap and a point of reference for their lives. As an insight into the way many Christians feel about this issue, I will read from Psalms 139:13:

> For you created my inmost being;
> you knit me together in my mother's womb.
> I praise you because I am fearfully and wonderfully made;
> your works are wonderful,
> I know that full well.
> My frame was not hidden from you
> when I was made in the secret place,
> when I was woven together in the depths of the earth.
> Your eyes saw my unformed body;
> all the days ordained for me were written in your book
> before one of them came to be.
> How precious to me are your thoughts, God!
> How vast is the sum of them!
> Were I to count them,
> they would outnumber the grains of sand—
> when I awake, I am still with you.

The Christian Democratic Party cannot support this bill for obvious reasons: We are a pro-life party and we believe the unborn need a voice.

The Hon. BRONNIE TAYLOR (16:16): I support the Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. It is good legislation. It is needed. I commend the Hon. Penny Sharpe and the Hon. Trevor Khan for bringing it forward. It is a great example of what we can do when we choose to work together in this Chamber. After listening to the other contributions to this debate, I would like to raise a few issues. I thank all those who have taken part in this debate for the respectful way in which it has been conducted—long may that continue. Obviously, I speak as a woman, as a mother of two daughters and as a daughter to my mother. The legislation that we are debating today is important. It is not about termination or abortion. This legislation is about creating safe access zones for women who wish to access the safe health care that they choose. This issue does not come from any side of politics. It is not a Left issue; nor is it a Right issue. It is sad that sometimes we have to decide on matters based on where we sit in an institution. This issue is above politics and, as I said, that is the way it must stay.

My colleague Mr Scot MacDonald spoke about the Country Women's Association [CWA]. As many in this place will know, I am a big supporter of the CWA. It is an incredible organisation of incredible country women. Some might think it is a very conservative organisation; others might say, more recently, that it is not. I spend a lot of time attending CWA meetings and I was privileged to speak at their last two annual conferences of more than 700 women. The CWA has a membership that makes most political parties green with envy. I have spoken to the members recently about many issues.

The Country Women's Association of NSW [CWA] invited me to speak about safe access zones at a recent Riverina meeting. The CWA is a great example of a country organisation that was formed to make representations on issues of concern to its members. In 2016, the Albury branch of the association moved a motion dealing with safe access zones. That motion proceeded to the State executive and then to the floor of the general conference, where it was passed. That is a terrific demonstration of a great grassroots organisation reflecting the

needs of its members. It was not a motion about abortion; it was a motion about safe access zones, which are supported by the CWA. I also commend the association for being brave and for having the courage to put its support in writing to all members of Parliament, regardless of their political persuasion. That is how to lobby and to push a case.

The Hon. Penny Sharpe spoke about exclusion zones for whales and some members questioned her comments and debated them, as they are entitled to do. This House unanimously passed legislation providing for an exclusion zone to allow whales to swim safely up and down the coast. Members have also spoken about our duty to protect people in many different situations. Yet we are here debating safe access zones for women. I find that extremely difficult to reconcile. I am proud that my eldest daughter, Hannah, is in the gallery today. She does not take to politics most of the time—she did attend my first preselection, but I think it almost damaged her for life. I have been a member of this place for three years and I regularly invite my children to join me here, but they rarely accept. Despite that, the issue of safe access zones for women has been hotly debated around our dinner table. That is a good thing and I encourage my children to debate ideas. Hannah is a real Taylor; she is very like her father. I find it very annoying arguing with her because she is articulate and clever—I am extremely proud of her.

During one of those dinner-table debates, Hannah reminded her father and me that we often talk about physical safety. She then raised the question of emotional and mental safety. I could not be more proud of her for standing up for others. Our dinner-table discussions can be very fierce, and I will not go into what it is like when the extended family gets together. Hannah, who will be 22 years old at the end of May, is part of a great demographic and she represents our future. I ask members to reflect on her pertinent point and to follow her lead in considering mental safety. This bill is not about preventing people expressing their beliefs or protesting. I would not support that. It is about providing a safe access zone of 150 metres in which women will not be confronted. People can protest anywhere else, but they must allow others to go about their business in emotional and physical safety.

I spent 20 years as a registered nurse. I acknowledge the Hon. Paul Green was a nurse and I appreciate his contribution to this debate. I have also worked in operating theatres and on wards, and I have nursed many people recovering from different procedures. I can also relate to the Hon. Sarah Mitchell's experience because I have a similar story. Like many members, I have had many different experiences, and I have assisted many close family members and friends in exercising their choice. I hate to think what would have happened if they had been required to run the gauntlet of protesters. Why should they? As the Hon. Sarah Mitchell said, this is 2018.

I advocate passionately for universal health care whenever I can. Everyone, regardless of who they are or where they live, should be able to access safe health care of their choice. That is what this bill is about. People have said that the current legislation provides adequate safeguards. The people who run the Surry Hills clinic have spoken to me about the process involved in patients lodging a complaint after having been subjected to harassment. They must make a formal statement and be prepared to present themselves to court to be cross-examined. How can we expect a woman and her family who have made the choice to have a termination to present to court and confront the person who has harassed them? If the current legislation were adequate, we would not be debating this bill today.

We can be extremely proud of this country's wonderful healthcare system. Australians can access safe, adequate and timely health care, and they are cared for by professionals. I understand the Hon. Paul Green's position and I accept that the people involved in these protests are well meaning. We all have our beliefs and we are all passionate about different issues. I love that we live in a country where we respect each other's beliefs and opinions even if they differ from ours. Part of our wonderful health system is the counselling that is offered to people at sexual health clinics. I believe professionals should handle that task and that they should be responsible for it.

Women should never have to run the gauntlet to enter a healthcare clinic. No matter what protestors may think, people feel threatened by their behaviour. That is why we are having this debate today. The threat of their judgment and their intimidation, and the threat that the woman's privacy might be breached infringes on their right to access these clinics. It is terrific that we can have these debates, but I ask everyone to focus on the purpose of this bill. This is not a bill about abortion; it is a bill about safe access zones for women going to reproductive clinics for assistance. I have had many patients who have had to make decisions about the future of precious pregnancies before they start chemotherapy. They are harrowing decisions, and those people being subjected to this harassment and intimidation cannot go unchallenged. Let us not judge women; today is not about judging people's choices. We are here as members of this place to legislate to protect them. That is our job; it is what we were elected to do.

I repeat: I am a woman, I am a mother, and I am a daughter. I want to ensure that my daughters, my friends and the other people I care about are never harassed and that they are free to make a choice. They will

remember that we stood up for them today. We protected them, we honoured them, and we gave them the dignity they so deserve.

The Hon. Dr PETER PHELPS (16:29): The Hon. Bronnie Taylor said that the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is not about abortion, and she is right. If it were, I would be here voting in favour of decriminalisation. But it is not. Instead, this bill is an unwarranted intrusion on two fundamental rights: the right to free speech and the right to assemble peaceably. I do not believe it is the role of the State to interfere with a person's right to have an abortion and I do not believe it is the role of the State to interfere with a person's right to express their views. I therefore oppose the bill.

The Hon. SCOTT FARLOW (16:30): I oppose the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. My particular concern with the bill arises from the prohibitions set out in proposed section 98D of the bill. It is my belief that this is an unnecessary and egregious limitation on both freedom of speech and freedom of religion. It is also my view that this legislation has the potential to have many unforeseen and perverse consequences. This is not an issue that should necessarily be dictated by a person's view on abortion but is rather an issue concerning freedom of speech, expression and true choice.

From the outset, it is my belief that the objectives laid out in proposed section 98B of the bill are already capable of being achieved through the current legislative arrangements that exist in our State. Through laws limiting violence, intimidation, harassment and obstruction, the NSW Police Force already has the power and ability to take action in circumstances that have been cited as motivation for this bill. For instance, section 545B of the Crimes Act 1900 covers intimidation or annoyance by violence or otherwise, with an associated punishment of 50 penalty units, imprisonment for two years, or both.

Proposed section 98D of this bill restricts a person within 150 metres of a reproductive health clinic at which abortions are provided from making any communication that relates to abortions that is reasonably likely to cause distress or anxiety to a person accessing the reproductive health clinic. This is an incredibly subjective test and one that is applied against any person. Thus we are not just referring to a person who is accessing the clinic for the purposes of undertaking a procedure but rather any person accessing the area. It also could be applied against any partner, family member or friend who is supporting someone who is seeking such a procedure. Any partner, relative or friend who asks, "Are you sure you want to do this?" or, "Do you know there are other options?" could foreseeably be captured by this bill.

And what would the penalty be? For a first offence it would 50 penalty units or six months imprisonment and for any second or subsequent offence it would be 100 penalty units and up to one year in prison. Put simply, under this bill there is not a protection for a person to have any communication that is not wholeheartedly 100 per cent supportive of an abortion being undertaken. This bill will limit the ability of any individual, except employees and persons who provide services at reproductive health clinics, to have a discussion with any individual about abortion and its merits or otherwise within 150 metres of a reproductive health clinic.

I know someone who has supported a friend through an abortion. At the time, her friend was 18 years of age, fresh out of school and she had a crisis pregnancy. During their time of visiting both the general practitioner [GP] and the clinic they were constantly weighing up the gravity of the decision, the pros and cons, and discussing the issue that such a significant decision in life warrants. During the visit to the doctor, this person supporting their friend having the procedure raised the pros and cons of having an abortion. The GP shot back, "It's a woman's right to have an abortion. It's her choice." No doubt under this legislation such a discussion could be captured under section 98D and the person could be subject to six months imprisonment for a first offence and 12 months for a second or subsequent offence. This is not a provision that supports women and empowers them to make a choice.

I have received mountains of correspondence over the last few weeks from many people concerned with this bill, particularly from women who have terminated their pregnancy and have regretted the decision. I too know women who have had a crisis pregnancy, made the decision to have a termination, and then have lived with that remorse all their life and wished that they knew of other options at the time. Many of these women in their correspondence have indicated that the compulsory counselling they received from the abortion clinics was cursory at best. I want to share with the House an email I received last night at 11.46 p.m. from Lauren, who shared with me—and, I am sure, other members of this place—her experience. Lauren wrote:

> 19 years ago I had an abortion. Biggest mistake of my life. I didn't know I could have had help. The counselling from the abortion clinic involved "do you understand the procedure and birth control". Let's face it though, the abortion clinic counselling is not really going to be impartial.
>
> There were people praying in front of the clinic that day. I didn't feel harassed. I didn't feel intimidated. Looking back now and what I know now, I wish they had of talked to me. Gave me options. My baby deserved that. I deserved that. Please don't take that away from people.

> Of course any cowboys that are really causing harm to people should be charged but for the majority of those who are praying or are available to talk or give leaflets shouldn't be denied the opportunity to help women and their babies. The truth is not all women are going into abortion clinics of their own free will. They all also are not educated and supported in what their options are.
>
> Please find another option rather than creating exclusion zones. My life changed that day. I ended my child's life and mine changed forever . Please really think about it before you vote. It's 11:42pm. I have a sore throat and I'm tired but I saw this link and I feel so strongly about this I had to write to you. There is no sense in an exclusion zone.

I have communicated with Lauren, who was happy for me, whilst respecting her privacy, to share her story with the House. I commend Lauren for her courage in sharing her story—it is a difficult thing to do. As I indicated earlier, I too have known people who have had such procedures and wished they had known of more options at the time. Nobody wants to find themselves in the position of having a crisis pregnancy. It is a position in which women need to have as much support as possible and in which they should be able to be supported and understand all of the options available to them.

I also want to share with the House a more public story, the story of Jaya Taki. This story has received wide media coverage. It is the story of a woman who was coerced and bullied into having an abortion by her partner, a former National Rugby League [NRL] star. This is neither pro-life or pro-choice. I should think that those who want to ensure that women are enabled to make their own decision should want such action protected. Jaya Taki outlined her experience of "counselling" at the abortion clinic, just across the road from Parliament House:

> You speak to a counsellor first and I'm going to say "counsellor" like that *[in inverted commas]*. Because I went in there and I was desperate for her to see that I didn't want to be there and she said to me, 'What's the reason you're having an abortion today?' and I said, 'Oh, because I've only been with this guy for four months.' And she said, 'Oh, Ok, that's a good reason.'
>
> That was my counselling session. I remember thinking, 'Please, please, please ask me more questions. Please ask me more detailed questions. Please ask me more questions …

Those are the words of Jaya Taki. Nobody ever asked her if it was her choice. Nobody ever sought to offer her any alternative. The bill before the House would prevent anyone offering Jaya Taki or any other woman in a similar position any alternative. The bill would make a criminal of anyone providing Jaya the option she desperately wanted on that day and send them to prison for six months. This bill, however, would do nothing to prevent a person such as Jaya's then partner from pressuring or coercing a woman at her most vulnerable to make a terminal decision that she does not want to make. This bill ensures the only destination for women during a crisis pregnancy is to have an abortion.

Jaya Taki's story has been very public because her partner was an NRL player, but her story is not isolated. This is a common everyday occurrence whereby women are pressured and coerced into having an abortion either by a partner, a relative or even a friend. Often the sidewalk counsellors are the only voice that women have that affirm the decision that they may truly want to make: to have their baby. This is Emma's story—she said: I only wished in all the unplanned pregnancies I faced that just one person had said to me, "I'll help you" or "I'll support you" or "I'll point you in the right direction", not one and I've had eight abortions. That's a lot of situations that I've faced. Every single time, every single time, I was coerced, forced or abused into having an abortion. They are Emma's words. This is not a pro-choice environment. The bill limits choice. Last year I met with women who were the recipients of sidewalk counselling. I met with their children, who were full of life only because of that sidewalk counselling. These were women and families who did not think that they had any other option before them. New migrants to Australia were told that it was their only choice because they could not afford to have a child. Women were pressured by partners and family members. Criminalising sidewalk counsellors and, indeed, anyone who does not offer only the option of abortion within 150 metres of an abortion clinic, will lead to more women undertaking a procedure that is terminal and is not what they wish to do. It will lead to more women living their lives regretting a decision that they did not wish to make.

I will touch briefly on the freedom of religion. While this bill protects the freedom of expression within churches, it does not protect the freedom of religion. Sadly, similar legislation to this is used in the Australian Capital Territory to fine and take a person into custody for silent prayer. It has been contested that silent prayer does not constitute protest in that jurisdiction. Under this legislation, the test is whether the action is "a communication that relates to abortions … that is able to be seen or heard" and that it is "reasonably likely to cause distress or anxiety to any such person accessing a reproductive health clinic that conducts abortions". I am sure that under this legislation someone will take an action against a person for silent prayer in this State.

With respect to the freedom of communication, members have raised analogies with respect to the constraints that were imposed under the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill 2016. I will spend a few minutes looking at the differences between the pieces of legislation because it is important for this House to be made aware of them. Unlike this bill, the Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill dealt with persons who "interfered" and "does

anything that gives rise to a serious risk to the safety of the person or any other person on those lands". If that was all this bill did, it would likely gain broader support in this place.

The Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Bill took action against persons locking themselves on to plants and equipment. It explicitly prevented the police from giving a direction in relation to, "An apparently genuine demonstration or protest, or a procession, or an organised assembly". This bill explicitly outlines in proposed section 98F (2) that it effectively overrides anything in part 4 of the Summary Offences Act 1988, which authorises the conduct of public assemblies, and part 14 of the Law Enforcement (Powers and Responsibilities) Act 2002, which provides police with the power to give directions. It should be noted also that the inclosed lands bill only provided for an offence of 50 penalty units and did not lock people up for a year in prison.

Many of the supporters of this bill demonstrate their rank hypocrisy when they go apoplectic over the impingement on freedom of speech with the passing of legislation such as the inclosed lands bill, which did nothing to prevent the rights of freedom of assembly and protest, but cheer on a bill that explicitly overrides the ability to protest under part 4 of the Summary Offences Act 1988. The same voices that last night claimed that the Election Funding Bill impinged on freedom of speech are happy to trample on freedom of speech and freedom of religion today. This is the mentality: "There is one form of communication that is acceptable and there is another that is not. If you agree with us you can speak and if you don't then you should be silenced."

One of the groups that campaigned most strongly against the inclosed lands bill was the NSW Council for Civil Liberties, which accused the bill of being "anti-protest", despite it explicitly enshrining the ability of groups to protest under part 4 of the Summary Offences Act 1988. Today we have a bill before us that explicitly applies "despite anything to the contrary in ... part 4 of the Summary Offences Act 1988". What does the NSW Council for Civil Liberties have to say about that? In a statement on the council's website, council members state that, "we give our full support to this necessary, sensible and proportionate bill". That is rank hypocrisy. This could be pulled straight out of the pages of Orwell's *Animal Farm*. A passage of the book states:

> When they had once got it by heart, the sheep developed a great liking for this maxim, and often as they lay in the field they would all start bleating "Four legs good, two legs bad! Four legs good, two legs bad!" and keep it up for hours on end, never growing tired of it.

Of course the book ends with the animals bleating:

> "Four legs good, two legs better! Four legs good, two legs better! Four legs good, two legs better!"

The bill will not support women; it will represent an egregious affront to freedom of speech and freedom of religion, and it will lead to women having access to less choice during a crisis pregnancy. For all these reasons, I cannot support the bill.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:44): I make a brief contribution to the debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. I indicate to the House that I will support the bill. When members have been given a free vote to exercise their conscience, I have consistently reflected upon not only my own personal experiences, but also the experiences of those who I know and who are dear to me. I acknowledge the contribution of the Hon. Penny Sharpe, who clearly outlined the different reasons why women access the services of these health clinics throughout New South Wales. I acknowledge also my colleague the Hon. Sarah Mitchell for going into detail about her experiences with regard to this debate. I am 41 years old and grew up in a regional community. Unfortunately, I have had plenty of opportunities to reflect upon this type of decision, which is made by women and their families throughout New South Wales.

I will not go into too much detail for fear of potentially exposing some of their stories, but I will say that one thing that I do know is that when people are accessing these services, they are doing so because of their circumstances, family and issues. In my experience, these women make this decision after very careful reflection and consideration. There is sometimes an unsettled conflict within themselves, or between them and their families, or them and their god. Every one of the cases that I can reflect upon that have led me to make my decision is different and personal. The decision is personal to the women and their families and, therefore, they need to be able to make the decisions that are in the best interests of themselves and their families. These women cannot be treated as if they all have the same motivation as they enter these clinics and all need some sort of assistance that they did not ask for from people who they do not know. This is a matter of conscience. When I look at my life experiences and the experiences of people that I have had close contact with, I feel that this is something that we should be doing. That is why I am very happy to support the bill.

The Hon. DAVID CLARKE (16:48): I will be voting against the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. In New South Wales abortion remains a criminal offence and is legal only when it is necessary to save the mother from serious risk to her life or health and the danger of the

procedure is not out of proportion to the danger to be averted. The fact is that many abortions performed in New South Wales would be found to be unlawful if properly tested in the courts. That is why last year in this Chamber The Greens sought unsuccessfully—thankfully—to decriminalise abortion altogether. If passed, the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 would criminalise, in certain situations, the right of citizens to publically oppose abortion, even though the abortion being opposed could itself constitute a crime. It would be a bizarre and outrageous state of affairs to criminalise the actions of a person publically opposing the commission of a crime.

That will be the practical result of legislating for so-called safe access zones of 150 metres around reproductive health clinics within which citizens will be restricted in exercising freedom of speech on the abortion issue. In particular, within such zones it will be a crime to cause actual or even potential distress or anxiety by communicating about abortion in a manner that is able to be seen or heard by a person accessing, leaving, or attempting to access or leave a reproductive health clinic at which abortions are provided. It would be hard to conceive of a more draconian provision than that, unless one looks for inspiration to North Korea, Venezuela under Maduro, or Zimbabwe when it was under the Mugabe dictatorship.

This bill is a full-frontal attack on freedom of speech, assembly and religion. Confirmation that it is modelled on Victorian legislation that was initiated by that State's hard left Labor Government hardly comes as a surprise, because of all the State governments, that is the one that has consistently put the boot into freedom of speech and religion. It is the Government that is most militantly opposed to the protection of the unborn child and most supportive of the pro-abortion lobby.

Supporters of the bill will argue that it is not hindering the right of citizens to oppose abortion, but instead protects from harm those who wish to access abortion clinics without being harassed, intimidated, threatened, hindered, obstructed or impeded by any means. However, the truth is that such protections are already adequately provided for in the existing criminal code. No new legislation is needed. Those opposing abortion by holding signs or conducting vigil prayers outside or near abortion clinics should have the freedom to do so. They should be able to offer what is termed "sidewalk counselling" and engage with women who may have been coerced by abusive partners or family members to undergo an abortion against their will. They should have the right to offer these vulnerable women a legitimate alternative. Indeed, there are numerous instances of women having chosen not to abort their child following engagement with "sidewalk counsellors". I praise those who are called "sidewalk counsellors". The great majority are good and decent people—people of humanity and compassion who seek to save the lives of unborn children. What an infamy it would be if they could be sent to jail for 12 months for encouraging a woman not to abort her own child and offering her alternatives that she may not have considered.

Mr Christopher Brohier, barrister at law and member of the South Australian and Australian Capital Territory bars, has addressed the issue of exclusion zone laws in an analysis paper, in which he said that Australian political discourse is full of examples of people seeking by communications to dissuade others from acting on legal decisions or for legally legitimate purposes—for example, anti-logging and other environmental protests in Tasmania, as in the *Brown v Tasmania* decision in October 2017. As that case recognised, such protests have a vital part in the exchange of ideas, can lead to changes in the law and are key to democracy. They are generally at sites that are relevant to the issue: protests in relation to logging are at logging sites, as this has a communicative power. To prohibit communication simpliciter in proximity to a place relevant to the issue of concern is to significantly silence public debate. As stated in the case of *Tajjour v State of New South Wales* in 2014, that is not compatible with representative government, because:

> The end of quelling a political controversy or of handicapping political opposition would not answer that description.

The functioning of representative democracy requires electors to be able to seek to dissuade others from legal courses of conduct in an effort to bring about change. A purpose that aims to outlaw such conduct is not compatible with representative democracy. According to *Australian Capital Television Pty Ltd v Commonwealth*, to exclude peaceful, non-disruptive communications within 150 metres of a clinic is to "directly exclude potential participants in the electoral process from access to an extremely important mode of communication with the electorate". We should be very clear where the law currently stands on exclusion zones. On 17 October 2017 in the case of *Brown v Tasmania*, which involved former Federal Greens leader, the High Court ruled that the central anti-protest provisions of the challenged legislation were unconstitutional because they impermissibly burdened the freedom of political communication implied in the Commonwealth Constitution.

That surely must be a bad omen for what the future holds in store for the legislation before us should it be passed by the New South Wales Parliament. With regard to the exclusion zone laws passed in Victoria, it should be noted that some members of the Victorian Parliament now regret having voted for it, after having seen it in operation. For example, Mr Neale Burchess, Liberal member for Hastings in the Victorian Parliament, has issued the following statement:

> … I would like to put on record my change of mind on the government's exclusion zone laws. At the time the bill was debated I found the argument for keeping people with different views on such an emotional topic separate compelling, but my training as an officer of the court has prevailed in circumstances where my conscience should have. After discussing these laws with a range of people, including Kathy Clubb, it has become apparent to me just how damaging these laws are.

This bill is a bad bill. If it becomes law in its present form, it will be followed just as surely as night follows day by a bill to decriminalise all abortions. I oppose this bill today and will oppose all future bills that seek to diminish protection for the unborn child.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:56): The Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 is a bill on which Liberal members and The Nationals members have a free vote. Whether they consider it to be a matter of conscience or are just making a choice, the decision of both party rooms has been that they are able to do that. I wish to speak for several reasons. At the outset, I wish to reflect upon these sorts of circumstances where the parties have allowed free votes, because I have been involved in a number of them in my 19½ years as a member of this Chamber. Generally speaking, I believe that they are a positive occasion for the Parliament. Generally members have approached these debates in a way that is respectful to their colleagues and have understood that other members have an opportunity to give a view from their perspective.

But I do want to make one remark that I think important. There was some suggestion, following the other recent occasion where members have had free votes, that there is somehow some requirement or convention that when such a debate takes place, all members should speak. This is, in fact, not the case and never has been for the entire time that I have been in the Chamber. Frequently, members have offered views on these sorts of debates, but it has certainly not always been the case that every member has spoken. I have to say that I was deeply offended after the Hon. Trevor Khan's bill on euthanasia came before this Chamber, when I was subjected to what I think was a malicious attack by another member of the Chamber in a television interview, attributing motives to me that were totally unfair and untrue and did that member absolutely no credit whatsoever. To the best of my recollection, during my 19½ years in this place I have voted on this issue four times and voted the same way on each occasion. The Hon. Trevor Khan, the mover of the bill on that occasion, knew that and he knew that was the backdrop. Even on matters like the age of consent, something which I care deeply about, my recollection is that at least once I did not speak on it even though there was a free vote. Yet my views on that issue were very well known. I say that by way of a preamble to the remarks I am going to make.

It has been a good debate today, and members have approached it well. Of course it is Thursday and normally we would have adjourned by now. We are likely to sit later today than we normally would on a Thursday. Sadly, I have an unbreakable commitment that means I will not be able to be here after 5.30 p.m. I suspect that the vote may be taken after 5.30 p.m. To ensure that the Hon. Adam Searle does not behave tomorrow in the same way that he has on a previous occasion, I take this opportunity to put my position on the record so that people know how I would have voted even if I am not here or on the division list later when the vote is taken. I happen to think that this bill should pass. I would vote for it and maybe I will vote for it if the vote is taken before 5.30 p.m.

I find it impossible to disagree with the logic in the Hon. Trevor Khan's contribution this morning. The idea that there are no limits on free speech is wrong. Free speech is important but it has always had limits. The idea that people can be harassed in the way that people are being harassed after making an extraordinarily difficult personal decision on an issue like abortion—one on which I am troubled and historically have always had difficulty—is wrong. Nevertheless, I accept that it is the right of the person most centrally affected to make that decision. Once they have made that decision, difficult as it often is, they should not be molested and harassed when they are going into the clinic. That is my view and I consider myself to be consistent on this issue. There are times when free speech can and should be constrained, and I have no problem with that. I nevertheless consider free speech to be important and I will only consider constraints when they are absolutely necessary. The circumstances that the Hon. Trevor Khan referred to this morning are obvious instances where there do have to be some constraints. With those few words, my position is on the record regardless of whether I am here or not when the vote is taken later on.

The Hon. CATHERINE CUSACK (17:03): This morning when we came to work more than 100 protestors were blocking the entrance to Parliament House and police were asking members and staff to use another entry. As usual, we found another way. I do not much like protestors at our gates, but that is democracy. One protest I will never forget was staged by Dr Mehreen Faruqi after her abortion bill failed. She posed with female university students who had attached coathangers to the metal palings that surround this building. From the coathangers dangled head shots of members of Parliament who had voted against her bill. This media stunt personally caused me immense grief and distress. I was born in 1963, a different era, when my 16-year-old single mother was regarded as shameful and was ostracised by her strict Catholic father. Realistically I know that in 2018 her pregnancy would have a different outcome than it did in 1963. So I am an unwanted baby. Yet, here I am speaking on this legislation today. My views on abortion are necessarily complex because of this experience.

The images of Dr Mehreen Faruqi standing next to my photograph as it dangled from a coathanger at the gates of Parliament House almost put me into physical shock. Yet it never occurred to me that we should legislate to require the New South Wales Greens to engage in measured protests. Nor can we legislate to require The Greens to respect the rights of individuals, their dignity, or to stop bullying businesses and public figures who do not agree with their views. Unfortunately, there are situations where ordinary citizens are subject to upsetting experiences of harassment and public humiliation. Some are even driven to suicide by things like media stakeouts, running gauntlets in and out of court, and let us not forget what workers face when they try to cross a union picket line. Where is the respect for their freedom of choice, dignity and respect? All of these situations are repugnant, as is the situation that is the subject of the bill today.

In a liberal democracy, freedom of assembly and freedom of speech are cornerstones of all our freedoms. The reason we can call those freedoms is those rights are accessible to all, irrespective of their political or religious creed. Yes, there are situations when those freedoms are abused and we all feel upset by that. We think, "That should not be allowed." It is repugnant to our personal values, but that by itself is not enough to make a law. The attack on freedom of expression by this bill could not be more egregious because it targets a specific type of protest and facility and basically curtails those protesters' rights while leaving other organisations such as the media, The Greens, and unions free to bully and harass on their issues in other locations irrespective of the harm and distress they inflict on innocent parties.

As a lifelong feminist, I have always cautioned women who are frustrated and angry about difficulties and snail-like progress that we must not fight bullies by turning into bullies. We must not assert fairness for women by inflicting unfairness on everyone else. That approach is unsustainable. If we do this, we can never get the enlightened social contract which would see true equality and mutual respect between the sexes. I have consistently applied this view. I have supported every gay law reform, change to the age of consent, the introduction of the RU 486 abortion pill and access to surrogacy. I am pro-life and pro-choice for all people, not just for some. I say plainly that I support a woman's right to choose. I voted for the supply of the abortion drug especially to assist women in rural areas to maintain choice, privacy and dignity and to avoid these situations. All of the things I have voted for increase individual autonomy and freedom. If this bill created a safe zone for all health facilities, I could support it, but I am told this would impinge on union picket lines and would lose the support of Labor.

The Hon. Trevor Khan has said this bill will "arm our police with the tools they need to protect these women". Yet, I am not convinced those tools are absent. Police have not requested these powers, civil remedies are available, and I have personally received no firsthand complaints other than what we have repeatedly heard in the House today: "I would hate that to happen to my daughter," or, in some letters I have received even from people who have had an abortion, "I would hate that to happen to me." But I have not heard from anyone who says it did happen to them, and given the draconian nature of this bill I believe that evidence is essential as well as an examination of all the other potential remedies.

Instead, under proposed section 11M of this bill we create a new offence of causing "potential distress or anxiety to persons in safe access zones". That means a demonstrator who is "reasonably likely to cause distress or anxiety" faces imprisonment for up to 12 months. I have heard a great deal of well-meant statements of support for women visiting these clinics. I too care about their wellbeing and I believe every member here cares, but potentially sending a person to jail for 12 months for kneeling on the public footpath within 150 metres of a clinic and praying because in someone else's opinion it might cause someone else distress? I find that ludicrous.

I do not believe this is a solution at all. The circumstances of "potentially causing someone distress" is as clear as mud in this legislation, and yet here we are attaching a prison sentence to that offence. The 150-metre exclusion zone really troubles me. Why not 145 metres? Why not 87 metres? How was that figure arrived at? A protestor blocking access to the facility, as described by the Hon. Walt Secord, need only move a few metres to unblock access to the door. The size of the exclusion zone, 150 metres, has not been fully explained, and yet a person risks jail because of it. But if that person is 151 metres from the clinic then all those behaviours are fine. It does not make sense to me. I am far more comfortable with strengthening police powers to move on protestors—and by that I mean all protestors who are causing a public nuisance.

Last year I holidayed, as I often do, in the outback and I visited the Old Wentworth Gaol, which is now a museum. When I got to the women's section of the old prison I was surprised to see there are life-sized models of female members of the Salvation Army. I assumed they were representative of Salvos visiting and supporting women in prison. But as I read the narrative, I was stunned to realise it was the Salvos who were being locked up by local police. It seems these women were singing and praying on the streets of Wentworth, in those days a very wild colonial town, and this caused such offence that they were arrested under the Summary Offences Act, the very Act we are amending today. These women were imprisoned for an average of four or five days. When released these women went straight back to praying and singing on street corners, and other Salvos came to support

them. That led to an accommodation crises in the female prison at Wentworth, which was overflowing with Salvation Army officers. This bill takes us back down that exact same path, and it is not a path I want this Parliament to go down again.

The Hon. ADAM SEARLE (17:11): I make a contribution to the debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018 as a son, as a person with two sisters, as a partner, as a father with two daughters and as a friend of many women I know personally and professionally and who have enriched and shaped my life. I hope that in my contribution I speak in support of these women, because this bill is about the personal autonomy and agency of women. These women are our friends, our relations and our partners and lovers, and they may seek to attend reproductive health facilities. As we have heard in this debate, women who seek to attend reproductive facilities do so for a wide variety of reasons, not only to obtain a termination of pregnancy. This legislation is premised upon the simple idea that women should be able to access needed medical services without being accosted, harassed or intimidated in any way.

The Hon. Shayne Mallard and others said that this legislation is not about the legality of abortion, or whether the current state of the law should be changed; we debated that matter in this place not long ago. In today's debate, the issue that has predominantly been raised against this bill is that the bill is somehow an infringement on fundamental rights and freedoms, such as the right to political communication and religious freedom. Some members in their contributions have waxed lyrical about High Court cases and other high constitutional principles. Let us be very clear: This is a nonsense. Before I develop that argument, let us look at the issue of fundamental rights and freedoms as ventilated in this House. I am not the first contributor to this debate to make this point. Where was that concern in 2012, when this Parliament enacted electoral funding reforms restricting the right to make political donations only to natural persons on the electoral roll, thus depriving many other civic societal institutions of the right to participate and be heard? Where was that spirit at 2:24 a.m. today when we were debating further electoral funding reforms, even in the shadow of earlier reforms having been struck down by the High Court?

The Hon. Trevor Khan in his contribution today made the telling point about where that concern lies, when this Parliament, without the support of this side of the House, enacted the mining protest laws providing for imprisonment of up to seven years for persons offending against that statute. I note that a previous contributor to this debate suggested that my side of politics likes to have its cake and eat it, because we opposed those other changes, whereas we as a party are supporting this bill. I will return to that earlier point, because this bill does not infringe on fundamental rights and liberties. I will try to develop that argument as intelligibly as I am able.

The fact is that in relation to fundamental rights and freedoms we are not just debating what any one of us might colloquially refer to as a moral right; instead we are debating those rights that have been recognised by law, the High Court in particular. In the case of *Unions NSW and Ors v State of New South Wales*, the judgement went through the history of Longley, the ABC and the ACTV case to look at where this implied freedom of political communication came from and what it was about. In the ACTV case, Justice Brennan spoke of the need for there to be a free flow of political communication, so that electors may form judgements. Chief Justice Mason stated that it was only through uninhibited publication that the flow of information can be secured and the people informed. The case was about maintaining the integrity of the electoral process underpinning the system of representative government.

Unlike in the United States, the right of the implied freedom is protected in Australia by law only insofar as it maintains the integrity of the system of representative government. The question posed in Longley is whether a piece of legislation burdens the freedom, either in its terms, in its operation or in its effect. To work this out, we need to determine whether the legislation at issue is reasonably appropriate, adaptive or proportionate to serve a legitimate end in a way that is compatible with the maintenance of our system of representative government. We can burden the freedom, but only to secure that proper and appropriate end. It was held that the law only burdens the freedom of communication about government or political matters, and that is the limitation of it.

What do we have with this legislation? This legislation, in my observation, does not deal with political communication, because the behaviour it captures and seeks to prevent in order to prevent harassment and intimidation of women accessing reproductive health services is not one of seeking to engage in a discourse about public affairs. The bill does not seek to prescribe behaviour of persons seeking to have a public discussion about the state of the law, whether that is for abortion or any other topic. It does not in any way inhibit, prevent or restrict people's rights, in other public places, to have discussions about wide matters of political interest or public affairs to inform the public, whether in relation to an electoral process, which is really with the implied freedom of its operation, or more generally about issues such as abortion.

When you take away all the trappings and window dressing that many people who have written to us have tried to dress it up in—and in many contributions today—it becomes clear that the activities that the bill seeks to address are to try, one way or another, to persuade individuals to not seek medical treatment. It is not

about trying to engage someone on their way to a clinic about abortion law generally, but whether they should undertake or have access to a particular service. In the way I just described it, there is a judgement on the part of those who are—to use a term that we have heard here today—sidewalk counsellors. There is an assumption that everybody going in and out of these places is after one type of service. As we heard from the Hon. Sarah Mitchell and others, women attend those places for a wide variety of medical needs but the judgement is that they are there for one purpose. The sidewalk counsellors and their urgers and spruikers are not there to engage in a wide-ranging discussion about public affairs or even abortion law reform; they are there to persuade those individuals to not seek medical treatment.

Let us just change the setting a little bit. Imagine protesters of this kind were trying to prevent people from accessing a clinic to undertake chemotherapy for cancer. In the context of this bill, we would have no hesitation in saying that interfering with, impeding or intimidating people from doing that is heinous and that a stop should be put to it. What if the protesters were trying to stop people from accessing blood transfusions or other life-saving procedures such as organ transplants? If members looked at it in that way, most would reach the view that legislation in this setting was necessary to ensure safe access to medical services—that is what this bill is about. In his contribution, the Hon. Trevor Khan said—and I agree—that the bill is about a matter of common decency. It has been introduced so that women we know can safely access important medical services. It is not about political communication, ideology or philosophy. It is not about what you or I believe is the way the world should run. It is about people who make an informed decision about accessing medical services, and allowing them to do that.

We have heard a lot of talk today about the High Court's decision in the Bob Brown case. I will not labour members with legal analysis but make only one point. Why did the High Court strike that case down? It was not just to protect the right to protest. It was because the legislation set up a regime, which was said to have as its legitimate aim the protection of lawful forestry operations and public safety—that is, the safety of individuals and workers. But the High Court judges found that the powers of direction, removal and arrests, and the offences created by the legislation, were not to secure those aims of public safety and permission of lawful activity, but to stop protests in an area per se. That is why the High Court struck down the legislation in the Brown case. 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 or have silent prayer vigils on the outskirts of the 150-metre zone; it does not stop them from protesting or having a prayer vigil.

It has been said that there is no need for the bill because existing law covers the behaviours that we seek to proscribe. But that is true only in part. To come within the grasp of the criminal law, offending has to be at a higher level. As we have heard from the Hon. Bronnie Taylor, individuals have to jump through a lot of hoops to commence a criminal action. Move-on powers are only short term and those who are moved on can return within a short time. I will look at the issue of harassment and intimidation. Yes, violence is illegal and there are laws that deal with it. But women who are in the vulnerable circumstance that leads them to attend the clinics and reproductive health centres are highly sensitive. They are going through a difficult time. Sometimes, the mere presence of people praying, displaying literature and seeking to approach them is threatening and intimidating; in a different circumstance, when they were feeling more robust, it would not be. They are not being protected by the existing law from feeling harassed and intimidated in those circumstances.

There is a fundamental disconnect in what we are describing because, on the one hand, many opponents of the bill have said that it is only silent prayer and that it is only trying to provide people with another legitimate, alternative choice. Speakers have also said that women are getting harassed and intimidated, and people are approaching them and seeking to impede their access to these facilities. I have seen that with my own eyes. I know these things go on. Not everybody engages in that kind of activity but the overstepping of the mark in that context is so often and repeated that the law needs to intervene. In the last couple of weeks we have even seen television footage of what goes on outside some of those clinics. The law is currently inadequate and needs to change. This bill is that change.

I will now talk about sidewalk counsellors. They are not qualified to be counsellors, although they are well-meaning in some circumstances. But people attending these clinics and seeking these services need qualified professionals to provide them with guidance and support, not a well-meaning volunteer who may end up doing more harm than good. Those people are not qualified professionals. In the correspondence and contributions by some members today, we have been told that these people are simply seeking to provide choice for women. That is a very disturbing spin on what we are discussing today. Its subtext is that any woman attending these clinics and seeking these services has not thought long and hard—for days and perhaps weeks—before seeking out the medical services. The arrogance of that assumption is, frankly, breathtaking. Let us look at this question: At this most difficult personal and private time, would any woman want to discuss these matters with a total stranger who

is not qualified to give them counselling—and to talk publicly on the sidewalk about this most personal and private matter that they are experiencing? When you paint that picture, you see how ludicrous and false the proposition is. It is not what is going on and the arrogance of people who say that it is invites the reasonable observer to think that they are completely disconnected from the real world.

There have been a lot of letters and correspondence to members of Parliament. Perhaps unwisely, I have chosen to respond to a number of them—many in support of the bill; some less so. I have tried politely but firmly to express my view. Members can imagine how nonplussed I have felt when, instead of engaging in a respectful discourse, the respondents have come back with a terminology that is vicious—and sometimes, frankly, unhinged—but in a language that is colourful and, indeed, violent. This is the real subtext of the opposition to the bill: Not to support women and give them choice, but to bend them to people's world view—people should behave as these people think, rather than make their own informed choice. By suggesting that women need to be given choice is to say that they are not making an informed choice and that they lack that capacity. That is terribly insulting.

This is the real agenda I see in the opposition to this bill, not offering women a real choice but trying to make women behave as they think they should behave. If you do not accept that, then you are called to judgement, marked down and subjected to harassment, just as the women seeking medical services are themselves harassed and intimidated, sometimes by the mere presence of people but more often because those people seek to approach, impede and deliberately harass them. That is not acceptable and this law will put a stop to it. I have to say: My party does not have a free vote about this, not because we do not believe in conscience but because this is not a conscience matter.

This is about the integrity of access to medical services in this State. This is about law enforcement measures, and that is why we as a party are voting this way. I understand other parties have taken a different approach and that is a matter for them, but for us this is an important matter of public policy and we stand together on it. This law will protect women. It will ensure the integrity of the provision of health services in this State. It will also help to protect the workers at these clinics. It will promote a safer, more civilised and respectful society. I commend the bill to the House.

The Hon. MATTHEW MASON-COX (17:30): I speak in debate on the Public Health Amendment (Safe Access to Reproductive Health Clinics) Bill 2018. In this day and age I contend that no reasonable person would support the filming, harassment or intimidation of women accessing the services of an abortion clinic. I certainly do not. The imagery of a vulnerable woman running a gauntlet of abuse, harassment and intimidation on her way into an abortion clinic—as some members of this place have so graphically described—is repugnant and completely unacceptable. It is my strong view that any person behaving in this reprehensible manner should feel the full force of the law. I suspect that all members in this place feel the same way. Indeed, from the thoughtful contributions we have heard today I think that is a reasonable assumption.

However, I also contend that a reasonable person would not seek to silence others who oppose abortion through the simple act of standing outside an abortion clinic holding a sign offering support and praying for the welfare of those entering. Or would they? Apparently they would, as this is exactly what clause 98D of the bill purports to do. Indeed, the bill goes so far as to criminalise the actions of a silent conscientious objector protesting within 150 metres of an abortion clinic with a fine of up to $5,500 and six months imprisonment for a first offence, increasing to $11,000 and 12 months imprisonment for a second or subsequent offences. The same penalties apply to the filming, harassment or intimidation of women attempting to access or leave an abortion clinic.

Clearly, any protester who dares to breach the bill's arbitrary 150-metre exclusion zone outside an abortion clinic would do so at their peril. But what if the woman contemplating an abortion is accompanied by her partner or perhaps her mother, sister or father—or anyone else for that matter—who is trying to support her and talk to her about her options? Could they fall foul of the provisions of this bill? The answer is clearly yes. Clause 98D of the bill says a person who is in a safe access zone must not make a communication that relates to abortions by any means that is reasonably likely to cause distress or anxiety to a person accessing or leaving a clinic at which abortions are provided. A simple statement by a family member or friend within a safe access zone to the effect of, "Are you sure about having this abortion? You may have other choices. Do you realise what these choices might be?", is to be criminalised.

Is silencing people through fines and imprisonment a balanced response to what can be best characterised as a law and order issue? This bill apparently thinks so. Just picture a pregnant woman's mother by her side, holding her hand, pleading with her to keep the baby, whilst impeding her access to the abortion clinic. Would this mother fall foul of this bill? Yes. Just read proposed section 98C. Whilst the bill may be well intentioned—and I see the intentions of the proponents of the bill, cloaked as it is in the rights and vulnerability of women confronting one of the most sensitive decisions of their lives—it is clearly poorly designed. It is a blunt instrument with a range of unintended consequences.

Let us turn to consider the legal justification of the bill, as a number of members have. The central justification for the bill is the asserted inadequacy of current laws to address conduct by individuals which crosses the line from acceptable to unacceptable behaviour so as to permit intimidation, harassment and abuse outside an abortion clinic. In her second reading speech, the mover of the bill, the Hon. Penny Sharpe, was at pains to stress this failing as the key justification for the need to legislate in the manner proposed by the bill. Accordingly, the adequacy of the current law is a critical issue which we must examine. The leading relevant authority on the common law notion of a breach of peace is the decision of the House of Lords in Laporte's case in 2006. Breach of the peace is a fundamental common law concept. Section 4 (2) of the Law Enforcement (Powers and Responsibilities) Act 2002 (NSW) states:

> Without limiting subsection (1) and subject to section 9, nothing in this Act affects the powers conferred by the common law on police officers to deal with breaches of the peace.

Subsection (1) provides that unless expressly or by implication the Act does not limit the functions and obligations that a police officer has as a constable at common law. At common law the primary duty of a constable—that is, a police officer—is to preserve the peace. For the purposes of preserving the peace every police officer has the power and the duty to seek to prevent any breach of the peace occurring in his or her presence. This includes where a breach of the peace has occurred and is likely to be renewed, or a breach of the peace is about to be committed. The legal power and duty is to take reasonable steps to prevent the person who is breaching or threatening to breach the peace from doing so. These reasonable steps can include: speaking with the person and seeking to persuade them from his or her conduct; restraining the person; ordering the person to desist from their conduct, and, if the person refuses, to arrest the person for obstructing a police officer in the execution of his or her duty; and arresting the person.

A breach of the peace is concerned with actual or likely harm to a person or property. Conduct which may constitute a breach of the peace includes not only obvious cases of assault but "a disturbance". It includes making offensive gestures to people, queue-barging and obstruction. I cannot for the life of me understand how the particular categories of conduct identified by the mover of the bill—that is, intimidation, harassment or abuse—do not constitute a breach of the peace and so require as a matter of legal duty a police officer to act to prevent that breach continuing or recurring. It seems to me that the real issue is not one of legal power to act but the inclination to act and enforce the law on the part of the police. This is a very different issue from that one articulated by the Hon. Penny Sharpe in her second reading speech as the primary justification for the bill.

Turning from the common law to current New South Wales statutory provisions, if there are truly deficiencies in the operation of these provisions, the proper and appropriate course in my view is to remedy those deficiencies. Deficiencies, real or imagined, are not addressed by creating a new suite of offences under the umbrella of public health. The issues here are of general application in terms of what conduct, in public places in a civil society, is and is not acceptable. For my part, I struggle to comprehend how any conduct amounting to intimidation, harassment or abuse can be seen as acceptable in a public place, let alone how it can be said to be lawful.

It has been suggested that the provisions of the Law Enforcement (Powers and Responsibilities) Act 2002—provisions which entitle a police officer to give directions to an individual or group of persons concerning their conduct in public places—are deficient when it comes to addressing these matters. That may or may not be correct. I think members in this House and the other place would benefit from the advice of the Attorney General, as the first law officer of the State, in this regard. If there are statutory deficiencies, we should be looking at how they might be appropriately addressed.

I note that the mover quoted the practice manager of a clinic at Surry Hills, who said that 15 years of reports to the police about the conduct of certain persons on a weekly basis had resulted in only a small number of move-on orders. This suggests that aspects of the current statutory scheme can and do work if police act in a timely manner in responding to complaints and are able to obtain evidence. The real complaint appears to be that police have talked affected individuals out of pursuing their legal rights and that the statutory remedy is unfair or unreasonable because it requires an affected person to be prepared to provide a statement to the police.

First, it is not the duty of the police to dissuade people from doing something. Secondly—and with respect to anyone who is intimidated, harassed or abused—having evidence, through the provision of a statement of that alleged criminal offence, is the basis of our criminal legal system. Turning that on its head is not, in my view, an appropriate way to address the conduct in question. Nor is this bill.

There are other statutory provisions in other New South Wales legislation which address conduct involving intimidation, harassment and abuse, which I will mention briefly. They are: the Summary Offences Act 1988 section 4, offensive behaviour in or near or within hearing of a public place or school—six penalty units or three months imprisonment; the Summary Offences Act section 4A, offensive language, in or near or within

hearing of a public place or school—six penalty units; and the Crimes (Domestic and Personal Violence) Act 2007, section 13, stalking or intimidation with intent to cause fear of physical or mental harm—five years imprisonment or 50 penalty units. Importantly, this offence is not predicated on the parties being, or having been, in a domestic relationship.

The Crimes Act 1900 section 545B, which covers intimidation or annoyance by violence or otherwise, has a penalty of two years imprisonment or 50 penalty units. This offence specifically addresses the situation where a person seeks to intimidate another person to do or not do an act which the other person has the legal right to do or not do. The Crimes Act section 546C, regarding the situation of resisting police in the execution of their duty, attracts a penalty of 12 months imprisonment or 10 penalty units. If there are deficiencies in the operation of any of these provisions then the appropriate course of action is to address those deficiencies directly and honestly rather than introducing a bill to address a deficiency in the law that does not actually exist. The reality is that this bill is superfluous.

I note that the Hon. Penny Sharpe's second reading speech relied on the High Court's recent decision in *Brown v Tasmania* 2017, involving the former Tasmanian Senator Bob Brown. In this case, the Tasmanian Protestors Act was held to be unconstitutional as it imposed an impermissible burden on the implied constitutional freedom of political communication. If anything, this decision of the High Court points to the likely constitutional hurdles faced by this bill, which undoubtedly will also be tested in the High Court should it pass this Parliament in its current form. Moreover, it is important to note that the High Court is currently considering the constitutionality of similar State laws in respect of exclusion zones for abortion clinics in Tasmania and Victoria respectively, namely *Preston v Avery and Wilkie* 2018 and *Clubb v Edwards and Attorney-General for Victoria* 2018. Both the Preston and Clubb matters are likely to be heard by the High Court later this year.

As we can see, there are very real questions in respect of the constitutional validity of this bill, with two cases pending in the High Court that are likely to authoritatively determine this matter. It would be prudent for the Attorney General to seek advice on the constitutionality of the bill, if he has not already done so, and release this advice for the benefit of members prior to the consideration of this bill by the Parliament. Notwithstanding this, on any number of measures the case for this bill has not been made.

In light of the bill's penal nature—its clear overreach in criminalising silent, conscientious objectors with custodial sentences—the bill's other unintended consequences, particularly for family members or friends accompanying their loved one to an abortion clinic, the fact that the current law already adequately covers the field both at common law and pursuant to existing legislation, the bill's uncertain constitutionality and the fact the High Court will hand down its decision on similar State exclusion zone laws in the near future, the prudent course of action is to either wait until the constitutional questions are authoritatively determined by the High Court and/or, in the interim, refer this bill to a parliamentary committee for proper scrutiny.

Given the unseemly haste associated with the introduction and debate of this bill in this place, I understand that the prudent option of waiting is probably unacceptable to the mover of this bill. Let us not unwittingly create a potential instrument of oppression in this place today. Rather, let us take the time to fully understand any unintended consequences of this bill, carefully balance the competing rights impacted by this bill and fully investigate any alternative means of achieving the worthy objects of this bill. Accordingly, I move:

> That the question be amended by omitting "be now read a second time" and inserting instead "be referred to the Standing Committee on Law and Justice for inquiry and report."

The Hon. PENNY SHARPE (17:46): In reply: I thank everyone who has spoken in this debate. I have participated in many similar debates and they have not been as respectful as the one we have had today. I thank everyone for the respectful nature of debate. The bill before us today, if passed, will be a small but important change in the law for women in New South Wales. There have been a number of issues raised in this debate. I will address them in turn. Members will be pleased to hear that I will be mercifully brief.

But before I do this I wish to share some of the stories that women and staff who work at clinics in New South Wales have generously shared with me and asked me to share with members of Parliament. I note that the Hon. Catherine Cusack indicated that we had not shared those stories; I am going to do that now. Because of the deeply personal nature of the services that women receive in reproductive health clinics, most wish to maintain their privacy and are very reluctant to publicly talk about their experiences outside these clinics. I thank the women who have shared their stories with me over the past years as I have tried to gather support for safe access zones. I will not identify these women but these are direct quotes from what they have told me. One said:

> 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.

Another woman said:

> The key reason behind my anxiety and traumatic stress response post-abortion is the shame and stigma perpetuated by such people, my own family included, as protestors. You can never understand how difficult a decision like this is when your family will disown you either way.
>
> The fear of being found out will be a shame I hold for my whole life, a secret that has split my developing years into a pre and post, together and alone, a narrowing of my world by those who have no right to own it. 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 young 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.

Another woman states:

> I grew up in the ACT. My parents are pro-lifers and for many years myself and my siblings were taken to protests in the ACT and NSW where women were told they were murderers and that the unborn baby was worth more than them. The looks of terror and fear have not left me.
>
> As I grew older I realised what was happening and saw the look of terror in the women's faces for what they were and understood the abuse and injustice.

Another woman states:

> I do not do pregnancy well. Both my live births nearly killed me, and in one instance, the infant died for over ten minutes before he could be extracted. I have had seven pregnancies and only two survived. I have never lost a baby by choice, but I can't say what choices I may have made had they not been made for me.
>
> As one pregnancy became increasingly complicated, I had to attend a clinic in Sydney after the pregnancy was considered dangerous and I was medically advised to have a termination. It was decided that it was better that I should attend the clinic prior to the situation becoming a serious emergency, rather than take up an emergency theatre at that time. The developing foetus was semi-ectopic, threatening to rupture my fallopian tube, and the pain it was causing me was beyond description. I was unable to stand up straight. I had a 7 year old to look after and I could not risk dying and leaving him alone. Still, making the choice to follow medical advice was the hardest thing I've ever done, and I grieve her every year when the gardenias come out.
>
> 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.
>
> The women who are attending for other reasons have a right to privacy and peace. The men who already feel powerless, have a right to privacy and peace.

Yet another woman states:

> 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. 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.
>
> I am lucky, I had the love, support and strength of my mother and my partner to help me through my trauma. Every now and then I still wake up in a cold sweat amongst a sea of faces abusing me and calling me a murderer. This needs to stop. These people need to stop.

We have had a comprehensive discussion about protests and the right to engage in peaceful assembly. The right to protest is a fundamental right that parliaments have a responsibility to protect within our democracy. This bill protects that right. It makes the important distinction that what is happening outside clinics in New South Wales is not protest; it is the targeting of individuals who are seeking lawful medical treatment. These women who are targeted have no ability to change the laws dealing with abortion, and they have no desire to be challenged about deeply private matters by complete strangers, nor should they. What is happening outside clinics is not protest; it is harassment, even if it is well intentioned.

Freedom of religion is also a fundamental right that parliaments have a responsibility to protect. This bill makes it explicit that churches and other religious organisations are free to go about their business on their own land and to communicate with their community. What this bill also protects is the right of people to be free from religion when they are going about their daily lives, including going to see a doctor. This bill explicitly protects political communication on the issue of abortion. People are free to communicate and to campaign on the issue. What this bill carefully balances is where they can do that. They can do it anywhere except within 150 metres of a reproductive health clinic. Some members used this debate to try to confuse the issue and make it much more

complicated than it is. I ask them to read the definition of "access zone" in the bill and note where it applies and under what circumstances. The bill is very clear on those issues.

All individuals have a right to an opinion and the right to campaign on their opinions when it comes to abortion. What individuals do not have is the right to an audience. If this bill is passed, this House will be saying very clearly that the elected representatives in this Parliament do not believe that women making choices about their own health should be subjected to views of others delivered in public by strangers in an aggressive, intimidating and threatening manner. The people seeking to interfere with women going into clinics have an ideological agenda that has nothing to with what is in the best interests of the women who are seeking treatment. This bill recognises the ability of women to make decisions about their own health. Quite simply, it is no-one else's business.

There has been much discussion about whether this bill will be challenged in the High Court, as similar bills in Victoria and Tasmania have been. This issue has been well canvassed by members in this debate, and I do not intend to reiterate the detail now. Both the Hon. Trevor Khan and I have worked hard to draft a bill that we believe will withstand any challenge, and in doing so we have drawn on the work done in Victoria. These issues were considered in detail in Victoria and, again, this bill reflects these considerations. It is well within the remit of this Parliament to legislate in this way, and I urge members to do so.

We have had extensive debate about so-called sidewalk counsellors, and I know that they have approached members. Members have been urged to reject this bill because these individuals believe they have a right to stand on the footpath outside a clinic and wait until a patient tries to enter and then approach them, block them and offer them some sort of counselling. It is counselling provided by people with no appropriate qualifications, it is not sought by the patient, and it provides misleading and false information regarding abortion. That is not counselling; it is interference. It is a gross invasion of privacy. We know from the staff at clinics and from women themselves that this is not benign; it is doing harm. Even those who do this with the best of intentions must understand that it is doing harm. If they do not wish to cause harm, they should stop.

I will specifically address Reverend the Hon. Fred Nile's allegations about a clinic on Macquarie Street. The allegations are false and they always have been false. I have a statement from the clinic that I will read onto the record because it is time for the member to stop making these allegations. It states:

> The claims made by Reverend Fred Nile are completely false.
>
> The plumbing problem referenced was not caused by the business. It was caused by a damaged pipe in another part of the building.
>
> Clinical waste bins are collected regularly from the facility by a certified medical waste company. The clinic complies with all health regulations. It was wrong of Reverend the Hon. Fred Nile to make the assertion he made today. The Hon. Taylor Martin and the Hon. Paul Green referred to Sara's Place, which is a pregnancy counselling service across the road from the private clinic in Surry Hills. The operators have rightly been concerned about the impact on their facility. Although the Hon. Paul Green read onto the record my response to correspondence from Sara's Place, I will read it again. It states: We understand your service, whilst in relatively close proximity to the Private Clinic on Devonshire Street, does not involve intercepting those who are going to or from that reproductive health clinic and therefore, in our view, you are not caught by the terms of the bill.

I mean that sincerely and we believe it will be correct. It has been a long debate. I thank everyone for their contributions. I particularly thank the Hon. Trevor Khan for his work on the bill. You can try to make this very, very complicated or you can make it very, very simple. I believe this is very, very simple. Women have the right to make the decisions that are in their best interest without the interference of others, whether that is with malicious intent or genuinely thinking you are helping. It is not helping.

Women should be able to go to the doctor and not have to explain themselves to strangers on the street. They should not have to be photographed. Their boyfriends should not have to be jostled. They should not be filmed. They should not be assaulted. They should not be called "baby murderers". They should not be told they are going to hell. They should not be told that they should be repenting their sins. They should just be able to go to the doctor. If this bill passes today, that is what we will let them do. I thank everyone for their contributions and I commend the bill to the House.

The PRESIDENT: The question is that this bill be now read a second time, to which the Hon. Matthew Mason-Cox has moved an amendment. The question is that the amendment of the Hon. Matthew Mason-Cox be agreed to.

The House divided.

Ayes	12
Noes	26
Majority	14

AYES

Amato, Mr L	Borsak, Mr R	Brown, Mr R
Clarke, Mr D	Cusack, Ms C	Farlow, Mr S
Green, Mr P (teller)	Maclaren-Jones, Mrs (teller)	Martin, Mr T
Mason-Cox, Mr M	Nile, Revd	Phelps, Dr P

NOES

Blair, Mr	Buckingham, Mr J	Colless, Mr R
Fang, Mr W (teller)	Faruqi, Dr M	Field, Mr J
Franklin, Mr B	Graham, Mr J	Houssos, Ms C
Khan, Mr T	MacDonald, Mr S	Mallard, Mr S
Mitchell, Mrs	Mookhey, Mr D	Moselmane, Mr S (teller)
Pearson, Mr M	Primrose, Mr P	Searle, Mr A
Secord, Mr W	Sharpe, Ms P	Shoebridge, Mr D
Taylor, Mrs	Veitch, Mr M	Walker, Ms D
Ward, Ms P	Wong, Mr E	

Amendment negatived.

The PRESIDENT: The question is that this bill be now read a second time.

Motion agreed to.

Third Reading

The Hon. PENNY SHARPE: I move:

That this bill be now read a third time.

Motion agreed to.

The PRESIDENT: Order! Members will cease applauding. Earlier I gave the same instruction to visitors in the public gallery. It does not set a good example when members do not follow my instructions.

ELECTORAL FUNDING BILL 2018

Messages

The PRESIDENT: I report receipt of a message from the Legislative Assembly agreeing to the Legislative Council's amendments to the abovementioned bill.

Committees

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Membership

The PRESIDENT: I report receipt of the following message from the Legislative Assembly:

Mr President,

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

That:

(1) Paul Scully be appointed to serve on the Joint Standing Committee on Electoral Matters in place of Anna Watson, discharged.

(2) A message be sent informing the Legislative Council.

Legislative Assembly
24 May 2018

THOMAS GEORGE
Deputy Speaker

Adjournment Debate

ADJOURNMENT

The Hon. NIALL BLAIR: I move:

That this House do now adjourn.

GREYHOUND RACING INDUSTRY

The Hon. ROBERT BORSAK (18:10): Tonight I continue where I left off on Tuesday night—championing the interests of the greyhound industry. Before I do so, I make the following observation: The Liberal-Nationals Government keeps telling everyone that it is getting on with the job of delivering for everyone. We all know it has delivered for the big end of town and for itself. The list of whom it has failed since March 2011 is so long that I dare not even begin. Suffice to say it has failed our elderly, who can neither heat nor cool their homes because of rising electricity and gas prices; the seriously injured at work, who are now having difficulty getting medical treatment; our nurses, who are understaffed and underpaid; working mothers, who can neither find a childcare centre to send their kids to nor afford to send them anyway; many small business operators on George Street here in the city, who are bankrupt or on the verge of bankruptcy because of road closures; and even 7-Eleven workers, who are being treated as slaves. As I said, the list is endless.

What is most disparaging about the Liberal-Nationals Government is that it has not only turned its back on small business owners and ordinary people on the street trying to make a living, but also gone out of its way to destroy those people's lives. That is what it has done to the mum-and-dad taxi-owner licensees; that is what it has done to our hardworking farmers, who are pleading for help; and that is what it is now doing by having another crack at greyhounds and all the people involved in the industry. In my adjournment speech on Tuesday I said that the Liberal-Nationals Government was trying to strangle the industry and close it down by stealth. It is death by a thousand cuts, and our party will not have a bar of it.

I also touched on the issue of cobalt. Cobalt is a substance found regularly in a dog's natural diet and feed supplements. If a dog is deficient in cobalt it will die. It is as simple as that. The maximum urinary threshold for the presence of cobalt in racing greyhounds was set at 100 nanograms per millilitre. It was introduced by Greyhound Racing NSW in 2015 without any scientific or evidence-based study. In fact, there is no evidence to support the banning of this substance or, at the very least, the imposition of a maximum threshold of 100 nanograms. We have asked for the evidence to be tabled. Let us see whether the Government can properly justify this limit, let alone explain how it will help breeders and trainers comply with the limit. Dogs have a limited capacity to absorb certain nutrients. Cobalt is regularly required in small amounts in a dog's diet, which the body uses to create vitamin B12. In fact, dogs—particularly greyhound racing dogs—use many nutrients to fight infections and repair injuries.

These dogs are athletes, not pawns to be used by the Government and Greyhound Racing NSW to destroy the industry. Most people take therapeutic drugs in one form or another at some point in their lives. Trainers handle dogs and, unfortunately, dogs can sometimes become contaminated by sweat when they are handled. It is not some sort of conspiracy; it is a fact of cohabitation between humans and animals. A greyhound dog owner who contacted me recently has been in the industry for decades. His trainer had an impeccable record for 40 years. However, 18 months ago a dog owned by this person and trained by his trainer tested positive. The trainer had been taking medication. They pleaded not guilty and contested the case. The stewards' panel agreed that it was a case of contamination and not administration, but found the defendants guilty and fined them anyway. That is an absolute disgrace.

Despite no scientifically based evidence that could justify this maximum threshold, owners, breeders and trainers with impeccable records are now being falsely accused of doping. This is nothing more than a disgraceful attempt to destroy the greyhound racing industry by slowly, systematically and vindictively targeting owners, breeders and trainers up and down the State. It is about time Greyhound Racing NSW started doing what was promised by this Government. It should be spending the money where it is needed, instead of worrying about how to fit out its new offices at 1 Oxford Street. I have a copy of the layout of the office, including the corner sun-drenched office marked out for Madeleine Love, who, I am told, lives only a short walking distance away. The last thing the industry needs is a cushy ivory tower for Greyhound Racing NSW rented from Liberal Party cronies and donors. Where is the "industry centre of excellence" that was promised well over 12 months ago?

RURAL AID BLACK TIE AND BOOTS BALL

Mr SCOT MacDONALD (18:15): On Saturday night my wife, Aileen—who is in the public gallery—and I had the pleasure of attending the Black Tie and Boots Ball at Maitland in support of Rural Aid. I congratulate the key organiser, Kate Schouten. Kate and her committee pulled off a fun night, lifted awareness of the drought and raised not insignificant funds for Rural Aid. Rural Aid sources and delivers hay for farmers in stress. One of the big donors and supporters on the night was Club Maitland City. The club supported the function and announced on the night that it would donate a truckload of hay. I thank everyone at Club Maitland City. Also, the Maitland Business Chamber assisted with publicity. The founders of Rural Aid, Tracy and Charles Alder, gave a short presentation on the work of Rural Aid. They have stepped in when some of our farmers have been at their most

vulnerable and desperate. The Alders and some local Maitland farmers mentioned that, while the hay is indeed appreciated, the Alders' interest and the time taken to talk to the families is just as valuable.

Rural Aid reminded the audience that the Liberal-Nationals Government pays the freight on the donated hay. This is a great initiative from the New South Wales Government and the Alders pointed out to me that no other State matches this support. I have spoken to the Minister for Primary Industries and confirmed my backing for this funding. As this drought deepens, I am advocating for ongoing funding. Drought policy and response is complex and difficult. At this time, it is tempting to go for the slogans and offer empty promises and policies that, frankly, can do long-term harm. As a feed merchant and agricultural supplier for 20 years, I have seen the best and worst in the New England. The 1994, 2003 and 2007 droughts were particularly hard. We got a lot wrong, even when governments thought they were helping. Lines on maps were unworkable; transport and fodder subsidies were misused and inflationary; and Federal interest rate subsidies kept some unviable farmers on the land to the detriment of their financial future and physical and mental health.

From the middle of the last decade all sides of politics came to the position that the policies of subsidies and emergency reactiveness were inefficient, not working and holding back structural adjustment. Support and funding was redirected to preparedness. This consensus looks likely to continue, as it should. The New South Wales Liberal-Nationals Government has available $20,000 in low-interest loans for the transport of water, stock or fodder; a loan scheme for capital works worth up to $250,000 for equipment such as sheds, silos or water storage to prepare for dry conditions; 100 per cent of the cost of freight for donated fodder; a 50 per cent subsidy of the freight to move stock permanently off the farm for animal welfare reasons; the Farm Business Skills Professional Development Program, with a capped 50 per cent subsidy for approved courses; and farm debt mediation resources. This drought strategy is worth approximately $300 million.

The Department of Primary Industries [DPI] DroughtHub is a one-stop shop for information on assistance, programs and seasonal outlook. I urge farmers to go to the DPI website, contact their Local Land Services office or ring the Rural Assistance Authority on 1800 678 593. Earlier this month, Premier Berejiklian and Minister Blair announced the appointment of Pip Job as the NSW Drought Coordinator. Ms Job will help keep the Government acutely attuned to conditions on the ground, and relay ideas and proposals to support our regional communities.

The Regional Assistance Advisory Committee has been, and will continue to be, an effective conduit to Government, advising the Minister on seasonal conditions and assistance measures. Those of us from regional New South Wales know it is not just farmers who feel the pinch. Often spending in towns and villages contracts and it can be tough for workers and small businesses. Earlier this year I spoke about the high rates of self-harm amongst our rural workers and farmers. To that end, I applaud Kate Schouten, Rural Aid and people of the Maitland community who turned out on Saturday night. The proceeds will go to a good cause, but ultimately I believe its greatest benefit may be simply showing to those dealing with the drought that they are not alone.

I express my appreciation to Premier Berejiklian, the Deputy Premier and Minister Blair. They have been on the ground in regional New South Wales—including in the Hunter, some 43 per cent of which is in drought. With winter ahead of us, this drought has some way to go and it is good to know that our leaders have our backs.

AUSTRALIAN HEAD OF STATE

NATIONAL DISABILITY INSURANCE SCHEME

The Hon. COURTNEY HOUSSOS (18:20): A wedding is almost always a wonderfully happy occasion: two people, madly in love, committing their lives to each other. I can easily recall my overwhelming joy on my wedding day, even though in July it will be 10 years ago. That joy is shared by the family and friends present, who celebrate with the couple and witness it firsthand. The wedding of Prince Harry and Meghan Markle last weekend was no different, except that the millions who watched on television were also able to share in the wedding, assisted by thousands of cameras along with carefully released details designed to provide that inside insight. Some have reflected on the historic nature of the day: a television star, daughter of a black woman and a white man, marrying into a royal family that has provoked controversy even in recent times with their attitudes and comments on race. Others reflected on the irony, such as appeared in *The New Yorker*:

> What occurred today, in summary, was this: an American divorcée married a man whose brother will only become king because of his paternal grandmother's father, who only became king because his brother wanted to marry an American divorcée.

But in spite of the pomp and pageantry and those carefully choreographed details, it caused me to reflect upon the fact that his father and perhaps his brother will one day be King of Australia. I say this as a person who was born in a small regional town and who has the privilege of having been elected to the oldest parliamentary Chamber in the country. In this State, in this country, you can strive for every office—except our highest.

We value hard work, dedication, intelligence and diligence, not birthright—until we reach our country's ultimate representative. We teach our children to dream of any possibility, and we are fortunate to live in a country where that can become a reality—except for our nation's representative on the world stage. We must not allow the excitement of a wedding to overshadow the inherent unfairness within this system. I look forward to the day when we can watch a royal wedding, enjoying the pomp and pageantry but safe in the knowledge that our country's highest office can be reached by anyone who has that dream and the strength, smarts, tenacity and work ethic to reach it.

The National Disability Insurance Scheme [NDIS] is a great Labor reform. I still remember Bill Shorten speaking at the national conference in Sydney seven years ago as we adopted the NDIS policy into our platform. He spoke of how, as Parliamentary Secretary for Disability Services, he had been convinced of the need for an insurance scheme to provide individual lifetime care and support for people with disabilities from when the problem was diagnosed. "This is bigger than climate change", he said. In the following financial year, the NDIS was established by the Federal Labor Government to support people with disability, their families and carers. Its aim was to improve the quality of life of those affected by disability, providing individualised, long-term funding. It recognised that no two disabilities are exactly alike, nor will any two people with the same disability need exactly the same support. It was supposed to provide people with a disability access to early intervention and to give individuals choice and control over when, where and how they receive their support.

But it seems almost every day I hear a new case that shows the NDIS is not living up to its promise: a young mother with progressing multiple sclerosis who has been denied access; or a young adult with non-verbal cerebral palsy having her respite hours cut and being ordered in for a work assessment. Organisations are being plunged into uncertainty and families are desperate for support. The Australian Capital Territory Legislative Assembly is currently undertaking an inquiry into the implementation of the NDIS, and the stories it is hearing match our experience here in New South Wales. I believe it is appropriate to establish a parliamentary inquiry into the National Disability Insurance Scheme implementation in New South Wales to examine those issues. They are far too important to ignore.

TAXI INDUSTRY

The Hon. ROBERT BROWN (18:25): Tonight I speak about the New South Wales taxi industry: specifically, the hardworking, law-abiding small business taxi owners who have been left high and dry and in the lurch by this Government. The introduction of revised legislation for point to point transport to allow rideshare in the New South Wales economy is having disastrous consequences for those who had legitimately purchased and operated taxi plates to support the much-needed New South Wales integrated transport system on a 24/7, 365-day basis.

This bureaucratic treachery—not too strong a word, in my view—has been a kick in the guts for those small business operators who have invested their life savings in the taxi business, encouraged and regulated by the Government, only to have the Government commit to promises of compensation that have subsequently not been delivered. The consequences of the Government's failure to deliver has included banks and other lending institutions refusing to lend against the value of the owner's plates—why would they when they are devalued by two-thirds? Other consequences include calls on loans that have resulted in bankruptcies; people losing their homes; marriage breakdowns; and, in many cases, severe health consequences—both mental and physical—for those who have been affected by the Government's actions.

It is an absolute disgrace for any government to do this to small business owners, let alone a conservative government. The very fact that big businesses like Uber and Google have been allowed to have free rein to flout the law for nearly five years is an indictment on the poor rollout of point-to-point transition by this Government. The very poor attempt by the Government's new commission to regulate the new players in point-to-point transport is now clearly evident—F for "fail". The result is a significant benefit to those big businesses at the expense of small business owners, and the destruction of their businesses. Right hand wins; left hand be damned.

Compensation levies have now been placed on every user of taxis and rideshare in this State, but not a cent in hardship compensation has been paid, or even announced, for those whose lives have been turned upside down by this Government policy. The Government originally allocated $250 million to "compensate" owners, and $98 million has been paid to offset initial income loss in the transition period. That is $20,000 per plate, taxable as income, for a maximum of two plates—plates that were worth $450,000. An additional $142 million for hardship—compensation claimed by the Minister to be the "most generous in the world"—has never been released. Not even the conditions of application have been released. Applications were supposed to open in November 2016 and close in July 2017. By my reckoning, we are in May 2018.

This is now a critical situation, with taxi licence values continuing to fall and the viability of regional operators, in particular, now in serious question. These people do not want their futures to be reliant on Federal

Government social security. They are not dole bludgers; they are hard workers. Many of them are migrants who start in the taxi industry here and claw their way up. They invest by mortgaging their houses and they saw the taxi industry as a way to protect themselves down the track as a superannuation fund. They are proud people who love their industry and their country, and who have worked hard on lengthy and sometimes dangerous shifts—it ain't no fun being a cab driver—to provide for their own financial security and that of their families and deliver a safe and secure service for the travelling public. To be blunt, the hurt which has been initiated by this Government is unforgiveable. To quote former Premier Mike Baird:

> ... the Government has sold and regulated taxi licence plates and has a responsibility to offer some protection for the mums and dads and investors who own the plates.

The current Minister for Transport and Infrastructure has said that current regulations should be looked at closely to ensure a "more even playing field" and to guarantee a strong future for taxis. Pig's backside. To date, the only people who have suffered are the taxi owners and operators, who have been denied natural justice and have not had the promises of the Government delivered. The taxi industry in New South Wales employs well over 10,000 full-time tax-paying workers dedicated to lifting standards and service delivery across the board. It is critical that we recognise the importance of this industry at all levels to our travelling public and put a halt to the wrongful hardship it has had to endure. It is time to correct the wrongs that have been inflicted. As I often say in this place to the Government, "Do it now!"

PALLIATIVE CARE

The Hon. RICK COLLESS (18:30): I advise the House that last Sunday I attended a palliative care forum in Orange ahead of Palliative Care Week. The theme for this year's National Palliative Care Week is "What matters most?" This week is about raising awareness and understanding about palliative care issues in the Australian community. Unfortunately, palliative care is required in every community in this State. All members of this House are concerned about it and it impacts all families at some stage or another. We want people and their families and carers to be confident that they will be well cared for during this vulnerable time. Palliative care aims to improve the quality of life of patients with an active, progressive disease that has little or no prospect of a cure or recovery. Palliative care identifies and treats symptoms which may be physical, emotional, spiritual or social. We recognise that when faced with this most difficult time, the needs of individual patients differ greatly.

The New South Wales Government has increased the palliative care workforce capacity through funding enhancements to the specialist palliative care network. This is an area where more needs to be done and more is being done by this Government. Under this Government, palliative care services are at record levels. We have allocated more than $210 million each year to deliver palliative care services. This funding is focused on increasing the palliative care workforce capacity and improving access to services in rural and regional New South Wales. On Sunday, the New South Wales Government and members of the community got together to discuss what could be done to improve palliative care not only in Orange, but also across the State. One area which was identified involved the Dudley Private Hospital in Orange and the possibility of providing palliative care services there in a private hospital setting. These discussions are continuing. Clearly this model has merit, and it is important that some of the clinical issues surrounding that palliative care are identified and addressed.

The Government has committed an additional $100 million over four years in the 2017-18 State budget towards palliative care services. It will support additional palliative care specialists in rural and regional areas and training for nursing and allied health staff who work in these areas. In Orange and Dubbo, this funding has been used to fund a clinical nurse consultant position to provide specialised palliative care support for staff, patients and families. Orange Health Service will always play a fundamental role in the provision of palliative care. For many patients, because of the nature of palliative care and the complexity of their needs and regardless of what other services are developed, the hospital will likely be the best environment for them. The Orange Health Service and the local health district have acknowledged more can be done for those patients. The community consultative group working with the health service have already identified a number of ways that amenities can be improved. To date $20,000 has been spent on improving these services, with more to come.

The Orange Health Service has also applied itself to developing ways to make the care journey in the hospital better for palliative care patients and their families. This has included introducing a prioritising process to get those patients into single rooms wherever possible and to systematically work through their clinical and support needs to make sure they are identified and addressed. It is important for us to remember that there are several settings in which patients receive care as they approach the end of their life. For many people, staying in their home—whether a family home or an aged care facility—is important. Surveys show that some 70 per cent of people identified as wanting to stay in their home during the palliative process, but only 14 per cent of people achieve that aim and end up dying at home.

As a community, we need to look at ways to improve access to the right sort of care for those people. The New South Wales Government has prioritised and invested in palliative care like none before it. National Palliative Care Week serves as a timely reminder of the New South Wales Government's unwavering commitment to honour the dignity of people to the very end of their lives. I advise the House that on the NSW Health website there is a palliative care survey summary report which has been prepared as a result of the surveys that were done at the end of last year. It has a lot of good information and I recommend that anybody interested in this field access this document, download it, read it and understand what more needs to be done.

NORCO MILK COOPERATIVE

The Hon. WALT SECORD (18:35): As shadow Minister for the North Coast and shadow Minister for Health, I make an observation on recent events relating to the northern New South Wales hospitals' Norco milk contract. Last week, the Berejiklian Government was forced into another embarrassing backdown after the wonderful response from the community, which rallied behind its local cooperative, Norco, and rose up against the Government. Norco is one of the State's most successful cooperatives. It is based in Lismore and employs 830 staff. It has been a cooperative for more than 120 years and in the last financial year it received 222 million litres of milk from more than 200 farms.

The Government backed down on the northern New South Wales hospitals milk contract. This was an example of pure people power. The original decision by the Berejiklian Government was an act of bastardry. I formally congratulate the community, Norco, health and hospital workers, farmers, dairy workers, the Health Services Union [HSU]and the North Coast media for their efforts which brought the Berejiklian Government to heel. In addition, the community-based media in the region took up the charge. This included ABC Lismore, ABC Mid North Coast, 2LM, Prime Television, NBN Television, the *Northern Star*, the *Echo*, the *Tweed Daily News* and the *Gold Coast Bulletin*. Their combined efforts lead to the milk contract issue becoming a statewide rural issue and culminated in coverage in *The Land*, the *Daily Telegraph*, the *Daily Mail* and regional newspapers across the State.

The nail in the coffin was when prominent 2GB broadcaster Ray Hadley got on board. The community's strong stand and anger resulted in the Berejiklian Government caving in and reinstating the milk contract to Norco. It was an extraordinary chain of events. Disgracefully, the National Party had allowed its Government to previously award the contract to an overseas-owned multinational giant. After days of enormous community pressure and a highly successful HSU-sponsored community petition signed by more than 2,500 people in a mere 48 hours, the health Minister was forced to rescind the contract. As of yesterday, that petition has been signed by 3,905 community-spirited individuals. Statewide social media went into meltdown.

It was an absolute disgrace that outgoing Nationals member for Lismore Thomas George and Nationals member of the Legislative Council Ben Franklin—who is in the Chamber now—would dare to try to take credit for this community win. Member for Tweed Geoff Provest had the sense to be silent but make no mistake, the Nationals cannot in good conscience take a victory lap. This is about the community stopping a bad State Government decision. If the community had not spoken, the Nationals would have stuck with the Government's decision to scrap the contract with Norco.

On a final note, I refer to comments by Norco chairman and acting chief executive Greg McNamara. He beamed with pride as the North Coast rallied behind the cooperative. Mums and dads across the State put their hands in their pockets to support Norco in a tangible way. They exacted their revenge on the Nationals and the Government. Mr McNamara told the Lismore-based *Northern Star* that Norco was thrilled to learn it had set a new seven-day sales record due to the heightened attention which arose from the dispute over the hospitals contract. In that period, Norco sold nearly 4 million litres of milk while it was embroiled in tough talks with the Berejiklian Government and Minister for Health Brad Hazzard. Mr McNamara said:

> This bumper milk sale is a new record, with all our sales including retail, grocery and export coming to 3,945,087 litres.

He also said:

> People are telling me they want to know our farmers are being looked after and they want a local dairy industry and it is so important to them. True friends stand by you when the chips are down and the community has supported us.

Mr McNamara was gracious in victory, but it is a shame that the Berejiklian Government, the health Minister and the National Party put Norco, its farmers and their workers through this trauma.

In conclusion, let this be a warning to the Nationals, who have the wrong priorities and let their Government and its Sydney masters call the tune on policy decisions. That lesson is clear. You cannot let the Sydney-centric Berejiklian State Government attack the proud North Coast region because when it does, that community will rally and drive the Nationals out of town.

AUSTRALIAN HEAD OF STATE

The Hon. Dr PETER PHELPS (18:39): I note the Hon. Courtney Houssos this evening noted that the royal family's social conventions had moved on since the 1930s. Given the comments today by the Leader of the Opposition in the other place, unfortunately the Labor Party has not.

LIBRARY AND INFORMATION WEEK

The Hon. SHAOQUETT MOSELMANE (18:40): This week is Library and Information Week. I was delighted to hear Leader of the Opposition Luke Foley announce that:

> ... a Government led by me will boost public library funding by $50 million.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The time for the adjournment debate has expired. The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 18:40 until Tuesday 5 June 2018 at 14:30.