New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Seventh Parliament
First Session

Thursday, 19 September 2019

Authorised by the Parliament of New South Wales

TABLE OF CONTENTS

TABLE OF CONTENTS—*continuing*

TABLE OF CONTENTS—*continuing*

LEGISLATIVE COUNCIL

Thursday, 19 September 2019

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

The PRESIDENT read the prayers.

Motions

NORTHERN RIVERS REGIONAL RUGBY LEAGUE GRAND FINAL

The Hon. BEN FRANKLIN (10:01): I move:

1. That this House notes that:

   (a) the Northern Rivers Regional Rugby League Grand Final was held at Kingsford Smith Park in Ballina on 8 September 2019;

   (b) in first grade the Ballina Seagulls beat the Murwillumbah Mustangs 38-18, the fifth grand final win for the team since 2013; and

   (c) the Seagulls also claimed a fourth straight premiership in the under-18s competition against the Cudgen Hornets with a 24-6 win.

2. That this House congratulates Captain-Coach Jamie Lyon, Club President Max Beecher and all members of the Seagulls Club for their hard work and dedication in achieving such outstanding results.

3. That this House recognises that the Ballina Seagulls Rugby League Club is an iconic part of the Ballina community and that sport and local sporting clubs are critical to ensuring the long-term amenity and community spirit of all parts of regional New South Wales.

Motion agreed to.

Documents

MEMBER FOR DRUMMOYNE

Production of Documents: Order

The Hon. ADAM SEARLE (10:01): I move:

That, under Standing Order 52, there be laid upon the table of the House within seven days of the date of passing of this resolution the following documents created since 17 October 2014 in the possession, custody or control of the Premier or the Department of Premier and Cabinet:

(a) all documents relating to any disclosures made by the Hon. John Sidoti, MP, under the Ministerial Code of Conduct;

(b) all documents relating to any rulings made by the Premier, whether current or former, in relation to any disclosures made by Mr Sidoti in respect of satisfying his obligations under the Ministerial Code of Conduct; and

(c) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Motion agreed to.

Motions

GREATER WESTERN SYDNEY GIANTS

The Hon. NATALIE WARD (10:01): I move:

1. That this House notes that:

   (a) the Greater Western Sydney [GWS] Giants have qualified for the AFL Preliminary Finals;

   (b) this came after defeating the Western Bulldogs on 7 September 2019 and the Brisbane Lions on 14 September 2019;

   (c) the GWS Giants are the newest team to the AFL and the only Sydney team to make it to the finals this season; and

   (d) this is the third Preliminary Finals in four years that the Giants have qualified.

2. That this House congratulates:

   (a) the GWS Giants team on playing an outstanding and inspiring season so far;

   (b) Mr Leon Cameron, Head Coach of the Giants, and the entire coaching staff; and

(c) Mr Tony Shepherd, AO, Chairman of the GWS Giants, and the Board for their hard work.

3. That this House wishes the GWS Giants team great success in the Preliminary Finals this Saturday 21 September 2019.

Motion agreed to.

Petitions

PETITION RECEIVED

Cat and Dog Meat Trade

Petition requesting that the House call on the Government to introduce legislation to ban the consumption of cats and dogs in New South Wales, received from **the Hon. Emma Hurst**.

The PRESIDENT: Members will be heard in silence when giving a petition. There should be no interjections.

Rulings

ROLES OF DEPUTY PRESIDENT AND TEMPORARY CHAIRS

The PRESIDENT (10:08): Yesterday during a point of order taken by the Hon. Trevor Khan in the Committee of the Whole, the Hon. Mark Latham raised an issue upon which the Temporary Chair, the Hon. Shayne Mallard, reserved his ruling. During the take-note debate on answers after question time, the Hon. Walt Secord also took a point of order on the same issue; that is, whether the Deputy President should take points of order and participate in debate when not in the Chair. I indicated that the Deputy President is entitled to raise a point of order and that I would provide reasons later.

Chapter 4, Standing Orders Nos 15 to 19, in the *Standing Rules and Orders of the Legislative Council*, deal with the position of Deputy President. The Hon. Trevor Khan has been elected by this House as its Deputy President. Under Standing Order 17 (1):

> The Deputy President, when presiding in the House, will exercise the same authority and have the same duties and powers as the President …

The key words are "when presiding"; in other words, when in the chair. The same applies to the Assistant President, elected according to resolution of continuing effect, and the Temporary Chairs appointed by the President under Standing Order 18; that is, when presiding, they exercise the same authority and have the same duties and powers as the President.

When the Assistant President, a Deputy President or Temporary Chair is not presiding, they possess the same rights and obligations as any member of the House, and only those rights and obligations. There is nothing to prevent the Assistant President, a Deputy President or any Temporary Chair, when not presiding, from fully participating in debate, moving motions and amendments, and taking a point of order. Indeed, in Committee of the Whole, it is also in order for the President to take part in debate and take a point of order.

Regardless of the office held by the member taking a point of order, it is for the Chair to rule on the point of order without fear or favour and without in any way being influenced by the office held by the member taking a point of order or taking part in the debate on a point of order. I endorse the comments made by the Temporary Chair, the Hon. Shayne Mallard, yesterday when he said, and I quote from *Hansard*:

> However, I see the Hon. Trevor Khan or indeed the President, who is entitled to come into the Chamber, as a private member when they take a point of order, not as a Presiding Officer. The point I am making is that I observe the member as the Hon. Trevor Khan, not as a Presiding Officer. I rule on the merit of the argument.

Once a ruling is given, all members are then expected to comply with the ruling of the Chair, regardless of who they are and any office that they otherwise hold.

In his argument the Hon. Mark Latham also mentioned the Westminster traditions. While we draw many principles from the House of Commons, over the last 195 years we have also evolved our own distinct practice and procedure. The first source of authority for debates in this House is the standing orders, rulings and our practice and procedure. Many Deputy Presidents in years past have asked questions, moved motions and participated in debate. It is a long established practice in our House. For instance, former President Johnson stated in 1989:

> The fact that a member becomes President does not deny the member the right to participate in debate. As the same standing orders apply to other Presiding Officers who assume the Chair in my absence, that does not deny them the right to participate in debate should they wish to do so.

I am also advised that the contemporary practice of the Australian Senate accords with this ruling. Accordingly, I do not uphold the points of order taken by the Hon. Mark Latham and the Hon. Walt Secord.

Business of the House

ORDER OF BUSINESS

The Hon. DON HARWIN: I seek the leave of the House to enable private members' business item No. 228 to be dealt with as formal business.

Leave granted.

Documents

LANDCOM

Tabling of Documents Reported to be Not Privileged

The Hon. ADAM SEARLE: I move:

1. That, in view of the report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, entitled *Part 1: Treasury return of papers*, dated 13 September 2019, on the disputed claim of privilege on papers relating to Landcom, this House:

   (a) orders that the documents considered by the Independent Legal Arbiter not to be privileged be laid upon the table by the Clerk, subject to paragraph 1 (d);

   (b) orders that all the Treasury documents relating to the Workplace Investigation Documents considered by the arbiter not to be privileged be laid upon the table by the Clerk, except for information identifying the names of any individual complainants, witnesses and individuals interviewed as part of the investigation, with the exception of Ms Jones and Mr Brogden as stated in the arbiter's report;

   (c) orders that the documents in relation to which the Treasury or Department of Premier and Cabinet advised in submissions to the arbiter that claims of privilege were no longer being pressed, be laid upon the table by the Clerk; and

   (d) orders that the Treasury produce within seven days of the date of passing of this resolution a redacted version of documents referred to in paragraphs 1 (b) and 1 (c) of this resolution by omitting information identifying the names of any individual complainants, witnesses and individuals interviewed as part of the investigation, with the exception of Ms Jones and Mr Brogden.

2. That, on tabling, the documents are authorised to be published.

Motion agreed to.

Announcements

COMMONWEALTH PARLIAMENTARY CONFERENCE UGANDA

The PRESIDENT (10:13): The NSW Branch received an invitation to attend the sixty-fourth Commonwealth Parliamentary Conference [CPA] which is being held in Kampala, Uganda, from 22 to 29 September 2019. As one of the current Australian region representatives on the CPA Executive Committee, I am required to attend the conference. The NSW Branch is entitled to send one delegate to participate in and vote at the conference and Ms Julia Finn, MP, was nominated to attend. Ms Jenelle Moore, Director – Committees, will also travel to Uganda to attend the Society of Clerks at the Table meetings. During my absence next week, the Hon. Trevor Khan will be Acting President.

Bills

REPRODUCTIVE HEALTH CARE REFORM BILL 2019

In Committee

Consideration resumed from 18 September 2019.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are dealing with the Reproductive Health Care Reform Bill 2019. I advise all members that the Hon. Damien Tudehope has lodged a new sheet of amendments: sheet c2019-156. As Chair of Committees, I have accepted that sheet of amendments. Copies of the amendment sheet are available and will be circulated in the Chamber by the attendants. The theme of the amendment sheet is: termination for sex selection not authorised. It proposes amendments to clauses on page 7 of the bill, a point of the bill to which the Committee has not substantially progressed. The Committee has 10 other amendments to deal with before we reach that point in the bill.

The Committee considered amendments Nos 2 to 4 on sheet c2019-156 last night when debating the amendments on sheet c2019-057H. Those amendments are now being presented as part of a different package

of amendments. I am advised by the Clerks that this is permissible. Updated versions of the running sheet have been prepared to incorporate the new sheet of amendments and are available for members. When the Committee adjourned last night it was dealing with the amendment on sheet c2019-056C moved by the Hon. Mark Latham and the amendment on sheet c2019-103D moved by the Hon. Niall Blair. Both of those amendments concerned the issue of conscientious objection. The Hon. Trevor Khan was the last speaker prior to the adjournment.

Ms ABIGAIL BOYD (10:19): My contribution addresses amendment No. 1 on sheet c2019-056C of the Hon. Mark Latham and amendment No. 1 on sheet c2019-103D of the Hon. Niall Blair. I have a deep respect for other people's religious views. Although I am irreligious—without religion—my set of ethics and morals and my conscience guide my decisions. I would never suggest that a doctor who had a deeply held religious or moral opposition to abortion should be required to perform it, except in emergency situations where it is necessary to save the life of a person or fetus.

As I said in my speech during the second reading debate on the bill, "pro-choice" is exactly what it says: pro choice. It is not pro abortion. It is pro respect for people to make their decisions based on their conscience. But, as the Hon. Trevor Khan pointed out in his contribution on the two amendments in question, a balance must be struck. Not providing a direct referral, which would be the norm in other situations where a doctor does not perform a procedure, creates a major barrier to the provision of timely health care, especially for those in regional areas or those in domestic and family violence situations, and it can result in a real risk of harm to a patient. Procedures have been developed over the years to balance those competing interests.

That approach has been reflected largely in the current drafting of the bill. It is consistent with existing New South Wales health policy and professional guidelines as well as with the legislation for the termination of pregnancies in most other Australian jurisdictions. The Hon. Mark Latham's amendment will disturb that balance and put the interests of the individual doctor well ahead of the interests of the patient. Conscientious objection provisions should be designed to protect a patient's right to treatment over a doctor's right to object. They should ensure that people are not denied access to a service to which they are legally entitled. The Hon. Mark Latham's amendment does not even include an exemption for emergency circumstances when the life of a patient is at risk. Instead, it inserts a new provision focused entirely on the rights of the healthcare professional. It is not an amendment designed to protect people seeking an abortion—it is completely out of balance and out of whack. In our view the amendment must be rejected.

I discussed the amendment of the Hon. Niall Blair at some length with my Greens colleagues. We know from experiences in Victoria that the exercise of conscientious objection has been used to make people feel doubt and guilt over their decision, particularly in the case of young people and victims of domestic and family violence. It risks creating more services that publicly opt out of providing abortion services. The mere statement from one's doctor that they are unwilling to perform a medical procedure because they morally or religiously object to it can create that doubt in judgement. On the one hand the Hon. Niall Blair's amendment would appear to limit the opportunities for a doctor with a conscientious objection to provide information that is deliberately limited or to give that information in an unhelpful manner, but on the other hand it creates another step in the process for a person seeking an abortion.

A couple of years ago I sought a procedure—the insertion of an intrauterine device—for birth control and reasons related to heavy menstruation. I was not handed a special card by my doctor—she does not do those procedures and I respect that. She told me that someone she knew did those procedures and she referred me to them. She even went so far as to provide a direct phone link from her room to the room of the doctor where I could have that procedure so that I could make the appointment there and then. I was not sent away to call a number on a card or to look up something on a website. I do not see why seeking an abortion should be any different to seeking any other kind of procedure or any other kind of reproductive healthcare option.

Imagine you are in a controlling relationship. You have gone to see your doctor to request an abortion. You have been told that your doctor does not do those procedures on the basis of their religious or moral convictions. You are handed a card from NSW Health with a phone number or a website. Then you have to find an opportunity where you are not being monitored by your controlling partner, where you can safely make that phone call or find that website on a computer, perhaps fearful that your usage of the computer is being monitored or that your phone will be looked at later. To me and my Greens colleagues, the harm of adding that extra barrier in those circumstances far outweighs any benefits of being handed any kind of standardised information from your doctor. For that reason The Greens oppose both these amendments.

The Hon. EMMA HURST (10:25): I will vote in favour of amendment No. 1 on sheet c2019-103D of the Hon. Niall Blair. The Animal Justice Party has been very open-minded in considering all the amendments. We consider this one creates a slight improvement to the bill. I believe it is the best way to ensure that some good information is provided, particularly for women in regional and rural areas where health practitioners are few and

far between. A standardised set of information and referral to another healthcare provider is essential to ensure that women can access the health services they require.

I also note the points that Ms Abigail Boyd put forward. I do not believe this amendment stops a doctor with a conscientious objection from giving a direct referral. In fact, it still allows for that and it ensures that some good, solid information is given to the patient in situations when a good referral will not happen. Without this amendment, referrals could be given to people in other States or to other conscientious objectors, whereas this amendment will ensure that proper, standardised information is given and that a good referral can take place.

The Hon. MARK LATHAM (10:27): I seek to clear up a furphy and what I believe to be a misrepresentation of the impact of my amendment. The Hon. Trevor Khan and Ms Abigail Boyd stated that doctors would not be obliged to assist patients who present themselves in a life-threatening situation. That is not the truth; that is not the impact of my amendment. Those saying it must read the bill presented to the House, which initially they co-sponsored. Part 4, proposed section 10 (3) states:

> This Act does not limit any duty a registered health practitioner has to comply with professional standards or guidelines that apply to health practitioners. Ms Abigail Boyd said doctors have to comply with their professional standards. It is in the bill. There is no suggestion that a doctor of faith would turn away a patient in a life-threatening situation. In fact, I would have thought it is guaranteed that people of faith dedicated to the preservation and sanctity of life are most likely to ensure that life is saved. I do not see how the point can be made with any validity. I am concerned that late last night the Hon. Trevor Khan said—and I am getting the *Hansard* transcript—that my amendment wipes the Hippocratic oath. It does no such thing. A catch-all provision is contained in proposed section 10 (3) of the bill for all aspects of professional standards and guidelines that doctors are obliged to comply with. I would suggest that having followed this in the other place, the Hon. Trevor Khan would know these things full well. When the member for Wagga Wagga tried to move his amendment in the other place he said:
>
> I also note that a concern has been raised in the notes to the proposed amendments—

they were notes by the sponsors of the bill—

> that this amendment would allow a practitioner to provide a termination in an emergency where that termination was necessary to save a woman's life—

that they would not provide it. He continued:

> On that point, there are clear requirements for medical practitioners in relation to professional conduct and clear duties to provide emergency and urgent care.

He was responding to a concern that doctors with a conscientious objection would not provide a termination in emergency circumstances. He said, "Well, it is covered by professional standards of medical doctors." Perhaps, hearing the suggestion, within the space of a couple of hours—in fact, the very next item dealt with in the Legislative Assembly—the member for Port Macquarie moved clause 10 (3), which was not originally in the member for Sydney's bill. She inserted 10 (3) to say:

> (3) This Act does not limit any duty a registered health practitioner has to comply with professional standards or guidelines.

The matter is clear-cut. There is no suggestion that the Hippocratic oath is being wiped. I do not know how much study of Greek the Hon. Trevor Khan has undertaken over the years but if we go back to the original Hippocratic oath, the first copy of which dates AD 275, swearing to the physician Apollo—with the mention of panacea, of course—it states:

> I will not give a woman a pessary to cause abortion.

The original Hippocratic oath actually prohibited abortion—a rich irony and a member who did not understand the impact of the amendment made in the other place to his own legislation. I would not go so far as to suggest that any member would actively spread untruths in this Chamber; of course not. But I would urge the Hon. Trevor Khan to not only study his Greek history, but to also gain a full understanding of what happened in the other place. It was not in the member for Sydney's original legislation, it was inserted—seemingly as a direct consequence of the debate about the member for Wagga Wagga's conscientious objection amendment, which was rejected in the other place. I asked the Parliamentary Counsel to insert the ramifications of the member for Wagga Wagga's amendment in a way consistent with the bill. I think that it made a judgement, in the material that it provided to me, that there was a double statement, because clause 9 (4) states:

> (4) This section does not limit any duty owed by a registered health practitioner to provide a service in an emergency.

It is very similar to the provision inserted by the member for Port Macquarie at clause 10 (3). It is a double statement that could cause confusion. Why would we have a double statement in a bill rather than a cleaner, clearer drafting provision to get the best statement, and one alone? A decision was made not to proceed with clause 9 (4). One of the valid reasons is that the meaning of the word "emergency" is not defined in the bill. If you go to the dictionary, there is no definition. I have a concern about disputes between patients and doctors over what constitutes an emergency. Some patients will say, "I thought it was a life-threatening emergency." But the doctor

will say, "I did not think it was an emergency at all." Unfortunately in the United States, this is subject to vast amounts of civil litigation where people sue each other over the meaning of "emergency".

We have a provision here that is not defined in the bill—the meaning of "emergency". Not all emergencies in the medical sphere are life threatening and it is confusing to keep that in when clearly in clause 10 (3), as inserted by the member for Port Macquarie, it is covered off that doctors, whether or not they have religious faith or a conscientious objection, must comply with professional standards and guidelines. We have heard a lot about respect for doctors. Is it not better to allow doctors to interpret their own professional standards and guidelines? To let the doctors interpret what a life-threatening situation is, which may or may not be an emergency, according to the provisions of clause 9 (4)? Because not every emergency is life threatening. To not define the meaning of "emergency" will open up a conflict in our country between what emergency means—what a patient thinks about it, what a doctor thinks about it—and the possibility of litigation, which is inadvisable for this Chamber. Let us stick with the catch-all provision put in place by the member for Port Macquarie.

I come back to my clarifying points. We have two clauses of a similar nature that are confusing and one is clearly inferior to the other. I must stress, and clear up the furphy that was spread by the Hon. Trevor Khan, that doctors would not be complying with the Hippocratic oath. He would know that to be untrue given the provisions of clause 10 (3), inserted by the member for Port Macquarie, his National Party colleague.

The Hon. Trevor Khan: Point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Mark Latham will resume his seat. The Hon. Trevor Khan on a point of order.

The Hon. Trevor Khan: My point of order is this: The Hon. Mark Latham is entitled to seek to correct the record—that is entirely a matter for him—but his last assertion, which in essence was that I was being untruthful is, I suggest, disorderly. He should be invited to withdraw it.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I uphold the point of order in the sense that the Hon. Mark Latham is referring to spreading furphies—which is colloquial for lies. The Hon. Trevor Khan has taken offence and I invite the Hon. Mark Latham to withdraw that particular suggestion.

The Hon. MARK LATHAM: If the member is offended, I withdraw to assist the Chamber.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Thank you, I appreciate that.

The Hon. MARK LATHAM: But it is remarkable that someone in this place would say that the Hippocratic oath does not apply because clearly under clause 10 (3) it does. It has been inserted by The Nationals member for Port Macquarie—I find that extraordinary. There is no doubt, whether it is Ms Abigail Boyd saying it, that it is written into the bill that doctors have to comply with their professional standards, as amended by the Legislative Assembly and presented to this Chamber. I do not think there is any debate about that and until such time as someone finds a better wording of clause 9 (4), starting with the definition of "emergency", which would be vastly helpful to the Chamber, if my amendment is agreed to doctors will have to comply with clause 10 (3). I do not think that there is any doubt that doctors will do the right thing because they are dedicated to the preservation of life and they will give their own interpretation to their own professional standards.

I come to the point that has been made repeatedly: Let us respect the role of doctors. Well, I think we are much better off letting them interpret their own professional standards than us writing in a second confusing clause, which gives them an undefined word—emergency—that could be subject to litigation in this country. I wanted to clear that up because I do not want members who further participate in the debate thinking that my amendment would lead to a situation where doctors ignore the Hippocratic oath or ignore a patient in need. Clearly the provision in the bill already covers that off.

The Hon. ADAM SEARLE (10:36): I indicate that I do not support the Hon. Mark Latham's amendment and I do support the Hon. Niall Blair's amendment in this conscientious objection space. I thank the Hon. Mark Latham for his contribution to clause 10 (3) and proposed clause 9 (1). Unfortunately the Hon. Mark Latham is simply wrong, as anyone familiar with statutory construction would be aware. To develop that point, clause 10 (3) in the bill states:

> (3) This Act does not limit any duty a registered health practitioner has to comply with professional standards or guidelines that apply to health practitioners.

I accept that. But what does the Hon. Mark Latham's amendment do? Proposed clause 9 (1) provides, as we have heard, an unqualified right of refusal. It says:

> (1) A health worker may refuse to perform a termination, assist in the performance of a termination or otherwise facilitate the performance of a termination if the health worker has a conscientious objection to the performance of the termination.

It is an unqualified right protecting the conscience of the health practitioner. At the very least, the Hon. Mark Latham would have to accept that if his amendment was agreed to, we would have a conflict within the legislation of two diametrically opposed provisions. A court would have to try to reconcile which of those two obligations wins out. There is more: If we look at the balance of the Hon. Mark Latham's amendment, in particular proposed clause 9 (4), it says:

> (4) A health worker who refuses to perform a termination, or to assist in or otherwise facilitate the performance of a termination, because of a conscientious objection is not, because of the refusal—
>
> (a) in breach of any duty, however imposed, or
>
> (b) otherwise in contravention of any law of the State.

Proposed clause 9 (4) expressly negatives the impacts of clause 10 (3), if there is any conflict. How do we resolve that conflict? Clause 9 (4) provides the resolution—"in breach of any duty, however imposed". Clause 10 (3) imposes the duty but proposed clause 9 (4) gets the health practitioner off the hook, should they choose to not perform, or assist or facilitate because of that genuinely held view.

Of course, that is entirely consistent with the Hon. Mark Latham's amendment because there is almost no right in society that is absolute; there is always a balancing of rights and it is always a question of how they are balanced and which rights or obligations go out in any given situation. As it currently stands, the legislation grapples with that and says that obviously, because we are talking about the health care of people who need that care, the balancing tilts towards the person needing the health care; however, in deference to the genuine conscientious objection of some practitioners, they will not be similarly conscripted to have to perform or facilitate terminations, but they will be required to otherwise refer people on.

I accept that some practitioners will find that acceptable and that others will not, but there is a balancing of the rights and interests—the doctor with the conscientious objection and the patient needing the care—and yes, there are no two ways about it that, in the balancing, the legislation tilts towards a person needing health care, as is appropriate for reasons of public safety. The Hon. Mark Latham's amendment does not just tilt the rights and interests back towards the doctor with the conscientious objection; it provides an absolute and unqualified right, one which, on the way I read his amendment and the bill, negatives the impact of clause 10 (3). I understand why the Hon. Mark Latham has raised the point he has, but it simply does not hold water in the current circumstance.

Personally, I am happy with the way the bill stands, but there have been reports of doctors with conscientious objections providing very limited information to patients who then need to seek another health practitioner. Many of the people who seek services in this area are vulnerable and young and may not have access to multiple sources of health information and services, which can create additional barriers for them seeking timely health care. By providing an obligation on doctors to provide a standardised response as determined by the health secretary, the amendment of the Hon. Niall Blair possibly will raise the standard of the referral, as it were, provided by a doctor with a conscientious objection, which I think also helps the health practitioner, because rather than a health practitioner having to work out whether the response they have in mind is adequate to discharge their legislative obligation, that obligation is met entirely by complying with the direction of the health secretary.

I understand the concerns of The Greens but I do not share those concerns. I think, on balance, the amendment proposed by the Hon. Niall Blair raises the standard and provides additional security not only for the health practitioner but also, in my view far more importantly, for the person seeking access to health care in this space. I think that the case for the Hon. Niall Blair's amendment is very strong and I will be supporting it. I will not be supporting the Hon. Mark Latham's amendment because in this difficult space there has to be an appropriate balancing of rights and interests—the right of a practitioner to be at peace with their conscience and act in accordance with it, and the right of a person, often a vulnerable person, seeking access to health care at a very difficult time in their life.

With great respect, the Latham amendment does no such balancing; it simply says that there is a conflict of rights and interests here and that in an unqualified way we are on the side of the doctor with the conscientious objection. That is not, in my view, in the public interest. There is no balancing of any interests there; it is all one way, but it is also one way, as I indicated at the outset, that tramples on clause 10 (3). It raises the prospect—and I am not being critical of health practitioners and I am not suggesting they would be hard-hearted or that they would not want to assist patients in need—that if we accept that these are people with genuine, deep-seated conscientious objections to performing or facilitating these procedures, the advent of an emergency will not cut it. The existence of the emergency does not in any way undermine their conscientious objection—if they have that objection and it is deep-seated and genuine, it is not going to be moved. That is not to suggest any blame or

ill will on the part of the practitioner; it is simply the effect of their objection. I do not believe that is an appropriate framework for this area of health care.

We have agreed that abortion should come out of the Crimes Act and we have agreed that it should be regulated as a health procedure. It should be properly so regulated and it should not have this one-sided absolute right of refusal. There is no suggestion that health practitioners should be required to perform or assist in or make any decision about termination, but neither should they have this unqualified right. No-one in society has any unqualified rights; they are all a question of context and balance. The legislation does this and the Hon. Niall Blair's amendment improves it.

The Hon. TREVOR KHAN (10:45): I do not intend to speak for long but, with the indulgence of the House, I first make an acknowledgement and an expression of regret. I say quite clearly here and now that yesterday in the discussion over the sex selection provision I in no way wished to impugn the motives or desires of the Hon. Damien Tudehope. I know him to be an honourable man, working with the best of intention, and I certainly do not in any way wish to be associated with, for instance, anything that has been tweeted last night. In my view it was most inappropriate.

The Hon. Greg Donnelly: A disgrace.

The Hon. TREVOR KHAN: I will take that word up: disgraceful. That is the first thing I say. Secondly, when I spoke on the Hon. Mark Latham's amendment last night I sought to frame what I said in a way that acknowledged that I could be wrong. As all will know in this Chamber, I often am.

The Hon. Damien Tudehope: You don't have to be too unkind.

The Hon. TREVOR KHAN: No, I often am. That is the nature of all of us and it is the nature of the practice of law. I always found it best to always be prepared to see that you can get it wrong, because we improve by a recognition of our own clay feet. That is the second thing I will say. The Hon. Mark Latham is right.

The Hon. Penny Sharpe: He is being nice to you. Stop interrupting.

The Hon. TREVOR KHAN: I am not often nice! That is a different characteristic. The third thing I will say is that the Hon. Mark Latham is right; an amendment was moved, which clearly I had some involvement in, with regards to the insertion of clause 10, to make sure that the bill sought to encapsulate the guidelines and ethical standards that apply to medical practitioners. That is important. I noted what the Hon. Mark Latham said—and, again, I am not trying to verbal him, I am not looking for an argument—when he made the observation that that, in a sense, cures all in this issue of emergency because you can go to another part of the Act.

Yesterday the Hon. Mark Latham made reference to the fact that there is a religious freedom bill which is floating around in some amorphous form in the Federal Parliament. Advice was sought some time ago on the implication of that bill on the conscientious objection question, because clearly that was alive in regards to that. It is worthwhile that I advise the House of legal advice on this from somebody far better than a traffic court lawyer. Before I do that, I will make this point. I make the observation that we are all victims of Parliamentary Counsel: whether it is a private members bill, the Opposition preparing amendments to a Government bill or Ministers who have had a bill thrust upon them. One of the great mistakes that we can make is to believe that what Parliamentary Counsel is giving us is necessarily precisely what we intended—

Mr David Shoebridge: But they are very good.

The Hon. Greg Donnelly: Do not reflect on Annette.

Mr David Shoebridge: Parliamentary Counsel is excellent.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order!

The Hon. TREVOR KHAN: Members should hold on. If we get too committed to the clause we are presented with, we sometimes find in the fullness of time that it did not provide us with what we were looking for. That is why a variety of Acts go through numerous iterations as we try to get to a position. For example, I refer to the assisted dying bill, which went through about 30 iterations as we tried to get to a position—where we finally got up to; it did not pass this House. I think the bill before the Committee went through about a dozen iterations before it got to the lower House. Nevertheless, I make that observation. With regards to the religious discrimination bill [RDB], the legal advice I have received was this:

> The RDB does not create a positive "right" to conscientious objection. Clauses 8(5) and 29(3) of the religious discrimination bill recognise the primacy of NSW state law.

That is important to a question that the Hon. Mark Latham raised before. The advice continues:

> It is what the RDB defines as "health practitioner conduct rules" that would be overridden under the RDB, regardless of how reasonable and patient health focused. Health practitioner conduct rules are likely to include NSW Health's Policy Directive on terminations, together with medical professional and ethical conduct rules and guidelines, where they place duties on practitioners with a conscientious objection to take steps to safeguard their patient's right to health.

That observation is regarding clause 10 of the bill. The advice continues:

> It is the duties that apply to practitioners in NSW with a conscientious objection (to inform/transfer/treat in an emergency) that could be overridden by the wording of the draft RDB because they exist as requirements in NSW Health policy and/or conditions of practice. This is easily remedied however, by ensuring these duties are codified in statute, as clause 9 of the NSW abortion bill would do. It is therefore critical that the duties on health practitioners in clause 9 of the abortion bill are not weakened – this will help avoid disruption to the NSW health system should the RDB pass.

And I should say, passed in its current form—and who knows whether that will happen. The advice continues:

> It will also ensure that the rights of health practitioners, together with their duties to their patients, are clear and certain in NSW law and cannot be disrupted by the RDB. If the duties in clause 9 of the abortion bill are weakened—

it is interesting that they use that term in legal advice—

> and the RDB were to pass as drafted, legal uncertainty would result both for health practitioners and patients, which is clearly an undesirable result. It will create a situation in which the NSW Ministry of Health's own policy framework could be deemed unreasonable by clause 8(5) of the RDB and form the basis for an indirect discrimination claim.

The Hon. Matthew Mason-Cox: Who is that?

The Hon. TREVOR KHAN: That is the legal advice that I have received.

The Hon. Matthew Mason-Cox: From whom? I think that is important.

The Hon. TREVOR KHAN: From the Human Rights Law Centre, who retained counsel for the purposes of—

The Hon. Mark Latham: Point of order: A question has been asked as to where the advice has come from. I ask the honourable member to table the advice. I think that would be appropriate.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Unfortunately, members are not able to table documents in Committee of the Whole, as we discussed last night. The member has indicated who—

The Hon. Mark Latham: The Committee has the right to consider the information that has been read into the record in its totality.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! My understanding is that members cannot table documents in Committee of the Whole. There is a mechanism after the Committee reports.

[*A member interjected*.]

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I have been asked a question. I will get further advice. The member has indicated where the advice came from. Let us move on.

The Hon. TREVOR KHAN: This is the advice that I have received. It is not my advice. Frankly, as with all legal advices—I have seen some that have suggested various things as far as the High Court is concerned that have turned out to be profoundly wrong; Professor George Williams was wrong in certain bills—that is the nature of it. I sought advice and I got it. It means that, simply relying upon clause 10 in respect to the emergency provision, if the religious discrimination bill comes into effect, will be ineffective in resolving this issue.

I am not going to deal with the point that the Hon. Adam Searle raised. He is better at statutory construction than I am. I raised it last night because it seemed that our clause 9 had a specific provision—obviously on Parliamentary Counsel's advice—to limit the religious objection in the event of an emergency. I took a view that that was appropriate. Clearly the Hon. Mark Latham's drafting is different. That is where we get to. In regards to the religious discrimination bill, I have also sought to address the issue that the Hon. Mark Latham raised in his original contribution. Finally, I reiterate that I have feet of clay; I am known to be wrong.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! There are far too many interjections.

The Hon. MATTHEW MASON-COX (10:56): This may be looking a bit like a lawyer's picnic, but it has been useful to hear from various members with relevant legal skills and external advice in relation to how this might be interpreted. Sadly, this is an area that will not be sorted out today—or any time soon—from a legal perspective, but we do need to grapple with these issues to understand how these provisions might apply. I refer to the current provisions in the bill and how the amendment affects them. In particular, I refer to a couple of issues that the proponents might be able to respond to. I am not sure if it is an unexpected or an unintended consequence, but I note that in amendment No. 1 on sheet c2019-056C clause 9 (5) (b) defines a health worker as:

… a person registered under the Health Practitioner Regulation National Law to practice a health profession as a student …

It protects students from having their conscientious objection rights overridden. I note that in relation to the bill there is an issue that seems to be unresolved and maybe that is deliberate. I would like some clarification from the proponents in relation to the dictionary in schedule 1. It notes that a "registered health practitioner"—which is referred to in the relevant clause dealing with conscientious objection—"means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession, other than as a student." By implication, students are not given any of the protections—albeit the limited protections of the bill. I ask someone to clarify whether that is an unintended consequence or not, but we should be affording whatever protections come under this bill to students as well.

Mr David Shoebridge: They cannot provide medical advice.

The Hon. MATTHEW MASON-COX: You may make your contribution at another time. The provisions put by the Hon. Mark Latham predominantly reflect the thoughts of Dr Joe McGirr from the Legislative Assembly. I followed his contribution in the Legislative Assembly and I thought it was very useful. We in this place should give a great deal import to his views, given his extensive medical skills and his understanding of how that intersects with the role of a parliamentarian. Dr McGirr comes from a rural area, Wagga Wagga, which has had limited termination services available and women have had to travel interstate for services that are not accessible in Wagga Wagga. That is a very unsuitable and unsatisfactory outcome for those women but that is the way it is, sadly, in regional New South Wales. That is a realistic and pragmatic result of the isolation some of these areas face and the workforce problems people have in gaining access to qualified doctors and specialists in this area.

However, I am conflicted by the way the bill deals with how one should operate as a medical practitioner in these sorts of circumstances. It really cuts across in large measure the stated view of the proponents of the bill that we have to trust doctors and women. In this circumstance we have become really prescriptive and interventionist in the way we are trying to manage this issue. The proponents of the bill have aimed that criticism at some of the amendments that have been moved to the bill by those who wish to improve it, and it is something that perhaps they might reflect on in relation to this amendment because it really does reach into that relationship between the doctor and a woman.

A number of doctors in rural and regional New South Wales have contacted me about the bill and their reflections are worth putting on the record. Prescribing how doctors manage these personal relationships and deal with that very sensitive issue, their own conscience and the circumstances of the woman who presents to them, and that trust that exists between them and their patients, probably does not give them enough credit. I think the detail does not reflect the reality. There are those circumstances where the more than normal response, which is for the vast majority where there is an issue and from an area where there is a lack of services, is the doctor can make a decision. I do not think we need to prescribe exactly what they need to do to enforce a certain outcome. A range of factors are at play—it is more nuanced than that.

Women in the city or from a rural and regional area have an awareness of where services are. They may be limited services, granted, but they know what their options are and they have an opportunity to follow them. If a doctor has a conscientious objection that doctor can act in a number of different ways. They may refer or they may not. It depends on the relationship and the strength of their convictions in relation to their conscientious objection, be it a matter of their faith, ethics, view of the world or whatever it might be. I think we need to give them a bit more credit than telling them they must do X or Y. That is dangerous, overly prescriptive and sends a message of lack of trust in the medical profession—something that we have been accused of in a number of the amendments that have been moved to the bill. I do not think it reflects the reality of the relationship or the trust between a doctor and the woman concerned.

I will take it a little bit further, and this might be reaching into the realm of hypothetical, but we have to try to sort of out some of these circumstances. When we take it to the hypothetically extreme case—although I do not think doctors go there; they are human beings and they work through these issues and have a range of options open to them—and a doctor has a conscientious objection and is conflicted in such a critical way that simply compels them not to act or do anything, who are we to say that they should? Who are we to impose on them that they should act in a certain way?

Mr David Shoebridge: They swore an oath.

The Hon. MATTHEW MASON-COX: I acknowledge that interjection because that was my next point. This has a cascading impact on the oaths, ethics and the like which doctors acknowledge. I think that is also acknowledged in the bill. The amendment moved by the Hon. Mark Latham conflicts with the bill in clause 9 (4) and clause 10 (3), which is a good thing in the sense that this is not an easy issue and conflicts flow from it. I do

not sign up to the statutory interpretation of the Hon. Adam Searle. There needs to be an acknowledgement that these are not easy issues and have flow-on consequences. Victoria has had cases, including one recently when a doctor did not fulfil the requirement of the law in relation to a conscientious objection matter and disciplinary action was taken. The potential consequence is that a doctor could lose their licence to practise.

In a situation where that doctor was in metropolitan Sydney, with the necessary changes being made to the bill and if this law was passed in its current form, that could be seen as a penalty for a doctor when other options are on the table for women who find themselves in those circumstances. Sadly, we have seen test cases run on a whole range of very personal decisions that are made by people on a range of issues. Test cases are seen as a way to prosecute and penalise doctors for not holding the same view as someone else. When we deal with a very personal viewpoint of the world we need to have respect for the strength of the views of people. I think the Hon. Mark Latham has struck the right balance. I do not know whether it is perfect but it does acknowledge that people have strongly held views and that should be respected rather than overridden by a very detailed provision which tells them they must refer in a certain way. I think that in itself is anathema to the liberal principles which I personally hold, and the faith that I hold as well.

We can get a bit carried away in legislation by thinking of all the consequences and the potential things that can happen and how we will deal with them. That is an understandable statutory legislative response but it is not reflective of what happens in the real world. Doctors do not behave like this. Women see their doctors and have that relationship at a range of different levels. We need to get back to what the proponents of the bill have been consistently saying to people who have been suggesting amendments: "Let's trust the doctor and let's trust the women. Let's give the doctor some credit."

In the vast majority, I would hazard 99.999 per cent of cases, you are going to have a doctor who will find a way through this. In that regard I think the amendment proposed by the Hon. Niall Blair is useful. It is a pragmatic approach to what really happens in the world. There are helplines that doctors refer patients to for a range of medical issues. This has been through an iteration and I put on the record that the Hon. Niall Blair has been constructive in trying to sensitively give doctors who find themselves in this invidious position a way to deal with it pragmatically in the real world. If the Hon. Mark Latham's motion is not successful I will support the Hon. Niall Blair's amendment.

The reality is that these attempts, whilst welcome and pragmatic, do fall short of the mark. We need to improve the bill in any way we can. If that means supporting an amendment that falls short of the mark I will give that due consideration. I am still conflicted by that because it sends a message that doctors have to act in a certain way against their conscience, and my conscience is wrestling with that as I speak. I am inclined to support it for the reason that it improves the bill. Assuming the Hon. Mark Latham's motion does not pass then I am all for improving the bill in any way I can, because I am a realist and I understand this bill will pass.

As I said in my second reading contribution, I do support the decriminalisation of abortion. It is about delivering the right framework for that to happen. We are getting closer as we go through the debate and listen to each other. I encourage all members to listen to the points all members are making. My knowledge has grown considerably, particularly listening to the Hon. Trevor Khan last night and this morning and the response of the Hon. Mark Latham and the Hon. Adam Searle. There will be more lawyers to come, I can sense it. That is good. It is the way this House works the best. I encourage people who do have concerns to raise them so we can seek to improve the bill.

The barring of GPs is a matter of grave concern to me. It has been raised with me consistently. I do not want to see a situation where GPs are put in a position where they could lose their livelihood because they fail to do enough when they did all they could. That is a serious issue with this bill. I believe the Hon. Mark Latham has struck the right balance. Legally it might be a lawyer's picnic but, for heaven's sake, we have plenty of lawyers and the reality with law is that there is always some uncertainty. The Hon. Adam Searle referred to it in an offhanded way: No rights are absolute, there is always conflict in relation to rights and this is the reality of trying to pass laws in difficult sensitive areas. Enough of that.

I will make a contribution on the Commonwealth Religious Discrimination Bill 2019. This casts a large, but at this stage ill-defined, shadow over this debate. The reality is that it may well, in its final form, affect the constitutionality of the provision being put in the bill as it currently stands—or the amendment, should the Hon. Niall Blair's amendment be successful. That is another reality of passing legislation. The Commonwealth can step in and cover the field and change legislation in New South Wales. We have uncertainty. I think we should progress very carefully in light of that.

We have heard advice from the Human Rights Law Centre through the Hon. Trevor Khan. The Hon. Mark Latham has sought advice from the Attorney General and clearly we are not in a position to know how that impacts upon these provisions. That is the way it is. We have to accept that and understand that these provisions

could be struck down in the future; or they may not be. Whatever happens there will happen there. In closing I want to seek clarification from the Hon. Penny Sharpe in relation to students and how the bill applies there. You may have missed my question in that regard.

The Hon. Penny Sharpe: I did. Please ask it again.

Mr David Shoebridge: I will deal with it.

The Hon. MATTHEW MASON-COX: That is terrific. Again, I suggest to members that they reach back to statements and amendments in relation to other parts of this bill to reaffirm their trust in doctors and the relationship they have with their patients.

The Hon. JOHN GRAHAM (11:15): I have not spoken before in the Committee debate and I was not looking to speak. I have been listening to my colleagues and I have found the debate informative and in the tradition of this Chamber. I am not saying it has not had its moments but it has brought out the issues and I have enjoyed listening to my colleagues. I did want to speak on one issue and that is the reference by the Hon. Mark Latham to the tradition of Lionel Murphy and Jim Cairns. He brought observations of that tradition into this debate. I want to speak to that because it is an important tradition. I agree with aspects of where it was heading but I think it is misplaced in this debate. I will recap for the House what the Hon. Mark Latham said:

> There used to be a great Labor tradition—it was the party of Lionel Murphy and Jim Cairns that fought for freedom and said that the primary purpose of democratic socialism is to defend the rights of the citizen against the authority of the State. State power, State authority and State oppression were the natural born enemies of progressive politics. I still believe in this lost Labor tradition in politics and I wish others did.

I agree with important parts of that. I agree with his right to defend that tradition. It is an important tradition and has been lost a little bit out of the Labor discussion. This debate is not the place for it, but I strongly agree that he is right to defend freedom at this time.

Around the world authoritarianism is on the rise—in the international sphere and here at home. It is the most important time since World War II for every political institution, including this House, to be reflecting on that. It is an important time for parliamentarians to have that at the front of their minds. There will be a time, I anticipate, where I will support the views he has put about this tradition. I think the Hon. Mark Latham is correct in saying that Lionel Murphy and Jim Cairns would have weighed things up carefully. They were parliamentarians of conscience, two of the great iconoclasts of their time. They would have weighed these matters carefully.

As a range of people have indicated, this is a balance. There are rights to be balanced here. My view about the tradition under which both of them operated is that the most important part of that tradition was defending the powerless. I believe they would have weighed that balance differently to where the honourable member has landed in moving this amendment. I will speak to that in a moment. I respond specifically to concerns that the Federal Religious Discrimination Bill 2019 will override this bill. I will not contribute to this from any legal perspective. I am not going to add to the lawyer's picnic. There are plenty of other people who will contribute on that. I will give my view of how it works in the real world in New South Wales, particularly out of Sydney. The member said:

> I do not think it can be argued that a transfer of care and an information service, while horrendous in the eyes of people of religious faith, is an unjustifiable restriction on accessing terminations in the New South Wales health sector.

My view is that might be true in the city. It might be true for some sections of society. I just do not accept it is true in regional New South Wales. I do not think it is true in Albury, Wagga Wagga, Tweed Heads or, as we have already talked about in this debate, Brewarrina. In those places there are real restrictions. Any extra barrier in my view puts a major hurdle in front of women who might need to access this support. That is my concern. When we are weighing up that balance we must bear that in mind. If you are thinking about in some of these towns an Aboriginal woman going to see a white doctor; if you are thinking about a young woman who is old enough to fall pregnant but too young to have a licence and drive to the next town; those are the sorts of circumstances we are talking about in those towns. I accept it is different in Sydney. I accept it is different where people have access to these services. But that is the reality in some of these towns.

One other reality is the role of doctors in country towns. Again, it is different from the city. They are some of the most respected, most regarded, most powerful people in those towns—that is the truth. And when it comes to the power relationship that you are talking about there, that is something that weighs with me. And, finally, when it comes to small town life it is the case that everyone knows each other's business. That is a good thing in a lot of ways—there is more care and more community—but it also is a burden for some people in this situation and it goes to the nature of the power relationships when a woman goes to see her doctor in those places, and particularly a young woman.

That is my concern in striking this balance: who has the power in this relationship. And I think it would have been the concern of Murphy and Cairns and that political tradition, defending the powerless. Their view was freedom is not exercised equally in our society. The rich, the powerful, the articulate and those plugged into the political system do have a greater access to freedom. Their concern would have been freedom for the powerless. That is who we legislate for. That is who we are trying to protect because the others can largely—not always but far more often—protect themselves. I support the member raising the tradition—I think it is really important—but I do feel it is misplaced in this debate, although I am upset to say I am probably going to agree with him at some future point on this issue.

The Hon. Mark Latham: Oh, don't be upset. We'll rock'n'roll together.

The Hon. JOHN GRAHAM: I will have to explain that to my colleague the Hon. Rose Jackson. I think that is an important point. I will leave my contribution there but I look forward to the continuation of this debate and I will be listening closely to my colleagues.

The Hon. LOU AMATO (11:23): I wish to make a brief contribution to the Hon. Mark Latham's amendment. I think it is an amendment of common sense. The word "pro-choice" seems to mean different things to different people. On the surface it seems to indicate a person's right to make a choice. These days the phrase has become a buzzword for pro abortion, even though the proponents of abortion would like us to think it is somehow related to an individual's autonomy to make a choice. For the sake of this discussion let us assume that when we say "pro-choice" it actually respects a person's autonomy to make decisions based on their moral beliefs. If so, why are we attacking the medical profession?

Doctors spends years of study and dedication to save lives, not to end them. Even though it may be unpalatable for the pro-choice activists to hear it, some doctors actually consider abortion murder. These doctors do not wish to use their healing skills to kill babies. In fact they want no part in the process. Any person who sincerely believes that they are doing something fundamentally wrong has the right to say no—at least that was the way it used to be before the State started bullying people to toe the line. Some doctors have contacted my office and have stated that they would rather face deregistration than have any part in abortion, including the referral of a patient to an abortionist. I fully support a doctor's conscientious objection to abortion, just like I support freedom of speech and just like I support religious freedom, and I still believe in democracy.

I do not, however, support the State bullying people with sanctions akin to those of a Marxist State for refusing to do something they consider immoral or against the Hippocratic oath—and I will get onto the oath very shortly. It is only a short one. Doctors save lives and they have saved the lives of many people. I know and I am sure we all know someone whose life was saved by a doctor. Forcing them to participate in action they consider immoral is totalitarian and unacceptable in a free society. Most people have no idea what is in the text of the new Hippocratic oath that doctors pledge upon graduation but I have it here for those who do not know the whole oath. This is the latest one. It reads:

> AS A MEMBER OF THE MEDICAL PROFESSION:
>
> I SOLEMNLY PLEDGE to dedicate my life to the service of humanity;
>
> THE HEALTH AND WELL-BEING OF MY PATIENT will be my first consideration …

So of course if a woman's life is in danger obviously they are going to offer medical assistance, because that is what they say:

> THE HEALTH AND WELL-BEING OF MY PATIENT will be my first consideration …

It goes on to say:

> I WILL RESPECT the autonomy and dignity of my patient;
>
> I WILL MAINTAIN the utmost respect for human life …

There are many doctors who do not have faith—they are not faith based at all—but they believe in the sanctity of life. It goes on to say:

> I WILL NOT PERMIT considerations of age, disease or disability, creed, ethnic origin, gender, nationality, political affiliation …

And thank God for that because some of them might not look after me because I am Liberal; they might not look after some in the Labor Party or from the crossbenches. We are lucky it is here. It continues:

> … race, sexual orientation, social standing or any other factor to intervene between my duty and my patient;
>
> I WILL RESPECT the secrets that are confided in me, even after the patient has died;
>
> I WILL PRACTISE my profession with conscience and dignity and in accordance with good medical practice …

This is really important: "with good medical practice". We would all expect doctors to do the decent thing. They will always put their patient first. It continues:

> I WILL FOSTER the honour and noble traditions of the medical profession;
>
> I WILL GIVE to my teachers, colleagues, and students the respect and gratitude that is their due;
>
> I WILL SHARE my medical knowledge for the benefit of the patient and the advancement of healthcare …

That would be the case where a doctor may decide to refer a patient to a social worker, a psychologist, a psychiatrist or someone else. It is all here in the pledge that they take. It continues:

> I WILL ATTEND TO my own health, well-being, and abilities in order to provide care of the highest standard …

This is a very, very important part:

> I WILL NOT USE my medical knowledge to violate human rights and civil liberties, even under threat; I MAKE THESE PROMISES solemnly, freely and upon my honour.

When you read the pledge they take it is self-explanatory. They are talking about conscience, about their own decency, about putting their patients first and about the sanctity of life. They are talking about doing the right thing. There is no clearer way to put it. Doctors will always do the right thing and I do not believe we should enact legislation that forces a doctor to do something. Just like members here do not want to be forced to do something they do not want to do, why should anyone else be forced to do something they do not want to do? I support the Hon. Mark Latham's amendment.

Ms CATE FAEHRMANN (11:30): I speak for the first time in the Committee of the Whole on the Reproductive Health Care Reform Bill 2019. I made my views, and those of The Greens, known during my second reading speech but as the health spokesperson for The Greens, I want to make a short contribution to this debate. As my colleague Ms Abigail Boyd said, The Greens do not support either of the amendments before us. The reason we are here is to make abortion legal. Part of that is to ensure that we do not put up more barriers for women to access abortion. Last night I watched the contribution of the Hon. Niall Blair on his amendment. I respect the Hon. Niall Blair and his contribution to this place over the years. We will miss him when he goes off to, hopefully, a better and brighter future in a few weeks time.

The Hon. Greg Donnelly: I will.

Ms CATE FAEHRMANN: Sorry, I did not mean to disrupt the Chamber.

The Hon. Greg Donnelly: It's a boy thing, Cate.

Ms CATE FAEHRMANN: I am sure it is. This whole debate is a boy thing. Yesterday in the Hon. Niall Blair's contribution on his amendment concerning conscientious objections, he said that the amendment that he is putting forward will ease the doctor's obligation to refer. So it will make it harder for the woman and easier for the doctor. I am not sure why we are making it easier for the doctor or easing his obligation to refer. The doctor either has to refer or not. Remember, we are here because for years and years women have been asking and needing to have access to safe and accessible abortion. Therefore, we should be making it as easy as possible. If a doctor has a conscientious objection, we should be making it as easy as possible for a woman to be referred as quickly as possible to another doctor to receive treatment.

The Hon. Mark Latham's amendment will have a doctor who has a conscientious objection choosing not to refer a woman who seeks an abortion because of their religious views. In the other place, the Treasurer, in responding to Mr Joe McGirr's amendment on this issue, said he wanted people to support that amendment because while the bill appears to protect freedom of conscience for health professionals, in practical terms it does not. It is true that the bill will allow doctors who have a conscientious objection to abortion to decline to perform the procedure. But it would require them to refer the woman to another doctor they know would perform it—that is, to facilitate it. That is the point of the bill before us—to allow women who want to access a termination to be able to do so.

The Australian Medical Association's position statement on conscientious objections was updated in 2019. It stated that it wants to emphasise that regardless of a doctor's conscientious objection a patient's access to care should not be impeded. While I understand the intention of the Hon. Niall Blair's amendment, I believe it could potentially still impede a patient's access to care. When we balance a doctor's religious views and their religious conscience against ensuring that the intent of this law is carried out—therefore allowing women to get access to the services they need—then surely a doctor's conscience must not take precedence. Their personal views or their religious views must not take precedence over their duty to ensure that a woman who needs and wants an abortion is able to get it.

I note the Hon. John Graham's contribution to the debate earlier today about regional doctors. The Hon. Matthew Mason-Cox also referred to regional doctors. There are two sides to this debate, I suppose. We have heard from many women in regional New South Wales who have not been able to access abortion, or at least get the advice that they have sought because they live in country towns where most—sometimes all—of the doctors have a conscientious objection. The Hon. Matthew Mason-Cox said that we should allow those regional doctors to exercise their personal view and they should be able to decline to refer a woman who is seeking an abortion. The whole point of the bill before us is to make it easier. The whole point is to legislate a framework that says to doctors, regardless of their personal views, they do not have to perform a termination, of course not. But they should refer that patient to someone who is able to do so.

The Hon. Matthew Mason-Cox: That is not exactly what I said.

Ms CATE FAEHRMANN: I think that is what you said.

The Hon. Matthew Mason-Cox: They will find a way without being told how to find a way.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Members will not respond to interjections.

Ms CATE FAEHRMANN: The Hon. Niall Blair's amendment mentions providing information to patients. They then have to leave a clinic or a doctor's room and make a phone call to a call centre, or whatever, and who knows who is on the other end. They then have to make another appointment with a doctor whose information is on a leaflet. They are barriers to a woman who is potentially needing an abortion in a timely manner. As we know, they may have to travel to another city. They are barriers that members of this Chamber should not be putting in place. The Hon. Trevor Khan also mentioned legal advice in relation to the Religious Discrimination Bill 2019. He said that the duties of practitioners to ensure that their patients are provided with the care that they need should not be weakened. I believe both of these amendments before us do that. That is why The Greens will not be supporting the amendments.

The Hon. TAYLOR MARTIN (11:39): I support the amendment moved by the Hon. Mark Latham. The way in which doctors who have a conscientious objection to abortion have been treated throughout this legislative process is beneath not only our democratic system but also our society. I support the amendments to clause 9 that will remove the burdensome provisions on a registered health practitioner with a conscientious objection to abortion.

Many members have spoken about religious freedom. However, people who claim to not have a religious belief can and do have objections to abortions on moral grounds alone. As currently drafted, the bill forces a medical professional to participate in the termination of a life even if he or she has a conscientious objection. The Greens have basically contended that is what should happen—that someone should be forced to take part in the process of ending a life. That is a terrible thing to legislate for in New South Wales.

The amendment makes it clear that the only obligation of a health worker is to inform the person who requested the termination of the conscientious objection as soon as practicable after the request is made. That will not impact a woman's ability to access an abortion in New South Wales. The requirement in clause 9 (3) (b) of the bill that the registered health practitioner must transfer the person's care is onerous for someone whose conscience does not allow them to take part in the process of ending a life. That requirement is a significant cause of distress for many doctors with conscientious objections to abortion. The amendment will resolve those concerns. I commend the amendment of the Hon. Mark Latham to the Committee.

The Hon. NATASHA MACLAREN-JONES (11:41): I support the amendment moved by the Hon. Mark Latham. Firstly, under the bill as it stands a medical practitioner who has a conscientious objection either to abortion in general or to abortion under certain circumstances, such as late-term abortion for a suspected disability of a child or for sex selection, is duty-bound to actively help a person locate or contact a medical practitioner who does not share that conscientious objection so that the abortion can be performed. That obligation seriously undervalues the nature of a conscientious objection.

The conscientious objection provision in the bill as it stands goes further than any current expectations of a medical practitioner. A medical practitioner may have a conscientious objection to a procedure that is legal and even considered normal in a particular jurisdiction, including abortion. If we were to substitute one of those procedures for abortion and consider the reasonableness of imposing a duty on a medical practitioner who has a conscientious objection to such a procedure to find a replacement medical practitioner willing to do the procedure, it would clearly not be reasonable. In some 30 countries, female genital mutilation remains legal and widespread. Should a medical practitioner in one of those countries who has a conscientious objection to performing female genital mutilation be obliged to find a doctor to perform one? Consider the legal practice of male circumcision, which is becoming increasingly rare in Australia. If a medical petitioner has a conscientious

objection to performing a medically unnecessary circumcision, is that medical practitioner duty-bound to find a doctor who is willing? The answer is no.

Secondly, one must consider the wellbeing of a medical practitioner and their ability to continue providing professional medical services if that practitioner is forced to facilitate the performance of an abortion in violation of his or her beliefs. Using the law to force such a doctor to actively collaborate by finding a doctor willing to end the life of what they perceive to be a person is a very serious and drastic measure that would need serious justification. The duty to help a person locate or contact a medical practitioner willing to perform an abortion is simply unnecessary. The website of Family Planning NSW states:

> You do not need a referral for an abortion. You can get advice from your local Family Planning clinic, Family Planning NSW Talkline or the Children by Choice website about the clinics near you.

Any woman seeking an abortion in New South Wales can find a phone number and contact Family Planning NSW to access a clinic. I accept the comments made by the Hon. Matthew Mason-Cox and the Hon. Niall Blair in relation to the challenges faced in country areas but the fact remains that a person can search for a clinic and for a phone number. Ms Abigail Boyd raised it yesterday in relation to counselling when she argued against a requirement to offer counselling—not mandatory counselling—on the basis that any woman seeking an abortion can look for a counsellor online. The same principle applies to conscientious objection. If a person is seeking a clinic or advice, they can search for that online. However, in the event that the amendment is unsuccessful, I will support the Hon. Niall Blair's amendment. Finally, the amendment being put by the Hon. Mark Latham goes somewhat further to ensure that conscientious objection covers all health professions, including student doctors and nurses. I commend the amendment to the Committee.

Mr DAVID SHOEBRIDGE (11:45): I acknowledge and will not repeat the contributions of Ms Abigail Boyd and Ms Cate Faehrmann, both of which I support. I will deal with a number of matters raised in debate that have not been addressed today. The first is the concern raised by the Hon. Matthew Mason-Cox in relation to the exclusion of students from the definition of "health practitioner". There is a rationale for that, which is that students neither provide medical services nor provide medical advice. Therefore, excluding them entirely from the operation and coverage of the bill makes a great deal of sense because they will not be providing advice to women who are seeking reproductive health services, nor will they be providing reproductive health services. They are not burdened with any of the obligations or covered by any of the provisions of the bill. It makes sense and, indeed, most students would be grateful to be excluded from the bill's provisions. It definitely makes sense from a public policy perspective.

Members have made a series of contributions in relation to conscientious objection based on a liberalism argument. I have been a member of this Chamber for the better part of nine years. Arguments I have raised—and I am the only person to have done so—based on the principle that we should not legislate to further the oppressive power of the State against the individual have not succeeded. I have raised that argument on police powers, on terrorism powers and on a raft of matters where those members who are now running a liberalism argument have been very welcome to massively increase the oppressive power of the State at the expense of the individual.

Indeed, many of those members who are now making a liberalism argument voted against the bill on second reading when, indeed, at the core of the bill is the decriminalisation of abortion which removes the oppressive power of the State when it seeks to criminalise women who are simply seeking to exercise reproductive health services. Those members who in this narrow argument about conscientious objection want to run a liberalism argument are doing it in a context where they are still very comfortable with voting against the bill that is actually getting the State and the criminal law away from women and pregnant people who are exercising their right to control their bodies. It is almost as though they are contriving the argument to deal with the issue of conscientious objection.

The Hon. Mark Latham raised arguments against proceeding now due to there being a draft Federal bill out. That would be foolhardy in the extreme because draft Federal bills are often out. Indeed, the Commonwealth Parliament has its own idiosyncratic ways of legislating. The suggestion that we should not move until or unless the Commonwealth Parliament moves on its draft bill would simply disempower this Parliament from acting on an array of matters that we are obliged to address. I cannot further the interpretation that the Hon. Trevor Khan gave on advice about how clause 8 (5) operates. If we did not have provisions about conscientious objection then we would have to look at clause 8 (6) of that draft bill, which has a similar effect.

There is an argument not to have a provision in the bill that deals with conscientious objection of medical practitioners, not because it is not a valid issue to be concerned about—indeed, The Greens support the rights of medical practitioners to exercise their conscientious objection, if they have one—but because it is already dealt with. The Australian Medical Association guidelines are clear. They state:

A doctor with a conscientious objection, should:

- inform the patient of their objection, preferably in advance or as soon as practicable;
- inform the patient that they have the right to see another doctor and ensure the patient has sufficient information to enable them to exercise that right;

Implicit in that is providing the information to a patient about people who will provide the necessary services. Those protections and provisions are already accepted as being sufficient to deal with issues of conscientious objection to somebody seeking male sexual health services, IVF services or contraception.

The Greens believe they are more than sufficient to deal with conscientious objections regarding women or pregnant people seeking reproductive health services for the termination of a pregnancy. The suggestion that we would have a separate and detailed raft of provisions dealing only with abortion laws, as is being proposed by the Hon. Mark Latham, but not dealing with any of those other areas of conscientious objection from medical practitioners would not only create a poor legislative outcome for the reasons expressed by my colleagues Ms Cate Faehrmann and Ms Abigail Boyd, but also would see abortion and women's rights to control their bodies being expressly and prescriptively legislated against as though women's rights were somehow less and deserve additional legislative prescriptions unlike men's sexual health services. For those reasons The Greens will oppose both amendments.

The Hon. SCOTT FARLOW (11:51): This is an area of competing rights: the rights of the doctor and the rights of the person seeking a termination. I support the amendment of the Hon. Mark Latham and I also commend the Hon. Niall Blair for his amendment. To the point Mr David Shoebridge just made about the Australian Medical Association [AMA] guidelines, there are provisions for conscientious objection in the original bill, which go farther than the AMA guidelines. They provide an imposition on medical practitioners to actively make a referral—and not to just provide information—to another medical provider who they know will provide the service. The Hon. Niall Blair's amendment seeks to ensure that there is the provision of just information. I agree with the Hon. Mark Latham's arguments about his amendment.

Medical practitioners have expressed to me concerns about their rights to referral. It has been put to me that the current practice is that when someone seeking a service approaches those with a conscientious objection to it, they say they cannot supply the information and they will usually say, "You can google another provider or you can call NSW Health." They find that acquits them of their duties as a medical practitioner but they are also able to live with their conscience. The amendment of the Hon. Mark Latham will address that issue. I think that the amendment of the Hon. Niall Blair is an improvement on the position and I will support that amendment if the amendment of the Hon. Mark Latham fails.

Reverend the Hon. FRED NILE (11:53): I support amendment No. 1 of the Hon. Mark Latham on sheet c2019-056C. I thank him for helping the Parliament by introducing that amendment. Some people feel there is no need for such amendments and even for conscientious objection, but many doctors who have spoken to me feel strongly about the issue—enough to cease operating as a doctor if their conscience were interfered with in the way some members would like to do. Those who have a conscientious objection to abortion were shocked that the Government supported such a radical bill, which has been given priority in this House. The bill would make abortions legal—those performed "by medical practitioners at not more than 22 weeks" and under part 2 section 6 "after 22 weeks".

No-one ever thought anyone would draft a bill with such radical provisions. That has shocked the medical profession in New South Wales. That is why the amendment of the Hon. Mark Latham is necessary. Some of these radical pro-abortion strategies have other hidden effects. Some male medical students approached me after finishing their training and being fully qualified. I understand that to become a registered GP one has to do some field work in a hospital. The students told me they applied to do that field work in a hospital in Sydney. The hospital was very happy to let them have additional training so they could qualify as a GP.

They were asked if they were prepared to perform abortions. The Christian students said, "Not on your life. We would never perform an abortion". The hospital rejected them. They were told, "You cannot do your additional GP training in this hospital". That has affected the ability of some of those students, who have great ability as doctors, to be finally qualified as a GP in New South Wales. There are a lot of issues under the heading "The need for conscientious objection", which some members feel is unnecessary. I believe it is necessary and that is why I support the amendment moved by the Hon. Mark Latham.

The Hon. ROSE JACKSON (11:56): I accept that there are competing freedoms, rights and responsibilities in the bill. Women should have the freedom to access health care and reproductive health services but doctors should have the freedom to refuse to participate in medical procedures that do not align with their conscience. Women should have rights to health care but doctors should have rights to conscientiously object to procedures that they do not wish to perform. There are also responsibilities. Women have a responsibility to ensure

that they seek health care from qualified medical professionals and doctors have a responsibility to their patients to provide access to legal medical procedures that the patient has requested.

I make only one point on those responsibilities. To me it seems that this issue has been reduced to whether or not a doctor has to give a woman a pamphlet. He or she has no obligation to perform the procedure or to provide a written reference, or any kind of formal reference. The only obligation is to provide a woman with a pamphlet—that is it. I do not think that providing someone with a pamphlet is a particularly onerous obligation or that it needlessly burdens someone's conscience. The Hon. Scott Farlow said that there are alternatives such as women googling where they might be able to procure termination services. It is extremely dangerous to require women to google how they might access those services. When you google this type of thing, pages pop up where you can purchase drugs relatively cheaply and easily over the internet to procure an abortion at home. That is a very dangerous thing for a woman to do. Part of the reason that we are trying to move this medical procedure into a medical Act is to stop women doing that so that they are receiving terminations from qualified healthcare professionals.

Putting the obligation on a woman to google where she might access those services increases the likelihood that women will think it is cheaper and easier to purchase medication online to take at home in their bathroom. That is a very dangerous thing for women to do. We must try to keep women in the care of qualified medical professionals. That is a safe place for women to be and that is where we want them to be when they are trying to access those services, particularly in regional New South Wales—in the care of qualified medical professionals and not purchasing drugs illegally online. If the requirement is to give them a leaflet in order to ensure that outcome, I do not think it is an unnecessary burden on someone's conscience.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): According to sessional order, it being midday, I will now leave the chair and report progress.

The PRESIDENT: The Committee reports progress. Further consideration of business before the Committee is set down as an order of the day for a later hour.

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

Questions Without Notice

ESSENTIAL ENERGY JOB CUTS

The Hon. ADAM SEARLE (12:00): My question without notice is directed to the Leader of the Government and the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts in his own capacity and representing the Premier. Why are both the Deputy Premier and the Minister for Energy and Environment taking credit for protecting the 182 jobs Essential Energy was proposing to cut when the draft direction issued to Essential Energy by the Government only provides for a 12-month deferral of those job cuts—it does not take them off the table?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:01): Much as the Leader of the Opposition would like this to be a matter for me, it is certainly not a matter for me. It is a matter for the Minister for Energy and Environment as the portfolio and, frankly, a matter for the Treasurer in his capacity relating to State-owned corporations and the Deputy Premier in terms of his sterling efforts on behalf of the people of regional New South Wales. I will take the question on notice and I will refer it to the Premier for her response.

ABORIGINAL BUSINESS DEVELOPMENT

The Hon. LOU AMATO (12:02): My question is addressed to the Aboriginal affairs Minister. Will the Minister update the House on how the New South Wales Government is supporting Indigenous businesses?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:02): I certainly can. I thank the Hon. Lou Amato for his question. He would no doubt be interested to learn that the Minister for Finance and Small Business and I recently visited the NSW Indigenous Chamber of Commerce's co-working hub in Redfern. It was a great opportunity to meet Aboriginal businesses, such as bush food retailer lndigiearth and workplace health trainer Integrity Health & Safety, and the CEO of the NSW Indigenous Chamber of Commerce, Debbie Barwick, as we announced $500,000 to support those businesses. Put simply, Aboriginal businesses are more likely to employ Aboriginal people, so supporting those businesses supports more jobs in the wider Aboriginal community. That commitment to support Aboriginal businesses is an active step to open up more opportunities for Aboriginal employment.

The New South Wales Government spends an estimated $30 billion on construction, goods and services each year. The Government is assisting Aboriginal businesses to leverage that significant investment—which is available given the great state of our economy—by setting a 3 per cent target for procurement for Aboriginal businesses. The funding will particularly benefit small and medium Aboriginal businesses across the State. The funding to the NSW Indigenous Chamber of Commerce includes $250,000 over 2½ years through the Business Connect program to engage three new specialist procurement advisors. That is being supported by the Hon. Damien Tudehope. Those advisors will work with Aboriginal businesses, including through workshops and coaching, to ensure they can access a better share of the many contracts up for tender. Workshops will build the skills and capacity of small businesses to successfully tender for government contracts and how to best meet project targets.

As part of the Business Connect program those Aboriginal business advisory services will increase engagement with the entire State, which is very important. There is also $250,000 to support whole-of-government access to the NSW Chamber of Commerce's Aboriginal Business Portal, which lists Aboriginal businesses in New South Wales, assisting government agencies to connect with Aboriginal suppliers. That is being supported from my portfolio. All New South Wales government agencies will be able to use the portal to identify the Aboriginal businesses that have the products, services and capabilities needed for their projects. The funding builds on initiatives that support— [*Time expired*.]

NAPLAN TESTS

The Hon. PENNY SHARPE (12:05): My question without notice is directed to the Minister for Education and Early Childhood. Given the collapse earlier this year of the 2019 online NAPLAN tests, how many New South Wales schools have sat the practice NAPLAN test this week? Did teachers get enough advance warning to minimise disruption to regular classes?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:05): I thank the honourable member for her question. The Hon. Penny Sharpe made a remark about what happened with NAPLAN online this year. I will reiterate what I have said in the House before and what I have also said publicly: I was extremely disappointed about what happened with NAPLAN online.

The Hon. Penny Sharpe: It was a disaster.

The Hon. SARAH MITCHELL: I know I should not respond to interjections but the Hon. Penny Sharpe said that it was a disaster and I agree. We have had a lot of issues across New South Wales schools, which I was not happy about as Minister and I made those views clear, particularly when meeting with other education Ministers. Some members would be aware that at an Education Council meeting not long ago all Ministers agreed to delay the rollout of NAPLAN online by at least 12 months. That was something that was agreed to by all State and Territory Ministers and the Federal Government because we understand that it is important to get online testing right.

There is not confidence in the processes that were in place and we want work to be done in order to improve NAPLAN online. In relation to the specifics of the honourable member's question about how many schools were involved in that practice test, that is not information I have with me today. I am happy to take that on notice and seek advice from the department and the NSW Education Standards Authority, which assists in the rollout of NAPLAN, and come back to her with an answer.

The Hon. PENNY SHARPE (12:07): I ask a supplementary question. I thank the Minister for agreeing to get that information for us. Will she elucidate her answer in relation to the notice that teachers at those schools received about the new testing that is being performed?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:07): Again, that is something I will have to seek advice on from the department in relation to when that notice went out. Very happy to take it that on notice and provide it.

The Hon. JOHN GRAHAM (12:07): I ask a second supplementary question. Will the Minister elucidate her answer about the concerns about online NAPLAN next year? What does that mean for kids doing NAPLAN in New South Wales? Will any of them be doing it online or not?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:08): In response to the member's second supplementary question, this is a question that Ministers are working through in terms of the number of children who will be doing it in each State. Each State is different—some have done it at different times. It also depends on the number of students when you look at percentages. I know that some of the smaller States have gone largely, if not totally, online. From recollection, I think the Australian Capital

Territory was all online and other States have taken a different approach. Those are the issues we will work through in relation to the rollout.

I also add that education Ministers met last Friday and were given some information in relation to what the causes of those issues are. We have asked those responsible for the delivery of the test to look into those to give assurance and reassurance to us as Ministers and to the school community that any further rollout of the online test is done with that information in mind. The consensus when we met earlier this year was that we would delay a full rollout for at least 12 months. That is open to change if Ministers feel that more work needs to be done. It is something I take very seriously; we need to get it right. Unnecessary distress was caused for many students, principals and parents this year and I want to make sure that we have steps in place so that it does not happen again.

CLIMATE CHANGE AND YOUTH MENTAL HEALTH

Ms CATE FAEHRMANN (12:09): My question without notice is directed to the Minister for Mental Health, Regional Youth and Women. The existential dread of what the future holds in the face of unmitigated climate change is having documented impacts on the mental health of young people in New South Wales. There are many examples of young people voicing their despair and anxiety around the continual degradation of our environment and climate, not the least of which is the massive student strike taking place tomorrow at midday in the Domain. What research or work is the Minister and her department undertaking into the impacts of extreme weather events and frustration over inaction on climate change on the mental health of young adults and kids in New South Wales?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:10): I thank the honourable member for her question. As Minister for Mental Health and Regional Youth, I will be focusing on how we can better provide mental health support at an early age. We will listen closely to young people about the model of mental health services they feel most comfortable with, which will help inform government policy. The New South Wales Government is providing enhancement funds under the NSW Mental Health Reform to build on local health district core-funded specialist child and youth mental health services provided through inpatient and community services.

In 2019-2020 the Government is investing over $27 million in infant, child, adolescent and youth mental health services. There is $1 million to fund six additional School-Link positions to strengthen mental health youth support in schools, and this is part of over $3.37 million annually that funds 21 School-Link Coordinators, who implement the initiative across approximately 3,000 schools and TAFEs. School-Link is a partnership between the Department of Education and the Health department to identify and manage mental health issues, to facilitate access to specialist mental health care and to promote recovery planning, which includes supports for young people within high school settings.

We have got $11 million this year for the Getting On Track In Time—the Got It! program. This is an initiative across the State. This school-based early intervention program supports teachers to provide social and emotional learning for children aged from five to eight and for more intensive interventions for children with emerging conduct disorders, and their parents. Statewide Got It! teams are funded to provide evidence-based clinical interventions to 85 schools across New South Wales. There is also $680,000 to support the Aboriginal Got It! pilot program located in south-western Sydney. Because Got It! has been such a success across the schools we have been able to modify the pilot to specifically support Aboriginal children in our schools. This is a terrific initiative. It is a really great example of how when we try innovative models of care and they are successful we can shape them to meet all sorts of different needs.

A key election commitment of this Government was to enhance crisis support services for children and young people and adults in organisations that focus on preventative education and youth and mental health. We have also got the school nurse program, which has been a really big success—we call that the Wellbeing, Health In Reach Nurse [WHIN] Coordinators program. This model supports children and young people to access health and social services in rural and regional New South Wales to support their wellbeing. The New South Wales Government election commitment of $3.4 million over four years enables the maintenance of the WHIN coordinator positions in the pilot sites of Young, Cooma and Tumut, and the employment of three new WHIN coordinators at Deniliquin, Murwillumbah and Lithgow. This is another fantastic program. We are also looking at a digital peer support project. This project is piloting the development and use of digital video content of recovery stories from young people to improve engagement with care. Those are just some of the things that we are doing.

TEACHER ACCREDITATION

The Hon. WES FANG (12:13): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister outline to the House what the New South Wales Government is doing to recognise the State's best teachers?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:14): I thank the Hon. Wes Fang for that question. It was with great pleasure last week that I attended the 2019 ceremony for Highly Accomplished and Lead Teacher accreditation. Achieving higher level accreditation is a significant milestone for teachers in our public, independent and catholic schools. While the majority of teachers are accredited as proficient teachers, the New South Wales Education Standards Authority [NESA] recognises the hard work of many teachers with these higher accreditation levels.

At the ceremony last week, 23 teachers were awarded this prestigious benchmark. These teachers have gone beyond the daily demands of teaching to reflect on their years of practice using the rigour of higher level accreditation. These teachers come from across the State, teaching in regional and metropolitan areas, and from across all three education sectors. It is a public acknowledgement of their teaching skills and expertise, leadership qualities and outstanding contribution to the education of this State's young people. It also signifies their commitment to the teaching profession. There is overwhelming evidence that good teaching is the most significant in-school influence on the learning outcomes of young people, and good teaching across schools and in an early childhood context is undoubtedly enhanced when there are expert teachers leading improvements in teaching practice.

These benchmarks are not only an opportunity to celebrate these exemplary teachers but also a chance to increase awareness of higher level accreditation across New South Wales. All fully accredited teachers in New South Wales have the opportunity to develop their practice and knowledge to be recognised as highly accomplished or lead teachers. Accreditation at the higher level really does acknowledge the best of the teaching profession. Among the awards recipients was Ross Montague, who follows in his parents' footsteps in making an impact in education in western Sydney. Kelly Sharwood from Tumbarumba and Jillian Reidy from Grenfell are bridging the gap to raise the profile of their profession in rural communities. Troy Neale and Karen Sellick, two teachers from Macquarie Fields High School, are working with students from culturally and linguistically diverse backgrounds. They are just some of the finest educators in New South Wales.

It was a pleasure to meet and speak with these teachers and their families and friends who were there to support them as part of the ceremony. It takes a lot of work for teachers to get this accreditation and I know that they do not do it without the support of their loved ones; it is important to acknowledge that. The program is a rigorous process; however, the feedback that I received was that it was a worthwhile and excellent opportunity. To ensure that our State's youngest learners also benefit from exemplary teaching, NESA is running a higher levels pilot for a cohort of early childhood teachers. Through a series of support sessions, the pilot will guide these teachers as they develop their applications for higher level accreditation and seek recognition as exceptional teachers and leaders in the early childhood sector. I congratulate all of the New South Wales highly accomplished and lead teachers.

MURRAY-DARLING BASIN WATER SHARING PLANS

Mr JUSTIN FIELD (12:16): My question without notice is directed to the Minister for Mental Health, Regional Youth and Women representing the Minister for Water, Property and Housing. How many water sharing plans are to be remade or are in the process of being remade as part of the State Government's obligations under the Murray-Darling Basin Plan to develop water resource plans by the end of this year? How many of these are going to be reviewed by the Natural Resources Commission as part of its role under section 43A (3) of the Water Management Act 2000?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:17): I thank the honourable member for his question, which relates to a Minister in the other place whom I represent. The New South Wales Government has spent the past two years working with stakeholders to develop draft water resource plans and to update or replace the associated water sharing plans. New South Wales has to develop 20 out of the 33 water resource plans required across the Murray-Darling Basin. We have publicly exhibited 17 of our 20 plans. The department is currently reviewing submissions and working with key interest groups and the Murray-Darling Basin Authority to resolve the outstanding issues.

The draft Murray and Lower Darling Water Surface Water Resource Plan went on public exhibition this week. The Namoi and Barwon-Darling water resource plans will be placed on public exhibition in the coming weeks. The public exhibition process seeks feedback on the proposals outlined in the draft plans. There have been disruptions along the way, such as the Northern Basin Review disallowance motion in 2018. There have also been

various reviews and reports into water management, including those of the South Australian royal commission, the Productivity Commission and independent reports following the fish deaths in the lower Darling last summer.

Like most other jurisdictions, New South Wales has asked the Commonwealth Minister for more time to complete water resource plans to ensure adequate time for public consultation. Additional time to develop the plans will allow the New South Wales Government to effectively engage with First Nation and other stakeholders to ensure that we deliver 20 high-quality plans by the end of 2019. The water sharing plans are a key component of water resource plans, and there are 31 to be replaced or amended as part of the water resource plan development process.

Water sharing plans will remain the primary statutory instruments for water sharing in New South Wales, consistent with the requirements of the Water Management Act 2000. In relation to the second part of the question, I will speak to my colleague Minister Pavey in the other place and get a more detailed answer for you.

SCHOOLS ASBESTOS MANAGEMENT PLAN

The Hon. COURTNEY HOUSSOS (12:19): My question without notice is directed to the Minister for Education and Early Childhood Learning. Given her answers yesterday on asbestos in New South Wales schools and the answer to the written supplementary question which stated "data on the time of asbestos removal is not centrally held by the department", why did she state that asbestos removal "often occurs outside of school hours" when her department cannot give the same assurance?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:20): I thank the honourable member for her question. As I said in budget estimates and as I said in this place yesterday, the safety of children and staff is priority. When it comes to the removal of asbestos I take the advice of experts, not from those opposite. For experts, the threshold question is: What is the safest course of action? Their priority and mine is students, not stunts. In terms of the process for removal, according to the relevant guidelines, any asbestos concern should be reported by the principal to the local asset management unit. The department takes immediate action where necessary, consistent with the relevant statutory guidelines. When removing asbestos, work is scheduled to ensure no risk to students, staff or the community.

I have been advised by the department that there will be occasions when asbestos is required to be removed during operational hours. This may include an emergency situation whereby immediate action is required and the area affected is deemed to be safe and completely clear of all students, staff and community access. It is paramount that asbestos removal is done in accordance with the department's priority to ensure the health, safety and wellbeing of the community as well is statutory and legal obligations.

The NSW Department of Education Asbestos Management Plan clearly stipulates that all removals are to be undertaken according to the Work Health and Safety Act 2011, Work Health and Safety Regulation 2011, *How to Manage and Control Asbestos in the Workplace: Code of Practice 2011*, *How to Safely Remove Asbestos: Code of Practice 2011* and other relevant documentation issued from time to time by the WorkCover Authority of NSW or Safe Work Australia. I am advised that schools maintain a local record of works undertaken in real time. Principals are also responsible for informing their school communities when such work occurs.

Each school is required to notify the department of any works that they undertake. While data on asbestos removal is held at the local level—which is something the member referred to in her question and it is not held centrally as I responded to in my answer—I have instructed the Secretary of the Department of Education to begin work on holding both the register identifying the presence of asbestos and also the removal of asbestos at a central level. While I have confidence that all appropriate processes are complied with, I am not afraid to add additional levels of robustness to the process as an extra check.

SMALL BUSINESS MONTH

The Hon. MATTHEW MASON-COX (12:23): Will the Minister for Finance and Small Business update the House on any upcoming plans to celebrate small businesses in New South Wales?

The PRESIDENT: Stop the clock. While we are six seconds into the Minister's speaking time he has not had the opportunity to say one word because of interjections from both sides of the Chamber. The Clerk will restart the clock.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:23): Thank you, Mr President. Unfortunately, I am very tired today.

The Hon. John Graham: Are you bringing back Jobs for NSW?

The Hon. DAMIEN TUDEHOPE: I will. I thank the honourable member for his question. I am pleased to inform him that this coming October is Small Business Month—a month-long celebration of all things good about small business in New South Wales.

[*Members interjected*.]

The PRESIDENT: Stop the clock. I remind the Deputy President, as I ruled earlier, that he is permitted to take points of order and to participate in debate, but when he is not in the Chair he is required to meet the same obligations as other members. In other words, the Hon. Trevor Khan will come to order. I remind him that he is very close to being placed on a call to order. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: New South Wales is home to over 765,000 small businesses. They employ an estimated 1.65 million people—almost 44 per cent of the private sector workforce. This year the events will focus on everything from marketing and social media, to preparing businesses for disruption: for instance, events on supporting female entrepreneurship and Aboriginal businesses, teaching business basics, the digital future and how to start up a small business. This year Small Business Month is being delivered and funded in partnership with the business community, Service NSW and our local councils. Last year Small Business Month delivered more than 360 events to over 19,500 participants, hosted by 113 councils and 43 collaborative partners across the State.

The Hon. Mick Veitch: Are you going to all of them?

The Hon. DAMIEN TUDEHOPE: I am going to some. We know that western Sydney is a booming region of New South Wales and we are kickstarting the month with a small business breakfast in Parramatta. This event will be a showcase of the enthusiasm, energy and entrepreneurial spirit that western Sydney is home to. I am sure that all the initiatives of Small Business Month will be of similar quality. For instance, Hornsby Council is partnering with the Core Success Network [Corework] to host a networking and capacity-building event. In Toukley, on the Central Coast, a women in business networking event is being delivered through the Community and Business Women's Network—helping women to upskill, network and get to know what is happening in their local community.

North Sydney Council's annual Data Buzz is a great way for entrepreneurs to learn how to utilise data to maximise revenue and improve data security. The "Boost with Facebook" event, which will provide businesses with the skills to get online and reach new customers, will be held in communities like Port Macquarie, Lismore, Newcastle and Orange—I will be at the Orange event. I know that all members of this place will be looking to support Small Business Month. I encourage all members to jump online at businessmonth.nsw.gov.au to find all the events that are taking place— [*Time expired*.]

RENTAL PROPERTIES AND COMPANION ANIMALS

The Hon. EMMA HURST (12:28): My question is directed to the Minister representing the Minister for Better Regulation and Innovation. More than 30 per cent of the New South Wales population is now renting. According to Domain, as few as one in 20 rentals in New South Wales are advertised as companion animal friendly. Figures provided by the RSPCA show that the percentage of companion animals surrendered in New South Wales due to accommodation issues was 16.5 per cent in the 2018 financial year. This is traumatic for animals and for victims leaving domestic violence situations. What is the Government doing to support renters with companion animals?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:28): I thank the honourable member for her question. She may recall some of the great amendment work done to the strata title Act is in relation to companion animals. I am not going to profess to being an expert on companion animals. I can profess to being an expert on lots of things but not companion animals. If the Hon. Emma Hurst will allow me to take her inquiry to the relevant Minister, I am happy to get her an answer.

STUDENT LITERACY

The Hon. JOHN GRAHAM (12:29): I direct my question to the Minister for Education and Early Childhood Learning. What steps has the Minister taken to respond to community and parental concerns that results for students in New South Wales in grammar and punctuation have declined compared to students a decade ago?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:29): As I have said many times in the House, improving student outcomes is incredibly important to me as Minister, and it certainly is a focus of this Government. We are going to roll out our Bump It Up strategy—which I have spoken about in the House on many occasions—that is looking at setting targets for every school around things such as literacy, numeracy, wellbeing, attendance and equity. The idea behind setting those benchmarks in collaboration with school communities is to look at what we need to do to help those schools improve and lift

their student results. That project had incredible success when it was rolled out across 137 schools initially. That is why this Government decided to extend it to all its government schools in New South Wales. We are currently working with principals to set those targets because we want to ensure that we are doing everything we can to support them to teach our children to get the best outcomes for their learning across all capabilities, particularly literacy and numeracy.

In my inaugural speech to this House I spoke about literacy and numeracy. I am a parent, like many members of this Chamber, and we all want to ensure that our children are improving while they are at school. We want to support our public school system and our teachers by giving them the resources, support and training they need to help deliver outcomes, something that I take incredibly seriously. I know it matters to parents. It matters to me both as a parent and as Minister. I am confident that we need to do more important work in this space and we will do it.

The Hon. JOHN GRAHAM (12:31): I ask a supplementary question. Will the Minister elucidate her answer? The Minister talked about her numerous previous responses in this House and her acknowledgement of parental concerns. Does the Minister accept that parents and the community are concerned about this decline in results?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:32): I talk to a lot of different parent groups. As I said, I am a parent and I speak to other mums and dads at the school gate. I think it depends on individuals as well. When we look at datasets we need to be aware that some students improve and some students have great capabilities, but others need extra support. Part of it is about making sure that we have the focus, which we do within the Department of Education, and our clear policy states that every student is known, valued and cared for. That is about having the right supports in place to ensure that students can improve against their own ability.

One of the areas that is used in the tracking of data and results is the NAPLAN. Again, as I have said in this House many times and publicly, the Government is undertaking a review into NAPLAN in conjunction with Victoria, Queensland and the Australian Capital Territory to look at the datasets and individual student growth to get an indication. Importantly, it is a right of parents to know how their child is improving. The current testing regime for NAPLAN does not do that in the way that it should. This is another example of the work this Government is doing to try to give parents as much information as we can about their child's ability and growth.

NSW WOMEN'S STRATEGY

The Hon. TREVOR KHAN (12:33): Mr President—

The PRESIDENT: You are on my list.

The Hon. Damien Tudehope: I think it is a hit list!

The Hon. TREVOR KHAN: There is probably an element of truth to that! My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister update the House on some of the major initiatives outlined in the Year Two Action Plan of the NSW Women's Strategy 2018-22?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:34): I am pleased to confirm that I have now released the Year Two Action Plan of the NSW Women's Strategy 2018-2022. The NSW Women's Strategy is a whole-of-government, whole-of-community policy framework that provides a comprehensive and targeted approach to promoting gender equality across New South Wales. The Year Two Action Plan is the second in a series of four annual action plans under the Women's Strategy and covers the period 1 July 2019 to 30 June 2020. Actions in the Year Two Action Plan sit under the three pillars of the Women's Strategy: economic opportunity and advancement; health and wellbeing; and participation and empowerment.

The Year Two Action Plan has 49 actions led by 15 different government agencies and four non-government organisations. This is an increase from the Year One Action Plan, which had 22 actions led by eight government agencies and one non-government organisation. The plan includes major initiatives that aim to improve the economic opportunity of women, increase access to flexible and diverse work and promote women's leadership. For example, TAFE NSW is investing $7.8 million over four years to help up to 5,000 women start their own businesses through online courses and entrepreneurial skills. The New South Wales Public Service Commission is piloting interventions targeting women's career progression into senior leadership in the New South Wales government sector. Create NSW is working to increase the proportion of women in leadership roles in the screen sector, aiming to achieve 50-50 gender parity by 2020.

The Year Two Action Plan supports and promotes a holistic approach to women's health and wellbeing across the lifespan. For example, NSW Health is investing $42 million for improved access to IVF services over four years. The Cancer Institute of NSW is delivering programs to increase the early detection of breast, bowel

and cervical cancers. I remind members that we have a fantastic Breast Screen service in the Sydney Hospital grounds, where fantastic people do great work. Members should make sure they are up to date with their screening. The Department of Communities and Justice is piloting social housing options for older women across three sites in Sydney.

The plan supports women's and girls' participation and empowerment through social networks, access to information and confidence building. For example, NSW Sport is investing $2.6 million over four years for the Her Sport, Her Way Grants Program. The Rural Women's Network is delivering a number of projects to ensure rural women have access to useful information, services and networking opportunities. Multicultural NSW is establishing a roundtable of women and girls from culturally and linguistically diverse backgrounds to provide advice on government policies and programs, and how they affect women and girls from their communities. A Women's Strategy Interdepartmental Committee has been established to guide and support implementation, monitoring and reporting of the action plans. [*Time expired.*]

COAL INDUSTRY

The Hon. MARK LATHAM (12:37): I direct my question to the Minister for Finance and Small Business representing the Treasurer. I draw the attention of the Minister to the decision to block the Bylong coalmine on the basis of the coal being used in South Korea which will supposedly "adversely impact the New South Wales environment". I also draw the attention of the Minister to a similar decision earlier this year in relation to Rocky Hill coalmine. If South Korea cannot access clean coal from New South Wales, will they not find dirty coal elsewhere in south-east Asia, producing an outcome whereby coal emissions rise globally yet coal jobs are lost in New South Wales, particularly in the Hunter Valley where 75,000 jobs are reliant on the coal industry?

The Hon. Wes Fang: Point of order: The question sought an opinion as opposed to fact. Therefore, I ask you to rule it out of order.

The PRESIDENT: There is no point of order.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:28): I thank the honourable member for his question. This is a question in one sense about jobs. I want to say this: It is really good news for the House. We just got the latest job figures. Which State has the lowest unemployment rate? New South Wales. It has gone down again, 4.3 per cent—more jobs in New South Wales. I thank the honourable member for his question and the concerns raised about the Bylong coalmine.

The PRESIDENT: Stop the clock. It is not fair to the Minister that he has to scream to be heard over every other voice, especially given the long day we will have. It is not fair to the Chair or to Hansard when we are trying to hear what the Minister is saying. The screaming coming from both sides of the Chamber is drowning him out. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: We on this side of the House understand the importance of attracting investment to regional New South Wales. We understand the opportunities that investment brings into local communities in the form of jobs, cash flow and the essential infrastructure. I am pleased to inform the House that there is a strong demand for New South Wales coal and a corresponding demand for mining jobs. As reported in the *Newcastle Herald* yesterday, the latest figures published by the NSW Minerals Council show that the number of mining jobs in the Hunter increased by 350 jobs in 2018-19, compared with the previous year. The total is 13,300 positions.

The data collected by the industry body Coal Services showed that the Hunter made up almost 60 per cent of the 22,300 mining jobs in New South Wales. Media reports today suggest the Bylong coalmine would have created 650 jobs during construction, 450 jobs during its 25-year lifespan and an injection of $300 million into the New South Wales economy. There is a flow-on effect into small businesses, many of whom rely on the industry to keep their doors open. The decision that this project will not go ahead was made for a number of reasons. I preface the statement by saying that I have not read the decision and I will not comment on the decision.

I share the concerns of the Deputy Premier and planning Minister that any suggestion that companies are told where they can and cannot sell coal overseas creates a risk to investment in New South Wales. I ask those opposite to confirm their support for the coal industry. The Opposition leader, Jodi McKay, recently visited Newcastle. The *Newcastle Herald* quotes her:

> It is the lifeblood of this community—it provides tens of thousands of jobs and billions of dollars in royalties to the State's coffers.

I say this to those who oppose the industry: This Government believes in the strength of the mining industry, we believe in the strength of its workers, and we believe in supporting the families and communities it represents.

The Hon. MARK LATHAM (12:43): I ask a supplementary question. What action is the Government taking to change the planning system so we can maximise the number of clean coal jobs in New South Wales, which is particularly important to the small business sector in the Hunter Valley?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:43): I always say that Ministers should not come to the podium and articulate new policy on behalf of the Government. I will stand by that position. I will say in answer to the question that this State is served by the most eminent planning Minister that has ever served the State in the history of planning Ministers. I have every confidence that he will get the balance right. In relation to the principal question: In decisions relating to coal there must be balance between the rights of agriculture, preservation of water and the mining industry. To the extent that this decision involves water rights it is sensitive at the current time. I say to the member, I will not speak for the planning Minister. That question should be directed to him. It is an important question about how he achieves that balance.

The Hon. Peter Primrose: How about the question you put to us? You are the Government.

The Hon. DAMIEN TUDEHOPE: I am supporting those communities. I put the question to you.

The PRESIDENT: Order!

The Hon. DAMIEN TUDEHOPE: I thank the member for his question.

Mr JUSTIN FIELD (12:44): I ask a second supplementary question. Is the Minister aware that the report yesterday by the Information and Privacy Commission also cited issues of intergenerational equity, the long-term viability of farming on the valley and the impact on groundwater? Does he accept that the economic security of this State also relies on ensuring future generations have economic opportunities in an area not impacted by coalmining?

The PRESIDENT: I will not allow the second supplementary question. I believe it is out of order. It is imperative when a supplementary question is asked—the first or second—that it seeks an elucidation of part of an answer that the Minister has given. The member does not indicate what part of the answer the Minister has given that he is seeking elucidation upon. I am unable to make that connection.

Mr Justin Field: Point of order—

The PRESIDENT: The member does not get a second bite of the apple. I have made my ruling. He can ask another question later.

STUDENT LITERACY

The Hon. WALT SECORD (12:46): My question is directed to the Minister for Education and Early Childhood Learning. What steps has she taken to respond to community, parental and teacher concerns that New South Wales students are using American English rather than standard Australian English in their essays, written assignments and in class?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:46): It is a good question from a former Canadian, now Australian.

The Hon. Walt Secord: Yesterday was my thirty-first anniversary in Australia.

The Hon. SARAH MITCHELL: I understand I should not respond to interjections, but congratulations. I thank the Hon. Walt Secord for his question regarding community concerns about the specific teaching of English in our schools. I reiterate the answer I gave earlier to the Hon. John Graham: We work closely with our school communities to ensure that they are resourced in the way they need to be to give children the opportunity to achieve and learn the basics and fundamentals of education in line with literacy and numeracy. I have not had any parent raise with me concerns of that happening. If he is aware of concerns I am happy to get that information from him and look into it. I am not aware of it being an issue but if it is we will address it.

SYDNEY DANCE COMPANY

The Hon. SHAYNE MALLARD (12:47): I address my question to the arts Minister. Will the Minister update the House on the achievements of the Sydney Dance Company?

The Hon. Niall Blair: Show us your *Nutcracker*!

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:48): There is no way I will ever attempt to do a dance in this place. The Hon. Niall Blair, when he did his bee dance, was the last word in interpretive dancing. I am delighted to congratulate the Sydney Dance Company on its fiftieth anniversary. Over the past 50 years the Sydney Dance Company has established itself as one of the world's leading

contemporary dance companies. Extraordinarily, in that time it has had only three artistic directors: Graeme Murphy, Tanja Liedtke and Rafael Bonachela. They all did a great job.

In particular, I have known Raf, who has done a great job at a time when the company really needs him. Ditto in terms of the company's executive directors. Anne Dunne leads it today—she is also doing a great job as a Sydney Opera House trustee. She was preceded by Noel Staunton, who really turned that company around at a time when it was in a bit of difficulty. He was superlative. I am delighted to say he has just been appointed as the chairman of the theatre Artform Advisory Board, so he is helping us as well. Throughout this time the company has expanded its reach by performing to audiences across Australia and abroad, showcasing the best of Australian dance at a global scale.

In 2018 alone, Sydney Dance Company performed to more than 49,000 people, including almost 21,000 people in New South Wales. Furthermore, the company has demonstrated a commitment to engaging diverse communities and to nurturing the talent of the future, with 12,000 young people engaged in the company's education programs and workshops, including 1,300 young people living in western Sydney. These education programs offer our young people a window into the art form and an opportunity to enjoy the creative expression that is at the heart of contemporary dance.

Building on the strengths of the past 50 years, arts sector development continues to be a high priority for Sydney Dance Company. The commissioning of new Australian work and a commitment to the professional development of dancers and choreographers has enhanced our State's reputation as a leader in contemporary performing arts. The company's open classes program has delivered fun and fitness to almost 79,000 participants, providing people of all skill levels the opportunity to actively participate at Sydney Dance Company. There has been no shortage of achievements for the company over the past 50 years and I am positive it will continue to deliver significant outcomes well into the future. I am very proud of what the company is achieving with the support of the New South Wales Government. [*Time expired.*]

RELIGIOUS FREEDOM

Reverend the Hon. FRED NILE (12:51): My question is directed to the Hon. Don Harwin, representing the Attorney General, Mark Speakman, SC, MP. Is it still the Government's position to wait for the Ruddock review's findings before taking any legislative steps to safeguard religious liberties in New South Wales? What is the Government's attitude to recommendation 16 of the Ruddock review, which was published 11 months ago and which recommends that New South Wales pass anti-discrimination laws to render it unlawful to discriminate on the basis of a person's religious belief or activity and that in doing so consideration should be given to providing for the appropriate exceptions and exemptions, including for religious bodies, religious schools and charities?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:52): I thank Reverend the Hon. Fred Nile for his question. Yes, it is still the Government's view that it should follow the Ruddock review, which is now of course complete. It is also going to follow the legislation that is about to make its way through the Commonwealth Parliament. I think it is appropriate that we wait and see where that lands at the end of that process before we make a decision. I would suggest that is the practical and efficacious way of handling it. In terms of the balance of the honourable member's questions, I am very happy to refer it to the Attorney General and seek his response at the earliest possible opportunity.

STUDENT LITERACY

The Hon. MARK BUTTIGIEG (12:53): My question is directed to the Minister for Education and Early Childhood Learning. What steps has the Minister taken to improve the literacy standards in New South Wales, given that the latest international comparisons reveal that our schools have fallen behind those in Bulgaria, England, Poland, Taiwan and Latvia?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:53): I thank the honourable member for his question. I begin by reiterating some of the remarks I made earlier in question time to questions in relation to improving outcomes for students at our schools in New South Wales. Of course I mentioned the work that we are doing in the Bump It Up program, which will look at the targets for literacy and numeracy. I also mentioned that we will be looking at wellbeing, attendance and equity as part of that. We are doing that because, while it is important to look at the data around literacy and numeracy and what those results show us, we also need to look at what the entire school experience is like for a child. We know that wellbeing has an impact on learning. It is the first time we will be measuring that on this scale.

We will also look at attendance results. We want to look at attendance data as part of this to see what correlation there is. Obviously, we know that if children are not attending school they are not having the time they need in the classroom and with their teacher. Interestingly, I was speaking about this to someone just recently. If

a child was attending school 90 per cent of the time you would think that that was a fairly good statistic. However, over the course of their school career they could miss up to a year of their education. We want to look at attendance as part of that as well to make sure that we are getting the whole package in relation to what the school experience is like for the child and how that is contributing to their results.

I add that we have our Government's literacy and numeracy strategy. That has been in place since 2017 through to 2020. We have committed $340 million over the four years of that strategy to support implementation of phase two and the K2 early intervention action plan. We know it is important to focus on those early years of school—that is where you can get this work done and where we can help children at the very beginning of their school career. In 2018-19 $87.52 million has been allocated to support the implementation. This commits New South Wales schools to a relentless focus on explicit teaching and high expectations for all students, extending the literacy and numeracy focus—

The PRESIDENT: Order! The Clerk will stop the clock. Is the Hon. John Graham seeking the call to take a point of order?

The Hon. John Graham: No, Mr President.

The PRESIDENT: In that case, he will either stop interjecting or take a point of order—those are his two choices. The Minister has the call.

The Hon. SARAH MITCHELL: As I was saying, this is a relentless focus on explicit teaching and high expectations for all students, extending the literacy and numeracy focus from primary schools into secondary schools as well. A priority of the strategy is to provide clear guidance for schools on explicit teaching and better, faster diagnostic assessment. This strategy has five key elements: a continued focus on intervention in the early years of schooling, as I said; clear guidance on explicit teaching and better diagnostic assessments; more support for literacy and numeracy in secondary schools; quality training for teacher education students in literacy and numeracy; rigorous evaluation so that the focus for government and school investment—

The Hon. John Graham: Point of order—

The PRESIDENT: That is a much better way of doing it.

The Hon. John Graham: Thank you, Mr President. My point of order is relevance. The question was about results, not effort. I ask you to draw the Minister back to the results of students in New South Wales.

The Hon. SARAH MITCHELL: To the point of order: The member asked me what steps I am taking as Minister to address issues around results in literacy and numeracy. I am clearly outlining steps our Government is taking in relation to this policy area.

The PRESIDENT: The question clearly asked what steps the Minister has taken. I indicate, as I said, that it is a much better approach for the member to take a point of order. There is no point of order. The Minister was being directly relevant. The Minister has the call.

The Hon. SARAH MITCHELL: A key element is the focus on early intervention through an extension of the previous 2012-2016 K-2 literacy and numeracy action plan. As I said, $340 million will be invested over 2017-2020 to provide this support. There is more I could say but I have no time. [*Time expired.*]

The Hon. MARK BUTTIGIEG (12:58): I ask a supplementary question. The Minister's answer outlined pre-existing initiatives to deal with literacy and numeracy standards. What I asked was what steps she had taken given recent results that have been forthcoming in the NAPLAN test for last year. I am more interested to know what proactive response she is implementing to those bad results.

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:58): As I said in my original answer, this is a literacy and numeracy strategy over 2017 to 2020. We are in 2019 so this is current steps that we are undertaking. When I responded to the member's question I also mentioned Bump It Up, which we announced earlier this year. We are working hard in relation to helping our schools give the best support that they can. Another area we are working on—the revision has been completed—is the Best Start Kindergarten Assessment. It has been revised and was implemented in all our government schools for kindergarten students from this year, giving teachers a clearer and more immediate picture of the literacy and numeracy skills that each child has at the beginning of kindergarten.

This revised Best Start Kindergarten Assessment provides teachers with immediate access to student literacy and numeracy skills aligned to the National Literacy and Numeracy Learning Progressions. This is information that helps teachers plan for learning right now in our classrooms in 2019. Best Start Year 7 is also now an optional online literacy and numeracy assessment package that was made available to secondary schools, again, from this year. In term one this year 317 New South Wales schools participated in Best Start

Year 7. Participating schools were able to access student assessment information in Scout and Planning Literacy and Numeracy 2 [PLAN2] within days of students completing the assessment. Again, Best Start Year 7 helps with identifying year 7 students who may require additional support in the development of key literacy and numeracy skills. It provides secondary teachers with information to support targeted teaching strategies to meet the learning needs of their students.

This is an area that I as Minister, the Department of Education, and all of our schools and teachers every day are working together on to improve the outcomes of our children. This is something that we take seriously. It is important. There is expectation from the community that we help our students to be their best. There are a range of programs through which we deliver this in our school communities. Our teachers do a great job, day in and day out, in our classrooms. As Minister, I think this work we are doing is very important.

The Hon. Walt Secord: Mr President, second supplementary.

The PRESIDENT: Order! I propose to give the Leader of the Government the call for the following reason—I take it that the Leader of the Government is going to indicate that question time is over—I believe it is necessary for the Chair to treat questions, first supplementary questions and second supplementary questions in the same manner. In other words, if the time for question time has expired and the Leader of the Government is seeking the call to indicate question time is over I propose to give the Minister the call. The Minister has the call.

The Hon. DON HARWIN: If honourable members have further questions I invite them to place them on notice.

Supplementary Questions for Written Answers

ABORIGINAL BUSINESS DEVELOPMENT

The Hon. WALT SECORD (13:01): I have a supplementary question for written answer for the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. In the answer given by the Minister for Finance and Small Business, he referred to Business Connect, an Aboriginal employment program. How many direct jobs does the Berejiklian Government expect to create in 2019-20, 2020-21, 2021-22 and 2022-23 through the Aboriginal Business Connect program and what criteria will the Government use to determine the success of the program?

NAPLAN TESTS

The Hon. COURTNEY HOUSSOS (13:02): My supplementary question for written answer is directed to the Minister for Education and Early Childhood Learning. Given the Minister's answer today that she wants to give parents as much information as possible, will she now undertake to provide parents and schools with the data from those New South Wales schools who quietly sat the practice NAPLAN test this week and will it be compared with their results from earlier this year?

The PRESIDENT: I refer to Standing Order 26, subsection (3) relating to supplementary questions and written answers for the next sitting day. The subsection states that each party and any Independent member is limited to one supplementary question each question time under this standing order. The supplementary question is out of order. There can be only one per party. I should not have given the Hon. Courtney Houssos the call. That was my error.

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. WALT SECORD: I move:

That the House take note of answers to questions this day.

STUDENT LITERACY

COAL INDUSTRY

The Hon. WALT SECORD (13:03): As the shadow Treasurer, I wish to make a contribution to the take-note debate in relation to education, literacy and numeracy, unemployment and jobs and coal. I note that the economic storm clouds are gathering and New South Wales is slipping behind Victoria. We have to face reality and recognise that mining is part of our State's economic future. For the record, I believe in climate change and I believe we have to have a sophisticated approach to the economy. Therefore, I concur with Federal Labor foreign affairs spokesman Penny Wong, who said on 18 August that Labor would not agree to demands for an immediate ban on new coal mines—

The Hon. Niall Blair: Point of order: This is the longest preamble we have seen in one of these debates. The member has not even mentioned who answered the question, or what they said. This is a preamble now talking about Federal members of Parliament.

The Hon. WALT SECORD: In response to the Hon. Niall Blair, I was referring to finance Minister the Hon. Damien Tudehope's answer on unemployment, where he issued a direct challenge to this side on coal. Coal remains an important industry for Australia and remains part of our global energy mix. We survived the global financial crisis for three reasons: stimulus measures, the Rudd-Swan-Henry decision to guarantee bank deposits and the mining sector. Now I want to talk about employment. The Minister, in his answer, did not talk about the number of those jobs that were part-time. He did not talk about underemployment. He did not talk about the challenges that older workers face in re-entering the job market and he did not talk about plans or programs for unemployment, especially on the North Coast, the mid North Coast and in south-west Sydney where it is between 12 to 23 per cent depending on the region.

I will conclude my remarks on education. I support testing, phonetics and I reject the Americanisation of English in the classroom. I am very disappointed that the Minister did not spell out initiatives, plans or policies on how we would claw back our position. In the 1990s, New South Wales and the Australian Capital Territory were tied with Finland on the Organisation for Economic Co-operation and Development league table on literacy and numeracy. Now, under this Government and under this Minister and her lack of policies that she failed to articulate during questions without notice, we are now in the teens. We are behind Latvia, Bulgaria, Taiwan, even the United States. That is extraordinary. She also failed— [*Time expired*.]

COAL INDUSTRY

The Hon. MARK LATHAM (13:07): I want to take note of the answer given by the Minister for Finance and Small Business about the future of the coal industry. I welcome the noises Government Ministers are making about their concern over the decisions to wipe out Rocky Hill and Bylong on the basis that somehow you can destroy jobs in New South Wales and save the planet. It is nonsensical. If South Korea does not consume clean coal out of New South Wales, it gets it from Indonesia, and you have a double whammy: the global carbon emissions go up and we lose jobs and investment here. This is nonsensical. Planning Commission officials are making decisions that do not stack up to any test of logic. Ministers need to do more than talk about it; they need to act. They need to change the planning laws in this State to preserve the future of these working class communities that rely on coal. The figures are stunning.

There is a Western Sydney University report about the Hunter Valley that shows that in the Muswellbrook and Singleton local government areas, some 60 per cent of the economic income is related to the coal industry. Just think about it. You go down a street and three out of five homes rely on the coal industry for putting food on the table, for educating their children, for keeping themselves going. You just cannot walk in and wipe out that level of economic dependence for working people and call it social justice. One of the best points made in this place since the election was in the maiden speech of the Hon. Anthony D'Adam where he said words to the effect that when politicians talk about economic transition working people cop it in the neck. They are true words. They are true words and they applied, to some extent—and I have to say I was there—for part of the 1990s with micro-economic reform, and they apply more so now in working areas that are 60 per cent reliant on a single industry. For those who have their environmental concerns, it is incumbent upon them to come up with the transition strategies that work in practice.

The challenge is huge. That Western Sydney University report included modelling for 5,000 potential new jobs in the Hunter. The region is short by 70,000 jobs because 75,000 jobs rely on coal right now. The Government's Upper Hunter Economic Diversification Action Plan also identifies 5,000 new jobs in the Hunter over the next 20 years. It, too, is 70,000 jobs short. You just cannot do that to working people. The Parliament as a whole needs to do a couple of important things. It must come up with realistic job creation strategies in the Hunter to get to 75,000 jobs, not 5,000 jobs, if that is going to be the environmental agenda. The other important thing is to recognise the fundamental importance of coal. The Government simply cannot transition out with a strategy of driving working people onto the welfare scrap heap. The Government should get on with the job of changing the planning laws to ensure a foundation for this industry that working people rely on.

SCHOOLS ASBESTOS MANAGEMENT PLAN

The Hon. COURTNEY HOUSSOS (13:10): I reflect on the answer provided to me regarding asbestos in New South Wales schools. The Minister for Education and Early Childhood Learning outlined that she was beginning the process of centralising information on asbestos in schools. That is encouraging to hear but it is more in response to the work being done and the questions being asked by the Labor Opposition in both budget estimates and in the Chamber than a proactive response from the Government.

Over two weeks have passed since questions were asked about 109 schools that have friable asbestos on their grounds, according to publicly available information. The Government has not released any updated information. Indeed, it has not told parents or school communities whether it has updated information and whether it is adhering to its own policies and procedures. It is not allaying the concerns of the community in those 109 schools, not to mention the more than 1,000 schools that a Labor audit revealed as having damaged asbestos on their grounds.

If the Government has this information, it should release it today. The wheels of government are working pretty slowly in New South Wales if it has taken more than two weeks to start collating that information. Indeed, I suggest it is more in response to the Standing Order 52 notice that I provided in the House yesterday, rather than a proactive response to provide parents, students and school communities with the up-to-date information they are entitled to on friable asbestos and other asbestos that is on the grounds of New South Wales schools today.

MURRAY-DARLING BASIN WATER SHARING PLANS

Mr JUSTIN FIELD (13:12): During question time today I asked a question about the development of water sharing plans, which is the responsibility of the New South Wales Government as part of its involvement in the Murray-Darling Basin Plan. I appreciate the answer from the Minister—

The PRESIDENT: For the record of the House, I ask the honourable member to indicate which Minister he is referring to.

Mr JUSTIN FIELD: The question was directed to the Minister for Water, Property and Housing. The answer was delivered by the Hon. Bronnie Taylor on behalf of the Minister. I appreciate the answer that was given. It is important that the extent of the obligation and the amount of work that needs to be done in a short period of time is clearly on the record. For the benefit of honourable members, 20 water resource plans need to be finalised. Those plans need to be submitted to the Murray-Darling Basin Authority and need to be agreed and accredited at the Commonwealth level. As part of the development of those water resource plans, 30-plus water sharing plans need to be remade or updated.

It is the middle of September. Twenty water resource plans have been finalised in 3½ months. More than 30 plans need to be finalised. It is telling that the component of the answer that the Hon. Bronnie Taylor took on notice related to the role of the Natural Resources Commission [NRC] in reviewing the sharing plans that feed into the development of the water resource plans. The NRC has a statutory role in reviewing and remaking water sharing plans in this State. Section 43A (3) of the Water Management Act 2000 makes that very clear. It states:

> (3) Before deciding whether to extend a management plan that deals with water sharing or to make a new management plan, the Minister is to consider a report of the Natural Resources Commission that reviews (within the previous 5 years) the following:
>
> (a) the extent to which the water sharing provisions have materially contributed to the achievement of, or the failure to achieve, environmental, social and economic outcomes,
>
> (b) whether changes to those provisions are warranted.

That is a pretty significant review obligation and would very much inform what should be in the plans. We have had a very public demonstration of the very concern that the Natural Resources Commission has with some of the water sharing plans in this State, in particular, the Barwon-Darling. Clearly the relationship between the water Minister and the Natural Resources Commission is strained, as is, potentially, the relationship between the department and the Natural Resources Commission.

How are we going to be able to deliver the plans, do the reviews and ensure that they meet the requirements outlined in the Water Management Act in the next 3½ months? Is it the case that the Department of Planning, Industry and Environment is engaging with the NRC in the development of these plans in full? If not, why not? Are we going to ensure the plans deliver for the basin communities— [*Time expired.*]

MURRAY-DARLING BASIN WATER SHARING PLANS

The Hon. NIALL BLAIR (13:15): I reflect on the answer given by the Minister for Mental Health, Regional Youth and Women representing the Minister for Water, Property and Housing in relation to the ability of New South Wales to meet its obligations under the water management plans as part of the Murray-Darling Basin Plan. I note that the question was asked by Mr Field. The water Minister's office, through the Minister representing the water Minister in this House, clearly identified that New South Wales is committed to this process. The process did not start today; it has been going on for a very long time. I reassure the House that New South Wales is in lockstep with Canberra and with the other States in meeting those deadlines.

As the previous water Minister, I was able to negotiate an extension of time for submission of the plans to Canberra to ensure that the plans were right. A lot of consultation goes into those water management plans. New South Wales has the largest number of water resource plans to submit. It has the lion's share. There is no doubt that progress was slow to get going. The role of the Natural Resources Commission in the statutory review of water sharing plans is very important but we also have a broader, overarching level of consultation in which the water sharing plans play a vital role. The development of the water resource plans is bigger than just the sharing plan. That is why more resources have been put into this area than were allocated in previous years and extra consultation has taken place. And that is why the Minister's office is able to say that New South Wales is working very hard to make sure we meet these obligations.

There was a clear distinction. It was better to go to Canberra and say, "We need to get this right" rather than rush to meet Canberra's deadline. To the credit of the Federal Minister, negotiations between the officials from New South Wales and Canberra resulted in an extension of time for submission. It is just a submission to Canberra at that point, not sign-off by Canberra. The Minister's response to the question put by the member—is New South Wales aware of this and is it going to be able to do it—is that it is working very hard to ensure that it is done and done properly. It is not just about the role of the Natural Resources Commission and it is not just about the water sharing plans. They are but one component of this. The issue is broader than that. We are well aware of it in this State and we are working hard to make sure that we get it submitted and get it right. We have seen what happens when they are not right—our communities suffer.

The Hon. Trevor Khan: Point of order: I am wondering if the *Hansard* of the last two contributions could be sent to the Opposition water spokesperson.

The PRESIDENT: I call the Hon. Trevor Khan to order for the first time.

NAPLAN TESTS

SMALL BUSINESS MONTH

The Hon. JOHN GRAHAM (13:19): I take note of the answers of the Minister for Education and Early Childhood Learning. When I asked the Minister whether New South Wales students will do online NAPLAN next year, what I think she said was that she is considering the time of the full rollout of online NAPLAN—that is, next year there will be two groups of students, some doing online NAPLAN and some doing it on paper. Once again we will have two classes of results in New South Wales, which I indicate parents will be concerned about. I invite the Minister to explain how confident she is that next year we will not have three classes of students: some doing the test online, some doing it on paper and some not doing it at all because the administration of the whole system has fallen over. This is the first time I have heard a New South Wales Minister volunteer that the disastrous online rollout is being done differently in different States. That effectively means the decision about how widespread the online system has been is not an accident, an act of God, an act of the Federal Government or the Federal education system but is a decision for each State about how widespread it has been. It has been a total disaster.

To her credit, the Minister has admitted it today. State education Ministers have not been prepared to volunteer information about their involvement in settling the number of schools that were doing the test online. It is time to concede that the confidence in NAPLAN—not in the test itself but in the way it has been administered—has been shattered. I take note of one further answer because congratulations are in order. I refer to the Minister for Finance and Small Business in relation to the $190 million Jobs for NSW fund. It is big business but under this Government it has been turned into a small business with no board, no CEO and no operating programs. The Minister should be congratulated.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (13:22): In question time a member asked a question about asbestos. Since budget estimates, when this issue was raised and when we answered some questions and took others on notice, I have sought additional advice from the Department of Education on school infrastructure. I retain the confidence that the SafeWork NSW and NSW Health processes for safe asbestos removal are followed. As I said today, I have asked for the additional requirement of central collection of data relating to asbestos removal. I am also advised that the 2019 asbestos register is near completion and will be uploaded shortly.

The topic of student outcomes and results was canvassed during question time. Frankly, I outlined many policies that the Government is working on, including the rollout of Bump It Up, which I announced as Minister this year. I also talked about the NAPLAN review, which I announced as Minister this year in conjunction with Victoria, Queensland and the Australian Capital Territory, which are Labor-run States—the Government is working across the political divide because it is the right thing to do. During question time I did not mention other

examples such as the year 1 phonics check, which I announced this year and whose trial will take place next year. During my time as Minister I also announced outcomes-based budgeting to focus on student outcomes. I have been doing a lot of work as Minister and I will continue to do it because, as I said in my answers, that is my job. We want to ensure that we get this important area right.

The issue of online NAPLAN and parents' concern around two sets of results was also raised during question time. Last year when the initial rollout started—I was not the Minister then—there were two data sets and that was the case this year as well. The collective decision of education Ministers of all States, Territories and the Federal Government is to ensure that there is effectively a caveat on the results so that parents are clear in the interpretation. The results say clearly that there were disruptions this year and that parents should take account of the individual circumstances that their child was in. If parents have any doubts or concerns about their child's progress and development, they should talk to their child's classroom teacher. We have included that caveat on the results because we want to ensure that parents are looking at that data with the right information to hand. We will continue to do those things to ensure that we improve the NAPLAN rollout, which is in lockstep with every State and Territory. We are talking about it collectively because it is a national test and we need to get it right. I am aware of how important that is for families across New South Wales.

The PRESIDENT: The question is that the motion be agreed to.

Motion agreed to.

Written Answers to Supplementary Questions

SCHOOLS ASBESTOS MANAGEMENT PLAN

In reply to **the Hon. COURTNEY HOUSSOS** (18 September 2019).

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning)—The Minister provided the following response:

> The health, safety and well-being of the community is the department's highest priority.
>
> Hazardous material on public school sites is managed in strict accordance with Safe Work NSW and all applicable legislation, regulations, policies and guidelines including the department's Asbestos Management Plan for NSW Government Schools.
>
> When the presence of asbestos is suspected, experts are called in to undertake testing and formulate a specific management plan. The expert advice determines if the safest course of action is to remove the asbestos or encapsulate and seal the asbestos.
>
> The safety and well-being of students, staff and the community is at the core of this decision. This includes decisions about the timing of any necessary removal, which in most cases is conducted outside of school hours and will always occur when students and staff are not present in the affected area in order to ensure there is no risk to their health and safety.
>
> Data on the time of asbestos removal is not centrally held by the department.

The PRESIDENT: I will now leave the chair. The House will resume at 3.00 p.m.

Private Members' Statements

REVEREND THE HON. FRED NILE

Reverend the Hon. FRED NILE (15:02): Sunday 15 September was a very special day for me: It was the celebration of my eighty-fifth birthday. Today is another important day because it is the anniversary of my election to this esteemed House. I was elected 38 years ago on 19 September 1981. It has been a privilege to serve God and the people of this State. Through serving the people of this State in the upper House I have had the opportunity to introduce bills. I was pleased to introduce the bills that prohibited tobacco advertising, smoking in public places and smoking in cars with children with the support of the then Labor Government. That was just one group of bills, which I called my health bills.

People think that when I introduce a bill it is going to be about sex or homosexuality, but those bills deal with very important health issues. I was pleased that those bills received the support of the then Labor Government. It was interesting that the Opposition at the time—the Liberal-Nationals Coalition—totally and strongly opposed those bills until just before the vote when Dr Pezzutti came and saw me and said, "I will not be opposing those bills tonight." I said, "Well, what's happened? You are supporting them?" He said, "No, you have the numbers." That is the reality of politics. The Coalition then gave its support to those health bills dealing with smoking. I will endeavour to continue to do that in the remaining years of my service in Parliament—this final four-year segment.

I also had the privilege, as members know, of serving the church through the Congregational Church, the Methodist Church and through the Australian Federation of Festival of Light—Community Standards Organisation. Because the media do not like to promote or advertise Christian activities, I worked out a strategy—I did not trick them but I would get overseas speakers who were very controversial and well known, such as

Malcolm Muggeridge, a famous atheist who became a Christian. I thought it would be wonderful to have him speak in all the capital cities in Australia—which he did—to share his faith. I was with him for a month and I asked him who led him to become a Christian. He said, "Jesus Christ". I said, "How could Jesus do that?" He replied, "I was making a film for the BBC on the life of Jesus and I was filming on the Emmaus Road and Jesus Christ appeared to me and that is why I became Christian."

TRIBUTE TO SOOLAN CLIFFORD

The Hon. NIALL BLAIR (15:06): I pay my respects to Soolan Clifford. On Saturday 17 August Soolan was tragically killed following a cycling accident. She was training with her husband Stu when she was struck by a vehicle while riding along Spring Creek Road, near Gulgong. Soolan spent many years as secretary of the Mudgee Triathlon Club and was instrumental in building up the annual Mudgee Running Festival. She was an incredible and dedicated athlete who was admired for her discipline, particularly in her training. She had a number of age group wins across all distances and last year represented Australia at the International Triathlon Union World Championships for the standard distance on the Gold Coast. She also qualified for the Ironman World Championship on her first attempt and competed at the big race in Hawaii.

I knew Soolan only briefly. She was part of a group of triathletes from the Central West whom I had an association with. Soolan trained with The Barnyard training group. As an Ironman triathlete and having done four Ironman triathlons, I knew she was amazing athlete and how dedicated she was. She leaves behind her two children, Zac and Bronte. This has been a tragedy not only for the Mudgee community but also for the triathlon community. Too many cyclists in this country are being killed on our roads. We all love those early morning rides but we understand the associated dangers and risks. Vale, Soolan Clifford. Enjoy your big race in heaven. You will be missed by me.

CULTURAL MARXISM

The Hon. ANTHONY D'ADAM (15:08): In recent months we have heard a number of speeches in this place from the Hon. Mark Latham and Reverend the Hon. Fred Nile decrying the rise of cultural Marxism. Until arriving in Parliament I had not encountered this trope of the alt-right. To be honest, I thought, "What on earth are they talking about?" Last month I went looking for evidence of this fiendish plot. To my surprise, in a sleepy street in the inner Sydney suburb of Surry Hills I found confirmation of all their fears. No less than a New South Wales Government-funded theatre company were putting on a production of *Life of Galileo*, a play written by an avowedly Marxist Berthold Brecht. Aha! Cultural Marxism at work. What a surprising delight it was. This excellent production by the Belvoir St Theatre is a testament to the critical role of State support for our arts sector.

For a play written in the late 1930s it has much to say to our present times. Brecht's Galileo is a champion of enlightenment values. His is a struggle for the embrace of reason over irrationality—a hero for science. His findings were an inconvenient truth that the hegemonic power of his age sought to discredit and suppress. I would have thought that even the Hon. Mark Latham might have found something to admire in the character of Galileo. He was a truth seeker who was persecuted for his faith—his faith in reason and science. His was ultimately a struggle for freedom of speech, thought and conviction.

Brecht's play is also a defence of the paramount importance of truth and evidence, and a critique of how the powerful profit from the ignorance of the people. On the eve of the global climate strike, these themes seem entirely relevant and pressing. The overwhelming evidence of impending catastrophe is clear. Science and reason is telling us that we must act. But many established powers seem intent on obstructing action because it disturbs their position in our social, economic and political system. Brecht also has a message for the climate strikers. He says:

> The only truth that gets through will be what we force through: the victory of reason will be the victory of people who are prepared to reason, nothing else.

In an era where our established leaders have failed us, critical struggles are now being waged by the leaderless crowd, from Hong Kong through to the Global Climate Strike movement. Brecht captures this sentiment as well in an exchange between the characters Andrea and Galileo. Galileo, having recanted his position under the threat of torture, emerges from captivity. Having realised that Galileo has betrayed his convictions, Andrea says, "Unhappy the land that has no heroes!" to which Galileo retorts, " No, unhappy the land where heroes are needed." If we cannot rely on our leaders to act to confront the climate emergency, ordinary people must take this struggle forward. I congratulate the Belvoir Theatre on its production. If this is cultural Marxism I look forward to its further march through the institutions.

MILK LABELLING

The Hon. MARK PEARSON (15:10): Milk by any other name. Until quite recently the nations united by the mother tongue of English experienced no difficulty in understanding the multiple usages of that innocent

word "milk". However, Canada and various states in the United States of America have recently legislated that the word "milk" can be used only for products derived from animals, and New Zealand may soon follow suit. The *Oxford English Dictionary* defines the word "milk" as an opaque, white fluid produced by female mammals to feed their young, the milk of cows as a food and a drink for humans, and the milk-like juice of certain plants such as coconut. However, the real root of "milk" is from Latin—the word "lac", but the earliest definition of "milking" or "to milk" is "necare legumi mulgere", which means drawing down the juices of bulb vegetables, without any specific reference to animal products.

In Australia the National Farmers' Federation and the National Party are now lobbying for the dairy industry's exclusive ownership of the word "milk". The logic being applied is that consumers are easily confused and may inadvertently buy a litre of almond milk—God forbid—when they meant to buy a carton of cows' milk. Can it seriously be asserted that Australian consumers may become confused about the contents of their soy latte or coconut laksa? With the dire state of the Murray-Darling River and the challenges of growing food in an uncertain climate, why do The Nationals and the National Farmers' Federation identify milk labelling as the critical issue of the day? It is simple: Cruelty-free, plant-based milks are the future; dairying is the past.

Animal milk consumption is expected to decline at 0.6 per cent each year over the next five years, while plant-based milk consumption is expected to increase at 16.9 per cent per annum. Consumers predominantly cite health reasons for moving from animal to plant-based products, but many are becoming aware of the slaughter of newborn male calves that are simply surplus to the industry's needs. Instead of transitioning to meet the changing tastes of consumers, dairying interests are using their political influence to stymie competition and entrench their position in the marketplace. My advice is that holding back the tide of change never succeeds. Farmers should embrace the future and transform those dairy pastures into fields of legumes and nuts ready for milking.

MALE SUICIDE

The Hon. LOU AMATO (15:14): Every day around eight people will end their lives in suicide. Six of the eight people who tragically end their lives will be male. In fact, the biggest cause of death for men between the ages of 15 to 44 is suicide. The number of men who end their own lives each year is more than double the national road toll. Why men are choosing to end their own lives does not seem to be a topic worthy of discussion. What is alarming is that male suicide rates are increasing and I do not know of any parliamentary inquiry that is trying to find the cause.

The other day I was reading a White Ribbon Australia brochure, which stated, "Prevent men's violence against women." In a world gagged with political correctness, most people have lost the ability to interpret the danger in this statement made by White Ribbon. Anyone still capable of independent thought will quickly see that the statement assigns men as intrinsically violent towards women. No-one disputes that some men are violent and perpetrate horrible crimes, but some women commit terrible crimes too, many which seriously hurt men. In 2007 the Hon. John Ajaka said in the parliamentary debate on the Crimes (Domestic and Personal Violence) Bill 2007:

> I ask the Attorney General to give consideration to also examining the increasing of penalties for vexatious and unwarranted apprehended violence orders by applicants. It is evident that regrettably on some occasions apprehended violence orders applications are vexatious and designed to obtain benefit against the defendant without proper recourse.

I have seen so many men destroyed by vexatious apprehended violence orders [AVOs] that are used to gain an advantage during a custody hearing in the Family Court. I wonder if this could be classified as women's violence against men? I have witnessed many men fight these fictitious AVOs and win. Some cannot endure the lies and pain and just let the AVO stand. Those men are marked as violent for the rest of their lives. Even when an AVO is clearly vexatious, the woman who lodged the application is never brought to justice.

There appear to be double standards in relation to the treatment of men and women. I think it is time we started to realise that many men are being destroyed by continually being labelled as violent. Adopting a default position by our justice system that men are guilty of violence on say-so evidence until proven innocent is clearly causing injustice. We have created a society where men are labelled as violent and their role in the family is irrelevant. Most men are good people who live peacefully and respect women and have never committed any acts of violence. If we started proclaiming the great things about being a man and the contributions they make to society, maybe their desire to suicide might begin to fall.

LEGISLATIVE COUNCIL SESSIONAL ORDERS

The Hon. PETER PRIMROSE (15:16): On 6 August this year I made a contribution to the take note of answers to questions debate, pointing out that many of the answers that I was receiving from Ministers to my questions on notice were contrary to the sessional orders as they were not directly relevant. I was not the only member receiving such inadequate responses. In his reply, the Leader of the Government, the Hon. Don Harwin, said, inter alia:

> Similarly, the Hon. Peter Primrose raised some questions about questions on notice and I will have a look at that as well.

There was no response regarding the issue from the Hon. Don Harwin in the subsequent sitting week, nor has there been one since. Accordingly, a month ago, on 19 August, I wrote to the Hon. Don Harwin and had the letter hand-delivered to his office. In that letter I said:

> I am not seeking advice from the Government on whether the answers I referred to—and many others—comply with the sessional orders. I have already received advice that they do not. I would be grateful for your advice on what the Government proposes to do to ensure that in future it will meet the requirements of the Sessional Orders in relation to answers to questions on notice.
>
> I am further seeking confirmation from the Government that the questions I have already asked and for which non-complying answers have been received, will also now be responded to expeditiously with responses that do comply.

The Hon. Don Harwin, of course, has every right not to respond to me if he so chooses, but Government Ministers have no right to continue to flout the sessional orders adopted by this House. So, for the final time, I request that the Leader of the Government advise what the Government proposes to do to ensure that in future Ministers from both Houses meet the requirements of the sessional orders of this House in relation to answers to questions on notice.

POLICE POWERS

The Hon. ROD ROBERTS (15:19): On Thursday 22 August in his private member's statement, Mr David Shoebridge made some what I would suggest ill-informed comments in relation to New South Wales police and their use of powers to search suspects including the use of strip searches. The Law Enforcement (Powers and Responsibilities) Act 2002 provides police with powers to conduct searches of suspected persons once certain criteria are met. Those searches, whilst not undertaken lightly, are a necessary tool in the armour of our police force to detect and fight crime. From his statement, Mr David Shoebridge would have us believe stripsearching is rampant, particularly at music festivals.

Let us look at some facts. In 2017, approximately 71 music festivals and dance parties were held, which attracted 390,000 people. In that year, 983 strip searches were conducted on festival-goers. This represents stripsearching of 0.25 per cent of attendees. Mr David Shoebridge further stated that in these searches "where police actually find something it is almost always a tiny amount of drugs for personal use". It should be remembered that when police initially form a reasonable suspicion they cannot know the quantity of illegal drugs in a person's possession and whether they are for personal use or for supply. Taking Mr David Shoebridge's statement further, he failed to mention the arrest earlier this year of an 18-year-old female at a dance party that had secreted 394 MDMA pills inside her body cavity.

This is far in excess of the trafficable quantity and it is a far stretch to suggest they were for her own consumption. Far from Mr David Shoebridge's proposition of police flagrantly stripsearching young people who possess illegal drugs for their own use, stripsearching has resulted in many other offences being revealed. In 2018 alone, police detected firearms, knives and sharp-cutting instruments on 93 occasions. Along with those prohibited weapons, illegal drugs were found on 1,553 occasions. In 2014, the most serious crime discovered as a result of stripsearching was the importation of illicit drugs. In 2015, it was deal or trafficking drugs of a commercial quantity. In 2016, it was sexual offences. In 2017, it was an aggravated sexual assault. In 2018, it was child pornography. Surely Mr David Shoebridge would not deny police access to the ability to stripsearch suspects, which may result in the detection and charging of offenders for sexual offences— [*Time expired.*]

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I remind members that time is limited. They should show some courtesy and cease interjecting.

FIRE AND RESCUE NSW COMMUNITY FIRE UNITS

The Hon. SHAYNE MALLARD (15:22): I speak about the important work of Community Fire Units [CFUs] across our State. Members know that the CFUs are teams of volunteers and comprise part of the Fire and Rescue NSW. Members may be familiar with the red trailers that are located around suburbs that border bushland and in fact may be a member of a CFU. Their work is particularly important with the current forecast of warmer than average temperatures over summer and the prediction of increased fire activity with bushfires already raging across New South Wales and Queensland.

CFUs were first formed in Sydney by Fire and Rescue NSW following the devastating 1994 bushfires in the Sutherland Shire. Amid the devastation, pockets of houses were saved by residents who had received basic fire training. A CFU is a team of local residents living in an urban area close to bushland. The teams are supported by Fire and Rescue NSW to enhance their neighbourhood safety and resilience to bushfires and to provide basic operational training and firefighting equipment to aid in protecting their property and their neighbours' property.

CFUs also work to engage local communities in basic hazard reduction, fire safety and prevention activities, and to increase the community's knowledge of bushfire behaviour in their local area. CFUs participate

in Rural Fire Service [RFS] bushfire hazard reduction activities. They are trained regularly and are prepared to defend their homes and their neighbours' homes from bushfires. They assist their neighbours in protecting their properties from bushfires including hotspots or ember attacks until fire services arrive. They extinguish hotspots before bushfires arrive and after they have passed so firefighters can concentrate on fighting at the fire front in other activities.

Ninety per cent of properties, particularly homes, that are destroyed in bushfires are destroyed before or after the bushfire by ember attacks. The CFU specialises in staying behind and dealing with that threat to property when the RFS and the fire brigade move on to the front elsewhere. CFUs provide support to emergency services. Its members do not fight bushfires directly. They protect their community and properties when the bushfires threaten. The CFU program has continued to expand and has increased to over 600 units and more than 7,000 volunteer members across metropolitan Sydney and regional New South Wales.

Members who are familiar with them will recognise their bright blue uniforms and overalls. The exciting news is that I recently completed my induction training with the CFU in the Blue Mountains. I am proud to say that I am now a member of the CFU and the rural fire rescue community, and it is a really strong community. I acknowledge and thank the CFU men and women in the Blue Mountains as well as the CFU volunteers across the State for helping to keep our communities safe. I thank Fire and Rescue NSW and the NSW Rural Fire Service for their invaluable work. This summer they have a tough job ahead of them and we are all thinking of them.

AUSTRALIAN MEN'S CRICKET TEAM

The Hon. COURTNEY HOUSSOS (15:25): I am delighted to congratulate the Australian men's cricket team who recently retained the Ashes on foreign soil for the first time since 2001. It may not seem that long ago to some of us but is actually nearly two decades. It would be remiss of me, when talking about such a series, not to mention the incredible tale of Steve Smith's contribution to the series. He was recognised as Australia's Player of the Series. He returned to cricket after a year-long suspension for ball tampering and scored a century in both innings in the first test—a feat that he had never achieved previously. Through the course of the well-documented series—and I will not recap the amazing feats—he came back from a concussion. As a result, there are some comparisons being drawn—not for the first time but with more strength—comparing his contribution to that of our greatest batsman of all time, Don Bradman.

The off-field transgressions of professional sportspeople and their effect on fans is often spoken about. This was particularly well canvassed 18 months ago when the ball tampering occurred in Cape Town. At a time when we are talking about resilience and teaching resilience to our children, Steve Smith has shown us in this cricket series how to overcome adversity and how to come back from the most terrifying of things that can occur on a cricket field after he was concussed with a ball that was eerily like the one that tragically took the life of Phil Hughes.

The Royal College of General Practitioners report released today in Federal Parliament states that for the first time coughs and colds are being replaced by mental health issues. Anxiety, depression and other mental illnesses are the most common reasons that people are visiting their general practitioners. It is important at this time when we are discussing how we can build more resilience, particularly in our children, and how we can encourage it from a very young age. There is much talk about the need for and the importance of free play and encouraging risk-taking for their personal development. Professor Jonathan Haidt was recently in Australia promoting his book. He spoke about the need to encourage "anti-fragility", which is not only resilience against a fall but also when we fall that we know how to come back. Steve Smith has shown that to us in his most recent display in the Ashes and it is timely for us to think about that.

DEATHS IN CUSTODY

Mr DAVID SHOEBRIDGE (15:29): In 1991—28 years ago—the Royal Commission into Aboriginal Deaths in Custody delivered its recommendations and last year the Commonwealth Government sought a review. The review outlined each recommendation and whether or not they had been implemented by the Commonwealth, States and Territories. The review was designed to assess whether the recommendations from the royal commission have actually been implemented. A key recommendation made by the royal commission was the removal of hanging points from police and prison cells. This recommendation has been repeated in countless Coroners' reports in New South Wales.

The report commissioned by the Commonwealth Government found that the recommendation had been "successfully adopted in New South Wales via methods such as cell checks and screening by the police". Why then, are so many people in custody continuing to die from hanging? On 9 September, during budget estimates, I asked the Minister for Counter Terrorism and Corrections, Anthony Roberts, and the Commissioner for Corrections, Peter Severin, about this exact recommendation. They conceded quite readily that hanging points

have not been removed from New South Wales prison cells. According to Commissioner Severin, it is both too expensive to retrofit cells and unable to be done because there is no funding and no program to remove hanging points from New South Wales cells. Instead, prison staff undertake what is described as a risk management system to assess whether an inmate is at risk of self-harm. The commissioner said that he believes that this is an effective scheme, despite the fact that deaths continue to happen from hanging in New South Wales prisons.

These hanging points have a real life impact. On 30 April the Coroner's Court delivered yet more findings about the death of an inmate in Parklea prison. On this occasion, the inmate had well-documented evidence of depression. He was housed with a cellmate in an attempt to comply with risk management measures. However, when his cellmate was away the inmate committed suicide in his cell by using a rail from his bunk bed—a common ligature point. Between 2016 and 2017 five deaths from hanging have occurred in Parklea prison alone. In the 2018 annual Coroner's report the second largest cause of inmate death was from hanging. For many who die from hanging, there is a well-documented history of mental health issues. The risk management measures used in New South Wales prisons are simply not working.

As with so many of these tragic statistics, it is Aboriginal Australians who bear the brunt. How has this recommendation been adopted by New South Wales corrections? It has not. Hanging points have not been removed from cells in New South Wales prisons and the risk assessments are clearly not enough to prevent deaths in custody. Whilst the Minister has indicated that the new cells being built will avoid hanging points, current thousands of prisons cell remain the same. How many deaths from hanging will it take for the New South Wales Government to finally remove hanging points, prevent the deaths of inmates in our corrections facilities and finally implement the recommendations of the royal commission?

Bills

REPRODUCTIVE HEALTH CARE REFORM BILL 2019

In Committee

Consideration resumed from an earlier hour.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Committee is dealing with the two amendments dealing with conscientious objection—on sheet c2019-056C and sheet c2019-103D.

The Hon. GREG DONNELLY (15:33): During my contribution I will intermittently refer to these amendments colloquially as the Latham and the Blair versions of the conscientious objection amendments. In some respects I believe the issue of conscientious objection—and I have thought carefully about whether it sits at the same level—sits just below the issue of the rights of the unborn child in the way it has been so utterly under-considered and under-examined in the implication of what is proposed in the bill in its current form. There has been almost complete disregard for conscientious objection in the thinking brought by the five members of this Parliament who were responsible for putting the bill together in the first place. But I decided on balance that the right to life had to be above it because if you do not have life, you cannot exercise a conscience.

To be clear, I need to give some context to my specific points about conscientious objection. The co-sponsors of the bill, one of whom was the Hon. Penny Sharpe, gave what can only be described as—and I am being generous here—a perfunctory consideration with respect to the implications and outcomes of their proposed wording of "conscientious objection" in the bill that was second-read in the Legislative Assembly on 1 August 2019. The first print of the original bill had five key sponsors; almost within 48 hours it had jumped to 15 sponsors or thereabouts. For anyone who has been keeping a weather eye out on the significance of rights of conscience and how it has overlapped, intersected, perhaps conflicted and caused a range of issues in this context of abortion, one would have been immediately drawn to the familiarity of the language of the words. Almost instantly they would have seen the same provision that is in the Queensland legislation passed last year—the Victorian legislation was 2008 and the Tasmanian legislation was 2013.

So the conscientious objection provisions in this bill when it was introduced was almost a cut and paste from the other legislation. There may have been a little bit of nipping and tucking, if I can describe it that way, but it was almost a photocopy of the provisions. I do not believe what I am about to say is contested, although as a group collectively and individually the cross-party working group may contest it. When they were crafting the bill—as far as we can tell the Brad Hazzard first became involved in March or maybe a bit later this year.

The Hon. Penny Sharpe: May.

The Hon. GREG DONNELLY: Happy to take the correction on that from the Hon. Penny Sharpe.

The Hon. Penny Sharpe: Point of order: The Hon. Greg Donnelly is entitled to speak to the amendment. I know the Temporary Chair has been giving wide latitude. I am listening to the member make sneaky and

improper imputations around my behaviour and the behaviour of other people in the House. That is completely unacceptable. I ask that he be called back to the leave of the amendment.

The Hon. GREG DONNELLY: To the point of order: There is nothing sneaky about me. I say it straight up. If I wanted to be sneaky I would be sneaky and I am not.

The Hon. Penny Sharpe: Further to the point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): That is not very helpful at all.

The Hon. GREG DONNELLY: I have not finished.

The Hon. Penny Sharpe: Of course not. Go on.

The Hon. GREG DONNELLY: I am being very clear, as far as I practically can, knowing the reality that there were originally five people involved in the development of this bill. So one has been left to, like the majority of the members in this Parliament—there are 135 members in this Parliament and five were involved in developing the bill.

The Hon. Penny Sharpe: You are now abusing the response to a point of order.

The Hon. GREG DONNELLY: No. I am trying to import what I understand happened.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I was receiving advice at the time and did not specifically hear what was said. I direct the member to address the amendment. I heard the background outline that the Hon. Greg Donnelly gave, now we need to focus on the amendment. This is the third day of debate on the amendments to the bill. The Hon. Greg Donnelly will refrain from reflecting upon members and hone in on the amendments on conscientious objection.

The Hon. GREG DONNELLY: I respect your ruling but I have a significant contribution to make on this issue. To be perfectly frank, I do not care it is the third day.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): There are many members who want to make a contribution. I ask the Hon. Greg Donnelly to direct his comments to the amendment and not reflect upon members.

The Hon. GREG DONNELLY: With respect to the drafting and crafting of the bill, those who were not consulted on the issue of conscientious objection or asked for their thoughts on its implications with respect to the bill and its provision were as follows. I set aside the Uniting Church of Australia—and I am talking about the New South Wales and Australian Capital Territory division, and the Pitt Street Uniting Church. That is the entity defined. Faith-based organisations were not consulted. Academics with different views to what underpins the provisions on conscientious objection were not consulted. NGOs with a different view to that of the draftees with respect to conscientious objection were not consulted.

Members of the Legislative Assembly and the Legislative Council with different views on conscientious objection to that which was provided in the bill were not consulted. Lawyers and lawyer organisations, individually and collectively, who had a different view of conscientious objection and its implications in the wording in the bill were not consulted. Obstetricians and gynaecologists who have—they are not unknown out there—a different view to that articulated by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists were not consulted, nor were GPs or nurses—I include in that, but not limit it to, those in training at tertiary level or otherwise, including students and those who have just graduated.

Pregnancy support organisations that deal with people coming through their door and talking about matters of unexpected pregnancies, including people asking questions about issues regarding abortion—what are the arrangements with respect to doctors and how they go about that—were not consulted. I could go on but I will not. Because these people were not engaged in the development of the wording around conscientious objection in the first instance, the bill introduced in the other place on 1 August had such gaping holes in it with respect to conscientious objection rights that you could drive a fleet of Mack truck road trains through it. I will repeat that: The bill introduced in the other place on 1 August had such gaping holes in it with respect to conscientious objection rights that you could drive a fleet of Mack truck road trains through it.

In my contribution to the second reading debate, I specifically went through the chronology of how the bill was dealt with in the other place. I do not intend to repeat that. There is a chronology there. We know that the amendments were dealt with on 8 August, including the amendments with respect to conscientious objection. We know that the bill was introduced on 1 August. Everyone—honourable members, MPs in the other place, Ministers—had one weekend and the working days of Monday, Tuesday and Wednesday to consult with people about the words to do with conscientious objection and their thoughts and concerns about the implications. The

debate began on Thursday. That was the time available to consult with stakeholders about conscientious objection before it was debated in the other place on 8 August.

I do not intend to go through in detail—because other members have—the specific elements of the debate in the other place on 8 August on the matter of conscientious objection. I am sickened to report to this House that the member for Wagga Wagga, Dr Joe McGirr, a GP of very high regard and a member of this Parliament, was treated with derision, sniggers and, dare I say, spite in their faces, by the people promoting and sponsoring this bill. The member for Wagga Wagga had the temerity to get up and articulate a clear position about the deficiencies in the bill on conscientious objection. He is a GP of years standing and is highly regarded in his community—a community outside a large city; it is not Sydney, Wollongong and Newcastle—with expertise in a whole range of areas. When he got up to talk about the conscientious objection deficiencies he was met with derision. I am sickened to have to acknowledge that is what went on.

When Tanya Davies, Kevin Conolly and some members of my party spoke on the issue in the other place they too were met with sniggers and derision that was primarily directed to Dr Joe McGirr, who led the debate on this part of the amendments. What happened in the other place? Late in the day the sponsors of the bill, feeling quite uncomfortable that perhaps they had been a little over the top with their sniggering, spite and rudeness, came up with a window dressing set of words with respect to conscientious objection. It was just looking a bit bad. There was a smell about it. So Leslie Williams, a sponsor of the bill, brought forward a set of amendments, which included inter alia some wording with respect to conscientious objection.

It is curious, is it not, that when the most expert person in this Parliament to talk on conscientious objection—that is, a medical doctor with years of standing, including work in the areas of obstetrics and gynaecology and with GP experience—spoke about the real issues associated with conscientious objection, within literally half an hour to an hour people were flurrying around saying, "Gee whiz, we had better try and do something here." And then bingo! Out of nowhere popped some words that were thrown down as some sort of balm or salve to make people feel, "We've reached out and we've heard you. We understand your pain and this is what we think will fix you up. These are our amendments. Take it." It was not a case of saying, "We want to look at your words." The words were very carefully crafted. I do not know where they were drafted but I am sure they received some pretty expert advice. I am sure the Hon. Mark Latham will not mind me indicating this—I think they helped inform his thinking around wording in his amendment, which is the amendment we are talking about right here. There is a direct connectivity between the two.

The Hon. Mark Latham: They are his words. It is direct plagiarism.

The Hon. GREG DONNELLY: Well, not quite plagiarism because they have been further refined, and refinement is always a good thing. Words were thrown, so to speak, at the person raising it, who was told, "You will have to accept this. We're not going to support your amendment. In fact, we don't want to even talk about your amendment. But we understand your pain so this is what we think you should agree to." The record shows that there was a division. The McGirr amendment went down and, surprise, surprise—I will not say "superficial" as that would probably be unfair—dare I say perfunctory, a word I have already used in this contribution, the effort to address the issue of conscientious objection got up. The amendments got up. And what a huge surprise that was for all the members in the other place. They could not believe that that amendment from Mrs Leslie Williams was going to get up, but there it is, and the bill got amended.

On the issue of conscientious objection along with other matters coming out of the Legislative Assembly with the bill, was in fact a great sense of disappointment in the sponsors of this legislation, particularly those they had consulted with respect to the preparation of the bill. Because the position was to bring this bill into the other place with the conscientious objection provisions—and I will not digress to talk about the fact that they were going to try to get it up on that first day, the Tuesday, to get the ball rolling, and that fell flat—and it got amended in the Legislative Assembly, for heaven's sake.

I have read the Legislative Assembly *Hansard* of 8 August 2019 two or three times. In it you get Mr Brad Hazzard, a key sponsor who was engaged in this discussion over the conscientious objection, and he is the health Minister of this State—the first health officer of this State—saying words like, "This is as good as you'll get," or "This is as good as we can get." Says who, Minister? Who are you? You have effectively become a sponsor to the bill, had your involvement directly in the wording on conscientious objection, and you are saying that that is as good as it will get. As I have indicated, that was not the way it worked out and we found coming out of the other place a second print of the bill with amendments in it including that to conscientious objection.

We then move to the issue of conscientious objection and how it was then dealt with in the period between being reported for transfer from the other place to this place on 9 August 2019 and the actual inquiry—the important inquiry. I have commented many times and I am happy to say it again: Mr Temporary Chair, you did very good job in chairing that committee in difficult circumstances. I am happy to put that on the record. But we

were all fitted up with that inquiry. This Chamber passed an amendment on the Tuesday that we were going to have an inquiry into a bill that had the amendments dealt with two days earlier in the Legislative Assembly.

Ms Abigail Boyd: Point of order: The member is straying a long way away from the amendment. I ask that you bring him back.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I understand what the member is doing. He is critiquing the amendment that came from the lower House to this Chamber and that is what we are dealing with amending now—is that right?

The Hon. GREG DONNELLY: Yes. Absolutely.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I direct the Hon. Greg Donnelly to bring it to looking at this amendment now before the Chamber, the very amendment that the Hon. Mark Latham has moved or the alternate amendment on the table, which was moved by the Hon. Niall Blair.

The Hon. GREG DONNELLY: Yes.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I direct the Hon. Greg Donnelly to directly address the amendments, please.

The Hon. GREG DONNELLY: Well, I am dealing with the amendment that came from the other place and I am informing the Chamber about what then happened with respect to the engagement of stakeholders over their thoughts on the issue of conscientious objection, which are now being ventilated through the actual amendments before the Committee of Latham and Blair. Because the Latham and Blair amendments were informed by what came out of this engagement with the community—those in the community at large who were not invited to participate in the process of the drafting of the bill in the first place. There is a direct connection.

With respect to the submissions to the inquiry and the testimony over the 2½ days, it was there that the issues we are having to grapple with now came out in their fullness and completeness and were spoken about and articulated in some significant detail. It was terribly disappointing that there was no opportunity to find out the views and thoughts of the New South Wales chief obstetrician and gynaecologist about the implications of the failure to consult leading to a clause that dealt with conscientious objection, which had matters that were raised by a series of submissions and a series of witnesses to the inquiry. I will go into some of those submissions shortly. A significant number of issues were there to be considered and answered by the one person in this State who was probably the most capable of responding to and giving an answer to what were the implications of the words in the bill and the concerns being properly ventilated by all of these people. I sought by a motion to have the New South Wales chief obstetrician and gynaecologist—

The Hon. Trevor Khan: Point of order: I do not know if I have done it in this debate, but we have been going for what is turning into one of the longest Committee stages known to this Parliament, I suspect. The position of this Chamber during this Parliament has been that members have to be directly relevant to the amendment. We are now talking about the attempts by the member—as I know, seeing as I was part of the inquiry—to have the chief obstetrician come before the inquiry. How that can be in any way relevant to the question of these two amendments is frankly beyond the imagination of every member in this Chamber. I understand the member's passion but what the member is doing is rehashing the second reading debate. I ask that the member be brought back to the question before the Committee—that is, whether one of these two amendments should be accepted.

The Hon. GREG DONNELLY: To the point of order: If it is not relevant to raise the issue of what we were able to be informed of ourselves as the committee charged with an analysis of a bill to bring before this Parliament, and reflect on in terms of its content and its implications, and the efforts to bring the one person in this State who could have brought a particularly significant perspective, I do not know what is relevant.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I note that I chaired the inquiry. I will just put that on the record. I think the Hon. Greg Donnelly did that earlier. From memory, over the past 2½ days, on two occasions in amendments and in speeches the member talked about that very issue. Members are aware of his view that the chief obstetrician should have been there and he tried to get him there. That is on the record. I think the member can accept that is understood. He should move on to the amendments or conclude his remarks about the consultation in respect of those submitters. He should move on specifically to what the Hon. Trevor Khan said. He should make his discussion around the two amendments before the Committee.

The Hon. Penny Sharpe: Point of order: I am listening carefully to the honourable member's contribution. I believe that he is exposing the discussions and deliberations in relation to that committee. That is out of order. I ask you to rule on that matter.

The Hon. GREG DONNELLY: To the point of order: As the Hon. Penny Sharpe would know, the minutes to the meetings are published in the back of the inquiry report. If she would like to go to the back of the inquiry report, she will see the published minutes, including what I just said.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I think that is right; I will correct that if I have got that wrong. There is no point of order. I ask the Hon. Greg Donnelly to be cognisant of my guidance earlier. I ask him to focus on the two amendments.

The Hon. GREG DONNELLY: With respect to the organisations that participated in the inquiry and made comments in regards to matters to do with conscientious objection, I would like to make some specific reference to those that specifically commented on the subject matter of conscientious objection and then specifically commented in regard to the words in the bill before the Committee. There are a number of organisations and I will go through them one at a time. I will go specifically to the words relating to the bill and conscientious objection. They are precisely issues on the matter of the problems with the wording in the bill. I will then tie that to the amendments in the name of the Hon. Mark Latham and the Hon. Niall Blair. That is what I am going to do.

In regards to the organisations—and there were a number—I am going to take only a subset of them. To be very clear and upfront so people do not get themselves too agitated about this, with respect to faith-based organisations—and they could be Christians, Jewish or Muslim; they might not be monotheistic; they could be Hindu; a whole range—that I am not going to go into those in any detail because I think they speak for themselves in large measure. I will be commenting towards the end, but I am going to exclude them for the purposes of focusing on the organisations that were not faith-based and what they had to say about the issue of conscientious objection.

The first one I would like to specifically refer to is submission 40 dealing with the words in the bill, relating directly to the amendments before the Committee in the name of the Ambrose Centre for Religious Liberty. Specifically on page 3 of that submission, under the heading "Registered health practitioner and conscientious objection", the following point is made:

> The health practitioner who has a genuine conscientious belief that a termination in circumstances save for an emergency or a serious threat to the woman's life in the absence of a termination, is wrong, should not be coerced by law to either facilitate or be a pathway for termination. Referring a woman may be held by the health practitioner to be an act of facilitation or indirect participation in the termination. The requirement to put aside such a belief and subsequently defy the conscientious belief is not only unreasonable but coercive.

It is coercing the person to do something against their conscience. I remind members in this Committee that everyone else in this debate is completely free to exercise according to our deeply held views, whether or not informed by religion or no religion, according to that formed conscience. And to do otherwise is coercive. The submission goes on:

> A health practitioner with such a genuine conscientious belief offends no law by holding the belief. The belief is not irrational. It rests on a reasoned belief on the part of the health practitioner that termination is to deny life to an actual or emerging human life.

That is the belief of that health practitioner. It goes on to say:

> I am aware that other jurisdictions quashed the right of refusal to refer on the ground of a conscientious belief. The other jurisdictions do not stand as an authoritative dictate to what NSW must implement.
>
> The important principle I submit which the Standing Committee might consider is the force of a genuine conscientious belief upon a person. The person following such a conscientious belief, in this case the registered health practitioner, does not seek to offend the law or deny a lawful service to the person.

It does not seek to do that. It continues:

> The health practitioner is simply requesting the right to follow the dictate of conscience.

That is what they are doing. That is what they are asserting. The submission continues:

> This health practitioner's belief can and should be respected as much as that of the person requesting the termination.

I will read that again:

> This health practitioner's belief can and should be respected as much as that of the person requesting the termination. It should not be a compulsion on the health practitioner to forego a deep and genuine belief because the law demands this. The conscientious belief is not intended to harm, delay or deny the delivery of a lawful service.

There is no intention behind that belief. It continues:

> The person seeking the termination can access the service through other medical and or health practitioners. The service is not being denied.

No-one is denying. It is there. It might need to be located, found and sourced, but it is there. It goes on:

> It can be argued, correctly I submit, that a referral does not require a performance or a direct participation in the termination. Nor would it, I accept, require the health practitioner to endorse or approve of the termination. That is not the heart of the matter.
>
> There are two core issues involved. One is the genuine conscientious belief that it is wrong to be any kind of a facilitator or a pathway leading to an act which kills off life or emerging life.

That is the issue. The submission continues:

> The second is whether conscience should be respected, protected and be allowed to be exercised without notoriety. Conscience is universal not a home-grown commodity.

It exists in the core of every one of us. Whether it is shaped by religious practice, belief or traditions or whatever, we all have a conscience.

Ms Abigail Boyd: Point of order: Both of the amendments that we are looking at right now relate to specific changes to the provision. They do not refer generally to conscientious objection or to whether or not a medical practitioner is required to participate in a procedure. I would ask that the honourable member be directly relevant to these two particular amendments.

The Hon. Mark Latham: To the point of order: As the mover of the amendment, I am learning a great deal from the Hon. Greg Donnelly as he outlines material about conscientious objection. He is being relevant in addressing this important issue. I think the Committee needs to recognise that this is, in many respects, an uninformed, new area—the interaction between conscientious objection and professional ethics in civil society. I do not know the last time that the Committee would have debated an issue of conscientious objection. It probably would have been during World War I on the question of coercion and conscription versus those who objected according to their conscience. That was 100 years ago. It is hard to think of another instance.

The Hon. Adam Searle: The Industrial Relations Act 1996.

The Hon. Mark Latham: There is one. The former learned staffer to the Hon. Jeffrey Shaw has given me that example but there are not many. Latitude should be given to explore this properly and thoroughly. I am learning a great deal from the legal opinions cited by the Hon. Greg Donnelly. We should also recognise that, given the truncated process that has been a feature of this, there is a natural inclination for members, including the honourable member, who take a deep and passionate interest in the bill, to want to ventilate their point of view in a way that was not available in other forums. That should be understood as well.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I do not uphold the point of order but, again, I ask the Hon. Greg Donnelly to direct his comments to the two amendments as other honourable members have asked for when taking points of order.

The Hon. GREG DONNELLY: I will re-read the last paragraph because I was interrupted:

> The second is whether conscience should be respected, protected and be allowed to be exercised without notoriety. Conscience is universal not a home-grown commodity. It may be informed by religion or simply by rules of humanity; not to kill unless in self-defence.

I move from that submission to the detailed submission from Ms Anna Walsh, a barrister and a lecturer in law. I refer to one paragraph of several relating to conscientious objection. On page 6 of her submission, Ms Walsh reflects on clause 9 of the bill. She states:

> Firstly, there is an assumption built into this provision that providing information is a reasonable compromise and should not harm the doctor with the objection. This is unfounded. It is not supported by evidence. To know the impact on the doctor with the objection requires asking those doctors. It is not appropriate to ask doctors who do not have an objection. That would be to impose their moral beliefs on all doctors.

This is the State of New South Wales. She continues:

> Accordingly, hearing from conscientious objectors is the first requirement of the state before it takes steps to potentially infringe their rights in order to make laws to benefit others.

That is an almost an analogous point to the powerful point made yesterday evening by the Hon. Mark Latham about States effectively reaching into the innards of a human being and telling them what their conscience is going to be. Ms Walsh's submission goes on. I will not read it but I encourage members who are still contemplating and forming their thoughts on the issue of conscientious objection to read it. It is an excellent contribution.

I move to the submission made to the committee of inquiry by Professor Margaret Somerville, who is an Australian professor of international standing, and proudly so. She was Professor Emerita in the Faculty of Medicine and the Founding Director Emerita of the McGill Centre for Medicine, Ethics and Law at McGill University in Canada for several years before returning to Australia a few years ago to become Professor of Bioethics in the School of Medicine at the University of Notre Dame Australia. In her detailed submission to the

inquiry, Professor Somerville deals with the issue of conscience under the heading of "complicity" which is an interesting word to use—"Complicity in abortion". She states:

> With respect, I find sec. 9 of the Bill, "Registered health practitioner with conscientious objection", incomprehensible.

Professor Somerville is a law professor and bioethicist. She has more than a casual interest in this. She says she finds it incomprehensible and states:

> But having seen such provisions before—

in Canada and elsewhere—

> I'm assuming that the Bill requires that doctors who have conscientious or other objections to abortion must refer a women wanting an abortion to a doctor who does not have such objections.

And she was right, at least before the bill was amended and changed to make that happen. Her submission continues:

> Such provisions are often called a requirement of "effective referral".

I want to make specific reference to that. It is an effective referral as opposed to a direct referral. It has language used in the area of law and bioethics in this context and is called effective referral. The nature of the effective referral that would operate under the amendment moved by the Hon. Niall Blair is clearly an issue. Professor Somerville's submission continues:

> They are—

that is the State is in breach—

> … of the doctor's right to freedom of conscience and for religious doctors, in many cases, their freedom of religion.

So we have got two things in play here—freedom of conscience and freedom of religion. It is interesting that the two have not been distinguished by many speakers on the issue so far. Professor Somerville makes the point that there is the issue of freedom of conscience. They may have no faith tradition but the notion that human beings have a conscience that they seek to develop and form and from that conscience act on what they believe is true, and they inform themselves by using reason to come to that conclusion. A person of faith still uses reason but they bring faith because faith enlightens their thinking. Faith and reason seamlessly come together to shape that conscience but they are two separate things and Professor Somerville makes that point. Professor Somerville continues:

> This is, as human rights lawyer and Jesuit priest, Frank Brennan has stated—

We often hear from people on the other side of politics—and when I say that I mean politics in the context of this debate on abortion law reform—who are quite happy to quote Frank Brennan, SJ. I will quote back a bit of Frank Brennan, SJ, on this issue. This is how he describes what we are talking about. Frank Brennan has stated that this is "ideological totalitarianism". That is what this is. That is his phrase. He has created a term and has used it in arguing this point for some time now—that the State, reaching into the human person and telling them, "That is what your conscience is going to be", is ideological totalitarianism. It is very likely to be treated as a call to civil disobedience. Frank Brennan, SJ, says it is very likely to be treated as a call to civil disobedience by doctors affected by it. Professor Somerville says in her next sentence:

> And what if the doctor thought that an abortion would be a risk to the woman's health, would she still be required—

it assumes the doctor is female—

> to refer the woman to a doctor wiling to carry out an abortion, that is, to practice what she and other competent doctors would regard as medical malpractice?

The submission goes on:

> The problem for a conscientiously objecting doctor is that providing an "effective referral"—

and this is what the amendment moved by the Hon. Niall Blair does: an effective referral, not a direct referral—

> constitutes complicity in the act of abortion to which the doctor conscientiously objects and which for that doctor is morally and ethically wrong.

Morally and ethically wrong. It continues:

> The companion legal doctrine is "being a party to an offence"—

I am sure the learned barristers in this Committee will be familiar with that term—

> when the accused is liable for an offence carried out by another person, but in which they were only indirectly involved. The submission goes on. I move from the Somerville submission to the one that stands in the name of the St Thomas More Society, which is a legal fraternity of solicitors and barristers, which was not consulted with over the bill. Its submission deals with the issue of conscientious

objections in which reflections about the deficiencies of the bill go from page 18 to page 25. That is how thoroughly it deals with it. It is seven pages worth of pretty deep reflection and, dare I say, legal construction of the meanings of the words and how they impact on the conscience rights of individuals. I do not intend to go through the submission but I refer to the heading on page 19—"Cooperation in Evil". People do not like the word "evil" very much—it sounds a bit spooky to me. But what is the notion of evil? We will not get into a discussion about that but it is a sense in someone's conscience that participating in an act that is so retrograde and incontrovertibly at odds with their personhood and nature that it is evil.

The Hon. Mark Latham: It is contrary to their existence.

The Hon. GREG DONNELLY: It is contrary. Thank you. The submission talks about proposed section 9 (3) of the bill. The perverse irony is that this clause is meant to make some provision for people's conscientious objection. This is almost extraordinary and topsy-turvy thinking. The submission states:

> **Cooperation in Evil**
>
> 63. Section 9(3) instead of making appropriate provision for conscientious objection requires the registered medical practitioner to cooperate with the proposed termination by providing information, and by transferring the patient …

I accept that the amendments make some inroads into dealing with that. The submission states that the cooperation of the medical practitioner is "quite unnecessary" and goes on to talk about the availability of information and where one can be directed to obtain an abortion. The submission also talks about the impact on the medical practitioners and health workers. It states:

> The long-term effect will be to cause persons who are unwilling to cooperate with an abortion or to perform an abortion to avoid wide areas of medical practice. In this regard, it is notable that very large numbers of persons within the community are opposed to abortion and have conscientious objection to abortion.

The point that the member for Wagga Wagga raised, to which the Hon. Mark Latham referred last evening, is that medical practitioners with a conscientious objection to abortion are saying that the State is not going to coerce them. Those people said, "I am going to make decisions to put myself in circumstances where I will not be able to be coerced." Therefore the provision of health services to women in regional, rural and remote New South Wales becomes a matter of serious significance. I find it extraordinary that members of The Nationals have not quite come to terms with that, given their involvement in the drafting of the bill. Page 24 of the St Thomas More Society submission states:

> 67. Respect for unborn human life does not depend on theology.

It has nothing to do with theology, faith or belief. The submission goes on:

> Contemporary embryology, together with philosophical reasoning, provides a very adequate basis for respect for human life.

The submission goes on to talk about matters of embryology and related details of physiology and fetology, which I will not go into. The submission states:

> Different religious perspectives have different but highly nuanced—

Mr David Shoebridge: Point of order: I heard the member's contribution down here earlier and I have then been following it upstairs. We are in Committee. We are speaking about the amendments and how they impact upon the bill. It is not a treatise on the concept of conscientious objection, which the member's contribution has strayed into, well beyond a consideration of these amendments. The member has been given enormous latitude but we have an obligation to make decisions on the bill. The rules of debate in Committee are to facilitate us in making decisions and they are not being complied with.

The Hon. Mark Latham: To the point of order: With due respect, the Committee cannot take seriously the idea that the point of order is based on Mr David Shoebridge following the debate upstairs.

Mr David Shoebridge: Of course it can.

The Hon. Mark Latham: What a disrespectful notion to the Chamber. To be in the Chamber is the only way in which a member can gauge logically what is being said and get a feel of its relevance and the reactions around the Chamber. We do not know what The Greens do in their private time up in their little cubbyholes; we have no idea. I dread to think—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I have heard enough. There is a President's ruling that members can conduct their work in their office and it is not supposed to be drawn to their attention that they are not here. We all have reasons to be working in our office.

The Hon. Mark Latham: I have been here.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I know. I have been here too. Do not worry. That does not mean members cannot be following the debate in their office and come down to participate. I do

not accept that contribution to the point of order. In fact, there is a President's ruling on it. As to the point of order taken by Mr David Shoebridge, I am concerned about repetition in the Hon. Greg Donnelly's contribution. I see the large number of submissions from the inquiry that the member is referring to. I draw the member's attention to the issue of repetition in debates in the Committee rules. The member will not be repetitive and he will address specifically the amendments before the Committee. I understand the member's position on what stands in the bill—I am sure other members do. I draw the member to the specific two amendments before the Committee. I uphold the point of order.

The Hon. GREG DONNELLY: Point of order: I am dealing with precisely those amendments. I have made that pretty clear. There are two amendments in the name of the Hon. Mark Latham and the Hon. Niall Blair. Throughout the exercise of going through the key submissions, which deal with conscientious objection—

Mr David Shoebridge: Point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Greg Donnelly has not finished his point of order—

Mr David Shoebridge: No, I am taking a point of order on the contribution by the member. It is not a point of order. The member is challenging the Chair's ruling and dissenting from it.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Yes, I saw that, too.

Mr David Shoebridge: There are procedures to do that. It is not by way of a point of order. The member should either continue the debate or surrender the lectern to another member.

The Hon. GREG DONNELLY: To the point of order: I am not surrendering the debate to anyone, mate.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Is the member contributing to the point of order?

The Hon. GREG DONNELLY: I am making it very clear that I am not surrendering. If it needs to made clear, I am not surrendering my speaking spot to anyone.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): That is not a contribution to the point of order.

The Hon. GREG DONNELLY: I think it was. I think it was said.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I draw the attention of the member to Standing Order 94. I do not like the term "tedious repetition" but that is its title; I prefer "repetition". The member should not go into repetition and he should draw his contribution to the amendments before the Committee. Three members have now taken a point of order. I think that is a strong view that members would like the Hon. Greg Donnelly to return specifically to the two amendments that the Committee is dealing with. I know there is no time limit but I think this has been going for close to an hour. The member will return to the amendments of the Hon. Mark Latham and the Hon. Niall Blair so the Committee can understand the member's position on them and move to the next speaker.

The Hon. Damien Tudehope: Point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I have made a ruling but the member can take a new point of order.

The Hon. Damien Tudehope: A member is entitled to have *Hansard* record, on behalf of the community that they represent in this place, the views of various experts. Clearly there will be some overlap between those views. We have a responsibility to record in *Hansard* the views of the constituents that are made known to us—I suppose there are 14,000 submissions that the member could read on to *Hansard* for the purposes of this debate. The fact of the matter is that although there is some crossover and consistency in all the submissions that the member is relying on, it would be derelict for him towards the constituency that he represents to be hamstrung from representing those views.

The Hon. Adam Searle: To the point of order: The Chair has made a ruling and the Hon. Greg Donnelly is clearly not accepting the ruling and neither is the Minister. They are both cavilling with the ruling. We either uphold the ruling or the debate will descend into shambles.

The Hon. Trevor Khan: To the point of order: I address what the Hon. Damien Tudehope said—it is, quite frankly, wrong.

The Hon. Damien Tudehope: It wouldn't be the first time.

The Hon. Trevor Khan: We are all capable of that. The Hon. Damien Tudehope has essentially made a submission that would be very relevant to the second reading debate. The Hon. Greg Donnelly has had the opportunity to make his point in his contribution to the second reading debate. We are now in the Committee of the Whole considering amendments. It is not an opportunity, as the Hon. Damien Tudehope would say, to make representations on behalf of apparently 14,000 constituents. It is for the sole purpose of addressing the amendments that are before the Committee. I submit that whilst I have much in agreement with my friend on this occasion, he is far from the mark.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Thank you. I turn to my previous ruling. I have been reluctant to make firm rulings because I have been more than generous to allow free flow of debate in this place but I come back to the point that submissions are in the report, they are published and they have been tabled in Parliament. The Hon. Greg Donnelly can refer briefly to them but I direct him to now move from that to the specific amendments before the Committee. Members want to hear his views on the two amendments. The report is published and the Chamber has noted the report, which has all that information in it. The Hon. Greg Donnelly will return to the specific amendments.

The Hon. GREG DONNELLY: Yes, I will return to my right to participate in the debate on the amendments. If I simply nominate the numbers of the submissions and the pages, how is that?

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Yes, standing orders allow for that.

The Hon. GREG DONNELLY: I consider this quite serious; I am not playing some game.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): No, I understand. I am pointing out that standing orders allow members to list the number of submissions and generalise what they state, which I think we understand.

The Hon. GREG DONNELLY: With respect to the last submission from the St Thomas More Society, I have covered those pages. The final page reference I give in regard to that—because it completes the discussion on that point—is on page 25. I move to the submission of Ms Deborah Garratt, a registered nurse from Real Choices Australia, who deals in significant detail on the conscientious objection rights of nurses and nurses in training. That is point No. 9 of her submission. It is very informative. I refer also to the third last page of the submission from the Christian Medical and Dental Fellowship of Australia, which deals in detail with the issue of the conscientious objection wording and the contestation over it, and its implications regarding doctors and doctors in training. The submission of the Plunkett Centre for Ethics—specifically point No. 6 on page 2. I said I would leave religious organisations to the end, but I just want to put the names on the record and the numbers of submissions. Firstly, we have—

Mr David Shoebridge: Point of order: The Chair has repeatedly directed the Hon. Greg Donnelly to address the amendments and since that ruling he has not once referenced the amendments, but has simply listed a series of submissions that either mention or have some relevance to conscientious objection. The standing orders allow for lists of matters to be read onto the record but only when they are relevant to the debate in Committee. At this point, despite the Chair's repeated rulings, the Hon. Greg Donnelly is not addressing the amendments.

The Hon. GREG DONNELLY: To the point of order: I am respecting the Chair's ruling—he has made clear his position. I am now restricted to referring to—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I draw the Committee's attention to Chapter 16 of the Standing Rules and Orders:

> 91. Rules of debate
>
> (5) When an objection is taken to the reading of a list of names of individuals or organisations who have made representations in relation to the matter the subject of the debate—

which is conscientious objection—

> without distinguishing the comments or views of those individuals or organisations, the member must confine their remarks to:
>
> (a) a statement of the comments or views of those individuals or organisations, and
>
> (b) the number of individuals or organisations making similar representations.

That is basically what I directed the Hon. Greg Donnelly to do and it is what he is doing. When that has concluded, which I do not think will be very long, then we will go to the substantive amendments—

The Hon. GREG DONNELLY: And all of those comments on conscientious objection inform my comments on the two amendments.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Indeed. The Hon. Greg Donnelly is adhering to my ruling on Standing Order 91 (5)—organisations and their position can be listed briefly and then move on to the amendments.

The Hon. GREG DONNELLY: Thank you, Chair. The submission stands in the name of Bishop Daniel of the Coptic Orthodox Church Diocese of Sydney and Affiliated Regions. I note that attachment 2 to his submission is a statement signed on 3 August 2019, dealing with, inter alia, the issue of conscientious objection. It is signed by Ibrahim Abu Mohamed, who is the Grand Mufti of Australia and New Zealand, Sheikh Youssef Nabha, Imam of the Masjed Al Rahman, Bishop Robert Rabbat of the Melkite Catholic Church and Bishop Daniel—four of the most senior leaders in this State representing faith groups in the many tens of thousands. The next submission from a faith group that is worth putting on the record, because it covers a number of the faithful in this State, is the submission from the Catholic Archbishop of Sydney, Anthony Fisher, representing the Catholic bishops of New South Wales. In his submission, which is in fact referenced in the report itself, he makes significant comment on the implications of the conscientious objection clause wording. That is the final submission I will refer to, which brings me specifically to—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I add to what I said before and point out the recommendation of the inquiry, which was that the Legislative Council proceed to consider the bill including any amendments in the Committee stage. That is adherent to what the Chamber has noted. The Hon. Greg Donnelly will move on to—as I see he is about to—the two specific amendments.

The Hon. GREG DONNELLY: The two amendments before the Committee are from the Hon. Mark Latham and the Hon. Niall Blair. I endorse the Hon. Mark Latham's amendment for its completeness and universality and coverage, and the way it is giving full expression to the conscientious objection rights of people. If I could put it in alternative terms, I would argue that the clause that was in the original bill that came from the other place was a qualified conscientious objection right. In the submissions I will be referring to you would have noted, Mr Chair, that the submitters have referred to specific language which describes the effect of how a referral for an abortion implicates the person in the practice of abortion, which is the killing of the unborn, and how that trammels and completely contradicts and conflicts with their conscientious objection beliefs.

The other aspect of the Latham amendment, which I find attractive and I think is an enhancement of the McGirr definition, is the issue of the health worker. I find it extraordinary that, bearing in mind the number of people in this House who are nurses and proudly talk about their nursing experience, or who know nurses or may be married to nurses, have not come to the table to speak about the implications of this legislation on nurses. A pregnancy termination is not done by a doctor by himself; the doctor is supported by someone who, in many instances, will be someone who is a registered nurse—and we have been informed, through my questioning in the inquiry of representatives from the NSW Nurses and Midwives' Association, that there is now quite a tier of people who do work that is below that of a registered nurse: enrolled nurses and a whole hierarchy of support that operates within the nursing and midwifery field. There has been utter silence from the registered nurses in this House on the implications.

The Hon. Bronnie Taylor: Careful.

The Hon. GREG DONNELLY: Is that a point of order?

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I warn the Hon. Greg Donnelly not to reflect upon members.

The Hon. GREG DONNELLY: I am not reflecting on any members.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Then move on.

The Hon. GREG DONNELLY: Nurses are front and centre of the conscientious objection rights issue. The doctors may be the ones who are in control of the machinery associated with the killing of the unborn but the nurses are there to provide direct support for the doctor to complete the procedure. The health worker definition was deficient in the original bill, notwithstanding the honourable efforts by those in the other place to try to enhance and improve it—and they fought tenaciously to do what they possibly could—but it was curious that the members in the other place who were nurses or are nurses or know nurses and who had some input into the enhanced amendments to fix up the conscientious objection issue did not even deal with this issue of nurses. Nurses are just invisible, nurses do not exist out there in pre-termination procedures. It is extraordinary. Those two components—the universality and the coverage of the conscientious objection right of people without qualifications for referral, which has been touched on in so many submissions—are very important.

I turn now to the Blair amendments, which have come about in a way that, although a bit different, is analogous to what happened in the other place when they were trying to do something—"We have got to try to

do something. This smells really bad. What are we going to do?" What has come forward is a proposition. I say that without any reflection on the Hon. Niall Blair, who I have very high regard for, who has been placed in this role of bringing forward that and other amendments. I find it quite extraordinary that he has been delegated with that responsibility. He is doing it in the most honourable way, bringing these amendments forward as compromise propositions to assist and enhance the process of amending this bill and he is doing it in, I believe, the most capable way as best he possibly can, but he was not involved in the drafting of these amendments. He has been given these amendments and has been told to go and do it. That is fine, he is doing it. The Blair amendment says:

> For the purposes of subsection 3 (a) the first practitioner is taken to have complied with the practitioner's obligations under the paragraph if the practitioner gives the person information approved by the Secretary of the Ministry of Health for the purposes of the paragraph.

That is what it does. The amendment moved by the Hon. Niall Blair, as we understand it and in trying to comprehend the full import of it, as best we can interpret what is being said—and it has been done in good faith and I accept the Hon. Niall Blair's explanation that it is as best as he has been informed about what this means—would provide for the secretary of NSW Health to approve information consisting of contact details and information about a range of health services and resources, including information about medical practitioners who do not have a conscientious objection right to termination. That is what it is designed to do.

It has been indicated that the New South Wales government service likely nominated to do this will be the New South Wales entity known as New South Wales healthdirect. Essentially, and I say this in the most respectful way, it is a 1800 call facility where you ring in and obtain advice on health matters in New South Wales. I will inform the House of something that was done yesterday. I was contacted today and was presented with this information. Yesterday a woman called New South Wales healthdirect inquiring about a termination at 13 weeks of a pregnancy and was advised by healthdirect to visit her GP, who would give her some tablets. She was advised that she would not need a dilation and curettage [D&C], which is a surgical abortion. With respect to the advice provided yesterday to this woman, it is both legally incorrect and medically unsafe. Medical abortions using only drugs approved by the Therapeutic Goods Administration, the Commonwealth body that regulates these pharmaceuticals, for this purpose can only be legally carried out up to nine weeks, or 63 days, into a pregnancy. She is 13 weeks pregnant and she was told to go to the doctor and get the tablets.

Legally a medical practitioner in the State of New South Wales must complete training provided by Marie Stopes Australia before being able to provide medical abortions. New South Wales healthdirect does it over the phone for someone who is 13 weeks pregnant—four weeks beyond what is the legal position and the medically safe position for such abortions. Simply being advised to go to her GP without knowing whether that GP has done that training is pretty misleading advice, and this woman received that advice yesterday from New South Wales healthdirect—an entity that falls under the control of the Minister for Health and Medical Research, the Hon. Brad Hazzard.

The defeat of the very sensible amendment moved by the Hon. Courtney Houssos to delay the commencement of this bill, precisely to allow time for these matters of transition and implementation to be dealt with, means that much of this material to be approved by the secretary of NSW Health will not be available at the point of assessment. New South Wales healthdirect is clearly not equipped to provide the relevant advice in a professional manner. This means that the alleged improvements for medical practitioners with a conscientious objection to abortion will not be available from day one of the Act. It is completely unsatisfactory. There can be no question whatsoever.

The Hon. Niall Blair has left again. I hope he is listening somewhere. I have the highest regard for his integrity and for bringing what he has been provided before the Committee. However, with respect, what he has brought is completely inadequate in dealing with the primary issues of conscience which have been ventilated by so many people who, once they were given the opportunity to participate fully in the examination and reflection on this bill, have explained in clear and articulate ways why the bill is deficient. I appreciate what has been put forward has been done in good faith but it still does not deal with the issue of referral. For those reasons I fully support the amendment in the Hon. Mark Latham's name and I encourage all members to support it.

The Hon. ANTHONY D'ADAM (16:51): In the second reading debate I took a position in relation to a passage of this bill that was premised on an opposition to amending the bill. That was taken for not only tactical reasons but also reasons that I will elaborate on further. My view was that the primary issues of contention around this bill had been well ventilated in the other place and there was no need for delay. My opposition to amendments to the bill was based on the assumption that the bill could be dealt with in this House and would not require further consideration in the other place. The debate has moved on. The bill has already been amended and it is going to return to the other place so that initial tactical consideration no longer applies. I have been sceptical about most amendments that have been brought forward. It is clear that this is a highly political environment and that many of the amendments have been advanced primarily for political purposes and not for purposes of improving the

bill. I have looked at each amendment on its merits. The Hon. Niall Blair's amendment is one that I would be prepared to support. It is a fairly fine balance.

It is a high threshold for many in relation to supporting amendments and I do have some suspicion that it has some other political purposes to serve, but on its face the amendment has a number of advantages which are worthy of supporting. Primarily, the amendment makes compliance with the obligations of a medical practitioner who has a conscientious objection easier and that is to its merit. If people are able to discharge their obligations with ease then that is something that we should consider. It also makes it much more likely that women seeking a termination will have access to the necessary information that they need and will facilitate the access to the treatment and services that they need. It will mean that they are less likely to face obstruction in that circumstance.

The amendment also has another advantage which is that it raises the threshold for practitioners who choose not to avail themselves of the option of providing the information that is supplied by the secretary, in a sense that if they choose not to provide that information then they are going to have to substantiate reasons why they have chosen to take an alternative path around the provision of information. In light of the fact that the information will be provided by the secretary, it has the sanction of the Ministry of Health. It makes it hard to justify taking an alternative path around the provision of information. I am prepared to support the Blair amendment.

The Hon. MATTHEW MASON-COX (16:55): I failed to put one issue on the record. An unintended consequence in relation to rural and regional provision of services by obstetricians, in particular gynaecologists, comes from this conscientious objection clause in the bill. It is overcome by the amendment from the Hon. Mark Latham. A number of obstetricians who provide services in regional and rural areas—I will not say where as that might identify them—have raised with me concerns that because of this type of imposition they may well reconsider the provision of those services in those areas. In fact, one obstetrician who has spoken to me has discontinued in the past two years because of concerns relating to having to perform terminations in these more isolated areas. That is a personal decision.

My concern is that if we seek to prescribe, in a defined way, a tortured pathway of what must happen and when it must happen—insofar as the referral to services if you are not prepared to provide the service required by the woman—and if you do not comply with that torturous pathway you have the potential sanction of losing your right to practise as a doctor in those areas. It is a very real threat to those who provide those services in rural and regional areas who have a serious conscientious objection concern. It has been raised with me by more than one obstetrician gynaecologist. I know of one who has already withdrawn in the past two years because of the issue that is front and centre in the practice that he undertook in those areas.

I put this on the record because it is an unintended consequence. It is a workforce issue and it emphasises the point I made earlier—which I will not labour but I will quickly repeat—that we really should just be trusting the relationship between doctors and their patients; they will find a way to work this out without being told how to find a way. The amendment from the Hon. Niall Blair is a pragmatic approach but probably a little too prescriptive. I will rest that there. In good faith, I put those concerns on record because that was the undertaking that I gave.

The Hon. PENNY SHARPE (16:58): I speak on the conscientious objection amendments that have now been going since 10 o'clock this morning. There are a couple of things I want to say about this. I am not going to go through chapter and verse what everyone has said in the debate. I have listened very carefully and I think we are all pretty close to our views. I take this back to what the bill is about, what the amendments mean and why they are so important.

But also like the Hon. Mark Latham I have the utmost respect for people of faith. I have had the privilege, particularly in this job, to work with many people of faith when we have disagreed on many things but we were always able to find common ground and work together on issues. I have come to understand from my brash, rude youth that was very anti-religion that that was wrong. I understand that the profound importance of someone's spirituality and religion is something that I have a great deal of respect for as I have gotten a bit older and a bit wiser. In this debate I am not anti-religion and I am not uncaring or unthinking in relation to the dilemma that we are dealing with of conscientious objection and medical practitioners, their role, their own conscience and the role they have to play in relation to their patients.

The bill as it currently stands protects conscientious objection for medical practitioners. They do not have to be involved or perform a termination if it is against their view. I completely agree with that and would fight very hard if anyone tried to take that away from them. I just do not believe it is right; it is fundamentally wrong. Where I am in disagreement is what happens next when a woman goes to her doctor and says, "I need to have a termination", for whatever reason, and that doctor does not believe her? That is really what we are talking about.

This is where we fall on different sides of the debate and I do not agree with the Hon. Mark Latham. I believe that the minute a woman seeks health care, particularly when it comes to pregnancy—we have had a lot of discussion about late-term, early term, when someone finds out they are pregnant, whether they have got barriers to get to the doctor in the first place, how far along they are—I believe there is a duty of care, as is currently set out in the guidelines and in the ethical standards adopted by the Australian Medical Association and others about continuity of care and providing the information that is required for a woman to get the health care that she needs in a timely manner. That is what we are talking about and what I think we are trying to find a way through with the amendments.

The clock is ticking. The continuity of care is really important. I remind members that we already know that 29 women a week, most of whom come from rural and regional areas in New South Wales, travel interstate because they cannot get access to pregnancy terminations in this State. I place on record my thanks to women like Liz Marmo and Caitlin Langley who are from Wagga Wagga and with whom I worked in Albury who have told me stories of women that they have met who have struggled to get access to a termination. For some women that has meant going to a doctor who has not actually disclosed they have a conscientious objection but has said, "Come back. Think about it again." Sometimes they have to wait one or two weeks. Access to doctors who bulk-bill is also a real issue. I suspect that there are not many doctors who are bulk-billing in Wagga Wagga. So there is cost, time and stress.

Some women suffer shame and stigma when they seek a termination. Often their partners do not know they are pregnant, which may be the result of rape or other abuse. They may have other children and finding the time to get back to the doctor would put them on the clock. It is a real problem if they are sent away without further information. Sometimes it has been that bad they have been sent to someone else who that doctor knows. I am not suggesting this is in Wagga Wagga, by the way. This is a separate story. I am talking about other women I have spoken to and the issue for them in rural and regional areas. Sometimes they are sent to a second doctor and again have not been referred on. Time is ticking. An abortion that could have happened at six to nine weeks has gone up to 12 to 13 weeks. Sometimes it is even worse than that. Once they click over that time they cannot have a medical termination. They then have to find the time to have a surgical termination.

Those women are hiding and if they have any difficulties in relation to money or time, or where their personal circumstances are at, it really gets very difficult for them. They have to find an appointment, book an appointment and often have to travel long distances. I know of a young woman who had to catch a taxi from Wagga Wagga to Albury to get a termination because no-one in her family knew. The taxidriver had to wait out the front while she was having the termination. She was left alone. In the meantime, people out the front surrounded the taxi and harassed the taxidriver after having harassed her on the way in. Thankfully we have stopped that behaviour. But these are real stories. When I am trying to balance these arrangements and try to get to the bottom of this, these are the choices that we have to make and that is what we are being asked to make here.

I will not take up too much more time. I am trying to put women's voices back into this debate but I do not in any way denigrate the very strong views held by members in this Chamber in relation to conscientious objection and the very strong views of the medical community but we have to find a way through this. I cannot support the amendment moved by the Hon. Mark Latham. I think it shifts the pendulum the wrong way in terms of what we are trying to achieve. I am able to support the amendment moved by the Hon Niall Blair, which provides a clear pathway where there is certainty.

With the bill we are trying to give certainty to women, their doctors and their medical practitioners. I think that that amendment adds to that without shifting the pendulum in a way that I cannot support it. I do not support the amendment moved by the Hon. Mark Latham but I do not for any minute suggest anyone who does has malicious intent. I know that they have deeply held views. The amendment moved by the Hon Niall Blair will get us there in a way that I am comfortable with and a way that is important to ensure that conscientious objection is upheld to those who have those views, but continuity of health care for women in a safe manner is also there.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (17:06): I support the amendment moved by the Hon. Mark Latham. I appreciated the observations made in his contribution to this debate earlier today—it seems so long ago now that it is almost remote—when the Hon. Trevor Khan said that he would not reflect that I had ever acted in a way which was intended to be racist in my reflections last night in respect of the sex-selection abortion debate. I was defamed outside this place yesterday by a member in another place. The tragedy that I face today is that a member of The Greens, on behalf of a Greens' member in another place, has not come to offer the same apology—

Mr David Shoebridge: Point of order—

The Hon. Greg Donnelly: Well they are grubs, we know that.

Mr David Shoebridge: The member knows this is not relevant to the amendment. If he wants to make a personal explanation, he can do that.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Yes. There is a mechanism for a personal explanation.

The Hon. DAMIEN TUDEHOPE: To the point of order: The Hon. Trevor Khan was given that opportunity in his contribution. It says a lot in relation to the attitude of The Greens that they will do anything—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order!

The Hon. DAMIEN TUDEHOPE: The observation by the Hon. Greg Donnelly is correct.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Minister is not helping the debate. I was in the Chair when the Hon. Trevor Khan made his statement, which did not reflect on anyone. I would prefer that the Minister made a personal explanation rather than use the amendment to reflect upon those comments.

The Hon. DAMIEN TUDEHOPE: I will use the opportunity at a later time.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Minister is fully entitled to do that but he must address the amendment.

The Hon. DAMIEN TUDEHOPE: I have never been called a racist in my life.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I understand that, and I understand the Minister would be upset. Please return to the amendment.

The Hon. DAMIEN TUDEHOPE: Getting the context right in relation to conscientious objection is an important component of this debate. I start from a position of an understanding of what conscience is. The framework within which we should operate is this: Conscience is a judgement of reason whereby the human person recognises the moral quality of a concrete act that he or she is going to perform, is in the process of performing, or has already completed. So it is a judgement of moral quality. In all a person says and does, he or she is obliged to follow faithfully what he or she knows to be just and right. That is the nature of conscience. It directs us as individuals to act in a manner which the individual believes to be just or right.

Therefore, conscientious objection means precisely that a person exercising his or her judgement recognises a concrete act as unjust and therefore wrong to do. To be true to conscience is to refuse, regardless of any enticement or pressure, to consent to perform an act that is judged to be unjust. In relation to the performance of a termination of pregnancy a medical practitioner or health worker exercising their judgement of reason may conclude, as many do, that every termination of pregnancy by its very nature intentionally destroys the life of an unborn human child. And every human child from the moment of fertilisation onwards is a human being—one of us. There are doctors and health professionals who believe that to be the case.

For a medical practitioner or other health worker who holds this reasoned view—based I might say on the best available science—the act of performing a termination would be unjust to the unborn child as it is always unjust to intentionally and directly act to deprive a fellow human being of his or her life. If you form that view, that the unborn child is a member of the human family, then to take that life would be the same as taking the life of another member of the human family. There are plenty of people who take that view and there are plenty of people who do not. To require a person who holds this view to perform a termination is clearly wrong. That is probably agreed and members generally accept that this is the case. The Act provides that those persons should not be required to participate.

However, once we see that at the root of a conscientious objection to termination is a reasoned judgement that it is in every case unjust, because it is always intended to deprive an unborn child of his or her life, then it should be obvious that no person holding this reasoned judgement will see it as anything other than unjust to facilitate the performance of a termination in any way whatsoever. This would include concrete acts such as assisting in the performance of a termination as an anaesthetist, a nurse, an ultrasonographer and so forth. It would also include any act directed at connecting a person requesting a termination with another medical practitioner who is willing to deprive the unborn child of its life.

It would not make any difference whether this was achieved by a formal referral, by passing on the name and contact details of a particular medical practitioner known to be willing to deprive the unborn child of its life, or passing on the contact details of a third party who will connect the person with a medical practitioner willing to deprive the unborn child of its life. Let us understand that this reasoned judgement of what a termination is has a long and established history in the profession of medicine. In taking the two and a half millennia old oath of Hippocrates generations of medical practitioners have sworn to never "give to a woman a pessary to cause

abortion". A medical practitioner swearing this oath did not refer a woman who requested an abortion to someone else who would provide it.

There is an assault today on the rights of medical practitioners and other health workers to exercise their reasoned judgement on what they believe are just and unjust acts. One strongly held position that is unfortunately gaining ground holds essentially that far from being a profession—a reference to the profession of an oath—medical practitioners are simply people with a set of technical skills who can be required to use those skills for any act that is made lawful by this Parliament.

Let me draw an analogy. In the Ontario Superior Court medical practitioners who held a conscientious objection to providing contact details in relation to obtaining euthanasia were told that their only choices were to violate their consciences and hand out the contact details, leave the practice of medicine altogether—either immediately or by being deprived of their licence to practice for refusing to comply—or to retrain in a branch of medicine where no requests for euthanasia were likely, such as liposuction and hair regeneration. That was said by the court.

Do we really want to drive the only GP practising in a country town in New South Wales out of medical practice because he or she refuses, as a result of his or her reasoned judgement, that termination—in every case—is an unjust act that deprives the unborn child of its life, and refuses to hand a person requesting a termination contact details that will facilitate the performance of the termination? My father was a medical practitioner in a country town and I have to say he was a skilled doctor who never would have acted in a way that was contrary to or breached his conscience, even if it was in accordance with the law. If the law required him to do it he would have left town, thereby leaving the town without its doctor.

I have been describing the case of a medical practitioner holding the traditional Hippocratic reasoned judgement on the injustice of abortion. Everything I have said applies also to a medical practitioner or other health worker who comes to a reasoned judgement that a termination requested for a particular purpose or in a particular circumstance is unjust, such as a late-term abortion for a minor or a person with a disability such as Down syndrome. I reflect on this. Others have put it more eloquently than I, but in circumstances where the State requires another member of the State to act other than in accordance with their conscience, and that conscience would extend to providing referral details, then in those circumstances the State is a tyrant and we are the subjects of a tyranny.

I commend the Hon. Mark Latham for moving this amendment and his robust defence of the right to freedom of conscience. I urge members to support his amendment. I will not be supporting the amendment moved by the Hon. Niall Blair for the reasons that follow from the case I have outlined above. I mean no disrespect to him but I think it would be inconsistent with the argument I have made to support that amendment. To be entirely consistent with my position I could not support the amendment notwithstanding that I accept the bone fides with which he has moved the amendment. I urge members to support the amendment moved by the Hon. Mark Latham.

The Hon. COURTNEY HOUSSOS (17:18): I will make a few comments on this very important issue of conscientious objection. I believe the existing provisions in the bill do not provide appropriate protections for doctors and practitioners who have a conscientious objection to performing an abortion. It was the Hon. Taylor Martin who pointed out that although the discussion has focused on the views of individual doctors and health practitioners who hold religious views, there are doctors who hold conscientious objections on the basis of science and their own personal views. They should be equally heard in this debate. In noting that, I speak in support of the amendment of the Hon. Mark Latham. I too support religious freedom. It is an important principle.

It is a particularly important principle when we think about the history of this country and that for the many people who have migrated to this country over a very long period—well, perhaps over the entire course of our history it is not a very long period, but over the long period in our modern Australian history—the attraction of religious freedom has been the one principle that brought them here. It is very important for that reason that a bill such as this addresses and provides appropriate protections for people to exercise their conscientious objection.

I am particularly cautious as a legislator when approaching issues that bring an individual's religious beliefs into conflict with the law that we are proposing. Anybody who understands the fundamental premise of religion understands that people who hold religious views believe that they answer to a power that is higher than any punishment we as legislators in this place can impose upon them. It is a difficult situation to put them in and ultimately it is one in which we will not be the one they side with. We need to be incredibly careful when we approach these issues.

The Hon. Mark Latham has cleverly pointed out that the Federal bill that is being considered currently will have specific implications around religious freedoms. I do not think that that has been appropriately addressed by those proposing this bill. This is an area that has been carefully identified by him and it is remiss of us to not

have addressed it in a more comprehensive way. I am conflicted on the amendment that has been proposed by the Hon. Niall Blair because I believe it is an improvement on the existing practice. After the passing of the bill—and we have all acknowledged that the Legislative Council will pass the bill—abortion will be a legal procedure in New South Wales so it is difficult for the Government not to provide a central reference point of people who will be providing those legal procedures. It provides a logical way of addressing it.

Concerns were highlighted by the Hon. Greg Donnelly and in the contribution of the Hon. Damien Tudehope, which I also listened carefully to, about the validity of the advice that is provided and the fundamental principle for an individual who says, "I am referring them to a service so I feel that I am enabling it anyway." I am still considering how I will vote on that amendment and I will consider that carefully but I come back to the fundamental premise, which is that we in this place are using our conscience vote today to take away the ability of health practitioners and doctors to exercise their own conscience. That is really concerning and members should consider that very, very carefully before they vote.

The Hon. MARK BUTTIGIEG (17:22): I thought this particular amendment might be an opportune time for me to speak for the first time on these amendments because I think it is emblematic of what has been going on in this place. I have been listening very carefully to the debate. There is no implied criticism of my colleagues or other members in any of what I am about to elaborate on. One of the things I have struggled to come to terms with is the idea that there is a pre-existing situation in New South Wales in which abortion is pretty much on demand. Earlier contributions to the debate on the substantive bill and in the subsequent amendments have mentioned that the figure is around 30,000 a year.

The reality is that if a woman wants a termination it is not that hard to achieve but under the Crimes Act it is prosecutable. That is the essence of what the developers of the bill were trying to foreclose. In other words, to avoid rogue prosecutions whereby a woman who validly wants a termination could potentially be unreasonably prosecuted because the bill resides under the Crimes Act. Those people were trying to achieve the simple process of taking it out of the Crimes Act and keeping it intact within the threshold of what is required to satisfy it and putting it into a health Act.

I have used that fundamental principle as a threshold by which to judge subsequent amendments on the basis that if the amendments were to restrict access to abortion—in other words take access back from what it is now—then they do not pass that threshold test in my view. Today and yesterday have been illuminating and fruitful because there have been genuine attempts by people like my colleague the Hon. Niall Blair to try to reach a compromise position on the issues that people have raised such as the one we are talking about now regarding conscientious objection. He has tried to cater for them without restricting unduly a woman's right to access a termination. This is a classic example. The Latham amendment is pretty absolute. The first paragraph, which has been quoted in previous contributions, states:

> A health worker may refuse to perform a termination, assist in the performance of a termination or otherwise facilitate the performance of a termination if the health worker has a conscientious objection to the performance of the termination.

The finality of that is problematic and would unnecessarily restrict a woman's right to a termination in that situation. Again, a lot of these things come down to class issues as to the people who are going to suffer. Women from lower socio-economic, disadvantaged or migrant backgrounds are going to end up being disproportionately discriminated against, such as when someone is in a regional area. A typical example is when a doctor says, "I'm sorry, I can't perform that procedure." It means all bets are off. Where is she going to go? As if it is not enough to deal with the psychological stress and pain of having to go through this, she is rejected by the health profession and has to try to find her own way.

It has been pointed out by many colleagues that in the interim there could be several weeks go by so the term of the pregnancy extends and the problems compound. It is alright for a person in Sydney where they have access to a range of options and they are probably well connected in terms of their social circles if they are middle or upper class. They can pay for these things. There are ways to do this. It happens right now. But if a person is not in that situation, these amendments are essentially trying to re-regulate abortion over and above what it is now under the Crimes Act. So on the one hand we are decriminalising it by taking it out of the Crimes Act and putting it into the health Act but then we are putting all this regulation back in to try to restrict access to a termination for a valid reason.

I go back to the example of why this amendment—and others too, which are largely coming out of the Blair initiatives—is a good example of a genuine attempt to try to make the bill work. I commend the people who have made this effort because I think it is genuine and we can get a good outcome if people are reasonable about this. It is about striking a balance. In this case it is about striking a balance between what is a valid concern that the member has pointed out regarding the rights of people to have a conscientious objection—and I can fully understand that—but then it says, "If you do object and you do not want to perform the termination then act as an

agent to refer them on to someone who will." I do not find that objectionable at all. I think it is a practical solution to what is a very difficult problem. It strikes that balance I was just referring to.

I will judge this amendment and subsequent amendments, as I have voted on the previous amendments, based on that fundamental threshold issue—does it improve the competing claims? In other words, in this case if it improves the competing claims of those who have a conscientious objection but it does not unduly restrict access to termination over and above what it is now, I will support it. That is why I am commending this amendment to the Committee. If the object is to re-regulate to the point where access to terminations is unduly reduced or reduced more from what it is now, then why were people not up in arms about this stuff over the last 10, 15, 20, 30, 40, 50, 100 years? Now this bill has come up and we have taken it out of the Crimes Act, suddenly abortion on demand is a massive issue. I do not understand the logic but I do appreciate the genuine attempts by the Hon. Niall Blair and others to make this thing work. I commend the amendment to the Committee.

The Hon. MARK LATHAM (17:30): I have been present for the five hours of this debate so I might make some closing remarks. Initially I had a page of notes scribbled down and was planning a detailed rebuttal of each and every speaker who was not supporting my amendment. But I rather sense the mood of the Chamber after this exhaustive ventilation of the facts is to move on more briskly than what I had originally proposed. So I am a member of Parliament imposing a gag on myself, just hoping to have a few moments to thank contributors in what has been a lengthy debate. It has been a quality debate. The philosophical differences between status and small-l liberals of various descriptions has been not only fascinating but also informative—perhaps a precursor to other debates. Most notably, I gave notice of a private member's bill for religious freedom where these issues will again acquire currency.

I thank in particular the Hon. Adam Searle and the Hon. Trevor Khan for their recognition that proposed section 10 (3) holds up as a protection under the impact of my amendment—effectively better than proposed section 9 (4). I think that was acknowledged finally after the skirmish and differences last night. I thank the Hon. Adam Searle for his contribution on the philosophical question of absolute freedoms—whether or not they truly exist. I did have rebuttal notes but we will rejoin that debate at a further stage in the context of the excellent and very pleasing—at a personal level—contribution by the Hon. John Graham resurrecting some of the lost Labor tradition of Murphy and Cairns. This is something important beyond this legislation. It goes to the future direction and meaning of Australia's oldest political party. They are always matters of note and I am sure they will always be taken seriously in this Chamber.

I thank the Hon. Penny Sharpe, who I must say, in listening to the debate and all her contributions, I had not fully appreciated her depth of experience and understanding in this area and sincerity. I appreciated her comments today about religion. I would not regard anybody in the debate as anti-religion. I do not think that has been a feature. It has been about balance and this question of whether or not the proposed section I put forward and the rest of the bill clashes or coexists. I think that has been handled the right way. I thank the Hon. Greg Donnelly for the exhaustive research, detail and edification he provided to the Chamber. I learned a lot. In presenting those legal opinions, he confirmed how the debate was a good advertisement for having the Committee proposal that was voted down 13-5 some time ago in this Chamber.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I thought you meant the inquiry that I chaired.

The Hon. MARK LATHAM: No. The extensive three- or four-month committee inquiry, and you did a magnificent job of the social issues committee. But given the complexity of the legal issues—unlike the barristers and Queen's Counsels in the Chamber, I have no legal training—I did try and get my mind around them. They are not easy. The question of whether my amendment is clashing or coexisting, overlaid by this whole question of the Federal draft Religious Discrimination Bill. It is not an easy bill to read. The drafting has not been as eloquent as the things we do here. They have got double negatives in many of the provisions, which makes it hard to understand the impact. It is a genuine shame for the Parliament that we have not got definitive legal opinion in that regard. I did write to the Attorney General. He passed it on to the health Minister. I have not heard back.

I passed that information onto each of the co-sponsors of the bill and the only legal opinion came back was that furnished by the Hon. Trevor Khan from the Human Rights Law Centre. But when you go to its website part of its charter is the protection and defence of the reproductive rights of women. So I do not think they come to it as an independent legal authority, although their views must be respected in the way in which they were presented by the honourable member. I had legal opinion furnished to me from private sources that others, if they knew the detail, might not say were independent. It would have been better had we had the Government solicitor and an extensive examination of all these legal issues because they are incredibly complex. I would be hopeful in the future, and I had preliminary discussions with some members in the debate, that the Legislative Council Standing Committee on Law and Justice Committee could either take a self referral or a formal referral from the

Parliament to look at these legal questions as they unfold. We will have to see what they do in Canberra on the Porter bill.

Reverend the Hon. Fred Nile: Refer the bill to them.

The Hon. MARK LATHAM: No, I am not going to formally refer it to the Reverend Hon. Fred Nile. I think we are past that point. But it would be wise for the Parliament to acknowledge across the variety of opinions and voting intentions we have here, that the legal questions we have looked at in this extensive debate are still unformed. We have not had a definitive opinion from the Government solicitor. We have had honourable members talking about opinions that they have accessed. My advice was that at very best, this bill would be contested in the court—the Federal override. At the very worst, the override would apply. Whether that is true, whether the views expressed by the Human Rights Law Centre are valid, we will find out in due course. But it may well be a task for one of our committees to look at that and report back to the House. That is not a closed question. It remains an open question and we will have to see how it plays out with the passage of time.

The main question presented by the Leader of the Opposition was whether my amendment is clashing or coexisting. From my perspective, it is an argument for coexistence. In my assessment, in removing the possibility of State coercion, it leaves this issue of conscientious objection and professional ethical obligations to be resolved in civil society by the doctors themselves. I think that is the right place. In my assessment there are absolute rights in society. Not all rights are conferred by government, many exist in civil society in the interaction between citizens. When you think about the health sector, while it is mixed in its public and private funding, anyone who goes to a doctor does not feel they are going to government. The feeling of going to a doctor is a deep personal relationship, in a time of need, between the patient and the medical practitioner.

To resolve it in civil society, for doctors themselves to have a look at their ethical obligations to see if they want to exercise a conscientious objection, I think is the right space and way to respectfully deal with the issue. Others have a very different opinion and I respect that. I feel thankful to have participated in a debate that in its philosophical underpinnings was outstanding for this Chamber. Its attempt to deal with the legal complexities was honest and genuine and across the board it has been a tribute to the Committee. Even though I am somewhat pessimistic about the fate of my very fine amendment, I nonetheless feel that we have been a better Parliament for the past four or five hours and I thank every honourable member for that.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Earlier today there was a request from the Hon. Mark Latham to the Hon. Trevor Khan to table a document he was reading from on his phone and I was advised that was not possible because of convention. I have received advice from the Clerk that I will read onto the record for members to reflect upon:

> Chairs of Committee have consistently applied the rule that it is out of order to table documents in Committee. For example, in 1997 and 1998 the Hon. Duncan Gay, when Chair of Committee, ruled that "Members are unable to table documents during the Committee stage; however, the document may be read onto the record".

That is what the Hon. Trevor Khan was doing. The advice continues:

> Since its inception, the standing orders of the Legislative Council have not made provision for tabling of documents in Committee of the Whole. Committee of the Whole can only consider matters referred to it by the House. In this case the House has referred the Reproductive Health Care Reform Bill 2019 for consideration in detail. The scope of the consideration is determined by the standing orders. While the standing orders clearly allow amendments to be moved to a bill in Committee, there is no other power or provision for a Committee of the Whole to receive documents or submissions or take evidence in any other way.
>
> On a practical level, there is also no mechanism for a document tabled in Committee to be reported to the House or for the House to consider whether or not to accept the document or make it public. Ultimately it is for the House, not the Committee, to decide whether this tradition should continue. However, if there is to be a change in this area, it needs to have full and due consideration.

I ask all members to reflect on that advice. I trust that the Hon. Mark Latham appreciates the Clerk's response to his request.

The Hon. Mark Latham: Thank you.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Mark Latham has moved amendment No. 1 on sheet c2019-056C. The question is that the amendment be agreed to.

The Committee divided.

Ayes 14
Noes 27
Majority.....13

AYES

Amato, Mr L	Banasiak, Mr M	Borsak, Mr R

AYES

Donnelly, Mr G	Farlow, Mr S	Houssos, Mrs C
Latham, Mr M	Maclaren-Jones, Mrs (teller)	Martin, Mr T
Mason-Cox, Mr M	Moselmane, Mr S (teller)	Nile, Revd Mr
Roberts, Mr R	Tudehope, Mr D	

NOES

Ajaka, Mr	Blair, Mr	Boyd, Ms A
Buttigieg, Mr M (teller)	Cusack, Ms C	D'Adam, Mr A
Faehrmann, Ms C	Fang, Mr W (teller)	Field, Mr J
Franklin, Mr B	Graham, Mr J	Harwin, Mr D
Hurst, Ms E	Jackson, Ms R	Khan, Mr T
Mitchell, Mrs	Mookhey, Mr D	Moriarty, Ms T
Pearson, Mr M	Primrose, Mr P	Searle, Mr A
Secord, Mr W	Sharpe, Ms P	Shoebridge, Mr D
Taylor, Mrs	Veitch, Mr M	Ward, Mrs N

Amendment negatived.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Niall Blair has moved amendment No. 1 on sheet c2019-103D. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 31
Noes 10
Majority.....21

AYES

Ajaka, Mr	Amato, Mr L	Blair, Mr
Buttigieg, Mr M	Cusack, Ms C	D'Adam, Mr A
Fang, Mr W	Farlow, Mr S	Franklin, Mr B
Graham, Mr J	Harwin, Mr D	Houssos, Mrs C
Hurst, Ms E	Jackson, Ms R	Khan, Mr T
Maclaren-Jones, Mrs (teller)	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Mookhey, Mr D	Moriarty, Ms T
Moselmane, Mr S (teller)	Nile, Revd Mr	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Secord, Mr W
Sharpe, Ms P	Taylor, Mrs	Veitch, Mr M
Ward, Mrs N		

NOES

Banasiak, Mr M (teller)	Borsak, Mr R	Boyd, Ms A
Donnelly, Mr G	Faehrmann, Ms C	Field, Mr J
Latham, Mr M	Roberts, Mr R	Shoebridge, Mr D (teller)
Tudehope, Mr D		

Amendment agreed to.

The TEMPORARY CHAIR (The Hon. Niall Blair): Order! We now move to amendments Nos 1 to 3 on sheet c2019-137B.

The Hon. GREG DONNELLY (17:54): By leave: I move amendments Nos 1 to 3 on sheet c2019-137B in globo:

No. 1 **Informed consent and disability**

Page 7. Insert after line 11—

14 Information about disabilities

For the purposes of paragraph (c) of the definition of ***informed consent*** in Schedule 1, the Secretary of the Ministry of Health may keep a register of peak bodies, non-government organisations and peer networks which represent persons with conditions referred to in that paragraph to assist medical practitioners in providing referrals to, or otherwise providing opportunities to speak to, representatives of the bodies, organisations and networks.

No. 2 **Meaning of disability**

Page 8, proposed Schedule 1. Insert after line 6—

disability means—

(a) a condition that meets, or is likely to meet, the disability requirements or the early intervention requirements under the *National Disability Insurance Scheme Act 2013* of the Commonwealth, and

(b) another condition that is a disability within the meaning of the *Disability Inclusion Act 2014*, and

(c) another condition prescribed by the regulations for this definition.

No. 3 **Informed consent and disability**

Page 8, proposed Schedule 1, line 11. Omit "termination.". Insert instead—

termination, and

(c) for the performance of a termination following a prenatal diagnosis of a suspected or confirmed disability, after—

(i) being given information about the support offered under the National Disability Insurance Scheme, within the meaning of the *National Disability Insurance Scheme Act 2013* of the Commonwealth, to children with that disability, and

(ii) being referred to, or otherwise given the opportunity to speak to, representatives of the peak body, non-government organisation or peer network which represents persons in New South Wales or nationally, including children, living with that disability, and

(iii) being given any other information or support prescribed by the regulations for this paragraph.

On a number of occasions it has been said in this debate—and I do not want to characterise the debate because I do not think it is helpful to say "all sides of the debate". What do we mean by sides? How many sides?—that it is an excruciating matter to contemplate, follow through and have a termination of a pregnancy conducted. That is a statement of fact. Unless one has had a pregnancy termination, it would also be a broadly agreed statement that one cannot imagine what it is like to have experienced such a procedure. These amendments go to an issue that I have felt quite strongly about for quite some time. In my own way, I have tried to think how—and if—one can do anything to help address the difficult situation and very particular circumstances that people in our society are in today. I am referring to disability in the unborn form—in other words, a disabled human being in utero.

Over some time I have spoken, particularly through contributions to the adjournment debate in the House, about the situation of the termination of unborn lives in the context of the disabled. I have referenced material that is widely available to anyone who cares to look at this area about the unborn being diagnosed with Down syndrome through the tests that are readily available to pregnant women. The word "disability" brings challenges of what one means by it. I do not want to get into the broader discussion about the nuances of the issue and whether one is being perhaps disrespectful in using certain language. Forgive me, I am trying to be as clear as I possibly can about the proposition here. I am talking about a person who, through the testing undertaken by the mother-to-be, is found to possibly have a congenital abnormality.

That terminology, "congenital abnormality", is used in the medical field. That has happened with respect to the condition of Down syndrome within that subset. Over the past two or so years I have given relatively short,

specific speeches in this Chamber—they have been adjournment speeches—talking about what is happening in the world around us. I have spoken in those broad terms and, indeed in Australia, with respect to the situation of an unborn, whereby the mother is diagnosed—and we know there are various tests such as the amniocentesis test, which is well understood and has been in existence for some time. Increasingly a whole range of new tests are coming onto the market—if I can use the awkward phrase "reproductive services market"—to test for genetic conditions.

In 2019 in Australia—this First World country that we are all so fortunate to live in—with a First World healthcare system right across the Commonwealth of Australia, the issue of the movement onto the market of new and more sophisticated tests with respect to the identification of what are actual, or may be actual, conditions within that broad term of "congenital abnormality", or "genetic difference" or "genetic aberration"—you could use a range of words and I am just using words to broadly describe what is sometimes said about this—is ultimately creating a scenario whereby the unborn in New South Wales and in Australia at large are subject to testing.

The outcomes of those tests are having a demonstrable and profound impact on the likelihood of whether or not that unborn will be born alive and experience a full, human life—as we all have been able to enjoy because we have been able to live fully as human beings. With respect to those genetic tests, I cannot fully comprehend the edge we are upon in terms of what will literally come onto the market within the next few years and become commercially available and subject to the economic forces of supply and demand and the way in which the costs of providing such services will be paid for. I make a specific point with respect to Australia's public health system and the payment of those tests through our public health system. We have a very real situation that companies—and these are essentially pharmaceutical companies and companies that operate within the broad field of medical science—are working, it is fair to say, at breakneck pace to be the first to enter into a marketplace to have their reproductive testing service commercialised and made available for what is purchased, the payment of the test.

If that can be brought to market and commercialised, and then instituted into the national health system in Australia, whereby the costs of those tests are significantly, if not completely, paid for, under the way in which a Medicare item number is provided to that service, making it effectively a rebate or payment, then one has a situation of a very high attraction for the offer of the test. Quite naturally a number of pregnant women will be attracted to the proposition of having the test to find out, to discover, to establish, to appreciate, whether or not they find themselves in a situation where their unborn either is, or may have a particular congenital abnormality, or, as we move into the future, a disposition of a genetic condition that has been essentially determined, as best as possibly can be determined, through the application of a scientific medical test.

This has come up in debates on another amendment but I think it is a very important point to make and it has been reinforced to me time and time again as I have spoken to people—doctors, obstetricians, gynaecologists, radiologists and people who work in this area—and they have explained to me—I will be coming to this in a moment about the peak disability bodies that represent people with a disability—that those tests are always done subject to the possibility of error with respect to the way in which the results may be reported. What I mean by that is that in the context of the language used—and this is the worst-case scenario for the unborn—a false positive test. In other words, the test being done produces a result to suggest that there is in fact a condition, when in fact it is found subsequent to—and we are talking here about the procedure of the termination—what we have had it done.

I cannot comprehend the emotional distress of that because I have not been in the situation of a woman—and if she has a husband, or a partner, or a boyfriend or whatever the case may be, or she may in fact be a single mother who has this experience—who has, through a miscarriage, bore a child which she believed to have a congenital abnormality, but subject to this piece of information made the decision and it was a false positive. The abortion takes place and what is delivered through the miscarriage—and it is normally through a miscarriage where it is an inducement of the advanced, developed fetus—she bears a completely normal, unaffected child, which is now dead. People can go and do their own research—and probably some have done this and looked at this closely—about the size of, or the numbers of or the percentages of false positive testing.

There is some contestation around what the numbers associated with a false positive results are, but I have to say, the fact that one normal child—I say "normal" and do not use that in any pejorative way—but a child that does not have a disability and is terminated, is a tragedy beyond belief. Something that was not, in my view, fully ventilated in another debate and I will not canvass it in detail now, is that deliberate termination of an unborn that does have an abnormality is a highly problematic proposition itself because if one takes the position, as I do, that the unborn is human life—if one does not consider it is fully human in the sense of being fully developed it is certainly nascent human life at the very least—the killing of an unborn, whether it has or has not a congenital abnormality or a genetic condition, however one would like to define that, is ultimately an act of killing the unborn.

With respect to the issue of an unborn with a genetic condition or a congenital abnormality, those who make it through the full gestation period and are born via a natural birth or a caesarean section, our law, as it stands, is that if they are born alive that is when we as a society, as a matter of law, recognise them as a human being. It is not a position I hold; I believe they are a human being from the point of conception, but the point is that the law, as it stands—and it has stood for some time—is that that formal recognition of being a human being is at the point of being born alive.

With respect to babies born alive, we have had the extraordinary development in this country, which I think we can all be proud of in the way in which we as a civilised society have come to terms with what is our collective sense of understanding of respect for people with disability and their innate rights as human beings in the full and complete sense of the word as a person who does not have "a disability", that we have had, through the development of policy work that was done—and I am very proud to say that the Labor Party was involved in it, but I give full credit to the Coalition parties coming together pretty quickly with the understanding that this was an extraordinary proposition, if it could be brought together and come to fruition—the notion of a life care scheme that would enable human beings with a disability to be able to live a life of fullness, completeness and with dignity and respect and with much autonomy and ability to live their lives as we, for example, want to live our lives as fully functioning human beings. I am specifically talking about the National Disability Insurance Scheme [NDIS].

Much can be said about the scheme. I had the privilege of sitting on a parliamentary inquiry in the last Parliament where we did some serious work looking at the NDIS and the implications of its implementation and issues associated with that. I think this Parliament well understands those issues and I am very proud to be serving in the Parliament. I acknowledge that this Government has been very clear in the way in which it has committed itself to supporting the implementation of the NDIS in New South Wales, but I know there is some contest around the issue of its commitment as a State Government with respect to providing support for people who do not fall within the NDIS. That is a valid argument to have, but the way in which the New South Wales Government, the Coalition Government, ultimately committed to and put the money forward with respect to the NDIS—and I accept what I have seen in the submissions put to me and the arguments put—has been quite instrumental in that scheme coming to fruition to serve people with disability all around Australia.

The fact of the matter is that New South Wales, being the largest State in the Commonwealth, and is effectively one-third of the national economy, has been instrumental in making this scheme take in air and take off, and I accept that proposition. I acknowledge those issues that I spoke about a moment ago in regard to what does it mean for people in the State who do not have disabilities covered by the scheme? The point I am making is that the NDIS is a reality for many, many people in the State of New South Wales right now and will be for those people who are born with disability into the future as far as we can possibly see, and what a wonderful thing that is, unquestionably.

With respect to the ability for people to be able to take full advantage of the NDIS, people have to be born with a disability to become eligible for the scheme. Let us not be trite and debate around the margins about whether a disability is in or a disability is out, and how the definition might need to be refined over time, but a person born with Down syndrome would be eligible for the scheme. The great tragedy we face as a society is that at this point in time what is happening is that large numbers of those people who otherwise would become eligible to become a participant in that scheme and receive all that goes with it—the wonderful life care support in its totality and all that means for that human being who is now able to enjoy their life and all that goes with sharing a life that we all take for granted—are, in fact, not able to receive it because they are not being born because they are being terminated in utero in large numbers.

I do not intend to go through the detail of all of what I had to say in the speeches I referred to but I will make a couple of specific references to numbers because I think it is pretty important to understand this. If one is looking for, dare I say, the best—and I do not use the word "best" in any pejorative way—the most accurate or most precise or clearest understanding of what this all means in Australia today, as best we can understand the situation, I draw the attention of members to the article that I referred to in my adjournment speech given in the House on 4 June this year. The article was titled "Eugenic Practices in Australia Today". I referred to a peer-reviewed piece that appeared in the highly regarded journal *Prenatal Diagnosis* in 2015 entitled "Impact of prenatal screening and diagnostic testing on trends in Down syndrome births and terminations in Western Australia 1980 to 2013". The research looked at the issue of what is the practice that has gone on in the State of Western Australia in the period 1980 to 2013.

It brings me some sadness to refer to this because I am a West Australian by birth—I am a sandgroper—so this is from my home State. It is pretty sad to reflect on what this piece of research showed. I will just deal with the abstract detail at the front; it is the most precise explanation of what was done through the research. The research revealed that in the State of Western Australia for the period of 1980 to 2013, prenatal testing in Western Australia had reduced the birth prevalence of Down syndrome despite an increased rate of Down syndrome

pregnancies. Most women for whom a prenatal diagnosis of fetal Down syndrome is made choose to terminate the pregnancy. This proportion has not changed over the period.

The research found that 93 per cent of women who were pregnant, had completed the relevant testing for the condition and were found to have it made the decision to proceed with a termination of their pregnancy—93 per cent. Over nine out of 10 pregnancies were terminated because of the provision of information, of either the diagnosis saying there has been or is likely to have been a conception and a fetal development of a human being who is likely to have Down syndrome. Over nine out of 10 means, to be frank, that Down's people are being wiped out in utero. That is what is happening. They are being killed in utero in such large numbers. That is a very provocative thing to say. I can understand members saying it is a very harsh thing to say but if we think about the reality, that is what is happening. Whilst that figure might sound very alarming and very bad, it does and can get worse.

I draw the Committee's attention to the position in Iceland. This was well covered in the media towards the end of 2017 and early 2018. I spoke about the matter in the House on 16 August 2018. The position that they have in Iceland, and the tragedy of its reportage, is that the department of health—whatever its formal name is—in its regular reportage on matters to do with congenital abnormality, came out and issued a media release about what the position is with respect to the termination practices associated with Down syndrome. This is what brought the attention of the world media. The department gave a press conference on the media release.

It is beyond belief but it is what happened. Through the media release and the presentation to the people of Iceland—we live in a global world now, so if you are doing a media conference in Iceland you are doing a media conference to the world; it was on the internet within an hour or two—the relevant bureaucrat from the department of health was saying, in what can only be described as an almost pleased and proud way, that Iceland had effectively eliminated Down syndrome. The bureaucrat said that the nation of Iceland had effectively eliminated Down syndrome.

The statistics reported in the normal reporting cycle, in the reporting year—which had led to the media release, the publicity and the media conference—was either three or four live births of human beings with the condition of Down syndrome. There was an expression of almost disappointment by the department of health that those three or four had snuck through. I went back and looked at the media coverage. I looked at the way in which this whole thing was dealt with. I am not a particularly emotional guy, so I did not cry. But I tell you what, I found myself broken-hearted that as a society they had got to that point. They were proudly declaring, as if this was some achievement that they were trying to pass on to other nations to look at and seek to emulate, that they had eliminated people with Down syndrome in Iceland. That it was something worthy of a target and objective and worthy of a health system to set out and try to achieve

In addition to feeling broken-hearted, my other feeling at the time was how utterly impoverished the citizens and the nation of Iceland must be to not have people with Down syndrome living in the country. How utterly impoverished that society must be. That then led me to consider what could be done here in Australia. I will now go through an overview of some negotiations that I have conducted myself, under no direction from anyone—not a shadow Minister of the Labor Opposition, although I had discussions with the Hon. Walt Secord, who was shadow health Minister for a period of time—

The Hon. Walt Secord: Five years.

The Hon. GREG DONNELLY: Five years. He is a man who has huge amounts of energy and determination, a huge amount of compassion and a massive heart for looking at situations, particularly with respect to people of disadvantage and people who are vulnerable. Periodically, I did take the opportunity to say to him that I was having some conversations with different people about this matter. I did not ask him to do anything and he never sought anything, but because this was going on I generally kept him apprised. That is all that exercise was about, keeping him informed because I thought it was appropriate, being the shadow health Minister.

I decided to try to open up some negotiations with people who could inform me about what might be able to be done, to do what I could in my own small way to try to stop us sliding down the mindset of Iceland, in the context of being an elected representative in the New South Wales Legislative Council. I have the great honour of being a parliamentarian in New South Wales. It is a great honour and one that very few people have the opportunity to experience. We all try to do what we can on a range of issues.

That led me to commence discussions with people from Down Syndrome Australia, the peak body for Down syndrome in this country. I commenced those negotiations. My first conversation, which is now going back over a couple of years, was with Dr Rhonda Faragher. Dr Faragher is an officer of Down Syndrome Australia, which means she is on the governing body of Down Syndrome Australia. I spoke to her about what she thought might be able to be entertained on this particular point. I will go straight to it because I know there will be concerns

about other propositions. I was very alive to the concerns of visceral opposition and visceral reaction to these propositions in other jurisdictions, particularly in the context of the debate of termination of pregnancy in the United States of America and activism inside certain legislatures to make certain changes to law to produce particular outcomes.

I knew that such a proposition was one that would have no merit at all for me to advance in discussions because it would not even get to first base. I was not interested in doing that. I wanted to seriously get advice about what could be possibly done, and take that counsel from Dr Rhonda Faragher. At this point in time I was not promoting anything but rather trying to inform myself. My instincts were right. She instructively said to me in her view the proposition about legislative change, which I was not proposing—

The TEMPORARY CHAIR (The Hon. Niall Blair): I will now leave the chair. The Committee will resume at 7.30 p.m.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are resuming with the Hon. Greg Donnelly's amendments on sheet c2019-137B.

The Hon. GREG DONNELLY (19:30): I will pick up where I left off prior to the dinner break. Well over 12 months ago I commenced discussions with Dr Rhonda Faragher. She is an independent director of Down Syndrome Australia. She is also the deputy head of the school of education and director of the down syndrome research program at the University of Queensland. I sought Dr Faragher's counsel over wording that the Down syndrome and disability community would consider helpful in the context of consideration of termination of pregnancy for a child diagnosed as having or may have a disability. Those discussions were productive. To give members a sense of the amount of work done in this area by the disability community I circulated a document to honourable members last Friday by email.

I included the document I referred to earlier that published the research from Western Australia. The journal I emailed is a very recent peer reviewed journal, *Journal of Policy and Practice in Intellectual Disabilities*, volume 16, issue 2, June 2019. This edition looks at the impact of the current regime of testing and the prospect of future testing for disability. If what has happened to this point is projected forward what impact will there be on the lives of the disabled or those who otherwise would be born with a disability? I encourage honourable members if they are not familiar with this material to have a look at it. It is not long before there is a vote on this amendment but it gives you practical insight into the depth of work being done by the disability community, not just with respect to Down syndrome.

These matters can be looked at in a positive and engaged way that looks at the possibility of living a fully functioning life with support, dignity, love and enjoyment for those with a disability. It is what we have and take for granted. They too want to experience that. In my view as fellow brothers and sisters they have an entitlement to that experience. On 28 February 2019 in Sydney I met with the Commonwealth Disability Discrimination Commissioner, Mr Alastair McEwin. I can only make general comments about those discussions as I undertook to him, and he to me, that as this matter was sensitive, if I can use the word, it needed to be dealt with through engagement, exploring possibilities and talking. He believes in the importance of educating and informing and bringing people to a point of understanding what disability is and what it is not and what it means and what it does not mean. I support that view. At its essence are the rights of disabled at whatever point in time they are in their life and our obligation to those with disability as fellow human beings. The meeting lasted an hour and a half. He was generous with his time and I thank Mr Alastair McEwin.

The Hon. Penny Sharpe: He is a good man.

The Hon. GREG DONNELLY: I acknowledge that interjection by the Hon. Penny Sharpe. He is a very good man and very encouraging of me. He gave me wise counsel and I took very much to heart what he said. To the best of my ability I have gone forward with that advice and tried to follow through with this amendment. He said I ought to continue my discussions with the disability organisations. I specifically indicated to him that I had had discussions with Down Syndrome Australia, which is the peak body. He was very complimentary of the organisation and he encouraged me to continue that dialogue and listen very carefully to their counsel and advice.

Following those discussions with Mr McEwin I went back to Dr Faragher, who said, "Listen, Greg, can I suggest we advance this to discussions at the national level with our CEO, Dr Ellen Skladzien?" Dr Skladzien lives in Melbourne and Dr Faragher is in Brisbane, so we have been exchanging emails and having conferences over the phone and what have you. Dr Skladzien was very supportive of what I was proposing as possible wording around what could be in legislation if it came to this in New South Wales. This is also with an eye to other pieces of legislation around Australia that provide for the regulation of abortion. It is serendipitous in a sense that it has come up in New South Wales and I have got to this advanced stage in the discussions to be able to do this here,

but it is my intention to encourage like-minded politicians of all parties to consider this in other States and Territories in Australia.

Dr Skladzien said to me that the position of Down Syndrome Australia is this: the organisation believes that the way that as a society we could advance the interests or the consideration of the unborn with disability is to provide the opportunity—and this is the terminology—to receive information about the disability conditions to enable the woman with the pregnancy and others she may wish to talk to about it and about the issue of carrying a child with disability in the first instance, bearing a child with disability and then raising a child with disability through stages of life.

She said, "Greg, let me very clear with you. This is what we as an organisation have been endeavouring to do now for some time through the way in which we seek to have outreach and engage with mothers, parents, families and family networks to talk about matters disability broad but also matters disability specific with respect to Down syndrome and to provide that full picture." With respect to that full picture I remember her saying this: "Greg, I make it very clear that these are most difficult decisions but the decision, once made—if it is to keep the child, bring the child into the world, if it is born alive and then raised—is of profound significance for the woman and her husband or partner, or as a single mother."

This is not a case of anyone putting themselves in their shoes but rather helping them understand all that is before them in the immediate term, which is obviously the pregnancy and beyond, and to make the very point that I made earlier and that is the significance of the wondrous situation of Australia having a national disability scheme which is going to provide this opportunity for people with disability. We should see this for what it is and fully realise the opportunities that exist therein, bring it to fruition as its architects originally envisaged to provide for people with disability across their whole lifespan.

That then led to Dr Skladzien suggesting that I contact Mr Ross Joyce, who is the CEO of the Australian Federation of Disability Organisations. I have been having very productive discussions with Mr Joyce over the last few weeks. The Australian Federation of Disability Organisations is the peak cross-disability body and its affiliates are Autism Aspergers Advocacy Australia, Blind Citizens Australia, Brain Injury Australia, Deaf Australia, Deafblind Australia, Deafness Forum of Australia, Disability Advocacy Network Australia, Disability Justice Australia, Disability Resources Centre, Down Syndrome Australia, Enhanced Lifestyles, Inclusion Australia, People with Disabilities ACT, People with Disabilities WA, Physical Disability Australia, Women with Disabilities ACT and Women with Disabilities Victoria.

That is an extraordinarily significant organisation in terms of the voice that it brings into the discussion of matters disability. Mr Joyce was more than happy to engage with me specifically on the matter that I was raising with him, having been put in contact with him. That ultimately led to the drafting of the clause. The clause has been through a number of iterations. It has been back and forth between me, Down Syndrome Australia and the peak body, the Australian Federation of Disability Organisations. I put on the record my appreciation of Parliamentary Counsel for the work they have done in helping develop the language in the clause.

I indicated to both Down Syndrome Australia and the Australian Federation of Disability Organisations last week that this debate was coming up and I asked them whether they would be prepared to allow me to say in this debate that both organisations endorse the language in the clause. They are more than happy to provide that endorsement and indeed their best wishes and hope that the clause as proposed will be agreed to by the Committee and incorporated into the legislation that we are currently debating. I asked them if I could place it on the record formally and they said, "Greg, we want you to place it on the record formally." Dr Skladzien and Mr Joyce have asked me to place it on the record and I have done so and Dr Rhonda Faragher who has obviously been integral in the development of this has also been informed of this being done.

With respect to my provision of information to members about the clause, the clause was lodged some days ago. I circulated the clause to members last Friday. I have been passing the clause around and talking to people since late last week, having some one-on-one conversations and some broader conversations. Most recently I had a one-on-one discussion with the Hon. Trevor Khan, and here is the provision before us. He has indicated that he was going to have discussions with individuals involved in the development of this bill over the course of the afternoon and evening.

There are three amendments to the bill before the Committee, numbered 1, 2 and 3. The first amendment is titled "Informed consent and disability" which is to insert after line 11 an incorporation of some words under a heading "Information about disabilities". Down Syndrome Australia and the Australian Federation of Disability Organisations stated very clearly to me that it is their honest and sincere belief that the way forward to advocate for and to place into the public domain and engage with the society at large but in particular on matters to do with women who are pregnant with a diagnosis of having or possibly having a child with a disability was through the non-government organisations which are the peak bodies themselves at the national level, like the Australian

Federation of Disability Organisations, or the specific disability organisations like Down Syndrome Australia, working with peer networks.

I just briefly explain the significance of peer networks. Peer networks are basically men and women, mums and dads—they could be aunties and uncles or a broader family network—but most significantly, and most critically in the engagement, women who have had a pregnancy and who have had a child with a disability. The position may be that child with a disability may have deceased, perhaps because of the disability or not—whatever the case may be but not necessarily so—but they have had the experience of having received the information provided to them by the medical professional. It could have been the radiographer in an informal discussion, right through to the obstetrician, gynaecologist or the GP, but those women had been through the experience of receiving the diagnosis and making the decision to continue the pregnancy, give birth and raise a disabled child.

What they have both said as organisations—and certainly the Australian Federation of Disability Organisations is speaking for a number of individual disability groups across different disabilities—is the importance of simply talking about it and explaining what it is like to experience the diagnosis, and perhaps more significantly in the sense that it is for a much more extended period of time. Obviously a normal pregnancy is for a finite period of time but they can talk about the lifelong prospect of dealing with the birth and raising a baby to a fully functioning adult—notwithstanding the disability—and how they are cared for, looked after and loved over their life, particularly with the advantages of the National Disability Insurance Scheme. The peer networks, they say, are really at the heart of the provision of the information. What they have been doing is endeavouring, in an informal way, to provide through the hospitals—that is, the maternity hospitals specifically or hospitals with maternity wards—peer-to-peer engagement and to talk with those who wish to talk about the issue.

Amendment No. 2 relates to the meaning of disability. I can be brief here. Both organisations advise me that the utilisation of the National Disability Insurance Scheme, which is the Commonwealth scheme, and specifically with respect to New South Wales, the Disability Inclusion Act 2014, were the reference points to use for the definition of disability. Defining disability in its absolute and complete totality is almost an impossibility. Bear in mind that, with new diagnoses of new conditions and changes over time in genetic testing, even a current definition could be finite and not completely relevant in one, two, five, 10 or 20 years time.

They said to have some very clear reference points and their strong advice was to use the legislation, both in the Commonwealth and State jurisdictions, as reference points. To the extent that those definitions have had a lot of work put into them—in terms of having an understood meaning, both in the context of health and medical practices, but also with how disability is dealt with in Australia—they are very important. The obvious point is that to the extent that legislation needs to have definitions refined over time, it is something that legislatures would actually address.

Finally, amendment No. 3 provides the framework in which the information is provided and it is there for you to see. I want to reiterate this because I think it is so important. It has been a challenging debate. Sadly, it perhaps is the tragic nature of this issue that it has so many implications. There can be thoughts or suggestions or imputations—this is not directed at the Hon. Penny Sharpe; it is just a general comment—of people sometimes wondering what this is really all about. Is this something which is really just a step to take us somewhere else? And is that somewhere else to take us somewhere else? That is what this was really all about. I say in the most open and honest possible way—for those who know me and I have many good and professional relationships and indeed personal relationships with people in this House and the other place—that is not the way I operate.

I am a straight-up-and-down sort of bloke. This has been brought about because this is the best advice that I could receive about how to best articulate and then ultimately create and put forward a proposition for endorsement. The peak bodies honestly believe that if it is introduced and enabled to be propagated in the way that the provision is intended, it would advance the cause of the unborn with disability without in any way being determinative—notwithstanding our views about this and what is determinative of the decision of the woman who is pregnant. The woman who is pregnant will be making a decision. This is about the provision of information to enable that decision to be a complete one. Upon her receiving that at her request there is no requirement to receive any information and there will be no requirements under any circumstances for that to be provided. It is a matter of whether she wishes to receive it. With those points I will leave it there for the time being.

The Hon. WALT SECORD (19:56): I rise to make a brief contribution on the amendments moved by my colleague the Hon. Greg Donnelly. Firstly, I will not be supporting his amendments. I have listened intently to my colleague and I have had dialogue with him in this policy area since I arrived in this Chamber in 2011. As I said yesterday, I was going to leave this debate to those who have been leading from the respective positions. But since he mentioned in his contribution that we had discussed this amendment earlier, I felt I should make a short observation. I was shadow health Minister for a five-year period and over that time I have had many conversations on a range of topics, from gender dysphoria, gender selection terminations, the responsibility of raising sons in our society, the NDIS and we have served on parliamentary committees together.

I do not doubt for a second his sincerity or his commitment to his view of improving the world. He has been very respectful of my views on abortion as they are vastly different to his. For the record, I was one of the 14 MPs who voted for the previous bill. The Hon. Greg Donnelly and I have had a very open-door policy. We have had a friendship that allows us to debate, discuss and disagree with respect. That said, I hear his pain when he talks about how the Icelanders have insensitively described how they have eradicated Down syndrome through testing during pregnancy. I hear that and I understand the pain. I know that having a child is a lifelong commitment.

You feel that once you have got them through university or into training or into an apprenticeship that the hard part is over. But having a child with Down syndrome or a child with a permanent disability is something that goes on for an entire lifetime. Through my time as chief of staff to the Minister for Aged Care when I was in Canberra, I met parents in their 80s, reaching almost 90, worried about what they were going to do with their child who was in their 60s and 70s who had Down syndrome. What were they going to do when they passed away or they were unable to look after themselves? I accept and I know for a fact that the Hon. Greg Donnelly has consulted widely on these amendments, especially those active in disability rights and representing people with disabilities, people with disabilities themselves and their families. But regrettably I will not be supporting the amendment as a matter of principle. I believe that the ultimate decision, again, is with a woman and her doctor. There should not be the intrusion of third parties. I understand and respect his amendments but I will not be supporting them. Thank you.

Ms ABIGAIL BOYD (20:01): I have had quite a bit of time to think about how to frame my response to this amendment on behalf of The Greens—from when the Hon. Greg Donnelly started talking until he finally finished. There is a distinction to be made between intending to cause offence and, without intending to, causing offence nevertheless. When I say that this particular amendment is deeply offensive, I am not saying that the Hon. Greg Donnelly intended that offence, but that the implications of his comments and the very moving of these amendments are deeply offensive, not only to people with disability but also to people with uteruses, to women and to others who have been in situations where they have been forced to make a decision about whether or not to go ahead with a pregnancy where they know, or where it is reasonably likely, that their child will have a disability.

The definition of disability in amendment No. 2 is very broad because it refers to disability within the meaning of the Disability Inclusion Act 2014. A broad definition of disability is sensible and reasonable in the context of that Act. I am not sure whether the Hon. Greg Donnelly is aware that a number of different types of disability are connected to particular chromosomal or genetic features.

The Hon. Greg Donnelly: Yes, I know that.

Ms ABIGAIL BOYD: If a person knows that they carry a particular gene, it is possible to have testing to find out whether the fetus is likely to have a particular disability and then to make a decision. Like every other decision about whether or not to have an abortion, that decision is made in the context of all the surrounding circumstances. The implication that I read in these amendments is that anybody who is in a situation where they feel that their personal circumstances make it impossible for them to continue with a pregnancy if the fetus is very likely to have a disability—the people who go through that decision-making—are somehow doing the wrong thing because they are unaware of the assistance that can be provided to them, for example through the NDIS. I am lucky to be aware of good friends and other people in the community who live with a disability. They do not take these things lightly and they have been in situations where they have had to make this really difficult decision. To impose this judgment on them and on their decisions is unacceptable and deeply offensive.

In other countries the disability rights framework has been co-opted in an attempt to crush the rights of others—in this case, women and others who are seeking the right to reproductive health care. The mover of these amendments has made it very clear that he believes, by reason of his conscience, that abortion in any circumstances should not be permitted. I respect that. I do not expect the Hon. Greg Donnelly to have an abortion if that is not what he would like to do. However, to hold that viewpoint and to be fundamentally against the purpose of this bill, but then to put forward amendments that co-opt the rights and struggles of people with a disability is so inappropriate. In all of the amendments that have been put forward on this bill these ones cause me incredible personal offence and cause real harm to those who have had to make this decision; they do not need this kind of provision to tell them what to do. For these reasons The Greens very much oppose these amendments.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind members to focus on the amendment and not reflect upon the mover's motivations. That will help us to move this debate along. There are actual amendments before us at the moment.

Reverend the Hon. FRED NILE (20:07): I am pleased to support the amendments moved by the Hon. Greg Donnelly and I thank him for bringing these amendments to the Committee. We all know that children with disability are a delight to their families and to our society as a whole, and should be given all the love and care

that is possible. To eugenically discard them before they are born is a terrible blight on our society. Lord Shinkwin, a peer in the British House of Lords, described abortions of babies on the basis of disability as "systematic killing". He takes this very personally because he has brittle bones—a debilitating condition. In 2017 he said in the British Parliament:

> What I don't understand is how after birth I can be good enough for the Prime Minister and the Queen to send me to the House of Lords but before birth I'm only good enough for the incinerator.
>
> I'm part of a group of people with congenital conditions that is being systematically killed. These amendments seek to ensure that a woman who finds that she is carrying a child with a disability is provided with information about this diagnosis, including support offered by the NDIS. It will put a woman in touch with peak bodies, non-government organisations or peer networks representing people with disability. This is a pro-information approach where sensitive and helpful information can be offered to families. It creates a positive view of disability.

One woman I know shared her story with me. She said, "When I was last pregnant I was so excited. I remember sitting in the office of a gynaecologist in Victoria who told me that this was my miracle baby—I was not supposed to get pregnant as my husband was technically infertile with a one-in-1,000 chance of ever conceiving. In the same visit, she ordered the standard blood tests for early pregnancy. While writing out the referral, she casually said, "If the baby had a probability of Down syndrome, we will take care of it for you." It took me a moment to realise what she meant. This doctor, who had just told me I was miraculously pregnant and would probably never be pregnant again, felt that I would be better off childless than having a child with a disability. I was a disability support worker. I worked every day with people with disability, seeing the quality of their lives firsthand. I walked away devastated, disillusioned and somewhat bewildered. Reverend Nile, I would never have aborted my baby for having the probability of Down syndrome because I value their contribution to society, but how many other mothers who are not familiar with this disability have felt like having an abortion for a child with a disability is a foregone conclusion?"

We do not want to have doctors in New South Wales recommending abortion for children with disabilities. We do not want eugenic abortions to become foregone conclusions. I understand the intent of this amendment. I will prefer an amendment that overtly protects unborn babies with disability. But what we are dealing with now is what we have in the bill. This is another example of the bill that was rushed through the other place and is being rushed through the Legislative Council. Many amendments are highlighting deficiencies in the bill, which would have been rectified if there had been time. Maybe the bill should be adjourned for further consideration, clarification and further examination of what amendments are needed. The United Nations Committee on the Rights of Persons with Disabilities has expressed grave concerns about the devaluing of people with disabilities through eugenic abortions. The committee stated:

> Laws which explicitly allow for abortion on grounds of impairment violate the Convention on the Rights of Persons with Disabilities (Art. 4, 5, 8). Even if the condition is considered fatal, there is still a decision made on the basis of impairment. Often it cannot be said if an impairment is fatal. Experience shows that assessments on impairment conditions are often false. Even if it is not false, the assessment perpetuates notions of stereotyping disability as incompatible with a good life.

I am pleased to support the amendment that the Hon. Greg Donnelly has moved. I thank him for his hard work on the bill.

The Hon. MATTHEW MASON-COX (20:09): I thank the Hon. Greg Donnelly for his diligence and passion about this issue over many years. The manner in which he has followed the issue and developed his views in concert with people who are leaders in their field and representatives of people with disability is to be highly commended. I was impressed with what the member had to say. I want to reflect on comments that have been made and my views in this area. The issue of disability is a very challenging issue. Members might be aware that I have a daughter with a disability and I have been in this situation. It is not something for which I would stand in judgement of anybody. In my second reading speech I made it clear that I support the decriminalisation of abortion. I would never stand in judgement of anybody who made that decision. They are very personal decisions that a woman needs to make, often with the support of her partner or her family. They are personal decisions between the woman and her doctor, and I would never, ever suggest otherwise.

I do believe, though—and this might sound like a juxtaposition that may be difficult to juggle—in the sanctity of life. My daughter has Down syndrome and I have faced the situation of making this decision. For me it was very easy because it was not a decision that was a conflict for me or my wife. But it does give me some background and some experience that might be useful in the context of this amendment. I feel compelled to share that even though it is very personal to me and my wife. I do not seek to influence people's decisions about this, I just want to put on record what it means.

I am going to go through a couple of things and then make some observations. I will also look at the way that the Hon. Greg Donnelly has framed this amendment. If we go through the testing regime, it is instructive because it is a question of when things happen in the process. This is an easier situation than some of the cut-offs that we have been talking about of 20 weeks or 22 weeks and when people are actually able to make a very

personal judgement about what to do should they be thinking about a termination. Let me quickly go through how that relates to the condition of Down syndrome. Depending on whether you go into the private or public system is always a precondition because, generally speaking, in the private system you can get earlier tests than in the public system. If you are willing to pay the money you can find out more things.

The Hon. Adam Searle: If you are able to pay the money.

The Hon. MATTHEW MASON-COX: If you are able to pay the money, that is very true. At 11 to 13 weeks ultrasounds and blood tests are available. These are the prenatal scans that the Hon. Greg Donnelly was talking about, but that is generally for people in the private system who are willing or able to pay. The blood test at that stage looks for fragments of fetal DNA. That process is able to determine with about 90 per cent accuracy whether or not your child will have a range of genetic disorders such as Down syndrome. It is quite a well-known, reliable system, but it is not 100 per cent accurate. There is always the chance that you have a false positive. There is always uncertainty in this process, that is just the nature of it.

But then you can move towards having an amniocentesis, which will give a more determinative result. Some would suggest that is 100 per cent accurate. At the end of the day I am not going to quibble about that. It is just where it is. The thing is, in the public system you can have a maternal blood test at 11 to 13 weeks. That is not determinative and it has a higher level of uncertainty. I wish we had a consistent system but that is just the way it is. Quite often families are left or, depending on the circumstances, a woman is left in a situation where they just do not really know. I know of people who had a likely diagnosis who decided to proceed with the birth of their child and there was no disability or no Down syndrome, which they thought was going to happen. I know people who have been in the other situation as well.

I do not want to reflect on that but it is a difficult situation for women, their partners and their families to find themselves in where they have to make a decision. It was easy for me because I have a view. I do not seek to impose that personal view on anyone else. Someone needs to make a judgement at the relevant time when they have the information. If they seek further tests that is their prerogative and they can make that decision. It is important that people have good information and good counselling support in order to make a decision. That is what is at the heart of the Hon. Greg Donnelly's comments about informed consent. I refer to amendment No. 3 relating to informed consent and disability on page 8, subsection (c) (i) and (iii):

> (c) for the performance of a termination following a prenatal diagnosis of a suspected or confirmed disability, after—
>
> (i) being given information about the support offered under the National Disability Insurance Scheme …
>
> (iii) being referred to, or otherwise given the opportunity to speak to, representatives of the peak body, non-government organisation or peer network …

When I was in that situation, it would have been great to have access to that support. But 13 years ago there was nothing available to me. I am a member of the New South Wales and ACT Down syndrome associations so I am aware of the issues. Some hospitals and facilities do better than others. Uniformity in this regard would assist people through this time. In that regard, it is not about passing judgement on others who find themselves in this position. It is not about, in the words of Ms Abigail Boyd, creating incredible personal offence. To be respectful to her, it is about providing information and support. It is not about being patronising or judgemental about people's decisions. It is saying, "Here is some information. Make an informed decision." That is what the amendment is about. I will not say any more about Ms Abigail Boyd's response in that regard except to say to keep an open mind and try to put yourself in the shoes of someone in that position. Your world comes to a halt and you are in a state of shock trying to grapple with what to do next.

It is important that we are supportive of people in that situation and not in a patronising or judgemental way. We can give people information and maybe a bit of a steer in the direction of someone they can talk to about what it means to live with a disability and what it means to have a child with a disability. The Hon. Walt Secord is right when he says that, like every child, we have our children for life. I have four children and each of them has their own abilities and their own idiosyncrasies. That is how I view the situation. One of my children has spectacles, one of them has Down syndrome. It is not an issue to me. Each of them is a light in my life. We have to keep a sense of perspective. We need to share with people in those situations and, at the end of the day, let them make their decision. Is it not better to give them information and some understanding of the consequences? The consequences can be catastrophic. Let us give them the information, allow them to make their own decision and not stand in judgement. That is what I would strongly recommend in relation to this issue.

The Hon. Greg Donnelly has tried to put together a package. He has gone to the trouble of speaking to people who are often not heard or consulted on these issues but who have a richness in terms of being able to shed light on what would have helped them in this situation and what would help them now. As a society we have

matured a lot in the way we deal with disabled people. The advent of the National Disability Insurance Scheme [NDIS] is one of the great Australian innovations, although we have a long way to go. The NDIS is a wonderful support mechanism for people who are disabled. At the same time, there are problems with the system. That is a debate for another time.

In amendment No. 2 on sheet c2019-137B the Hon. Greg Donnelly has sought to define "disability" by reference to the disability and early intervention requirements under the National Disability Insurance Scheme Act 2013 and the New South Wales Disability Inclusion Act 2014. The way in which he has done this is very broad, I think appropriately broad. As the member said, it is, if you like, a stake in the ground that is widely accepted at both Commonwealth and New South Wales levels. It is appropriate and the balance is right. We should look upon it with the goodwill the member has obviously shown in moving the amendment.

I also want to reflect upon some of the other issues raised by the Hon. Greg Donnelly. The Icelandic experience, celebrating the eradication of Down syndrome, I find a little hard to stomach. Again, I do not want to sit in judgement of other people's views. If the ignorance, fear and the predisposition of people about these sorts of issues can be improved by providing information and sharing experiences at a critical time when they need to make a decision, I cannot see a negative in that. We have to let people have their space and they will judge whether they need information, whether they read the information and whether they want to have a cup of coffee and talk with someone.

This is not rocket science. It is not patronising people, it is not sitting in judgement. The amendment is just saying that people may be given a bit of a hand about making a decision rather than perhaps sitting in a world of shock where they cannot feel or think and may find themselves heading down a pathway with little time to reflect upon their decision. That is what I think this amendment is about. I thank the Hon. Greg Donnelly for his sincerity, diligence and passion on this issue. I ask members to reflect upon that, not because of what I have said but because of our shared humanity.

The Hon. PENNY SHARPE (20:28): I thank the Hon. Matthew Mason-Cox for his important contribution. Lived experience in dealing with these matters has brought a lot to this debate and the member's contribution was very important. I have looked closely at the amendments. I make the point that the Hon. Greg Donnelly is very sincere in this matter. He and I sometimes have our moments but I do not think either of us disrespect the commitment that we have to these issues and we have respect for each because of it.

The Hon. Greg Donnelly: Hear, hear!

The Hon. PENNY SHARPE: It does not always go so well but most of the time it is okay—we try very hard. There have been some suggestions that these amendments have been rushed and that they have not been given consideration. I have considered all of the amendments very closely, and I have spoken in this debate about some of the tests that I put myself through when deciding if I could support the amendments or not. This has been tough because it raises challenging issues about how we do what these amendments propose. It also again raises really challenging choices that women make when they find themselves with, mostly in this case, a very much wanted pregnancy. This is not a case of an unplanned pregnancy; it is a much wanted pregnancy that has not gone the way that the parents thought that it would. So there are some very difficult decisions to be made.

The test that we need to think about when we are looking at this issue is the same test that I apply to the other issues: What are we trying to do here? We are trying to remove the legal threats of jail when it comes to women making decisions about terminating a pregnancy and we are trying to ensure that through doing that women who make the decision to terminate are able to do that in an informed, safe, legal and accessible way. We are trying to grapple with some very difficult ethical questions and I have said to people that there are some issues that we are unable to reconcile. For me, at the heart of these matters is that we just have to trust women to make the decisions that they have to make, free from judgement. The Hon. Matthew Mason-Cox talked about this a lot and I think that was very important to hear.

We have to try and put ourselves in the shoes of others when we are trying to deal with these matters. Some of the choices that people make are not the choices that I would make. At the heart of the matter, and what is important for me, is that I do not understand what it means for women when they have had an unexpected diagnosis during a much-wanted pregnancy. I do not understand the decisions and discussions they have had to have with their doctors and their families and being challenged in relation to what they think being a parent was going to be like. For me, that means that I just cannot support this amendment. That does not mean that I do not think that the issues that are raised are sincere. It does not mean that I do not think that others would make a different decision. I absolutely respect those who have a different view in relation to these matters.

We have talked about this as ultimately a conscience matter and it has been backwards and forwards, but because of these issues, through the discussions around the termination of pregnancy, this is something that

women with disability have talked to me about for many years—around bodily autonomy. About respecting people's choices and about understanding that within the disability community there is not consensus in relation to how we deal with those matters, as there is not consensus in this Chamber about those. I am guided by and grateful for the wisdom of those who have reached out to me to talk to me about these matters. They have thought about it a lot. For me, that is also an important part of how I come to a decision around these amendments. I am not going to identify her but I received a letter that I think was written to quite a few people. This is someone who has had a lot of influence on me and my thinking in relation to this issue. She states:

> I am writing to say thank you for your vote in favour of abortion reform. It matters a great deal to me. I am a disabled woman who strongly believes that anyone who is pregnant should want to be, and should never be forced to carry that pregnancy or give birth against their will. Disability justice includes having control over our bodies and a say about what happens to them. For many disabled people, including myself, bodily autonomy is a central part of our freedoms, and that includes the right to decide about a pregnancy in our bodies. I have known since I was a young woman that I will never be able to carry a fetus to term, so I have always valued and wanted access to abortion as part of a comprehensive and accessible reproductive health care. It is abhorrent that my seeking an abortion be a criminal offence, and if I had to have an abortion that it would be a criminal act.

That has been very important to me. Today there was a very important article written by a woman called Nicole Lee—it is a public statement so I am able to name her. She talked about being a woman with a disability who has her own children but who has also had an abortion. We have to be honest in this debate about these things. She reflected about how easy it was for her to get an abortion but how questioned she was as a woman with a disability when she wanted to become a parent. She asks us to stand up and speak out for women with a disability, that reproductive rights are not just the right to have a termination. Rather, it is the right to have a child and not be questioned, and to talk about issues like forced sterilisation. I do not want to reflect broadly about that but I am honest about it. She talks about how easy it was for her to get an abortion but how hard it has been to get the support that she needed to become a parent, which she has done extremely successfully.

Finally, I will reflect on two other things. In relation to the amendments and disability organisations, I understand that the Hon. Greg Donnelly has spoken to some organisations but there are quite a few that he has not spoken to. They are already underfunded and overworked. In this State there is already a crisis in funding for disability advocacy as a result of the decisions that the Government has made. I will not get too political about that, but there is a campaign going—as the Hon. Damien Tudehope knows very well—that we hope we will get a resolution from the Government on. There is a need for a bigger conversation and a much larger consultation with disability groups to bring them within the bill. I will leave that there; it is a very serious matter.

I respect the members who are moving these amendments. I too grapple with how we should manage these issues. At the end of the day we have to trust women to make the decisions they need to make. We have to do that without judgement and we have to make sure that they have the support that they need. I do not think we should be adding more requirements in relation to their consent over these matters. For that reason I cannot support the amendments.

The Hon. SCOTT FARLOW (20:38): I support the amendments moved by the Hon. Greg Donnelly. Let us be frank, the Hon. Greg Donnelly has very firm views on this subject and they are known by many members of this House. The Hon. Greg Donnelly has tried to strike what I would describe as a very moderate amendment. A moderate amendment that seeks to give information and does not seek to outlaw terminations on the basis of disability. But a moderate amendment that seeks to support women in the dreadful situation who realise that, as the Hon. Penny Sharpe reflected in her comments, they have a wanted pregnancy that has not gone the way they had hoped.

When I was a child I always used to ask my mum and dad, "Did you want a boy or did you want a girl?" They always said to me that they wanted a healthy baby. That is the hope of every parent going into a pregnancy. They want a healthy baby. They want to know that everything is going to be what we classify as "normal". But we want to know that there is support for parents who find that their child has or may have a disability and that they are able to see the other side. These amendments help them to see the other side—that people with a disability can have the wonderful, enriching, happy and healthy lives that we all support and welcome. People with a disability make such an enormous contribution to our society. All that the Hon. Greg Donnelly's amendments seek to do is to enable that information to be provided to parents in that situation.

The Hon. Greg Donnelly could have moved amendments that sought to outlaw abortions on that basis—he has not. He has brought something to the Committee that seeks to find some consensus. He has brought something that seeks to provide information and to support parents who find out in the process of a pregnancy that their child may be born with a disability. He seeks to ensure that there is informed consent, that parents have information provided about disabilities and that they have connections with peak organisations that have experience in this regard. That is the position the Hon. Greg Donnelly has come to through his consultation with those peak organisations.

I want to refer in my remarks to some of the commentary of Lord Shinkwin in the United Kingdom. I will not take up time quoting him, but I recommend that members look at his contribution to the debate on the Abortion (Disability Equality) Bill 2017 in the House of Lords.

The Hon. Greg Donnelly: I have his email address if anyone wants it. We have been corresponding.

The Hon. SCOTT FARLOW: Wonderful. His contribution to that debate is a worthy insight from somebody who has a disability. In his case he has osteogenesis imperfecta, a rare brittle bone disease. He has significant concerns particularly when it comes to Down syndrome individuals and the 90 per cent of Down syndrome terminations that have occurred in the UK. He does not want to see the UK become like Iceland where Down syndrome has been eradicated. The Hon. Greg Donnelly's amendments do not seek to outlaw that. They do not seek to prohibit that.

The Greens have talked about improving situations through education; the Hon. Greg Donnelly's amendments seek to improve the situation through education. They are about providing choice and supporting women and families to be able to see the other side of the rainbow and to see that people can live very happy, healthy and fulfilling lives with a disability, that families can be supported and that there are supporting organisations. They are very moderate amendments from a member who feels very passionately about this and who has ventilated the issue well. The amendments deserve the Committee's support.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:43): The amendments moved by the Hon. Greg Donnelly are modelled on the Prenatally and Postnatally Diagnosed Conditions Awareness Act (United States Public Law 110-374), which was co-sponsored in the United States Senate in 2008 by Sam Brownback, a pro-life Republican, and the late Ted Kennedy, a staunchly pro-choice Democrat. That Act was driven by a deep concern in the disability rights community that pregnant women receive negatively biased information about what it means to have a child with a disability, which is shaped by negative societal attitudes toward disability. For example, Down Syndrome Australia states:

> There is evidence from a range of sources that suggest that often women are not being provided with adequate information both prior to and after the screening tests are completed. Feedback from the Down syndrome community suggests that in many cases the information provided to families is outdated or focused on a very negative portrayal of what it is like to have a child with Down syndrome.
>
> Some families who choose to continue their pregnancy after a high probability result indicate that they do not feel supported by the medical community and that termination is repeatedly offered despite a clear decision having been made.

I interpose here that my sister has a child with a severe chromosomal disability, and the observation I made just then absolutely applied to her when she carried that child. That child, who was named after me and is now 19 years of age, is such a treasure to his family that the prospect of them not having him would be of immense regret to them, because he has contributed to that family's life in a remarkable way. Notwithstanding that, when my sister carried Damien it was often recommended to her that the pregnancy should not be proceeded with.

These amendments do not prohibit a single abortion but do seek to ensure that all women given a prenatal diagnosis of a suspected or confirmed disability in their unborn child are given the opportunity to receive accurate information from those who know about caring for a child with the relevant disability or living with the relevant disability firsthand. The National Disability Insurance Scheme Act 2013 includes in its general principles a commitment to the positive personal and social development of people with disability, including children and young people. Another principle relating to NDIS plans is to where possible strengthen and build the capacity of families and carers to support participants who are children. The intent of the amendments is that the support be given before the birth.

Many women in New South Wales may not be aware of the support that a child with disability is entitled to under the National Disability Insurance Scheme. What a tragedy it would be if a woman were to abort a child with a disability today without ever having been made aware of those supports. The bill, at least for terminations after 22 weeks of pregnancy, requires consideration of a pregnant woman's current and future social circumstances. In the case of a woman faced with the possibility of caring for and raising a child with a disability, the extent of support available for that child under the NDIS must be a key factor in any such consideration—but how can that be if she is not fully informed about the extent of that support?

The peak organisations and peer networks referred to in this amendment provide an invaluable service to persons living with a disability and to the families of children living with a disability. Only by having the opportunity to contact such an organisation could a woman be properly informed about the positive aspects of having a child with a relevant disability, as well as the challenges and the supports available to deal with those challenges. No-one, least of all the woman herself, is served by a decision made in haste and ignorance and before the understandable initial impact of an apparently adverse prenatal diagnosis has been followed by time for calm

reflection based on all the relevant information. I commend the amendment to the Committee and congratulate the Hon. Greg Donnelly on his devotion to this cause.

The Hon. GREG DONNELLY (20:48): I will speak not in reply but rather make a couple of observations before the amendments are put to the Committee. Having said that, I will thank the members who have contributed. I thank the Hon. Walt Secord, Reverend the Hon. Fred Nile and the Hon. Matthew Mason-Cox in particular. Matthew may not be in the Chamber at the moment but I sincerely thank him anyway. I have talked about this particular matter with him over a period of time and I understand his situation. It was very important that he made his contribution. It was difficult for him and I thank him from the bottom of my heart. I also thank the Hon. Penny Sharpe, and I thank the Hon. Scott Farlow for his words of encouragement.

The one person about whom I have not commented is Ms Abigail Boyd, who has left the Chamber. I will say that we will leave that for tomorrow, and *Hansard* will speak for itself. I need to give what she said some balance because she misconstrued and profoundly misrepresented the intention of the amendment. Almost every point made by Ms Abigail Boyd was the polar opposite from what I expressed and went through in some detail. There was no obvious intent to bring disrespect to anyone but, in particular, a woman in circumstances upon which this provision has been crafted in consideration of. I will decide what to do. Ms Abigail Boyd implied an ill-motive behind that but I suspect she was not listening intently to my contribution.

I understand the views of Ms Abigail Boyd on feminist ideology, but I do not understand the implication of its disrespectful aspect with respect to those with disability as it seems to be contra to the very essence of what the amendment is all about. I do not feel I need to apologise to anyone with a disability because I cannot see in any way, shape or form how there is anything to do with either the implications of what I have done or specifically the proposed wording about what it would provide for, that would bring any sense of disrespect.

Obviously the language has been put together in such a way not to force, demand, require, direct—whatever word one might think about—a woman in the decision she will or will not make. I find it hard to comprehend, be implied or suggested that it is placing obstacles. I cannot see that in any way, shape or form. The Hon. Matthew Mason-Cox has returned to the Chamber. I thank him from the bottom of my heart for his contribution. The issue of removing obstacles as stated by the Hon. Matthew Mason-Cox is the sharing information. That might be over just a cup of tea, such as, "Would you like to have a cuppa and a bit of a talk?" It might be just a single conversation. I do not suggest that a relationship will be developed with a peer support person who will become your best friend over time and a lifelong buddy. No, this is about the ability to casually, informally engage and talk, and share information to help form one's thinking.

On any issue in life how better off are we, not so much for a small decision but in the context of a large decision, to share with others and be informed? It does not mean that one has to take away and agree with what is proposed; rather it is part of nourishing the process of thinking and considering and ultimately coming to a decision. I have never seen the exercise of doing with good intentions can be anything other than a positive and beneficial act which is ultimately helpful and advantageous for the person dealing with the matter at hand that requires particular attention and consideration, particularly if it is a large and significant matter like the one that we are dealing with.

I return to the issue of imputations and impugning women. It is part of a narrative which has gone back and forth that people are making judgements. We are not making judgements; we are codifying a new statute. People have complained about the time we have spent on this very significant bill, in my view. To place within it the very best we can as a Parliament, as a society, as the State of New South Wales into the future as far as we can see, it seems to be a pretty good idea to spend a few extra hours a day or two, here in September 2019, doing that. I do not have any problem with that. If it requires explaining to people, "There are no imputations; we are not impugning or trying to put in obstacles. This is the intention. Please, take it for what it is. Try to think about it"—we do our best to influence people; that is what the process is all about—that is very necessary.

I conclude on this point: We have talked about the vulnerable in our society and people with disability clearly being amongst the most vulnerable. Obviously those who are unborn are the most vulnerable, and we have talked about that a lot. Obviously there are those who have a particular feature—and I use "feature" not in a value judgement sense, but a feature that goes to what we in society talk about as a disability that we attempt to understand so that we are now able to help that individual live life as fully, prosperously, humanly and enjoyably as possible. Surely it is beholden on all of us to try to achieve that if we are a decent, civilised society.

The Hon. Matthew Mason-Cox made the point that we have come some way but we still have some way to go. I have to say that the language used and the sharpness of the language in some points made particularly by Ms Abigail Boyd suggests that we have a long, long way to go, at least in the minds of some. They see any attempt from someone who does oppose abortion—I have to declare that position, and have done so—in the context of this abortion debate about an issue or subset issue to be doing anything other than having some sort of secret

agenda so, therefore, one simply assumes they are acting in bad faith, there is an act of ill will before us and it must be rejected.

But we are dealing with people with disability, but what does disability mean? It is a good question. The legislation seeks to provide those definitions, and they are broad definitions. I suspect people would believe—probably with some justification—that I have quite a few disabilities in the way that I behave and talk. We all have our shortcomings. Is a shortcoming a disability? I do not know. I do not think "shortcoming" is in the National Disability Insurance Scheme, but what is disability? We need a bit of levity, but at the end of the day for me the essential point is that people with disability are our brothers and sisters and it is incumbent on us to try to do a lot better in terms of the lot of, the standing of, the respect of, the care of, and the love of those with disability who are unborn.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Greg Donnelly has moved amendments Nos 1 to 3 on sheet c2019-137B. The question is that the amendments be agreed to.

The Committee divided.

Ayes 14
Noes 26
Majority.....12

AYES

Amato, Mr L	Banasiak, Mr M	Borsak, Mr R
Donnelly, Mr G	Farlow, Mr S	Franklin, Mr B
Houssos, Mrs C	Latham, Mr M (teller)	Maclaren-Jones, Mrs (teller)
Martin, Mr T	Mason-Cox, Mr M	Nile, Revd Mr
Roberts, Mr R	Tudehope, Mr D	

NOES

Ajaka, Mr	Blair, Mr	Boyd, Ms A
Buttigieg, Mr M (teller)	D'Adam, Mr A	Faehrmann, Ms C
Fang, Mr W (teller)	Field, Mr J	Graham, Mr J
Harwin, Mr D	Hurst, Ms E	Jackson, Ms R
Khan, Mr T	Mitchell, Mrs	Mookhey, Mr D
Moriarty, Ms T	Moselmane, Mr S	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Secord, Mr W
Sharpe, Ms P	Shoebridge, Mr D	Taylor, Mrs
Veitch, Mr M	Ward, Mrs N	

Amendments negatived.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I will seek guidance from the Committee on what we will do next.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:06):

I will not move amendments Nos 1 to 3 on sheet c2019-156C. By leave, I move amendments Nos 1 to 8 on sheet c2019-159 in globo:

No. 1 **Professional standards and guidelines**

Page 7, proposed section 13, line 6. Omit "**at approved health facilities**".

No. 2 **Professional standards and guidelines**

Page 7, proposed section 13, line 8. Omit "at approved health facilities".

No. 3 **Sex selection**

Page 7, proposed section 14, line 12. Omit "**Review in relation to gender selection**". Insert instead "**Terminations for sex selection**".

No. 4 **Sex selection**

Page 7, proposed section 14. Insert before line 13—

(1) This Parliament opposes the performance of terminations for the purpose of sex selection.

No. 5 **Sex selection**

Page 7, proposed section 14, line 16. Omit "purposes of gender". Insert instead "purpose of sex".

No. 6 **Sex selection**

Page 7, proposed section 14. Insert before line 18—

(2) The report must include recommendations about how to prevent terminations being performed for the purpose of sex selection.

No. 7 **Sex selection**

Page 7, proposed section 14. Insert after line 22—

(4) To avoid any doubt, the guidelines that may be issued under section 13 may include guidelines, about the performance of terminations, that prevent terminations being performed for the purpose of sex selection.

No. 8 **Sex selection**

Page 7, proposed section 15, lines 23–25. Omit all words on those lines.

The TEMPORARY CHAIR (The Hon. Niall Blair): Order! Before the Hon. Damien Tudehope begins his contribution, I remind the Committee that the amendments relate to the topic of sex selection. That is not an invitation to open up the whole debate on that topic again. Members will be asked to confine their contributions to the amendments before the Committee. The Hon. Damien Tudehope has the call.

The Hon. DAMIEN TUDEHOPE: But Chair, I had a four-hour speech!

The TEMPORARY CHAIR (The Hon. Niall Blair): There's a new sheriff in town.

The Hon. DAMIEN TUDEHOPE: I acknowledge the direction which you have just given to the Committee. Unfortunately I acknowledge also that I and this Committee agitated and debated, sometimes in a reasonably heated manner, the whole issue of sex selection yesterday. It would have been my preference, I must say, since it was an amendment moved by me, that that amendment had been successful.

The Hon. Greg Donnelly: It was a good amendment.

The Hon. DAMIEN TUDEHOPE: I acknowledge the Hon. Greg Donnelly, who continues to confirm that it was a good amendment. Having said that, the Committee has in its wisdom rejected that proposed amendment. When this issue was previously before the other place—

The Hon. Greg Donnelly: Point of order: The background noise is a bit too loud given the importance of the amendment we are discussing.

The TEMPORARY CHAIR (The Hon. Niall Blair): I uphold the point of order. The Committee has dealt with this issue over many hours. All members should be heard in silence. Members who wish to have a conversation should do so outside of the Chamber so that the members who have the call can be heard and Hansard can record the debate.

The Hon. DAMIEN TUDEHOPE: When this amendment was moved in the other place by the member for Mulgoa, every member who contributed to the debate expressed repugnance, revulsion, rejection of and objection to sex-selection terminations of pregnancy—abortions. Notwithstanding that, the lower House voted against it but wanted to express its rejection of the practice of sex-selection termination and in fact included a provision in the previous iteration of the bill, the amendment of which I will come to shortly, providing that the secretary will conduct a review of gender selection and then in an unusual way introduced a provision with no heading which read:

(1) Notes that this House opposes terminations being performed for the sole purpose of gender selection.

When the issue of sex selection was debated previously the Hon. Matthew Mason-Cox highlighted the anomaly of the manner in which that clause appeared and the lack of a heading for the clause. He identified the issue that which House opposes terminations is not clear and other defects relating to the manner in which sex selections would be investigated in future and that a framework be put around the issue of sex selection for the guidance of those persons who practice terminations of pregnancy and the attitude of Parliament to terminations of pregnancy.

That brings us to this amendment. I must say at the outset I am pleased that we have got to a stage where Parliament can in fact say to the people of this State that we reject the issue of sex selection, we require guidelines to be created and we require that the failure to comply with those guidelines may in fact be professional misconduct. It has been a tortuous process to get here and I acknowledge the significant negotiation I have had to engage in with the proponents of the bill, the Hon. Trevor Khan and the Hon. Niall Blair. I also acknowledge the contribution of the health Minister, Brad Hazzard. He and I have had a few exchanges and we have reached a

position on the amendment which I am now moving. The previous position adopted by the other place will be replaced by a provision which proposes that this Parliament opposes the performance of terminations for the purpose of sex selection.

That is an appropriate position for the whole of this Parliament to take. The second and most important component is the creation of a framework for an inquiry and for guidelines on sex selection. The bill gives the Minister the limited power to direct the secretary to create guidelines that deal with terminations at approved health facilities. This amendment will create an ability for the Secretary of NSW Health to issue guidelines for terminations more generally. The amendment creates a framework for the secretary to conduct an inquiry, produce a report and create those guidelines. The amendment avoids any doubt around the guidelines that may be issued under section 13 of the bill. The secretary may create guidelines about the performance of terminations that prevent terminations from being performed for the purposes of sex selection. The Minister for Health and Medical Research has authorised me to read on the record a letter he has sent. His direction states:

> Dear Honourable Members of the NSW Legislative Council,
>
> Should amendment 159 pass, and the Reproductive Health Care Reform Bill 2019, soon to be named the Abortion Law Reform Act 2019, pass the Parliament, I will forthwith instruct the Secretary of the NSW Ministry of Health to prepare and issue professional guidelines to prevent terminations being performed solely for the purpose of sex selection.
>
> These guidelines will be further informed by the review into sex selection to be conducted by the Secretary of the Ministry of Health, and any recommendations coming from the review.

That represents a clear message from this Parliament. The guidelines will provide a clear message about the expectations of NSW Health around sex-selection abortions. This represents an outstanding outcome for the people of this State.

The Hon. NIALL BLAIR (21:17): I rise to support the amendment moved by the Hon. Damien Tudehope. At the outset I say that this is a good development in this debate. It was clear in yesterday's debate on sex selection that there is a consensus that members of this Parliament are against sex-selection terminations. That clear statement is underpinned by the amendment that was made in the other place. But I think we can all agree that the amendment the Legislative Assembly put in to try to portray that message was clunky. It was up to this House to address that issue and look at the way we express the view of most of the members who have contributed to the debate so far. As the House of review, it was up to us to have a look at the wording that was sent to us from the other place to see if we could improve it.

And I think that is what this does. And it does so by putting it solely in the hands of the NSW Ministry of Health to come up with how to do it. This is where we have had a bit of a struggle throughout this consideration: The will of the Committee and the issues expressed by the Committee and members can unfortunately create further problems in their implementation. What this amendment does is it says we do not believe in sex-selection abortions, but we do not have the expertise to come up with the guidelines to make sure that the views that we have all expressed can be implemented without unintended consequences and in a way that is acceptable to the medical practitioners of this State.

These amendments strike that balance. They send the message that during the consideration we have all expressed that we do not have the expertise to come up with a mechanism that will not have an unintended consequence, but will also make sure that the wills and the wants of the members of this place are expressed through the community and through to the medical practitioners of this State. That is what the associated letter from the member for Wakehurst and the Minister for Health and Medical Research also does. It provides a commitment, not only while we are getting the information and have the time to do the review that has been put into this bill to find out the best way to gather the data on sex-selection terminations, but there is a will to put into practice immediately the guidelines to express what has been articulated during consideration in this Committee. I think that absolutely strikes a balance.

It leaves us with the comfort immediately that the Minister will instruct his department to do something about this straightaway. That is the commitment that has been read onto the *Hansard* by the mover of the amendments. But it also means that we will be able to gather the information and evolve through the review over the next 12 months to make sure this is the best guideline we can provide to our medical practitioners. This is not opening up that whole debate because we had the debate and that is why this amendment is before us tonight. Every member had the opportunity, as many times as they wanted, to stand up to express their views about this issue, and work has been going on throughout the day today to enable us to get to a point where we can all put that message out there that this Parliament does not accept sex-selection terminations.

But we also respect the fact that we do not want to complicate this matter for our medical practitioners. We do not have that expertise. That should be done through the Ministry of Health. We have faith that through the Minister providing this directive through this letter that will occur. So members, I urge that you support these

amendments. This has been well and truly consulted on throughout the day. There have been many, many discussions over the wording of these amendments and their interpretation. There has been broad consultation also with external stakeholders on this matter. I believe that this allows us to draw a line in the sand on this issue.

But it also provides for further tightening, further information or further clarification within the review that will take place, that is already in this proposed Act. This is doing two things: It is addressing the issue now and it is providing for the best evidence-based opportunity to make sure it is well and truly addressed in New South Wales into the future. This really strikes the balance. This may not be supported by all in this Chamber and I absolutely acknowledge that. But the job of this Committee is to look at what has been sent to us from the lower House. We have had the consideration and we now have an opportunity to improve and make better an issue that many members have expressed over the past 24 hours.

It has taken us to this point to get to the wording that we have at the moment. It is not perfect and it may not be supported by all members of the Committee, but I put to each and every member that it is a far better option than what the lower House presented us with. It is a far better option than what we would have walked out with if we had passed the bill last night. It is also something that will evolve over the next 12 months. It will be evidence based and provided with data, because other amendments will be moved in relation to the type of data that should be presented to feed into this process. I believe it will give many people in this State the comfort that they have been seeking throughout this debate.

The issue of sex selection has been brought to the forefront of the minds of the people of New South Wales because of what we are doing here. Like it or not, right or wrong, the issue needs to be addressed. I believe that these amendments are the best way to do that. They strike a balance between immediate need and, more importantly, giving us the best opportunity over the next 12 months to make sure that this State has the best and most informed set of guidelines through the Ministry of Health to make sure that everyone's concerns are put to rest. I commend the amendments to the Committee.

The Hon. WALT SECORD (21:25): Because of my longstanding support for this policy area, I feel compelled to state why I will be supporting the amendments. The principal points are that they do not affect the bill, they will not reduce or restrict a woman's access to terminations in any form and they send a clear signal that members of this Parliament reject the concept of gender selection. They also involve the creation of guidelines by New South Wales to restrict it. I mean no disrespect to the Hon. Damien Tudehope, but during his contribution in which he read the letter from health Minister Brad Hazzard, I felt compelled to independently check with the health Minister. Yes, his sentiments are similar to what the Hon. Damien Tudehope expressed. I will be supporting the amendments.

Ms ABIGAIL BOYD (21:27): I appreciate the efforts to consult with one another and to attempt to come up with amendments that bring together the different viewpoints of members. The Greens were not consulted on these amendments, which is a shame because there is quite a lot in them that, to us, does not make any sense whatsoever. There is a saying about the two things that you do not want to see made: One is sausages and the other is laws.

The Hon. Greg Donnelly: Boom-boom!

Ms ABIGAIL BOYD: It was not supposed to be a joke, Mr Donnelly. This is a crazy way to make laws. I will not rehash the arguments that were raised last night, but in the absence of evidence that the practice of sex-selective abortion is occurring in New South Wales, and to appease some members in the lower House, proposed section 14 was inserted into the bill stating that a review will occur of whether or not sex-selective terminations are being performed. The review is of whether or not terminations are being performed for the purposes of gender selection. Presumably that review could report that, no, terminations are not being performed for the purposes of gender selection in this State. Yet these amendments will require the report to include recommendations about how to prevent terminations being performed for the purpose of sex selection.

On the one hand is the possibility of that report saying, "Well, it does not happen," and on the other hand is the report being obliged to also have to say how to prevent the thing that is not happening anyway. It is completely nonsensical. It is there because a practice that does not occur has been raised as a spectre over the bill to drum up opposition to it. Members now seek to insert weird amendments to try to reach a position where we can tick a big box to say, "Don't worry, we have dealt with that big non-issue that we raised for the purposes of trying to defeat this bill in the first place." That is what this is.

Of course we are not in favour of terminations for the purposes of sex selection. There are a great many things that we do not know are happening but that we would be opposed to. We do not seek to put them all in the bill and say how we feel about all those things as well. It is an absolutely nonsensical amendment. The original

clause 14 was a compromise in the lower House that The Greens in that place also rejected. The Greens do not support this farcical amendment.

The Hon. TREVOR KHAN (21:30): Unlike a number of my other contributions, I hope to be particularly short.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): On the amendment.

The Hon. TREVOR KHAN: Yes, on the amendment. In speaking on the amendment, I simply say that the past 72 hours have been extremely draining. I think I have had eight hours sleep so far and yet, despite my normally crabby nature, there has been an extraordinary spirit of cooperation amongst a very diverse group of people—people who clearly have very different views to me on this amendment and the matter generally.

I thank the Hon. Damien Tudehope. The Rolling Stones song *You Can't Always Get What You Want* comes to mind. He has shown extraordinarily good grace in dealing with a number of matters over this time. The Hon. Matthew Mason-Cox has had a real roller-coaster of a week. He has been of extraordinary assistance in a number of the negotiations that have taken place. It has been a demonstration of the best of this House.

The Hon. PENNY SHARPE (21:32): I thank members for their work in formulating this amendment. We had an extensive debate last night and I will not revisit it. An important issue has come to a landing. I do not support the amendment simply for the reason that I do not believe the case has been made about the evidence on this issue. I believe that we need to put a review mechanism in place to deal with those matters. Having said that, the amendment is thoughtful and I understand what the Hon. Damien Tudehope is trying to do, which is to put into force some pretty clunky language that is already in the bill. I will not speak any longer on that. This process has been challenging for me. Last night I spoke at length about the issues I have regarding how we deal with this in the law. The review process is important. The guidelines process that NSW Health will undertake is important. We want that to be based on evidence. That is what is pleasing in relation to the amendment but I will not be supporting it.

The Hon. MATTHEW MASON-COX (21:33): I acknowledge the cooperation that has gone into developing this amendment. We can leave this Chamber tonight knowing that the people of New South Wales have seen that this Parliament has listened. It has listened to the strong message they have sent in the rallies, the submissions and the absolute tide of emails and other responses on this critical issue. This Parliament is sending a strong message that the bill will not allow sex-selection abortions.

I understand some of the concerns raised about the evidence but I think there is enough evidence to suggest that sex selection is a real issue. Let us gather the evidence over the next 12 months and test the issue, but let us start the process now. One of the great criticisms of the solution proposed in the other place was that we needed to wait for something to happen—perhaps something really terrible—in order to gather evidence about it. The Minister for Health and Medical Research should be given a lot of credit for this. Some might be surprised that I would say that but I know the Hon. Brad Hazzard is listening and I thank him for putting together a pragmatic solution to this. I salute the Minister because he has listened to concerns about the problems that exist in the bill that was received by this House.

Now we have a solution that we can trumpet through New South Wales so that we send a strong message that the communities around the State were looking for—that both Houses of this Parliament will not tolerate sex-selection abortions in this State. That is the message in these amendments. This Parliament has listened, and I thank all those involved in developing this real solution.

The Hon. SCOTT FARLOW (21:35): I support the amendments that have been moved by the Hon. Damien Tudehope in this House. I pick up on the point made by Ms Abigail Boyd that this is farcical. It is not. It is the right of this House to choose to amend a bill which comes from the lower House. There is no inconsistency in these amendments. Rather than implementing a review, these amendments implement guidelines. In my contribution to the debate last night—I will not traverse it—I said that I thought we needed the force of law. This provides the force of law. I commend the Hon. Trevor Khan, the Hon. Niall Blair, the Hon. Damien Tudehope and the Hon. Matthew Mason-Cox for coming together to try to find a solution. These amendments seek to address that solution. This is a difficult issue, which we have all grappled with. I supported the solution provided by the Hon. Damien Tudehope last night but these amendments address the House's concern about this issue and seek to implement it in law. It is the responsibility of this House to do that. It is up to us, and hopefully the House will support those amendments this evening.

Mr JUSTIN FIELD (21:37): I have not spoken on any of the amendments to the bill to this point but I have listened intently, and I would like to acknowledge the contributions of many and the detailed work that so many have done to form their positions. That has helped inform how I have voted. I think it is appropriate that I put on the table my position with respect to this issue. The amendments, as I read them, are supportable, but

there is a difference between the amendments and the language of the letter that has been provided by the health Minister. I think it is quite a significant difference. Amendment No. 7 states:

> No. 7 **Sex selection**
>
> Page 7, proposed section 14. Insert after line 22—
>
> (4) To avoid any doubt, the guidelines that may be issued under section 13 may include guidelines, about the performance of terminations, that prevent terminations being performed for the purpose of sex selection.

There may be guidelines prepared that may do that. The health Minister has indicated that if this passes Parliament he will direct that guidelines be prepared "to set professional standards to prevent". How can health professionals prevent this from occurring without there being some sort of mandatory process that they have to go through when engaging with women who are seeking support? How can they do that without doing many of the things that were raised in this debate last night that people were so concerned about—potentially interrogating women on why they are making such a decision and potentially using profiling to determine to whom they should be asking that question? How are they to make a judgment as to how they will enact their professional standards to meet the guidelines?

It makes no sense to create this provision even before doing research and understanding what the concerns may be. For those reasons I will not support this amendment. I do not see how it changes so many of the concerns that were raised passionately and articulately in the debate last night. I understand the effort that has gone into this amendment but it makes a mockery of the conflation of this issue with the important need of the bill being about choice and about trusting women to make decisions for themselves. I do not think the amendment solves that problem. I will be pretty disappointed if this amendment is trumpeted tomorrow, the next week or the next year as some sort of solution because the problem will not be solved by it.

The Hon. ADAM SEARLE (21:40): Last night I refrained from contributing to the extensive debate on amendments seeking to ban sex selection but now that we are revisiting the issue it is appropriate to place my views on record. I will not support this amendment but I recognise the hard work that has gone into it. It is vastly superior to the amendment that was debated at great length last night. Other speakers have made this point much more elegantly than I will: No-one in this place or the other place would support abortion based on gender. The bill already expresses that declaration from the Parliament and the mechanism of the review to gather evidence about whether or not sex-selective abortion is a practical problem in New South Wales.

I do not seek to downplay in any way the gravity of the issue if it is occurring but how often do parliaments and governments refrain from acting on a whole variety of issues simply because there is no sufficient evidence? How often do parliaments and governments fail to act even in the face of mounting evidence? In many ways the earlier amendment relating to sex-selective abortion and this amendment are a solution in search of a problem, but the greater problem is the division of opinion amongst elected members of Parliament, revealing the deeply held, different philosophical views on issues contained in the bill. Without wishing to appear unkind to anyone, I think the amendment is really a solution directed to that issue rather than to any other issue.

I will not support the amendment but I recognise that people with a diversity of views—supporters and opponents of the legislation—are working together to craft a mechanism that comes to grips with people's deeply and genuinely held views about this matter, although I do not think there is established evidence that there is a problem to be solved at this point. Last night the Hon. Penny Sharpe said that if there is a practical issue, the solutions to it are societal. Rather than the heavy hand of government, it is about addressing and unmaking the social conditions that lead to terminations based on gender.

A lot of debate on the bill has been informed by the spirit of small-l liberalism of wanting to ensure that the heavy hand of the State and government is not reaching into people's personal choices, whether for those seeking terminations or those with deeply held conscientious objections. But in my view this is the heavy hand of the State being brought to bear on an issue that may or may not exist in New South Wales. I think that is a bad and poor basis for making law but I accept that on this occasion I am probably in the minority in this House.

The Hon. Trevor Khan: I hope so.

The Hon. ADAM SEARLE: I acknowledge that interjection; I understand that.

The Hon. Trevor Khan: A heck of a lot of work—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Trevor Khan will come to order.

The Hon. ADAM SEARLE: You can seek the call. I hope that the resolution of this issue goes some way to building bridges between the very stark differences of opinion that have been expressed during the debate on the bill.

Reverend the Hon. FRED NILE (21:44): I will say a few words and then I look forward to hearing from the Hon. Greg Donnelly again. I thank all the members who have contributed to bringing about this agreeable solution. I look forward to the Ministry of Health conducting its review and providing practical evidence on this issue and I hope the evidence will prevent us from following the pathway taken by Victoria, which has female-based abortions in large numbers.

The Hon. GREG DONNELLY (21:45): I most sincerely thank the many people behind the scenes who have been critical to bringing this motion to a conclusion in this form. I would have preferred it if the House had passed the motion of the Hon. Damien Tudehope last night. But if that was unachievable, we have an amendment which I think is supportable. Specifically I acknowledge the work of the Hon. Damien Tudehope, the Hon. Matthew Mason-Cox, the Hon. Niall Blair, who has worked tirelessly, and the Hon. Trevor Khan who has been very instrumental in working across a range of groups. There have been many others as well, such as the Hon. Penny Sharpe who has been involved in negotiations. I could go on but they are some of the key players who have worked tirelessly.

When we work through the issues we produce outcomes that improve the position we were at before we started those engagements. I leave my final thanks to the people of New South Wales. I am not inviting any response but the people of New South Wales have made this a centre, middle, back, side or front issue in this debate, whatever way you want to configure it. As previous speakers have said, this bill has featured strongly with the public. I cannot quite work out why and how it got to this situation. A person who made even a casual observation of the least interested sort would conclude that this issue has exercised the minds of people in New South Wales like nothing that has ever been seen of a matter inside the Parliament. As I said in my contribution last evening, this has not been brought about by a small group firing people up. It has taken off across the State. I stopped counting the emails at 15,000—they have been put in a file—and I have never seen so many postcards in my life. I could go on and on and on.

As this will be my last opportunity this evening, I conclude by sincerely thanking the citizens of New South Wales who, through their presence of mind and determination, have made the Parliament listen. Politicians sometimes do not like that. They come in here and think they have the answers and the authority. The activity, activism and pushing and shoving to make the politicians understand that what was before the Parliament was utterly substandard has led to the bringing forward of an amendment which, whilst not perfect by a long stretch, will lead to, as we will see shortly, the hardliners opposing it. It does not matter what we bring forward, they will oppose it. That is just a fact of life. They have an ideological position. So be it, that is life. The fact is that the citizens of New South Wales have made all members come to the table and realise that consultation, engagement and proper due process is fundamental to dealing with the body politic of this State. They have risen up, forced an engagement and brought this forward. That is a wonderful thing. I thank the citizens of New South Wales.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I remind the public gallery—and I commend their patience over the past three nights—to observe in silence so that we can do the work that the public elected us to do. Members will not engage the public gallery from the benches either.

The Hon. COURTNEY HOUSSOS (21:49): I will keep my remarks brief and make two quick points. I have spoken consistently in the debate about how this does not represent the best traditions of this Chamber. Although, as is natural in any compromise, this does not represent everything that I would like to see in it, it shows that we can come together to work a way through a very difficult issue—one that has, as the Hon. Greg Donnelly has spoken about at length, been raised consistently in the community outside of this place. Those of us who have the privilege of speaking in here have the abilities of Hansard to correct our remarks and make them sound slightly more polished and considered than perhaps they sometimes are.

Last night in the Chamber, as we voted on the amendment around sex selection—and there are limitations on the public gallery and they are not entitled to interact with us—the gallery was full as it has been for much of this debate. There was a silent moment where almost all of the gallery moved to the side of the people who were voting in favour of the amendments on sex selection. For me, that was a silent and powerful message about the way the broader community feels about the issue. If we support this amendment tonight, it will reflect the views that were represented in the gallery last night but, more importantly, the views of the broader community about the condition. I will end it there, with the actions of the people of New South Wales.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind members that we canvassed most of this material over four hours in the debate on the amendment yesterday.

The Hon. MICK VEITCH (21:52): I, like Mr Justin Field, have not been a regular contributor to the debate over the past three days and there is a reason for that. Most of my comments are on the public record in other debates in this Chamber on the same matter in previous years. I have been reluctant to contribute but on this

particular item I have listened with a great deal of interest. One of the great things about the Committee stage in the upper House in general is that if we engage and take the time we can get things right. Sometimes we can get things very wrong and we have seen examples of that in this place.

Over the past three days I have spoken to a number of people in the Chamber on both sides of the debate. This particular issue has left me conflicted as to where I want to land. Most people know my position on terminations in this State—it is a matter between a woman and her medical practitioner. If there is an issue here—and I do not think there is—there is a really strong case for the need for information and data: The data over a period of time will prove to us whether it is an issue. My reluctance to support the amendments as proposed is around the fact that I personally do not think it is an issue.

Having said that, I am also a strong believer in the need for research to prove one way or the other. Therefore, I will reluctantly vote in favour of the amendments. There is a range of other organisations and individuals who know my position on this particular issue so it is important I put on the record why I am making that decision. It is not an easy decision. However, as I said, I believe we need the research to prove conclusively one way or the other whether this is actually an issue.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Damien Tudehope has moved amendments Nos 1 to 4 on sheet c2019-159. The question is that the amendments be agreed to.

The Committee divided.

Ayes 28
Noes 13
Majority.....15

AYES

Ajaka, Mr	Amato, Mr L	Banasiak, Mr M
Blair, Mr	Borsak, Mr R	Buttigieg, Mr M
Cusack, Ms C	Donnelly, Mr G	Fang, Mr W
Farlow, Mr S	Franklin, Mr B	Harwin, Mr D
Houssos, Mrs C	Khan, Mr T	Latham, Mr M
Maclaren-Jones, Mrs (teller)	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Moriarty, Ms T	Moselmane, Mr S
Nile, Revd Mr	Roberts, Mr R	Secord, Mr W
Taylor, Mrs	Tudehope, Mr D	Veitch, Mr M (teller)
Ward, Mrs N		

NOES

Boyd, Ms A	D'Adam, Mr A	Faehrmann, Ms C
Field, Mr J	Graham, Mr J	Hurst, Ms E
Jackson, Ms R	Mookhey, Mr D	Pearson, Mr M
Primrose, Mr P (teller)	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D (teller)		

Amendments agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): According to sessional order, it being 10.00 p.m., does the Minister require that I report progress to allow the motion for the adjournment to be moved?

The Hon. DON HARWIN: Yes.

The PRESIDENT: The Committee reports progress. Further consideration of business before the Committee is set down as an order of the day for a future day.

Adjournment Debate

ADJOURNMENT

The Hon. DON HARWIN: I move:

That this House do now adjourn.

CENTRAL COAST MEDICAL SCHOOL

The Hon. TAYLOR MARTIN (22:04): Earlier this month I announced on behalf of the Minister for Health and Medical Research that the tender had been awarded for the construction of the $72.5 million Central Coast Medical School, right next to the new $348 million Gosford Hospital that we opened last year. Being a part of the Government which has put building infrastructure at the forefront of its agenda, making an announcement in a hi-vis vest and a Government hard hat is not an uncommon way to spend a morning. However, this one was different. In my inaugural speech in this place I spoke about how in November 2012, while commuting to and from Sydney every day for work, I met for the first time at Gosford station the then Liberal candidate for Robertson, Lucy Wicks. I distinctly remember asking Lucy what she wanted to do for commuters like me who had been born in Gosford, went to school on the Central Coast and studied at the University of Newcastle but would then inevitably have to commute over four hours a day to and from Sydney for a career.

I remember Lucy in her sky-blue overcoat—which would become such a staple in the mornings at Gosford train station that it has since been worn through—telling me about her vision to build a university campus right in the middle of Gosford. The vision was not just for a building, and the campus was not just an election commitment. It was to be the most important piece of a jigsaw to get Gosford off the ground once and for all. I remember that it was this vision that led me to get in touch with the local Liberal campaign to help out and get involved to make it a reality. Upon becoming the Federal member in 2013, Lucy set about bringing the stakeholders together to put the pieces together and make it happen.

Not long after, I put my career in finance on hold to work on Lucy's staff and be a part of the team that would keep this vision going forward. One particular meeting ended with Lucy telling everyone in attendance that we would have "Oxford right here in Gosford". Almost no-one believed her. I remember driving through Gosford with Lucy in 2016 when the call came from the Federal Treasurer at the time, Scott Morrison, who had just signed off on the $32.5 million that would be the Federal Government's contribution to the overall project. With this commitment the project became a serious proposal. Soon after came the call from then Premier Mike Baird, who committed the New South Wales Government to contribute a further $20 million. As a Liberal, I was particularly proud that the State Government funding was a result of the Gosford Hospital redevelopment being ahead of time and under budget. The final piece needed was the $20 million from the University of Newcastle. Now, with the State and Federal funding all lined up, it has been signed off on.

During these years of working through the detail and getting past the roadblocks that inevitably come with trying to bring bureaucracies together, at every opportunity Lucy has talked about the future for school leavers on the Central Coast to one day see a world-class medical university in the middle of Gosford. Schoolkids at Gosford High School could literally look across the road to see that they could go to university near where they grew up if they wanted to once they had finished their studies. Students who are in year 10 today will be able to watch the construction knowing what opportunities are available to them when they finish high school. The announcement that construction will begin is the start of the next volume in Gosford's history. It is not just another chapter in the same book but a whole new book. When those students from our schools on the Central Coast start at the Central Coast Medical School in years to come, their lives, the lives of their families, their children and, most importantly, their patients will be forever different to what they could have been otherwise.

It is the culmination of seven years of Lucy pushing through every hurdle that was put up to make this dream a reality. But perhaps more telling was not the announcement of the build but the commencement of the very first director of the new Central Coast Medical Research Institute, Professor Nicholas Goodwin. It was quite fitting for Professor Goodwin to let Lucy and I know after the announcement that he and his family are currently moving their life here from the United Kingdom—from Oxford, to be exact. And to think almost no-one believed her.

WORKPLACE SAFETY

The Hon. ANTHONY D'ADAM (22:09): Earlier this year I spoke in the House about Christopher Cassaniti, an apprentice tragically killed in a scaffolding collapse. Since that time we have seen a succession of serious injuries and fatalities, particularly in the last few weeks. On 20 August 2019 Mohamad Riche was killed in Jordan Springs after falling five stories down a lift shaft. On 7 September a worker was pulled into a woodchipper in Sydney's north and horrifically killed. On 11 September a 30-year-old man was killed after his head was crushed in a piece of machinery in St Marys. On the same day a construction worker was severely injured after falling from an eight-metre scaffold in Point Piper and a man was also severely injured after being hit in the head by falling steel pipes. The following day another man was severely injured after falling from a roof onto his head in Forestville. On Monday of this week a worker in his 50s sustained critical head injuries after a number of steel beams fell on him in Moorebank. The following day, this Tuesday past, another young man,

19 years old, was severely injured when 300 kilograms of medium-density fibreboard fell on him in a Bankstown warehouse.

In the face of this slew of injuries and fatalities, Minister Kevin Anderson has been noticeably absent. On a weekly basis blue-collar workers are being maimed and killed. In each case there has been a SafeWork NSW investigation commenced, but what is missing is the overarching analysis of what is occurring and there appears to be no recognition of the need for a changed approach from SafeWork NSW or from the Minister and the Government. Where the Minister has commented, he has been quick to attribute blame to individual workers, saying, "We are urging all workers to take their safety extremely seriously. One small mistake can have dire consequences, the decisions you make could injure or kill you or your workmates." This completely misses the point and flies in the face of the evidence.

We know that workplaces are made safe by robust, safe systems of work, that the best way to tackle risk is through maintaining a strong safety culture and that this is dependent on having workers empowered and able to raise safety concerns without fear or repercussions. We also know that the establishment and maintenance of safe systems of work is the responsibility of the person controlling the business unit. It is not a question of relying on the personal responsibility of individual workers. What is clear is that these fatalities and injuries were both preventable and foreseeable. They represent a systems failure—a failure of workplaces to have in place safe systems of work and a regulatory failure where employers have not been held to their obligations by SafeWork NSW. This is the consequence of the neoliberal assumptions that underpin the current fashion in regulatory control—the light-touch approach of regulatory agencies, the rhetoric of red tape reduction and lifting the regulatory burden on business. As governments retreat from their responsibilities to regulate health and safety we see the painful consequence as workers are maimed and killed.

I agree with the secretary of the CFMEU NSW, Darren Greenfield, who said SafeWork NSW has vacated the field as a strong regulator and employers are putting programs and profit ahead of safety. What we know is that the frequency of prosecutions by the regulator are at an unacceptably low level, sending a message to employers that they can flout workplace laws with impunity. According to the SafeWork Australia website there were 310 workplace fatalities in New South Wales between 2012 and 2016. However, between 2012 and June 2019 SafeWork NSW recorded just 26 prosecutions against individuals, employers or businesses whose breaches of work health and safety laws had resulted in the death of a worker. In 2013 there were 54 workplace fatalities in New South Wales and yet not a single prosecution for death, injury or otherwise was made by the regulator in that year.

At most, the vast majority of these prosecutions have been against corporate defendants resulting in modest fines. Seldom are individual decision-makers held to account. Reflecting on these statistics we might ask how the Government values the lives of workers. According to analysis conducted by academics at the University of Sydney, they said:

> It [was] evident that the organisations' approach to prosecution was significantly shaped by political pressures … In NSW WorkCover changed its prosecution policy because its prior punishment strategy was unpopular with powerful constituent groups, primarily the business community, who lobbied the NSW government for change.

It is also of concern that the regulator is hiding behind an enforcement policy that has been adopted by SafeWork NSW as part of the harmonisation of work health and safety laws across jurisdictions. This highlights a key problem of the harmonisation model. It diminishes the capacity of the State to adequately tailor its approach to the specific needs of New South Wales and makes the system slow and unresponsive when there is a need for change. When members of the Government rise to claim credit for the achievements of the New South Wales economy they would do well to remember some of the men and women who have paid the price for their talking points—the blue-collar workers who built this State and who inevitably bear the brunt of its woeful workplace health and safety regime.

These are the workers who are killed and severely injured at work, these are the workers who see their friends and colleagues die and these are the workers whose families are forced to pick up the pieces when the Government fails to protect their loved ones at work. Once again, I call on the Government to introduce industrial manslaughter legislation which acknowledges the criminal culpability of people whose conduct causes the death of their employees.

PAYROLL TAX

The Hon. ROD ROBERTS (22:14): I speak on the imbalance of payroll tax rates for regional areas of New South Wales when compared with Victoria. The State of Victoria has a payroll tax rate of 4.85 per cent whilst the New South Wales rate currently stands at 5.45 per cent. It is 0.6 per cent higher in New South Wales when compared with Victoria. This imbalance is somewhat offset by New South Wales providing a higher tax threshold. However, the imbalance becomes disproportionate when the comparison is undertaken in the regional

areas of New South Wales and Victoria. New South Wales maintains a consistent rate across the entire State of 5.45 per cent. Victoria, on the other hand, provides a reduced rate of payroll tax for its regional areas. It provides a 50 per cent reduction of payroll tax to 2.425 per cent for employers in regional areas of Victoria.

The purpose of the reduced payroll tax in regional areas of Victoria is obvious and it is making a significant difference to regional economies. The reduced rate incentivises regional businesses to hire more staff and regional areas to attract more businesses to their towns. The 50 per cent reduction of payroll tax has made doing business in regional Victoria an attractive proposition. An intended or unintended implication or result for our New South Wales border towns is that Victoria has become a far more attractive option for businesses than we have been able to provide in New South Wales.

With our State in one of the worst droughts in living memory, our regional businesses—including our farmers—are looking for any assistance that would increase the attractiveness of regional areas of New South Wales to businesses and induce them to move their operations. The benefits of this change could mirror those achieved by Victoria if the Government of New South Wales was to consider a similar, equal or more attractive initiative. A reduction in payroll tax for regional areas of New South Wales would allow current businesses to hire more staff and would attract more businesses to operate in our regional areas—as it has done in Victoria. It would bridge the gap between regional areas—especially in our border towns—and give them the capacity to compete with Victoria by attracting businesses across the border or preventing our businesses from migrating to areas where the lower tax rate is available.

This lower tax rate would not simply benefit our regional residents and businesses. It would be of significant benefit to metropolitan Sydney. It is well documented that our infrastructure has not kept pace with our population increase. Sydney is overcrowded, its infrastructure is inadequate, its house prices are excessive and the cost of living for many is critically high. Jobs in regional areas will attract city-based residents to our country towns, thereby reducing the burden on our capital city whilst boosting the economy in our regional areas. It is a commonsense initiative which originated in Victoria and now poses a risk to our regional areas, especially our border towns. I implore the Government to consider its current position in relation to payroll tax.

GORDON ELVERY 100TH BIRTHDAY

The Hon. BEN FRANKLIN (22:17): Mr Gordon Leslie Elvery celebrated his 100th birthday on 6 September this year. That is an extraordinary milestone but longevity appears to run in the family—his sister Hazel reached the age of 103. Born in Lismore in 1919, Mr Elvery is a man of deep faith, an avid dairy farmer and a devoted husband to his late wife, Shirley Alvena Joyce, with whom he shared his life for half a century. Gordon is also a loving father to four wonderful children: Jennifer, Darryl, Christine and Warren. It was wonderful to spend time with both Mr Elvery and his children at the Alstonville Uniting Church Hall on Saturday 7 September at a beautiful tribute to the extraordinary contribution he has made both to his family and his community over his life.

Mr Elvery is a lifelong resident of the Northern Rivers and has always been passionate about farming. He helped his parents with their farm at Pearces Creek in his formative years. He sharefarmed with his brother and then began buying farms, first at Meerschaum Vale and then at Fosters Lane in Rous Mill, which he still owns today. In 1942 Gordon was called to enlist and became a member of the Australian Army at Paddington, Sydney. But he did not do that alone—his brother Selwyn enlisted with him. He served as a private within Australia, driving trucks with the 148th General Transport Company. He went on to serve until 20 June 1947.

Darren Chester, the Minister for Veterans Affairs, quoted Mr Elvery in his public comments about his 100th birthday, his centenary, and stated that Gordon said the best things about serving were being part of an army unit with a sense of duty to assist with defending our great nation, acquiring new skills, learning to identify and solve problems, making new friends and being part of a team, being a leader and teaching and training others. Gordon developed long-term friendships with Bill Hider from Mildura and Ken Merchie from Bundaberg.

The Elvery family is no stranger to family members going to war. Sadly, Henry Elvery, Gordon's uncle, was killed on the Western Front in World War I. His picture now stands tall on the walls of the Alstonville Sub-Branch of the RSL. Gordon proudly wears his uncle's medals each Anzac Day. It is an honour to remember and pay respects to those brave soldiers who gave and risked their lives for our country: who stood up. Mr Gordon Elvery answered the call. I know his support and dedication to veterans continues to this day as a regular at the Tibouchina RSL day club every Wednesday. It is a terrific day club which aims to improve the quality of life for our veterans, their spouses, war widows and widowers.

I take this opportunity to also highlight the importance of these clubs and their activities to our communities. The Alstonville RSL Sub-Branch, of which Mr Elvery is an active member, recently celebrated a similar milestone, having been established for 100 years. Gordon is never far from club events, sitting up the front

of the sub-branch hall at meetings truly enjoying the goings on and showing exceptional support for the community with energy and a true joie de vivre. A hard worker all his life, from milking 100 to 150 cows twice daily in the early days, he attributes some of his health and longevity to his hard work. He is fortunate to have such good health. He has no regrets saying, "Everything I've done, I'm happy about." A true inspiration, and words we should all live by.

I congratulate Mr Elvery once again on reaching such a momentous milestone. It was a genuine privilege to celebrate it with him. I was particularly proud to present to him on the day a book produced by this Parliament entitled *Politics and Sacrifice*, noting the excellent exhibition we had in the Parliament, and signed and inscribed by the Premier of New South Wales, Gladys Berejiklian, thanking him for a lifetime of service. He is an extraordinary Australian. It was a privilege to be with him. I pay tribute to Mr Gordon Elvery.

PARLIAMENTARY FRIENDS OF AUSTRALIAN MUSIC

TRIBUTE TO GRAHAM FREUDENBERG

The Hon. JOHN GRAHAM (22:21): I thank members of the House who attended last night the annual Parliamentary Friends of Australian Music event. In particular I thank the convenors of that parliamentary group, especially the Hon. Shayne Mallard, the chair. I also thank Ms Cate Faehrmann, Mr Kevin Anderson, Mr Tim Crakanthorp, Ms Jo Haylen, a number of people I describe as the most enthusiastic members of what is a very enthusiastic parliamentary friends group. Last of all, the most enthusiastic of them all, is the outgoing chair, the Hon. Ben Franklin, who has been an outstanding advocate for this group in the Parliament. He is still what I describe as a very active member of the executive.

It has been quite a political parliamentary friends group. Members might recall the early factional battles within the group—the attempted formation of the parliamentary friends of country music. The iron-clad commitment of this friendship group is that we are for all sorts of music, not just country and western, but music right across the board. I thank APRA AMCOS, Dean Ormston and the team, especially Narelle Butterworth, Nicholas Pickard, Jana Gibson, John Wardle, Millie Milgate and Millie Petriella; ARIA—Dan Rosen got a better offer for last night and was not able to be with us but he was at the mid-winter ball; I deeply appreciate his work over time with the Parliament—the Australian Hotels Association and Clubs NSW for their support.

I thank the artists last night including Dave Faulkner of the Hoodoo Gurus who is a passionate advocate for the music. The great news is that he is planning to record and tour in the near future. We look forward to that. David Leha who performs as Radical Son put in a heart-stopping performance. Lots of people in this Chamber would love to be able to bring a room to a halt in the same way as he did when he started to speak or perform. Fanny Lumsden and her band talked before the performance about just how important it was to their careers travelling around regional Australia playing country music to have a grassroots music scene in which to grow up. KLP—Kirsty Lee Peters—is an amazing woman who is a leading New South Wales electronic artist. She is a mum, a DJ and an amazing performer. Most of all, I look forward to seeing what she does from here as a leading force in the Australian music scene.

We thank Ash London, our master of ceremonies. It is not easy to control a room full of people in this building and she did a sterling job. We will be coming back to ask for support from parliamentary members shortly. In November AusMusic T-Shirt Day represents a massive nationwide celebration of Australian music. It is designed to raise funds for Support Act, the charity that provides funds for artists and music workers experiencing financial hardship, ill health, injury or mental health issues. These are some of the lowest paid workers in the country—that is the truth. When things go wrong, Support Act is the charity that is there to help, not just the musicians but recently the roadies as well. We will be coming back to ask for support for that charity.

Music is something that unites this House. There is still more to do to support the music sector in New South Wales. Funding could be better. We need to back our venues. It is good to see that The Basement is back. I thank AMP Capital for the work it put into that transition. Of course regulation could be better, most particularly the bans and restrictions on live music that exist in many New South Wales venues, but last night left me optimistic about the will across this Parliament to take on those challenges.

On a separate matter I will say this: I want to mark the death of Graham Freudenberg. I know this House has passed a resolution to mark his passing, moved by my colleague, the Hon. Daniel Mookhey, but it seems remiss to do it formally and not to speak some words in his honour. He wrote for our leaders, including Arthur Calwell. In many ways he is the archetypal speechwriter, in my mind. Most of all, I recall his speech to a Labor conference delivering the Life Member's speech, our highest honour, and he talked about Johno Johnson. He described him with this single phrase, "The servant of the servants". It was a beautiful description. I thought it was a perfect description of Johno, but even at the time I thought it summed up Freudie and his view about his own role—the servant of the servants. We miss him greatly.

KALDOR PUBLIC ART PROJECTS

The Hon. WALT SECORD (22:26): As the shadow arts Minister, I speak on the Kaldor Public Art Projects—Making Art Public, which is at the Art Gallery of New South Wales until February. This exhibition is a testament to John Kaldor, AO, who is renowned as a collector, patron and supporter of contemporary art and founder of Kaldor Public Art Projects. Born in Budapest, Hungary, he came to Australia as a refugee with his parents in 1948. Mr Kaldor's story is a wonderful example of opportunities given leading to further opportunities shared. He began collecting art in the early 1960s and from 1969 he began to share his love of it with the Australian public through his series of public art projects. In fact, it was around this time that he brought the then-most ambitious public art project in the world to Sydney. Even those who are not into public art will recall the famous "wrapping" of Sydney's Little Bay in October 1969. It was an event that put Sydney at the centre of the world's contemporary art scene for that moment and we have Mr Kaldor to thank for that.

I still remember in 1986 my art history university professor in Toronto showing slides of that massive undertaking. Co-artists Christo and Jeanne-Claude directed a collection of more than 100 students, artists and volunteers to make the world's largest ever work of art, wrapping the entire coast. Previously, they had wrapped a Swiss art museum and had hoped to wrap a length of coast in California. After completing Little Bay, they created headlines around the world with each event as they wrapped a Roman wall in Paris and hung a curtain across a Colorado valley. In 1995 they wrapped the Reichstag. But Little Bay remains the first magnificent public artwork on a grand scale and it is still a milestone. In terms of Mr Kaldor's role, Little Bay was the start of a contribution that continues to this day.

Over the years, I have seen or attended many of the Kaldor Public Art Projects, ranging from the famous Jeff Koons' three-storey high *Puppy* in 1995 in front of the Museum of Contemporary Art to Gregor Schneider's *21 Beach Cells*, which transformed Bondi Beach into maze of cells in 2007, and Anri Sala's *The Last Resort* at the Rotunda at Observatory Hill with its tiny drums in 2018 and Asad Raza's *Absorption* with its more than 300 tonnes of soil at the Carriageworks in May. Over the past 30 years I have met Mr Kaldor in various capacities and in some unusual settings, including a birthday dinner at his home.

I arrived early and was astonished to see the contemporary art works in Mr Kaldor's home which I had only previously seen in textbooks. This included a Robert Rauschenberg. In 2011, he donated many of those works, worth more than $35 million, to the Art Gallery of New South Wales, the largest single donation to an Australian art gallery. Fifty years on from Little Bay, Mr Kaldor's spirited interest in Sydney's public art and in enriching our city's life remains vital. Most recently over lunch Mr Kaldor, my partner and I had a lively debate over the merits of Serbian artist Marina Abramovic, whom he had in residence at Walsh Bay in 2015. Let us just say that she did not share Mr Kaldor's and my appreciation of Abramovic's work.

But then this is one of the challenges of public art: To provide a new perspective, something to debate and discuss and thereby strengthen our understanding of each other. It is most fitting then that our main public gallery has brought together the story of Mr Kaldor's art projects, which have contributed to generations of Sydneysiders. While I did not attend the official opening on 6 September, I did manage to pop into the art gallery in a private capacity to view the exhibition. Curated by British artist Michael Landy, it brings an artist's perspective to bear on Kaldor Public Art Projects' 50-year history and the 34 art projects that have been presented to date.

It is a collection of the actual artworks, archival materials, reconstructions, recordings and artefacts. I would encourage anyone with an interest in Sydney's cultural life to visit the exhibition. It is a tribute to the creativity and freedom of expression that Sydney represents for so many people around the world. Speaking as a New South Wales resident it has been a privilege to enjoy so much of the art curated, supported and brought to our shores by Mr Kaldor. Over the last 50 years, Mr Kaldor has confused, amazed, outraged and delighted thousands and we are a richer community for that experience.

STUDENT CLIMATE STRIKE

The Hon. ROSE JACKSON (22:31): I will speak briefly. I thank Jean, Daisy, Vasha, Daniella and Luca, who joined me in Parliament earlier this week as the student climate strike representatives. I will be joining them tomorrow at midday in the Domain, right outside this Parliament, together with tens of thousands of other people in Australia and hundreds of thousands of young people around the world, to demand action on climate change. This is not about the future of the planet. The planet will exist long after humans cease to live here. This is about the future of humanity. It is not an altruistic act to care about the environment; this is a deeply self-interested act about our ability to live safely and comfortably on this planet.

The catastrophic consequences of climate change are well known. The science is settled. And yet it is young people who are listening to the work being done by eminent scientists and leading the way. It is time for us as political leaders and parliamentarians to step up. I will be there tomorrow joining them and I encourage

members to come along. There have been questions about whether it is appropriate for young people and school students to skip a little bit of school to attend a political protest. To that I say: Civics education is a critical part of a young person's education and learning about social movements, learning about how political change happens and learning about our democracy. Learning about the various ways to express political views is critical to being a well-rounded citizen. This is a central part of that. When I was a young person at school, despite the odd walkout against the outrageous racism of Pauline Hanson around 1998, essentially when I skipped class it was to bum puff durries in Camperdown Park, drink hot chocolates and talk about Russian theatre in the nineteenth century.

The Hon. Sarah Mitchell: Your poor parents.

The Hon. ROSE JACKSON: I acknowledge the interjection by the Hon. Sarah Mitchell. I did well enough in school to qualify for a law degree at the University of Sydney, so clearly I did not do too badly. We all know that the engagement of young people in education is about a lot more than sitting in classrooms; it is about learning to be active members of our society. This is exactly the sort of activity that rather than discouraging we should be encouraging. We should be encouraging young people to care about the future of the human race on this planet. We should be encouraging young people to learn about politics and how political change happens. We should be encouraging young people to learn about science and the relationship between humans and animals and flora and fauna on this planet. This is exactly the kind of work we should be encouraging young people to do. That is what these young people are standing up and doing. I am inspired by them. I will be joining them tomorrow and encourage everyone to come along at midday to the Domain.

[*Business interrupted*.]

Documents

POWER STATION ASSOCIATED SITE CONTAMINATION

Return to Order

The CLERK: According to resolution of the House of 22 August 2019, I table documents relating to an order for papers regarding the contamination of power station associated sites, received this day from the Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

Claim of Privilege

The CLERK: I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

Adjournment Debate

ADJOURNMENT

[*Business resumed*.]

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 22:35 until Tuesday 24 September 2019 at 14:30.