



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Seventh Parliament
First Session**

Tuesday, 24 September 2019

Authorised by the Parliament of New South Wales

TABLE OF CONTENTS

Motions	57
Hunter Business Awards.....	57
Committees	57
Legislation Review Committee.....	57
Reports	57
Selection of Bills Committee	58
Reports	58
Visitors.....	58
Visitors.....	58
Petitions.....	58
Petitions Received.....	58
Business of the House	58
Suspension of Standing and Sessional Orders: Conduct of Business	58
Conduct of Business	58
Bills	59
Reproductive Health Care Reform Bill 2019.....	59
In Committee	59
Visitors.....	69
Visitors.....	69
Questions Without Notice.....	69
Subcontractor Payments.....	69
State Heritage Register	71
Bradfield Scheme.....	72
African Swine Fever	72
Vironments program	72
Immigration.....	73
Arts Infrastructure.....	73
Stronger Country Communities Fund.....	74
Special Religious Education	74
Public School Students Mobile Phone Use.....	75
First Home Buyer Assistance.....	76
Remapping Old-Growth Forests.....	76
Professor Barney Glover, AO	76
Sydney Open.....	77
Coffs Harbour & District Aboriginal Land Council and Jacinta Price	78
Kellyville High School	78
NSW Premier's Reading Challenge	79
Supplementary Questions for Written Answers	79
Walsh Bay Arts Precinct.....	79
Written Answers to Supplementary Questions	80

TABLE OF CONTENTS—*continuing*

Aboriginal Business	80
Bills	80
Reproductive Health Care Reform Bill 2019	80
In Committee	80
Adoption of Report	121
Petitions	121
Responses to Petitions	121
Adjournment Debate	121
Adjournment	121
Religious Freedom	121
Rookwood Cemetery	122
Child Sexual Abuse	123
Department Liaison Officers	123
Blacktown Youth Services Association	124
Old-Growth Forests	125

LEGISLATIVE COUNCIL

Tuesday, 24 September 2019

The DEPUTY PRESIDENT AND CHAIR OF COMMITTEES (The Hon. Trevor Khan), in the absence of the President, took the chair at 14:30.

The Hon. Niall Blair read the prayers and acknowledged the Gadigal clan of the Eora nation and its Elders and thanked them for their custodianship of this land.

Motions

HUNTER BUSINESS AWARDS

The Hon. TAYLOR MARTIN (14:31): I move:

1. That this House notes that:
 - (a) on 23 August 2019, the Hunter Business Chamber held the 2019 Hunter Business Awards presentation at the Newcastle Exhibition and Convention Centre; and
 - (b) winners of awards included:
 - (i) Business Leader of the Year: Peter Cock, Newcastle Airport and Morven Cameron, Lake Macquarie City Council;
 - (ii) President's Award: Newcastle Airport;
 - (iii) Kristen Keegan Young Business Executive (18-30): Martin Corrigan, PWCS;
 - (iv) Outstanding Young Entrepreneur (18-30): Jade Chislett, Just Like You Dolls;
 - (v) Contribution to the Region: Out of the Square Media;
 - (vi) Outstanding Employer of Choice: Westpac Rescue Helicopter Service;
 - (vii) Excellence in Micro Business: Tighes Hill Cellars;
 - (viii) Excellence in Small Business: Funda;
 - (ix) Excellence in Business: ATUNE Health Centres;
 - (x) Excellence in Social Enterprise: ProCare;
 - (xi) Highly Commended (Social Enterprise): Allambi Care;
 - (xii) Excellence in Innovation: Ampcontrol;
 - (xiii) Excellence in Export: Whiteley Corporation;
 - (xiv) Excellence in Sustainability: Downer EDI Works;
 - (xv) Start Up Superstar: Hunter Allied Care;
 - (xvi) Local Chamber of Commerce: Tomaree Business Chamber;
 - (xvii) Excellence in Retail & Hospitality: Crowne Plaza Hunter Valley; and
 - (xviii) Love Water, Love Business: Morisset Hospital.
2. That this House acknowledges the outstanding work of the Hunter Business Chamber and congratulates all winners of the 2019 Hunter Business Awards.

Motion agreed to.

Committees

LEGISLATION REVIEW COMMITTEE

Reports

Mr DAVID SHOEBRIDGE: I table the report of the Legislation Review Committee entitled *Legislation Review Digest No. 5/57*, dated 24 September 2019. I move:

That the report be printed.

Motion agreed to.

SELECTION OF BILLS COMMITTEE**Reports**

The Hon. NATASHA MACLAREN-JONES: I table report No. 24 of the Selection of Bills Committee, dated 24 September 2019. I move:

That the report be printed.

Motion agreed to.

The Hon. NATASHA MACLAREN-JONES: According to paragraph 4 (1) of the resolution establishing the Selection of Bills Committee, I move:

1. That:
 - (a) the provisions of the Right to Farm Bill 2019 be referred to the Portfolio Committee No. 4 - Industry for inquiry and report;
 - (b) the bill be referred to the committee upon receipt of the message on the bill from the Legislative Assembly;
 - (c) that the committee report by Monday 21 October 2019; and
 - (d) on the report being tabled, a motion may be moved immediately for the first reading and printing of the bill and that the bill proceed through all remaining stages according to standing and sessional orders.
2. That the following bills not be referred to a standing committee for inquiry and report this day:
 - (a) Road Transport Amendment (Miscellaneous) Bill 2019; and
 - (b) Non-profit Bodies (Freedom to Advocate) Bill 2019.

Motion agreed to.*Visitors***VISITORS**

The ACTING PRESIDENT (The Hon. Trevor Khan): I welcome into the President's gallery members of the Tasmanian Legislative Council's Select Committee on the Production of Documents, including the Hon. Ruth Forrest, MLC, chair; the Hon. Jane Howlett, MLC, deputy chair; the Hon. Meg Webb, MLC; the Hon. Ivan Dean, MLC; and the Hon. Josh Willie, MLC. They are accompanied by Mr Stuart Wright, Usher of the Black Rod, and Ms Julie Thompson, committee secretary. The select committee has been conducting a public hearing today exploring the New South Wales Legislative Council's approach to the production of documents and claims of privilege.

*Petitions***PETITIONS RECEIVED****Reproductive Health Care Reform Legislation**

Petition requesting that the House oppose the Reproductive Health Care Reform Bill 2019 in its current form, received from **Reverend the Hon. Fred Nile**.

Reproductive Health Care Reform Legislation

Petition requesting that the House oppose the Reproductive Health Care Reform Bill 2019 or take steps to repeal the bill in the event that it passes, received from **Reverend the Hon. Fred Nile**.

*Business of the House***SUSPENSION OF STANDING AND SESSIONAL ORDERS: CONDUCT OF BUSINESS**

The Hon. DON HARWIN: I move:

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

Motion agreed to.**CONDUCT OF BUSINESS**

The Hon. DON HARWIN: I move:

That proceedings on all of the remaining stages of the Reproductive Health Care Reform Bill 2019 take precedence over all other business, except questions, on Tuesday 24 September 2019, until concluded or adjourned.

Motion agreed to.

Bills

REPRODUCTIVE HEALTH CARE REFORM BILL 2019

In Committee

Consideration resumed from 19 September 2019.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are dealing with the Reproductive Health Care Reform Bill 2019. There are some changes to the running sheet. The running sheet being circulated, which is titled "Version as at Tuesday 24 September, 2.00 p.m.", is the one members should refer to. Some new amendments have arrived since we last met: they are on sheets c2019-166A, c2019-169C and c2019-170A. At the request of the movers, they will be deferred to allow members to prepare to speak to them.

Mr David Shoebridge: Will they be given leave by the Chair?

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I am reading a statement. I will get to that. We will go straight to c2019-123 "data collection". It is concurrent with the amendment of the Hon. Greg Donnelly, on sheet c2019-144J, which is the same area for debate. The Clerk has prepared a statement regarding this type of arrangement so that members understand the order for the consideration of amendments. It relates also to the amendment of the Hon. Natasha Maclaren-Jones on sheet c2019-059B. In relation to both of those amendments, members have asked that we consider them at a later time during these proceedings in Committee of the Whole.

I indicate to the Committee that there is no impediment to either of those movers adopting this approach. Since 2014 the Chamber has adopted the Senate processes for considering a bill as a whole. If leave is granted to take a bill as a whole, a Committee may consider amendments to a bill in any order in which it sees fit, although the default position has remained that members move amendments in the order in which they occur in a bill. Despite Committees adopting this default position, it remains the prerogative of members and the Committee to determine the order in which amendments are dealt with, including by delaying the consideration of amendments to a later time.

Mr David Shoebridge: Point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): While I have not finished my ruling, I will take the member's point of order.

Mr David Shoebridge: I have two points of order: My first point of order relates to the process that seems to have developed only in relation to this bill and refers to the receipt of amendments after the Committee stage has started. The practice is that amendments have to be in writing to the Clerks before the House devolves into Committee. If any amendments are to be received after that, they are received only with the express leave of the Chair. As I understand it, that has been the practice of the Chamber. The amendments that have been received since the Committee last sat are all in breach of the accepted rules of this House, which require amendments to be circulated in writing before the Committee stage commences. The Committee stage commenced days ago. With the absence of the grant of leave, those amendments should not be put to the Committee.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Mr David Shoebridge is right in the sense that the convention is that amendments are accepted before the House devolves itself into the Committee of the Whole, except by leave of the Chair. I have accepted those amendments each time under the authority of the standing order.

Mr David Shoebridge: Does that include the amendments received since last Thursday?

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Yes.

Mr David Shoebridge: My second point of order relates to amendment No. 1 on sheet c2019-059B, that it is outside the leave of the bill. The leave of the bill is specific, being about the regulation of health professionals when dealing with the termination of pregnancies. This amendment seeks to go outside the leave. There is no "related matters" provision in the long title of the bill. It deals with the trade and commercial trade in fetal tissue. Amendment No. 1 on sheet c2019-059B should not be put to the Committee as it is outside the leave of the bill.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I will reserve my ruling on that point of order and take advice. A second component of my ruling relates to amendments lodged that deal with clauses that have been resolved in the House. I note for the information of members that since 2014 the House has adopted alternative procedures for the consideration of bills in Committee which are designed to provide greater flexibility

to members in the moving of amendments. It is still a fundamental principle of procedure that an amendment may not be moved to words already agreed to in a bill, except for the addition of other words as per Standing Order 110.

As such, a decision in Committee on a provision of a bill cannot be revisited without due process, for example, reconsideration or recommitment. Without the application of this rule, there would be nothing to prevent members from moving amendments concerning matters already dealt with in a bill as a way of frustrating proceedings. In relation to the amendment of Hon. Natasha Maclaren-Jones that issue does not arise nor does it arise with part of the other amendments. There is a component that has to be recommitted. Those clauses will stand. The House will decide whether to recommit those clauses at the end of the process of dealing with the bill. We will now deal with amendment No. 1 on sheet c2019-123. After that we will move to amendments Nos 1 to 3 on sheet c2019-144J.

The Hon. NIALL BLAIR (15:01): I move amendment No. 1 on sheet c2019-123:

No. 1 **Data collection**

Page 7. Insert after line 11—

14 Medical practitioners to provide information about terminations

- (1) A medical practitioner who performs a termination must, within 28 days after performing the termination, give the Secretary of the Ministry of Health the information about the termination decided by the Secretary.
- (2) The information must be given in the way decided by the Secretary including, for example, by using a form approved by the Secretary for the purposes of subsection (1).
- (3) Information provided by a medical practitioner to the Secretary under this section must not include any particulars which would allow a person on whom a termination was performed to be identified.

This amendment will create a new provision to require a medical practitioner who performs a termination to provide information to the health secretary within 28 days. The secretary will approve the information to be provided but the amendment provides an express exclusion of any identifying information about the woman who received the termination. The amendment addresses concerns around the adequacy of information currently being collected on terminations while balancing the need to protect the privacy of women who undergo a procedure. The data collection provision will be included in the final standalone Act as opposed to including termination as a scheduled medical condition under the Public Health Act 2010, as proposed by others in their amendments.

The conditions and diseases listed in the Public Health Act are those that impact on public health or where statistics are kept for epidemiological purposes and not meant to include medical treatments, such as elective termination procedures. The Queensland Law Reform Commission found that the collection and reporting of termination data was important and would help inform delivery of and access to termination services and the impact of legislative reform. We have discussed the need to collect data throughout this debate to date and through the Committee stage. The collection of data has been suggested to be part of the 12-month review spoken of in earlier amendments, particularly when considering issues such as sex selection which was canvassed earlier in debate.

One thing that came up during the inquiry and throughout the debate is that there is not a consistent set of data available. This amendment proposes to do that. The balance is to make sure that we receive useable data that does not reveal any information that may identify the person who is going through this private procedure. This amendment strikes that balance, noting that the data is separate from data that is collected under the Public Health Act. As I said, that is more appropriate for issues that affect the health of the broader community. What we are talking about is collecting data for a personal procedure that, quite frankly, does not impact on the broader society. That data should be used in that light and that is why this amendment recommends that it goes into a standalone Act. I commend the amendment.

The Hon. GREG DONNELLY (15:05): By leave: I move amendments Nos 1 to 3 on sheet c2019-144J in globo:

No. 1 **Reporting statistical information about terminations**

Page 7. Insert after line 11—

14 Reporting statistical information about terminations

- (1) The Secretary of the Ministry of Health must, by 30 June in a year, publish a report on the Ministry's website about terminations performed under this Act in the previous year about which the Secretary has been given information under section 54 of the *Public Health Act 2010*.
- (2) The report—

- (a) must include only statistical information, and
- (b) must not include any information that would allow a person on whom a termination was performed, or a registered health practitioner who performed or assisted in the performance of a termination, to be identified.

No. 2 **Information about terminations**

Page 9, proposed Schedule 2, line 1. Insert "**and regulation**" after "**Acts**".

No. 3 **Information about terminations**

Page 10, proposed Schedule 2. Insert after line 10—

2.3 Public Health Act 2010 No 127

[1] Schedule 1 Scheduled medical conditions

Insert after the definition of *still-birth*—

termination means a termination within the meaning of the *Reproductive Health Care Reform Act 2019*.

[2] Schedule 1, matter relating to Category 1

Insert "Termination" after "Sudden Infant Death Syndrome".

2.4 Public Health Regulation 2012

[1] Clause 37 Notification of category 1 and 2 conditions

Insert after clause 37(c)—

- (c1) in relation to termination—the particulars in Part 3 of Schedule 2,

[2] Schedule 2 Notification of certain deaths: particulars

Insert after Part 2—

Part 3 Termination

Date of birth of the person on whom the termination was performed

Locality in which the person resides, for example, the local health district (within the meaning of the *Health Services Act 1997*) or postcode

Clinical estimate of completed weeks of gestation when the pregnancy was terminated

Number of previous terminations the person has had

Locality of the place at which the termination was performed, for example, the local health district (within the meaning of the *Health Services Act 1997*) or postcode

Nature of the place at which the termination was performed, for example, public or private hospital or private clinic

Date of termination of the pregnancy

Reasons for the termination of the pregnancy

Category of medical practitioner who performed the termination, including, if the medical practitioner is a specialist medical practitioner, the specialty or other expertise of the medical practitioner

Method of termination

Whether or not the person experienced any medical complications after the termination or died

Any other relevant maternal health characteristics of the person

From its inception—and this goes back to its development outside Parliament—the proponents of the bill have argued that it is imperative that the legal codification of abortion be removed from a combination of the relevant provisions of the Crimes Act 1900 working in conjunction with the common law on the subject and placing the practice of abortion in its own specific statute. We are continuing to debate this afternoon the proposed amendments to the bill that will be passed into a statute to be known as the Abortion Reform Act 2019.

At the core of the proponents' case is that the practice of abortion, which is a deliberate termination of a pregnancy, should—to the extent that it be regulated at all—be regulated by a statute orientated towards health rather than crime. It moves away from the criminal jurisdiction or its codification under the Crimes Act to matters of health. If the argument prevails that abortion should be regulated by its own statute with a clear and unambiguous link to the health portfolio, and health and medical matters more broadly in New South Wales, consequently there must be an implicit and explicit acceptance that as with every other area and sub-area within

the domain of health and medicine in this State, precise and accurate data is collected, submitted to the State health authority in an appropriate form, aggregated regularly and published.

Its publishing is for the purpose of utilising, refining and developing policy on specific aspects of health and medicine in this State on an ongoing basis. This is what the State has done with health data for several decades. The citizens of New South Wales not only assume, but expect, that subject to—and this is important—respecting and protecting personal and private details, including specific health details, that is what NSW Health does with the health data it collects.

NSW Health does this, not just because it believes that data collection is an end in itself, but rather it and all contemporary health and medical departments, agencies and bodies not just in this State but in every State and Territory in the Commonwealth of Australia, including the department that I ought not specifically mention because it obviously has a role, and all developed countries in the world, use data as a means to an end—that is, data is used to improve and enhance the health and medical outcomes of citizens within its jurisdiction.

I do not intend to speak in detail about the centrality of the collection, aggregation and analysis of data in this State by NSW Health. I will give some scope to the magnitude of what is done by NSW Health in regard to data collection because I think it is important. Last night I spent about 1½ hours looking closely at the NSW Health website specifically with respect to data collection and analysis. The website is replete with content dealing with data collection, analysis and publishing and one will find many links to myriad references to laws, regulations, policies and guidelines.

To give a sense of what NSW Health is doing in this domain, as an example of the representation, I refer to a policy directive. In an earlier part of this debate on another matter we were dealing with a policy directive of NSW Health with respect to abortion and termination practices and procedures in the State. I will cite this further policy directive that is emblematic and lays out the extent of the work done by NSW Health. It is titled, *NSW Health Data Quality Assurance Framework For Activity Based Management*. The policy document number is PD2016_030, published on 22 July 2016 and the review date will be 22 July 2021. That is the common five-year review date that operates with respect to documentations of review by NSW Health.

I do not expect members to study the document but I put it on record as being illustrative of the detailed and serious way in which NSW Health goes about collecting, storing, aggregating and then publishing details of its collection of data. One can only imagine how much data NSW Health collects in any period, all of which is brought together, stored, systematically synthesised and then reports are generated, which are for useful and valuable purposes on behalf of the citizens of the State. I also refer to one other document that is relevant to data collection. The document titled *NSW Health Strategic priorities 2019-20* speaks for itself so I will not go into it in detail. I encourage members to look at that document because they will see once again the extent and degree to which data, particularly in the context of eHealth, is so central to the way in which NSW Health serves the citizens of this State.

Specifically with respect to data collection on pregnancy terminations in Australia, I draw the attention of honourable members to two jurisdictions, South Australia and Western Australia, both of which collect, aggregate, regularly publish and disseminate information which leads to policy development. Members would be aware that a number of years ago South Australia, and I stand to be corrected, was one of the first—if not the first—to decriminalise abortion in the Commonwealth of Australia. Within the statute relating to regulated abortion in that jurisdiction there is a mandated requirement for the South Australian Government to publish annual reports on pregnancy termination data. I will only draw the attention of the House to the annual report for the calendar year 2017 from the South Australia Abortion Reporting Committee, which was established under the legislation and/or the regulation. The report was published in March 2019 and laid upon the table of the South Australian House of the Assembly on 2 May 2019.

A further requirement in the South Australia jurisdiction is not only that an annual report be produced by the South Australia Abortion Reporting Committee but also that it is laid upon the table of the South Australian House of Assembly for members to study and reflect on. For a number of years I have followed these reports from South Australia but I have not been able to get to the bottom of why there is a two-year lag time from the reporting period to the publishing of the report. It is always a delay of between 1½ years to 2 years in the publishing of the report. Over the years I have made inquiries but nobody from the South Australia Parliament has been able to shed some light on why. I have been told to wait and see when it is tabled. It is a relatively short report and I will not go through it in detail. However, I draw the attention of the House to appendix 1, which is the data collection form. This form is used in South Australia for the collection of data with respect to pregnancy terminations. That information is collected and then brought together before the report is produced by the South Australian Abortion Reporting Committee.

I congratulate the committee's analysis of the data because in a straightforward, plain English, uncomplicated, non-statistical way it provides a very good summary of the position of pregnancy terminations in South Australia. It is not a case of trying to overwhelm the politicians and the community at large in South Australia with respect to information about pregnancy terminations in that State. I do not think that was ever the intention of the actual provisions within the Act and/or the regulation but what is provided is a very useful, standalone, regularly published document with details about terminations.

In terms of subheadings—and I will only mention some—you obviously have aggregate numbers for calendar years; you have termination rates per 1,000, and these are common ways in which this data is obviously reported; you obviously have terminations by age; and you have the residential region and the health services which is particularly important in being able to establish whether there are parts of a State or a region or an area health service—if that is what they call them in South Australia—where there appears to be a particular preponderance of terminations. Perhaps that helps inform policy development with respect to the provision of information of the citizens, particularly the women living in those regions. You have the tales about the qualifications of the clinicians who are conducting the terminations. That is very important because, obviously, you have GPs and then you have other information like trainee obstetricians and gynaecologists, you have the obstetricians and gynaecologists themselves and you have specific reference to medical practitioners in family clinics, as they call them in South Australia.

Importantly, you have the reporting of the reasons for the termination, which is useful to provide some insight into the reasons behind why women in South Australia are terminating their pregnancies. You have terminations by gestational age. That is very valuable in understanding what is happening in that regard. The section on methods of termination is particularly interesting. It would come as no surprise to members that, with respect to the methods of pregnancy termination, one can see a movement away from a surgical method to an increase by a pharmaceutical method. That, of course, arises with the availability in Australia of what is called RU486, which is a combination of the pharmaceuticals mifepristone and misoprostol.

A very valuable table deals with complications, which I think is very important. Finally—and I think this is useful—there are some insights into previous pregnancy terminations. Quite obviously—I probably should not have to say "obviously" but I will in case there is any doubt about this—that is all de-identified data. It is all aggregated and published on the basis of numbers and figures, and in no other way, as ought be the case.

I move from the jurisdiction of South Australia to Western Australia—my home State. Western Australia produces a report entitled *Induced Abortions in Western Australia*. The most recent one is for the period 2013 to 2015. That report is sub-notated as the "Fifth Report of the Western Australian Abortion Notification System". It is dated July 2018 and is published by WA Health, which is obviously the Department of Health in Western Australia. For reasons that I have not been able to establish, the Western Australian data is published on a periodic basis. That is probably the best way to describe it. It does not appear that there is a mandate in Western Australia to produce a report on an annual basis so, from time to time, one gets the production of a report by the relevant department or section or subsection—however one might define it—within the Western Australia Department of Health that is tasked with the production of the report.

I make this point: The report is, by far, much more comprehensive and detailed than the report from South Australia that I cited earlier. If one goes to page 1 of the report, one will see the content. I will not go through this, but including appendices there are 59 pages of material—37 pages of which deal with the analysis of pregnancy termination in Western Australia—followed by a bibliography, annexures and attachments.

On an ongoing basis I have contact with colleagues in Western Australia in both the Legislative Assembly and the Legislative Council. They inform me that this report that is produced in that State is looked at very closely by members of both Houses and, importantly, by the Western Australian Department of Health. Through the data analysis that is fleshed out in the report, the department, in a deliberative way, looks at ways in which policies can be tweaked, enhanced or refined to deal with issues that emerge from the report.

Finally, I will briefly refer to the illustrious organisation of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG]. I have not been soft on that organisation in terms of my specific concerns about some of the positions it has taken. I do not resile from that, particularly with respect to the president of that organisation in New South Wales. Preceding the president, who has only been in place, I understand, from late last year, there is a document—which I will cite on record—that is one of many documents one can find on its website.

This particular document is essentially—and this is the best way to describe it—a policy document or a policy statement. The website is replete with those sorts of documents. This particular document is entitled *Termination of Pregnancy*. It was first endorsed by RANZCOG in March 2005. It is current and is due for review. In fact, it was reviewed in July 2019. We have not yet seen the outcome of that review. I take members to page 4

and specifically note paragraph 4.5 under the heading "Discussion and recommendations". Paragraph 4.5 of the RANZCOG document, headed "Monitoring and research" states:

In order to better understand the individual and public health impacts of termination of pregnancy, the College supports the monitoring and collection of statistics relating to termination of pregnancy, including—

and I think this is very important—

the occurrence of complications of these procedures.

Dealing with complications is particularly important because this enters into a feedback loop whereby, obviously, the Department of Health can examine issues that arise, particularly with respect to complications, through its hierarchy. In its accounting directly back to the health Minister, there is an ability for the State, through its Minister and its department, to provide what might be direct assistance or support into what might be the facing up to and the dealing with complications associated with termination of pregnancy.

I specifically draw the attention of members to a couple of aspects of the amendments standing in my name. I am very grateful to a number of people who helped me put the amendments together. It is the work of many people with a lot more expertise in this area than I will ever claim to have. I indicate to the Committee—so that there is no confusion about this, because this was the case—that, with respect to an earlier iteration with respect to these amendments to do with data collection, I provided a proposition that would have sought to incorporate into the legislation itself a list of data points that I was proposing be data points that would be collected by NSW Health, aggregated and analysed.

That was several days ago now and the iteration has moved on to get us to sheet c2019-144J. Specifically, I take honourable members to amendment No. 1—I am not jumping through this for the sake of glossing over it, rather with some precision focusing on what I see as the highlights—and proposed section 14 Reporting statistical information about terminations. This deals with the reporting period, which is referenced back to what happens in other jurisdictions. Proposed subsection (1) states:

(1) The Secretary or the Ministry of Health must, by 30 June in a year, publish a report ...

We then go to proposed subsection (2). I want to make it very clear—lest there be no doubt about this because it has been suggested that I may have had some other motivation or some other proposed ideas here—that my intention was always and forever nothing more than the provision of data that would be de-identified and collected and aggregated at the highest level. Proposed section 14 (2) states:

(2) The report—

(a) must include only statistical information ...

That was only ever my intention. Proposed section 14 (2)—I specifically asked for this to go in and I am grateful to the Parliamentary Counsel for helping me link the two together in order to put beyond any doubt what my intention always was—states that the report:

(b) must not include any information that would allow a person on whom a termination was performed, or a registered health practitioner who performed or assisted in the performance of a termination, to be identified.

That was always the intention. I took my learnings from those two other Australian jurisdiction—namely, South Australia and Western Australia—and I have been looking at material for several years now. As I said, that was the inspiration for the amendment in the first place. I make it very clear that that de-identification is central to this proposed amendment.

I take members now to the second page of sheet c2019-144J—I move through amendments Nos 2 and 3, not wanting to give any impression that they are not important—and the Public Health Regulation 2012. I appreciate and acknowledge the reality that the government of the day is responsible for the development and ultimately the steps taken to introduce and enforce regulations. It is very clear that this is not a provision of the bill, rather setting data points via regulation.

I have listed a set of data points in proposed schedule 2.4 [2] under part 3 termination. Where did I get those data points from? I went to the material contained within the annexure from the South Australian report and read it in conjunction with what came from the Western Australian report. There is no mystery. It is there. Those States have been producing and publishing this information for decades. I will quickly pick a couple of data points on which I want to comment. The first is date of birth of the person. Age obviously feeds directly into analysis over teenage pregnancies and matters that might be able to be dealt with in terms of policy proscription and policy initiatives to help deal with that matter in either the State at large or particular parts of the State or particular communities.

The second data point is the locality in which the person resides, for example, the local health district, within the meaning of the Health Services Act 1997 or postcode. I specifically included that. Three data points below that there is further reference to the locality of the place at which the termination was performed, for example, the local health district. So we have a proscriptive attempt that produces an outcome whereby we are collecting data at that macro level. Obviously the local health district is relevant to the way in which NSW Health has its present structure named across the State and also postcode.

Those who follow the census, which is done on a regular basis by the Australian Bureau of Statistics, would be aware that Commonwealth electoral districts could also be used as a way of doing that but that is a matter for the ultimate government to draft in terms of its regulation. The next data point is the clinical estimate of completed weeks of gestation when the pregnancy was terminated, which is clear. That is followed by the number of previous terminations the person has had. It is worth noting that there is a situation where a number of women, often because of tragic circumstances, find themselves having multiple—and I mean literally multiple—terminations.

In the work that I did preparing both for the inquiry and for this debate, I was talking to women involved in pregnancy support. They cited examples—I found this very hard to believe; it was utterly heartbreaking—of women they had looked after who had had pregnancy terminations in double figures. One came to mind of a woman, who was not particularly old, who had 12 pregnancy terminations. Not that she would be specifically named in the collection of data as I am describing here, but if something like that is happening in anything other than exceptionally rare circumstances—and the rare circumstances are heartbreaking enough—surely there must be some room for the eking out of some space to think about some policy development or policy that might be able to provide some—

The Hon. Penny Sharpe: Point of order: I have listened carefully to the Hon. Greg Donnelly. He is straying well beyond what this amendment is about. I understand that he wants to talk about data and data collection but suggesting there is some use in trying to find and identify a woman who has had 12 terminations as a justification for collecting data is the antithesis of what we are trying to deal with here.

The Hon. GREG DONNELLY: To the point of order: I am not sure of the sensitivity of the Hon. Penny Sharpe on this point. The issue of multiple pregnancy terminations is a reality for a number of women in this State and she would know that.

The Hon. Penny Sharpe: It has nothing to do with data collection.

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

The Hon. GREG DONNELLY: The Hon. Penny Sharpe has studied this area quite carefully. I used a specific example deliberately at the extreme end to demonstrate what is an absolute tragedy in that individual circumstance.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Let us not start this early in the day. The Hon. Greg Donnelly was illustrating the data points in his amendment. I do not think he was straying too far but I would ask him to move on through the amendment so that we can then hear from other speakers.

The Hon. Niall Blair: To the point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I have ruled on the point of order. The Hon. Greg Donnelly has the call.

The Hon. GREG DONNELLY: I will not continue with that point. I have made it very explicit and clear why I think that particular point is relevant. The reasons for the termination are collected in South Australia and Western Australia, so people ought not to be too sensitive about this with respect to New South Wales. The method of termination is particularly important. We note that in Western Australia and in South Australia the method is collected. The second last data point in my list is whether or not the person experienced any medical complications after the termination or died.

That is very relevant given that there has been a deliberate decision to bring pregnancy termination within the domain of health in the statute that will become law in New South Wales. Mr Temporary Chair, that completes all the points that I wanted to make about my amendment and the collection of data. It is important. It is done elsewhere in Australia and has been done for a long time. To be quite frank, it is done all around the world in jurisdictions that one could write a very long list of. I commend my amendments to the Committee.

Ms ABIGAIL BOYD (15:39): The Greens are big fans of data. We are advocates for greater funding for medical and scientific research and for the protection of the independence of researchers. We take an evidence-based approach to all our policy development. Obviously, we see data collection as a useful tool for

researchers. Of course, data collection must be undertaken in an ethically appropriate way with a clear objective in the public interest. For example, data collection that is unnecessarily invasive, that seeks to maintain erroneous assumptions or that could be used to stigmatise people—those seeking a particular type of treatment, for instance—should be opposed.

The data collected about terminations of pregnancy through Medicare gives us a good—but not complete—indication of the numbers of procedures in Australia. The NSW Health *Pregnancy—Framework for Terminations in New South Wales Public Health Organisations* also requires for accurate records of all procedures to be kept. During the lower House debate, the Minister for Health and Medical Research, Mr Brad Hazzard, referred to a discussion he had with the chief obstetrician in which the chief obstetrician noted that in his view doctors under-reported the numbers of abortions due to concerns over the current criminalisation of abortion. Taking terminations out of the Crimes Act will enable doctors to more accurately fill out documents and help give better information on terminations.

Schedule 1 to the Public Health Act 2010 is clearly the wrong place for any such requirement. Medical conditions are listed in category 1 of that schedule to assist with our understanding of those medical conditions, not to record particular medical procedures. Those medical conditions include cystic fibrosis and hyperthyroidism in a child under the age of one year, rheumatic heart disease in a person under the age of 35 years and sudden infant death syndrome. Those conditions are subject to rigorous medical research with the data collected aiding in the research for those conditions—whether it be for designing better treatment options or for reducing the incidence of those conditions. Schedule 1 to the Public Health Act is a wholly inappropriate place for the recording of medical procedures such as the termination of pregnancy. The objects of that Act are stated in section 3 (1) as follows:

- (a) to promote, protect and improve public health,
- (b) to control the risks to public health,
- (c) to promote the control of infectious diseases,
- (d) to prevent the spread of infectious diseases,
- (e) to recognise the role of local government in protecting public health, and
- (f) to monitor diseases and conditions affecting public health.

Further, section 3 (2) states:

The protection of the health and safety of the public is to be the paramount consideration in the exercise of functions under this Act.

Amendment No. 1 on sheet c2019-144J is clearly inappropriate as an amendment to the Public Health Act or its regulations as it is not apparently aimed at improving public health. Rather, it is aimed at recording one particular type of medical procedure. Let us take a look at the types of information the amendment suggests that we should collect. It should be borne in mind that with a medical termination, as opposed to a surgical one, a doctor may not be aware whether the medicine that they prescribed actually gets taken or not and whether or not the termination happens. Requiring that data to be collected for medical terminations is completely unworkable for doctors to comply with.

I will start with the number of previous terminations a person has had. I thank the Hon. Greg Donnelly for explaining his thinking around the issue. That raw number would not tell anything about why a person has had an abortion. I fail to see how it is relevant. During the Hon. Greg Donnelly's contributions on this point, there was a clear judgement of people who had had multiple pregnancy terminations in unexceptional circumstances.

The Hon. Greg Donnelly: Point of order: I do not consider myself a shrinking violet but we do not normally reflect on members in this Chamber and impugn members for the motivation upon which they—

Ms ABIGAIL BOYD: To the point of order—

The Hon. Greg Donnelly: I have not finished. In terms of the intention of the amendment, I gave the example to illustrate a point. To make an imputation or suggestion that it was a value judgement on my part about this individual who I do not even know or have met—rather, I spoke to the individual who was looking after the other individual—is a bit rich. Mr Temporary Chair, I ask you to invite the member to stick to her knitting.

Ms ABIGAIL BOYD: It is wholly appropriate for me to refer to the contributions of the mover of this amendment. I only referred to his contributions and I thought I was pretty faithful.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The member used the term "judgement". The member said that the Hon. Greg Donnelly had placed "judgement" upon—I took it to mean—that person. I think that is a reflection upon the Hon. Greg Donnelly.

Ms ABIGAIL BOYD: I stand by that. If he does not like that, that is fine.

The Hon. Niall Blair: To the point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I have ruled on the point of order.

The Hon. Greg Donnelly: Point of order: She could not help but backhand it by saying—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): It is not "she"; it is "the member".

The Hon. Greg Donnelly: Ms Abigail Boyd could not help but backhand on her way through.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I did not pick that up—I was concentrating on the Hon. Niall Blair.

The Hon. Greg Donnelly: I am happy to spend as much time interrupting her as she likes.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Members will treat each other with respect. Let us move on.

Ms ABIGAIL BOYD: Then we look at the reasons for the termination of the pregnancy. Again, it is difficult to see how this is relevant from a public health perspective, particularly when the bill permits abortions for any reason at all prior to 22 weeks. The reason for that, as the Act and the whole purpose of this bill makes clear, is that it is none of anyone else's business as to why women and other people are having abortions. For instance, I do not see any requirements for gathering data on the numbers of vasectomies.

The inclusion of termination of pregnancy in schedule 1 to the Public Health Act and the collection of that kind of data would be based in negative judgement about abortions—judging people and implying that the number of abortions is too high. We know that access to free, safe and legal reproductive health care is the best way to reduce the numbers of pregnancy terminations. When asked during the inquiry on this bill whether an amendment of this kind should be supported, Adjunct Professor Ann Brassil from Family Planning NSW said that such an amendment should not be supported. She said:

It is not the business of the legal system to dictate parameters around the items, data definitions and data collection processes. If it is within the legislation it is likely to be fraught, because it is not relying on the right groups. I am an advocate for good information collection through the right bodies.

In relation to the Hon. Greg Donnelly's comments about the support of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists for monitoring and data collection, I say that supporting data collection, as I do as well, does not equate to wanting to see it clumsily legislated for in this bill. The Greens do not believe data should be collected as a matter of course for all time. That is why The Greens also oppose the Hon. Niall Blair's amendment; I thank him again for his attempt to reach a compromise on it. It should be collected only if the health department or another body seeks the data for a specific reason in the interest of public health—for example, to determine sufficient access in rural and regional areas. On that basis, The Greens oppose the amendment.

The Hon. LOU AMATO (15:48): I support amendment No. 1 on sheet c2019-144J moved by the Hon. Greg Donnelly. For the record, last week I withdrew a similar amendment. On Thursday 11 May 2017 the Abortion Law Reform (Miscellaneous Acts Amendment) Bill 2016 was defeated in this House. In his contribution to the second reading debate the Hon. Trevor Khan stated:

... about 27,000 induced abortions take place in New South Wales each year—that is, 500 a week.

I have not heard any evidence that those abortions are performed in a dangerous or unsafe manner, or that they failed to take into account the health and welfare of the mother.

The point to be taken from the honourable member saying he had not heard any evidence is precisely that: He had not heard any evidence. Considering that termination statistics are almost non-existent in New South Wales, the gathering of evidence to ensure a woman's safety and wellbeing is currently based on hearsay and conjecture. I would have thought that The Greens would love statistics, particularly if they help improve women's health, safety and wellbeing.

Throughout this debate everyone has spoken about statistics and data and it is apparent that there is not enough evidence to support certain amendments. For instance, I refer to the Hon. Rose Jackson during the sex selection debate—she also mentioned that there was no evidence. That is why statistics and the collection of data are very important. How can we improve things for our society without that information? The Reproductive Health Care Reform Bill 2019 creates a whole new paradigm for abortions in New South Wales. To ensure the safety, health and welfare of the mother, it is important to gather statistical data. That is just common sense. The Hon. Greg Donnelly's amendment, which I strongly support, will provide important statistical data to be recorded

for subsequent analysis and, if needed, future amendments to the Reproductive Health Care Reform Bill 2019—if passed in the Legislative Council.

The amendment requires a medical practitioner who performs a termination on a person to, within one month after performing the termination, give the Secretary of the Ministry of Health the prescribed information about the person's termination. The information to be provided is as follows: the person's date of birth; the locality in which they reside—for example, the town, the suburb, local government area or postcode; a clinical estimate of completed weeks of gestation when the pregnancy was terminated; the total number of previous pregnancies the person has had; the locality of the place in which the termination was performed—for example, the town, the suburb, local government area or postcode; the nature of the place in which the termination was performed—for example, public or private hospital or private clinic; the date of the termination of the pregnancy; the category of medical practitioner who performed the termination, including if they are a specialist practitioner, their specialty or other expertise; the reasons for the termination of the pregnancy; the method of termination; and any other information prescribed by the regulations of the section. Amendment No. 1, clause 14 also states:

- (1) The Secretary to the Minister of health must, by 30 June any year, publish a report on the Ministry's website about terminations performed under this act in the previous year about which the Secretary has been given information under section 54 of the *Public Health Act 2010*.
- (2) The report—
 - (a) must include only statistical information; and
 - (b) must not include any information that would allow a person on whom a termination was performed—

That is really important because it certainly protects the person's identity in any way—

or a registered health practitioner who performed or assisted in the performance of a termination, to be identified.

Even for the practitioner—or anyone else who performed it—there is protection. There is no way to identify the person involved. Presently there appears to be very little data available on women's reproductive services. The Reproductive Health Care Reform Bill 2019 does not provide for any statistical data gathering, which is necessary for the planning of future healthcare services for women.

One of the main complaints of the proponents of the bill is a lack of services in regional areas. That is very important. To address any shortfalls, proper statistical data will provide necessary information for governments to plan for adequate services in regional and remote areas. In addition to future planning for women services, statistical data may identify irregularities in a number of abortions performed in some geographical areas. Considering the stress that abortions place on women, it is important to continually monitor women's wellbeing. The amendment takes into consideration the age and location of the women receiving reproductive healthcare services and the general location of the medical facility.

An important aspect of the Hon. Greg Donnelly's amendment is the reporting of the number of previous terminations a woman has undergone and medical procedures, including terminations that are attended with risk to the patient. Some of the serious risks of a termination include: some of the pregnancy tissue is left in the uterus; blood clots in the uterus; very heavy bleeding; infection; injury to the cervix, uterus or other organs; and allergic reactions to medications and anaesthetics. Identifying a woman who has had multiple terminations may reveal a lack of knowledge on contraceptives. Obviously, identifying a woman who is not knowledgeable about current contraceptive alternatives provides government with the opportunity to formulate better educational programs for women. This is all about women; this is about protecting women. No-one disputes the fact that a woman would rather prevent a pregnancy than undergo an invasive medical procedure such as a termination.

It must be noted that the amendments protect the anonymity of the patient and healthcare provider. The sole purpose of the amendment is to ensure the wellbeing of women and identify ways in which women and families can be better supported by government services. The amendments do not in any way impinge on the privacy of a woman or a medical healthcare provider. Presently we do not have access to data, which would be valuable in identifying areas where the safety and wellbeing of women undergoing reproductive healthcare services can be improved. I commend the amendments to the Committee.

The Hon. TREVOR KHAN (15:57): I will be very brief. I indicate that I intend to support the amendment as moved by the Hon. Niall Blair and that will come as no surprise. In addressing the issue that was raised by Ms Abigail Boyd with regard to this matter, I specifically refer to a paper prepared by Keogh and others, titled *Intended and Unintended Consequences of Abortion Law Reform: Perspectives of Abortion Experts in Victoria, Australia*. It is a recent paper, published in 2017—about 10 years after abortion law reform occurred in Victoria. On page 20 of the report the authors say:

In order to explore the impact of the 2008 abortion law reform on abortion provision in Victoria we conducted a qualitative study with experts in abortion. A qualitative approach was chosen as a paucity of robust abortion statistics precluded a quantitative analysis of changes in provider behaviour. Whilst this paper is both supportive of the law reform that occurred in Victoria—indeed, very supportive—it is clear that they had to use anecdotal analysis and evidence, rather than strong and robust statistical data. It is clear that a lot of the data that is used in Australia is based on South Australian data and then conclusions are drawn from that. Clearly we can do better. Clearly it would be better to do this at a Federal level rather than at a State-by-State level. Nevertheless, it seems to us it is appropriate that data be obtained. With regard to the Hon. Greg Donnelly's amendment, which data is supplied is really a matter for statisticians; it is beyond the wit of members of this Chamber to determine what it is appropriate to obtain. The amendment moved by the Hon. Niall Blair allows for the appropriate flexibility. It is for those reasons that I will be supporting his amendment and none other.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): According to sessional order, it being 4.00 p.m., I will now leave the chair and report progress.

The DEPUTY PRESIDENT (The Hon. Niall Blair): 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, business is now interrupted for questions.

Visitors

VISITORS

The ACTING PRESIDENT (The Hon. Trevor Khan): I acknowledge in the gallery Ms Madeleine Begg, daughter of the Hon. Natalie Ward. Welcome. I welcome into the public gallery this afternoon Jim Byrne, a year 11 student from Wingham High School who is currently on work experience with the Hon. Courtney Houssos. Good luck and best wishes. I also welcome into the public gallery staff from the Elections Branch of the NSW Electoral Commission, who are here on a tour of the New South Wales Parliament, including Question Time in this House this afternoon.

Questions Without Notice

SUBCONTRACTOR PAYMENTS

The Hon. ADAM SEARLE (16:00): My question is directed to the Minister for Finance and Small Business. What is the Government's response to Australian small business ombudsman Kate Carnell's call for construction companies who fail to pay all subcontractors within 30 days to not be given any State government contracts?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:01): I welcome the question. It is a truly important question, given the Government's commitment to being a model debtor. The Government is leading the way to make sure the businesses it contracts with are paid in a timely manner, and by doing so it is sending a message to the private sector that the private sector needs to do better. I am proud to say we are leading the way in this. Last year the Government reduced the time it took to pay bills or to register a business for goods and services up to the value of—

The Hon. Adam Searle: Point of order: The Minister is not being relevant to the question. I did not ask about the Government's policy of paying its debts within 30 days. My question is about not giving Government contracts to construction companies that have failed to pay their debts within 30 days.

The ACTING PRESIDENT (The Hon. Trevor Khan): I hear the point of order. I am sure the Minister is getting—quite quickly—to the point at issue.

The Hon. DAMIEN TUDEHOPE: I am getting to the point. Imagine this: Say you had a small business that was owed, say, \$103,000. Say it is a printer.

The Hon. Adam Searle: Point of order: The Minister is having a lend of the Acting President's previous ruling. He is not getting to the point, he is not treating the question seriously and he is not being relevant.

The ACTING PRESIDENT (The Hon. Trevor Khan): I do not uphold the point of order because the Minister is going to get to the point very quickly.

The Hon. DAMIEN TUDEHOPE: I am getting to the point because this goes to the whole point of the responsibility of people who owe money to small businesses to pay those debts on time. Let me go to the point of the small business, a printer, that is owed \$103,000. Say it was a union that owed that money. You would have to say that if the union kept that printer waiting for 30 days—

The Hon. Adam Searle: Point of order: The Minister is still not coming to the point of the question. He is not being relevant, he is cavilling with the Acting President's ruling and he is not treating the question with any seriousness.

The Hon. DAMIEN TUDEHOPE: The Acting President has not made a ruling.

The Hon. Adam Searle: Yes, he has. He has not upheld my previous points of order.

The ACTING PRESIDENT (The Hon. Trevor Khan): Order! I indicate to members on both sides of the House that this is not my normal job—and I do not necessarily ever aspire to it. However, I will be assisted through this week by two things: first, points of order that are to the point and do not add additional surplusage, as occurred on the last occasion; and, secondly, if Ministers answer questions directly. I invite the Minister to get to the point. He now has 1 minute and 43 seconds left to respond.

The Hon. DAMIEN TUDEHOPE: I do not cavil with the Acting President's ruling, but my answer goes to the point about the responsibility of organisations to pay on time. The royal commission in relation to banking had something to say in relation to that in circumstances where a potential union official was asked about payment on time. It took more than one year to pay.

The Hon. John Graham: What is a potential union official?

The Hon. DAMIEN TUDEHOPE: Not potential; he was a union official. The person involved was a union official at the time. The union official was asked—

The Hon. Adam Searle: Point of order: It is again regarding relevance. I am sure the Acting President has a copy of my question. The Minister is not being directly relevant to the question—as he is required to be by sessional orders. He is talking around the topic. He has spoken about the Government's policy but he has not come within cooe of the question. I ask you to call the Minister for Finance and Small Business to order.

The Hon. DAMIEN TUDEHOPE: To the point of order: I am setting out the framework. Not only does the Government have a responsibility to pay its bills on time, but also private enterprise has a responsibility to pay its bills on time. To the extent that there is a call for the Government to include in contracts a provision—

The Hon. Penny Sharpe: That is a debating point.

The Hon. John Graham: That is not a point of order.

The Hon. DAMIEN TUDEHOPE: It is certainly material that goes to the question that was asked.

The ACTING PRESIDENT (The Hon. Trevor Khan): I indicate to the Minister that I do not believe he has been relevant. Nevertheless, the response that the Minister gave to the point of order was certainly very close to being directly relevant. I invite the Minister to keep going on that line, rather than any other. I indicate to the Hon. John Graham, who interjected as the Minister was speaking, that that is an inadvisable course of action.

The Hon. DAMIEN TUDEHOPE: Before I was interrupted previously, I was trying to make as clearly as I could—

The ACTING PRESIDENT (The Hon. Trevor Khan): I call the Hon. Daniel Mookhey to order for the first time.

The Hon. DAMIEN TUDEHOPE: I was trying to make as clearly as I could the point that the Government takes responsibility for paying its bills on time, and in fact has brought the provision down to 20 days. The Government hopes to get it down to five days. My respectful submission to all those in this place is that there are circumstances when private enterprise, union officials and all sorts of people do not take that same responsibility for paying bills to small businesses on time. In fact, they send a message that small businesses become the bank of big businesses. I support any calls to ensure that small businesses have their bills paid on time, particularly by unions.

The Hon. ADAM SEARLE (16:07): I ask a supplementary question. Will the Minister elucidate on those parts of his answer when he talked about the importance of the private sector paying its debts and the undesirability of small business becoming the banker to big business, and indicate whether the comments of small business ombudsman Kate Carnell will inform Government deliberations on which companies it will and will not let State Government contracts to.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:07): I will elucidate on the issue in relation to small business not being the banker to big business. It goes directly to the issue of the printing company that waited for 12 months to be paid by a particular union in relation to a bill it was owed in circumstances where—

The Hon. Adam Searle: Point of order: Are we going to continue doing this dance? The Minister persists in bringing extraneous and irrelevant material into his answers and not being directly relevant to the question—which is about, essentially, what the Government will do in relation to these contracts.

The Hon. DAMIEN TUDEHOPE: To the point of order—

The ACTING PRESIDENT (The Hon. Trevor Khan): The Minister was being relevant. He may continue.

The Hon. DAMIEN TUDEHOPE: During the royal commission when a union official was asked about the obligation to pay this business—and this was in circumstances where the business was going broke—there was the following exchange. Counsel said, "What happened is you did not pay his bill." The union official replied, "Counsel, that is a particularly cynical"—

The Hon. Penny Sharpe: Point of order: The Minister is straying well beyond what is directly relevant in his current contribution.

The Hon. DAMIEN TUDEHOPE: To the point of order: I was asked to elucidate how small business becomes the banker of big business. This is specifically in relation to that issue—a business goes broke because a union decides not to pay it. We never should tolerate that sort of circumstance, whether it be in relation to the Government, whether it be in relation to unions or whether it be in relation to a private company.

The ACTING PRESIDENT (The Hon. Trevor Khan): A liberal interpretation of "direct relevance" will have to be applied. I invite the Minister to return to the substance of the question.

The Hon. DAMIEN TUDEHOPE: I will conclude my observation in relation to the union, in particular, by saying that it was a cynical approach to say that the events were such that the union had not paid its bill, but the overdue bill of \$103,000—which was not paid to that particular printing company—was, in fact, not paid by the shadow Minister for Small Business.

The Hon. Daniel Mookhey: Two-and-a-half minutes and you still could not get it out.

The Hon. DAMIEN TUDEHOPE: They were trying to protect him. I repeat what I said earlier in my answer. Not only is it appropriate for the Government to pay its bills on time but also it is important for unions to pay their bills on time. [*Time expired.*]

The Hon. MARK BUTTIGIEG (16:11): I ask a second supplementary question. Will the Minister elucidate his answer? The Minister specifically replied that no-one should tolerate the non-payment of bills—which implies the State Government also. Will the Minister agree with Kate Carnell and not give State government contracts to small businesses that are not paid?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:12): I am not going to say that I will develop Government policy in response to newspaper articles. But, having said that, the principle is the same: whether it is a union, whether it is a private company or whether it is the Government, we all ought to be endeavouring to pay bills on time so that small business does not become the banker of big business. If the Government, as a result of that, elected to include in parts of its contracts requirements that small business be paid within 30 days, I would welcome such an addition to contracts entered into by the Government. The principle remains the same and everyone in this place ought to be saying that whether it is the Electrical Trades Union or any union, whether it is any private business or any company, or whether it is the Government, we embrace that as the culture of doing business in this State. We all ought to be saying to small business that we value what they do and that we will pay their bills on time.

STATE HERITAGE REGISTER

The Hon. NIAL BLAIR (16:13): My question is addressed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the House on recent items that have been listed on the State Heritage Register?

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) (16:14): I certainly can. Listing an item or place on the State Heritage Register allows us to identify and recognise those items of special significance to the people of New South Wales. Since being returned to government this year, there have been seven new listings on the State Heritage Register. In July the St. Peter's Anglican Church Group at historic Richmond was added to the State Heritage Register. The schoolhouse was started in 1813 and the group forms a central element of Governor Macquarie's original town plan for Richmond.

The associated cemetery is one of the earliest in New South Wales, with a grave dating from 1809, and is one of the longest continuously used cemeteries in New South Wales. This is a fascinating part of early colonial New South Wales. St Stephen's Presbyterian Church in Queanbeyan was added to the register on 20 May this year, along with Yanco Agricultural High School in Riverina. These important regional structures tell important stories of our State's early colonial history and are vital links to our past. But heritage is not just about buildings.

Our State has some of the most significant archaeological sites in the country—indeed, in the world. To recognise the State's unique and irreplaceable archaeology, I have added the archaeological site at 45 Macquarie Street in Parramatta to the register. This site shows the development of the town between 1790 and 1823, and includes the remarkable remains of a convict hut. Our industrial and transport heritage is also recognised, with the iconic Hampden Bridge in the Kangaroo Valley included on the register on 25 July this year. The bridge is the only surviving timber-decked suspension bridge in New South Wales. Constructed over the spectacular gorge of the Kangaroo River, it offers a highly distinctive tourism experience.

This Government recognises, through adding these places to the State Heritage Register, that heritage is important to our State's narrative, to tourism and to people's sense of place and wellbeing. I am committed to ensuring that these very special places are properly assessed and recommended to me for my consideration to list. It is extremely important to recognise and safeguard our unique and diverse heritage places for future generations.

BRADFIELD SCHEME

The Hon. PENNY SHARPE (16:17): My question is directed to the Minister for Mental Health, Regional Youth and Women representing both the Minister for Water, Property and Housing and the Minister for Energy and Environment. What is the Minister's response to community concerns that the Government is exploring the 1930s Bradfield plan to turn the State's coastal rivers inland as part of its infrastructure options study rural valleys, released this year?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:17): I thank the Hon. Penny Sharpe for her question. As the question relates to portfolios of Ministers whom I represent in the other place, I will take it on notice.

The Hon. PENNY SHARPE (16:18): I ask a supplementary question. I thank the Minister for her response saying that she will refer this issue to the Minister for water and the Minister for environment for a response. I seek an elucidation from those Ministers on a timetable for the Government's response, any modelling on the potential cost and the impact on coastal fisheries from diverting fresh water flows.

The ACTING PRESIDENT (The Hon. Trevor Khan): It was a good try, but that is not a supplementary question.

AFRICAN SWINE FEVER

The Hon. MARK PEARSON (16:19): My question is directed to the Minister for Mental Health, Regional Youth and Women representing the Minister for Agriculture and Western New South Wales. While the Minister has been legislating sanctions against animal activists that have never caused any disease outbreak, the pig-killing disease African swine fever [ASF] is spreading across the globe, infecting animals in China, South Korea, Vietnam and parts of Europe and Africa. Already one-quarter of the world's pigs have been killed as a result of ASF and it is predicted that the disease could kill one-third of all farmed pigs. What has the Department of Agriculture been doing to prevent an outbreak of ASF in New South Wales?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:19): I thank the Hon. Mark Pearson for his question about African swine fever. As it relates to a Minister whom I represent in the other House, I will take it on notice.

VIRONMENTS PROGRAM

The Hon. LOU AMATO (16:20): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister please update the House on what the New South Wales Government is doing to provide early childhood education for all children across the State?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:20): I thank the Hon. Lou Amato for his question. The Government values the importance of providing inclusive, safe and supportive preschools that contribute to positive experiences and outcomes for children. In May, I was delighted to update the House on the expansion of the Quality Learning Environments program to include funding for both preschools and not-for-profit long day care centres. Today I am happy to report that the successful applicants have been awarded their grants. The Quality Learning Environments program supports the delivery of quality early childhood education by recognising the importance of the physical preschool environment in supporting the educational needs of children. This program supports services to enhance their premises by addressing identified safety, health or other functional needs related to the service's physical environment. Since the introduction of the program in 2018, over 770 services across the State have received grants through the Quality Learning Environments program—

The Hon. Rose Jackson: Surprisingly, all in marginal seats.

The Hon. SARAH MITCHELL: They are actually statewide—but I will leave that for a minute. It is services themselves that apply and funding is awarded on merit, which is a great way of doing things. Through the first two rounds of funding, community preschools across the State have been able to fund renovations and repairs, specialised educational programs and activities, and purchase particular infrastructure items. In this round over \$4.2 million will be awarded to 509 preschools and long day cares. The grants that are up to \$10,000 each can be used to enhance the physical environment through minor capital works and infrastructure items, as well as specialised educational programs or activities.

Some of the programs that I am excited to see come to life are as follows. Gordon Community Preschool is not winging it because it will use this money to put on a bee workshop and install a beehive—un-bee-lievable stuff! The Flying Fox Mobile Preschool based out of Taree is taking off by putting on a music program, a kids boot camp program and building shelving for its craft area—talk about shelf improvement! Koorana Croydon Street Preschool is going to have a great thyme with the herb garden and mud kitchen. I hope they keep it in mint condition. Bourke & District preschool is going to have a wheelie good time on the new bike track. I just hope they do not tyre themselves out. And Kurri Kurri and District Preschool is not waiting in the wings; it is introducing a creative arts for wellbeing program. I cannot wait to hear all about it. But puns aside and in all seriousness, it is crucial that we invest in the future of the littlest learners in our State. I am thrilled that children right across New South Wales will benefit from this funding both now and in years to come.

IMMIGRATION

The Hon. ROD ROBERTS (16:23): My question without notice is directed to the Leader of the Government—

The Hon. Mick Veitch: Good luck, Don.

The Hon. ROD ROBERTS: I think he's going to need it. Further to my question earlier this year about the Government fulfilling its election promise to halve the overseas migration rate into New South Wales, why do the Standing Order 52 departmental documents show that no attempt has been made to keep this promise? Why do the documents show the Government praising higher immigration rates when its promise—I emphasise that word—to the people of New South Wales was to halve them?

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) (16:24): I will be delighted to take that question on notice and get a response for the Hon. Rod Roberts.

ARTS INFRASTRUCTURE

The Hon. WALT SECORD (16:24): My question without notice is directed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and the Leader of the Government. Why has the Premier taken responsibility for the Powerhouse Museum and other arts infrastructure projects from the Minister and given their oversight to the Department of Premier and Cabinet?

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) (16:25): The answer is: She has not. The Hon. Walt Secord seems not to have read the administrative orders, which make it quite clear that, as a Minister, I fall within the Department of Premier and Cabinet cluster. In fact, it is the case that all of the Arts portfolio is now administered by the Department of Premier and Cabinet and overseen by Deputy Secretary, Community Engagement, Ms Kate Foy, who reports directly to me. She has responsibility for Create NSW—

The Hon. Walt Secord: That's not what she said in estimates.

The Hon. DON HARWIN: I am sorry, that is exactly what the situation is. I am assisted by her. I am also assisted by Infrastructure NSW, which is now delivering some of the key projects—as is always the case. That is the case for virtually every Minister with every big project: Infrastructure NSW is the body that delivers. For example, Infrastructure NSW will be taking the lead on the construction of Sydney Modern. The honourable member is simply quite wrong in the assumptions behind the question he asked.

The Hon. WALT SECORD (16:26): I ask a supplementary question. Will the Minister elucidate his answer in regard to the key projects he mentioned—Walsh Bay and Sydney Modern—and will he ensure that delays will not result in the closure of activity at Walsh Bay?

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) (16:27): With respect, I am perfectly happy to take those questions but they have nothing to do with anything I said in my first

answer. The Sydney Modern project is on track. As everyone knows, the Walsh Bay project was affected by litigation some time ago. As honourable members will know, that even led to amendments to the planning legislation in this House—they were so significant. Naturally, there is some delay at Walsh Bay but the projects are all proceeding as planned.

The Hon. WALT SECORD (16:27): I ask a second supplementary question—

The ACTING PRESIDENT (The Hon. Trevor Khan): I remind the member that he is not entitled to ask a second supplementary question.

STRONGER COUNTRY COMMUNITIES FUND

The Hon. SHAYNE MALLARD (16:28): My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister update the House on how the Government is supporting local government and local organisations to engage with and support young people?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:28): I thank the Hon. Shayne Mallard for his question. Too often people take a one-brushstroke approach to the regions, but we know that to get good local outcomes we need good local solutions. Locals know their community's strengths; they know their community's weaknesses. Locals know what will make a difference to young people in their community. As someone who has raised children in regional New South Wales, I understand the need to provide quality resources and facilities so that young people can stay in their hometown to study, work and eventually raise a family.

Our Government recognises the need for greater focus and investment in regional New South Wales and therefore has made connecting young people with quality services and opportunities a priority, no matter where they live. To address some of the challenges our young people are facing in the regions we are making important changes and building off this principle for round three of the Stronger Country Communities fund. Firstly, 50 per cent of this round—that is, \$50 million—will be dedicated to funding youth-related projects in the regions. These projects must fall under one of four focus areas: work ready, wellbeing, connectivity and community. They are the core pillars for our Regional Youth Framework. This round we have changed the guidelines to allow regional councils and local organisations to apply for funding for programs and services, as well as infrastructure.

Youth-related projects could be sporting events, active spaces, youth hubs, driver training or creative studios such as the Coffs Harbour D-Block Theatre, which was funded under a previous round. It has already had an incredible impact on local young people. Yasmin, a year 12 student from Coffs Harbour, commented on the theatre upgrade:

For us this is huge. For us to be able to see this—we get to see this kind of lighting on TV, but to see it in real life—it was amazing. We were all speechless. We were all like, 'woah!' We get to experiment with it and we know kids in city areas get hands-on experience, and for us to be able to have "hands-on" experience is amazing.

Yasmin's comments make it is easy to see why we have made the decision to set aside a portion of the Stronger Country Communities fund for regional youth projects. The focus on young people for round three of the Stronger Country Communities fund will actively encourage local governments and organisations to engage with and deliver projects that reflect the needs and wants of local youth.

The fund will allow us to quickly deliver the infrastructure and programs locals know are important to the young people in their community. This Government realises that to give every young person the same opportunities we need good local solutions. This is what it is all about. We are excited. It must be demonstrated that the youth in the community have had a voice in the applications. We look forward to delivering on the ground. That is what this Government does: we deliver.

SPECIAL RELIGIOUS EDUCATION

Mr DAVID SHOEBRIDGE (16:31): My question is directed to the Minister for Education and Early Childhood Learning. Will the Minister explain to the House why she refuses to direct the NSW Department of Education to collect meaningful data on the number of primary and high school students who do not go to special religious education [SRE] and instead waste up to one hour of a crowded school week performing either no activities or menial activities such as recycling and rubbish runs, when they should be productively undertaking study? Is it because the Minister knows that poor attendance at SRE would embarrass its supporters?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:32): I thank Mr David Shoebridge for his question. This issue was ventilated last week in a question from the Hon. Mark Pearson in relation to SRE. I will repeat what I said: SRE classes have been offered in government schools since 1848. Under the Education Act 1990 time is to be allowed for the religious education of children of any religious persuasion in every government school where authorised representatives of approved providers are

available. This Act was amended in November 2011 to allow for the provision of special education in ethics [SEE] classes. Those providers go through a process in order to be approved, as do those teaching SRE. As a Government we continue to work closely with approved providers to deliver SRE and SEE in New South Wales government schools, and there are no plans to change that.

Mr DAVID SHOEBRIDGE (16:33): I ask a supplementary question. I thank the Minister for her treatise and the history lesson on SRE, noting it commenced in 1848. Given the changes in society since then, why will the Minister not collect the data so we know how many students are not attending SRE?

The ACTING PRESIDENT (The Hon. Trevor Khan): I rule the supplementary question out of order. It is a restatement of the previous question.

PUBLIC SCHOOL STUDENTS MOBILE PHONE USE

The Hon. PETER PRIMROSE (16:33): I direct a question to the Minister for Education and Early Childhood Learning. Will the Minister explain to the House, given that Victoria has a statewide ban on mobile phones in public schools and her Federal counterpart has called for similar action, why she has created uncertainty by providing contradictory advice to school communities in New South Wales?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:34): I thank the honourable member for his question. The Government has been clear on its position in relation to mobile phones in schools. My predecessor asked for a review to be conducted into the use of mobile phones in schools. That was done by child psychologist Dr Michael Carr Gregg. In December last year we announced that the use of mobile digital devices would be restricted in New South Wales State primary schools. The announcement was made in response to the findings and recommendations in that independent review of non-educational use of mobile devices. We have been clear in relation to our policy in that we are working with our primary schools to bring in that restricted use. The process has begun and will be in place by the beginning of next year.

In relation to secondary schools the Government has taken the position that it is up to individual schools to decide how they want to do that. We have consulted closely with the secondary school sector. As members would know, many secondary schools in New South Wales have made decisions around the proper and appropriate use of mobile phones when it comes to their secondary students. Many schools outside the public system have also done that. There have been recent media reports of certain schools in Sydney bringing in use up to year 10. We have given secondary schools the autonomy to make that decision. We trust principals in the secondary level to work out what is appropriate use. In his question the member spoke about what Victoria had done. It decided to go down that path.

When education Ministers met not long ago in Melbourne we spoke about the issue. It was well aired in the media that we were having that discussion. There was no consensus. Every State has taken a different approach. Our response is that we believe there is no need for the use of these devices in primary schools but in secondary schools we allow the principal to make that decision in consultation with the school community. Interestingly, we heard from a Victorian school principal who had decided not to have mobile phones at her school well before the Victorian Government had made its decision. She said the community bought into it and that made the process effective for the children, parents and students. We trust secondary principals to make appropriate decisions. We recognise that as students get older, particularly in the secondary and later years, they need to learn responsible use of those devices.

The Hon. Bronnie Taylor: We all do.

The Hon. SARAH MITCHELL: I acknowledge that interjection. We are all guilty of overuse of devices. As I look around the Chamber I see a few members using those devices. I am no better. The Government is clear in relation to its policy on this issue.

The Hon. PETER PRIMROSE (16:37): I ask a supplementary question. Will the Minister please elucidate what specific matters she would expect high school communities to take into account when making a decision whether or not to ban mobile phones?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:37): As I said in my original answer, I have spoken to secondary principals as individuals and as a collective group. They manage it based on where they think there are issues. I have visited many schools and different principals have different approaches. The Government supports that. It is widely ventilated in the media where schools have taken a particular approach, and we support that. They consult with the staff, parents and students about the best way to regulate the use of those devices. We think that it is appropriate to allow that autonomy in the secondary system and that is why this Government has taken the position it has.

FIRST HOME BUYER ASSISTANCE

The Hon. TAYLOR MARTIN (16:38): My question is directed to the Minister for Finance and Small Business. Will the Minister update the House on what the Government is doing to support first home buyers in New South Wales?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:38): I thank the honourable member for his question. It is great to get a question about good news. We like good news stories on this side of the House. First home buyers have saved more than a billion dollars in stamp duty thanks to the Government's Housing Affordability Strategy, which was introduced in July 2017. This Government made it a priority to help first home buyers get the keys to their first home. The numbers do not lie.

For most people a home is the biggest investment they will ever make, and we are determined to give as many people as possible the opportunity to make the great Australian dream a reality. The scheme eliminates stamp duty for first home buyers purchasing a new or existing property valued up to \$650,000 and provides stamp duty savings for purchasers of homes valued between \$650,000 and \$800,000. The First Home Owner Grant of up to \$10,000 is available for new housing constructions valued up to \$600,000 or for land on which a new construction is intended to be built valued up to \$750,000.

The share of first home buyers entering the New South Wales property market has increased from 17.3 per cent in July 2017 to 27.5 per cent in July this year. That news should be welcomed by everyone in this place. Just yesterday I joined the Premier and the Treasurer to visit Jacinda and Callum, who saved \$16,000 on the purchase of their new home at Marrickville. Jacinda and Callum have joined nearly 68,000 other first home buyers who have taken advantage of the opportunity to save up to \$24,740 in stamp duty when buying their first home.

In areas like Liverpool over 1,200 first home buyers have taken advantage of stamp duty cuts; in Westmead, just over 1,000; and in Penrith, 693. In our regional areas, 1,989 first home buyers in Albury have accessed stamp duty cuts; in Dubbo, 2,307; and in Wagga Wagga, more than 900. This is just one of the ways the Government is helping families with the cost of living in New South Wales. I refer also to our Creative Kids vouchers, two Active Kids vouchers, Energy Switch service, free registration for regular toll users, free TAFE and vocational education and training courses—the list goes on and on. A strong budget means that we can do more to support families and communities.

REMAPPING OLD-GROWTH FORESTS

The Hon. MARK BANASIAK (16:41): I direct my question to the Minister for Mental Health, Regional Youth and Women representing the Minister for Energy and Environment. The recent audit of old growth mapping on the New South Wales North Coast has revealed mapping errors of over 80 per cent, including areas being mapped as old growth when they are not and vice versa. Which government agency and staff oversaw this failed old growth mapping process? What steps has the Minister taken to ensure that any future mapping is completed by people with the relevant skills, knowledge and expertise to ensure accuracy?

The Hon. Niall Blair: Point of order: The question contained argument.

The ACTING PRESIDENT (The Hon. Trevor Khan): The Minister can answer the question by ignoring the word "failed", which is the only argumentative word in the question, and proceed accordingly.

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:44): As the question was referred to a Minister in the Legislative Assembly, who I represent in this Chamber, I am happy to take it on notice.

PROFESSOR BARNEY GLOVER, AO

The Hon. SHAOQUETT MOSELMANE (16:44): I direct my question to the Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Does Professor Barney Glover, AO, President of the Museum of Applied Arts and Sciences, also known as the Powerhouse museum, have the his full support?

The Hon. Walt Secord: You have got David Borger ready to take over.

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) (16:44): I will try my level best to ignore the interjections around the table. It would be fair to say that there is a good trust in place for the Museum of Applied Arts and Sciences. I make it clear that Professor Barney Glover, the Vice-Chancellor of Western Sydney University, has been serving with distinction as the President of the Board of Trustees for almost four years now. He has my full support in that position for as long as he would like to keep holding it. But

we have some excellent trustees, one of whom is, as it happens, David Borger. He is someone who the Hon. Walt Secord and others should listen to in respect of this project.

Mr David Borger, who has a role in the New South Wales Business Chamber as it relates to western Sydney, fully supports the decision to build a great cultural institution in the geographic centre of Sydney. That is exactly what we are doing. We are now in stage 2 of the design process. Six firms are developing potential designs for the museum, which is great. We will have a design by the end of the year. We will then be able to go to the next stage and next year we will be building that museum. It is a fantastic outcome. I also mention that across the applied arts and sciences field, trustees include the great Eddie Woo—probably the greatest maths educator in the State, with no disrespect to my father, who was probably the second best. The father of the Hon. Niall Blair was probably the third best. I am sorry, but I will go with my dad if that is all right. Kellie Hush, a former editor of *Harper's Bazaar*, is a great trustee. Fashion has always been an absolutely critical part of the mission of the Museum of Applied Arts and Sciences.

The Hon. Niall Blair: Do you have any vacancies?

The Hon. DON HARWIN: We do have one vacancy on the trust. I could go on with a range of excellent trustees. I have made it clear that Barney Glover is a great president. He has my full support.

The Hon. SHAOQUETT MOSELMANE (16:47): I ask a supplementary question. Will the Minister elucidate his answer with regards to his confidence in Professor Glover? Will the Minister advise the House how often he seeks advice from Professor Glover?

The Hon. Wes Fang: Point of order: This is a new question, which has nothing to do with the Minister's answer.

The ACTING PRESIDENT (The Hon. Trevor Khan): The question is in order.

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) (16:48): I have almost forgotten the question. I think it was about how often I speak to Barney. It is so often that I do not have the figure off the top of my head. My staff and I speak to Barney Glover all the time. He is a busy man as vice-chancellor, which takes him overseas regularly. He is a superb president and gives it his heart and soul. He is a great believer in the importance of the new cultural institution in Parramatta as part his broader remit as Vice-Chancellor of Western Sydney University. I might add he has his offices in Parramatta as well. He is very focused on it. He is doing a great job and he has my full support.

SYDNEY OPEN

The Hon. WES FANG (16:49): My question is addressed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the House on Sydney Living Museums' plan for Sydney Open 2019?

The Hon. Walt Secord: You can't get rid of Glover now.

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) (16:49): I do not know where the member gets these ideas from. Yesterday I was absolutely delighted to launch the Sydney Open 2019 program at the Mint with Sydney Living Museums. On 2 and 3 November 2019 Sydney Open will unlock the doors to the city's most important and architecturally inspiring buildings and spaces, many of which are ordinarily off-limits to the public. From gargoyles to church spires and bell towers, the annual program brings the city's rich architectural assets together into one compelling public offering that tells the interconnected story of Sydney's cultural heritage.

People who attend and partake in this important narrative understand that they are doing something that deepens the engagement of visitors with our city's powerful past and exciting future. I am proud to say that the mission of Sydney Open is to make Sydney's cultural heritage and future more relevant to more people. Since its inception in 1997, Sydney Open has attracted thousands of Sydneysiders and visitors to the city who have enjoyed more than 450 of the city's most historic and architecturally significant buildings. This year's program is projected to have more than 6,000 visitors exploring and discovering more than 80 sites across the city, 15 of them participating for the first time.

New spaces in 2019 include George Place, Royal Naval House and the Genesian Theatre Company at St John's Church. Of course, this building—our very own Parliament House—the Chief Secretary's building and the Anzac Memorial return for another year. It is not just the visitors to the city who get to enjoy this unique event

but also the building tenants and owners who embrace Sydney Open as an opportunity to showcase hidden and much-loved architectural gems.

I am particularly excited about the opportunity for the public to visit workplaces in extraordinary sites and locations across the city that are usually closed to the public, including—and this is a first too—the Registrar-General's building. What an amazing facade it has got—a beautiful facade at the southern end of the Macquarie Street east precinct. It is a beautiful building with so much potential. I thank the 450-plus volunteers, both new and returning. I am sure they will be instrumental in making the event a success. I say to members and to the public: This is your chance to get out and enjoy discovering our wonderful city's rich cultural heritage.

COFFS HARBOUR & DISTRICT ABORIGINAL LAND COUNCIL AND JACINTA PRICE

The Hon. MARK LATHAM (16:52): My question is directed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. What action did the Minister take to support the right of the Aboriginal woman and Alice Springs councillor, Jacinta Price, to speak at a public meeting in Coffs Harbour earlier this month? Has the Minister repudiated the actions of the Coffs Harbour & District Local Aboriginal Land Council within his portfolio that tried to stop Jacinta Price from speaking and argued that the only people allowed to talk about Indigenous issues in Coffs Harbour are those given permission by the land council?

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) (16:53): I am aware of the attention following Jacinta Price's recent event in Coffs Harbour. I understand community members and organisations spoke to the council and expressed their views, which they are entitled to do. However, it is not a matter for the New South Wales Government. I do not propose to comment further at all on this. I visited Coffs Harbour on the weekend. If the Gumbaingirr people were concerned about this matter, they did not raise it with me at all.

Those organisations up there are doing a tremendous job. In fact, I met with Coffs Harbour & District Local Aboriginal Land Council and its CEO. I also met with people involved with the Bularri Muurlay Nyanggan Aboriginal Corporation that is doing incredibly good work in respect of Indigenous languages and economically empowering Aboriginal people in the Coffs Harbour area. To the best of my knowledge, if there was any concern about that, they did not raise it with me. I have nothing further to add.

The Hon. MARK LATHAM (16:54): I ask a supplementary question. Will the Minister elaborate on his visit to Coffs Harbour? As a white man, did he need to seek permission from the land council to articulate views about Indigenous affairs? If not, why then did the land council try to impose that standard upon a fellow Indigenous person, Jacinta Price?

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) (16:54): What the land council does is a matter for it. Yes, it is a creature of statute but it is not an agency of the New South Wales Government. It is an Aboriginal-controlled organisation. If the honourable member wants to know why the land council did a particular thing, he should direct his questions to the land council.

The Hon. Mark Latham: Point of order: My point of order is relevance. I specifically asked: Did the Minister have to seek permission from the land council to speak about Indigenous issues in Coffs Harbour, given that he was there on the weekend with that very land council?

The ACTING PRESIDENT (The Hon. Trevor Khan): The Minister was being directly relevant in his answer. He has answered the question and no longer has the call. That is the end of the matter.

KELLYVILLE HIGH SCHOOL

The Hon. ANTHONY D'ADAM (16:55): My question is directed to the Minister for Education and Early Childhood Learning. What is the status of the NSW Department of Education's investigation into bullying allegations at Kellyville High School? Will the Minister confirm that the member for Baulkham Hills, Mr David Elliott, MP, has not interfered in the process or the investigation?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:56): I thank the honourable member for his question. I am aware of some of the issues that have been raised in relation to Kellyville High School. I will take the question on notice and get some advice in relation to the current status of that investigation.

NSW PREMIER'S READING CHALLENGE

The Hon. MATTHEW MASON-COX (16:56): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister update the House on initiatives to encourage New South Wales students to get excited about reading?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:56): I thank the honourable member for his question. The NSW Premier's Reading Challenge has just finished for the nineteenth year with hundreds of thousands of students participating from schools right across the State. The NSW Premier's Reading Challenge is not a competition but a way to foster a passion for reading in kindergarten to year 9 students in New South Wales government, independent, catholic and home schools.

I have been advised that a record 405,565 students from a total of 2,632 schools participated this year—the first year the challenge has had more than 400,000 students take part. The NSW Premier's Reading Challenge is strongly aligned with the Government's Literacy and Numeracy Strategy 2017-2020, providing a wide range of quality texts to help students to develop a love and appreciation of reading. Depending on their age, students must have finished between 20 and 30 books to complete the challenge before it closed on 30 August 2019. Certificates and medals for successful completion of the 2019 NSW Premier's Reading Challenge will be available in term four for all students who have completed their reading.

Mr Acting President, I am sure it will not surprise you to hear that reading has been shown to help children identify formation, setting them up for success in the future. In adults, reading has been shown to reduce stress more than listening to music, going for a walk or having a cup of tea. Last Thursday, 19 September 2019, was also Australian Reading Hour, which encourages kids and adults to take time to pick up a book for one hour. *Moli det bigibigi*, written by debut author Karen Manbullo and illustrated by the Binjari community of northern Australia, is written in Kriol and English. On Thursday children across Australia followed along with the story of Moli, a little pig rescued from the bush, as part of the reading hour initiative, along with other stories read by special guests, including The Wiggles. A favourite of students across the State, *Moli det bigibigi* is the first Indigenous and bilingual book to feature in a national awareness campaign.

Earlier this year I had the privilege to participate in Warialda Public School's reading revolution by reading the book *Hairy Maclary from Donaldson's Dairy* from right here in the House, broadcast to students 600 kilometres away. We all know *Hairy Maclary*. It is a classic. We love Hairy and Bottomley Potts and Bitzer Maloney and everyone else. But I will not start or I will not stop. I say thank you to that school community. Thanks to the use of social media. Videos of teachers, students, parents and community members reading bedtime stories are available to students not only from Warialda—

The Hon. Ben Franklin: Point of order: I am very interested in *Hairy Maclary* and the assorted goings-on of him and his friends. But I cannot hear because of the loud interjections that are happening from across the Chamber and in fact, frankly, from my own side.

The ACTING PRESIDENT (The Hon. Trevor Khan): I observe that members are not really interjecting. There is a general buzz of conversation. I invite members to keep their conversations to a minimum so that we can get through this question time unscarred. The Minister has the call.

The Hon. SARAH MITCHELL: I commend Warialda Public School Principal Dan van Velthuisen who began this initiative by simply posting videos of himself reading picture books on their public school Facebook page. I also acknowledge the school's itinerant support teacher for hearing Tamara Doyle, who read Mem Fox's *Time for Bed* while also signing the words in Auslan so that the videos are accessible to all students. Great work Warialda Public School. Well done!

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

*Supplementary Questions for Written Answers***WALSH BAY ARTS PRECINCT**

The Hon. WALT SECORD (17:01): My supplementary question for written answer is directed to the Minister for the Public Service, Employee Relations, Aboriginal Affairs and the Arts. What steps is the Minister taking to ensure that the Australian Theatre for Young People and other arts organisations are not being forced to close their doors due to continuing delays associated with the Walsh Bay redevelopment?

*Written Answers to Supplementary Questions***ABORIGINAL BUSINESS**

In reply to **the Hon. WALT SECORD** (19 September 2019).

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)—The Minister provided the following response:

I am advised:

The Business Connect program successfully provides high quality, professional business advice and skills training events across New South Wales to all small businesses who seek out assistance, not just Aboriginal businesses.

Recently, \$250,000 has been committed to the Business Connect program to enable the NSW Indigenous Chamber of Commerce to provide three new specialist procurement advisors and skills workshops which will assist Aboriginal businesses to successfully tender for government contracts.

In addition, the New South Wales Government is supporting new employment opportunities for Aboriginal people and Aboriginal owned businesses through government procurement activities.

The Aboriginal Procurement Policy came into effect 1 July 2018 and aims for Aboriginal owned businesses to be awarded at least three percent of the total number of domestic contracts for goods and services issued by New South Wales Government agencies by 2021.

The revised Aboriginal Participation in Construction Policy came into effect on 1 July 2018 and is mandatory for all construction projects where the estimated value is over \$1 million.

The policy requires suppliers to Government to direct a minimum 1.5 per cent of project spend to Aboriginal participation.

These policies apply to all New South Wales Government departments, statutory authorities, trusts and other government entities. Combined, the Aboriginal Procurement Policy and Aboriginal Participation in Construction Policy aims to support an estimated 3,000 full time equivalent employment opportunities for Aboriginal people through New South Wales Government procurement activities by 2021.

*Bills***REPRODUCTIVE HEALTH CARE REFORM BILL 2019****In Committee****Consideration resumed from an earlier hour.**

The Hon. WALT SECORD (17:02): I plan to support the amendment on sheet c2019-123 moved by the Hon. Niall Blair as it allows for flexibility in data collection. I have concerns about unintended consequences in the amendments on sheet c2019-144J moved by the Hon. Greg Donnelly. It is a bit too intrusive and intrudes between a doctor and a woman. I note data collection exists in other jurisdictions in Australia but I believe there is the need for scientific data that protects the identity of the patient, the woman. We have previously debated legislation in this Chamber and we had to rely on anecdotal data or national data where we extrapolated and said that a third of that would be New South Wales. I have looked at the amendments and I will be supporting the Hon. Niall Blair's amendment.

Reverend the Hon. FRED NILE (17:03): I speak in support of the amendments on sheet c2019-123 moved by the Hon. Niall Blair and the amendments on sheet c2019-144J moved by the Hon. Greg Donnelly. I support both of those with my priority being with the Hon. Greg Donnelly's well thought out amendments. Firstly, section 54 of the Public Health Act 2010 places an obligation on medical practitioners to report stillbirths, perinatal births as well as live births. The Public Health Regulation 2012 outlines the form the reporting must take. These two amendments seek to address the reporting issue in the bill.

Previously amendments on sheet c2019-065D, sheet c2019-144F and sheet c2019-064C were moved addressing the same issue. Obviously some members believe this is an important matter that deserves to be incorporated into the bill. I am one of those members. I have in the past placed on notice my intention to introduce legislation that would mandate the reporting of abortions in this State. One such bill on the notice paper is my Pregnancy Termination (Mandatory Reporting) Bill 2019. The amendments before the Committee fit squarely within the intent of my proposed legislation. I therefore intend to support both members' amendments, with my priority being the Hon. Greg Donnelly's amendment.

The amendments have been referred to in debate by various members and the movers, especially the Hon. Greg Donnelly, so I will not read them again; members are aware of the content. I will briefly state that the Hon. Greg Donnelly's amendment has these provisions:

No. 1 **Reporting statistical information about terminations**

Page 7. Insert after line 11—

14 Reporting statistical information about terminations

- (1) The Secretary of the Ministry of Health must, by 30 June in a year, publish a report on the Ministry's website about terminations performed under this Act in the previous year about which the Secretary has been given information under section 54 of the *Public Health Act 2010*.
- (2) The report—
 - (a) must include only statistical information, and
 - (b) must not include any information that would allow a person on whom a termination was performed, or a registered health practitioner who performed or assisted in the performance of a termination, to be identified.

I fully support that provision for confidentiality for all those involved. The Hon. Greg Donnelly's amendment covers other matters, including information about terminations under the Public Health Act 2010 No 127. Amendment No. 3 proposes to amend the Public Health Act by inserting after the definition of still birth these words:

termination means a termination within the meaning of the Reproductive Health Care Reform Act 2019.

The Hon. Greg Donnelly's amendment also wishes to:

Insert "Termination" after "Sudden Infant Death Syndrome".

The amendment goes on to give further details about the Public Health Regulation 2012, dealing with notification of categories 1 and 2. Part 3 "Termination" of the Public Health Regulation 2012 has been the subject of debate in this Committee already, which had the support of some members and was opposed by others. It details a list of items relating to termination, such as:

Date of birth of the person on whom the termination was performed.

These issues have been raised by the Hon. Greg Donnelly and other members in detail so I will not go through them again. I believe that they are relevant as long as there is no information that leads to the identification of either the person having the abortion—in my mind it is always a woman—or the doctor performing the abortion. I am pleased to support the amendment moved by the Hon. Niall Blair but I particularly support the amendments moved by the Hon. Greg Donnelly.

The Hon. MATTHEW MASON-COX (17:09): As legislators developing policy on issues, we should always prefer more data and detailed data. That is pretty much a truism for all of us. I support both the amendments before the Committee but the level of detail in the Hon. Greg Donnelly's amendment is to be commended. It has the other benefit of requiring a report to be compiled each year and presented on the ministry's website, which will make that information publicly available to all concerned. The Hon. Greg Donnelly has put forward a thoughtful amendment. Its elements about information to be discerned on a regular basis and published on a yearly basis will be important to ensure that we have the necessary information to review those areas over time. I support the Hon. Greg Donnelly's amendment in the first instance. If that is unsuccessful, I will support the amendment moved by the Hon. Niall Blair.

The Hon. SCOTT FARLOW (17:10): I support the amendments moved by the Hon. Greg Donnelly and the Hon. Niall Blair before the Committee. During debate on the bill, particularly on the subject of gender selection, many members have referred to information and data, which we need to know if there is an issue and to understand what is happening with terminations of pregnancies. Both amendments will allow for that to occur. I pick up on the point made by Ms Abigail Boyd that Medicare information on abortions already exists. Four Medicare item numbers are commonly used—35643, 16525, 16505 and 16564. There is not one single Medicare item for miscarriages as well as elective terminations of pregnancy.

It is incorrect to say that the Medicare information is sufficient to give an insight into terminations in New South Wales. As we have seen, many members across the Chamber have reported different numbers of terminations performed in New South Wales. Part of the difficulty that we have is that facts in New South Wales are extrapolated largely from what has occurred in South Australia to reflect population figures in New South Wales. I prefer the amendments moved by the Hon. Greg Donnelly but I also support the amendment moved by Hon. Niall Blair.

Mr DAVID SHOEBRIDGE (17:11): I commend the contribution of my colleague Ms Abigail Boyd in opposing the two sets of amendments before the Committee. The Greens are on record as saying that terminations should be like any other medical procedure and should be governed by the same rules. We do not support standalone rules for data or information for the termination of pregnancy because we believe it should be treated as a medical procedure with the same rules governing it as rules for other medical procedures. The

Hon. Greg Donnelly's amendments in particular are clearly intended to gather data as a future weapon to attack the rights of pregnant people to make decisions about their bodies. For those reasons, we oppose both sets of amendments.

The Hon. PENNY SHARPE (17:12): I note that we started discussion on these amendments at 2.30 p.m. We still have hours to go and this is not going particularly quickly.

The Hon. Scott Farlow: It was 3 o'clock.

The Hon. PENNY SHARPE: Yes. My point is that it is taking a long time on what should be not a controversial amendment. I just make the point.

The Hon. Mark Latham: If you had consulted more, it mightn't have been. Working in secret never works.

The Hon. PENNY SHARPE: Mate, you've had 35 hours so far.

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

The Hon. PENNY SHARPE: I want to talk about these amendments. I have listened carefully to the debate. My first inclination was not to support either of those sets of amendments. However, data is important. I am convinced by the words of people such as Adjunct Professor Ann Brassil when it comes to the need for us to understand this issue more. During debate on the bill, members have made the point that understanding reproductive health care of women is important. We can all agree that we are bereft of data on this issue. We are trying to manage the different ways in which it can be done. There is no way that I can support the Hon. Greg Donnelly's amendments and I have that view for a range of reasons, anonymity being the most important one.

There has been a lot of discussion in this debate about the position that women find themselves in with an unplanned pregnancy or a pregnancy that has not gone the way they thought it would go. There is an enormous amount of secrecy, shame and stigma. Women go to great lengths to ensure that nobody who they live near—or sometimes who they live with—is aware of the decision they are making. The list of data points in the Hon. Greg Donnelly's amendments is not sufficient in my view. For example:

Date of birth of the person on whom the termination was performed

Locality in which the person resides ...

Members have talked a lot about the need for better health care in regional areas. Members have also told a lot of stories about the real difficulties facing women in regional areas. I refer to my earlier comments about women's need for secrecy to manage the issue. I also make the point that many women have abortions in secret because they are living in abusive relationships. Data tells us that the most dangerous thing for woman in domestic violence situations is when they are pregnant.

We need to understand these things. I believe the information sought to be collected here is not what the data should be for. The wording set out in the Hon. Niall Blair's amendment is much better. It goes to what Adjunct Professor Ann Brassil said, which is that we need to understand what we are collecting the data for, we need to be improving part of the system and we need to have the people who are involved in collecting those statistics around the table. That is not happening here. It is not up to us to decide that. I have a real concern about the impact of the Hon. Greg Donnelly's amendments if they were to do that.

I make two quick points. The first is that the motivation of collecting the data is to somehow reduce the number of abortions. That is not the case. I want to see fewer abortions every day but we know from evidence that the way to deal with it is through education. It is not just about collecting data. I reiterate the point I have made in this debate previously: Even if every person who had sex used contraception perfectly, we know from the World Health Organization that six million people across the planet will get pregnant because contraception does not always work. If we are to understand data, we need to also understand that the motivation around collecting it is about making improvements. The whole point of this legislation is to have safe, legal and accessible terminations of pregnancy for women who need them, whatever circumstances they find themselves in. I remind members of that point.

My final point is about maternal deaths, which are an absolute tragedy. When they happen there is a full maternal death review within the health department. I know this because my partner used to sit on the committee for it. It is completely false that somehow these issues are not being picked up through our health system. It is also false that understanding what happened to a woman if she died when she was pregnant is not being picked up. Data is important but it has to be data collected for the right public health purposes. It has to be done in a way that has had proper consultation with the people who are dealing with the data. It has to be done with good faith,

which is about trying to improve the system for people. I support the amendment moved by the Hon. Niall Blair; I do not support the amendments moved by the Hon. Greg Donnelly.

The Hon. GREG DONNELLY (17:18): I return to make three or four short comments. First of all, I acknowledge the observation the Hon. Scott Farlow made about Ms Abigail Boyd's contribution about Medicare data and specifically the coding. It is well known that the coding is used for billing under Medicare. The four items under Medicare, if aggregated, provide data for a range of procedures that relate to the death of an embryo or fetus, which may not be related to a specific procedure to terminate its life. To simply say, "Look at the Medicare data", I have done that. I interrogated the year before last year's Medicare data as an exercise. I looked at the codes and found that they were manifestly unhelpful in coming up with a number. On the issue of a reflection about me "seeking to gather data to attack pregnant women"—that was a specific comment by Mr David Shoebridge—I reject that.

Mr David Shoebridge: Pregnant people.

The Hon. GREG DONNELLY: Sorry, "pregnant people". I apologise. It was women but—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Greg Donnelly will direct his comments through the Chair.

The Hon. GREG DONNELLY: I understand the quote has now changed, "to gather data to attack pregnant people". That is not my intention. I would never attack a pregnant woman under any circumstances and certainly not with respect to the purposes of gathering data. On the issue of anonymity, I say this: When one has an amendment that contains a specific provision—and my direction was guided by the Office of Parliamentary Counsel—to specifically provide for complete use only of statistical information with no reference to any personal or individual data whatsoever, it is utterly spurious to suggest it is being done for purposes to drill down and identify individuals. It is completely anonymous and the honourable member knows that.

Finally, as far as I know—and I will have to go back and check the parliamentary record of the Parliament of South Australia—it was a Labor Government in South Australia that was responsible for the abortion law reform in that State, going back to the early 1970s. The document I refer to in my contribution, which was produced by virtue of the legislation passed by the Labor Party, provides for the generation of an annual report. It contains 12 data points, which is required to be produced by the South Australian committee. On my count, I have 12 or 13 data points, so it is nothing more than drawing on the position of the Labor Party, which was put forward and supported in Western Australia some decades ago.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are dealing with two sets of amendments: one moved by the Hon. Niall Blair on sheet c2019-123 and the other moved by the Hon. Greg Donnelly on sheet c2019-144J. A number of members indicated that they were inclined to support the Hon. Greg Donnelly's amendments and then they would support the Hon. Niall Blair's amendment. They were moved the other way round. Unless there is an objection, I shall put the Hon. Greg Donnelly's amendments first and then the Hon. Niall Blair's amendment. Members should be aware that I have been advised that if both sets of amendments get up, they do not cancel each other out.

The Hon. Greg Donnelly has moved amendments Nos 1 to 3 on c2019-144J. The question is that the amendments be agreed to.

The Committee divided.

Ayes 14

Noes 25

Majority 11

AYES

Amato, Mr L
Donnelly, Mr G
Latham, Mr M

Mason-Cox, Mr M

Roberts, Mr R

Banasiak, Mr M
Farlow, Mr S
Maclaren-Jones, Mrs
(teller)
Moselmane, Mr S
(teller)
Tudehope, Mr D

Borsak, Mr R
Houssos, Mrs C
Martin, Mr T

Nile, Revd Mr

NOES

Blair, Mr

Boyd, Ms A

Buttigieg, Mr M (teller)

NOES

D'Adam, Mr A (teller)
Field, Mr J
Harwin, Mr D
Khan, Mr T
Moriarty, Ms T
Searle, Mr A
Shoebridge, Mr D
Ward, Mrs N

Faehrmann, Ms C
Franklin, Mr B
Hurst, Ms E
Mitchell, Mrs
Pearson, Mr M
Secord, Mr W
Taylor, Mrs

Fang, Mr W
Graham, Mr J
Jackson, Ms R
Mookhey, Mr D
Primrose, Mr P
Sharpe, Ms P
Veitch, Mr M

Amendments negatived.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Niall Blair has moved amendment No. 1 on sheet c2019-123. The question is that the amendment be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.**The Committee divided.**

Ayes31
Noes8
Majority.....23

AYES

Amato, Mr L
Borsak, Mr R
Fang, Mr W
Graham, Mr J
Jackson, Ms R
Maclaren-Jones, Mrs
(teller)
Mitchell, Mrs

Nile, Revd Mr
Searle, Mr A
Taylor, Mrs
Ward, Mrs N

Banasiak, Mr M
Buttigieg, Mr M
Farlow, Mr S
Harwin, Mr D
Khan, Mr T
Martin, Mr T

Moriarty, Ms T

Primrose, Mr P
Secord, Mr W
Tudehope, Mr D

Blair, Mr
Donnelly, Mr G
Franklin, Mr B
Houssos, Mrs C
Latham, Mr M
Mason-Cox, Mr M

Moselmane, Mr S
(teller)
Roberts, Mr R
Sharpe, Ms P
Veitch, Mr M

NOES

Boyd, Ms A
Field, Mr J
Pearson, Mr M (teller)

D'Adam, Mr A (teller)
Hurst, Ms E
Shoebridge, Mr D

Faehrmann, Ms C
Mookhey, Mr D

Amendment agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We will now move to sheet c2019-086B regarding the review of the Act. Do I have a mover for that amendment?

The Hon. MATTHEW MASON-COX (17:37): I move amendment No. 1 on sheet c2019-086B:

No. 1 **Review of Act**

Page 7, proposed section 16, line 27. Omit "5 years". Insert instead "2 years".

This simple amendment goes to the heart of seeking a review of this Act, should the bill pass later this week. It will ensure that in the normal course a review would occur two years, rather than five years, after the commencement of the Act. The rationale is very simple. This is a heavily contested issue. It is a life-and-death issue. The bill has come through a process that perhaps leaves a little bit to be desired—and I will leave that commentary there. The normal process is to review legislation after five years but given all the circumstances—

and I will not labour the point—it would be wise to conduct an earlier review to examine the impact of this bill on current clinical practice in light of all the evidence adduced.

I take members to the last amendment. It will obviously be adducing a whole lot of data, which will be delivered over the intervening year or two. As members would be aware, under proposed section 14 of the bill as it currently stands, there is a review in relation to gender selection, which will start directly after commencement of the bill as well. By the time we get to two years after commencement of the legislation, we will have some evidence in relation to gender selection and a report. Obviously, that will be before the Minister. We will also have evidence from the data that has been collected over two years. We will be able to adduce what is happening in relation to changes, if any, in clinical practices. In that regard, members would be aware that there is a review of the NSW Health clinical practice underway as we speak. These things will all come to fruition, if you like, in the intervening period.

I think in those circumstances it would be prudent for this House to seek a review at that time—that is, two years after commencement. The review would take something in the order of three to six months to conduct with a view to amending the Act, if needed, in the normal parliamentary process. For those reasons, particularly the circumstances I have mentioned, I ask members to support the early review of this legislation at two years after commencement.

Reverend the Hon. FRED NILE (17:40): This amendment proposes to change the time after which the Act will be reviewed from five years to two years. I cannot understand the logic of why a review of legislation as controversial and contentious as this would be conducted so late. It is almost as if the proponents of this bill fear that something unflattering may come up in the review. It hardly needs reminding that the overwhelming public response to this bill has been negative. There have been over 14,000 submissions received to the minimal inquiry of only three days and only a negligible fraction of those supported the bill. Thousands of people have signed the various petitions presented to this House, as well as the online petition.

Under these circumstances, it is completely inappropriate to review the operations of the Act five years after it comes into force. Two years is an eminently more reasonable period of time. In two years, enough information can be collected about this Act's impact on our State without the unnecessary dangers of allowing a bad law to damage society for another three years. If, indeed, members in this Chamber are concerned with the passing of good law then the more reasonable review process after two years should be supported. The sooner we know how the provisions of this bill have been applied to society and the medical profession, the sooner we will be able to make any necessary further amendments or, as I would hope, repeal the Act in its entirety.

Delaying the review process will only delay good governance and best practice legislative reform. Some of the things that would fall under the review process would include the way that the provisions of this bill have been interpreted by doctors, the reasons for abortions and their circumstances, whether the amendments that have been passed so far have any merit and whether they go far enough, the various statistical data that will illustrate exactly what the state of abortion is in New South Wales and any other matters that arise from the operation of this bill. All of these things are important because the public is still being misled by the bill's proponents about its meaning, effect and need. I am personally disturbed by the heartless attitude of some of the bill's proponents. That suggests there is a wide scope for abuse under its provisions. We have witnessed this attitude even here in the Chamber. I am on record opposing any and all forms of eugenics being instituted or excused by law.

The Hon. Niall Blair: Point of order: This contribution is now straying well outside the fact of the review and the amendment. It is going back into a second reading debate.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I uphold the point of order. I ask that comments address the amendments specifically.

Reverend the Hon. FRED NILE: What can we expect from some medical practitioners who will be conducting abortions under this bill's provisions? This is a bill that I can never support—all the more reason to subject it to a full and thorough review sooner rather than later. Therefore I support the amendment dealing with the review of the Act.

The Hon. GREG DONNELLY (17:44): I will be brief. I simply wish to associate myself with the amendment that is before the House. The Hon. Matthew Mason-Cox has spoken in detail and with some precision about the grounds, which give all the reasons why the period of time for review should be taken from five years, as defined in the bill, to two years. This is the first time this State will have statutorily regulated the practice of abortion. We all hope that there are not unintended consequences associated with that but if there were to be, the shorter review period would provide an opportunity for those to be examined. I commend the amendment to the House.

Ms ABIGAIL BOYD (17:45): The Greens will be opposing this amendment concerning the bill's review period. I think I speak for a number of people who feel that the harm that has been caused through this debate is something that no-one wants to repeat in a short period of time. Two years is clearly an insufficient period of time for a review—even if we take the argument of needing to analyse data, that takes a lot longer than two years. This is clearly an attempt to have another go at trying to derail fundamental rights.

The Hon. PENNY SHARPE (17:46): I will be opposing this amendment. It is pretty straightforward because every other bill that goes through this place has a five-year statutory review. We do not need a two-year review on this legislation. A lot of amendments have been moved and a lot of work will need to be done. It will not simply be ready in two years for us to get any meaningful data, which is the whole point of the amendment that was passed in the previous Committee stage.

The Hon. NIALL BLAIR (17:46): I too will be opposing this amendment. I believe that the normal statutory review period is adequate. There will be a review of parts of the implementation of this legislation within 12 months, which has already been committed to in some parts of the bill. Dare I say, I suspect that this bill and its contents will not sit idle on the shelf. I am going to predict that the data that is produced by NSW Health will probably be examined over and again in forums like budget estimates. I am sure that we will not see the end of the subject within five years. This will be constantly under review and under scrutiny because I am sure that there are many people who have an interest in this legislation. Therefore, I do not believe that we should move away from the normal review period of five years.

The Hon. MATTHEW MASON-COX (17:47): I thought the Hon. Niall Blair would support a two-year review as he wants more scrutiny, but obviously not. In relation to Ms Abigail Boyd's contribution, this is not about derailing a bill. Never look for ulterior motives when there are none. I ask members to support this amendment.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Matthew Mason-Cox has moved amendment No. 1 on sheet c2019-086B. The question is that the amendment be agreed to.

The Committee divided.

Ayes 14

Noes 25

Majority 11

AYES

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

NOES

Blair, Mr	Boyd, Ms A	Buttigieg, Mr M (teller)
D'Adam, Mr A	Faehrmann, Ms C	Fang, Mr W
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 (teller)
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): We will now move to sheet c2019-119 regarding the meaning of emergency.

The Hon. MARK LATHAM (17:56): I move amendment No. 1 on sheet c2019-119:

No. 1 **Meaning of emergency**

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

emergency, in relation to performing a termination on a person, means the termination is, according to reasonable medical judgment, necessary to prevent an imminent threat of—

- (a) the person's death, or
- (b) the death of another foetus.

This amendment will establish a single consistent definition of the term "emergency" in the dictionary in schedule 1 to the bill. I trust this will not be seen as a contentious matter, rather as a sensible legislative provision to avoid confusion and possibly various forms of litigation in the future.

Currently there are four uses of the term "emergency" in the bill but not necessarily a single consistent use. Proposed section 5 (3) allows for the performance of a termination prior to 22 weeks without the informed consent of the person in an emergency without any definition. Proposed section 6 (4) allows any medical practitioner to perform an abortion after 22 weeks, without considering the matters specified in proposed section 6 (3) and without consulting a second specialist medical practitioner under proposed section 6 (1) (b), in an emergency, and I quote:

... if a medical practitioner considers it necessary to perform the termination to—

- (a) save the person's life, or
- (b) save another foetus.

In that part of the legislation the term "emergency" is defined in a way that makes sense to me. Why not use that definition throughout the bill? Proposed section 7 (2) allows a medical practitioner to perform a termination without complying with the requirement to assess whether it would be beneficial to offer the person counselling under proposed section 7 (1).

Proposed section 9 (4) provides that, regardless of holding a conscientious objection to termination, a registered health practitioner may have a duty to perform or assist in a termination in an emergency—"emergency" again left without a definition. In the extensive debate—I think it went for five hours—about conscientious objection I raised the issue of proposed section 9 (4) potentially conflicting with proposed section 10 (3), which requires doctors to fulfil their ethical obligations. I do not see the need for proposed section 9 (4) but the Committee has decided otherwise. Having made that decision, surely the nature of an emergency should be defined with clarity.

In three of the provisions I have outlined there is no definition of the term "emergency" and no obvious reason as to why the definition given in proposed section 6 (4) should not apply consistently throughout the bill. It is wise practice to have definitional consistency in legislation. This amendment does not go to any of the philosophical or practical controversies that we have had in this debate. If you like, it is a tidying-up mechanism to provide consistency as the bill is administered and judged in the future.

The Hon. GREG DONNELLY (17:59): The Hon. Mark Latham has explained the amendment in crystal-clear terms. It is taking what is otherwise a provision to be found in clause 6 (4) and incorporating it into the dictionary section of the bill. In the matter of trying to create legislation that is going to regulate this practice as far as the eye can see and beyond, it makes eminent sense. We now have the decision of the House that the review period will be five years. This amendment is trying to bring certainty and clarity to key issues and matters in this important bill. It is critically important. I support the amendment.

The Hon. PENNY SHARPE (18:00): I do not support the amendment. I do understand why the Hon. Mark Latham moved this amendment, in that he is trying to get consistency across the bill. "Emergency" is well understood as, basically, being in the opinion of the doctor who is treating the person. While I understand that this definition exists in other parts of the bill, the amendment would make it for all parts and that significantly narrows the autonomy and ability of doctors to make an assessment. For that reason, I cannot support it.

The Hon. MATTHEW MASON-COX (18:01): I strongly support the Hon. Mark Latham's amendment in relation to defining "emergency". I take members briefly to the relevant clauses of the bill. They are very serious matters in which a medical practitioner would exercise that person's expertise in the case of an emergency. I refer first to clause 5 (3), which states:

- (3) However, subsection (2) does not apply if, in an emergency, it is not practicable to obtain the person's informed consent.

If you cannot get informed consent, you will want to ensure that the emergency is of such an order as suggested by the amendment that it is, in reasonable medical judgement, necessary to prevent the imminent threat of a

person's death or the death of another fetus. The circumstance of not being able to gain informed consent from a person would constitute an emergency and nothing less. Clause 6 (4) specifically states:

- (4) In an emergency, a medical practitioner, whether or not a specialist medical practitioner, may
- ...
- (a) save the person's life, or
- (b) save another foetus.

It replicates the test in this amendment. Clause 7 (2) states:

- (2) A medical practitioner may, in an emergency, perform a termination on a person without complying with subsection (1).

Clause 7 deals with the "requirement for information about counselling". These are important pre-steps to a termination being allowed to proceed from a woman's perspective. In that regard, each of them is a serious matter that should occur only in circumstances where it is necessary to prevent an imminent threat of a person's death or the death of another fetus. The Hon. Mark Latham is passionate about the issue of conscientious objection. Clause 9 (4) specifically states:

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

One must look to the definition of "emergency". The suggestion from the Hon. Mark Latham is absolutely appropriate in those circumstances for the sake of uniformity and clarity. It is appropriate to ensure that only in those serious emergency circumstances, where it is necessary to prevent the imminent threat of the person's death or the death of another fetus, should this occur. Every time it appears in the bill that is how it should be read.

The Hon. TREVOR KHAN (18:04): I will be brief. I accept that the amendment is presented with the best of intentions. But let me raise this: I suggest that "emergency" can extend well beyond these two circumstances. Let me deal with the circumstance where an event arises where a failure to act immediately may result in, for instance, serious and permanent injury to the woman. Are we saying that that is not an emergency even though the patient may end up blind, brain damaged or paralysed? The answer, self-evidently, is no. We would all, as a matter of common sense, say that that is an emergency. Permanent incapacity is plainly something none of us would wish, and that is why this amendment should be voted down.

Ms ABIGAIL BOYD (18:05): The Greens will oppose the amendment. The Hon. Trevor Khan put it well when he spoke about other types of emergency situations, such as permanent impairment, infertility and so on. Clause 6 (4) has this test built into it. In relation to the other three provisions, we are in danger of being overly prescriptive. Telling a doctor what they need to do in an emergency when they will use common sense, years of practice and training would lead to unintended consequences. On that basis, we oppose the amendment.

The Hon. SCOTT FARLOW (18:06): The points raised by the Hon. Trevor Khan and Ms Abigail Boyd show why there needs to be a definition. This is largely an area of ambiguity that does not provide protections for medical practitioners. If we are going to have the discussion about what constitutes a medical emergency, it should be encapsulated in the bill and not left for the courts to determine. That is not a protection for medical practitioners. When members come forward and say they see the issue but think the meaning of "emergency" is different from what the Hon. Mark Latham has outlined in the Chamber, then it should be defined in the Act. The bill should encompass a definition brought forward by the House. I support the amendment of the Hon. Mark Latham. If any member seeks to broaden the definition, they should do so.

The Hon. COURTNEY HOUSSOS (18:07): I have been listening closely to this discussion. I think it is important that in the bill that will deal comprehensively with the question of abortion in New South Wales there are clear definitions as to how specific provisions will apply in practice. Previous speakers have mentioned resolving those issues in the courts. We spoke at length during the second reading debate and when discussing amendments about the need for a clear and comprehensive approach to the issue. With that in mind, I will move an amendment to amendment No. 1 on sheet c2019-119 to encapsulate some of the debate.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We will let you know whether it is in order.

The Hon. COURTNEY HOUSSOS: I move an amendment to amendment No. 1 on sheet c2019-119:

Insert a new paragraph at the end:

, or

- (c) permanent incapacity or other serious injury.

I move that amendment to encompass some of the points made in the discussion around the need to slightly broaden the definition while providing clarity to doctors around what situations constitute "emergency" provisions, when they will apply and when they will not. It is important to provide that clarity.

The Hon. MARK LATHAM (18:09): The amendment moved by the Hon. Courtney Houssos is acceptable to me as the mover of the original amendment. One needs only to listen to the comments from members opposite to understand what we are talking about. The Hon. Penny Sharpe said that everyone knows what an emergency is. They should—and it should be put in the bill. That is the whole point of having definitions in schedule 1 to the bill, but it does not have a definition of "emergency". It is left undefined at clauses 5 (3), 7 (2) and 9 (4). Whether we like it or not, different people can put forward different definitions of "emergency". A patient could say, "We thought it was an emergency. We thought the doctors should have acted." The American court system has plenty of civil litigation along those lines: "The doctor did the wrong thing. It was an emergency. It all ended terribly and now we are suing."

To insert a definition of "emergency" into the bill is not all smoke and mirrors or any trickery; it is simply to defend doctors from that scenario. As legislators, we have put a definition of "emergency" in clause 6 (4) of the bill but have failed to do so in clauses 5 (3), 7 (2) and 9 (4). We are trying to defend doctors who give their professional assessment. My amendment states the definition of "emergency" is:

according to reasonable medical judgment, necessary to prevent an imminent threat of—

- (a) the person's death, or
- (b) the death of another foetus.

They are both emergencies. As the Hon. Trevor Khan and others have advanced, if there is another form of emergency let us add that too. The Hon. Courtney Houssos has amended the amendment with the words "permanent incapacity or other serious injury." This is an attempt to strap onto aspects of the bill that have not been defined a definition that all parts of the Parliament sensibly would live with in order to protect doctors from this becoming a litigation minefield. Who wants that?

Surely there can be no harm in going down the path of having a consistent definition throughout the bill, and by having a more comprehensive definition than is set out in clause 6 (4) to take account of permanent incapacity or other serious injury. It will allow doctors to get on with being doctors and according to this aspect of the Health Act without unnecessary and unreasonable fear of litigation if patients say, "It was an emergency, the wrong thing happened" and then sue in court. That is the last thing we need.

Reverend the Hon. FRED NILE (18:12): I support the amendment moved by the Hon. Mark Latham and the amendment moved by the Hon. Courtney Houssos, as outlined originally by the Hon. Trevor Khan. The amendments will make clearer what we mean by an "emergency". I think both amendments are necessary and therefore I will support them.

The Hon. GREG DONNELLY (18:13): I will be brief. The intention of trying to import the definition of "emergency" into the definitions section of the bill as proposed—and, as it has now been acknowledged by the Hon. Mark Latham, the mover of the motion, the acceptance of the amendment moved by the Hon. Courtney Houssos—is to clarify matters. The last thing we want to do is end up in a situation where a brand spanking new piece of legislation that regulates a practice that is undertaken by a large number of women in this State—and if we are to believe the figures we understand there are approximately between 25,000 and 30,000 pregnancy terminations each calendar year—if we are crafting and creating the law that is going to regulate that why would we do anything other than be as clear as we possibly can to avoid the scenario of—and this is how I find it so counterintuitive—leaving it to the courts?

We are here at least in part because of the principled argument that the judge-made law, in conjunction with the provisions of the Crimes Act, had become anachronistic and no longer fit for purpose. We are creating an Act—we are doing that; it is in our hands, literally. We know there was no opportunity in the Legislative Assembly to thoroughly look at these sorts of very important issues that go to definitions. I appreciate the point made by the Hon. Penny Sharpe that this is taking some time, but at the end of the day this bill is regulating between 25,000 and 30,000 procedures a year. I think we have to take the time to look at this very carefully. I am not suggesting any imputation from the Hon. Penny Sharpe or any of those who spoke against the amendment moved by the Hon. Mark Latham, which has now been amended by the Hon. Courtney Houssos, of bad faith by the movers—although that has been implied in other amendments.

This is not bad faith; this is trying to get the Act in the best possible order insofar as it is going to deal with the regulation of a very significant procedure undertaken at the rate that it is. Why would we want to almost set it up for litigation when we have the opportunity over the course of the next hour or so—or whatever it takes—to deal with this matter? If the will of the House ultimately is to vote down the amendments, so be it. And when

we then find matters being brought before the Supreme Court of New South Wales over matters of emergency, people on my side of the argument—which is shared by others—are not going to sit back and say, "We told you so." We would not do that. But we would simply say that we did have that opportunity. We are trying to ventilate this with goodwill. If members believe the definition that has been amended still has some feature to it that deserves further consideration, please bring it forward.

This is an organic process, the result of which will be a definition—or not, as the case may be. We are pushing it as hard as we can to try to encourage that very clear-minded consideration because we know what comes out of this is going to be an Act. We are trying to do our very best to avoid the scenario of setting up the situation whereby there is expensive litigation that no-one wants in our civil courts to deal with this. It just makes no sense at all.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Mark Latham has moved amendment No. 1 on sheet c2019-199, to which the Hon. Courtney Houssos has subsequently moved an amendment. The question is that the amendment of the Hon. Courtney Houssos to the amendment of the Hon. Mark Latham be agreed to.

Amendment agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that the amendment of the Hon. Mark Latham as amended be agreed to.

The Committee divided.

Ayes 14
Noes 25
Majority 11

AYES

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

Blair, Mr	Boyd, Ms A	Buttigieg, Mr M (teller)
D'Adam, Mr A (teller)	Faehrmann, Ms C	Fang, Mr W
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 as amended negated.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I will now leave the chair. The Committee will resume at 8.00 p.m.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We will now deal with amendment No. 1 on sheet c2019-141, dealing with informed consent.

The Hon. LOU AMATO (20:02): I move amendment No. 1 on sheet c2019-141:

No. 1 **Informed consent**

Page 8, proposed Schedule 1, lines 10 and 11. Omit all words on those lines. Insert instead—

(b) in accordance with the law.

This amendment ensures informed consent is given within the confines of the law and provides clarity for both medical professionals and women undergoing a termination. Informed consent with regard to medical procedures must be consistent across the board. If a woman is seeking an abortion, she should be fully informed as to the potential effects the procedure might have on her, both physically and mentally, as well as other potential options that are available to her. This is the current standard that the law mandates for other medical procedures and abortion should be no different.

Leaving informed consent as a regulatory framework rather than as law can be problematic, as a regulatory framework can easily be changed without members of the public knowing what is required from a doctor or other medical professionals and any changes can potentially increase the risk of errors. As a result, women who rely on doctors to give them all the necessary options and information surrounding a procedure may not be fully informed of all aspects of the procedure. The idea that women could undergo an abortion and not be provided all the information about the procedure and the potential side effects is not acceptable.

Currently the law states that informed consent refers to consent to medical treatment and the requirement to warn of material risk prior to treatment. As part of their duty of care, health professionals must provide such information as is necessary for the patient to give consent to treatment, including information on all material risks of the proposed treatment. Failure to do so might lead to civil liability for an adverse outcome even if the treatment itself was not negligent.

This amendment will ensure there is legal protection for women should the doctor not fulfil his or her duty. As there is already a legal definition that the medical profession adheres to and that patients understand, there is no need for a separate regulatory framework that would dictate how medical professionals would explain all the facts surrounding a termination procedure. This amendment simply brings the concept of informed consent in line with the expectations for all medical procedures. Although most doctors will do the right thing, we need to ensure our women are receiving the best medical care. I commend the amendment to the House.

The Hon. ADAM SEARLE (20:05): I will not be supporting this amendment for the following reasons. The informed consent definition in the bill as it currently stands has two parts. The first part is quite clear. But the second part—"in accordance with any guidelines applicable to the medical practitioner"—relates, as I understand it, to clinical practice. Clinical practice is not a matter for the law as such. As I understand it, it is a matter for medical expertise and guidance. That is what paragraph (b) of the informed consent definition currently in the bill refers to. I understand the intention of the Hon. Lou Amato to try and codify the law as it stands today and as it would be embodied by the law. I also understand the concern that the goalposts could be moved by a change in regulations—or guidelines in this case. But "guidelines" in paragraph (b) refers, as I read it, to the exercise by the medical practitioner of their clinical expertise in performing the procedure. That is a matter for expert medical opinion and guidance, and that opinion and guidance may well have to change over time as technology and our understanding of things also evolves.

I do not mean any disrespect to the Hon. Lou Amato but if we were to accept the amendment as proposed, it would weaken the legislation in the sense that it would remove the requirement for a medical practitioner to adhere to medical practice guidelines. I understand that most practitioners would not depart from medical or clinical guidance because most practitioners would be diligent and would apply themselves properly. But there is always an element in any profession of a rogue nature and we would not want to encourage that in any way, shape or form. For those reasons I will not be supporting this amendment because I think it would weaken an important aspect of the legislation—that is, ensuring that in the carrying out of these procedures the best and most up-to-date clinical practice as envisaged by the profession is carried into effect. That will, of necessity, change over time and this amendment would preclude that updating and unwittingly make a nonsense of the current provision.

Reverend the Hon. FRED NILE (20:07): I thank the Hon. Lou Amato for moving this amendment. It simply adds to the current bill to include the words "in accordance with the law". Mothers should be fully informed of the consequences of their decision not only on the unborn child, but also on themselves. I would like to see further and more vigorous amendments on this point. We are now getting to the point of simply attempting to tidy up the flaws in the bill, flaws which came about because of the rushed nature of the bill's introduction to Parliament. Therefore, I support the amendment of the Hon. Lou Amato.

Ms ABIGAIL BOYD (20:08): Primarily for the reasons that the Hon. Adam Searle has outlined so eloquently, although accepting the point that Reverend the Hon. Fred Nile has made in relation to flaws that may arise particularly in relation to amendments that are made on the fly—as we know a number of amendments were made in the lower House that were not necessarily to the betterment of the bill—I am, however, not convinced that there is a flaw in this case that requires any kind of remedy. For that reason, The Greens will be opposing this amendment.

The Hon. NATASHA MACLAREN-JONES (20:09): The only thing I want to refer to is that the amendment being moved by the Hon. Lou Amato is in relation to schedule 1, "Dictionary", regarding informed consent. I note the comments made by the Hon. Adam Searle about guidelines, hence why in part 4, proposed section 13, it specifies "Guidelines about performance of terminations". Furthermore, part 4, proposed section 14 talks about gender selection. We have moved amendments where guidelines would be included in this proposed section. This amendment is particularly about consent, that it is given freely and voluntarily and that it is in accordance with guidelines. If it is changed to be made in accordance with the law, it is clarifying consent. I agree that guidelines can be changed, but at all times we want medical practitioners and allied health professionals to adhere to the law. I support the amendment.

The Hon. GREG DONNELLY (20:10): I speak in favour of the amendment moved in the name of the Hon. Lou Amato on sheet c2019-141. I return to the point that I made earlier and I expect that I will continue to make it on further occasions over the course of the debate on the amendments that we will come to this evening and tomorrow about what I think is, as far as we practically can, an imperative to try to make this legislation as clear and precise as possible. I will not reiterate my point about the movement away from a regulation of the procedure by common law, judge-made law and the Crimes Act—moving to the regulatory framework we are trying to get via statute—but if we are trying to get some absolute certainty over the matter of informed consent—that is, the consent of the woman having the procedure—why would one not have it explicitly spelt out literally in black and white, black-letter law, so to speak, that that informed consent is being given in accordance with the law?

I have to say I find it sort of an almost parallel world-ish situation where we have barristers and solicitors and other eminent minds in this House who will on other occasions get up and wax lyrically about the need to have absolute precision in the law. That is absolutely imperative, they will submit on other occasions and in other circumstances for other pieces of legislation. We as legislators have a fundamental obligation as far as we practically can to have our hand on, so to speak, the work to create the best possible unambiguous law that we can produce to come out of the Parliament of New South Wales and specifically with respect to the work done here in the house of review, the Legislative Council.

We hear that time and time and time and time and time again. We move to a piece of legislation which is different—and let us just call it different for the moment; we do not have to say what it is about—a different proposition with respect to law and the creation of law and the creation of certainty and clarity and precision within the law, and we then have a flip. It is like it is moving from this point of the spectrum to that point of the spectrum—a 180 degree flip. And then we have the articulation that, "No, listen, notwithstanding"—in fact, that qualification is not even made; they do not even go to that point. They say, "Well, listen, we think the guidelines are satisfactory." The same barristers and solicitors and legal eagles on other occasions—

Ms Abigail Boyd: Point of order: I believe the member is straying quite a long way away from the amendment and is now turning to the motivation of other individuals making contributions.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind all members to focus on the amendments and not to yell at each other across the Chamber.

The Hon. GREG DONNELLY: I will respect the ruling, Mr Chair. How can we have a situation where, on the one hand, we have one set of arguments that are applied with great enthusiasm, keenness and determination in the context of laws generally in New South Wales, and in this one it is as if those principles are barren, irrelevant and have no application? I find it extraordinary. On the issue of guidelines, who in this Committee really believes that guidelines are a satisfactory set of parameters around or clarity around or certainty around or precision around something as significant as this? Who seriously believes that? I mean guidelines can be changed by executive fiat.

With literally the sweep of a pen, a bureaucrat or a committee could come up with a desire to change guidelines. That desire might come out of what might be good or indifferent or bad consultation in terms of who is being engaged for the consideration to recommend changes in the guidelines. These guidelines then get changed, effectively by executive fiat, and through the vehicle of the notation and the terminology of guidelines, in this piece of black letter law, to regulate a procedure that affects between 25,000 and 30,000 women in this State, and that is considered satisfactory.

I just make this point in terms of the guidelines. I have made this point before and I will make it again in regard to the professionals in this area who service women. I am talking about obstetricians and gynaecologists. The situation is that we know—and I put that to the Committee in a contribution earlier today—that one can go to the website of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists and find literally section after section after section of guidelines covering a whole range of matters to do with obstetrics and gynaecology.

Who is responsible for the creation of those and the amendment of those and debate over how and in what circumstances and when those guidelines will take place to the extent that they will take place? Well, it is the Royal Australian and New Zealand College of Obstetricians and Gynaecologists. At the end of the day, they may well be a professional body and they may clearly—and I do not demure from this—have serious, significant expertise in the area of obstetrics and gynaecology, but does anyone seriously believe that this State with a population approaching 8 million or 7.5 million should hang all our positions with respect to obstetrics and gynaecology and all that goes on with that with respect to guidelines by that college?

The Hon. Wes Fang: Yes.

The Hon. GREG DONNELLY: I accept that interjection, that we the State simply demure to them as a college to be determinative of everything to do with obstetrics and gynaecology and we simply leave it at that.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Comments will be made through the Chair.

The Hon. Niall Blair: They know more about gynaecology than I do.

The Hon. GREG DONNELLY: I am glad that we are getting a lot of concessions. The Hon. Niall Blair is making the concession that he would give them full and complete faith, and others are as well.

The Hon. Penny Sharpe: We put ourselves in their hands every day.

The Hon. GREG DONNELLY: The Hon. Penny Sharpe said that we put ourselves in their hands every day, but let me say this on this amendment about informed consent—and you would think that the matter of informed consent would be reasonably important—

The Hon. Adam Searle: It's vital.

The Hon. GREG DONNELLY: Indeed, I accept the interjection. It is vital. What are we doing here? With respect to the guidelines, if we codify informed consent for abortion in the way that is currently provided for in the bill, what are we doing? By referring to these guidelines, some of the people in this Committee are prepared to say, "Listen, I am prepared to surrender all of this to these people—they obviously are the ones who are experts", and we sort of handover this control over our reproductive autonomy and decision-making to these experts. Let me say this: You are letting a group of professionals be the final arbiter—the profession, not the law, not the L-A-W. You are simply handing it over to the professionals and they become the final arbiter of the content of the advice and the information that should be imparted to patients on the matter of consent. Simply, the law sits in the background.

The Hon. Penny Sharpe: Mm-hmm.

The Hon. GREG DONNELLY: The Hon. Penny Sharpe says that is the case. What do we find? We then ultimately have this situation where we have left it to these guidelines that can be unilaterally varied at any point in time by fiat of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists and that that is just the way it is. We just leave it to them. And with respect to law, if there is some contestation over the issue of informed consent, what do we do? There is no law to go to that we can fall back on.

When this was debated in the State of New South Wales to determine what the new law would be to regulate abortion, when people come back and read *Hansard*, they will see in the other place this issue of informed consent was not dealt with in a thorough way, and it appears—maybe I cannot count too well but it may be the case, I am probably right in my counting here—that we will not go too well with this amendment. Therefore, we will be left with this scenario of a question mark. It will be a big question mark. So when people read *Hansard*, when it comes to informed consent, there will be the big question mark and then what has to happen? Well, off to the Supreme Court of New South Wales.

The Hon. Adam Searle: Who would bring the case?

The Hon. GREG DONNELLY: Are you saying—sorry, I will not respond to interjections. If the law does not provide with some specificity what informed consent is, where else does one take it? Where else does one take it if not the courts? I am not a barrister like the Hon. Adam Searle—

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

The Hon. GREG DONNELLY: I am not a barrister like the Hon. Adam Searle but if it is not taken to the Supreme Court of New South Wales for adjudication by a civil court over this matter, I do not know where else it is taken, but I stand to be corrected if the Hon. Adam Searle has—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind members that interjections are disorderly. They are not helping the debate. If members want to make a contribution they can seek the call again. Allow the Hon. Greg Donnelly to present his case in silence and we can move on to other speakers.

The Hon. GREG DONNELLY: Drawing my points to a conclusion, it was vitally important that this particular specific issue be ventilated as thoroughly as we have been given the opportunity to do so in this house of review. The perfunctory consideration of this in the other place is almost enough to make you cry. I mean, 93 members representing the State of New South Wales and it gets bounced around and dealt with in about 20 minutes. The issue of informed consent with respect to termination of pregnancy, that is how much that is worth as a debating point in the people's House of the oldest legislature in Australia? Give us a break. At least with respect to the Legislative Council, we have been given that opportunity. I thank very much the Hon. Lou Amato who has been very clear that this issue of consent has always been, from day one, a matter of great concern to him when he saw how poorly constructed and how poorly worded were the provisions in the bill, not only the bill that went into the other place but the one that came out and the one that is before the Committee presently. I commend the amendment to the Committee.

The Hon. MATTHEW MASON-COX (20:23): I enthusiastically support the Hon. Greg Donnelly and the mover of this motion, the Hon. Lou Amato, for seizing upon an important issue in the bill. I cannot help, when I am listening to the contributions and debate, to reflect upon what came first—the chicken or the egg? The regulation or the law? Let us be real. The regulation, the guidelines are built on the law. That is where it came from. They sat down and they worked through informed consent and they looked at what constitutes informed consent. They would have gone, in the first instance, to well-settled law as reflected in a series of High Court decisions. I will take members to those very briefly.

We have the High Court decisions of *Rogers v Whitaker* [1992] and *Rosenberg v Percival* [2001]. In *Rogers v Whitaker*, it is very clear that the law on informed consent for medical services has been well established. Doctors have a general duty to act with reasonable care and skill when providing services and when warning patients about the risks of the service. *Rogers v Whitaker* goes on to note that doctors must warn patients about the material risk inherent in the service. In *Rosenberg v Percival*, the justices also reflect upon the fact that material risk includes the need for the treatment, the existence of satisfactory and available alternatives, the extent and severity of a potential injury arising from the treatment and the likelihood of it occurring.

The guidelines that exist as a result of RANZCOG and the medical profession are very detailed. I acknowledge that they are very detailed and they should be very detailed. As members have said, informed consent is an absolutely critical issue. If members look at the definition of informed consent in the bill in schedule 1 under "Dictionary", it states:

informed consent, in relation to a termination performed by a medical practitioner, means consent to the termination given—

(a) freely and voluntarily, and—

which is absolutely an essential precondition to informed consent, well established in a long line of High Court cases and other judicial cases—

(b) in accordance with any guidelines applicable to the medical practitioner in relation to the performance of the termination.

What we are putting to the Committee tonight is that (b) should be changed so it reads, "in accordance with the law". I come back to what came first—was it the guidelines or the law? If members look at the source of the guidelines, of course it was the law that came first. It is the law that is long-settled and well-settled and has been chiselled into a bunch of guidelines. Where would members like to put their trust?

Would members prefer to put their trust in the High Court, in a series of cases that are very definitive in relation to these issues, where all these matters are justiciable and where they end up in the highest court of the land? Or would members like to go to RANZCOG and say, "You draft what you think the High Court is saying and if you think, over time, that your view changes because of clinical practice, we are going to refer to you in that context", and that is going to be good enough? For heaven's sake. This is just so basic. I am surprised we are having this argument.

I am sure The Hon. Adam Searle will rise to the occasion with a response shortly. He gave what I would call a classic wooden, frozen defence in relation to this amendment. I do not mean that in a derogatory sense; that is how I reflected upon the contribution. I am sure he will respond with a more excited and engaged response shortly but, really, this is black letter law. It is always up to the courts to review guidelines. What happens when a patient decides that, in the relevant circumstances, they have not given informed consent? They have a means or an avenue of redress through the court system and it is the courts that decide the law, not the doctors who write their guidelines. This is implicit in a whole range of arguments we have been having in relation to the bill. The proponents of the bill have given everything up to the doctors and said, "We will hide behind your shield as long

as you give us what we want in the form of the bill we want that encapsulates exactly what we want to achieve in this space."

The reality is that doctors are subject to regulation like every other profession in this country. They do not get to make up their guidelines, decide the rules and then that not be justiciable. That is complete fallacy, we all know that. If there is going to be a cause of action that arises from a course of action from a doctor, irrespective of what guidelines might say, that will be dealt with through a court process. It will be the court that will decide the law and it will be the court that will decide whether there should be a change in the law, based on those circumstances. That follows like night follows day. That is what we are talking about. We are putting in here what comes first—the law—rather than the guidelines to make it very clear to all who practise in this area that they are responsible; they are accountable to the law.

Their guidelines may reflect that law—and indeed they should—but members cannot sit here and pretend that by changing a guideline, they suddenly change a responsibility. It always comes back to the law. Always it comes back to the law and it is the law that must govern and that is why it should be reflected in this bill in the way the Hon. Lou Amato has requested. I ask members to reflect upon that, to put the egg before the chicken, the law before the guidelines, and strongly support the amendment moved by the Hon. Lou Amato.

The Hon. PENNY SHARPE (20:29): There have been very interesting contributions from everyone. I will make a few points. The first point is that I am not a lawyer. I am very happy about that fact. I am not a lawyer but I have been in this place for 14 years and I have a fairly good working knowledge of the way in which law is put together. I have taken a long interest in medical law and the way, particularly in relation to these matters, decisions and guidelines are there. Let us be clear about the guidelines: These are not guidelines that doctors make up themselves; these are the guidelines NSW Health provides that people have to adhere to. If they do not adhere to the guidelines there are serious consequences which can include deregistration and a whole range of other impacts. If they disregard the guidelines when it comes to informed consent that is breaking the law. That is the first point.

When it comes to some of the comments, saying, "I do not understand why you are unhappy with this," and why this is not so straightforward, this is absolutely straightforward. What is being suggested here is that we take out "in accordance with any guidelines applicable to medical practitioner in relation to the performance of the termination" and instead we put in "that is the law". We may as well put in every bill, "Everyone has to follow the law because that is the law." It is redundant. But it is also far more serious than that. It is dangerous in relation to the need for guidelines to evolve over time as a result of practice and of data. We have had a lot of discussion here—I think we are over 40 hours now—in relation to guidelines. They have been the subject of this.

For people to now get up and say the guidelines are worthless leads me to ask: What have we been doing for the last 40 hours? That is what we have been talking about at length. What is the point? I also want to make the point that women, their partners and families put their faith in doctors to make health decisions every single day. There has been a lot of reflection on doctors and gynaecologists. I think this is incredibly offensive. We rely on doctors every day to look after our health, to save our lives, to help us make decisions in our lives—again, sometimes very personal and private decisions—that no-one else is capable of doing.

It is just wrong to suggest that somehow they are trying to move the guidelines to make it easier for women to have abortions. This is where we are going with this argument. Every single day we rely on doctors. If you do not trust our doctors then every health bill will have to have the same arguments made about it, with the same insertions and qualifications put into it for every doctor because what we are saying is we do not trust the system of health care and the law that surrounds it in this State. If you are not prepared to do that for every single bill before the House to do with health, then why are we doing it with this one? That is the question here.

Reverend the Hon. Fred Nile: It deals with life and death.

The Hon. PENNY SHARPE: I acknowledge the interjection by Reverend the Hon. Fred Nile. I do not for a minute doubt his sincerity. I expect Reverend the Hon. Fred Nile to be supportive of this amendment for these reasons. But can I just say the amendment is unnecessary. It is in my view dangerous. It traduces the reputation and trust that we have within the entire system of health care and health law in this State and it is fundamentally unnecessary. This is in the dictionary where it talks about "informed consent". There are serious consequences. It is illegal—it is wrong—for anyone to perform a termination on someone who does not want one. It is as simple as that. I do not know how many times we need to say it. Just saying "to follow the law" as if you think that is fixing the problem, with all of the other dressing up: "This is not really about anything," and further conversations about the guidelines not mattering is just wrong. This amendment cannot be supported. The opponents of the bill have put forward far better amendments that have been far more sensible and thought through than this one.

The Hon. NIALL BLAIR (20:34): I will be brief. I put on the record that I absolutely put my faith and trust in the professionals who are trained and expert in this field. I am not an expert in gynaecology. I did not go looking for legal definitions when I was looking for someone to safely deliver my son when my wife was pregnant. As the Hon. Penny Sharpe said, we rely on these people every day of the week. If the proposition being posed is that anyone who does not support this amendment is throwing it over to the medical practitioners to follow their well-informed and well-produced guidelines, I am absolutely happy with that. I put on the record that I support handing over to medical practitioners decisions about what needs to be followed in these professional guidelines, which they have had some input in developing. If that is the charge, then I am guilty. I oppose the amendment.

The Hon. TREVOR KHAN (20:35): I must admit that when I read the amendment I struggled to see its value. It is worthwhile observing that the provision in the bill that deals with informed consent was inserted through an amendment moved by the Attorney General of New South Wales in the lower House. Whatever else I could say, he had a view that that provision should be included in the bill. It was not in the original bill because both Victoria and Queensland did not include it. In Queensland they considered the issue of informed consent. Page 93 of the Queensland Law Reform Commission *Review of termination of pregnancy laws* states:

Accordingly, the Commission does not recommend that the draft legislation include any express requirements about obtaining consent; however, the usual requirements under the general law about consent for surgical or medical treatment will continue to operate and will apply to terminations performed under the draft legislation.

The position that the general law applies was not enough in the lower House and the provision had to go into the bill. Apparently it was significant, so it is in the bill. The Queensland Law Reform Commission report goes on to deal with the issue of guidelines. It states:

The requirement to obtain consent is reflected in the CSCF [Clinical Services Capability Framework for Public and Licensed Private Health Facilities] Companion Manual, which applies to all public hospitals and licensed private health facilities.

It is also reflected in the Guide to Good Medical Practice and is the subject of national guidelines.

I make clear that these manuals were not cooked up by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists. These are significant documents that are prepared. The report goes on to state:

In addition, specific provisions about obtaining consent for terminations, and following facility level approval processes, are included in the clinical guideline on therapeutic terminations.

Medical and other health practitioners must comply with such guidelines and professional standards. Further, the Commission recommends below that the matters to which a medical practitioner must have regard in considering whether a termination after 22 weeks should be performed include the professional standards and guidelines applicable to the medical practitioner in the performance of terminations. A specific provision in the bill refers to the necessity for practitioners to comply with professional standards and guidelines. I am not quite sure why we are having this argument. This is an unnecessary amendment. Whatever learned opinions are expressed on the other side, I will not support the amendment. It is clear that guidelines cover this issue. I make plain that if a medical practitioner performs a termination or any other procedure without informed consent they are not only in breach of their professional standards and liable to be sued but also liable to be criminally prosecuted for assault. If members want any recent example of that they should look at the gynaecologist down at Bega. That is the bottom line on this. Working without informed consent is a criminal offence.

The Hon. Matthew Mason-Cox: Of course.

The Hon. TREVOR KHAN: Of course you say "of course". I note that.

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

The Hon. MATTHEW MASON-COX (20:39): There is obviously a misinterpretation of what I have put to the Committee. Let me put it again. The Hon. Trevor Khan might scoff on the way out but the reality is that no-one for a moment is suggesting that informed consent should be anything but illegal. What we are saying is that the guidelines, prepared by RANZCOG, the Health department and other health professionals, are based on the law. It is a chicken and egg scenario. It is the law that gave birth to the guidelines. I have been through them. The NSW Health guidelines and the informed consent documents have been put together well and are very detailed. They go through every step required to ensure that there is no doubt about informed consent.

Where do those documents come from? They come from the law as espoused in legal common law cases and the like. People look to this well-established set of principles when seeking information about what should be put in guidelines. We are not making the point that we would not trust our gynaecologists and obstetricians to provide health services where they are the specialists who provide those services. I totally agree with the Hon. Niall Blair. That is where I would go and I would 100 per cent trust them. But as a person who comes from a legal background I would expect that those guidelines reflect the law—and that is where they came from.

I do not suggest for a moment, as the Hon. Penny Sharpe has perhaps suggested, that we are trying to reopen anything or to make the law anything but what it is. We are not making any reflections upon doctors or specialists. It is about stating the obvious: The law comes first, and from the law we have seen these documents

generated over many years. We acknowledge that an enormous amount of expertise has gone into them. The guidelines as they stand are absolutely first-class; I totally endorse them. They have been designed based on the law that preceded them. But when talking about informed consent what we are saying is not to go to the guidelines. Let us go back to the true and only source from where the guidelines emanate—the law.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Lou Amato has moved amendment No. 1 on sheet c2019-141. The question is that the amendment be agreed to.

The Committee divided.

Ayes 13
Noes 26
Majority 13

AYES

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

NOES

Blair, Mr	Boyd, Ms A	Buttigieg, Mr M (teller)
D'Adam, Mr A (teller)	Faehrmann, Ms C	Fang, Mr W
Farlow, Mr S	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 Committee will now deal with amendments Nos 1 to 5 on sheet c2019-138 regarding criminal offences.

The Hon. MATTHEW MASON-COX (20:51): By leave: I move amendments Nos 1 to 5 on sheet c2019-138 in globo:

- | | | |
|-------|--------------------------|--|
| No. 1 | Criminal offences | |
| | | Page 9, proposed Schedule 2.1[2], line 9. Omit " by unqualified persons ". |
| No. 2 | Criminal offences | |
| | | Page 9, proposed Schedule 2.1[2], line 10. Omit " performed by unqualified person ". |
| No. 3 | Criminal offences | |
| | | Page 9, proposed Schedule 2.1[2], line 17. Omit "subsection (2)". Insert "this section". |
| No. 4 | Criminal offences | |
| | | Page 9, proposed Schedule 2.1[2]. Insert after line 24— |
| | (4) | A medical practitioner who performs a termination on a person other than in accordance with the <i>Reproductive Health Care Reform Act 2019</i> commits an offence.
Maximum penalty—7 years imprisonment. |
| | (5) | A registered health practitioner who assists in the performance of a termination on a person that the registered health practitioner knows, or ought reasonably to know, is being performed other than in accordance with the <i>Reproductive Health Care Reform Act 2019</i> commits an offence.
Maximum penalty—7 years imprisonment. |

No. 5 **Criminal offences**

Page 9, proposed Schedule 2.1[2]. Insert after line 31—

registered health practitioner means a person registered under the Health Practitioner Registration National Law to practise a health profession, other than as a student.

The purpose of this series of amendments is to ensure that medical and health practitioners who flout the requirements of the new abortion laws proposed by the Reproductive Health Care Reform Bill 2019, as amended to be called the Abortion Law Reform Bill 2019, are liable to be penalised. Currently the bill imposes conditions on the performance of abortion. Under clause 5.2 (2) of the bill, a medical practitioner may only perform an abortion on a pregnant woman who is not more than 22 weeks pregnant if the pregnant woman has given her informed consent. Clause 6 of the bill sets out a process for a specialist medical practitioner to be able to perform an abortion on a pregnant woman who is more than 22 weeks pregnant.

In particular, I refer to item 2.1 [2] of schedule 2 to the bill and new sections 82 (1) and 82 (2) of the Crimes Act 1900 set out on page 9 of the bill. This is a significant anomaly. It renders the bill's imposition of conditions on medical and health practitioners in performing or assisting in the performance of abortions to the status of empty tokens. The proposed maximum penalty of seven years' imprisonment is consistent with the penalty already contained in the bill for an unqualified person performing or assisting in the performance of an abortion. Amendment No. 4 on sheet c2019-138 is the central amendment. It proposes to insert new subsections (4) and (5) into the new section 82 of the Crimes Act 1900 currently set out in item 2.1 [2] of schedule 2 to the bill.

New subsection (4) will make it an offence for a medical practitioner to perform an abortion on a pregnant woman other than in accordance with the Reproductive Health Care Reform Act 2019. New subsection (5) will make it an offence for a registered health practitioner to assist in the performance of an abortion on a pregnant woman that the registered health practitioner knows, or ought reasonably to know, is being performed other than in accordance with the Reproductive Health Care Reform Act 2019. This would include, for example, the anaesthetist who, while not performing the abortion itself, administers the anaesthetic or the nurse who assists in the procedure. The expression "knows or ought reasonably to know" used in the proposed subclause (5) is the same expression currently used in clauses 8 (1) and 8 (2) of the bill.

Amendments Nos 1, 2, 3 and 5 on sheet c2019-138 are consequential to amendment No. 4. Amendment No. 1 amends the heading of the new division 12 of the Crimes Act 1900 as proposed in the bill by deleting "by unqualified persons". Amendment No. 2 amends the heading of the new section 82 of the Crimes Act as proposed in the bill by deleting "performed by unqualified persons". Amendment No. 3 amends the new section 82 (3) of the Crimes Act as proposed in the bill by deleting "subsection (2)" and inserting "this section", as there will now be an offence of a registered health practitioner assisting in the performance of an abortion. Amendment No. 5 inserts a definition of "registered health practitioner" into the new section 82 of the Crimes Act as proposed in the bill. This definition is the same as the definition currently used in the bill. If that amendment is passed, proceedings for the new offences will only be able to be commenced by or with the approval of the Director of Public Prosecutions, which is consistent with the position currently in the bill for proceedings against unqualified persons performing abortions.

I note that this issue was debated in the other place and a range of interesting arguments were prosecuted. The one that I care to refer to this evening, which I thought was particularly spurious, is the idea that it would be incongruous to subject medical practitioners to a criminal offence for not complying with the bill in whichever measure that may mean for the reason that we are taking this matter out of the Crimes Act and moving it to, if you like, a separate health statute. It is a completely spurious argument. By way of illustration, I refer to a range of areas where we regulate professions and industries and provide criminal penalties. It happens all over the place. I will give members a few examples just to whet their appetite, and let us not have this argument again in this place. Section 212 of the Property, Stock and Business Agents Act 2002, No. 66, states:

If a licensee or registered person fraudulently renders an account of expenses, commission or other charges incidental to any transaction or proposed or contemplated transaction as a licensee or registered person knowing the account to be false in any material particular, the licensee or registered person is guilty of an indictable offence and liable to imprisonment for a term of not more than 10 years.

It is not more than 10 years; and here we are proposing a criminal penalty of seven years. That is the Property, Stock and Business Agents Act. I will leave it on the table if someone wants to have a look at it. Let us look at section 192G of the Crimes Act 1900, "Intention to defraud by false or misleading statement". Under the Property, Stock and Business Agents Act, we have a liable indictable offence for imprisonment for a term of not more than 10 years. Section 192G of the Crimes Act deals with a similar offence. It states:

A person who dishonestly makes or publishes, or concurs in making or publishing, any statement (whether or not in writing) that is false or misleading in a material particular with the intention of—

- (a) obtaining property belonging to another, or

- (b) obtaining a financial advantage or causing a financial disadvantage,
is guilty of an offence.

Maximum penalty: Imprisonment for 5 years.

I will refer to a health context as well—just to have a few examples. I refer members to the Health Practitioner Regulation National Law (NSW), clause 116, "Claims by persons as to registration as health practitioner". Subclause 116 (1) states:

- (1) A person who is not a registered health practitioner must not knowingly or recklessly—
 - (a) take or use the title of "registered health practitioner", whether with or without any other words; or
 - (b) take or use a title, name, initial, symbol, word or description that, having regard to the circumstances in which it is taken or used, indicates or could be reasonably understood to indicate—
 - (i) the person is a health practitioner; or
 - (ii) the person is authorised or qualified to practise in a health profession; or
 - (c) claim to be registered under this Law or hold himself or herself out as being registered under this Law; or
 - (d) claim to be qualified to practise as a health practitioner.

That is quite a detailed clause, and what is the maximum penalty? It states:

- (a) in the case of an individual—\$60,000 or 3 years imprisonment or both; or
- (b) in the case of a body corporate—\$120,000.

I could go on and on and on. As every offence listed under the Health Practitioner Regulation National Law (NSW) makes it very clear, there is a wide range of offences of which there are, dare I say it, criminal offences. So this idea that in a regulatory environment in a health framework—a civil statute if you will—that regulates a profession in the same way as we regulate all these other professions, one cannot have a criminal penalty for a breach of a bill is completely fabricated. It is spurious, and to suggest some of the members in the other place were running this up the flagpole was very entertaining stuff. At the end of the day this is about ensuring that doctors and specialists are subject to the law and are accountable to the law as is the expectation of people living out there in the real world.

The reality is they expect their professionals, they expect their agents, they expect their health professionals, their lawyers, their doctors—whoever you might seem to be regulating—to be accountable for breaching those regulations. That accountability manifests itself generally in the form of fines and prison sentences. The reality is that we should have the same regime in terms of regulation under this Act and unqualified persons is a benchmark that this bill refers to with a seven-year term of imprisonment. I can see no good reason why doctors who are in breach of this bill should not be subject to the same type of penalty. For that reason I ask members to seriously consider the amendment that is before the Committee.

The Hon. TREVOR KHAN (21:01): It looks like I am going to be flying something up the flagpole. I make the observation that a number of members in this place had the privilege of serving on an inquiry into the off-protocol chemotherapy dosing at St Vincent's Hospital. One might remember that was an inquiry that dealt with circumstances where a range of patients who had serious head and neck cancers were treated with very low doses of chemotherapy by a particular specialist at St Vincent's Hospital. The allegation was put—it was quite notorious—that all these patients were dying because they were not receiving the appropriate chemotherapy dosage. Whether the perception of the public was right—and it still may well be the subject of proceedings before the NSW Health Care Complaints Commission—that was the bottom line.

If we take what the Hon. Matthew Mason-Cox says, this bloke who was acting completely outside the normal protocols—in fact completely outside the expectations of his own profession, including those who were at St Vincent's Hospital—you would think we could rumble through the Crimes Act or rumble through the oncologists criminal statute and we would find that we could prosecute this bloke and jail him, apparently for acting completely outside what was the reasonable expectation in terms of treatment. But do you know what? There is no Act. There is no criminal penalty for simply acting beyond the professional standards, except for this: Do you know what that doctor can get done for? He can get struck off. He can be—at this stage or perhaps in the future—cooling his heels on some dock somewhere up on the North Coast fishing for flathead. But he certainly will not be practising.

And do you know what? If a general practitioner overprescribes medication to all the various patients who rock up, do you know what can happen? He can be taken before the NSW Health Care Complaints Commission and struck off. Because that is what you do with medical professionals when they do not act in

accordance with their guidelines. You act through the health complaints proceedings. That is the answer. That is why it was not something dreamt up in the Legislative Assembly, some weird excuse that people just—

The Hon. Matthew Mason-Cox: It was some working group.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! The Hon. Matthew Mason-Cox was listened to generally in silence. I ask him to observe that please.

The Hon. Matthew Mason-Cox: Sorry. I withdraw that.

The Hon. TREVOR KHAN: I note that the Hon. Matthew Mason-Cox speaks of a working group. We know what he has been doing in this place. I do not think he can really use "working group" in disparaging terms. He has turned out to be quite the expert, hasn't he? So let us look at what the Queensland Law Reform Commission had to say.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The member will be heard in silence.

The Hon. TREVOR KHAN: On page 105 the Queensland Law Reform Commission said:

3.236 The Commission does not recommend a specific penalty for a medical practitioner's failure to comply with the requirements for a termination under the draft legislation.

3.237 The Commission considers that, in this respect, medical and other health practitioners should be subject to the same professional and legal consequences as those that apply in relation to other medical procedures.

3.238 There is a strong regulatory framework governing registered health practitioners, with potentially serious consequences for unprofessional conduct or professional misconduct, including restriction, suspension or loss of a practitioner's registration.

3.239 The Commission recommends that the draft legislation should provide that in deciding an issue under another Act about a registered health practitioner's professional conduct, regard may be had to whether the practitioner performs a termination, or assists another practitioner to perform a termination, other than as authorised.

3.240 This approach is likely to deter non-compliance with the draft legislation.

3.241 The Commission's proposals do not alter the existing laws under which a medical or other health practitioner who administers surgical or medical treatment to a person has a duty to exercise reasonable skill and care, and may be civilly or criminally responsible for harm that results from a failure to do so. A medical or other health practitioner who does not obtain the required consent of the patient for a termination may be criminally responsible for assault.

That is it. This was not dreamed up in the Legislative Assembly. It is a fundamental and basic underpinning of this legislation, the Queensland legislation and the Victorian legislation. Let me add to this policy requirement that unqualified persons are prosecuted.

The bottom line is that in years gone by—probably before I was born but certainly when I was a wee nipper—one of the real problems that existed in the area of abortions was the backyard abortionists. The backyard abortionists, who still exist in various places around the world, hack women to death. Other members have spoken on this in their contributions—either in the second reading debate or in the debate on amendments. The real evil is the butchery and killing of women by unqualified persons simply for gain. The one thing that we want is for women to be treated properly and professionally by health professionals. That is why there is a criminal penalty for unqualified persons. The book should be chucked at them.

But for health professionals this treatment—the 30,000 terminations, those common medical procedures—occurs in New South Wales every day of the week. I think Archbishop Fisher said that there were 80 a day—80 common medical procedures a day. That is why there should not be a criminal penalty: Because this is a common medical procedure like every other. Doctors who perform terminations should be treated like every other medical professional. That is why they should be dealt with through the NSW Health Care Complaints Commission, not through criminal penalties.

Ms ABIGAIL BOYD (21:08): I am going to call it out; no doubt someone will raise a point of order. This is nothing more than another attempt to restrict our reproductive health care, so I will be quite brief. This bill seeks to remove abortion from the Criminal Code to remove the stigma and obstacles to health care that pregnant people currently face due to the criminalisation attached to the performance of a routine medical procedure. This amendment is clearly not consistent with the spirit of the bill and would restrict access to terminations, with doctors continuing to fear criminal proceedings if they get involved in termination of pregnancy but not when involved in any other medical procedure.

An amendment that would result in the continued threat of criminal prosecutions around abortions would be counterproductive. As the Hon. Trevor Khan has noted, doctors are covered by professional standards and by the Crimes Act provisions for grievous bodily harm, as is the case for vasectomies and other routine medical procedures. The difference is that members on this side of the Chamber—or those from the pro-choice side of the

argument—do not see abortion as being different from the other medical procedures when it comes to what we can expect from our medical professionals. This amendment is dangerous and it should be opposed.

The Hon. GREG DONNELLY (21:09): Members are conducting this debate in a way that is honourable and respectful towards each other. It is important that members associate themselves with amendments moved by other members. I was not involved in developing this amendment but I place on the record that I associate myself with it. To differentiate myself from the contribution of others, without reflecting on their contribution, I reaffirm my view that I see all medical professionals as no different from any other professional to be held fully accountable to the law. It is quite interesting that the Hon. Trevor Khan quoted in some detail from the Queensland Law Reform Commission report, which examined the issue of decriminalisation of abortion via a term of reference that the Queensland Attorney General at the time issued.

We have not had the opportunity in New South Wales, the oldest State in the Commonwealth and the State with one-third of the nation's population, to have a Law Reform Commission examination of the decriminalisation of abortion in the State. From day one I have never found it acceptable to have rammed down our throats in New South Wales a regulatory framework that will apply for the termination of pregnancies similar to what was done in Victoria, followed by Tasmania, and most recently Queensland. We are working our way through amendments but the fact is that already—I say this with some pride because I have played a small part in the process—this bill can be distinguished quite clearly in some rather critical areas from the regulatory framework in place in Victoria, Tasmania and Queensland.

It just does not wash to say, "Cop it sweet—this is what is happening in Queensland." Quite frankly, I do not give a bugger what happened in Queensland, I do not give a bugger what happened in Victoria and I do not give a bugger what happened in Tasmania. All members are sworn to serve the people of New South Wales and bring our best endeavours to be associated with the crafting and development of the best law possible in all respects with whatever domain of policy that comes before the House. This is a very important policy domain and it is just not good enough to say, "I quote from what was said in the Queensland Law Reform Commission report. I quote page X and you will cop it sweet." That is not the way it rolls here in New South Wales. We do not just cop what happens in Queensland. Already this Chamber has distinguished itself by saying, "No, we do not accept that as a fundamental point. These amendments will be dealt with one at a time as we are systematically working ourselves through them."

Why should there not be criminal offences for obstetricians, gynaecologists and doctors? I have stated in contributions on other amendments that it takes only one crook obstetrician and gynaecologist or one crook GP to provide the basis to accidentally kill a woman or unintentionally kill an unborn child. Let us take the example of twins. I will talk in another contribution about what happened in Victoria in 2011 when a procedure was conducted on a woman.

This was in November 2011 at the Royal Melbourne Hospital in Victoria. She presented for a procedure. There were twins in her uterus. One twin did not have a life-limiting condition but a condition that the mother decided she would terminate for. What happened was the sonographer and the person involved—let us go through this carefully because there are real consequences here—the sonographer was there with the imaging. The procedure was undertaken. We know how this is done with these terminations in this age. It involves the penetration into the heart with a large syringe and the injection of a potassium compound. It kills the fetus and stops the heart within a matter of a minute or so.

Most tragically in this incident in Victoria, what happened was that the wrong twin—and I say "wrong" in the most tragic of senses; it was the twin that was not meant to be terminated—was actually terminated. The procedure was conducted on the wrong fetus and it was killed. The tragedy of all of this was that the woman was then—and this was a sentinel event; we know what sentinel events are in the context of health—put in a position whereby after her literally perfectly healthy child—and it was; it was 32 weeks—had just been killed in utero she was asked by the operating team, "Well, do you want us to continue to terminate the one we should have in the first place?" Guess what? The poor woman, under the profoundest of stress said, "Yes, please proceed." Tragically, what happened to this woman was that both of her unborn were killed in utero by the procedure.

At the end of the day, people get a bit fired up about the fact that we should have, beyond the guidelines, very clear accountability and the holding of accountability to these medical professionals—as we would with legal professionals or dental professionals or professionals in other industries. We are not coming here and saying, "We are singling out ob-gyns and doctors and we have got something against them." Of course we do not. I take the point made by the Hon. Matthew Mason-Cox in an earlier contribution on a previous amendment: We are not reflecting on them. We know they provide the best possible care. We know that they use their best endeavours. We know they have the highest professional training.

Our wives, our sisters, our mothers, the people we love, the women we love in our lives all fall to the care of these professionals from time to time. That is of course what we want. We want the highest possible standard of care and protection in the way in which they are looked after when they are in their hands. As we know, these are literally matters of life and death. I am no different from any other man in this House who has this feeling towards women. However, can I just say this: When they fall short, this is a matter of life and death. That fetus that got terminated does not get a second crack at this. You only get one shot of a potassium chloride needle into the heart—it is all over, mate. With respect to the second one, what another tragedy. They both got terminated. I know that is an explicitly awful example. We have not talked a lot about late-term abortions—and this is not an amendment on late-term abortions—but I say to members that this is illustrative of when it goes wrong.

Thank goodness we live in a first-class country with a first-class health system and first-class training of our doctors and our medical professionals, including our obstetricians and gynaecologists. However, I tell you what: When it goes wrong it is deadly. It can be deadly for the woman and we know it is deadly for the unborn because that, of course, is the purpose of the procedure. I think there is no reason whatsoever that we should hold these people who literally hold in their hands the lives of our loved ones—our mothers, our grandmothers, our daughters, our sisters—to the highest possible strictures of the law. I do not see why we should compromise on that. I strongly support the amendments moved by the Hon. Matthew Mason-Cox.

Reverend the Hon. FRED NILE (21:19): I support amendments Nos 1 to 5 on sheet c2019-138 dealing with criminal offences moved by the Hon. Matthew Mason-Cox. Two doctors who negligently performed abortions have already been mentioned in debates in the other place. The first was Dr Suman Sood, who gave an expectant mother a drug that induced her 23-week pregnancy to be terminated. The second was Dr George Smart, who performed an abortion on a 17-year-old expectant mother without inquiring about her physical or mental health. Those two doctors have become examples of exactly the kind of conduct that we pray should never be visited on the people of New South Wales. The present amendments seek to enshrine into this diabolical bill a mechanism that would at least prevent that type of malpractice from occurring again, or, if it does occur, ensure that the authorities would be able to deal with the situation appropriately.

The reason the amendment is necessary is because part of the bill's purpose is to remove abortion from the Crimes Act. However, that has the very serious consequence of removing the criminal liability of negligent and reckless doctors. The bill in its present form does not protect the community from those in the medical practice who, like Dr Sood and Dr Smart, fall to the depths of professional misconduct. Some previous speakers have commented that we should not be worried about those matters because termination or abortion is just another medical procedure. I found that very offensive because it is not just another medical treatment. It is the death of the unborn baby. It is infanticide. All members should give more thought to what actually happens during an abortion—the patient dies.

Under the present bill, if a medical practitioner were to fail to consider their patient's physical or mental health that medical practitioner would only be subject to a notification under the Health Practitioners Regulation National Law Act 2009 or a complaint under the Health Care Complaints Act 1993. No criminal proceedings would result—which just seems to be a rap on the knuckles. The bill weakens the regulatory framework which aims to keep the medical profession's standards as high as humanly possible. The bill is very bad news for women, contrary to the mantra we hear from people promoting the bill. The amendments seek to rectify a fatal deficiency by returning real accountability to negligent and reckless doctors. I support the amendments.

The Hon. SCOTT FARLOW (21:24): I support the amendments moved by the Hon. Matthew Mason-Cox. Some of the debate has centred around why this is needed when it is not needed with other medical procedures. We have heard many times throughout the debate that this is a case of a very special procedure that is getting its own bill and its own legislation. We have often heard the analogy made when it comes to vasectomies. Vasectomies do not have their own bill before the Parliament and this is a bill that deals with abortions. The Hon. Matthew Mason-Cox is right in his suggestion that those who are operating as medical practitioners should be covered by this law. We are passing this legislation outlining that this is the way we wish abortions to be conducted in New South Wales. As part of that we are including criminal offences. We are not getting rid of all criminal offences in this area; we are including criminal offences for persons who are unqualified.

In my view we should make sure that the people who are qualified are operating within the terms of the Act. The Hon. Greg Donnelly and Reverend the Hon. Fred Nile have both raised cases of medical negligence. I would think that in many ways they would be covered by the usual provisions about medical negligence, and foreseeably they could be conducted in accordance with the bill. What we are concerned about and what the amendments of the Hon. Matthew Mason-Cox are concerned about are situations that are not conducted under the terms of the bill. For instance, we hear in this debate a lot about the increased safeguards when it comes to late-term abortions with two doctors making the determination. What happens in the case where there is only one doctor

who decides and it is not an emergency provision? Is it sufficient to say that should be something that is covered by medical negligence and a referral to the Health Care Complaints Commission? Personally, I think that should be something that still has a criminal sanction attached to it, which is why I support the amendments of the Hon. Matthew Mason-Cox.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Matthew Mason-Cox has moved amendments Nos 1 to 5 on sheet c2019-138. The question is that the amendments be agreed to.

The Committee divided.

Ayes 14
Noes 25
Majority 11

AYES

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

Blair, Mr	Boyd, Ms A	Buttigieg, Mr M (teller)
D'Adam, Mr A (teller)	Faehrmann, Ms C	Fang, Mr W
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		

Amendments negated.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I propose to proceed to a group of amendments which, if the movers are so inclined, may be considered in globo. In order of their receipt by the Clerks they are: amendment No. 1 on sheet c2019-095 regarding coercion, amendment No. 1 on sheet c2019-111A regarding coercion and sex selection, and amendment No. 1 on sheet c2019-147 regarding coercion and sex selection.

The Hon. ROBERT BORSAK (21:35): I move amendment No. 1 on sheet c2019-095:

No. 1 **Coercion**

Page 10, proposed Schedule 2.1. Insert after line 2—

[4] Section 545B Intimidation or annoyance by violence or otherwise

Insert after section 545B(1)—

(1A) For the purposes of subsection (1), if a person is convicted of an offence under that subsection that involves any of the following circumstances the maximum penalty is 7 years imprisonment—

- (a) using intimidation or other action mentioned in subsection (1) with a view to compelling another person to have a termination performed,
- (b) using intimidation or other action mentioned in subsection (1) as a consequence of another person abstaining from having a termination performed.

[5] Section 545B(2)

Insert in appropriate order—

termination has the same meaning as in section 82.

What astounds me the most about this bill, despite everything, is how little protection there is for the mother seeking a termination. The reasonable amendments that attempt to create these provisions are largely rejected. This is dangerous not only for mothers, but also for their unborn children. In this bill there is really only one option, and that is abortion. There is no channel of provisions that support pregnancy or the choice to have the child rather than abort it. This amendment changes that. This amendment makes it a criminal offence to compel another person to have a termination performed. Every woman should have the right to decide when it comes to pregnancy and abortion, but the ugly truth is there is a vast number of women who do not get that choice.

The Marie Stopes Australia white paper *Hidden Forces: Shining a Light on Reproductive Coercion* makes clear ways to identify when reproductive coercion is at play and the way in which women's reproductive choice is taken from them. The paper talks about two areas of reproductive coercion. The first is the interpersonal, which is the intentional and controlling behaviours that are exerted directly on a person's reproductive health by another person or persons. This is the deliberate action by someone to remove a woman's autonomous reproductive decision-making to exert power and control. Interpersonal reproductive coercion often goes hand in hand with familial violence, sexual violence and intimate partner violence. Reproductive coercion at an interpersonal level is incredibly nuanced, as violence is often not present and many women do not know that they are experiencing it.

In many submissions made to the white paper, the women who experience reproductive coercion experienced no other inequality when it came to their relationship. This makes it very hard to identify, very hard to screen and very hard to treat. One particular submission to the parliamentary inquiry from Women & Babies Support stated a woman had been coerced, forced or abused into having eight abortions. How did this woman go through eight abortions in the healthcare system and on not one occasion did a healthcare professional step forward to give her the option of actually having one of those babies? A briefing paper by Debbie Garrett, a doctoral researcher on behalf of Real Choices Australia, states:

The majority [in excess of 95 per cent] of terminations in Australia occur for psychological reasons including not having enough resources, whether financial or material, not feeling able to cope with a baby due to age or lack of support, fears about the impact of pregnancy and parenting on other life choices, as well as consideration for the needs of other people a woman cares for.

The paper further states: Abortion advocates cite such reasons, among others, as supporting the need for abortion, yet in reality abortion offers surgical or medical solutions to social and relational problems, meaning women are forced to decide between their social/economic wellbeing and the continuation of a pregnancy.

How did we allow eight abortions and it not be coercion? Can you imagine the psychological impacts that would have impacted on someone? Abortions have significant psychological impacts on women who seek them. The impact that an unwanted abortion can have on a woman is even more significant. In cases of reproductive coercion women are more likely to present for an abortion at a later gestation period. This procedure is significantly more complicated and the long-term effects of this can include severe mental health issues when the only choice for a woman that is offered is termination of the pregnancy. As Debbie Garratt correctly points out in her paper:

The power of this subtle form of coercion becomes even more insidious for post-abortive women who experience regret, suffering or mental health problems following abortion as the discourse convinces them they made a real choice to terminate and therefore carry full responsibility ... Post-termination counselling offered by abortion advocacy organisations are generally geared toward ensuring the right to abortion is upheld and therefore reframing the woman's experience toward understanding that she made an autonomous and free choice, regardless of her internal experience.

I urge members to support this amendment if we have concerns about women being coerced into something they do not want. Safeguards are necessary to protect women, especially the most vulnerable to coercion. The solution is almost always termination, whilst the real needs of women go unmet. Also, it is important that termination services can identify and assist vulnerable women and girls. A submission from the Women's Bioethics Alliance asked the very significant question, "Why must a woman lose her baby to protect herself from violence?"

This amendment would be an opportunity to advance screening and support services. Over the past couple of weeks I have read too many stories of women who felt pressured to undergo terminations including being pressured within the clinics themselves. The stories tell of experiences where women and girls cited poor counselling or no support and they felt they were in a system geared towards termination of pregnancy. Effectively, they felt they were being coerced, when what they needed was a little support and counselling. We are talking about vulnerable women and girls. This is what interests me, not the bottom line of a service provider of an abortion clinic seeking to make money out of the process.

I want to return to the white paper that I noted early in my contribution to this amendment. If we are serious about reducing familial, sexual and intimate partner violence in this State, we need to make sure that we are addressing the issue of interpersonal reproductive coercion along with it. It is stated in the white paper that there is a higher chance of violence where an unintended pregnancy is involved. In a country where every week one woman dies as a result of partner or ex-partner violence, we should think very carefully about interpersonal

reproductive coercion and where it can lead. The second area identifying reproductive coercion is structural. This is where we, as parliamentarians, can play a positive role. The white paper defines the structural forms of reproductive coercion as "social, economic, political and cultural norms, practices and policies that interfere with another person's reproductive choices".

We are a culturally diverse State, and it is important to understand how cultural and religious traditions can play a role in limiting a woman's reproductive choices. In the case of structural reproductive coercion, family units and religious institutions can often influence a reproductive decision. This is why the amendment for sex selection is vitally important. There are expectations on women to produce male children in certain cultures. With the relaxing of our abortion laws, accessing these abortions would become significantly easier to have an abortion based on cultural or religious ideals. As I said, we, as parliamentarians, can play a positive role by supporting this amendment and ensuring that women are not coerced into having an abortion against their will. I have read a submission where a woman was coerced by her husband and her in-laws into aborting 17 baby girls, until she fell pregnant with a boy.

The woman, who was an Australian resident, was forced to travel overseas to access 17 abortions. It is simply appalling and it should be appalling to every member in this Chamber. This is another example of why there should be extensive provisions for counselling. Those against this amendment try to use the excuse that counselling belittles their choices and paints women as incompetent decision-makers. It will come as a surprise to these idealists that many cultures believe that women are incompetent decision-makers.

We believe in a democratic country and we cannot allow these ideals to be brought here where they are used to exercise control over women through reproductive coercion. Unfortunately, many of these women are unaware of our laws and often do not have the language skills to actively seek out support and services, or their partners would not allow them to seek out support and services as it undermines their power and control. If the woman who was forced to have 17 abortions was required by law to attend counselling sessions, the reproductive coercion she was experiencing may have been uncovered and the suffering she is now experiencing would be much less. People from culturally diverse communities experience reproductive coercion on multiple levels. It goes beyond the intimate partner and out to the community through religion and particularly through high-control communities. The white paper makes a point of mentioning the impact that shame can have on individual, familial and community reputation, and how this can influence reproductive choices.

Some of the other cultural beliefs that drive reproductive coercion in culturally diverse communities can be condoning of male violence in heterosexual relationships; a focus on collectivism, which reinforces hierarchies and the importance of "for the good of the group"; and patriarchal, which reinforces male dominance over female structures. By legislating against coercion and supporting this amendment we are sending a clear message to those communities and to the individuals who are suffering in those communities. We can respond to structural reproductive coercion through legislation that will let perpetrators know it is against the law to remove reproductive autonomy and will be dealt with as a form of abuse to coerce a woman into an abortion they do not wish to have.

Australia's National Research Organisation for Women's Safety found that communities can have differing views on what constitutes abuse, violence and coercion. What one community deems abuse is a societal norm to another. Again legislating against coercion sends a clear message on what we accept in this State as a societal norm. Some examples of reproductive coercion can include (a) sabotage of another person's contraception; (b) pressuring another person into pregnancy; (c) controlling the outcome of another person's pregnancy or (d) forcing or coercing a person into sterilisation. Those are not practices that I wish to normalise in New South Wales. Our legislation should reflect what we deem to be acceptable.

There are those who would say that section 545B in the Crimes Act 1900 deals with coercion. I have to say I agree with Tanya Davies in the other place: This is hypocrisy. For weeks we have been working on removing abortion from the Crimes Act and most of us in this place have agreed that it does not belong there. It belongs in health care. As it stands, section 545B of the Crimes Act is no deterrent at all in dealing with reproductive coercion. The section states:

545B Intimidation or annoyance by violence or otherwise

(1) Whosoever—

- (a) with a view to compel any other person to abstain from doing or to do any act which such other person has a legal right to do or abstain from doing, or
- (b) in consequence of such other person having done any act which the other person had a legal right to do or having abstained from doing any act which that other person had a legal right to abstain from doing,

wrongfully and without legal authority—

- (i) uses violence or intimidation to or toward such other person or that other person's spouse, de facto partner, child, or dependant, or does any injury to that other person or to that other person's spouse, de facto partner, child, or dependant, or
- (ii) follows such other person about from place to place, or
- (iii) hides any tools, clothes, or other property owned or used by such other person, or deprives that other person of or hinders that other person in the use thereof, or ...
- (v) follows such other person with two or more other persons in a disorderly manner in or through any street, road, or public place,

is liable, on conviction before the Local Court, to imprisonment for 2 years, or to a fine of 50 penalty units, or both ...

- (2) In this section—

Intimidation means the causing of a reasonable apprehension of injury to a person or to the person's spouse, de facto partner, child or dependant, or of violence or damage to any person or property, and **intimidate** has a corresponding meaning. **Injury** includes any injury to a person in respect of the person's property, business, occupation, employment, or other source of income, and also includes any actionable wrong of any nature.

How does that relate to coercion in an abortion situation? A Galaxy poll of New South Wales found that one in four people personally knew one or more women who had been pressured into an abortion. The Crimes Act does not adequately cover reproductive coercion. These statistics are proof of that. Reproductive coercion is not a regular crime; it is of a much more personal and nuanced nature. In many cases reproductive coercion is a covert form of abuse that can manifest in multiple ways before becoming obvious through a forced abortion. In some cases of coercion there is a heightened risk of sexual and reproductive health issues. This has no place in the Crimes Act.

The absence of physical violence can often lead to situations where the perpetrator is not penalised and the current statistics, as I have stated, reflect the fact that it is not capable of dealing with reproductive coercion. Our healthcare services are best placed to identify these concealed forms of abuse and offer support before escalation to violence. Early detection of reproductive coercion can often put a stop to future violence. By legislating against coercion and supporting this important amendment, we are sending a message to women out there who do not know they have a choice that they do actually have a choice. Abortion is not your only option and there are support networks out there for you if you wish to proceed with your pregnancy.

Another submission I read today told the story of a woman who was pregnant and afraid of her ex-partner. This woman had already had 12 terminations, two of those being late term. She was being coerced by her ex-partner who threatened to "sever his arm" if she continued with the pregnancy. Once this woman found a safe place to express her fears, she decided to carry the pregnancy to full term. Another woman had already endured four terminations. She regretted each of them. When she fell pregnant again, she decided to see a counsellor to help her navigate the fears and concerns around her current pregnancy.

This counselling is what provided her with the clarity and support she had lacked in the past. She said, "I just needed help to have the confidence to have the baby." She decided to carry the baby to full term and keep the baby. These stories offer us an insight from which we are being shut off in this place. It is the other side of the story that those pushing the bill do not want us to hear. It is the story of pregnancy. Termination should not be the only channel left available to women who find themselves in the situation of an unplanned pregnancy or the victim of reproductive coercion. This bill would be a far better piece of legislation if this amendment were supported. I commend the amendment to the Committee and I urge all members to support it.

The Hon. PENNY SHARPE (21:54): I move amendment No. 1 on sheet c2019-147:

No. 1 **Coercion to have termination performed**

Page 10, proposed Schedule 2.1. Insert after line 2—

[4] Section 545B Intimidation or annoyance by violence or otherwise

Insert after section 545B(1)—

(1A) To avoid any doubt, for the purposes of subsection (1)—

- (a) a person who coerces a person to have a termination performed, including for the purposes of sex selection, is taken to have used intimidation to compel the person to have the termination, and
- (b) a person who coerces a person to not have a termination performed is taken to have used intimidation to prevent the person having the termination.

I am very pleased that we are having a genuine discussion about reproductive coercion in this debate. In this place, with lots of division, I think there is actually a genuine belief from all sides that women should not be coerced

into anything that they do not want to do, that they should be able to make choices about their reproductive lives, that is their decision and theirs alone, and that they should not be subject to intimidation, harassment or violence, whether it is the case that they want to continue with the pregnancy or whether it is the case that they do not. I think that is the really important point about that. I agree and I am very pleased that the Hon. Robert Borsak has moved his amendment.

My amendment is slightly different but it is no less important when it comes to how we deal with reproductive coercion. I think that there is a lot more work that we need to do in this space. The Hon. Robert Borsak quoted from some very good research from Marie Stopes, which has done some work on that. I have been involved in some of the consultations around that work so I am very familiar with it and I know how important it is. In some ways this has been a bit of a hidden issue for women in Australia and it has never been described in the way that it needs to be. I flag that there is a lot more work that we need to do in criminal law and the Crimes Act when it comes to reproductive coercion. This is something that is obviously coming up in this debate and it is important.

I will talk briefly about some other material that is around on coercion. The Hon. Robert Borsak talked a lot about the terrible cases where women have been coerced into having an abortion. I want to talk a little bit about the experience of organisations like Children by Choice and others and the women who are coming through their doors and their experience of reproductive coercion in a different way. They define reproductive coercion as a number of things: birth control sabotage, which includes throwing away pills or tampering with pills; threats and use of violence for insisting on condoms or other contraception; emotional blackmail—and again the Hon. Robert Borsak touched on this in his contribution; the coercing of a woman to have sex or to fall pregnant; the extreme ends of this, forced sex and rape; and something that is now known more frequently as stealthing, which is agreement to use contraception and then breaking that agreement in the middle of people having sex. And I would also again talk about the issue of forced sterilisation, choice and the impact that that has on women with disability and their desire to have children, to parent and to do that as well.

Pregnancy is used as a tool of control. As I said before, we know that the most dangerous time for a woman in relation to intimate partner violence and domestic violence is often when they are pregnant. All of us have heard from the excellent Karen Willis from the NSW Rape Crisis Centre. The stories that they tell around domestic violence when women are pregnant are truly mortifying and horrifying and they are things that we need to understand. I also want to emphasise the issue around something we have not talked about a lot during this debate. The Global Turnaway Study has done a lot of work on people seeking abortions and not being able to get them and the impact that that has had.

Again, on this side there has been a lot of discussion about mental health impacts either way but what we do know, and this is what is very disturbing, is that for women who are seeking to get a termination but are denied from being able to do that, one of two things happens: they take desperate measures and they end up having later term abortions with all of the unsafe aspects that comes with that, but more disturbing is that there are women who end up staying in violent relationships, which no-one in this place thinks is a reasonable thing. Children by Choice has started doing its own research with its own clients. For members who do not know, Children by Choice is an organisation in Queensland which has been working on reproductive coercion. It has started to ask questions of women who were coming in the door and understanding more.

They say that one in seven of the contacts they have with women who come in the door are experiencing reproductive coercion. Women from non-English speaking backgrounds and Aboriginal women are over represented, with one in five often experiencing reproductive coercion. One in four who experience reproductive coercion do not report any other form of violence. This is where more work needs to be done on this matter. When we thought about domestic violence we did not include these sorts of behaviour. This is not the bill to get through all of that. I know that other States have progressed on issues such as stealthing, but other work still needs to be done here. While one in four say that reproductive coercion is the only coercion that they are experiencing, 74 per cent of women experiencing reproductive coercion report domestic violence as part of their lives.

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: No.

The Committee continued to sit.

The Hon. PENNY SHARPE: There is also evidence of suicidality and further mental health issues when as a result of coercion women are denied a termination they desperately want. My amendment says: Yes, we have work to do within coercion. Yes, we are dealing with section 545B intimidation or annoyance by violence or otherwise. As I said in the debate, I accept that we need more work on this but to be absolutely clear, and to

send a strong message about coercion, my amendment says that it is not okay to force a woman to have an abortion. Similarly, it is not okay to stop her if she wants to have one. The difference between my amendment and that of the Hon. Robert Borsak is the penalty—mine is two years' imprisonment and his is seven years' imprisonment. I am pleased that we are having a discussion about this. I am concerned about the level of violence that women experience in their reproductive lives over their autonomy, choices and consent. We have spent a lot of time on all of these issues. I commend my amendment to the Committee.

The Hon. TREVOR KHAN (22:01): I know the Hon. Niall Blair will be speaking to this amendment. I will address two issues in relation to the Hon. Robert Borsak's amendment. I had seen this presented to me by another member at one stage and there were two matters that concerned me. The first related to clause (1A) (b) of the amendment, which states:

- (b) using intimidation or other action mentioned in subsection (1) as a consequence of another person abstaining from having a termination performed.

Clause (1A) (a) of the amendment states:

- (a) using intimidation or other action ... with a view to compelling another person to have a termination ...

I found the wording in clause (1A) (b) to be somewhat unclear, and I continue to be somewhat concerned with that wording. I suggested to another member a clarification for that wording, which was taken up but that obviously has not transferred to the amendment of the Hon. Robert Borsak.

My second concern is the maximum penalty of seven years. In section 545B of the Crimes Act there is a range of potential offences relating to intimidation or possible acts that are covered. Essentially all of those have a penalty of two years. In this case it is suggested that circumstances around a termination should carry a penalty of seven years. Offences relating to intimidation around reproductive rights are not simply limited to terminations. I was advised that the better course of action was to maintain the penalty at two years' imprisonment for all offences in this area and for a more holistic approach to be adopted. To take by way of example, intimidation relating to fertility—for instance, taking the pill or not taking the pill—which would carry a penalty of two years' imprisonment; this carries a penalty of seven years' imprisonment.

Advocates in the field have expressed to me the view that whilst they have sympathy for specifically identifying offences relating to terminations, the offence levels should remain consistent until there has been a wider look in this area—which, as I understand it, is now on the way within government. Whilst I have extraordinary sympathy for the approach of the Hon. Robert Borsak to these offences, it is more appropriate to keep the penalty of two years' imprisonment. Some clarification is needed around the wording of section 545B (1) (a) and (b) of the Crimes Act. I am with the Hon. Robert Borsak in spirit, if not on the vote—I say no more.

The Hon. NIALL BLAIR (22:05): I will be brief in my contribution. I did have an amendment in this area on sheet c2019-111A but I will not be moving it. My amendment did not have the mirroring component where it would be an offence to coerce someone to have and not to have an abortion. My amendment only had the "to have" component. For that reason, I prefer the wording of the Hon. Penny Sharpe's amendment. However, I pick up one part of the Hon. Penny Sharpe's amendment similar to a component I had in mine—namely, the words "including for the purposes of sex selection" on sheet c2019-111A.

We have already had a lengthy debate on this issue but that part of the amendment needs to be included under section 545B to reiterate that we do not believe that sex selection should be happening. It also underpins the fact that a person should not coerce another person to have a termination. That is another difference between the amendment of the Hon. Penny Sharpe and that of the Hon. Robert Borsak. We are all in broad agreement here. We are just looking at specific details and different ways to express the same meaning. For those reasons, I support the amendment moved by the Hon. Penny Sharpe.

Ms ABIGAIL BOYD (22:07): It is great that we all agree that no-one should be compelled to terminate a pregnancy or to continue a pregnancy. I am pleased also to see more members in this House acknowledge the issue of coercion in a domestic and family violence context. Research, including a recent study conducted by Children by Choice in Queensland—which other members have referred to—shows that abusive partners are more likely to coerce a woman into pregnancy, rather than to coerce her into having an abortion. Clearly no members this House would support either type of coercion.

We also know that there are various types of reproductive coercion, not just those related to abortion. For instance, birth control sabotage, emotional blackmail, and forced sex and rape within a domestic context. At the heart of those behaviours is the control over a woman's body and what she can do with her body. The amendment

of the Hon. Robert Borsak to address coercion in relation to terminations of pregnancies by increasing penalties does not make much sense in the context of the broader law. I will come to that in a moment. But I also want to address the Hon. Penny Sharpe's amendment.

The NSW Women's Alliance, including frontline domestic and family violence service providers, made it very clear during the last State election campaign that removing abortion from the Crimes Act is a critical part of attaining gender equity and breaking down the gender norms at the heart of domestic and family violence. Hopefully, when the bill is passed this Parliament will take serious action on the domestic and family violence epidemic and really improve our understanding of what it looks like and what the behaviour of perpetrators looks like. New South Wales has established practices for domestic violence screening that have been in place for the past 15 years. The Greens do not believe there is anything in either of the amendments that will provide any additional protection to women, and we oppose both amendments. We see the amendments as unnecessary and inappropriate but also potentially harmful.

Under section 545B of the Crimes Act, it is already an offence to compel another person to do or refrain from doing something using violence and intimidation, with a maximum penalty of two years' imprisonment. The Greens believe the current provisions of the Crimes Act already address the harm that is sought to be addressed. Further, we see significant and intractable problems with the drafting of the amendment moved by the Hon. Penny Sharpe. It creates a new offence that would be, in our view, incredibly broad because it overrides the existing definition of intimidation, making it a potential offence, for example, if you choose to leave your partner because they have chosen to have an abortion or to keep a pregnancy, if that can be seen as coercion. We understand and agree with the intent of the amendment and, in the context of this discussion, we understand what reproductive coercion is intended to capture, but the drafting of this bill could lead to extreme unintended consequences.

The Greens preferred an earlier amendment on sheet c2019-150 that was withdrawn and which referred to "intimidation through coercion". That intimidation takes us back to the Crimes Act definition, which states very clearly the types of serious behaviour that are treated as intimidation. The drafting of the amendment moved by the Hon. Penny Sharpe could lead inadvertently to circumstances where coercion is taken perhaps to be behaviour that was not intended to be caught by this proposed section. For those reasons The Greens oppose both of the amendments.

The Hon. LOU AMATO (22:13): I support the amendment moved by the Hon. Robert Borsak. Our goal to protect women from any acts of violence and coercion must be codified in the Reproductive Health Care Reform Bill 2019. Presently the bill does not offer protection against women being coerced into having an abortion. We are clearly aware that abortion hurts women. An article published in the *British Journal of Psychiatry* in 2011 by Priscilla K. Coleman cited an 81 per cent increase in mental health disorders among women who have experienced abortion.

The study by Coleman surveyed 877,181 participants, 163,831 of whom had experienced abortion. Due to the lack of statistical data it is impossible to ascertain how many of the 163,831 women had been coerced into having an abortion. Regardless of our inability to scientifically quantify coercive abortions, logic and common sense dictate that any coercion or intimidation to force a woman to act outside her will must result in some form of emotional and psychological harm.

According to the Coleman study, post-abortion mental health problems in many cases were life long and, as with severe psychological disorders, require ongoing medical treatment. The lack of statistical data is problematic as the drafting of legislative protection for women and citizens is largely dependent on factual data. The lack of factual data reduces our effectiveness as legislators. Having said that, where evidence is either lacking or non-existent—as is the tragic case with abortion statistics—one must rely on personal moral judgement and interpretation of reality. Reality, as we should see it, is that the reproductive right of a woman to carry her baby to term are not subservient to the will of others. In short, regardless of whether coercion does or does not contribute to the alarming 81 per cent increase in serious mental disorders reported in the Coleman study of post-abortive women, coercion and any acts of violence against a woman are not to be tolerated.

The amendment moved by the Hon. Robert Borsak seeks to remedy, as far as practicable, acts of coercion and violence against women to procure an abortion against their will. In times past good legislative practice has sought to identify, where possible, all behaviour that has resulted in women being threatened or abused both physically and emotionally. The sanction of such behaviour has rightly been codified in our legislative practice as criminal offences punishable by imprisonment. In keeping with the same good practice of the past, we must ensure that we extend our legislative powers to protect women against acts of violence and intimidation to procure an abortion against their will. I support the amendment moved by the Hon. Robert Borsak.

Reverend the Hon. FRED NILE (22:16): I support the amendment moved by the Hon. Robert Borsak and I thank him for the work he has done in preparing his amendment. We have heard what has been said by

members on the other side of the debate that this bill is the latest advance in freeing women's choices. But some of us who are more proficient in history and have been in this Parliament somewhat longer know that tyrannical laws are often passed under the banner of liberation and freedom. I am not fooled by this bill; it is a bad bill that will lead to disastrous results. I support three amendments: the amendment moved by the Hon. Robert Borsak, the amendment on sheet c2019-111A moved by the Hon. Niall Blair, which I understand has been withdrawn, and the amendment on sheet c2019-147 moved by the Hon. Penny Sharpe. The amendments propose to mitigate the impact of the bill. The amendment moved by the Hon. Robert Borsak states:

No. 1 **Coercion**

Page 10, proposed Schedule 2.1. Insert after line 2—

[4] Section 545B Intimidation or annoyance by violence or otherwise

Insert after section 545B(1)—

- (1A) For the purposes of subsection (1), if a person is convicted of an offence under that subsection that involves any of the following circumstances the maximum penalty is 7 years imprisonment—
- (a) using intimidation or other action mentioned in subsection (1) with a view to compelling another person to have a termination performed,

As we know, "termination" is a word used instead of abortion. It continues:

- (b) using intimidation or other action mentioned in subsection (1) as a consequence of another person abstaining from having a termination performed.

As I said, "termination" means abortion. It continues:

[5] Section 545B(2)

Insert in appropriate order—

termination has the same meaning as in section 82—

—in the original bill. One of the worst aspects of the bill is its complete failure to address the issue of women being forced into abortions by their unsympathetic partners or family or other persons. Being bullied into a choice is no choice at all. Those who keep mouthing the mantra of "personal choice above all" should take note. It is not beyond the realm of imagination that a woman may be harassed into aborting her child. There may be many reasons why she may find herself in this situation. When she does, we have a responsibility to ensure that the law can respond appropriately. The bill in its present form—the bad bill—does not respond at all. That is one of the problems with a rushed bill.

A study published in 2004 in the *Medical Science Monitor* found that up to 64 per cent of women who have abortions felt some form of pressure to abort their child. That is not a minor number; 64 per cent is absolutely colossal and unworthy of a civilised society. Recent polls in this State as well as in Queensland have shown that a quarter of people know of at least one woman who has been pressured into having an abortion. The story of Jaya Taki is well known and representative of what many of these women go through. She disclosed to news.com.au that after she was coerced into an abortion by her National Rugby League boyfriend she immediately regretted the decision.

Of course, one might wonder whether this was a decision at all. If so, it certainly was not hers. So where are the champions of women's choice now? What is unworthy of a civilised society is a situation where the legislature effectively turns a blind eye to this because of a small group of noisy activists who want to ram through a piece of legislation purely for ideological purposes. That course of events is not in the best traditions of this Committee. Frankly, we are better than that.

Do members of this Committee believe that a man who forces his wife or partner to take illegally-sourced drugs to terminate her pregnancy at 26 weeks should be immune from some kind of legal repercussion? That was the case of Linda who wanted to keep her child but was forced by her boyfriend Lual Akech to abort. Thankfully that abortion failed and the baby was delivered safely at Bankstown Hospital back in 2007. These are not the kinds of horror stories that we want to read about in the press. The amendment moved by the Hon. Robert Borsak will send a strong signal to the community that bullying behaviour is beyond the pale, especially in protecting the unborn baby.

Mr DAVID SHOEBRIDGE (22:22): I endorse the words of my colleague, Ms Abigail Boyd, spoken on behalf of The Greens. We now have only the two amendments—one has been withdrawn. In relation to the amendment moved by the Hon. Robert Borsak on sheet c2019-095, the extension of the maximum penalty from

two years to seven years under section 545B of the Crimes Act 1900 is not supported. The expanded definition in proposed section 545B (1A) (b) of the Crimes Act is somewhat obscure where it says:

(1A) For the purpose of subsection (1), if a person is convicted of an offence under that subsection—

—which is the intimidation offence already in section 545B which, implicitly, everybody agrees now would cover any intimidation, including for someone to have or not to have a termination of pregnancy—that involves any of the following circumstances the maximum penalty is 7 years imprisonment— The first circumstance is:

- (a) using intimidation or other action mentioned in subsection (1) with a view to compelling another person to have a termination performed ...

I think we understand that; it is fairly clear. That conduct is already criminalised by 545B. Subsection (a) of this proposed amendment increases the penalty to seven years. We understand what that is; it is quite clear. The Greens do not agree with it for the reason that it increases the maximum penalty. The second subsection is opaque and unclear in what it seeks to criminalise. It states:

- (b) using intimidation or other action mentioned in subsection (1) as a consequence of another person abstaining from having a termination performed.

It is not at all clear what is meant by "as a consequence of another person abstaining from having a termination performed". It is not clear what kind of conduct that seeks to criminalise. We should not pass a criminal law with such a serious penalty as seven years' imprisonment when the conduct being criminalised is so obscure. The Greens will not be supporting the amendment for that reason.

I turn to amendment No. 1 on sheet c2019-147, which has been moved by the Hon. Penny Sharpe. As Ms Abigail Boyd said, all of those concerns and arguments about coercion in terms of a pregnant person's right to choose one way or another what to do with their body are well founded. In fact, some of the evidence—not all of the evidence—put on by the Hon. Robert Borsak made the case that we should be deeply concerned about coercion.

The evidence put on by the Hon. Penny Sharpe also makes clear why we should be extremely troubled by coercion of any pregnant person either to have or to not have a termination. However, what amounts to coercion is highly debatable. Indeed, the Hon. Robert Borsak made it clear that coercion could be economic, it could be emotional, or it could be physical. It covers a broad array of conduct. This bill is about decriminalising abortion. The amendment moved by the Hon. Penny Sharpe opens up a whole new array of activities for criminal sanction, much of which we may agree with, but we do not know the extent of it because the amendment expands the current definition of "intimidation" in 545B of the Crimes Act, which defines "intimidation" quite clearly. It states:

"Intimidation" means the causing of a reasonable apprehension of injury to a person or to the person's spouse, de facto partner, child or dependant, or of violence or damage to any person or property, and

"intimidate" has a corresponding meaning.

So we know what "intimidation" means under section 545B. The Hon. Penny Sharpe's amendment deems any act that is coercion to also be intimidation. That could include coercion using economic or emotional means or taking any form. The amendment has been moved in the middle of a prolonged series of amendments without any kind of consideration or detailed thought about what it is actually seeking to cover. What activity is being criminalised?

Does the Hon. Penny Sharpe agree with the Hon. Robert Borsak that it includes emotional and financial coercion? Is that what we are agreeing to criminalise? We do not know. There are probably areas we would agree with—elements of coercion beyond the definition of "intimidation" contained in the current section 545B that we all agree should be criminalised, but where are we drawing the line with this? When we are making these amendments on the run, it is extremely dangerous to simply throw them in without having a clearer understanding or even a clear statement or agreement between members about the extent of the new criminal provision. I say that especially because we are debating a bill that is intended to decriminalise abortion, not create a whole new array of criminal conduct.

The other concern that The Greens have with the amendment moved by the Hon. Penny Sharpe is that it again expressly refers to the concept of criminalising sex selection. We have had this debate earlier and The Greens are on record as saying that we do not believe, for the reasons identified by my colleague Ms Jenny Leong in the other place and earlier in this debate by my colleague Ms Abigail Boyd, that references to sex selection have a place in this abortion law debate. Again I will reference the evidence of Dr Vijay Roach, the President of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists. He said in part—and I will not read all of his evidence—that the concept of much of this debate on sex selection involves racial profiling. He said:

Frankly, that is offensive. It was interesting because in the discussion around gender selection the word "offensive" was thrown around all the time and when we talk about abortion we talk about the term "offensive". I think we should add in the fact that racial

profiling is absolutely offensive and is not something that this country or Parliament should accept. This would end up precluding people from seeking care.

He continued:

We already know that women in general will be anxious about seeking care around abortion because of all the stigma associated with it. To have women who happen to have a certain racial background or religious background walking into a doctor's office assuming that the doctor may well be questioning them on that basis would be a huge disservice. In terms of mental health, you are correct. There was a question raised around whether—with abortion being so highly emotive—abortion impacts upon a woman's mental health at the time or over her lifetime. We have no evidence for that at all. I think that is very important.

In an earlier contribution, in evidence to the inquiry, he said:

If I could just add to what Dr McMullen said, one of my great concerns when I listen to the discussion and debate in the lower House around the issue of gender selection was that there was a huge reference to overseas populations in their own countries and in New South Wales. One of the things I found very concerning was that the discussion around the amendments effectively suggested we should concentrate on gender in a way that we would end up with racial profiling.

Again though, we find a reference to sex selection in this amendment and we know what that will end up doing. That will end up with racial profiling of women as they go about seeking to exercise their reproductive rights. We do not see why it has to be in the bill once and we definitely do not see why should have to be in the bill twice. For those reasons we oppose both amendments.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (22:31): The amendment moved by the Hon. Robert Borsak on sheet c2019-095 ought to be supported by those who see a decision to terminate a pregnancy as a decision of the pregnant person alone. No other person is entitled to compel the pregnant person to undergo a termination of pregnancy, whether that person is an abusive partner, a parent concerned about the social shame of a teen pregnancy, an incestuous rapist trying to cover up evidence of his crime or the pimp of a trafficked woman or girl.

This amendment builds on an existing offence in the Crimes Act that deals with using intimidation or annoyance, by violence or otherwise, with the intention of compelling a person to do something he or she is lawfully entitled to abstain from doing. Studies show that up to 64 per cent of pregnant women feel pressured by others to have an abortion. In some cases, this pressure will reach the threshold for this offence of "using intimidation or annoyance" to compel a woman to have an abortion she is not freely choosing. The penalty reflects the seriousness of coercing a woman to have an abortion against her own best judgement.

In 2017 a woman, Linda, was charged under section 82 of the Crimes Act 1900 with attempting her own abortion at seven months of pregnancy. She had taken misoprostol obtained from a black market source. I agree with the sponsors of the bill as well as with many submissions to the inquiry, including from those opposed to the bill, that the offence of a woman procuring her own abortion should be removed from the Crimes Act 1900. However, the summary of facts in this case was this: *Director of Public Prosecutions (NSW) v Lasuladu* points to the real criminal. The father of the child, Mr Akech Lual, had been in a relationship with Linda Lasuladu for three years when she fell pregnant.

The couple were planning to marry. Linda underwent the usual prenatal care. Nineteen weeks into the pregnancy Mr Lual told her he did not want her to have the child as they were not married. I will repeat that. He did not want her to have the child. This case was not about a woman's choice; it was about a woman subjected to coercive bullying halfway through her pregnancy by an aggressive, arrogant male partner to compel her to have an abortion that she did not want.

Linda resisted the bullying and continued with the pregnancy and prenatal care. She wanted the baby. At 26 weeks into the pregnancy Mr Lual began bullying her once more to have an abortion. Linda told him it was too late. Mr Lual would not accept this and continued to apply pressure to her. Just think about this brave woman, with her baby kicking inside her, resisting being coerced into an abortion she plainly did not want. Eventually misoprostol, sourced from South Africa, was illegally obtained from a black market source in Darwin. Linda took the pills and began to feel unwell. Her friend—not, I note, Mr Lual—took her to Blacktown Hospital. The unborn child was found to be in distress and was successfully delivered alive by an emergency caesarean section. Under this amendment to the Crimes Act and on the facts of this case as recounted by the judge, Mr Lual would most likely have been convicted.

Another case of coerced abortion involves Jaya Taki, who was referred to by the Hon. Lou Amato and Reverend the Hon. Fred Nile. Jaya gave this account:

I was coerced into an abortion through emotional and psychological blackmail by my former NRL-playing boyfriend. I found out I was pregnant at six weeks and whilst I knew the timing wasn't ideal I was actually still excited at the thought of having a baby—unplanned but not unwanted. However, moments after sharing the news with him I was stunned at the heartlessness of his reaction telling me instantly to abort or I would be facing this pregnancy alone.

She continued:

Over the next few weeks I would be subjected to a horrifying amount of domestic abuse and manipulation. I had begged him to talk things through with me, to support me keeping the baby but I was told things like "How could you ruin my life like this" and "Why would you bring a child into this world when it is unwanted by its father?"

Ms Taki reports that after she went public with her story she has been contacted by multiple women who aborted due to coercion, including by a woman whose partner threatened suicide if she did not abort her child. She said:

When you are bombarded with that type of abuse, control and manipulation you become exhausted, scared, rejected and, for me personally, my thought processes were skewed. It is so scary to reflect on how controlled and negatively impacted I was. I am a very strong woman ... and even the strongest of us can be weakened. I eventually called an abortion clinic and was able to book an appointment instantly—no questions asked. As I entered the abortion room and sat on the abortionist's table I was thinking to myself I want to leave, but I was too scared.

Two days after the abortion when the morning sickness subsided and the sleep was caught up on, the realisation of regret and grief slammed into me like a truck at full speed.

The night after Jaya had the abortion her boyfriend left her to go out clubbing. She reports thinking, "I sacrificed my child for you and you are out partying." For women like Linda and Jaya I urge all members to support this amendment.

I also acknowledge the amendment moved by the Hon. Penny Sharpe. I do not support that amendment, notwithstanding that I certainly agree with parts of it. I tend to agree with an observation made by Mr David Shoebridge in relation to the second part of her amendment. In circumstances when there is coercion not to have an abortion it is hard to understand what would constitute coercion for that practice. For example, does the protest of a husband against his wife's decision to have a termination constitute coercion? The amendment moved by the Hon. Robert Borsak is worthy of support. I urge members to support it.

The Hon. COURTNEY HOUSSOS (22:39): I support the incredibly important amendments moved by the Hon. Robert Borsak and the Hon. Penny Sharpe. Many members have reflected on the nature of the scourge of domestic violence. I agree with the Hon. Penny Sharpe about the need for much more work in that area. We still do not understand the true emotional effects of domestic violence. The story that the Hon. Damien Tudehope shared of a woman who was forced into aborting a much-wanted baby purely due to the pressure that was put on her is truly horrifying. The reason the amendments are so important is that under the bill as it currently stands there is no basis for a doctor to refuse to perform an abortion up to 22 weeks. The amendments are an important tool that we might provide to doctors to refuse to perform an abortion if they have concerns that a woman is being coerced.

The Hon. Damien Tudehope reflected at length on the 2007 case, which was the last time that someone was prosecuted for unlawfully attempting to procure an abortion in New South Wales. I agree with his sentiments and with those expressed during the debate in the other place that the appropriate person to be prosecuted in that situation was not the woman but the partner who was pressuring her to have the abortion. As has been noted, the woman was 26 weeks pregnant and had been receiving prenatal care. The baby was moving inside her. One can only imagine the level of pressure and stress that she was under that forced her to take such extraordinary measures to attempt to abort a much-wanted child.

These are very important amendments. I congratulate the Hon. Robert Borsak on the very reasoned and careful way in which he outlined his amendment. I will certainly support it. If that is not successful then I will support the amendment moved by the Hon. Penny Sharpe. We have heard in this debate many times that the decision to undergo a termination, even for a woman who is choosing to undergo it, is incredibly difficult. Therefore, it is only natural that appropriate penalties are in place if someone is harassing or coercing a woman into undergoing an abortion under the most horrific of circumstances. I commend the amendments to the Committee.

The Hon. GREG DONNELLY (22:43): I fully support the amendment moved by the Hon. Robert Borsak that deals with coercion. I welcome the comments of the Hon. Penny Sharpe. They are recognition and acknowledgement that it is appropriate and dare I say it—my words, not hers—important and significant that we are now talking about coercion and abortion, or coercive abortion, however one might like to frame it. I know people in this House have got up and said, and I accept their statements on face value, that they have been studying, looking at, examining and thinking about matters to do with abortion, reproduction, termination of pregnancy and a range of other bioethical matters around this area for a long period of time. I accept that. However, I say that other people do the same thing as well—they look at things, they study things, they think about things. On this issue of coercion, particularly in the context of domestic violence—because the issue of domestic violence has reached a tipping point in Australia and did so a few years ago.

It is now a matter that is discussed openly and considered and looked at and frowned upon, quite appropriately. Laws have been passed, et cetera, to show our societal disdain for the actions of domestic violence perpetrators towards a victim. However, on the specific matter of domestic violence and its impact with respect to women who are pregnant or at a stage of their pregnancy—it might be early at conception or later in the pregnancy, later gestation—there has been internationally an examination of this matter and some pretty serious study about it going back decades. Not just a few years: decades.

I do not intend to go into articles in any detail, but I want some articles put on the record. I think it is important that we realise that this issue of the connection between violence or coercion—I use "violence" within the subset of the notion of coercive behaviour; of course, violence can then be split out to be at an end of what might be a mild sort of harassing through to the actual physical, very serious violence. We know that these things are on a spectrum. I do not wish to just gloss over this. I do understand that there is nuance and I understand that there are differences between all of this, but we are trying to cover this as clearly as we possibly can. In 1996 the article entitled "Pregnancy outcomes and health care use: Effects of abuse" was published in the *American Journal of Obstetrics and Gynecology*, volume 174 No. 2. The authors were Joan Webster et al. It is a peer-reviewed piece. I will go straight to the conclusion:

Domestic abuse adds significantly to the cost of health care during pregnancy and is associated with poor maternal and fetal outcomes.

It is a pretty unambiguous statement, isn't it? This is obviously undertaken by people who are serious academics in the field of obstetrics and gynaecology looking at the issue. I move to two years later and a further journal article. This one appeared in the well-known and highly regarded peer-reviewed journal *Obstetrics & Gynecology*. It is entitled "The Prevalence of Domestic Violence Among Women Seeking Abortion". That is quite explicit. The authors—and these are always groups of authors, as members might appreciate, because this is very detailed research—were Susan Glander et al. In the abstract at the commencement of the article the conclusion states:

The prevalence of abuse reported by women in this population suggests that many women seeking abortion services may have abuse histories. Abused women [this is the sort of language they use] may have different reasons for pregnancy termination than non-abused women and may be more likely to make the abortion decision without partner involvement.

Well, that is interesting. It goes on: When routine screening for abuse is included in abortion counselling, health providers have the opportunity for developing a safety plan and initiating appropriate referral. I will read that again:

When routine screening for abuse is included in abortion counselling, health providers have the opportunity for developing a safety plan and initiating appropriate referral.

That sounds very close to the amendment—or words thereof—that the Hon. Courtney Houssos sought to move only last week, I cannot think exactly when it was, trying to insert into the legislation a very robust provision around counselling. We have something in there on counselling, and thank heavens for that. It is nowhere near as appropriate as what was advanced by the Hon. Courtney Houssos and that reflects, in terms of its robustness, the issue of provision around counselling. And this is 1998. Only a couple more to go to 2001. This is from the *International Journal of Obstetrics and Gynaecology*, volume 77, 2002, pages 47 to 54. The title is "A Comparison of the Prevalence of Domestic Violence Between Patients Seeking Termination of Pregnancy and Other General Gynaecology Patients" by Leung et al. Once again, I go straight to the conclusion:

Domestic violence is a significant problem among the gynaecology patients, particularly those seeking abortion.

I will read that again:

Domestic violence is a significant problem among the gynaecology patients, particularly those seeking abortion. A single interview prior to abortion is adequately effective for screening. However, the most effective and acceptable way of helping these victims—

They call them "victims". This is what a peer-reviewed, scientific paper is calling them—

needs to be explored further.

I refer to my second last article. Once again, in a publication—no less than *Reproductive Health Matters* 2010, volume 18:36 (158 to 170)—"Intimate Partner Violence during Pregnancy: Analysis of Prevalence Data from 19 Countries", this is what is called a meta-analysis; it is examining the issue across 19 countries. The author is Karen Devries et al. It is a very lengthy piece, which goes through very detailed analysis and draws the same conclusions as were in the earlier articles.

The last one, and this is a further example of the scoping that is being applied to this now—it is what is called meta-analysis. This one is from 2014 and this one appears in the journal *PLOS Medicine*. The author is Megan Hall et al and it is titled "Associations Between Intimate Partner Violence and Termination of Pregnancy: A Systematic Review of the Meta-Analysis". Once again, what these academics are doing is aggregating information across whole countries and regions on the issue of the matter of intimate partner violence—they call

it "IPV" or "domestic violence" or "family violence". The terminology varies from jurisdiction, but this is essentially what it is about. Once again, it comes to the same conclusions.

The point I am simply making is that here we are in 2019 in the New South Wales Legislative Council. We are acknowledging that it is good to talk about domestic violence and its relationship with abortion. Well, I would say they started talking about it in 1996 and it was pretty clear back then what the consequences were for women back then. I am appreciative of the fact that we have got to this point. But could I just make this point as well: With respect to a number of the women's organisations that appeared before the inquiry into this legislation—and I am talking about the ones that were associated with the development of the bill—I put to every one of them, I think, this question: Is there one thing that we could do, one amendment that we could make to the bill, that would improve the lot of women in New South Wales with respect to the matter of termination and pregnancy? Is there one thing that we could do? Just give us one. Every one of them had a rote answer. It was: No, nothing, pass the bill in the current form.

Ms Abigail Boyd: Hear, hear!

The Hon. GREG DONNELLY: Hear, hear! That is obviously the position of The Greens and I respect that. But I am saying that groups associated with the development of the bill simply said—and I am specifically looking at this issue of domestic violence and trying to probe into this area of their thoughts—not one of them was prepared to even acknowledge that there was possibly something we could do in this bill to make it better for women, if I can use that phrase, in the context of the pressure that we know often surrounds so many in terms of making the decision as to whether to proceed with a termination or not. I have to say—I do not say I was surprised, that would be misleading the House.

I kind of expected that sort of standard response: No, nothing, pass the bill. No, nothing, pass the bill. It was a recitation from almost every one of those organisations, save and except for this, and I think it is so refreshing: In this inquiry into this legislation, specifically on the matter of intimate partner violence or domestic violence and abortion, we have had a contribution and I will not go into their submissions in any detail at all because I acknowledge comments made the last time I looked at submissions in detail and the ruling of the Chair, but I do want to put on the record these organisations and I want to acknowledge the individuals. She has been commented on previously this evening, Mrs Debbie Garrett, a registered nurse and Executive Director of Real Choices Australia.

I also acknowledge Tiana Legge, the CEO of Women & Babies Support—known as WOMBS. I acknowledge the work and specifically the submission of—all of these organisations and individuals have made a submission—Dr Rachel Carling, the CEO of Right to Life NSW, and Ms Rachelle Wong, the Managing Director of Women's Forum Australia. Can I say that all of these individuals for and on behalf of their organisations made submissions to the inquiry and they were received. They were a few of the ones that got through before the system crashed. They were all invited and all appeared at the inquiry and gave evidence, and were obviously available to be questioned by all committee members.

The thing that struck me was the juxtaposition between these four organisations—which, can I say, were not approached to participate in the consultation over the bill—and what they had to say about the bill, and particularly with respect to what could be done to improve the bill on behalf of women in New South Wales. The stark contrast is this: If you read their submissions on the issue of abortion and domestic violence, or domestic violence abortion, or coercion, every one of them, in some detail, gives consideration to the matter and digs very deeply into the academic work that has been done over decades and decades around the world on this issue. Then they go on to talk about and reflect on what could be done, things that possibly could be done with respect to the incorporation of provisions in the legislation that deal with the issue of coercion and abortion.

I thought to myself: What is going on here? We have a group associated with the development of the bill saying absolutely nothing on this. They are stony silent, stony-faced, looked you straight in the eye and said, "There's nothing you can do. Pass the bill; no changes. Do it now", and another group saying, "Well, no, there are some serious shortcomings with respect to the legislation"—in their opinion, not my opinion—"and these are the shortcomings and this is where we believe work could be done with respect to trying to deal with the improvement, enhancement or refinement of the bill." Dare I say that a number of the amendments that we have been working our way through, and continue to work our way through, find antecedents of thoughts in these types of submissions that informed the inquiry.

I thank all those individual women from the bottom of my heart for the work they put into their very detailed submissions and for coming along to give evidence, and the seriousness and commitment that they give to the interests of women in New South Wales, which is completely contra to the position put by a number of other organisations which equally gave evidence—and I accept they gave evidence—made submissions, came along and gave oral testimony, but their whole approach was, "Nothing to see here. Great bill. In fact, we even

liked the Greenwich bill that was introduced in the first place. We are a little bit cheesed off that it got amended by the LA but so be it. We will cop that. You make sure you pass it in the Legislative Council and we will be happy." That is not the way it goes. It is not the way it has happened and we will continue to amend the bill to the very end of this debate.

I place some individual examples on record. Some have been already commented on so I will move over them quickly but I will refer to them because it is important to do so. However, I will not repeat them. With respect to Jaya Taki, I emailed to all honourable members a few days ago now a relatively short email. I will not read it but all 42 honourable members of the House received this short email and contained within it was a speech that Jaya Taki gave on 5 September 2018 when she spoke to an audience at Parliament House in Brisbane. Her speech was her experience of coercion to abortion. I emailed that to honourable members some days ago and for completeness I attached also an on-camera interview that Jaya gave regarding her experience in New South Wales.

I make this brief comment. I met Jaya over 2½ years ago. She was introduced to me. I did not seek her out but people knew that I had an interest in the area of the ill-treatment of women in terms of decisions around terminations. Members will recall that in early 2017 Jaya, without notice, was literally dragged—it was appalling—into the media spotlight by a tabloid paper in New South Wales by a media report regarding her relationship with a well-known National Rugby League player who had been her boyfriend. The details of the matter were reported in the newspaper, not just in the sports pages but towards the front of the paper over several days. Jaya, who did not seek in any way the media's attention, decided as a result of what had happened to her that she needed to address the situation by coming out and very bravely speaking publicly about what had happened to her and specifically her pregnancy termination, which had been subject to innuendo and a range of, dare I say, very unsavoury reflections by the newspaper.

Over the course of 2017 and into 2018 and 2019, Jaya has been speaking openly and publicly about her coerced abortion in New South Wales. As I said, I spoke to Jaya only a couple of days ago and Jaya has asked me—and this was in the content of my email to members—to email a copy of her speech and her YouTube interview, which is readily available on the internet. For those who have not read her speech, it is a very short one and I invite you to do so. Can I say the Hon. Damien Tudehope quoted in some detail from her speech, so I do not intend to repeat it, but I will quote just one sentence that he did not actually quote. I do not reflect badly on him for not doing so, but rather I draw this to the attention of the House.

Halfway through the second page—this is two days after her abortion, when the morning sickness subsided and the sleep was caught up on, there was the realisation of regret. She goes on to say in the next paragraph, "The domestic violence the abortion was supposedly freeing me from also continued." The utter obscenity of all of this was not only was she violated in terms of the way in which she was treated by her boyfriend, or whatever you would like to describe the fellow as, in the pressure brought to bear on her to proceed to have the abortion in the first instance, but even after that and after all that she went through, the domestic violence continued. It just breaks your heart.

I will now make some reference to a part of the contribution in the Legislative Assembly in the debate that took place there on Wednesday 7 August. This was the second day after the debate commenced in the other place, in the second reading contribution of Liesl Tesch, the Labor member for Gosford, just after lunchtime on that day. On page 28 of *Hansard*—bearing in mind that the bill had only been introduced the previous week, and there was obviously a fair bit of public attention around New South Wales about this—with respect to Liesl, who is an extraordinarily active and, dare I say, dynamic local member who is extraordinary in the way in which she deals with constituent matters and represents the Labor Party in her electorate—she said:

I reflect on the circumstances of many who have contacted our office—

this is the Gosford office, her electorate office—

to express their opposition to the legalisation of abortion. Those women—and there are a number—have called our office and shared their stories of being forced to have an abortion that has not been their choice. Delving deeper into those conversations, it is apparent that their action has rarely been accompanied by appropriate counselling or support. Incredibly sadly, this is the truth for women in New South Wales regardless of whether termination is illegal or legal. In addition to this legislation, we must provide education and support structures for women in our society. I think it is an extraordinarily profound single paragraph by the member for Gosford, who encapsulates the micro focus of the utter tragedy of Gosford and women, and there are a number who rang the office to talk about the forced abortions. At the most profound macro level, the societal level, in addition she said that "we must provide education and support structures for women in our society". There could not be a truer word spoken in regard to that. I commend the member for Gosford for being so frank and honest.

With respect to one of the particularly impressive witnesses in the inquiry, who was Ms Bronwyn Melville, the honorary secretary of Newcastle Pregnancy Help, her evidence was very compelling. Her submission on behalf of the organisation was submission No. 37. I urge honourable members to examine that submission if they have not already read it. Her testimony is in *Hansard* for the inquiry hearing that took place on Wednesday 14 August.

I do not intend to go into her evidence in detail but I will quote a very small excerpt from her submission, which stated:

If a woman has experienced domestic violence, her needs may be much greater, and she will also generally be more susceptible to coercion.

This submission is based on her figures and the work done by the organisation. This was tested, one might say, by one of the members of the inquiry. She will know who she is in terms of challenging the quoted number, but the person who was giving the evidence reaffirmed it:

In fact, 95 per cent of the women who contact our centre for assistance and are seeking abortions, state that they do so because their partner is not supportive or is threatening to leave them if they do not have an abortion. We note that 100 per cent of the women contacting the 1300 helpline run by Sydney Pregnancy Help Inc. for post-abortion counselling state that they had no pre-abortion counselling; 95 per cent stated that they had been pressured into having an abortion.

The figure of 95 per cent was challenged by one of the members at the inquiry but the witness reaffirmed that they are her figures and the organisation's figures. I will not comment in any detail on what already has been explicitly acknowledged—and once again how good this is, finally—about Marie Stopes Australia and its white paper, *Hidden Forces: Shining a Light on Reproductive Coercion*. Dr Philip Goldstone, who is the medical director of that organisation, gave evidence to the inquiry. With respect to that report, *Hidden Forces: Shining a Light on Reproductive Coercion*, he is cited on page 13 as saying this:

[When it comes to abortion decisions] ... there are times when it is clear that there is coercion at play.

He runs Marie Stopes Australia, so he should know about this. This is obviously information that he knows—information that has been provided to him by people who work in the organisation. There is an unequivocal acknowledgement of this reality. I will make just two further references and then conclude my contribution. We have heard about Queensland—the banana benders—and how wise and sage they are over the Tweed. There is a border and everything that comes out of Queensland is high-bar stuff. We should take it all and run with it because it is good for New South Wales. That is not a position to which I subscribe. I made my comments about that pretty plain earlier today and on other occasions. But let me just quote back, to those who like quoting matters Queensland, a part of a transcript of evidence from the inquiry.

There was more than one inquiry. I do not have to go into details but the inquiry took place in the Queensland Parliament. By the way, it is a unicameral Parliament so they can get things done pretty quickly with a bit of a shove, which is a bit different from here in New South Wales. In Queensland, there are no sleepyheads in the upper House causing trouble by trying to amend bills. The Queensland committee is the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee.

That committee conducted at least two and it might have been three inquiries into the matter of decriminalisation of abortion in that State in the context of looking at specific bills brought before the legislature, one of which from memory was a private member's bill. They conducted public hearings. I will quote directly from the transcript from the public hearing on Wednesday 12 September 2018, just a year ago. At the public hearing there was a witness, a well-known person in Queensland, Dr Carol Portmann, who was identified on page 5 of the transcript. It is to do directly with domestic violence, coercion and abortion. The transcript read:

Dr Portmann: I am Carol Portmann; I am an obstetrician, gynaecologist and maternal foetal medicine specialist. I have been working in Queensland doing obstetrics diagnostic counselling and termination of pregnancy for over 15 years.

A question is asked of her of what specific work she does:

I understand that you are the only private clinician in Queensland who performs surgical terminations up to 20 weeks; is that correct?

Dr Portmann: The only one up to 20 weeks. There is another provider who will do terminations at 18 to 19 weeks. It kind of depends on the person's circumstances and their history. Most of them, if at all, may go up to about 16 weeks, so I am pretty much the only one, yes.

On page 7 of the transcript Dr Portmann responds to a question from the Hon. Joan Pease. It is about point 8 on the page. Dr Portmann said:

Sometimes even in the best of circumstances we understand that a person is to a degree being coerced but feel they still need to go ahead because it is their only choice because otherwise this person will leave them and their four kids. It is very hard to know what to do in those circumstances so you go ahead with what their choice is even though to a degree they are being coerced—

Work that one out—

It is very hard to know what to do in those circumstances so you go ahead with what their choice is ...

I pose a rhetorical question: I do not see much bloody choice in a woman being roughed up verbally, financially, physically—the list can go on and on—and that is prima facie choice for that woman to have a termination, but that is what is going on. Appallingly, Dr Portmann in Queensland seems to be quite unaffected by that proposition

because it seems her view is, "She has made her choice. Nothing to see here, even though there is a bit of coercion." I say this: That is just not acceptable. It is just not bloody acceptable that this is going on in our society and we have contributions saying, "We're finally talking about coercion". All I can say is: About bloody time because it ain't news to anyone.

I will conclude on this personal anecdote. I do not get personal. This is quite out of the blue but it happened to me. It is worth quoting because it did affect me to a degree. It took me quite by surprise and it links directly back to why I will be supporting the Hon. Robert Borsak's amendment. On 6 August—which was the first day of debate of the bill in the Legislative Assembly—I was a bit tired about the general atmosphere in this joint so I thought I would go for a bit of a wander. I thought, "I will just go outside and have a bit of a wander". I do not know whether the House was sitting—if it was I was probably a bit naughty in leaving the House and not telling the Whip—but I just wandered out the front. Actually it was during the dinner break so I am not making a big confession. So I wandered out the front and there were these people; these were protesters. I did not know virtually any of these people. I spotted a couple of faces but I did not know any of them, so I said, "G'day, how are you going? Yep. It is all going on. Yes, it is going through the House. Blah, blah, blah." It was just the normal banter that a politician has when they engage and talk with constituents and people they do not know.

I could see this woman out of my right eye. She was a relatively short woman and she was sort of looking at me. I thought: I do not know her, so I kept talking with these couple of people I knew. I said, "Listen, I've got to go. The Whip will be on my back and I'd better get back." So I started to wander back to the gatehouse. Anyway, this woman came up to me and grabbed my jacket. I said, "Excuse me?" and she said, "Are you a politician?" I said, "Well, I happen to be, yes. I am in the Legislative Council." She said, "What's that?" I said, "It's in the Parliament and I'm in one of the Houses". She did not know me, but she said, "Listen"—and by this stage the woman was actually trembling—she was bloody trembling and I thought: What am I going to do here? and she starts to cry.

I thought: Where am I going with this one? She said, "I just want to tell you something". I thought: She is going to make a confession. I'm not a priest, but I said, "Listen, you're obviously very upset." I took her away from the crowd and just stood by her, supporting her just in a little alcove area up near the gatehouse. I am calling her Maria. Maria was not her name, but can I tell you she was from a background that I expect was a European background from her language, her voice and the way in which she was talking to me. I said, "My name is Greg Donnelly." She called me Mr Donnelly. I said, "Just call me Greg". She said, "No, Mr Donnelly." I said, "Call me Greg," but she called me Mr Donnelly. She said, "Listen, I had an abortion. I was forced to have an abortion in 1994."

I am not a counsellor, I am not a psychologist and this is here in the middle of Macquarie Street. She started to cry and the tears were coming down. She said, "I think about my lost child every day of my life. I have thought about it every day of my life after I aborted this child." She said, "I think about my child every day." By this stage I am actually looking for a female somewhere who obviously I could bring in to help give a bit of support, to try to help me give support to Maria. She said, "Every time I go outside the house and I walk down the street and I see a young man or a young woman of 25 years of age I think to myself: That could have been my child. That could be my daughter or son." By this stage she is highly distraught.

I said, "Listen, it's tragic what's happened. If you just come with me I'll find someone. There's surely someone here who can sit down with you and get a water and have a bit of a talk, and we'll see what we can do. I'm sure someone will be able to provide you with some assistance and some guidance." I said, "I can't, but I know there's some people here, very good people." When I walked off I said, "I've got to go. I've got to get back to Parliament." She said—by this stage she was calling me Greg, which was good—"Greg, could you do what you can?" She didn't know my position on this legislation. She said, "Can you do what you can to speak out against people being forced to have an abortion? Can you speak out about that and try to stop it happening?"

I said, "As it turns out I do oppose, strongly, the bill because I think it's been terribly prepared and I think it's got gaping holes in it. I think in the area of people being forced to have an abortion it's appalling. There's just nothing in there that's of any particular merit at all." I said, "I will go and I will do my best. I'll have a go and do my best." Can I conclude by saying to Maria, who I will probably never meet again in my life, and I do hope that she finds peace in her heart, that while she did obviously have the termination in circumstances that she deeply regrets it would not have been a termination had she not been coerced. That is why we should support the Hon. Robert Borsak's amendment.

The Hon. PENNY SHARPE (23:23): I make a very brief contribution. I have spoken to most people in the Chamber. I have not had a chance to speak to the Hon. Greg Donnelly, but I think he will be okay with this. I listened carefully to what the Hon. Damien Tudehope, Ms Abigail Boyd and Mr David Shoebridge said in relation to my amendment. I seek leave to make a small change to my amendment.

Leave granted.

The Hon. PENNY SHARPE: Accordingly, I move:

That amendment No. 1 on sheet c2019-147 be amended as follows:

1. In paragraph (1A) (a) omit "coerces" and insert instead "uses intimidation to coerce".
2. In paragraph (1A) (b) omit "coerces" and insert instead "uses intimidation to coerce".

I have listened carefully and I believe this makes it better. I understand The Greens will still not be able to support the amendment. I thank them for their input. There was discussion in relation to the amendment as to whether I was widening "coercion" and making it trickier in terms of the definition, particularly in proposed subsection (1A) (b). This amendment will essentially make the intimidation offence consistent with the Crimes Act. It was not my intention to make it harder. My intention is that women get to make their own choices—whether it is to have or not have an abortion without coercion. Whilst that is picked up in the current laws, this makes it absolutely clear. I thank members for allowing that change. I understand that not all members will support this amendment.

The Hon. MATTHEW MASON-COX (23:25): I want to associate myself with the debate tonight. I put on the record my support for the Hon. Robert Borsak's amendment in the first instance and, should that not be successful, the Hon. Penny Sharpe's amended amendment. It has been a good discussion. I thank the Hon. Greg Donnelly for sharing his weighty contribution. I learnt quite a deal listening to him.

I do not profess to be an expert in this area but it grieves me greatly that these circumstances occur on a regular basis. The comments that the Hon. Greg Donnelly made in relation to Maria brings it home in a personal way. I will respond briefly in relation to the comments by Mr David Shoebridge in relation to RANZCOG President Dr Vijay Roach. I put on record that I reject the assertion of racial profiling. In the case of sex selection prohibition we have to trust the doctor. The doctor will manage this appropriately. The doctor will assess how the woman presents to him or her. I trust the doctor's judgement on this. I do not think we need to get into that; it does not do anybody any favours.

With those few comments I strongly support one of these amendments—presumably that of the Hon. Penny Sharpe. It probably indicates this is the sort of debate that needed to happen in a very comprehensive committee, which could have considered a lot of the issues that we have been going through in a lot of details over the last few days. That is symptomatic of the nature of this rushed bill, which perhaps is only coming to realisation for some that it might have been better to include people from all sides of the debate earlier on and perhaps had a proper process. I will leave those comments there.

Mr DAVID SHOEBRIDGE (23:28): The Greens appreciate the amendments being moved by the Hon. Penny Sharpe to the original amendment. They resolve the concern we had about expanding the scope of the criminal penalty. In many ways that amendment is now an avoidance of doubt provision, which is how it is intended. The Greens do retain the concern about the retention of the reference to sex selection in the amendment for the reasons that we made clear.

Given there have already been amendments adopted earlier in the bill to deal with that, it has still not been articulated clearly why it is necessary for that to be retained in the expanded provisions in section 545B of the Crimes Act. For the reasons we have made clear, we do not support that inclusion. I can say that the concerns that we had about the expanded operation of section 545B of the Crimes Act have been addressed by the amendment. However, our concerns about sex selection have not. Ideally, we would have an explanation about why it is necessary for that to be retained.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I will indicate how we shall proceed. I will put the Hon. Robert Borsak's amendment first and then, subject to the outcome, we will deal with the amendment moved by the Hon. Penny Sharpe to her own amendment.

Mr David Shoebridge: No, that has been accepted.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Penny Sharpe was given leave to move the amendment.

The Hon. Penny Sharpe: I thought I was seeking leave to incorporate the words.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): No. I have received advice about that. We will deal with the amendment to the amendment and then deal with the Hon. Penny Sharpe's original amendment. The Hon. Robert Borsak has moved amendment No. 1 on sheet c2019-095. The question is that the amendment be agreed to.

The Committee divided.

Ayes 14
 Noes 25
 Majority..... 11

AYES

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

NOES

Blair, Mr	Boyd, Ms A	Buttigieg, Mr M (teller)
D'Adam, Mr A (teller)	Faehrmann, Ms C	Fang, Mr W
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. Penny Sharpe has moved amendment No. 1 on sheet c2019-147, to which she moved an amendment to omit the word "coerces" in paragraphs 1A (a) and (b) and insert instead "uses intimidation to coerce". The question is that the amendment to the amendment be agreed to.

Amendment to amendment agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that amendment No. 1 on sheet 2019-147 as amended be agreed to.

The Committee divided.

Ayes 30
 Noes 8
 Majority..... 22

AYES

Amato, Mr L	Banasiak, Mr M	Blair, Mr
Borsak, Mr R	Buttigieg, Mr M	Donnelly, Mr G
Fang, Mr W	Farlow, Mr S	Franklin, Mr B
Graham, Mr J	Harwin, Mr D	Houssos, Mrs C
Jackson, Ms R	Khan, Mr T	Latham, Mr M
Maclaren-Jones, Mrs	Martin, Mr T	Mason-Cox, Mr M
(teller)		
Mitchell, Mrs	Moriarty, Ms T	Moselmane, Mr S
		(teller)
Nile, Revd Mr	Primrose, Mr P	Roberts, Mr R
Searle, Mr A	Secord, Mr W	Sharpe, Ms P
Taylor, Mrs	Veitch, Mr M	Ward, Mrs N

NOES

Boyd, Ms A	D'Adam, Mr A (teller)	Faehrmann, Ms C
Field, Mr J	Hurst, Ms E	Mookhey, Mr D (teller)

NOES

Pearson, Mr M

Shoebridge, Mr D

Amendment as amended agreed to.**The Hon. PENNY SHARPE:** I move:

That the Chair do now leave the chair, report progress and seek leave to sit again at a later hour of the sitting.

Motion agreed to.**Adoption of Report****The Hon. DON HARWIN:** I move:

That the report be adopted.

Motion agreed to.*Petitions***RESPONSES TO PETITIONS**

The Hon. DON HARWIN: I lodge responses to the following petitions signed by more than 500 persons:

Reproductive Health Care Reform Legislation—lodged 20 August 2019—(Reverend the Hon. Fred Nile)

Reproductive Health Care Reform Legislation—lodged 20 August 2019—(Reverend the Hon. Fred Nile)

Reproductive Health Care Reform Legislation—lodged 20 August 2019—(The Hon. Scott Farlow)

Reproductive Health Care Reform Legislation—lodged 21 August 2019—(The Hon. Scott Farlow)

Reproductive Health Care Reform Legislation—lodged 21 August 2019—(The Hon. Robert Borsak)

Reproductive Health Care Reform Legislation—lodged 21 August 2019—(The Hon. Robert Borsak)

Reproductive Health Care Reform Legislation—lodged 22 August 2019—(The Hon. Robert Borsak)

Reproductive Health Care Reform Legislation—lodged 22 August 2019—(The Hon. Robert Borsak)

I move:

That the documents be printed.

Motion agreed to.*Adjournment Debate***ADJOURNMENT****The Hon. DON HARWIN:** I move:

That this House do now adjourn.

RELIGIOUS FREEDOM

The Hon. LOU AMATO (23:45): In every great democracy freedom of speech is cherished. When Israel Folau expressed his freedom of speech, many were incensed. There were calls for retribution, which resulted in Mr Folau's sacking by Rugby Australia. Most people will recall that I personally supported Israel Folau's right to freedom of speech. Many support Israel Folau, yet there were some who took extreme offence at his comments. In some cases the level of offence and subsequent outrage was ridiculously disproportionate. It was as though Israel Folau committed an act of extreme violence or some heinous crime which had caused death or injury to countless individuals.

Kyle Sandilands has recently found himself in hot water over comments he made about the Virgin Mary. Also being a person of faith, I find his actions repugnant, insensitive and totally inappropriate. There is a difference between the actions of Israel Folau and those of Kyle Sandilands. Mr Folau's comments were never intended to cause hurt or suffering. Mr Folau was motivated by a deep conviction that the Christian Gospel is the blueprint for peace and goodwill. He spoke of the consequences of deviating from the Gospel, which he believed to be the true path to individual salvation and the collective good of humanity. He spoke with love and concern for all people, who he considers to be his brothers and sisters. Not everyone subscribes to the same belief system as Mr Folau. Those who do not have every right to express a different viewpoint, just as Mr Folau has every right to express his.

Kyle Sandilands spoke from a different perspective than Israel Folau. His comments did not originate from the desire to spread goodwill. There was no call to a higher standard of living and his comments were devoid of a genuine concern for his fellow brothers and sisters. His actions were a deliberate attempt to insult and deride persons of faith, which he did by offending both Christians and Muslims. What is troubling is the double standard being increasingly adopted by our community. Mr Folau found himself sacked from his job by Rugby Australia, while Kyle Sandilands is still employed with only minimal fallout from his actions. The double standards creeping into our community are worrisome: Express your faith and a desire to better the world and you end up being penalised; express your hatred towards people of faith and all is well. There are only a handful of troublesome people of faith to worry about; no problem, they will go away soon enough.

Just as I defended Israel Folau's right to express his freedom of speech, I also defend Kyle Sandilands' right to freedom of speech. It would be easier for me to deny people who disagree with me the right to express freedom of speech. However, freedom of speech invariably involves disagreement. The vastly differing opinions in this place should be evidence enough of that. Someone's freedom of speech may be offensive to certain individuals and groups of people. However, because I disagree with someone I will not hinder or seek to lessen their right to freedom of speech. Freedom of speech is a cornerstone of Western democracy and though I may abhor your point of view, I will rigorously defend your right to express it.

Obviously there must be some restrictions on the right to express one's views. Dangerous views and ideologies that foster hatred and violence in our community must be kept in check. But we must be careful that we do not limit our right to express ideas and opinions until we become moulded into the shapeless, identity stripped, plastic figurines of political correctness. Personally I am not offended by Sandilands' stupid remarks. I have always had very little time for him. Instead of getting offended and feeling that I am a victim, I choose not to listen to his nonsensical radio rants. My advice to those offended by an obviously ignorant and intellectually impoverished human being is to switch radio stations—problem solved. That is my opinion, which I freely express. Others may have a different opinion and I also encourage their right to express it.

ROOKWOOD CEMETERY

The Hon. TARA MORIARTY (23:48): On Sunday 22 September I had the honour of speaking at the Rookwood Cemetery Open Day. The Rookwood Cemetery Open Day was established in 1993 and it has run biennially ever since with the aim being to invite the local community and beyond to discover Rookwood's superb landscape, fascinating history, evolving communities and unique services. The open day is a cemetery-wide event that is organised by Rookwood General Cemetery, in collaboration with the Friends of Rookwood, the Rookwood Necropolis Land Manager, Rookwood Memorial Gardens and Crematorium, the Catholic Cemeteries and Crematoria, and the Office of Australian War Graves.

Events such as the open day provide a great opportunity for members of the public to see cemeteries like Rookwood as not just a beautiful and peaceful place of mourning but also as a place filled with history, and as a place that is part of our community. Rookwood, steeped in history, was created 152 years ago in 1867 and is the largest Victorian era cemetery still in operation. The location of Rookwood was chosen because it is on the Sydney to Parramatta train line. Being a popular destination for people to go, there was a twice daily train service for both members of the public and for the deceased. For members of the public, it cost one shilling return; for the deceased, it was free.

The train would depart from Regent Street, Redfern and would arrive at the Mortuary Receiving House Number 1. This building is no longer in Rookwood today. It was dismantled stone by stone in 1957 and transported in 83 semitrailers to Canberra, where it is now the All Saints Church in Ainsley. Rookwood is home to around one million souls, with some of Australia's most notable figures buried there, including people such as author and feminist Louisa Lawson and former Premier Jack Lang. Rookwood is a place where no matter your religion, cultural heritage or income, you can come and mourn family members and friends, you can enjoy the beauty of the space and you pay tribute to Australia's history.

Upon the creation of Rookwood, the then acting Surveyor-General stated that "the spot chosen should be capable of being cultured and beautiful". I believe that this is something Rookwood has achieved and maintained. From the HIDDEN sculpture walk and exhibition, the restoration of World War I veteran memorials, to the Circle of Love Garden commemorating the 30,000 young children buried in unmarked graves, Rookwood has taken the part of life that people do not feel comfortable discussing, that people fear, and has made it a really beautiful space.

The fantastic work that Rookwood does can be seen in events such as the open day on Sunday. People from all different communities, ages and religions joined together to take part in this wonderful event. I commend Rookwood for the community engagement to ensure everyone gets a dignified and respectful final resting place. I acknowledge that there are real difficulties in the cemeteries space, particularly in regards to space. As shadow

Minister for Crown Lands, I look forward to working with Rookwood and other stakeholders in this area to ensure viable, affordable and lasting methods of internment for all members of the community.

CHILD SEXUAL ABUSE

Mr DAVID SHOEBRIDGE (23:52): On 23 October last year I spoke in this place about the repeated sexual abuse of a boy by Frank Houston in Sydney in the 1970s. On that occasion I referred to this boy as AHA as he was referred to in the royal commission. That boy is now a man called Brett Sengstock, a man who broke his silence to call publicly for justice; a brave man who deserves justice. The man who sexually assaulted Brett was Frank Houston, often known as the father of Hillsong, a serial paedophile. His son Brian Houston is the current leader of the Hillsong Church and best friend of Prime Minister Scott Morrison. Our Prime Minister is so enamoured of Brian Houston that he asked for him to be part of Australia's delegation to the United States, only to be refused by the Trump administration. Brian Houston and Hillsong's response to the royal commission's damning findings regarding the church, included the following:

This Royal Commission did not directly involve Hillsong Church. The abuse committed by the late Frank Houston, the father of our senior pastor Brian Houston, occurred many years before Hillsong church existed, when he was a credentialed Assemblies of God minister in New Zealand.

This was also their legal defence against the claims from Brett Sengstock for compensation. This church, whose so-called "love offerings" for visiting pastors can raise hundreds of thousands of dollars each Sunday, avoided paying fair compensation to Brett on a legal technicality.

These "love offerings" are part of what make this brand of Pentecostalism so lucrative. While a pastor cannot take money from their own church they can visit a neighbouring church and receive direct love offerings in cash or by cheque. This money will often be funnelled to a "public benevolent institution" that the pastor has registered in his or her name. This then pays them a handsome tax free wage and fringe benefits. In short, these "love offerings" are a con. Hillsong did eventually give some money to Brett for his damaged life and repeated assaults. He was promised a mere \$10,000 hush payment at Thornleigh McDonald's by Frank Houston and Nabi Saleh. Even that cash was forthcoming only after a call with Brian Houston. Brett's testimony to the royal commission about this is illuminating. He said:

About two months after my meeting with Pastor Frank at McDonalds, I telephoned Brian Houston as I had not yet received any money from Pastor Frank. We had a conversation to the following effect:

Me: "What's happening with the payment I was promised? I agreed to forgive your father."

Brian: "Yes, ok, I'll get the money to you. There's no problem ... You know, it's your fault all of this happened. You tempted my father."

When Brett finally received a cheque from Hillsong there was no note from Brian, no apology, no compassion. There is a clear continuity in leadership from Frank to Brian of this church. In fact, the church leadership who failed to report Frank's abuse to the police despite holding numerous meetings to discuss the extent of his abuse in Australia and New Zealand, continue to lead the church. The Hillsong Church eventually stripped Frank Houston of his credentials but it allowed him to retire on a generous pension and under a cloak of secrecy about his sexual offending. It has never publicly referred to the assaults on Brett. Its only statement referred to:

... claims of a serious moral failure against Frank Houston. The incidents that have been investigated happened more than 30 years ago and Frank has admitted to the failure with great remorse.

The church has since falsely claimed that Frank did not preach again after this. This claim is clearly incorrect. I am aware of multiple occasions in which he was a visiting pastor at affiliated churches, with unhindered access to church families and their children. In this role he continued to receive so-called love offerings. Brett deserves so much more than this cold, brutal dismissal from Hillsong. This church, and its significant wealth, was built on the preaching of Frank Houston, whose violence and disregard for Brett does not seem to trouble Frank's son and the current church leader. A church that reaps millions of dollars in tax free "love offerings" cannot find the compassion or decency to pay Brett fair compensation for the harm done to him. Whatever the legalities, this is morally corrupt. I will finish by placing on the record what Brett wanted to tell his elected representatives about Scott Morrison's invitation to Brian Houston:

It's a slap in the face for sexual abuse victims. It's a slap in the face to the Royal Commission into institutional child sexual abuse, and it's a slap in the face to the Australian Laws. It makes Mr Morrison's apology to sexual abuse victims invalid.

DEPARTMENT LIAISON OFFICERS

The Hon. NIAL BLAIR (23:57): Tonight I would like to begin my thanks to the many people who have helped me throughout my time in the New South Wales Parliament. I will start with my time as Minister, and thank the department liaison officers [DLOs]. The role of the DLO is to provide the Minister's office with a readily accessible source of knowledge and skills regarding the operations of the department or agency within the

Minister's portfolio. DLOs should be identified by departments or agencies having regard to specialised skills, knowledge and experience, and they may be assigned to perform administrative support roles, agency contact roles or specialist adviser roles.

I was lucky to be blessed with many talented DLOs working in my office during my four years as a Minister. In 2015 I had Columbine Waring, Esther Phang, Karen Hearnden, Marion Winkler, Renata Pronk and Tim Owen. In 2016 I had Bavi Varathalingam, Belinda Sheather and David Willison. In 2017, 2018 and 2019 I had Beth Bull, Camila Ridoutt-Wolfenden, Chayna Moldrich, Elise Trask, Emily-Kate Byrne, James Elliott, Lily Shang, Nilufa Nazreen, Phillip Couchman and Teresa Pun. Relief DLOs included Ignatia Nolasco, Kathryn Pender, Narelle Sassine, Russell Johnston and, for short periods of time, Bill Karidis, Jacques Dulaurent, Kellie Shedden, Linda Black, Oriana Monteiro, Tracey Lam and Victoria Campbell.

The Hon. Taylor Martin: Gee, you went through them.

The Hon. NIAL BLAIR: I did go through them because they come to Ministers' offices to gain a range of different experiences. Ultimately they go on to be promoted. They get important insight into not just working in the department but also how the department and the agencies interact and liaise with Ministers' offices. It is seen as a career-progressing activity to work at a Minister's office. As I said, many talented people fulfilled that role during my four years as Minister. Some were lawyers and some were content experts within their field. They all added value to our office and served the people of New South Wales well. I like to think that we treated them and welcomed them like we did with any of the other policy or professional staff who we employed directly within our office.

Those who were lucky enough to be with us during December were always invited to the Christmas party. We also celebrated their birthdays. They had to give a joke on their birthday and every birthday was celebrated with cake. I wanted to take the time out to thank the DLOs, who are overlooked at times in ministerial offices. We spend a lot of time with our employed staff, particularly our policy and political advisers, but the role of the DLOs is vitally important. When you need some information out of the department quickly or to ensure that your House folder notes or budget estimates briefing notes are up to date, the DLOs chase them up.

If you need to ensure that the correspondence that you will be signing has departmental advice in it, the DLOs will check it. The briefing notes from the departments are also fed through the DLO system. They are a valuable source. I thank every one of them for the contribution they made to my time as a Minister. I am lucky to remain in contact with many of my DLOs. I look forward to keeping in contact with them in the future and seeing their careers continue to flourish. I hope their time in my office has contributed positively to it. I thank them all.

BLACKTOWN YOUTH SERVICES ASSOCIATION

The Hon. PENNY SHARPE (00:02): About a month ago I got to do something I love about this job: To visit a youth service I had not visited before, to see the work that it is doing and to spend some time with many young people. I visited the Blacktown Youth Services Association [BYSA], right next to the station. It has looked after over 1,200 young people in the past six months who have sought its services. It does a range of the usual things that youth services do, which is to find help and refer people. I was impressed by how that service has managed to engage young people and develop a youth-led service.

As their coordinator, the fantastic Natalie Chiappazzo, said to me, "The answer is always yes." If the young people want to do things, that is what they do. BYSA has a social enterprise where the kids are learning to become baristas and make coffee. It has an excellent music studio where some fantastic young people are making beats, singing songs and recording their own music. Recently two of them supported 5 Seconds of Summer. When 5 Seconds of Summer tours, it does a fundraiser with an organisation. It did it with BYSA's Zakky Lanes and Adela, two young people who I was fortunate to meet when I was there. The service looks after kids who are from 140 countries around the world and who live in Blacktown. The service actively talks about not just cultural competence but also cultural understanding and exchange, and about sharing and learning who we are, what it is to be Australian and what it is to live in western Sydney.

It is important to know that the kids who attend the service are doing it pretty tough. Some 67 per cent of them are not in school or training, while 73 per cent of them have had interactions with the justice system. I was very lucky to speak to some kids who are African-Australians. They talked about the experience of trying to move around the shops and being moved on or banned. It was really quite scary. They are just trying to find somewhere safe to be. Some 25 per cent of the kids who access the service have involvement with out-of-home care. We are talking about kids who are doing it pretty tough. However, I was very pleased to see that they have found a service that they want to go to and are actually attending. The most common reason that young people give for attending the service is that it is a place in the community where they feel safe and included.

I reflect on this not just because it is a good thing that I get to do in my job but also because this service is struggling. It has had issues in relation to Family and Community Services that have meant it is currently not funded. It is running the service on the reserves that it has built up—the service has been around since 1986. I am not apportioning blame around what has happened with the funding; I am trying to raise in the House our inability to fund the amazing services in our communities that are doing so much more than they appear to on the surface. This service is an example of that.

I was lucky to meet three young men who are involved in another program that works with the Blacktown Youth Services Association called Rap 4 Change—again, some fantastic work being done on the smell of an oily rag. A few blokes—great fellows, actually—in western Sydney are actively engaging with kids who are in juvenile detention for serious matters. They are getting out, they usually do not have any family and are often homeless. If we do not look after them they will head straight back into crime, jail and eventually adult jail. Rap 4 Change has worked with those men. As I said, I met three of them, but in the past six months they have found 18 young men leaving juvenile detention and secured apprenticeships for them. Those young men are working legitimately—some of them for the first time. I raise these issues because the service is important. I congratulate Sean Castle, the chair of the committee, and the coordinator, Natalie. We need to find ways to support communities, particularly those that have found a way to engage with the toughest kids with the biggest hearts and give them a go.

OLD-GROWTH FORESTS

The Hon. MARK BANASIAK (00:07): Old-growth forests are critically important and ecologically significant areas in New South Wales. For those members who are not clear on what an old-growth forest is, I will provide some clarification. Clarification is needed because it is becoming abundantly clear that what constitutes an old-growth forest is becoming skewed in political games. According to the NSW Environment Protection Authority, an old-growth forest is:

... where the over-storey is in the late mature to over mature ... growth stage with the presence of large old trees, many containing hollows and often with the presence of dieback or dead branches in the crown.

The beauty of these old, very large and dying trees is that they create habitat for our native fauna in the hollows of limbs and trunks and the fallen logs that lay on the forest floor. They provide a diverse array of nesting and roosting material for native wildlife with shedding and loose bark and offer food in the form of nectar, pollen and sap. Culturally, many of the old-growth forests that have been mapped correctly are significant to Indigenous communities. They have been meeting grounds and sacred sites for thousands of years. It is vital that these old-growth forests are located and mapped correctly.

Last year the Premier asked that our New South Wales old-growth forests be reassessed by the Natural Resources Commission. Because of the insecurity created with the new Coastal Integrated Forestry Operations Approval, the Forestry Corporation of NSW may have trouble keeping its end of the "twin commitments ... of no erosion of environmental values and no net change to wood supply" made by the State and Commonwealth governments. The rezoning that has occurred in this Coastal Integrated Forestry Operations Approval has caused uncertainty to the resource supply—that is, there is not enough native forest to utilise new areas. This should not be an issue.

When old-growth forests were first mapped in the 1990s, they were done so incorrectly. In fact, a recent audit found that over 78 per cent of mapped old-growth forest on the North Coast was not old-growth forest at all. In 1999 the Government acknowledged those significant errors in the mapping had occurred, yet the tenure of those areas remain as old growth, and successive governments have decided repeatedly not to change their status since. Apparently, votes at the electoral ballot box gazump good and proper forestry management. During budget estimates earlier this month, Mr Justin Field made the wise observation that a majority of the recent fires that have devastated New South Wales have occurred in national parks, old-growth forests and forested areas, which have been World Heritage listed. He went on to ask the environment Minister:

... while we are losing so much World Heritage-listed area, old-growth forest and rainforest, how can the Government contemplate opening up old-growth forest for logging?

To begin with, it probably is not old-growth forest because the mapping is "significantly incorrect". Secondly, you cannot simply change the tenure of an area of land from a State forest to national park, for example, and then walk away from any form of management, accepting that it is now "protected" from bushfire. Protecting something means doing something: taking action. Changing the tenure of an area of land and then walking away is negligent and lazy. National parks are tinder boxes that only need the suggestion of a spark to light up. In New South Wales we have ensured there is no shortage of fuel; we are in drought and there has been zero action in fuel-reduction burns. We have a State Government that will sacrifice the health of our forests for the green vote.

It beggars belief that the Government has adopted The Greens forest and fire management policies, when it is those same policies that have underpinned the many mega-fire disasters that have occurred in this State and other States. This brings me to the current environment Minister and his remapping. We have heard allegations that the NSW National Parks and Wildlife Service is hiring its anti-logging and activist mates to do the remapping of old growth. If this is the case, I am not given much hope that the wrongs of the past will be corrected. Old-growth mapping is vitally important. It is important it is done correctly and it is important we know exactly where they are so that they can be actively managed and protected from wildfires.

The ACTING PRESIDENT (The Hon. Trevor Khan): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 00:12 until Wednesday 25 September 2019 at 11:00.