



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Seventh Parliament
First Session**

Wednesday, 25 September 2019

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LEGISLATIVE COUNCIL

Wednesday, 25 September 2019

The DEPUTY PRESIDENT AND CHAIR OF COMMITTEES (The Hon. Trevor Khan), in the absence of the President, took the chair at 11:00.

Reverend the Hon. Fred Nile read the prayers and acknowledged the Gadigal clan of the Eora nation and its Elders and thanked them for their custodianship of this land.

Governor

ADMINISTRATION OF THE GOVERNMENT

The ACTING PRESIDENT (The Hon. Trevor Khan): I report receipt of a message regarding the administration of the Government.

Bills

JUSTICE LEGISLATION AMENDMENT BILL 2019

First Reading

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Don Harwin, on behalf of the Hon. Sarah Mitchell.

The Hon. DON HARWIN: I move:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Motion agreed to.

The Hon. DON HARWIN: I move:

That the second reading of the bill stand an order of the day for a later hour.

Motion agreed to.

Motions

PEOPLE'S REPUBLIC OF CHINA FOUNDING SEVENTIETH ANNIVERSARY

The Hon. SHAOQUETT MOSELMANE (11:04): I move:

1. That this House notes that:

- (a) on Saturday 21 September 2019, the Triple Happiness Gala Banquet was held at the Marigold Restaurant in Sydney to celebrate the:
 - (i) seventieth anniversary of the founding of the People's Republic of China;
 - (ii) forty-seventh anniversary of the establishment of the diplomatic relationship between Australia and China; and
 - (iii) fortieth anniversary of the sister relationship between New South Wales and Guangdong Province.
- (b) over 100 Chinese community organisations in New South Wales and 600 community leaders were part of the auspicious celebrations of the diplomatic ties between Australia and China;
- (c) the event was attended by special guests including:
 - (i) Professor the Hon. Dame Marie Bashir, AD, CVO, former Governor of New South Wales;
 - (ii) the Hon. Barrie Unsworth, former Premier of New South Wales;
 - (iii) Councillor Robert Kok, representing the Lord Mayor of Sydney;
 - (iv) the Hon. Shaoquett Moselmane, Legislative Council Assistant President; and
 - (v) Chinese diplomatic and consular representation.
- (d) the event was a colourful display of Chinese culture with many young and old talented Chinese artists providing wonderful entertainment throughout the evening.

2. That this House acknowledges the work of Dr Tony Goh, Chairman of the Australian Council of Chinese Organisations, and congratulates the Australian Council of Chinese Organisations for building a harmonious relationship between Australia and China.

Motion agreed to.

ROSH HASHANAH

The Hon. NATALIE WARD (11:04): I move:

1. That this House notes that:
 - (a) the Jewish New Year, Rosh Hashanah, will be celebrated from 29 September to 1 October 2019;
 - (b) Rosh Hashanah is a special time in the Jewish calendar to reflect on the lessons of the year that has passed, as well as an opportunity to look towards the year ahead;
 - (c) leading up to Rosh Hashanah, many from the Jewish community take part in "Selichot"—prayers for divine forgiveness; and
 - (d) as the Kiddush blessing is recited to welcome the New Year, it is customary to share symbolic foods: pomegranate, kosher animal head and apple dipped in honey for a sweet new year.
2. That this House wishes the New South Wales Jewish community a Shana Tova Umetukah.

Motion agreed to.

SAMPLE FOOD FESTIVAL

The Hon. BEN FRANKLIN (11:05): I move:

1. That this House notes that:
 - (a) the Sample Food Festival was held on 7 September 2019 at the Bangalow Showgrounds;
 - (b) Koobideh won the \$5 tasting plate award for their magnificent Persian meatballs; and
 - (c) Doma Café won the \$10 tasting plate award for their wood fire grilled lamb spare ribs.
2. That this House congratulates those farmers, producers, chefs and restaurants who were involved from across the Northern Rivers and who were excellent ambassadors for promoting the produce of the region.
3. That this House recognises and thanks the organiser Rose Taylor and founder Remy Tancred for their work in creating another fantastic festival, which has been held each year since 2011.

Motion agreed to.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. JOHN GRAHAM: I move:

That business of the House notices of motions Nos 1 and 2 be postponed until the next sitting day.

Motion agreed to.

The Hon. EMMA HURST: I move:

That business of the House notice of motion No. 3 be postponed until Wednesday 23 October 2019.

Motion agreed to.

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 (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (11:17): I move:

1. That proceedings on the Justice Legislation Amendment Bill 2019 take precedence of all other business, except questions, this day, until concluded or adjourned.
2. That following the conclusion or adjournment of proceedings on the Justice Legislation Amendment Bill 2019 proceedings on all of the remaining stages of the Reproductive Health Care Reform Bill 2019 take precedence of all other business, except questions, this day, until concluded or adjourned.

3. That paragraph 2 (a) of the sessional order for the motion for the adjournment at midnight be suspended this day. This will be the sixth Government business day on which this private member's bill is debated. As honourable members may be aware, a bill has come to us from the Legislative Assembly which has one particularly urgent provision. The circumstances have been canvassed in debate in the other place today. I believe there has also been other commentary elsewhere. We need to deal with that bill, so the motion is framed in that way. I propose that we then return to the Reproductive Health Care Reform Bill 2019 and that we conclude debate on the Committee stage of the bill. I have received feedback from a number of members that that is not likely to take us beyond midnight but as a precaution and to enable us to have that debate now while members are reasonably more fresh in the morning I have included that in this motion in case members want to speak to the bill. I place on notice that all Government members will have a conscience or free vote on this motion. I commend the motion to the House.

The Hon. ADAM SEARLE (11:19): Opposition members will also have a free vote on this procedural motion but the arguments laid out by the Leader of the Government are compelling. The matters that we have been dealing with over the last week are very significant and important but there are other matters of business that the Parliament also needs to deal with. The proposal from the Leader of the Government to essentially sit until the Reproductive Health Care Reform Bill is done is a welcome addition—one that could well have come earlier, but all things in their time. In any case, the order of business proposed by the Government to deal with one Government bill and then return to the Reproductive Health Care Reform Bill is a sensible proposal. I will be supporting the motion.

The ACTING PRESIDENT (The Hon. Trevor Khan): The question is that the motion be agreed to.

Motion agreed to.

Bills

JUSTICE LEGISLATION AMENDMENT BILL 2019

Second Reading Speech

The Hon. NATALIE WARD (11:21): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

I will detail the amendment to the bill agreed to in the other place. On Monday the Department of Communities and Justice advised the Attorney General that part 6B of the Crimes Act 1900 had been automatically repealed after a sunset clause took effect. Part 6B contains the New South Wales offence of membership of a terrorist organisation. Given the identical offence in section 102.3 of the Commonwealth Criminal Code, the automatic repeal of part 6B has had no operational impact and posed no risk to community safety. The Minister for Counter Terrorism and Corrections, the Hon. Anthony Roberts, and the Attorney General, the Hon. Mark Speakman, have directed the Secretary of the Department of Communities and Justice, Mr Michael Coutts-Trotter, to ensure that in future robust procedures are in place for reviewing forthcoming timed repeal of regulations apply to the timed repeal of statutes.

Out of an abundance of caution, yesterday the Attorney General moved an amendment to this bill that, if passed, will re-enact sections 310I, a definitions section, section 310J, the New South Wales membership of a terrorist organisation offence, and section 310K, a double jeopardy provision, in part 6B of the Crimes Act, with retrospective effect from 13 September 2019, the day of repeal. The sunset clause in section 310L is not proposed to be reinserted, as the New South Wales offence of membership of a terrorist organisation should be permanently retained.

I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

Leave granted.

The Government is pleased to introduce the Justice Legislation Amendment Bill 2019. The bill introduces a number of miscellaneous amendments to address developments in case law, support procedural improvements and close gaps in the law that have become apparent. In particular, the amendments will strengthen our community through improving criminal investigation and enforcement, improving coronial processes to reduce delay and improving the New South Wales justices of the peace [JP] system. I now turn to the detail of the bill.

Schedule 1.8 [1] and [3] to the bill will amend section 203E of the Crimes Act 1900 so that the standard non-parole period for bushfire arson is increased from five years to nine years. Last year the State Government increased the maximum penalty for New South Wales' targeted bushfire offence from 14 years to 21 years. When introducing that reform to Parliament, I also asked the NSW Sentencing Council to consider if the standard non-parole period for the bushfire offence should be increased. In its June 2019 fire offences report the Sentencing Council recommended that the standard non-parole period for the bushfire offence be set somewhere in the range of eight to 10 years.

A nine-year standard non-parole period, representing approximately 43 per cent of the maximum penalty, reflects the seriousness with which the community views the offence of bushfire arson. It takes into account the need for special deterrence, given the prevalence of deliberately lit fires and the difficulties in detection and prosecution; the potential for exceptional personal, economic and environmental harm caused by deliberately lit fires; and the potential vulnerability of victims, particularly those who live in

rural and regional areas. The standard non-parole period and the maximum penalty have been described as legislative guideposts for sentencing. The reforms provide a very clear message about the seriousness of this offence.

I acknowledge and commend the tens of thousands of brave volunteers of the NSW Rural Fire Service throughout the State. I am immensely lucky to have two brigades in my electorate: the Kurnell Rural Fire Service and Grays Point Rural Fire Service. In April last year Sutherland shire communities were threatened by a bushfire, suspected to have been deliberately lit. It was a miracle that no lives were lost. It was only the dedication of our fire services from within the shire and outside that prevented the loss of life. I also thank the Sentencing Council and its chairman, the Hon. James Wood, for its hard work in preparing the fire offences report and for its ongoing attention to detail in promoting reform of sentencing principles and clarifying and endorsing sentencing principles in New South Wales.

Back to the fire service: It is the world's largest volunteer fire service. Its members provide fire and emergency services to around 95 per cent of New South Wales. It has 2,002 brigades and over 72,000 members. In the year ended 30 June 2019 rural fire brigades responded to over 30,000 incidents across New South Wales. Their efforts saved lives and thousands of properties in communities across the State. In the year ended 30 June 2019 the NSW Rural Fire Service and its partner agencies successfully treated almost 200,000 hectares of land and protected more than 102,000 properties. That is an immense an extraordinary effort by selfless volunteers.

I now move to two amendments in schedules 1.4 [1] and 1.4 [2] to the bill that improve coronial processes and reduce delay. At the outset, I acknowledge my colleague the member for Wakehurst, and Minister for Health and Medical Research, Brad Hazzard, for his considerable efforts and devotion to this issue. I also acknowledge the advocacy of many members in the House, in particular, the member for Cootamundra, Ms Steph Cooke; the member for Albury, Mr Justin Clancy; and the member Wagga Wagga, Dr Joe McGirr; each of whom has advocated on behalf of their communities for improvements to the coronial system, particularly for regional New South Wales. Section 35 of the Coroners Act 2009 provides that any person who has reasonable grounds to believe a death or suspected death of another person is a "reportable death" within the meaning of section 6 of the Coroners Act must report the death to a police officer, coroner or assistant coroner.

Section 6 (1) (d) provides that a person's death is a reportable death if the person who died had not seen a medical practitioner within six months before their death. The amendment in schedule 1.4 [1] will bring New South Wales in line with all other States and Territories, except the Australian Capital Territory, by providing that deaths will no longer be reportable to the Coroner simply because the person did not see a medical practitioner within a period of time before their death. This will remove the requirement for the Coroner to consider deaths that are obviously deaths from natural causes. The obligation under the Coroners Act to report unnatural, violent or suspicious deaths and sudden deaths from unknown causes will remain.

I anticipate that the amendment will reduce the number of natural deaths unnecessarily reported to the Coroner, allowing the coronial jurisdiction to focus on inquiries into suspicious deaths and recommendations relating to public health and safety. The bill also introduces a new provision in part 8 of the Coroners Act, which deals with post-mortem investigative procedures. The new provision—section 88A—will allow a pathologist to carry out a preliminary examination of the remains of a deceased person without the need for a direction from a coroner. A preliminary examination involves only non-invasive procedures, such as taking blood samples, X-rays or CT or MRI scans. In many cases, these will be necessary to determine whether an invasive full post-mortem examination is required.

The process should improve the quality of the Coroner's decision-making and, in circumstances where invasive full post-mortem examinations are not required, may resolve matters quickly, allowing bodies to be returned to families without unnecessary delay or invasive procedures. I note that the two amendments are only immediate measures to respond to coronial delays. The Department of Communities and Justice has joined with NSW Health in establishing a high-level task force to undertake an end-to-end review of the coronial process with the aim of improving the timeliness of the coronial process for New South Wales families. The task force consists of members of the judiciary, the Department of Communities and Justice, the NSW Police Force and representatives from NSW Health. The New South Wales Government looks forward to considering the recommendations of the task force and to continuing to work with the members of this House—in particular, members representing the electorates of Cootamundra, Albury and Wagga Wagga—on a coronial system that puts grieving families first.

Last year the New South Wales Government conducted a Justices of the Peace Framework Review, which included a public consultation paper and targeted consultations with the four New South Wales JP associations: NSW Justices Association, Australian Justices of the Peace Association, Northern NSW Federation of Justices of the Peace, and Tweed Valley Justices' Association Inc. That review identified the three amendments proposed in this bill. First, schedule 1.13 to the bill will amend the Justices of the Peace Act 2002 to enable justices of the peace who are aged 65 years or over and have completed 10 years of continuous service to apply for the title "JP Retired". JPs gift their time and expertise to helping people at key moments of their lives, whether it be buying a home or accessing superannuation. The introduction of this new title will ensure that the valuable service that many justices of the peace provide voluntarily to their local communities over a number of years can be properly recognised.

The schedule also contains an amendment to enable the Secretary of the Department of Communities and Justice to delegate the exercise of functions under the Act and associated regulation to a senior officer of the department in order to deliver administrative efficiencies. Schedule 1.18 to the bill will amend the Oaths Act 1900 to clarify that justices of the peace may witness the execution of interstate documents where the law of another State or Territory empowers them to do so. This will resolve uncertainty as to whether justices of the peace in New South Wales have the authority to witness such documents. It will also make it much easier for members of the community to complete common interstate forms, such as land title documents.

I thank the NSW Justices Association, all the JP associations and other JPs for identifying this issue and raising it with me. I particularly thank, among others, Mr Paul Mannix, former President of NSW Justices Association; Mr Peter Enderby and Bruce Gibbs of that association who invited me to officially open the NSW Justices' Association's State conference last year. I also thank the Australasian Council of Justices' Associations and Ms Janet Grumley, President of the St George and Sutherland Shire Branch of the NSW Justices Association. Finally I extend my gratitude to the President, Mr Robert Winter, and Secretary, Ms Christine Cordingly, of the Northern NSW Federation of Justices of the Peace, whose seventieth anniversary I attended.

I now move to schedule 1.6 to the bill. In circumstances where there is uncertainty about when a sexual offence is alleged to have been committed against the child and that uncertainty means that the alleged conduct, if proven, would constitute more than one sexual offence, section 80AF of the Crimes Act 1900 currently provides that the person may be prosecuted under whichever of those sexual offences has the lesser maximum penalty, regardless of when the conduct actually occurred. Schedule 1.6 to the bill

will amend section 80AF of the Crimes Act to clarify that, in circumstances where two potentially applicable offences have the same maximum penalty, the accused person may be prosecuted in respect of the conduct under either of those offences. It will continue not to be possible to prosecute the accused person for an offence that has a higher maximum penalty than any of the other applicable offences.

I now turn to a number of proposals which will make amendments to improve criminal procedure and court processes in criminal proceedings. Schedules 1.15 and 1.16 to the bill will amend the Law Enforcement (Powers and Responsibilities) Act 2002 to enable applications for notices to produce to be made to the local court by electronic means at all times, rather than only after hours and in urgent situations. Applications for notices to produce take up significant police officer time when they need to be made in person because of the need to travel to a court registry. This amendment will create efficiencies for both police officers and the courts and represents an appropriate shift in modernising court processes through the use of technology.

Schedule 1.8 [2] to the bill will amend legislation to clarify an ambiguity that has arisen following the passage of last year's sentencing reforms. This amendment will ensure the courts still have the power to take action in response to an offender's breach of a suspended prison sentence that expired prior to commencement of the 2018 amendments. It will insert a savings and transitional provision into the Crimes (Sentencing Procedure) Act 1999, which was inadvertently left out of the 2018 amending legislation. It will not create a new process. It will maintain continuity with the repealed section 100 of the Crimes (Sentencing Procedure) Act 1999 in how the court can handle those matters to ensure that offenders do not get away with historical breaches of suspended sentences.

Where the court becomes aware that an offender has breached the conditions of a good behaviour bond, imposed with a suspended sentence that was imposed and expired before the sentencing reforms commenced, the amendments will ensure that the court can deal with the breach in accordance with the savings and transitional provisions for suspended sentences. They provide that if a court decides to deal with the breach by revoking the good behaviour bond, the court must determine whether the offender should serve the prison sentence in full-time custody or by way of intensive correction order.

Schedules 1.2 and 1.9 to the bill will support the proper functioning of the Early Appropriate Guilty Pleas reform in the criminal courts and resolve any unintended ambiguities that have arisen as a result of the reforms. Schedule 1.9 [3] will simplify and clarify which offences section 72 (2) of the Criminal Procedure Act 1986 applies to and which matters the accused legal representatives are required to explain to their client. Schedule 1.2 will introduce a note in the Children (Criminal Proceedings) Act 1987 to remove any ambiguity about the application of the Early Appropriate Guilty Pleas for juveniles who have been charged with serious children's indictable offences. In circumstances where the Commonwealth Director of Public Prosecutions is prosecuting a New South Wales offence alongside Commonwealth offences, there is some ambiguity around the operation of section 15A of the Director of Public Prosecutions Act 1986 and whether a certificate prescribed by the regulations for a disclosure by law enforcement officers is required.

Schedule 1.9 [1] and [2] and schedule 1.10 to the bill will introduce amendments to clarify that section 15A of the Director of Public Prosecutions Act does not apply where the Commonwealth Director of Public Prosecutions is prosecuting an offence, even when the director is prosecuting a State offence alongside Commonwealth offences. The Early Appropriate Guilty Pleas reforms introduced the requirement for the defence and prosecution representatives to prepare, sign and file a case conference certificate after a case conference is held. Those certificates record offers made that may be relevant to the Early Appropriate Guilty Pleas sentencing discount scheme if the matter is committed to a higher court and cannot be used for sentencing in the local court. Schedule 1.9 [4] and [5] will amend section 74 and section 76 of the Criminal Procedure Act 1986 so that case conference certificates are not required when matters are resolved summarily in the local court.

The Child Sexual Offence Evidence Pilot provides special measures to assist child complainants and witnesses in sexual offence proceedings in Newcastle and Sydney District Courts. Schedule 1.9, 1.10 and 1.11 will clarify that where a court has made an order for a witness to give evidence in a pre-recorded hearing, provided for by the pilot, that witness is entitled to give evidence in accordance with the order, even if they reach the age of 18 any time before the conclusion of the proceedings. This will ensure that those witnesses are not prevented from giving evidence in a pre-recorded hearing. Schedule 1.9 [6] and [8] and schedule 1.19 will amend legislation to ensure that certain offences under the Point to Point Transport (Taxis and Hire Vehicles) Act 2016 and Health Practitioner Regulation National Law (NSW) can be tried summarily in the local court, unless the prosecutor or accused person elects otherwise.

Schedules 1.3 and 1.7 to the bill will support the management of offenders and young people in custody and following release. Specifically, schedules 1.3 [3] and 1.7 [4] will introduce amendments to extend the term of appointment for Official Visitors to correctional centres and juvenile justice facilities from two to four years, in order to better reflect the length of time Official Visitors perform their role, and to reduce the current administrative burden of recruiting and training new visitors. The Parole Legislation Amendment Act 2017 moved provisions relating to the parole of juvenile offenders from the Crimes (Administration of Sentences) Act 1999 [CAS Act] to the Children (Detentions Centres) Act 1987 [CDC Act]. Prior to this change, the CAS Act allowed for the maintenance of a Juvenile Justice victim's register for victims of young offenders. Schedule 1.3 [2] and [5] will provide a new legislative basis in the CDC Act for youth justice to maintain a victims register and provide registered victims of young offenders with information about parole and leave decisions that may affect them.

Schedule 1.7 [2] and [3] to the bill will provide legislative guidance to Corrective Services NSW about what information, related to the administrative of Crimes (Administration of Sentences) Act 1999, may and may not be disclosed, in order to ensure that particular information related to inmates is protected from unlawful disclosure. Schedule 1.7 [1] to the bill will introduce an amendment to clarify the legal status of offenders whose release from custody is delayed at the request of, or with the consent of, the offender by defining them as inmates for the purposes of the Crimes (Administration of Sentences) Act 1999. Various schedules to the bill will update legislation by removing references to repealed, amended or outdated sections and ensuring that provisions accurately reflect current practices.

Schedule 1.14 to the bill will amend section 18 of the Land and Environment Court Act 1979 to clarify that appeals under section 22 of the Building Products (Safety) Act 2017 relating to building rectification orders made by councils should be assigned to class 2 of the Land and Environment Court's jurisdiction. Schedule 1.5 to the bill will update the definition of "recording device" in the Court Security Act 2005 to include portable scanners and to make it clear that their use to record sound and/or images on court premises is not permitted.

This amendment will respond to changes in modern portable technology since the Court Security Act was passed in 2005. It will also protect court processes by preventing people from inappropriately capturing images of witnesses or recording proceedings. Schedule 1.1 will amend the calculation of time provision for service by post under the Anti-Discrimination Act 1977 to reflect changes to Australia Post delivery times and align with recent amendments to the Interpretation Act 1987. Schedule 1.3 [1] and [4] will amend incorrect references to the Justice Health and Forensic Mental Health Network in the Children (Detention Centres) Act 1987.

Schedule 1.4 [3] will amend section 101E of the Coroners Act 2009 to facilitate Legal Aid NSW becoming a member of the Domestic Violence Death Review Team [DVDRT]. The DVDRT plays a critical role in shaping this State's response to domestic violence. It is a multidisciplinary team that reviews deaths that have occurred in the context of domestic violence in New South Wales. The DVDRT identifies issues arising in individual or multiple cases, identifies trends and patterns in quantitative data, highlights limitations or weaknesses in service delivery and makes recommendations about actions to address those issues. Legal Aid NSW plays a key role in this State's response to domestic violence, including the provision of services to victims of domestic and family violence. In recognition of its delivery, expertise and experience, Legal Aid NSW would add considerable value to the DVDRT, which currently consists of a range of other New South Wales government agencies, non-government representatives and academics.

The Young Offenders Act 1997 sets out a scheme that diverts young people from the criminal justice system when they are alleged to have committed criminal offences covered by the Act. Section 8 (2) of the Act lists certain offences not covered by the Act. In 2018 a number of child sexual offences that are listed under section 8 (2) (d) were repealed and replaced by the Criminal Legislation Amendment (Child Sexual Abuse) Act 2018. Schedules 1.21 and 1.22 to the bill will update section 8 (2) of the Young Offenders Act to reflect those changes. This will ensure that young offenders accused of sexual offences remain ineligible for diversion under the Young Offenders Act 1997.

The Legal Aid Commission Act 1979 currently requires the Legal Aid Commission to submit board minutes to the Attorney General within 14 days of a board meeting. Schedule 1.17 will amend clause 9 (2) of schedule 3 to the Legal Aid Commission Act to remove that time frame, as it places undue pressure on Legal Aid. It will replace that clause with a more qualitative time frame. Schedule 1.12 to the bill will remove references in schedule 1 to the Drug Misuse and Trafficking Act 1985 to schedules to the Poisons List. Some of those references are redundant, and all are confusing as they unnecessarily duplicate the operation of section 8 of the Drug Misuse and Trafficking Act. The amendment will clarify that section 8 of that Act, rather than references to the Poisons List in schedule 1 to the Drug Misuse and Trafficking Act, is the primary provision that ensures that prohibited drugs used for legitimate therapeutic purposes are not captured by that Act.

All Commonwealth laws which establish the Commonwealth courts provide a mechanism for the Federal Sheriff to delegate to other individuals the ability to exercise powers on his or her behalf or to assist in his or her duties. The Federal marshal regularly exercises this delegation to request that the New South Wales sheriff carry out a range of functions in New South Wales on behalf of the Commonwealth and the Commonwealth funds the New South Wales sheriff to undertake this work on the Commonwealth's behalf. The amendment at schedule 1.20 will make it clear that the New South Wales sheriff and her officers may validly accept and perform those delegated functions, and that such work is included within the functions referred to in section 4 of the Sheriff Act 2005.

Schedule 1.11 to the bill will make amendments to ensure that particular statutory bodies are not inhibited from exercising their lawful functions because of a potential threat of defamation proceedings against them. New South Wales has a co-regulatory legal profession scheme where the Legal Services Commission, the New South Wales Bar Association and the Law Society of New South Wales all have regulatory duties. Under the Legal Profession Uniform Law (NSW), those bodies are authorised to conduct compliance audits of law practices and are permitted to provide a report of a compliance audit to each other. However, providing copies of the reports has not recently happened in practice for fear of defamation proceedings being brought against them. Schedule 1.11 [1] will amend the Defamation Act 2005 so that if the Legal Services Commissioner, the Bar Council or the Law Society Council provide copies of compliance audit reports of law practices to each other, they have an absolute privilege to do so and will be protected from defamation claims.

I now turn to schedule 1.11 [2]. The Independent Planning Commission is a statutory corporation established under the Environmental Planning and Assessment Act 1979. Its functions include: first, determining State significant development applications where there is significant opposition from the community; secondly, conducting public hearings for development applications and other planning and development matters; and thirdly, providing independent expert advice on any planning and development matter as requested by the Minister or the Secretary. The Independent Planning Commission is required to publish reports, evidence, summaries of site visits and transcripts of meetings, public hearings and proceedings. The Independent Planning Commission is not able to control what the public might say at the recorded meetings nor to verify the truth of statements made by members of the public. This means that the commission cannot mitigate the risk of a defamation claim as the commission is required to publish transcripts of meetings. The proposed amendments at schedule 1.11 [2] will ensure the Independent Planning Commission and its predecessor have absolute privilege when publishing this material.

This will ensure the commission has a defence to a claim of defamation and will deter any potential litigation. The bill is an important part of the Government's regular legislative review and monitoring program. Most of the amendments in the bill are technical in nature and they are all important steps towards further strengthening our justice system. They address emerging issues, support procedural improvements, clarify uncertainty and correct errors in legislation. I commend the bill to the House.

Second Reading Debate

The Hon. ADAM SEARLE (11:24): I lead for the Opposition on the Justice Legislation Amendment Bill 2019. The Opposition does not oppose the legislation but we will make some comments about parts of the bill. I commence with the elephant in the room, to which the Parliamentary Secretary has drawn our attention, the re-enactment of anti-terror legislation that, due to perhaps oversight, was allowed to lapse. The Government cannot have it both ways. It cannot say that the lapsing of the legislation is significant and needs to be rectified urgently—and that is the basis upon which we are dealing with the bill now, rather than at the end of the Reproductive Health Care Reform Bill 2019—and then say that because there is mirror Federal legislation there

is no operational impact. If there were no operational impact we could do this next month. What is the hurry? There either is or is not an impact. I suspect, because we are debating this here and now, that there is an impact.

It is embarrassing for the Government. This Government proposed anti-terror legislation in the previous Parliament which passed through both Houses in a single day—in fact, probably within the space of a couple of hours. We enacted laws to imprison 14-year-olds without their having access to lawyers and to have them detained in the blink of an eye, but we can allow anti-terror legislation to lapse. That is not good enough. The explanations offered by the Government are not nearly good enough. I ask the Parliamentary Secretary to give a fuller explanation either now or subsequently about how this came to be because, I repeat, this is not nearly good enough. We on this side of the House take these matters very seriously but we will not stand in the way of remedying the defect. That is why we are now facilitating this legislation. I will now move on to other subjects.

The bill contains a wide variety of provisions ranging over a number of pieces of legislation and in fact covering more than one portfolio. Several amendments to the Coroners Act are contained in schedule 1. For example, schedule 1.4 [1] amends the definition of a "reportable death" in section 6 of the principal Act. This removes from the definition—and thus removes from the obligation to report to the Coroner—a death where the deceased died in circumstances where the person had not been attended by a medical practitioner within the period of six months immediately before the person's death. The Attorney noted in his second reading speech that this amendment brings New South Wales into line with most other Australian jurisdictions and will mean that the Coroner no longer has to consider what obviously are deaths from natural causes.

The Attorney went on to argue that this would allow the coronial jurisdiction to focus on more serious matters. This was certainly the position of previous State Coroner Michael Barnes, now the Ombudsman. Reducing the number of natural causes deaths being reported to the Coroner has obvious benefits. It is better because it is quicker for families, it frees up forensic resources for more complex cases and it reduces costs, especially in the regions, because fewer bodies need to be transported. We understand that the figure usually quoted is that 60 per cent of the cases reported to the Coroner in New South Wales are natural causes deaths. Interestingly, in Victoria, with a similar number of cases reported annually, only about 40 per cent of deaths are regarded as due to natural causes.

The real public policy issue is how more likely is it that the risk of homicides and deaths due to neglect and mismanagement will increase because of the amendment in the bill. That is probably unknowable until we have the experience. Our fear is that the motivation for the amendment is due to this Government's chronic inability to properly resource the coronial jurisdiction rather than any proper public policy consideration. The fact that that is the motivation does not necessarily mean that the substantive measure should not be opposed and we do not oppose it. Given that other jurisdictions have this provision or approach, apparently without adverse consequences, we will not oppose the change even though it is driven by inadequate resourcing of the jurisdiction.

The second amendment to the Coroners Act would add a new section 88A, which will allow pathologists to carry out a preliminary examination of the remains of a deceased person without the need for a direction from the Coroner. That amendment seems to have only positive effects. It will accelerate some procedures that can be done by forensic pathologists shortly after bodies arrive at mortuaries, including computed tomography [CT] scans, X-rays and external examination of bodies. The Attorney noted in his second reading speech that these amendments are only immediate measures and that a high-level task force is available to undertake an end-to-end review of the coronial process.

I pause there. One can only hope that this high-end task force conducts its deliberations more swiftly than the statutory review of the Coroner's Act itself has taken. I will return to that matter. The task force needs to address some pretty serious issues that the Government has thus far failed to come to grips with. As previous State Coroner Barnes said at a hearing of the Parliament's oversight committee on the Law Enforcement Conduct Commission—a committee on which I continue to serve on—the Coroner's jurisdiction is underfunded. All the arguments and obfuscations about the Report of Government Services [RoGS] figures cannot hide the fact that the number of inquests held in this State has declined significantly. Without proper resourcing, no amount of legislative fiddling can address the ills besetting the coronial jurisdiction. The structure needs to be addressed properly. Should there be a specialist Coroners Court, as there is in almost every other comparative jurisdictions, or, alternatively, greater autonomy within the Local Court for the Coroner's jurisdiction?

I understand that those positions were argued forcibly during the statutory review of the Coroners Act, which has been delayed so long it has almost reached the status of the statutory review of the Defamation Act. It is now apparently being held up or caught up with the work of the task force mentioned by the Attorney General in his second reading speech. If the task force is only concentrating on delay or timeliness—as I think its title suggests—that seems inappropriate. Something has been misnamed or possibly the Government is clutching at straws to explain, at this remove in time, why it has still not produced a review of the Act. The issue is much broader than just delay or even just resources.

There needs to be a focus on the quality of the Coroners Court and how its recommendations are dealt with. There are, for example, far fewer recommendations by country magistrates conducting coronial inquests than in the Coroners Court in Sydney. That is hardly the fault of country magistrates; it is a result of the structure of this system. It also echoes some of the comments by the Chief Magistrate in his foreword to the recently tabled review of the Local Court Act 2018. The Coroner's duties are over and above their normal magisterial function, and the Chief Magistrate knows it. In addition, the mechanism for implementing recommendations by coroners is at the moment haphazard at best. There is no structured and principled way in which there is regular review of the implementation, particularly where it involves non-government actors.

A third amendment to the Coroners Act proposed in the bill is to include the Legal Aid Commission of NSW as a member of the Domestic Violence Death Review Team [DVDRT]. The DVDRT has historically done good and important work, and anything that can improve its effectiveness is welcomed by the Opposition. It used to report annually but the Government reduced its reporting to only every two years—a move that disappointed members of the team and appalled other observers, including the Opposition. We would have thought the team's work was important enough to merit annual reporting, and we urge the Government to return to that original process. The bill also has provisions relating to justices of the peace [JPs].

The Government released a discussion paper on the justices of the peace framework review and submissions closed on 17 September 2018, almost exactly a year ago. Where is it up to, we ask rhetorically? Arising from that, a couple of the proposals in the paper are picked up in this bill. The first few items in schedule 1.13, however, do not seem to result from the consultation paper. They allow the Secretary of the Department of Communities and Justice to delegate functions under the Act and regulations to senior officers of the department. Item [5] of the schedule inserts a new section 13A into the Justices of the Peace Act. This allows a justice of the peace to use the title "JP (Retired)" after the person's name if the person has ceased to hold office as a JP, was at least 65 years of age when the person ceased to hold office and had held office for at least 10 consecutive years. There are requirements for good character and a mechanism to cancel the authority to use the title.

New schedule 1.18 amends the Oaths Act. This is a welcome amendment, although well overdue and nowhere near extensive enough, especially for many constituents of members. Section 26A of the Oaths Act permits a JP to, in effect, witness a statutory declaration for use in another State, Territory or the Commonwealth if permitted by the other jurisdiction. Schedule 1.18 extends this by adding "or witness the execution of a document". Quite often this might involve the witnessing of land title documents. It of course makes no sense to allow JPs to witness interstate statutory declarations but not to witness other documents. Indeed, it was not a practical problem until a few years ago when the department started issuing various directives telling JPs they could not do it for reasons that are still not readily understandable.

Of course, this amendment does not deal with overseas documents. Quite often there are, for example, proof-of-life forms to allow residents to receive payments from overseas governments, sometimes in the nature of a pension. To recoup those payments they need proof-of-life forms. These have traditionally been witnessed in New South Wales by JPs. For many years such documents were signed by JPs. The department then issued a directive saying New South Wales JPs could not do this. The practical problem is that the payments are often quite modest, albeit significant in both actual and symbolic terms to the recipients, such as in the example used by the shadow Attorney General in the other place regarding victims of torture from Chile. The only alternative is a public notary, who will charge several hundred dollars. The situation is Kafkaesque and should be rectified.

Also missing is a provision to indemnify JPs who act in good faith. Other jurisdictions have this provision—for example, section 19 of the West Australian Justices of the Peace Act. We struggle to see the public policy benefit in denying indemnification, particularly if it can be done in other jurisdictions. We note that the Attorney General in his second reading speech thanked a number of people, including Paul Mannix, who was described as the "President of the NSW Justices Association". He was involved with the Liverpool Justices Association for many years and his father was a distinguished predecessor of the member for Liverpool in the other place. It is, however, a little while since he was president of the association. The current president is Dr John Brodie, who equally deserves thanks. This inaccuracy may reflect how long the bill has taken to get to the Parliament.

Schedule 1.8 provides amendments to the Crimes (Sentencing Procedure) Act. One provision increases the standard non-parole period for the offence called "bushfire arson" to nine years. Twelve months ago the maximum penalty was increased from 14 years to 21 years but the standard non-parole period was left unchanged at five years and the issue was referred to the NSW Sentencing Council. In a report dated June 2019 the council made recommendations. The findings of the council are that a relatively low percentage of such charges result in a conviction, a relatively large proportion are dealt with through provisions that take into account the defendant's

mental health and a relatively large number of charges are withdrawn by the prosecution. The Sentencing Council recommended the standard non-parole period should be set somewhere in the range of eight to 10 years.

This is more than the 37½ per cent of the maximum penalty recommended in its 2013 report on standard non-parole periods. The council recognises this and explained its reasons for that in the report. That was recommendation 4.1 of the report. The standard non-parole period in the bill, in the middle of the range recommended by the council, is logical and we support it. There are a range of other amendments in the bill that should be acknowledged. As has happened in other legislation, the calculation of time provisions for the postal service is amended under the Anti-Discrimination Act to reflect changes in Australia Post deliveries. It is taking longer to physically deliver letters. Official Visitors in correctional centres and detention centres have their terms of appointment extended from two to four years.

There are clarifications that committal proceedings for serious children's indictable offences are dealt with under the Criminal Procedures Act; that the Justice Health and Forensic Mental Health Network is referred to correctly in legislation; that the prosecution of a child sexual offence where there is uncertainty as to precisely when the alleged conduct occurred be brought where the potentially applicable sexual offences have the same maximum penalty; that a person whose release from custody has been delayed with the person's consent continues to be held in custody technically as an inmate until the day of release; and the type of information about prisoners that should be subject to the limitation or authorisation of disclosures.

The Court Security Act is amended to include portable document scanners as a type of recording device that is prohibited for use in court premises. This keeps legislation up to date with technology. The Law Enforcement (Powers and Responsibilities) Act is amended so that applications for notices to produce that are made in the Local Court can be made electronically at all times, not just after hours and in urgent situations. The Crimes (Sentencing Procedure) Act is amended to clarify the power of courts to take action if an offender breaches a suspended prison sentence that expired before the commencement of last year's amendments. Ambiguities in the operation of the early appropriate guilty pleas program are dealt with in schedules 1.2 and 1.9.

There are also provisions relating to the child sexual offence evidence pilot concerning witnesses who reach 18 years of age before the proceedings conclude. Schedule 1.9, items [6] and [8] and schedule 1.19 provide that certain offences under the Point to Point Transport (Taxis and Hire Vehicles) Act and Health Practitioners Regulation National Law (NSW) can be prosecuted summarily in the Local Court unless the prosecutor or accused person elects otherwise. This is another example of the problems highlighted recently by the Chief Magistrate in his foreword to the 2018 Local Court annual review—the continual expansion of the Local Court's jurisdiction without the provision of additional resources. The Chief Magistrate stated: Adding further to the rising impost are amendments to indictable offences which are capable of being dealt with summarily (known as Table offences), resulting in changes in the complexity and seriousness of the matters dealt with in the Court's criminal jurisdiction.

He also said, "There is a limit to the capacity of the court to continually cope with broad levels of under resourcing." The consequent changes to court practice that the Chief Magistrate may have to make will affect the court's reputation but the blame should be laid at the feet of the Government. A new legislative basis is provided for the maintenance of a juvenile justice victims register for victims of young offenders. This follows earlier legislative changes. Absolute privilege is provided under the Defamation Act to legal regulatory authorities that provide copies of compliance audit reports to each other and to the Independent Planning Commission in relation to some of the material it publishes. Schedule 1.20 clarifies that the New South Wales Sheriff and staff may validly accept and perform duties delegated to them by the Commonwealth. There is also a number of other comparatively less consequential proposals that I will not deal with.

In conclusion, the piecemeal changes to the coronial jurisdiction are not opposed. As I indicated earlier, it highlights the length of time it has taken for the statutory review of the Coroners Act to be finalised. It calls out for an inquiry of this House into the Coroners Act and the coronial jurisdiction more generally. I may have something more to say about that in the not-too-distant future.

The Hon. WALT SECORD (11:40): I make a contribution to debate on the Justice Legislation Amendment Bill 2019 and support my colleague the Leader of the Opposition, the Hon. Adam Searle. I was not going to speak on this bill. I only decided to do so—indeed, decided that I had to—after I read *Hansard* late last night. *Hansard* revealed that the bill had to be hastily amended by the Attorney General, the Hon. Mark Speakman, due to a blunder by the Berejiklian Government. And not just any blunder—a blunder of national security. In fact, the word "blunder" is too kind, given the very serious nature of this law, which covers membership of terrorist organisations. "Incompetence" is a better description—incompetence in dealing with terrorist groups.

The Berejiklian Government talks tough about terrorism but it has failed in its basic duty to protect the community due to its incompetence. This is the Government that made great fanfare about appointing a Minister for Counter Terrorism in January 2017. However, his successor and the Government did not do their most basic

job. Put simply, the Berejiklian Government has allowed serious counterterrorism measures to be repealed. That is why yesterday the Government was forced to scramble to try to take steps to fix this blunder.

As background, I note that the bill was introduced on 21 August in the New South Wales Legislative Assembly by the Attorney General. At the time it attracted very little attention and, frankly, was a run-of-the-mill bill related to improving the coronial processes and case law, reducing delay and streamlining the New South Wales justices of the peace [JP] system. Yes, it was all run of the mill. That was until 4.50 p.m. yesterday when it had to be quickly amended by the Attorney General. The Attorney General was forced to advise that on Monday 23 September shocked bureaucrats in the Department of Communities and Justice had alerted him that part 6B of the Crimes Act 1900 had been automatically repealed. These critical sections of the Crimes Act relate to terrorist organisations and to outlawing membership of terrorist organisations.

The Federal Government lists 25 separate terrorist organisations and those terrorist organisations are covered by this legislation. They include various Al Qa'ida groups, Boko Haram, Hamas' Izz al-Din al-Qassam Brigades, Hizballah's External Security Organisation, Islamic State, Jemaah Islamiyah, Lashkar e-Tayyiba and Palestinian Islamic Jihad. In short, this part of the Crimes Act is there to prevent a who's who of international terrorists from forming and acting legally in this State. One would think that that is counterterrorism 101. But—and we heard it correctly yesterday—the Berejiklian Government allowed those vital terrorism laws to be repealed simply because someone forgot to renew them. It is like "the dog ate my homework".

The laws lapsed on 13 September, which means that none of those terrorism laws have been in effect for the past 11 days. I ask New South Wales citizens: Would they forget to renew a provision like this if it were their job to do so? If they did, would they expect to keep their job? Let us not forget this is the Government that will happily fine people at the drop of a hat, but it forgot to outlaw terrorist organisations. This is such a major stuff-up that the Chamber has deemed it important to interrupt the six days of debate on the Reproductive Health Care Reform Bill 2019 to fix this blunder. We have interrupted consideration of that bill in order to pass this law quickly. I stress, of course, that this is by agreement with the Opposition not because it wishes to reward the incompetence of this Government but because it cannot allow this risk to our communities to be present for a day longer.

As a result, this once run-of-the-mill bill has become a retrospective bill—which is highly unusual in itself—and it has also become a terrorism bill. As for specifics of the bill, the amended legislation, if passed by the Legislative Council, will re-enact section 310I, a definition section; section 310J, the New South Wales membership of a terrorist organisation offence; and section 310K, a double jeopardy provision of part 6B of the Crimes Act; with effect retrospective to 13 September 2019, the date of the repeal. Further, the Berejiklian Government has been forced to take steps to ensure that the repeal does not occur again. The Government has not reinstated the sunset clause, which appeared in section 310L. This means that the New South Wales offence of membership of a terrorist organisation will now be retained permanently. Yes, this is due to Labor's support. The Opposition will seek to amend this incompetence by the Berejiklian Government. But I echo the remarks of my colleagues in the Legislative Assembly, who observed that the whole situation is utterly extraordinary.

The Government's primary job is to create and uphold laws. This vital anti-terrorism law exists to ban terrorist groups. It is subject to a sunset, or renewal, clause and the Government forgot to renew it before it lapsed. This is a critical failure of a basic role of government in protecting the community and keeping people safe. It would be a sackable offence in the workplace. So where is the Premier, the Attorney General or the Minister for Counter Terrorism and Corrections? Tell us that they are serious about terrorism. Labor supports having the toughest terrorist legislation in the country, and that is why we are assisting today. But make no mistake, New South Wales has had a very close call due to the incompetence of the Berejiklian Government. Sadly, I expect such incompetence from someone like the previous Minister for Counter Terrorism, Mr David Elliot, but I am very surprised that this occurred on the Attorney General's watch. I thank the House for its consideration. The Opposition will support this vital legislation.

Mr DAVID SHOEBRIDGE (11:48): On behalf of The Greens, I indicate that whilst we do not oppose the substantive bill, we do oppose the amendment proposed to the Justice Legislation Amendment Bill 2019. I will deal with the substantive bill briefly. The substantive bill is a compendium of amendments to various pieces of justice legislation, and I will not address all of them as they have been dealt with in the second reading speech of the Attorney General. The contribution of the Attorney General fairly sets out the nature of the amendments being proposed. However, one amendment causes The Greens some concern. That is the proposal to omit section 6 (1) (d) of the Coroners Act, which provides that a person's death is a reportable death if:

- (d) the person died in circumstances where the person had not been attended by a medical practitioner during the period of 6 months immediately before the person's death, By removing that subclause it limits the reportable deaths to the Coroner. We have already seen that the Coroners Court of New South Wales is per capita perhaps one of the worse resourced coroners courts in the country. The delays for substantive hearings in the Coroners Court of New South Wales—not the paper disposal of reviews—is now chronic, running into two, three and sometimes four years before a

matter is concluded. It appears that one of the ways the Government is trying to deal with the gross lack of resources and the serious delays in the Coroners Court of New South Wales is to reduce its workload by reducing the number of reportable deaths. The Greens think that is potentially dangerous. We will be monitoring the effect of those changes. Again, we urge the Government to complete its review into the Coroners Act 2009, table that review and seek public submissions on it so that we can properly amend the Coroners Act and properly resource that court to do the essential job that it is required to do.

I turn to the amendment that the Government has provided within the past 24 hours that seeks to re-insert part 6B into the Crimes Act 1900. It was repealed on 13 September 2019 by way of a sunset clause in that Act. The amendment seeks to re-insert those provisions retrospectively. The Greens will not support retrospectivity in the criminal law and we do not support it in this case. Part 6B was inserted into the Crimes Act in 2005 by the then Labor Government. It was rushed through Parliament at the time. The purpose of the provisions in part 6B was to have a substantive offence on the books effectively to allow covert search warrants to be undertaken of alleged terror suspects and to allow those covert search warrants without the usual checks and balances that apply to search warrants in New South Wales.

The Greens have consistently opposed legislation such as this that seeks to propagate covert search powers against citizens of the State who are deemed by the police to be terrorist suspects. Such laws are not necessary for good police work and should not be repeatedly supported by State and Federal parliaments. Indeed, when we speak to some police officers—not all police—they point out that these kinds of laws are designed in circumstances where they overtake what is far more important work by police: good community consultations, connections with the community and thorough, traditional police work. In many ways the over-reliance on covert search warrants is a dangerous development for New South Wales police because it breaks that connection with communities and officers lose those traditional, good policing skills that are far more likely to keep us safe than just another raft of covert search warrants.

However, both major parties have shown that they are willing to continue to beat this law-and-order drum even when it is clear that the approach does not produce results and, in fact, poses a significant risk to innocent people. Again, the Government has not produced any evidence that shows these laws are working. No case studies have been cited nor have examples been put before us to show how these laws have been used to make us safer or how these laws were essential, given the existing array of police powers, including the ability to obtain covert warrants on providing appropriate evidence to a court. None of that has been provided to the Parliament as, again, we rush through terrorism laws—in less than 24 hours this time. In the absence of such evidence, The Greens will oppose this legislation again. The sun never seems to set on these laws, except in this one case where the Government literally fell asleep. It is remarkable that we have—I think he is an anti-terrorism Minister or maybe he is the terrorism Minister; I cannot remember his exact title—

The Hon. Adam Searle: Counter Terrorism.

Mr DAVID SHOEBRIDGE: Counter Terrorism. He is the counter terrorism Minister. When we sought to identify the resources or the substance of the position of the counter terrorism Minister during budget estimates, it was pretty clear that, outside of his ministerial office, basically nobody works for the counter terrorism Minister. It is a title without substance. In fact, some people have suggested that the only person with fewer resources than the counter terrorism Minister is, in fact, the NSW Building Commissioner. I think it is a race to see who has fewer resources. When we have a counter terrorism Minister with a puffed-up title and no actual staff to do the work, apart from his ministerial staff, is it any wonder the Government has missed this? This is the one occasion where the Government's incompetence has actually improved people's civil liberties in New South Wales. In some ways, it is a case of "never get in the way of your opponents when they are making a mistake".

But somebody did wake up and find out that these laws had been automatically repealed by way of a sunset provision. It is true that this Government has been extremely distracted by its internal divisions over the abortion debate, over potential spills and challenges to its leadership. However, it is also true that the Government has not placed any other legislation before us. This would have to be the lowest level of legislation that any government has ever introduced in its first six months of office. Despite that, it still managed to miss the fact that the sun was setting on these terrorism offences. If that is good government, if that is what this Government thinks is good government, it needs to take a good, solid look at itself because we are not seeing good government from the Coalition. We are seeing a government in disarray and a government that is missing the basic tasks of government.

In this case, it has been beneficial because a little window of civil liberties has opened in New South Wales but, of course, it has been shut by way of retrospective criminal legislation with this amendment. I said before that the sun never sets on these laws, except when there is an administrative stuff-up—and that is exactly what has happened here. It is a problem that the sun never sets on these terrorism powers because these powers were put in place specifically in response to the then political circumstances and threats. At the time senior police and the Government argued that the political environment in 2005 required those laws and they said the laws

would be used. They said it was necessary to put these laws on the statute books, they would be using them the next day and they were required in order to keep people safe.

Where is the evidence of that in 2019? Where is the evidence over the past 14 years of how these laws have been used and the circumstances in which they are being used to keep us safe? And where is the evidence that the large array of existing police powers that were on the statute books before 2005 were not adequate for the job? None of that is before us. Again, we are rushing to reinstate these oppressive terrorism powers without substantial consideration, without the research and without any kind of review. Again, the Opposition is riding along on the coat-tails of the Government whenever a terror threat is raised. In this case it is probably no wonder because the Opposition put these laws in place in 2005. I note the concerns raised—

The Hon. Walt Secord: And we make no apologies for it.

Mr DAVID SHOEBRIDGE: You are not much of an apologist, are you?

The Hon. Walt Secord: You sided with terrorists.

Mr DAVID SHOEBRIDGE: In fact, you are a grub.

The Hon. Greg Donnelly: Point of order—

Mr DAVID SHOEBRIDGE: I note the concerns raised by the legislative review—

The Hon. Greg Donnelly: The word "grub" is unparliamentary. Mr David Shoebridge is reflecting deeply on the credibility and the integrity of the Hon. Walt Secord. He knows it is unparliamentary language. I ask that he be directed to withdraw the comment.

The Hon. Walt Secord: To the point of order: I seek a withdrawal from Mr David Shoebridge without condescension or any editorial comment whatsoever. He is known for that behaviour.

Mr DAVID SHOEBRIDGE: To the point of order: I accept that calling the Hon. Walt Secord a grub—

The Hon. Walt Secord: You are the grub.

Mr DAVID SHOEBRIDGE: I accept that calling him a grub is unparliamentary.

The Hon. Walt Secord: He is doing exactly what we warned.

Mr DAVID SHOEBRIDGE: I accept that and I withdraw it.

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

Mr DAVID SHOEBRIDGE: I accept it and I withdraw it. I should properly have taken a point of order in relation to his offensive comments from behind me, and I now do so. The Hon. Walt Secord said that I side with terrorists. Rather than take a point of order, as I should have done, I inappropriately called him a grub. I now take a point of order in relation to imputations and reflections made by the Hon. Walt Secord and the Hon. Greg Donnelly.

The ACTING PRESIDENT (The Hon. Trevor Khan): I say genuinely that I did not hear the comments because I was speaking to Mr David Shoebridge's colleague about the order of questions. Therefore, I am unable to rule on the point of order raised. I say to all members that this debate should not be a matter of contention or mudslinging. We have a very long day ahead. All members want to get to the end of the day with a degree of civility. I ask all members to pull their heads in.

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

Questions Without Notice

RED ROSES FAMILY DAY CARE

The Hon. ADAM SEARLE (12:00): My question is directed to the Deputy Leader of the Government and the Minister for Education and Early Childhood Learning. Will the Minister tell the House how the Government's Early Childhood Education Directorate assessed Red Roses Family Day Care as achieving national quality standards as recently as March 2017 when it is now clear that there were no children at the facilities and the organisation has now collected some \$4 million in publicly funded subsidies?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:01): I thank the honourable member for his question relating to Red Roses Family Day Care. This service has been part of the work that is being done through Strike Force Mercury. The Department of Education has been working closely with the NSW Police Force and the Commonwealth Department of Education in relation to significant

family day care fraud being investigated as part of Strike Force Mercury. Information has been shared with the task force to assist it with its inquiries. I would also make the point that the department has worked in sync with the NSW Police Force to put in place the necessary and proportionate compliance actions relating to the services and individuals subject to this operation.

While the extent and the scale of the fraud uncovered within the family day care sector is concerning, I commend the work of the task force to date in addressing this criminal behaviour. I look forward to continuing to work with all stakeholders in preventing and addressing this issue. The department will continue to work with the NSW Police Force and with the Commonwealth Department of Education to address fraud within the sector concerning the child care subsidy. I would point out that New South Wales does not provide any funding to the family day care sector. The Commonwealth Government provides funding direct to family day care providers. Responsibility for ensuring integrity of the use of those funds rests with Commonwealth government agencies and those questions should be directed to them.

As part of this investigation and because it is an ongoing police operation, charges have been laid and procedures are underway, as is appropriate. However, I know that there have been public commentary and remarks by police about the level of sophistication in relation to this fraudulent activity. It is extremely concerning the lengths that some organisations have gone to carry out this level of deception. The work that the NSW Police Force is doing in conjunction with the Department of Education is incredibly important to stamp out this illegal and poor behaviour.

The Hon. ADAM SEARLE (12:03): I ask a supplementary question. Will the Minister elucidate on those parts of her answer where she was talking about Strike Force Mercury and the investigation of fraud in the family day care sector, which is potentially costing up to \$750 million a year? Could she also explain what her Government is doing more generally, particularly in regard to prevention?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:03): That is a good supplementary question because it is an important issue. There are serious concerns around those who are potentially doing the wrong thing in the family day care sector. We will continue to work with the Commonwealth Department of Education in relation to this matter. We have done work already in New South Wales, which we estimate has saved the Commonwealth Government \$674 million a year in childcare subsidies. We will continue to share information with the police and with the Commonwealth Department of Education following the resolution of this operation. We will continue to act decisively whenever we know that breaches of the national law have been identified. It is important that we do this because there is an expectation that those who deliberately set out to do the wrong thing and take that Federal money illegally should be caught out. These processes are in place to do that.

COFFS HARBOUR ART AND CULTURE

The Hon. TAYLOR MARTIN (12:04): 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 the Still: National Still Life Award at the Coffs Harbour Regional Gallery? How is the New South Wales Government supporting art and culture on the Coffs Coast?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:05): I was delighted to open the Still: National Still Life Award 2019 exhibition at Coffs Harbour Regional Gallery over the weekend, together with the local member for Coffs Harbour, Gurmeh Singh. The State Government is proud to support the work of the New South Wales regional gallery sector and the Still: National Still Life Award is Coffs Harbour Regional Gallery's biennial contemporary art prize in the still life genre. The Still: National Still Life Award is a fabulous exhibition, showcasing the talent of so many wonderful artists, that runs until Saturday 30 November. This is a fantastic outcome for Coffs Harbour and a drawcard to the region—of local and international visitors as well as the local community. I am thrilled to say that this year the gallery received over 750 entries, with 57 selected as finalists. I congratulate Kelly Austin for winning the \$30,000 major prize.

I took the opportunity to look at some of the wonderful work that the New South Wales Government's Regional Cultural Fund is delivering for Coffs Harbour. The \$103,757 grant in round one to the Yarrowarra Aboriginal Cultural Centre and the Wadjar Regional Indigenous Gallery to upgrade both facilities demonstrates the values and ideals of the local Aboriginal community. It ensures the collection tracing some 40,000 years of local history is properly preserved and celebrated. The \$31,236 grant in round one to the Coffs Harbour Creative Arts Group has supported the completion of stage three of the upgrade to the Coffs Harbour Showground art gallery and studios.

These works to install insulation and ceilings in the main workroom and the gallery, install air conditioning and new glass doors, refit lighting and fans and repaint the internal space has allowed the members of the creative arts group to expand its workshops across all age groups, including young people, and showcase the works produced by its members. I am particularly excited about the \$2.69 million grant from the fund for the upgrade of the National Cartoon Gallery, which will be a huge boost for arts and culture in the region, particularly in respect of the visitor economy. It is a fascinating project. I thank Gurmeh Singh for his advocacy for expanded cultural offerings in Coffs Harbour. I encourage everyone to attend the Still: National Still Life Award exhibition.

EARLY LEARNING STOCKTON

The Hon. PENNY SHARPE (12:08): My question is directed to the Minister for Education and Early Childhood Learning. What action has the Minister taken to assist the dozens of families impacted by the closure of Stockton's only childcare centre due to the unfolding catastrophe of coastal erosion at Stockton beach?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:08): I can advise the House that on 2 September 2019 Mission Australia Early Learning Stockton notified the NSW Department of Education that, due to issues with physical erosion at the service site, the service would cease operating permanently. The department made contact with Mission Australia to establish the support needs for families affected by the closure. Families were notified by Early Learning Stockton of the permanent closure at 3.00 p.m. on 3 September 2019, which was enforced immediately due to the risk to children. The service provided families with information on surrounding early childhood education services with vacancies. The department also made contact with these services, which indicated that they were aware of the closure and had received inquiries from affected families.

Surrounding services confirmed that places were available and that they had capacity to accommodate those affected families. Early Learning Stockton further provided an option for enrolled children to be bussed from the Stockton site to its Mission Australia Early Learning Beresfield service. I understand that some families have taken up that option. If any families affected by the closure are still seeking care, they should contact the department's Early Childhood Education Directorate information and enquiries hotline on 1800 619 113 if they require any assistance finding alternative care.

The Hon. PENNY SHARPE (12:09): I ask a supplementary question. Will the Minister elucidate her answer that because of the shortage of child care places some families are being required to be bussed as far as Maitland?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:10): As I said in my previous answer, I have advice from the department that surrounding services are available for families and that they are being bussed to Beresfield. I will check with the department if any other relevant information is available for the member.

PUBERTY-BLOCKING DRUGS

Reverend the Hon. FRED NILE (12:10): My question without notice is directed to the Minister for Mental Health, Regional Youth and Women representing the Minister for Health and Medical Research. Is the Minister aware that the United States' Food and Drug Administration and the United Kingdom's National Health Service have reported that puberty-blocking drugs being given to so-called trans children have resulted in fatal blood clots, suicidal behaviour, lowered intelligence quotient, brittle bones and sterility, resulting in many deaths? What studies have been conducted in New South Wales concerning the side effects resulting from the administration of puberty blockers? How is the Government informing and educating the public about the risks?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:11): I thank the member for his question. I am not aware of the specifics of the drug he is referring to, although as we know drugs have multiple causations and side effects that are well balanced when they are prescribed. As this question relates to the portfolio of a Minister in the other House and contains a large amount of detail, I will take it on notice and get back to the member.

SHARE OUR SPACE PROGRAM

The Hon. WES FANG (12:11): My question is addressed to the Minister for Education and Early Childhood Learning. How is the New South Wales Government unlocking school facilities during the upcoming holiday period?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:12): I thank the Hon. Wes Fang for his question. It is well known that our schools are at the heart of our community. They should be accessible to the community even during holiday periods. This principle has driven the Government's Community Use of School Facilities policy and its desire to see schools open for community use

during school holidays. Through the New South Wales Government's Share Our Space program, over 300 participating schools will allow their local communities to access playgrounds, basketball courts, running tracks, ovals and gardens during the upcoming spring holidays. Importantly the program provides children with access to open green space and encourages them to lead an active and healthy lifestyle.

Over 100 schools across Sydney—in Rydalmere, Seven Hills, St Clair, Heathcote, Peakhurst and other areas—will open their gates to the community during the upcoming holidays. Last month I visited Marrickville West Public School to help the students and their fantastic principal, Ruth Bradfield Ling, paint a sign to let the community know their school was open for the holidays. I can confirm that Marrickville West is a beautiful school with quality, safe and fun play areas. With a basketball court, astroturf field and treed area, it will provide families a fantastic environment to relax and play during the spring holidays. I can also confirm that according to the students of Marrickville West, I must work on my painting skills and that I should have a better knowledge of how to paint a Pikachu.

It is pleasing that 200 of the participating schools are spread across regional and rural New South Wales. When communities across the bush are doing it tough, it is important that we continue to support them. I am pleased that the department has been able to secure access for communities in Millthorpe and Trunkey, in Euston and Narrabri. The program is about unlocking not just the school gates but also the opportunities that are provided to the community by opening up the facilities.

One of the challenges with the program is ensuring that we can provide safe access to the school grounds. With our unprecedented program of school maintenance and our \$6.7 billion major capital works program, a lot of work is carried out during school holidays. That means that whilst some schools are not able to participate in the upcoming holidays, they will be able to do it in the future. As the Government delivers on its record investment in school facilities, more and more communities across New South Wales will be able to access the incredible community assets.

Already the program has seen a twofold increase in the number of participating schools, up from 150 in the July holidays. The area of the participating schools equates to almost 1,200 hectares of land—equivalent to two Sydney Olympic Parks. Schools are at the heart of our communities and the Share Our Space program provides great opportunities for families, children and local residents to stay active and enjoy the fantastic facilities including playgrounds, sports courts and ovals. I am pleased that the Government is committed to delivering an important program such as Share Our Space. For those who are interested, the full list of participating schools is available on the School Infrastructure NSW website. Take your kids and have a play.

INTEREST RATES

The Hon. WALT SECORD (12:15): My question without notice is directed to the Minister for Finance and Small Business in his ministerial capacity and that of representing the Treasurer. Given that it is almost a month since the NSW Treasury Deputy Secretary, Joann Wilkie, told budget estimates that NSW Treasury was "still working through" what zero interest rates mean, has the Government worked out the impact of zero interest rates on the New South Wales economy, families and self-funded retirees?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:16): Mr Acting President, I was looking forward to your report on the Ugandan trip.

The ACTING PRESIDENT (The Hon. Trevor Khan): He's ignoring my texts at this stage.

The Hon. DAMIEN TUDEHOPE: I thought you gave an undertaking to the House.

The ACTING PRESIDENT (The Hon. Trevor Khan): I did.

The Hon. DAMIEN TUDEHOPE: I thank the shadow Treasurer for a question about Treasury issues. I think it is the first time that he has thought about it and excited us all. I acknowledge that the issue was raised with Joann Wilkie in budget estimates. I do not have any information other than Ms Wilkie's response to the question. I am happy to take that question on notice because it is addressed to the Treasurer and that is part of his portfolio, not specifically mine, although I accept that zero interest rates would have an impact on revenues and the like. I am not suggesting that the question was inappropriate. I think it is a very good question and it is important that the member receives a proper answer to that question. I undertake to get an answer to him.

COAL INDUSTRY

Ms ABIGAIL BOYD (12:17): My question without notice is directed to the Minister for Education and Early Childhood Learning representing the Minister for Regional New South Wales, Industry and Trade. Recently the New South Wales Independent Planning Commission rejected development consent for the Bylong Valley Coalmine, with its determination stating in part:

... predicted economic benefits would accrue to the present generation but the long-term environmental, heritage and agricultural costs will be borne by the future generations.

Given the planning commission's well-founded concern regarding unfairly placing the burden for fossil fuel use on future generations, is the Government reconsidering its approach to proposals for new or expanded coalmines?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:18):

I thank Ms Abigail Boyd for the question. I will do the sensible thing and take that question on notice. I represent the Deputy Premier in this place, so I will come back to her with an answer on his behalf.

MENTAL HEALTH SERVICES

The Hon. SHAYNE MALLARD (12:18): My question is addressed to the Minister for Mental Health, Regional Youth and Women. What is the New South Wales Government doing to improve mental health services across the State, including on the North Coast?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:19):

I thank the honourable member for his question. The New South Wales Government is deeply committed to the recovery and safety of mental health consumers. That is why we have commenced a \$700 million capital investment program in mental health infrastructure—the biggest ever in New South Wales. NSW Health is also committed to reducing and, where possible, eliminating the practice of seclusion and restraint in mental health services across New South Wales. In 2017 the NSW Health Chief Psychiatrist and a panel of five local and international mental health experts undertook a statewide review into seclusion, restraint and observation of consumers in NSW Health acute mental health units and declared emergency departments.

Last week I visited Lismore Base Hospital to see what had changed since the review into seclusion and restraint. The New South Wales Government invested \$1.8 million in refurbishments to patient environments and common areas in the Kamala Child and Adolescent Mental Health Unit, Tallowood-Lismore Adult Mental Health Inpatient Unit and Kurrajong-Tweed Mental Health Unit. One of the most important things about that initiative is that those local projects were co-designed with consumers, carers, families and clinicians.

We know that when using co-design in spaces such as this we get much better outcomes for our consumers. Involving staff and consumers in the designs means that we achieved those outcomes for the people who use those facilities every day. For Lismore the investment resulted in modern, bright and therapeutic units featuring new elements such as a gym, a family space, an outdoor courtyard barbecue space, an improved activities room, a sensory room enhancement to create a quiet family room and a refurbishment of general ward areas and observation area courtyards including landscaping—

The ACTING PRESIDENT (The Hon. Trevor Khan): I will stop the Minister. The Hon. Greg Donnelly is engaging in interjections. He is up to his third or the fourth interjection directed at the Minister. Another one will result in a call to order. I invite the member to restrain himself.

The Hon. BRONNIE TAYLOR: This is a very important initiative. Through those environments and enhancements, the nurses, doctors, the psychiatrists, the physios and occupational therapists can do their jobs so much better in a better environment. Last Friday one of the nurses said to me that it has improved so much that a few of the patients do not want to leave because the environment is so good. I watched doctors and nurses do sessions with their patients out in the courtyard under a tree, in a natural environment with fantastic murals. This is what we need to be aiming for and that is what we are achieving. The review into seclusion and restraint was a difficult time and it came out of a tragedy. The Government is accepting all of the recommendations and investing in those recommendations. Now I have the privilege to be the Minister to see those refurbished units. It is something that we should all be very proud of. I look forward to visiting Albury next week for the opening of its community mental health facility. I will also visit Wagga Wagga.

MARSDEN PARK SCHOOL

The Hon. DANIEL MOOKHEY (12:22): My question without notice is directed to the Minister for Education and Early Childhood Learning. Given the Government's pre-election promise to provide a new school at Marsden Park, will the Minister explain the rationale behind the decision to reject the application for a new Northbourne Drive primary school? Does the Minister stand by the promise to have it delivered by 2021?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:23):

I thank the honourable member for his question. I will start with the last part and say yes, we stand by the commitments we made in the election campaign. In relation to the specifics around the particular school that he mentioned—not just the Marsden Park upgrade but also Northbourne Drive—I will seek some advice in relation to school infrastructure and come back to him with an answer.

REGIONAL NEW SOUTH WALES SKILLS SHORTAGES

The Hon. ROD ROBERTS (12:23): My question without notice is directed to the Minister for Education and Early Childhood Learning representing the Minister for Skills and Tertiary Education. I have had numerous conversations with businesses from rural New South Wales that are struggling to fill vacant positions with skilled workers. Those skills shortages are holding back business expansion and operations. What is the Government doing to assist businesses in rural areas to attract, train and retain skilled workers for regional New South Wales?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:24): I thank the honourable member for his question. It is a good question and an important one, particularly at the moment. Growing up and living in Gunnedah, I know and see firsthand how important it is to help businesses in the region attract, train and retain skilled workers. As members and the Hon. Rod Roberts know, small businesses are the lifeblood of regional towns. I am sure my colleague the Minister for Finance and Small Business would also agree.

That is why the Government has a range of initiatives to assist businesses in regional and rural areas in attracting skilled workers. I know the Hon. Rod Roberts is looking for specifics in relation to his answer. I will provide some that relate to the education cluster, although I know that colleagues in other portfolios also have a range of initiatives aimed at attracting skills to the bush. In education, we have the Regional Skills Relocation Grant, a \$10 million program to support businesses in regional New South Wales by increasing the availability of skilled and experienced workers for businesses setting up in, relocating to or existing in regional New South Wales. It will support 250 grants of up to \$10,000 each year over the next four years.

We also have the targeted priorities Prevocational and Part Qualifications Program. That program connects businesses with training providers to ensure the skills of existing and new workers are up to date. It also helps workers develop the skills they need to transition into new roles. I am pleased to advise that the Government has specifically allocated \$5 million of that funding to support farmers and businesses in drought-affected communities. More broadly, we are investing heavily in skills across the State. We are delivering an additional 100,000 free TAFE and vocational education and training courses over the next four years, in addition to our ongoing commitment to 100,000 fee-free apprenticeships.

We are also building an additional eight Connected Learning Centres in rural and regional New South Wales, which builds on the 14 that have already been completed or are under construction. Locations of the new sites include Nambucca Heads, Nelson Bay, Byron Bay, Hay, Jindabyne, West Wyalong, Batemans Bay and Cobar. Earlier this year when I was in Cobar I had the opportunity to share with the community that they would be one of the locations and they are very excited about that.

One of the 14 that has been completed is in Bourke. Earlier this year I had the chance to see that construction underway. It is an incredibly impressive facility that will provide that opportunity, particularly for those living in the Bourke community and surrounds. Our Government cares about the bush and we are a government that places rural New South Wales at the centre of our decision-making. Particularly as our farmers battle one of the worst droughts in living memory, we are doing all that we can to make sure that those working in regional centres are able to stay in those places and make a life for themselves. That is why we are investing to attract, train and retain our skilled workers. It is an important issue and a good question. I thank the honourable member for raising it.

JOBS GROWTH

The Hon. MATTHEW MASON-COX (12:27): It is great to not even have to ask for the call. You are on top of your game, Mr Acting President. My question is addressed to the Minister for Finance and Small Business. Will the Minister update the House on what the Government is doing to support jobs in New South Wales?

The Hon. John Graham: It is about how you made jobs in New South Wales for small business.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:27): I thank the honourable member for his question and I assure the Hon. John Graham that I support small businesses in regional areas, notwithstanding his reluctance to acknowledge that point. Last week members might recall that we were pleased to inform the House that, in fact, the unemployment rate in New South Wales had dropped to—

The Hon. Matthew Mason-Cox: It is 4.3 per cent.

The Hon. DAMIEN TUDEHOPE: It is 4.3 per cent. On this basis—

The Hon. Mick Veitch: He didn't know? He had to be prompted.

The Hon. DAMIEN TUDEHOPE: I thought you guys would know. On this side of the House, we are creating the right environment for investment for small businesses to have a go and for workers to get out there and get a job. Just last week the Government announced that nearly 2,000 new jobs will be delivered at the State's largest employment area with the approval of a major industrial estate at Kemps Creek in western Sydney. Oakdale West is the latest development to be approved in the wider \$3 billion Oakdale Industrial Estate and the newest development to be approved in the western Sydney employment area. This is New South Wales's single largest industrial greenfield precinct and a key job generator in western Sydney, which is expected to see more than 200,000 additional jobs created over the next 20 years.

This latest project will inject millions of dollars in capital investment into the area and will provide 1,000 construction jobs and 1,845 operational jobs close to home, transport and the future western Sydney airport. A concept plan and the stage one development application have been given the green light, with another four stages to be delivered over the next decade. Works will also include a new two-lane road to connect the estate to Lenore Drive and provide easy access to the nearby M7 and M4 motorways.

This hub will bring 22 new businesses to the precinct. They will join the likes of Toyota, Costco and Dalsey, Hillblom and Lynn, known as DHL. It is not just western Sydney that is driving the State's job boom. Our regional areas are getting in on the action as well. In fact, over the 12 months to July 2019 regional New South Wales has added more jobs than the regional areas of Victoria, Queensland, Western Australia, South Australia and Tasmania combined. Last week the Deputy Premier announced the release of the draft master plan for the first Special Activation Precinct in Parkes, which will create 3,000 jobs. New South Wales is the jobs State.

SCHOOLS ASBESTOS MANAGEMENT PLAN

The Hon. COURTNEY HOUSSOS (12:31): My question is directed to the Minister for Education and Early Childhood Learning. Given the Minister's previous answers indicating that most asbestos removal occurs out of school hours, will the Minister guarantee that asbestos removal is not occurring when children are at before and after school care, during school holiday programs or when schools are being used by community groups?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:31): I thank the Hon. Courtney Houssos for her question. I reiterate what I said last week. There are relevant guidelines in terms of the processes for asbestos removal. The department takes immediate action when necessary, consistent with relevant statutory guidelines. When removing asbestos, work is scheduled to ensure that there is no risk to staff, students or the community. As I said last week, there will be occasions when asbestos must be removed during operational hours. This may include an emergency situation whereby immediate action is required and the affected area is deemed to be safe and completely clear of all students, staff and community access. I said that last week. That remains the case today, and so I reiterate what I said in response to earlier questions.

The Hon. COURTNEY HOUSSOS (12:32): I ask a supplementary question. Will the Minister elucidate her answer and outline the steps that have been taken to notify before and after school care groups and community groups if emergency works are being undertaken?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:33): I thank the member for her question on hypothetical situations.

The ACTING PRESIDENT (The Hon. Trevor Khan): Order! The Hon. Courtney Houssos has asked a question. It is not an opportunity to heckle from the backbench. The Minister has the call.

The Hon. SARAH MITCHELL: As I said in my earlier answer, there are clear guidelines relating to the removal of asbestos as part of the department's processes. If there are emergency situations when immediate action is required, the work is done when the area is deemed to be safe and completely clear of all students, staff and community access. Specifically in relation to before and after school care or other community use, if work is occurring or needs to occur because of an emergency and if there are other people using the school at that point in time—again, without any specific examples it is hard to be specific—but I will certainly see if there is any further advice from the department about what happens.

The processes in place are still the same. There will be occasions when asbestos is required to be removed during operational hours. This will include, as I have said many times, emergency situations. But it will always be done when the area is completely clear of all students, staff and community access. Ensuring the health, safety and wellbeing of the community as well as making sure any statutory legal obligations are in place is and will remain the department's priority.

LONGWALL COALMINING

The Hon. MARK PEARSON (12:34): My question is directed to the Hon. Bronnie Taylor representing the Minister for Energy and Environment. A recent study conducted by the University of New South Wales has

revealed disturbing findings on the impact of longwall coalmining under Sydney's water catchment between the Avon and Cordeaux dams. The study highlights the damage being done to the temperate highland peat swamps, which act like sponge filters and retain water during extended drought periods. Scientists fear the damage being done is irreversible and could have catastrophic consequences for both the natural environment and Sydney's water supply. Another study has shown that up to three million litres of water a day is lost to the mine from surface water and seepage. Is it appropriate to be longwall mining underneath reservoirs that supply Sydney with fresh water? What is the Minister's department doing to stop this slowly unfolding tragedy?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:35): I thank the Hon. Mark Pearson for his very detailed question involving longwall mining and his specific questions about what the department is doing. That department belongs to a Minister in the other place whom I represent. As the question is very detailed, I will take it on notice and get back to the honourable member with an answer.

MID NORTH COAST ABORIGINAL COMMUNITY

The Hon. NIALL BLAIR (12:36): My question is addressed to the Aboriginal affairs Minister. Will the Minister update the House on how the Government is working with the community of the mid North Coast to deliver better outcomes for Aboriginal people?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:36): I have had the opportunity to meet with a number of stakeholders on my recent visit to Coffs Harbour. I met with the Coffs Harbour and District Local Aboriginal Land Council, which hosted a meeting with a number of other organisations to talk me through some of the great work occurring in its community. I heard about what works well, what does not and what it believes is missing.

I look forward to continuing to hear how this community-driven work is providing whole-of-community benefits. Tribal Wave Assembly, one of our Aboriginal regional alliances, is a strong voice in this community. I heard firsthand how it has been working through local problems with local solutions. For example, it has been working with local schools to deliver a targeted approach for better engagement from students. I heard of some of the great work and some of the frustrations that local Aboriginal land councils have when dealing with other parties, including government agencies.

Hearing from communities reiterates my commitment to see genuine opportunities through the next review of the Aboriginal Land Rights Act, ensuring more self-determination and opportunities which will in turn benefit the entire community. I want to see a stronger community, which includes autonomy from government and government funding, and the local Aboriginal land councils are some of the best placed organisations to deliver this outcome. I also appreciated meeting with Clark Webb and the small team at Bularri Aboriginal Corporation to hear firsthand how they are ensuring their cultures continue to be strong through their language projects and how they achieve outcomes through their social enterprises.

The Gumbaynggirr people are lucky to have so many strong advocates and teachers of their culture. The education Minister can attest to the fact that children who learn a second language show greater cognitive development in higher order thinking skills. I look forward to working with the future board of the Aboriginal Languages Trust and I remind anyone who is interested in being part of it that they have until Friday to submit their expression of interest. These communities are continuing to do great work and I look forward to working with my colleagues to ensure they continue to go from strength to strength.

SYDNEY TRAINS ASBESTOS REGISTER

The Hon. MARK BUTTIGIEG (12:39): My question is directed to the Leader of the Government in his capacity as the public service and employee relations Minister. Does the New South Wales Government have an up-to-date and accurate asbestos register at Sydney Trains to actively manage the safety and health of government employees and passengers?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:39): I thank the Hon. Mark Buttigieg for his question. I suspect the question is better directed to me in my capacity as Minister representing the transport Minister because in my capacity as Leader of the Government and my other ministerial capacities I do not have access to that information, which specifically references Sydney Trains. I will take that question on notice and I will refer it to the transport Minister for an answer.

CLIMATE CHANGE AND YOUTH MENTAL HEALTH

Ms CATE FAEHRMANN (12:40): My question without notice is directed to the mental health Minister. Last week I asked what the Government was doing about the impact that the climate crisis is having on

the mental health of young people. The Minister did not mention climate change in her response. Has the Minister had any briefings from her department or other stakeholders about the impacts that hopelessness about the future due to inaction on climate change is having on young people's mental health? If not, has the Minister asked for any briefings?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:41):

I thank the honourable member for her question. We know that lots of factors can influence a person's mental health and over the years significant events have caused stress amongst young people. During the Cold War era, when many members in this House were younger, our fears about a nuclear war were paramount, as were our fears and stress after the horrific events of 9/11. However, we know that the biggest and most constant stress for young people over the years and today is their education and we already have a variety of mechanisms in place to help children and young people cope with those feelings of anxiety and stress.

In schools, we have wonderful School-Link Coordinators who strengthen mental health support across approximately 3,000 schools and TAFEs, which is a joint initiative between Health and Education. A key election commitment of this Government is to enhance crisis support services for children, young people and adults in New South Wales through the provision of \$23.5 million over four years to expand capacity at Lifeline and Kids Helpline. Starting in the 2019 financial year, this includes \$5.5 million to support Kids Helpline to answer an extra 18,000—

Ms Cate Faehrmann: Point of order: I ask that the Minister be directed to be relevant to the question asked. The question was whether she had any briefings from her department or other stakeholders in relation to the hopelessness about inaction on climate change that young people are feeling or whether she has asked for any briefings. The Minister is now giving the very broad response that she gave last time about what her department is doing in relation to young people and mental health. That was not the question.

The ACTING PRESIDENT (The Hon. Trevor Khan): I invite the Minister to come to the point of the question.

The Hon. BRONNIE TAYLOR: As there is a lot we are doing for children and young people, I was elaborating on that for the member. In regional New South Wales, children and young people as well as their families are experiencing significant ongoing stress as a result of the drought. NSW Health works with other government agencies and community support services to ensure that existing risk factors for children and young people in rural and remote areas, such as mental health and suicidality, family violence, social isolation and poor education outcomes, are not exacerbated during times of drought.

The Government is also funding UNICEF Australia to host a unique youth-led drought summit for young people from rural and regional New South Wales. The three-day event from 9 to 11 October at Point Wollstonecraft and Lake Macquarie will give young people a chance to share their experiences and, most importantly, support each other. Young people living in drought-affected communities in New South Wales will have opportunities to debate the challenges and opportunities facing them now as well as to share ideas on how government, business and local communities can help prepare for future droughts. I will be visiting the Youth Drought Summit and am looking forward to meeting attendees to hear their concerns.

New South Wales has improved access to mental health services in rural and drought-affected areas through lots of mechanisms, as I have mentioned, and is supporting tele-health technology to bring mental health expertise to remote regions. Recently I visited Headspace in Bondi Junction and the people who worked there said that young people were experiencing stress and anxiety due to climate change and other things.

[Members interjected.]

The ACTING PRESIDENT (The Hon. Trevor Khan): Order! The Minister has concluded her answer.

VACATION CARE

The Hon. LOU AMATO (12:45:): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister outline to the House the wide variety of vacation care services on offer in the school holidays?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:46:0):

The Government's commitment to support families and children at our State's public schools goes well beyond what happens in the classrooms and playgrounds during school hours. As members know, the Government has embarked on a comprehensive \$120 million program to expand access to before and after school care across the State. There will be more to say about the progress on that front in the coming months. Many of the services that will benefit from the investment are preparing this week for vacation care programs, which offer an enormous amount of variety and new experiences for children.

The Government is very aware of the constant juggle that families have to make with work, school and family. Vacation care provides the help that parents need during the school holidays. Right across New South Wales young people will be exploring arts, crafts, sporting and creative pursuits. There will be workshops on all kinds of sport, from rock climbing to AFL. There are STEM classes, slime-making days and cake-baking courses. There are loads of music and drama camps as well as fun days out seeing a movie, hanging from the zip-lines at TreeTops, exploring the zoo, tenpin bowling and loads more activities that children across the State can take part in.

Vacation care programs give students a range of experiences that they may not otherwise have access to while allowing them to relax and enjoy the holidays and the time away from school. They also support working families to ensure that they can manage their work and family commitments, safe in the knowledge that their children are having fun and still learning new skills. It is a very important part of the school year. I acknowledge all the services and carers who work very hard to provide a fun, safe and secure program for our children. It is fair to say that there is a lot more on offer for school holiday fun than the days when some of us were at school. At Maroubra Junction children will be heading into the city to see the Apollo 11 exhibition at the Powerhouse Museum in Ultimo and later having a mammoth MasterChef cook off. Children down south in the Illawarra region are being offered the chance to earn lifesaving skills in a First Aid for Kids course, which is a hands-on workshop where they will earn a first aid certificate.

It is vital that regional children are also provided the best vacation care that there is to offer. In Cessnock children will head down to see the Spying in Australia exhibition at the Newcastle Museum and also enjoy the Australian Reptile Park on the Central Coast. Kids from Riverstone and Quakers Hill will be exploring Koori culture before heading to Parramatta's Riverside Theatre for Roald Dahl's *Revolting Rhymes & Dirty Beasts*. I am told that some of those programs are so popular that there are waiting lists to get in. Children all over the State love their vacation care programs. The providers and public schools offering those programs work tirelessly to make sure those days run without a hitch during the school holidays and they deserve to be congratulated and acknowledged. As we head towards the end of term three, I say thank you and well done to all our students, teachers and staff in our primary and secondary schools across New South Wales for their hard work this term.

SCHOOLS ASBESTOS MANAGEMENT PLAN

The Hon. ROSE JACKSON (12:49): My question is directed to the Minister for Education and Early Childhood Learning. Will asbestos removal be undertaken during the school holidays at any of the 162 schools that have damaged or friable asbestos and are open to the public as part of the Government's Share our Space Program?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:49): I thank the honourable member for her question in relation to the work that is due to be carried out over the holidays. I will take advice from School Infrastructure and come back to her if there is work to be undertaken.

WARRAGAMBA DAM

Mr JUSTIN FIELD (12:50): My question is directed to the Minister for Mental Health, Regional Youth and Women representing the Minister for Planning and Public Spaces. There is significant uncertainty about how biodiversity offset requirements will be applied to the proposal to raise the Warragamba Dam wall. How will the Government manage perceived or actual conflicts of interest in regard to advice and decisions about offset requirements for the project given the Secretary of the Department of Planning, Industry and Environment, who will advise on these matters, was formerly the CEO of Infrastructure NSW and still sits on the board of that organisation, which has the role to oversee and coordinate the delivery of the project?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:50): I thank the honourable member for his question. For context, the Hawkesbury-Nepean Valley is a beautiful natural landmark in western Sydney. It is also an area that could potentially be devastatingly affected by an extreme weather event. The Insurance Council of Australia classifies flood risk in the Hawkesbury-Nepean Valley as the largest natural disaster risk in New South Wales. A recent run of floods across the country has exceeded existing floodplain management norms, such as Dungog in 2015 and Townsville in 2019. The Government is adjusting the way it approaches planning on the floodplain accordingly to ensure we proactively manage risk to people and property.

The proposed raising of the dam wall by 14 metres aims to reduce the flood risk for current and future populations, accounting for existing developments and those already in the pipeline. In 2017 the Government rejected major residential development for 5,000 homes at Penrith because the flood evacuation risks in the Hawkesbury-Nepean Valley mean that it could not be safely developed. This development needed to be rejected irrespective of whether the dam wall raising proceeds or not. On 13 March 2018 the Department of Planning,

Industry and Environment issued secretary's environmental assessment requirements—otherwise known as SEARs—to the applicant, Water NSW, in relation to the State Significant Infrastructure Application for Warragamba Dam raising.

Water NSW is preparing the environmental impact statement [EIS] for the proposed raising of the Warragamba Dam wall. It is expected that public exhibition will occur in late 2019. The EIS application has not been lodged with the department and therefore no comments on adequacy can currently be made. Adequacy of the EIS, including compliance, will be assessed once lodged, which is anticipated to be in late 2019. Approvals are required from the State and Commonwealth governments. I have further information in response to the honourable member's question which I will table.

PROJECT AIR STRATEGY FOR PERSONALITY DISORDERS

The Hon. TAYLOR MARTIN (12:52): My question is directed to the Minister for Mental Health, Regional Youth and Women. What is the Government doing to support people with personality disorders?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:53): The Project Air Strategy for Personality Disorders enhances the capacity of New South Wales public health services to diagnose and provide effective treatment for people with personality disorders. The Government invests \$1.1 million annually in Project Air. This funding supports people with personality disorders across their lifespan. Project Air works with health services, other government agencies, clinicians, families and carers and consumers to provide tailored interventions to improve treatment for personality disorders. Clinicians attending Project Air training and consultations are provided with skills-based learning, enabling them to implement and deliver a stepped care model for evidence-based treatment, including establishing brief intervention Gold Card Clinics.

The stepped care Gold Card Clinic offers three sessions of rapid follow-up, support care planning and skills training for consumers presenting in distress and crisis, plus a further session connecting with carers, partners and families. There are now over 25 Gold Card Clinics located within local health districts and positioned alongside acute mental health services. These clinics offer an alternative to emergency department and inpatient admission, providing safe and effective care and follow-up that are tailored to meet the needs of people with these challenges—and they are challenges.

Evaluation of this approach, compared with treatment as usual in a randomised controlled trial, demonstrated a reduction in presentations to emergency departments by a staggering 22 per cent. When an admission was clinically indicated, the length of stay in hospital was significantly reduced from an average of 13.46 days to 4.28 days per admission. That is a great achievement for this project. Analysis of longitudinal patient data demonstrates that people graduating from these clinics experience significant improvement in symptoms, quality of life and productivity from initial assessment to follow-up at 12 months.

There are significantly lower ratings of suicidal ideation and attempts and reduced incidents of deliberate self-harm. Published evaluation of the Project Air approach has demonstrated the average cost saving for treating personality disorder using its model of care is \$3,900 per patient per year. So far across New South Wales 6,000 mental health, drug and alcohol and hospital staff have received training. The great thing about this program is that it trains local people in health districts to deliver the service and follow-up for clients. Of that number 32 per cent were nurses, 24 per cent were psychologists, 24 per cent were allied health workers and 15 per cent were psychiatrists and senior leaders. This is an exceptionally successful program. I have visited one site in Wollongong. This is a serious issue.

THEATRE TICKET TAX

The Hon. JOHN GRAHAM (12:56): My question is directed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Leader of the Government. Given the Minister's support for a thoughtful report by the Western Sydney Business Chamber on theatre venues, which included a \$3 theatre tax on tickets, will the Minister explain how such a proposal might work?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:56): I was very happy to provide a foreword to that report. The recommendations in the report are matters that came from that study. I have not considered and there is no proposal under consideration for a ticket tax by the Government.

CIRCUS ANIMAL WELFARE

The Hon. EMMA HURST (12:57): My question is directed to the Minister for Mental Health, Regional Youth and Women representing the Minister for Agriculture and Western New South Wales. Lions kept in zoos in New South Wales must have an enclosure of at least 300 square metres whereas in a circus the enclosure can

be as small as 20 square metres. Circus lions do not even have to be kept in this 20 square metres for the whole day; they can be kept in tiny wagons for up to 18 hours a day. Why does the Government have such different space requirements for the same species of animal in different settings?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:58):

I thank the honourable member for her question. I reiterate that the Government takes animal welfare very seriously and is committed to further improving the already high standards of animal welfare in this State. There is no doubt that we are all concerned with ensuring that appropriate levels of housing and care are provided to animals, whether in circuses, zoos, homes or on farms. There are prescribed standards for exhibiting circus animals in New South Wales and other exhibitors in New South Wales. In 2008 the National Consultative Committee on Animal Welfare endorsed an updated version of the circus standards. The current New South Wales circus standards are based on those. Those standards cover a wide range of requirements such as animal suitability, animal housing and management, transport, performance and training, animal dignity and public safety. Under the Exhibited Animals Protection Act 1986, those standards are enforceable.

The standards for exhibiting circus animals in New South Wales state that lions, when at the circus mobile establishment, must have access to an exercise area in the form of large demountable enclosures annexed to its animal wagon. This annex must be available to the lion for a minimum of six hours during the day. The minimum floor space for two lions is 30 metres squared. This size is less than the minimum display enclosure size of 300 metres squared for two lions under the standards for exhibiting carnivores in New South Wales that applies to zoos. It does, however, equate to the medium-term holding enclosure size for two lions under those standards. A medium-term holding enclosure is one where lions are held off display for a period greater than one day and up to 90 days in a calendar year.

The rationale for allowing circuses to have smaller display enclosures is that reduced space availability can be compensated for by the exercise and stimulation obtained from regular training and performances. The circus standards require a lion to be provided with at least 45 minutes exercise per day on at least four days of every week in the form of training sessions or public performance. It is worth noting that when a circus lion is held in a licensed animal display establishment, such as its home base, it must be provided with animal housing that satisfies the requirements applicable to zoos.

Compliance with these strict standards ensures the welfare of animals displayed to the public. Inspections of exhibitors are carried out by officers from the Department of Primary Industries to assess and to enforce compliance with the Act, regulation standards and licence conditions. In addition to the Exhibited Animals Protection Act 1986 exhibitors must also comply with the Prevention of Cruelty to Animals Act 1979, referred to as POCTAA. The RSPCA NSW, Animal Welfare League NSW and the NSW Police Force are enforcement agencies for POCTAA. [*Time expired.*]

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

SCHOOLS ASBESTOS MANAGEMENT PLAN

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (13:01):

Earlier in question time the Hon. Courtney Houssos asked me for information about asbestos removal. I have received further advice that principals are provided works notifications to distribute to the community.

SHARE OUR SPACE PROGRAM

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (13:01):

Earlier in question time the Hon. Rose Jackson asked whether schools in the Share Our Space program have work scheduled. I can confirm that any schools that have scheduled maintenance work during the school holidays are unable to participate in the Share Our Space program.

Supplementary Questions for Written Answers

SCHOOLS ASBESTOS MANAGEMENT PLAN

The Hon. COURTNEY HOUSSOS (13:02): My supplementary question seeking a written answer is directed to the Minister for Education and Early Childhood Learning. Given the Minister's previous answers where she stated there will be occasions where asbestos is required to be removed during operational hours, how many New South Wales public schools have had asbestos removed during school hours? How many times has the Department of Education instructed the removal of asbestos to occur during school hours in the past 12 months?

*Questions Without Notice: Take Note***TAKE NOTE OF ANSWERS TO QUESTIONS**

The Hon. COURTNEY HOUSSOS: I move:

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

SHARE OUR SPACE PROGRAM**SCHOOLS ASBESTOS MANAGEMENT PLAN**

The Hon. COURTNEY HOUSSOS (13:03): Today in question time the Labor Opposition asked a series of questions about the use of our schools by external groups and the removal of asbestos from New South Wales public schools. In response to questions the Minister for Education and Early Childhood Learning answered, "It is hard to be specific," and said that these were hypotheticals that the Opposition was posing. This specifically goes to the crux of our questioning. Clear procedures and protocols need to be in place around how this issue is being dealt with by the New South Wales Government. Indeed, a member of the Government asked the Minister about the use by external community groups of our school spaces during the upcoming October school holidays.

This is an incredibly important aspect of this discussion around asbestos presence in New South Wales schools. It is not just a question of parents, students and teachers; it is also about how the schools and the Department of Education are communicating with external groups, whether it be before and after school care, vacation care or external community groups who come onto school grounds and utilise school property—as they should, but there need to be rigorous processes in place. I note that when some of those questions were being asked there were interjections coming from those opposite saying that these were boring questions. I refute that.

These are important questions that parents and school communities are asking about how asbestos removal is occurring in New South Wales schools, where and when it is occurring and who is being notified. We know that of the schools that are participating in the Share Our Space program—a great idea—23 have friable asbestos and 162 have damaged asbestos. Why are the upcoming school holidays not being utilised to remove this asbestos rather than the schools being opened to the public? These are important questions that need to be answered and they need to be answered today.

EARLY LEARNING STOCKTON

The Hon. TAYLOR MARTIN (13:05): I wish to take note of the answer given by the Minister for Education and Early Childhood Learning in regard to the childcare centre in Stockton in the northern part of the electorate of Newcastle. Erosion at Stockton has been a constant issue for over 100 years. In fact in the 1920s and the early 1950s the dunes were eroded even further back than they have been recently. During this time many assets were built inside the immediate hazard zone. That is why during the Greiner Government a seawall along the beach was constructed, running parallel to Mitchell Street. Then what happened for the 16 years of not only a Labor government but also a local Labor council, which has responsibility for coastal management—

The Hon. Penny Sharpe: Point of order: I do not wish to take up the member's time but he is straying well beyond the Minister's answer by giving a long history in relation—

The ACTING PRESIDENT (The Hon. Trevor Khan): The Hon. Taylor Martin will have to tie his answer back to the early learning centre. He should give it his best effort. I can see that further point of order will be taken.

The Hon. TAYLOR MARTIN: I could not be more relevant, Mr Acting President. It is built on the dune that I am talking about.

The Hon. Penny Sharpe: Point of order: The member is now flouting your ruling.

The ACTING PRESIDENT (The Hon. Trevor Khan): No. Members will allow him to speak a little longer.

The Hon. TAYLOR MARTIN: What is the council that has responsibility for protecting this particular piece of land doing? It is building an \$8 million solar farm and spending \$7 million on moving its administration building but it has not even bothered to apply for its share of funding from the State Government.

The Hon. Penny Sharpe: Point of order: I am not trying to take up the member's time but the solar farm has nothing to do with erosion at Stockton Beach or the answer the Minister gave.

The Hon. Shayne Mallard: We can do this game.

The ACTING PRESIDENT (The Hon. Trevor Khan): I do not need to hear such comments from the Hon. Shayne Mallard as it just takes up time. I again invite the Hon. Taylor Martin to direct himself to the issue of the early learning centre at Stockton Beach.

The Hon. TAYLOR MARTIN: The funding to protect that dune has not even been applied for with a compliant application from the council to the State Government. We have had that money on offer for years now. Newcastle council has been too busy with its vanity projects to lodge a compliant application. So now, literally as the State Government's program is closing, with no compliant application from Newcastle council, the Minister has agreed to hold applications open specifically for that council to put in an application to protect that dune. The childcare centre is housed in a building that has been earmarked for demolition for years now. The council leased it out until next year, against the advice of the Coastal Council. The council has now applied for funding to the State Government to demolish that building, as it had always intended. Who has been involved? Not the member for Strathfield, otherwise known as the former member for Newcastle, who has wagged Parliament today to make up for lost time—

The Hon. Penny Sharpe: Point of order: That is way beyond the scope of the question and answer.

The ACTING PRESIDENT (The Hon. Trevor Khan): Yes, that is too far. The member must direct his answer to the childcare centre. The member for Strathfield does not have any—

The Hon. Penny Sharpe: To the point of order: Imputations against other members are also disorderly at all times.

The Hon. TAYLOR MARTIN: To the point of order: The Opposition leader is in Stockton right now. It is entirely relevant. It is exactly what we are talking about.

The ACTING PRESIDENT (The Hon. Trevor Khan): The inference was with regard to wagging and it was beyond the scope of the issue.

EARLY LEARNING STOCKTON

The Hon. PENNY SHARPE (13:09): I wish to take note of the answer given in relation to Stockton. This issue is not easy to fix. Members on this side of the House understand that. The way that this Government has dealt with the Coastal Management Act 2016 has been full of good intentions but it has failed to deliver up and down the coast. In relation to Stockton, Newcastle City Council and the State Government have had ongoing discussion about what is needed to save that beach and to deal with the childcare centre. On the issue of the childcare centre particularly, members can impugn the motives of Newcastle City Council all they like but the reality is there are families there who need child care and who are desperate to deal with the childcare centre. The council had tried to find a solution for them that involved giving them a bit more time to sort it out.

Members can argue backwards and forwards here all we like—and I heard what the Minister had to say that, yes, there are places—but, as I understand it, families are being asked to travel a very long way from where they live. Do not forget this is pretty close to the centre of Newcastle. They are being asked to go a very long way to move their children around child care. I know a lot of members in this Chamber have done childcare drop-offs. The council has tried to do the right thing. There is now an emergency. We need to find a fix for that. Simply sheeting it home to the local council is not acceptable. More broadly, I point out that the Coastal Management Act used to be dealt with in Environment under Mr Rob Stokes, it then moved to Planning and has now been shunted to Local Government. This is a shared responsibility. We have problems up and down the coast because of the words "climate change".

INTEREST RATES

The Hon. WALT SECORD (13:11): I make a brief contribution to the answer given by the Minister for Finance and Small Business, both in that capacity and representing the Treasurer. I was disappointed when the matter was raised in budget estimates 28 days ago. Deputy Secretary Joanne Wilkie said NSW Treasury was "still working through" and it was "a very live question" for Treasury officials about how zero interest rates would impact on the New South Wales Government, the New South Wales economy, New South Wales families and New South Wales self-funded retirees.

I am surprised that the Minister would be unable to provide an answer, knowing that the Governor of the Reserve Bank of Australia made comments last night and yesterday about this very issue. It is the number one issue in the financial community and on the minds of families and businesses in New South Wales. I have family who live in Germany where there are negative business interest rates—they are zero and negative—and people have to pay banks to make deposits. It is extraordinary and it will have a big impact, and it seems to me we are heading in that direction. So I am very disappointed that the NSW Treasury spokesperson in this Chamber was unable to even acknowledge that he knew about the issue.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (13:12): I will speak briefly. In relation to Stockton, I think I answered that question particularly in relation to the support in place for families to assist them in finding options either in services nearby or in Beresfield. I will also briefly touch on some of the comments around the questions about asbestos. As I said, the school advises the community of any remedial actions that are taking place. Schools are supported by the School Infrastructure NSW communications team in order to do that.

It needs to be put on the record that some of the figures that have been thrown around in relation to asbestos in schools are, in some cases, intentionally misleading. I also point out that the asbestos register includes known incidences of friable asbestos. School Infrastructure NSW marks vermiculite ceilings in this category as a precautionary measure. Cases of vermiculite have been tested. Of the instances identified on the register, only 29 of the over 2,200 schools require remediation. That work is underway, with 11 schools already completed and the others progressing through the stages of remediation.

Other incidences of friable asbestos can include, for example, asbestos that is sealed in the walls of fireproof safes that cannot be accessed or are contained within heaters. When friable asbestos has been identified as posing an immediate risk to the health and safety of students, the department's procedures are implemented as a matter of priority. Those procedures include isolation, quarantining of the affected area and engagement of an independent expert hygienist to undertake testing and development of a remediation plan. These are issues and processes that I canvassed extensively last week when I was asked about it. I will not go into it again today other than to say that we have a comprehensive register of known and suspected incidences. It is an issue we take seriously and we have processes in place.

The ACTING PRESIDENT (The Hon. Trevor Khan): The question is that the motion be agreed to.
Motion agreed to.

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

In reply to **the Hon. WALT SECORD** (24 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:

Create NSW continues to work with all prospective Pier 2/3 tenants, including the Australian Theatre for Young People.

I have met with all of the organisations impacted by the Pier 2/3 development, and each has been briefed and consulted as to their issues. The New South Wales Government has responded sympathetically to their situation, and my door is always open to these organisations.

The Government has provided \$8 million to support impacted arts organisations with suitable, short-term accommodation to operate their various functions.

The Government has also provided tenants with approximately \$400,000 a year of additional support for relocation costs, and other incidentals.

Sydney Dance Company has new temporary studios on Wattle Street in Ultimo and Bangarra Dance Theatre has a studio space at Barangaroo.

Sydney Philharmonia Choir, Gondwana Choirs, The Song Company and Australian Theatre for Young People have office accommodation in Woolloomooloo, as well as individually-sourced rehearsal/performance venues.

Create NSW is continuing to work with the resident companies housed in new sites to minimise the impact to programming and performance outputs.

The ACTING PRESIDENT (The Hon. Trevor Khan): I will now leave the chair. The House will resume at 2.30 p.m.

*Bills***JUSTICE LEGISLATION AMENDMENT BILL 2019****Second Reading Debate**

Debate resumed from an earlier hour.

Mr DAVID SHOEBRIDGE (14:31): Before the luncheon break I was commenting that the sun never seems to set on these laws except in this one case where we have—I am trying to find a polite description—the administrative failures of this Government. It is clear that we have a significantly different political environment

between 2005—when these laws were first introduced with a sunset clause—and now. We have not had the research or review that would inform the Parliament either to continue the laws or, more importantly, to permanently remove the sunset clause. In this regard I note the concerns raised by the Legislative Review Committee regarding the previous iteration of this bill. It said, in part:

... when these powers were first conferred, the Committee noted in its Legislation Review Digest No. 8 of 2005 that covert search warrants were likely to trespass on affected persons' privacy and property. In particular, the Committee raised its concern with the provision that provided for the covert entry of premises of occupiers not suspected of any criminal activity in order to access adjoining premises, thereby infringing on the rights of innocent people.

As the current bill seeks to extend the timeframe in which covert search warrants can be executed under the parameter set out in the Terrorism (Police Powers) Act, the Committee reiterates the view it raised in its earlier digester that these powers may adversely affect the privacy of innocent individuals.

Sunset clauses are a feature of not just New South Wales anti-terrorism legislation, they are also a feature of Federal anti-terrorism legislation. They all have the same attributes of significantly trespassing on our individual civil liberties, removing what are often century-old protections for such basic rights as effectively being able to issue a writ of habeas corpus so that people cannot be arbitrarily detained. In that regard the NSW Council for Civil Liberties in 2013 said:

The Government of the day must be persuaded to allow the sunset clauses relating to aspects of the ASIO legislation to take effect in 2016. Further extension of this legislation will effectively embed it as a permanent feature of our legal system—with all the negative implications for Civil Liberties that will flow from this.

In relation to similar laws, although at a Federal level which had a sunset clause, the council also said:

These ASIO powers were seen to be "extraordinary" and short term when introduced in 2003. Accordingly they came with sunset clauses so they would lapse in 2006. In 2006 the Government extended them for another 10 years—until 2016. It is imperative for our democracy that these powers are allowed to lapse in 2016.

It is The Greens' position that these concerns are equally valid in relation to the bill currently before the House, particularly as we are now permanently removing the sunset clause and, as the NSW Council for Civil Liberties said, "permanently entrenching these provisions that are noxious to long-held concepts of liberty into our law". I finish by referencing a useful piece in the *Adelaide Law Review* by Nicola McGarrity, Rishi Gulati and George Williams on sunset clauses in Australian anti-terrorism laws. I quote:

A frequent criticism of sunset clauses is that they provide a convenient political excuse for short cutting initial parliamentary debate about controversial legislation, thereby postponing the substantive debate until the legislation comes up for expiry or renewal. Of even greater concern is the suggestion that a sunset clause operates as the "spoonful of sugar that helps controversial legislation go down".

That is legislation that would otherwise have been blocked by the Parliament but is allowed to pass on the basis that it has a limited lifespan. The article further stated:

The one piece of federal anti-terrorism legislation subject to a sunset clause that has come up for expiry has (far from being allowed to expire) been renewed for an even longer period than was initially the case.

That is a reference to the ASIO Legislation Amendment Act 2003 that the NSW Council for Civil Liberties took issue with. As I said, the NSW Council for Civil Liberties and constitutional and public lawyers like George Williams and others have raised those concerns that sunset clauses are this "spoonful of sugar" which allows parliaments to initially take away people's rights. We are now at the point where this sunset clause has expired—from memory it expired on 13 September—and we are not even engaged in a substantive debate about the legislative provisions. We are just rushing this through in a moral security panic without even considering the substance. The NSW Bar Association and the Law Society of NSW also have concerns. All of those concerns are playing out in this debate right now because we are rushing the legislation through, we are not considering the substantive effect of it, we are making it retrospective and we are permanently entrenching it in our legal system. For all those reasons, The Greens oppose the amendment to the bill.

Reverend the Hon. FRED NILE (14:36): I am pleased on behalf of the Christian Democratic Party to support the Justice Legislation Amendment Bill 2019. This bill will make amendments to various Acts within the Stronger Communities cluster to address emerging issues, support procedural improvements, clarify uncertainty and correct drafting errors in the legislation. Justice miscellaneous amendments bills are typically introduced into Parliament each session as part of the Government's regular legislative review and monitoring program. Instead of having a multiplicity of bills, bills dealing with minor matters are combined under a bill such as this, the Justice Legislation Amendment Bill.

This bill covers a number of important areas, such as to increase the standard non-parole period for bushfire arson from five to nine years imprisonment—to implement a recommendation of the NSW Sentencing Council. In recent weeks we have had some serious examples of bushfire arson that, sadly, has even involved teenagers. The bill also seeks to include improved coronial processes to reduce delays by removing the

requirement to report a death to the Coroner just because the person had not seen a medical practitioner in the six months before their death; to clarify the legislative intention that courts have the power to deal with breaches of expired historical good behaviour bonds; and to resolve a number of unintended drafting ambiguities that have arisen as a result of amendments to implement the Early Appropriate Guilty Pleas reform.

It also seeks to increase the maximum term a person can be appointed as an Official Visitor from two to four years and to clarify that all information that can be accessed by a person who works in or otherwise carries out functions within the correctional system will be protected from unlawful disclosure and authorised for disclosure, where appropriate. Further, it seeks to clarify that an offender whose release from custody has been delayed at the request of or with the consent of the offender is classified as an "inmate"; to provide a legislative basis for Youth Justice to maintain a Victims Register; and to enable Legal Aid NSW to become a member of the Domestic Violence Death Review Team. That is a positive move.

The bill also seeks to remove redundant and unnecessary references to the NSW Poisons List; to increase the presumed time for postal service delivery; to extend the defence of absolute privilege from defamation to the provision of reports of compliance audits of law practices; and to confer a defence of absolute privilege from defamation to the Independent Planning Commission and its predecessor for the publication of reports and other documents. The bill has a minor but positive improvement that justices of the peace in the State will appreciate. The New South Wales justices of the peace system will now include a new title, JP Retired. The bill will enable the secretary to delegate functions under the Justice of the Peace Act 2002 to a senior officer of the department and enable justices of the peace to witness the execution of interstate documents where the law of another State empowers them to do so. I note that there has been some debate about part 6B of the bill dealing with terrorism. Part 6B states:

Membership of terrorist organisation

- (1) A person commits an offence if—
- (a) the person intentionally is a member of a terrorist organisation, and
 - (b) the organisation is a terrorist organisation, and
 - (c) the person knows the organisation is a terrorist organisation.

Maximum penalty: Imprisonment for 10 years.

If that provision has lapsed or will lapse, it is very important that it is reinstated in this legislation. The Christian Democratic Party supports the bill.

The Hon. NATALIE WARD (14:41): On behalf of the Hon. Sarah Mitchell: In reply: I hope to be brief but I do not want to make a promise that I cannot fulfil.

The ACTING PRESIDENT (The Hon. Trevor Khan): I remind the member that speeches in reply address matters that have arisen in debate and are not another second reading speech.

The Hon. NATALIE WARD: I intend to do so as quickly as possible. I thank the Hon. Adam Searle, the Hon. Walt Secord, Mr David Shoebridge and Reverend the Hon. Fred Nile for their contributions to debate on the bill. I will address some matters that members raised and I will endeavour to do so quickly. I first refer to the comments that the Hon. Adam Searle made regarding the urgency of the amendment moved in the other place. As the Attorney General explained in the other place, on Monday he was advised of the repeal of part 6B of the Crimes Act. Immediately after the Attorney General was informed of the repeal, the New South Wales Government acted swiftly out of an abundance of caution. The Justice Legislation Amendment Bill 2019 was the fastest legislative mechanism to re-enact part 6B. The Government fixed the problem immediately. As the Attorney General explained in the other place, the counterterrorism Minister and the Attorney General have directed the Secretary of the Department of Communities and Justice, Mr Michael Coutts-Trotter, to ensure that in future robust practices are in place for reviewing forthcoming timed repeal of regulations that apply to statutes.

It is important to place on record that this is not the first time an administrative oversight has occurred in New South Wales from terrorism-related legislation—and my colleague opposite knows what I am talking about. On 27 September 2010 the then Labor Government introduced the Terrorism (Police Powers) Amendment Act 2010 to correct a technical error to the Terrorism (Police Powers) Act 2002. The technical error arose from an un-commenced provision in the Courts and Crimes Legislation Amendment Act 2008, which was timed to commence on 13 September 2010. That provision commenced on that date and automatically repealed the definition of "terrorist act" in part 3 of the Terrorism (Police Powers) Act 2002. From 13 September 2010 to 27 September 2010 "terrorist act" was undefined. The then Labor Government moved retrospective amendments in this House immediately to reinsert the definition into the Terrorism (Police Powers) Act 2002.

This Government is taking similarly swift action to ensure that New South Wales terrorism laws are not undermined by a technical oversight. I note, dare I say it, the somewhat hysterical contribution by the Hon. Walt Secord, who does not seem to appreciate that there was no consequence from the oversight. As the Attorney General explained in the other place, given the identical offence in section 102.3 of the Commonwealth Criminal Code, the automatic repeal of part 6B from the Crimes Act has had no operational impact and has posed no risk to community safety. I note the concerns of Mr David Shoebridge about the retrospectivity of the re-enactment of part 6B. Ordinarily I would share those concerns but in this case, given that the identical Commonwealth offence applied for the entire period that part 6B was repealed, there is no detriment to any person by the re-enactment of part 6B being applied retrospectively—it was in place anyway. I also note Mr David Shoebridge's comments regarding covert search warrants. He referred to the comments of the Legislation Review Committee about covert search powers. However, that committee commented in the 10 September 2013 *Legislation Review Digest No. 43/55*:

... a judge must consider the nature and gravity of the "terrorist act" in determining whether there are reasonable grounds to issue a covert search warrant. Hence, safeguards exist to balance national security and public safety concerns with the right to privacy.

Covert search warrants are available to the NSW Police Force on application to an eligible judge, being a judge of the Supreme Court. An application can be made only on the basis that an officer suspects or believes on reasonable grounds:

- (a) that a terrorist act has been, is being, or is likely to be, committed, and
- (b) that the entry to and search of premises will substantially assist in responding to or preventing the terrorist act, and
- (c) that it is necessary for the entry and search of those premises to be conducted without the knowledge of any occupier of the premises.

An eligible judge must be satisfied that there are reasonable grounds for issuing the warrant. The covert search warrant powers under part 3 of the Terrorism (Police Powers) Act commenced on 16 December 2005. I am advised that since that commencement the NSW Police Force has made just nine applications for covert search warrants. Five warrants were granted, of which three were executed as part of the Operation Pendennis. As a result of that operation five men were convicted of a range of terrorist offences and each received substantial sentences of between 23 years and 28 years. The NSW Police Force uses those extraordinary powers only in exceptional circumstances.

The Hon. Adam Searle questioned if the risk of homicides and deaths due to neglect and mismanagement will increase because of the amendment to omit section 6 (1) (d) of the Coroners Act 2009. I acknowledge those concerns. The purpose of the amendment is to remove the requirement for the Coroner to consider death simply because a person did not see a medical practitioner within six months before their death, which will remove the requirement for the Coroner to consider deaths that are obviously from natural causes. It is anticipated that the amendment may assist with the faster resolution of other coronial matters by reducing the number of natural deaths reported to the Coroner. I note that the proposed amendments are being widely considered with relevant stakeholders, including the coronial jurisdiction, the Chief Magistrate, the Royal College of Pathologists of Australasia, NSW Health, Victims Services, the Families and Friends of Missing Persons Unit and the Public Interest Advocacy Centre, which do not oppose the proposed amendment. The obligation under the Act is to report unnatural, violent or suspicious deaths and sudden deaths from unknown causes to the Coroner. It will remain.

The Hon. Adam Searle and Mr David Shoebridge also commented on the resourcing levels of the Coroners Court, coronial delays and a statutory review of the Coroners Act. The Government is committed to addressing coronial delays. However, a holistic approach must be taken when developing any reform to the coronial system. Two reforms in this bill related to the coronial procedure have been introduced as an immediate response in recognition of the distress to family members when the finalisation of coronial proceedings are delayed. In addition to those amendments, the joint Department of Communities and Justice and NSW Health task force is undertaking an end-to-end review of the coronial process. The recommendations of the task force will inform future reform to the coronial jurisdiction. The completion of the statutory review of the Coroners Act will await the task force recommendations to ensure a holistic reform process.

The Government has already taken a number of other important steps to improve coronial jurisdiction and reduce delay. This includes the new \$91.5 million Forensic Medicine & Coroners Court Complex, opened in Lidcombe late last year. Extensive high-tech facilities will enable more comprehensive and timely investigations of sudden and unexplained deaths in that forum. It also includes the establishment of the Coronial Case Management Unit, which brings together staff from the Department of Communities and Justice, the NSW Police Force and NSW Health to work as a single team.

The unit enables the Coroners Court to engage earlier with grieving families and to provide more detailed information than was previously provided. However, the biggest contributor to coronial delays is the international

shortage of forensic pathologists. Post-mortem examinations can only be carried out by appropriately qualified and credentialed specialist forensic pathologists. Coronial jurisdictions across Australia are experiencing difficulties filling vacant forensic pathology positions, impacting time frames in post-mortem services. NSW Health Pathology is exploring options for international recruitment of forensic pathologists and there are currently six registrars in training.

I note the Hon. Adam Searle's comments about resourcing of the coronial jurisdiction in comparison with other jurisdictions. However, the appropriate measure is not resourcing but outcomes. The *Report on Government Services 2019* indicates that the New South Wales coronial jurisdiction's pending cases of greater than 12 months and greater than 24 months are better than comparable indicators in Victoria and Queensland. The Hon. Adam Searle also commented on amendments made to the Coroners Act in 2016 to move the Domestic Violence Death Review Team [DVDRT] from annual to biennial reporting.

That amendment was made following a recommendation from the statutory review of chapter 9A of the Coroners Act, which came from a submission from the then State Coroner, the convenor of the DVDRT. When the amendment was debated in the other place, Ms Gabrielle Upton, the member for Vaucluse and a former Attorney General, explained that the requirement to report annually did not allow sufficient time for the development of evidence-based policy recommendations within a collaborative, inter-agency framework. It also did not allow sufficient time to adequately monitor the implementation of the team's past recommendations.

I now turn to amendments relating to justices of the peace [JPs]. The Hon. Adam Searle queried why the bill does not contain amendments to permit New South Wales JPs to witness overseas documents. I take on board his comments. It is a role currently undertaken by notaries. That issue was considered as part of the consultation paper released in August 2018. Some stakeholders, including the NSW Justices Association and the St George Sutherland Shire branch, considered the witnessing of overseas documents to be a particularly complex area. If JPs were permitted to witness those documents they would require significant awareness and training of foreign legal processes, rights and obligations. As notaries are required to have special qualifications and accountability protections, some stakeholders submitted to the consultation paper that notaries were in a better position to deal with this complex area.

In terms of proof-of-life forms, which the Hon. Adam Searle referred to, I am advised that procedures are already in place through the Commonwealth Department of Human Services and Centrelink to support customers to make claims for foreign pensions, where Australia has entered into an international social security agreement with the relevant country. The Hon. Adam Searle also suggested that a provision is required to indemnify JPs who act in good faith and pointed to Western Australian legislation as an example. JPs do not require a standing indemnity for litigation as the likelihood of them being found to be in breach of their duty of care to clients is low.

In New South Wales JPs are given clear information in their handbook about their duty of care and the actions that they are required to undertake in order to discharge that duty. I note the Hon. Adam Searle's comments about Mr Paul Mannix being described in the Attorney General's second reading speech in the other place as "President of the NSW Justices Association" and I thank him for those comments. Mr Mannix was the President of the NSW Justices Association at the time of the association's conference last year, which the Attorney General was describing attending. The *Hansard* record has been corrected to identify Mr Mannix as the "former President". I am glad we could clarify that.

I note the Hon. Adam Searle's comments about Local Court resourcing and I note that earlier this month the Attorney General announced the appointment of two new magistrates to the Local Court as part of a \$4.1 million package to help deal with the rise in the number of criminal matters in the Local Court. In conclusion, the bill will make amendments to a number of Acts within the Stronger Communities cluster to address emerging issues, respond to developments in case law, support procedural improvements, clarify uncertainty and correct errors in legislation. I commend the bill to the House.

The ACTING PRESIDENT (The Hon. Trevor Khan): I commend the Parliamentary Secretary for a proper speech in reply, which is very rare in this place. The question is that this bill be now read a second time.

The House divided.

Ayes34
Noes5
Majority.....29

AYES

Amato, Mr L

Banasiak, Mr M

Blair, Mr

AYES

Borsak, Mr R
D'Adam, Mr A
Farlow, Mr S
Harwin, Mr D
Latham, Mr M

Martin, Mr T
Mookhey, Mr D
Nile, Revd Mr
Searle, Mr A
Taylor, Mrs
Ward, Mrs N

Buttigieg, Mr M
Donnelly, Mr G
Franklin, Mr B
Houssos, Mrs C
Maclaren-Jones, Mrs
(teller)
Mason-Cox, Mr M
Moriarty, Ms T
Primrose, Mr P
Secord, Mr W
Tudehope, Mr D

Cusack, Ms C
Fang, Mr W (teller)
Graham, Mr J
Jackson, Ms R
Mallard, Mr S
Mitchell, Mrs
Moselmane, Mr S
Roberts, Mr R
Sharpe, Ms P
Veitch, Mr M

NOES

Boyd, Ms A (teller)
Hurst, Ms E

Faehrmann, Ms C
Shoebridge, Mr D
(teller)

Field, Mr J

Motion agreed to.

Third Reading

The Hon. NATALIE WARD (15:03): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

I thank the staff of the Attorney General for their assistance with the passage of this bill today and for their hard work throughout.

The ACTING PRESIDENT (The Hon. Trevor Khan): The question is that this bill be now read a third time.

Motion agreed to.

REPRODUCTIVE HEALTH CARE REFORM BILL 2019**In Committee**

Consideration resumed from 24 September 2019.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are dealing with the Reproductive Health Care Reform Bill 2019. Before we begin, I indicate to members that there are new amendments on sheet c2019-175A. It was lodged this morning and, as Chair, I have used my discretion to accept the new amendments. Copies of the sheet are available in the Chamber. Members should be aware that the new amendments on sheet c2019-175A replace the amendments on sheet c2019-170A, which has now been withdrawn. The new amendments seek to amend similar parts of the bill as those on the previous sheet but via seven amendments rather than eight amendments.

I also advise members that amendments Nos 3, 5, 6 and 7 on the new sheet are identical to the amendments on existing sheet c2019-169C. Amendments Nos 1 to 4 on the new sheet c2019-175A, like a number of amendments previously circulated, will be considered only if the Committee of the Whole agrees to reconsider clause 6 of the bill at a later hour. We will now consider the amendments on sheet c2019-166A regarding pain relief for the fetus.

The Hon. GREG DONNELLY (15:08): I move amendment No. 1 on sheet c2019-166A:

No. 1 **Pain-relief for foetus**

Page 4. Insert before line 12—

8 Analgesia to be administered to foetus

(1) This section applies if a medical practitioner is performing a termination, under section 5 or 6, on a person who is—

(a) 20 weeks pregnant or more, or

- (b) if a lesser number of weeks is prescribed by the regulations, that number of weeks pregnant or more.
- (2) The medical practitioner must, during the termination, ensure analgesia is administered to ensure the foetus does not experience pain. This is an amendment I put together myself and it arose from some work that I have been doing over the past few weeks, in particular, knowing that this legislation would eventually come before this House for debate. The amendment goes to the essential notion of providing pain relief for a fetus that is about to be terminated. I indicate to the Committee that I did not consult the Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG] nor did I consult with its current president, Dr Roach. The reason I did not—and I think it is important to put it on the record—is in the debate that we have had over the last little while on this matter the position has been put again and again from those who are sponsoring the bill that at the heart of this matter, when it comes to the issue of termination of a pregnancy, is the relationship between the mother-to-be and the treating medical practitioner, her doctor or obstetrician gynaecologist, as the case may be. The decision-making through that, with ultimately the final decision falling to the woman, is the one to be looked at and given primacy over all other relationships.

I say "all other relationships" because there is another relationship here—that we all understand is here but have not talked about as much as we could have—and that is the relationship between the mother-to-be, the unborn child she is carrying and the obstetrician gynaecologist. In all the evidence we have received from RANZCOG through its submission to this inquiry and the evidence from the president, Dr Roach, to the hearing we held, he was absolutely abundantly clear that in terms of the matter of looking at relationships that exist, he, as the president, and RANZCOG, as the organisation, focused on the primacy of the relationship between the pregnant woman and the treating physician.

That being the case, one is left with the situation of who is going to be—if I could put it in sporting terms—in the corner for the unborn. I am talking very specifically about being in the corner with respect to a very particular point, which is the basis of my amendment, and that is the provision—I would have absolutely thought it is something that everyone could bring themselves to support—of pain relief to a fetus that is about to be terminated. We do not have RANZCOG on the side of the unborn; the president of RANZCOG is not on the side of the unborn. We have the mother who has made a decision; it is a decision that she has made obviously with some consideration—although from previous debate on another amendment we know there is often duress and coercion at play, but I will not revisit those matters.

We have a situation whereby the fetus is going to undergo a procedure—or, rather, the mother is going to undergo a medical procedure that is going to lead directly to the demise of the fetus. That is what the practice of pregnancy termination is; that is what an abortion is. Left with the situation of not being able to consult with RANZCOG or Dr Roach over this, I was left to my own devices. In terms of understanding the issue of fetal pain, what is fetal pain and what is trying to be addressed with respect to its mitigation, if not to completely—dare I use the phrase "dull out"; it is a terrible phrase to think about—then to dull out or to neutralise the pain for the fetus as it is being aborted? Who do I turn to to get the best information in that regard?

There are four pieces of material I will specifically refer to—and it is going to be in a bit of detail because it has to be understood. What is the situation with respect to fetal pain as we understand it in 2019 in terms of the best medicine and best science that is available? And, with respect to the best science and the best medicine that is available, what do we understand can be done in terms of mitigating or dulling fetal pain in the context of being terminated? I consulted with the following people, and I wish to place it on the record. First of all, I had discussions with Dr John Whitehall—the Hon. Penny Sharpe beside me gives a big sigh. Yes, it is true that Dr John Whitehall is the President of the Christian Medical and Dental Fellowship. I would not have thought being the President of the Christian Medical and Dental Fellowship is a hangable offence in the State of New South Wales—

The Hon. Wes Fang: We do not hang anyone.

The Hon. GREG DONNELLY: No, we do not hang anyone. In fact, we do not support hanging anyone.

Reverend the Hon. Fred Nile: He should be congratulated.

The Hon. GREG DONNELLY: Yes. I set that aside as a matter of concern and go to his professional qualifications. The same Dr John Whitehall—shame on him; shame on him for being the President of the Christian Medical and Dental Fellowship—is also the following. He is a man who has almost reached retirement—he is in his sixties—and he has been a paediatrician all of his professional life. He is currently the Professor of Paediatrics in the School of Medicine at Western Sydney University. I thought that a bloke like that would have a few clues about the issue of fetal pain and how one deals with this issue. The fact that he happens to be associated with an organisation that has "Christian" at the front of it I set aside when I went through his professional qualifications

to inform myself about what he could do to inform my thoughts and thinking and ultimately the framing of the amendment before the Committee. I will return to his comments in a moment.

The second person I consulted—and I believe members of the House may have received her correspondence—is Dr Deirdre Little. Someone may have heard of Deirdre Little. Has anyone heard of her? Dr Deirdre Little happens to be a visiting medical officer [VMO] at the Bellingen District Hospital. I may have met her on one occasion somewhere; it may be two occasions. She is someone I do not profess to know. She sent me a letter—and members can check their own correspondence; I think it went to everyone—on 12 September 2019. She is a VMO at a significant rural public hospital in the State of New South Wales. If the citation of Dr Whitehall's name got people fired up, I quote Dr Simon McCaffrey. Dr Simon McCaffrey has been pilloried from pillar to post, absolutely. And guess why? He has some association with Right to Life NSW. My view is: big deal. I do not know what the membership of that organisation is; I do not care what its membership is. I am not a member of it and I do not care who is. In his spare time he can do what he likes. I am interested in his professional qualifications and issues of fetal pain.

The same Dr McCaffrey is an obstetrician and gynaecologist of 40-plus years standing in south-western Sydney, out of Liverpool Hospital. Dr Roach was very boastful about the number of babies he had delivered. He told us he had delivered 4,000 babies—"he thought", I need to put that on the record—when he came to give evidence. McCaffrey would not tell me how many babies he has delivered. I suspect it is twice as many as Roach. But who really cares? Who is counting? The point I am making is some serious effort has been made to speak to people to provide information and significant detail that we could not get from Mr No-show, the chief obstetrician and gynaecologist in New South Wales. I still have not seen the bloke anywhere. If he exists, I would like his phone number—I would love it. He is a ghost. The New South Wales chief obstetrician and gynaecologist is a ghost.

The Hon. Penny Sharpe: Point of order: I know the Hon. Greg Donnelly feels strongly about this. I have listened carefully and I think it is okay for him to talk about the qualifications of people he sought advice from but impugning the motives and attacking the chief gynaecologist is simply unfair and way outside what we are dealing with in this amendment.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind the Hon. Greg Donnelly of my ruling a few days ago. He has put the matters on the record and we are well aware of his views on those organisations and individuals. He does not need to go into that again. I ask the member to return to the leave of the amendment.

The Hon. GREG DONNELLY: I will in due course. Simon McCaffrey was a bloke I rang up to get a few clues on fetal pain. I do not know how many babies he has delivered in south-western Sydney but he has been serving that community for 40 years. He works out of rooms in Liverpool and he delivers many of the babies at Liverpool Hospital. The fourth source of information is Dr Catherine Crowley. Dr Catherine Crowley is a senior lecturer at the School of Medicine at the University of Notre Dame, Australia. She is the fourth person I will refer to. With respect to what we are trying to provide relief for and in terms of pain relief specifically with respect to the unborn, it needs to be understood in these terms: What is the circumstance that the fetus is about to immediately experience?

This is important. What I am about to go through I am not going to go through for any other reason but to be absolutely clear of what is going on here and to deal with the specificity of the pain relief required to mitigate or ideally abolish the experience of pain felt by a fetus about to be terminated. It is linked to the second point, and I join the two deliberately. I mention briefly the six- to 16-week gestation because that links to the commencement of the first experience of pain. With respect to termination in that first period of six to 16 weeks gestation, the normal procedure, as honourable members would know, is not a medical procedure; it is a suction curettage, a vacuum curettage—they are the same. This is the typical procedure for a first-trimester abortion.

This is the most common kind of procedure performed in the first six to 16 weeks. It involves dilating the cervix by inserting rods of increasing size to open it. Then a plastic tube is inserted into the uterus. The fetus and placenta are sucked out using a high-powered vacuum. The walls of the uterus are then scraped with a curette to ensure that everything has been removed. That is the first procedure with respect to first-trimester terminations. The sixteenth week is important because it is a threshold, and I will explain in a moment what our best science currently available in 2019 says about the early sensitivity of the human being—in this case unborn—to be able to sense pain.

The procedure for the 14- to 15-week period—this is important because it is right on the threshold—is this: dilation and evacuation. I misspoke. This is after the 14- to 15-week period; this is precisely at the 16-week period but before a bit later. This is, dare I say, the mid procedure. The cervix is dilated, as above, then instruments are used to crush and remove the fetus piecemeal. I will repeat that: The cervix is dilated, as above, then

instruments are used to crush and remove the fetus piecemeal. "Piecemeal" means it is broken up and removed from the uterus. A combination of forceps, suction and curettage is often used. That is a very straightforward two-sentence explanation of what happens in the second procedure.

The one I go to now is the final one I refer to. This is the significant one that goes to specifically what I have crafted not as an ambit claim in terms of looking at a period of time in which we all should be able to consider, in all the circumstances, that the provision of pain relief is not only the reasonable thing to do but also the right and moral thing to do to a life that is about to be extinguished. This is the third procedure. Anyone who has spent any time looking at this area would be well familiar with this. It is called an intact dilation and extraction. This is after 16 weeks. This is 16 weeks on the button up to the threshold of 20, which is what I proposed. I will talk about why I have decided on 20 as a proposition as opposed to 16.

There is a strong argument that 16 should be considered as an arguable threshold that could have been in the amendment. After 16 weeks gestation this method can be performed. In medicine it is not recommended to be used below the 16-week threshold. Labour is induced through hormonal treatment to the woman as if a normal birth. The cervix is primed to dilate, equally with pharmaceuticals. The doctor rotates the fetus so the head is under the woman's ribs. The body of the fetus is drawn out feet first. I will say that again: The body of the fetus is drawn out feet first until only the head remains inside the uterus. The doctor can then use an instrument to puncture the base of the skull, which collapses the fetal head. I will say that again: The doctor can then use an instrument to puncture the base of the skull, which collapses the fetal head.

Typically the contents of the fetal head are then partially suctioned out, which results in the death of the fetus. This is worthwhile noting. It is the application of the suction through a hole placed in the back of the skull of the fetus and the withdrawal of what is obviously brain matter that leads to the demise of the fetus. This is the practice now in New South Wales after 16 weeks. It goes on. It reduces the size of the fetal head enough to allow it to pass through the cervix. That is the procedure that needs to be followed through with. Frankly, the head is too large for the amount of dilation that has taken place so they need to essentially suction out the brain so the skull can be collapsed to withdraw the fetus from the woman.

This results in the death of the fetus and reduces the size of the fetal head enough to allow it to pass through the cervix—the dead, otherwise intact, fetus. This is clear: It is dead, stone-cold dead, but it is otherwise intact other than the hole in the back of the head where the brain is suctioned out. The dead and otherwise intact fetus is then removed from the woman's body and that is the end of the procedure. It should come as no surprise that the procedure is known—and I hate to use the words "in the industry" because medicine, for goodness sake, cannot be an industry; it must be a vocation, the Hippocratic oath—as a partial birth abortion. It is pretty clear why, because obviously the body has been removed, the brain suctioned, head collapsed and the baby pulled out.

That is what happens with respect to pregnancy termination in New South Wales. Faced with that reality, I then decided: How could I go about crafting a clause which hopefully will be one favourably considered by the Committee? In taking soundings about what I could do—I will do nothing more and nothing less than cite these pieces of academic research—once again, off my own bat, Dr Google is good, you get the right names and it all comes out. I will just go through them quickly, if members could be patient.

Some journal articles are apposite to this very point. The first one I will cite is the *British Journal of Obstetrics and Gynaecology*, September 1999—this conceptualisation and grasping with the notion of fetal pain has been around for a while—volume 106, pages 881 to 886. The article is titled "Fetal pain: implications for research and practice" and it is a relatively short but I might say very thorough piece of work. Its author is Vivette Glover et al. The next piece of research, which is particularly on point in that it deals with the matter of the developing brain and the capacity to experience pain, is an article that appears in the journal of the American Neurological Association titled "Procedural pain and brain development in premature newborns". The author is Susanne Brummelte et al. It deals with the issue of pain in some detail.

The next piece appeared in the journal only in 2012. The journal is from the Kennedy Institute of Ethics from the United States of America, titled "The problem of foetal pain and abortion towards an ethical consensus for appropriate behaviour". The article that deals with this issue of the development of the nervous system of the unborn which, of course, is integral to the ability to perceive and feel pain. The article is called "Tridimensional Visualization and Analysis of Early Human Development" from the eminent science journal *Cell*, volume 169, pages 161 to 173, 23 March 2017. The authors of this very detailed and lengthy article is Morgane Belle et al—there is a series of authors to this piece. I quote from mid-way of the first paragraph of the summary:

We provide high-resolution 3D images of the developing peripheral nervous, muscular, vascular, cardiopulmonary, and urogenital systems—

of the human being. This is the sentence I want to draw to the attention of the Committee:

We found that the adult-like pattern of skin innervation is established before the end of the first trimester, showing important intra- and inter-individual variations in nerve branches—

the nerves that give feeling that provide the signals for pain—

We also present evidence for a differential vascularization of the male and female genital tracts concomitant with sex determination. This work paves the way for a cellular and molecular reference atlas of human cells, which will be of paramount importance to understanding human development in health and disease.

The first trimester sensations starting to be felt is what they are getting at. It is probably some relief to everyone but I want to cite two final pieces from peer review journals dealing with the procedure of the killing of an unborn as described by me yesterday. I referred to the case study of the tragic death of not one, but two—they were twins—in November 2011. I remind the Committee that that woman went in to have a termination but inadvertently the wrong unborn was identified by the sonographer and the procedure that I am about to explain in a bit of detail—which I reflected on briefly yesterday—terminated the perfectly healthy twin, which led to an appalling situation whereby the woman was put under, as I would submit, huge pressure, which I find extraordinary, to immediately make a decision about proceeding to complete the exercise, dare I say, of terminating the disabled fetus as had been originally intended. The woman ended up losing both her children.

The procedure is this—and I want to put it on the record so we are absolutely clear. I specifically want to draw the attention of the Committee to the article in the *South African Medical Journal* in 2013, volume 103, No. 1. It is titled "Late termination of pregnancy by intracardiac potassium chloride injection: 5 years' experience at a tertiary referral centre". Finally, the second one to do with the same procedure is a 2014 *Journal of Ultrasound Medicine*, volume 33, at pages 337 to 341. It is headed "Potassium Chloride—induced Fetal Demise", and its subheading is "A Retrospective Cohort Study of Efficacy and Safety". I want to draw attention to a single sentence in the opening paragraph which essentially explains what the article is about. It is about what the procedure is called and states:

One method for inducing fetal demise—

which is a lovely phrase, I have to say. I do not know who thought this up. They must have got a pretty schmick marketing company to come up with this one, "fetal demise", read "killing the unborn fetus"—

is via sonographically guided intracardiac potassium chloride (KCI) injection. The procedure is identified in the medical text as in this abbreviated form KCI. So KCI is the procedure that we are talking about here. With respect to the experience of fetal pain, I quote directly from the letter that, as far as I know, all members have received from Dr Deidre Little, a Visiting Medical Officer [VMO] at Bellingham District Hospital. On page 2 of her letter she states:

Fetology has demonstrated the ability of the unborn child to feel pain.

This is a specialised part of medical science in obstetrics and gynaecology, specifically in fetology. She continues:

Surgeons who operate on the fetus now sedate the unborn child to prevent fetal movement in response to painful procedures.

That is what surgeons do—today, now. The letter continues:

Because the unborn are unable to tell us what they are feeling, researchers rely on observation of the physiological and biochemical signs of pain to assess its presence. Evidence for pain of the unborn must be based on behaviour, anatomy and physiology.

The next paragraph is very significant. Dr Little states:

In 1994—

1994—

those performing procedures on the fetus—

and this was a particular piece of medical work being done and shortly I will refer to the article in *The Lancet* that dealt with it back in 1994—

observed that he or she reacted strongly to needle sampling from the vein in the liver, and began breathing rapidly. This fetal response was not observed when blood was collected from the placental vessels.

Obviously, this was the research that was being undertaken: Do we draw blood from the unborn for some diagnostic testing—one presumes, as this was the work being looked at—or do we draw from the placental fluids and do the analysis via the placental fluids? She continues:

Their data suggested that the fetus mounts a hormonal stress response—

we do this in 1994—

to invasive procedures. The release of stress hormones rose in proportion to the duration of the needling procedure. They suggested the possibility that the human fetus feels pain in the uterus, and may therefore benefit from anaesthesia or analgesia for invasive procedures.

That was said back in 1994. Dr Little goes on:

Over the next 20 years further research has evidenced the ability of the fetus to feel pain.

Then she goes to 1997. This is last-century science, everyone. She states:

... the British Journal of Obstetrics and Gynaecology published a review of fetal pain claiming that failure to provide adequate analgesia for preterm babies is now considered substandard and unethical practice.

Substandard and unethical practice. She continues:

The review concluded:—

1997 *British Journal of Obstetrics and Gynaecology*—

'Given the anatomical evidence, it is possible that the fetus can feel pain from 20 weeks and is caused distress by interventions from as early as 15 or 16 weeks'.

So the fetus can feel pain from 20 weeks and is caused distress from interventions from as early as 15 or 16 weeks. The letter continues:

The more we learn about fetal pain perception pathways and responses the earlier the age at which we recognize the unborn baby's ability to feel pain. It has been found recently, in March 2017, that the nerve innervation—

that is the word I referred to earlier with a double 'n'—

of the skin of a baby in the womb at less than 12 weeks—

less than 12 weeks gestation, within the first trimester—

exhibits an adult-like pattern.

Then she concludes:

The presence of fetal pain is not disputed. Nancy Keenan, president of NARAL—

in capital letters—which is the pro-choice American abortion lobby of some size and significance, I must say. The NARAL president stated, and I quote the president directly:

... the NARAL would not oppose the Unborn Child Pain Awareness Act—

would not oppose it—

because—

This is its articulation of its position. I do not agree with the particular emphasis but it is its position and I will be pragmatic, and I do not like being pragmatic about this but if it gets the argument over the line it gets it over the line. She continues:

women deserve access to this relevant information.

What a revelation this is. Do not worry about the baby; worry about the woman. I have to say that I am in both corners—the woman's and the baby's. NARAL is not so interested in the baby but it is in the woman's corner and all I can say is, "Thank goodness for that," because by virtue of the fact that it is in the mother's corner, it is prepared to not oppose the Unborn Child Pain Awareness Act proposition in the United States of America. Dr Little continues:

Abortion legislation recently proposed for NSW—

and this is her opinion, a VMO in the State of New South Wales—

legitimizes—

people will not like this language but this is a warning—

physical abuse of the unborn child. In its overall disregard of the personhood of these children it shows neglect and unconcern for the agony—

not pain but the agony of his or her experience of actually going through the experience of being aborted, being terminated. Dr Little concludes:

Legitimizing and legislating for abortion at all gestations up to birth is a grave act of cruelty against our young.

That is her position. The final thing I want to do is quote the 1994 science from *The Lancet* which was the piece of science that belled the cat in the middle of the last decade of the last century. The surname of the lead author of the article is very long—Giannakouloupoulos X. The article is called "Fetal Plasma Cortisol and B-endorphin Response to Intrauterine Needling". It is a bit of a mouthful but there it is. It appeared in the eminent medical journal, the world-renowned *The Lancet*, volume 344, 1994, pages 77-81.

With respect to the evidence to the inquiry about the treatment of fetal pain and the experience thereof leading to feelings associated with fetal terminations, I will briefly comment on the observations of Dr Catherine Crowley, a senior lecturer at the School of Medicine at the University of Notre Dame. On page 2 of her submission—and might I just say that if one goes to the website of the inquiry this submission is not there. She emailed it to me. So this is the submission that is not a submission that is a submission—right? This is the way it rolls here in the New South Wales Parliament.

The Hon. Penny Sharpe: Point or order: The Hon. Greg Donnelly is reflecting on the processes and the decision-making of this Chamber. It is completely inappropriate. He can be unhappy with it, but to canvass decisions that have been made by the Standing Committee on Social Issues and to somehow traduce the processes is an insult to all of us. It is also an insult to the staff of this Parliament.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I uphold the point of order. It was a decision of the Chamber—the timetable and so forth. I ask the Hon. Greg Donnelly to return to his amendment.

The Hon. GREG DONNELLY: I respect your ruling. I refer to the bottom of page 2 of the Crowley submission. In this part of her submission—it is a very good submission in respect of its content and its reflection—she is specifically dealing with the need for fetal analgesia and she is referring specifically to sections 5 and 6 of the bill, which is what we are dealing with here, and the issue of a fetus feeling pain. She makes the following points:

It is accepted that the fetus can feel pain from 20 weeks and is caused distress by interventions from as early as 15 or 16 weeks (Glover 2005 British Journal of Obstetrics and Gynaecology), while the nerve innervation of the skin of a fetus at less than 12 weeks exhibits an adult-like pattern (Belle 2017 Cell)

Pain relief (analgesia) is considered standard practice for pre-term babies.

We are not talking about coming out with an ambit claim here, something we do not know about or never practise in medicine and specifically obstetrics and gynaecology, and more specifically dealing with a child in utero. I repeat:

Pain relief (analgesia) is considered standard practice ...

It goes on:

Sections 5 & 6—

and this is with respect to the bill—

do not require that pain relief is given to the fetus in a surgical abortion.

So the legislation does not do that, although it is standard practice in obstetrics and gynaecology in this State. I would have thought that Dr Roach from the Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG] could have drawn this to our attention. The submission continues:

For example, Dilatation and Evacuation (D&E) done at 22 weeks is usually enacted by a doctor who dilates her cervix and then proceeds to use forceps to pull of the arms and legs individually—

so we deal with the limbs first—arms first, left and right; legs next, left and right: gone—

then parts of the body, then crush the skull to fit through the cervix ...

We have got to get this done, so this is the way we do it. The submission continues:

The body parts are then—

and I am sure members know this; this is standard understanding of what happens with these procedures—

put together to ensure all of the baby has been removed.

That is absolutely necessary. The only point I would make is: it is not the highly paid obstetricians and gynaecologists who do the reassembling; it is, generally speaking, the enrolled nurses or unskilled staff in back rooms, putting the pieces together to ensure there is nothing left in the uterus, because we know what can happen when fetal content remains in the uterus. I do not need to go into any more specific detail.

The Hon. Wes Fang: Why not? You are going into detail now.

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

The Hon. GREG DONNELLY: Oh well, how it goes—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Greg Donnelly will not respond to interjections.

The Hon. GREG DONNELLY: I can. I have got—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Members should observe this debate in silence.

The Hon. GREG DONNELLY: It is hard going. I understand this. What she says next, the author of this submission, is:

This is a distasteful reality but one that we cannot ignore.

That is exactly what she says in her submission. How prescient was the Hon. Wes Fang? The submission continues:

This would obviously entail significant pain and stress.

Well, I would have thought that was a pretty fair observation, particularly with respect to the non-application of analgesia or pain relief. Her submission goes on:

Sometimes ultrasound is used to guide the instruments for abortion and children can be seen to be trying to move away from the instrument as it grabs and dismembers them—

limb by limb. People can get onto the internet—Dr Google—and see videos: you can see the withdrawal, the movement away from the instruments. It is all there. We all know this is how it is done. And the child is reacting to that stimulus. It is the nervous system. It is the pain that I am trying to mitigate.

Ms Abigail Boyd: It is not.

The Hon. GREG DONNELLY: There is no pain? Okay, well, we will hear from The Greens soon about this, so this will be interesting. So we have got this clear understanding by a person who happens to be a lecturer in a medical faculty, but that is by the by, I suppose. The submission goes on:

Any human being cannot surely propose that it is in any way acceptable?

Well, I would have thought that is a pretty fair statement—any human being. Her second last point is this:

not to mention outcry—

I want to make this point; screaming from the rafters—

if a wanted 22 week old pre-term baby was born alive and then it was dismembered in a similar way.

Pretty fair observation—same human being: one is wanted; one is not wanted. That is the only difference: wanted or not wanted. She concludes finally in her clear and unambiguous submission:

as a minimum—

school of medicine, senior lecturer—

pain medication should be administered to the fetus for all abortions performed after 20 weeks.

Now I will not go into it because I think it has been adequately covered by the content thus far, but will I just refer to the evidence given by Dr John Whitehall in his submission. He makes the exact point on this issue of pain relief—of analgesia to relieve pain. Dr Simon McCaffrey does not touch on this in any detail in his submission, which was quite a short submission. Members can read his *Hansard* evidence. I made it my business to find out the bloke's contact details. I rang his rooms in Liverpool and had a yak with him. He confirmed everything that I have said in respect of what the best medicine and science tells us in 2019.

I do not believe I can be any clearer or any more emphatic about the reality—the absolute, unequivocal, unchallengeable reality—of the experience of pain; the capacity to experience pain of a fetus. I put on record my thanks for the guidance of Parliamentary Counsel, who helped me craft these words in the particular way that I did, but they are my words. I thought I would come forward with a proposition that dealt with 20 weeks pregnancy or more. I have to say my preference has been to present a lower figure because the best science and medicine gives us a basis to go to 15 weeks. But what I am trying to do is look at the weeks in the bill. I understand that 22 weeks is the threshold figure in the bill. But in good conscience I could not go to 22 weeks in this amendment because we knew in 1994 it was 20 weeks. We knew that in 1994.

My amendment entitled "Pain-relief for foetus" will become proposed section 8 entitled "Analgesia to be administered to foetus". This is important. There is an administration, an act of a human being giving pain relief to another human being. People might not like that language. Let us call it the unborn or the fetus—whatever you like. It is the provision of pain relief to another human being, whom we refer to in plain English as a fetus, because it is about to experience its very demise, its very execution. The amendment states:

(1) This section applies if a medical practitioner is performing a termination—

it is pretty clear—

under section 5 or 6, on a person—

we are consistent with the language in the legislation—

who is—

and this is the criteria:

- (a) 20 weeks pregnant or more, or
- (b) if a lesser number of weeks is prescribed by the regulations, that number of weeks pregnant or more.

Proposed section 8 (1) (b) provides some capacity in the years to come so that we can move to a lower threshold as we as a society become more clearly convinced and understand the reality of pain experienced by a fetus below 20 weeks. I am taking the position that people may not be convinced by 15 weeks so the amendment states "20 weeks" but I have provided a caveat in proposed subsection 8 (1) (b) to move to a lower number by regulation. Proposed section 8 (2) states:

- (2) The medical practitioner must, during the termination, ensure analgesia is administered to ensure the foetus does not experience pain.

Those are the clearest words that I could put in black and white to reflect the precise intention of what I was trying to achieve. That is the proposition. I thank the Committee for its indulgence for allowing me to speak at some length on this matter. The amendment needed to be explained in the detailed way that it was. I appreciate the patience of all honourable members. I commend the amendment to the Committee.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I will update the Committee on the status of the amendments because some members are probably preparing for their contributions. Only two more sets of amendments are left to be dealt with. The first set of amendments on sheet c2019-059B entitled "Prohibition on sale of foetal tissue" will be moved by the Hon. Natasha Maclaren-Jones. I will rule on that amendment when it is moved. The second set of amendments will be moved by the Hon. Damien Tudehope. At the moment those amendments appear on sheet c2019-175A but they are being amended and will later appear on sheet c2019-175B. All other amendments will not be moved.

Ms ABIGAIL BOYD (16:03): I thought we had already hit rock bottom of this debate but I was wrong. I am really struggling to put words together after listening to the Hon. Greg Donnelly for the past however long, describing in detail how terminations of pregnancy occur. It does not come as a huge surprise to the vast majority of people who have been following this debate for a very long time. It certainly does not come as a surprise to people such as me who have had a miscarriage at a late stage and have had to undergo that procedure.

The Hon. Greg Donnelly: I was not talking about miscarriages.

The Hon. Penny Sharpe: I would keep quiet if I were you.

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

Ms ABIGAIL BOYD: I speak for a whole bunch of people in this Parliament as well as—

Mr David Shoebridge: Point of order: The Hon. Greg Donnelly is not only interjecting, he is interjecting in an offensive way. I ask that you call him to order.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I heard an interjection. The Hon. Greg Donnelly will not interject. I put all members on notice.

The Hon. Greg Donnelly: Point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I am ruling on the point of order. Members will not interject during this emotional debate. I will call members to order for interjecting.

The Hon. Greg Donnelly: My point of order relates to reflection. The member is reflecting. She is entitled to put a case—that is fine, not a problem. Mr Chair, you have ruled on several occasions about the inappropriateness and the unparliamentary act of reflecting on a member. As I said, I have a pretty thick hide but I am not going to sit there and be reflected on.

The Hon. Penny Sharpe: To the point of order: The member was given very wide latitude in his contribution. He said things that are very challenging for many people in this debate. Ms Abigail Boyd is trying to explain what that means to her. She is not reflecting on the member. She is asking for the same respect that the Hon. Greg Donnelly was given during his contribution.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I caution all members that they should be careful about reflecting on other members. The impact of the amendment and the speech are valid areas to talk about. Members should not reflect upon the motives of the mover of the amendment.

Ms ABIGAIL BOYD: I do not believe I was. I was referring to his contribution.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): That was a general notification for all members.

Ms ABIGAIL BOYD: Sorry, I will not cavil with the Chair. I offer my solidarity to anybody watching the live feed of this debate or anyone else in Parliament who was similarly triggered in a completely unnecessary way, in my view, by that very descriptive contribution from the Hon. Greg Donnelly. The foundation for this very late amendment is a medically unproven theory. It is an unsubstantiated claim that a fetus feels pain at 20 weeks. There is no scientific consensus on that. The weight of evidence does not favour 20 weeks as being the point at which a fetus would feel pain. The Hon. Greg Donnelly is, by his own admission, not a doctor and he has, by his own admission, not consulted with actual doctors. Yet, here we have this brain fart of an amendment stolen from the United States anti-abortion playbook. Google can be a dangerous thing in the wrong hands, allowing people to pick and choose particular bits of information that they like, rather than going to experts and getting advice from people who have made their professions in science, research and medicine.

The Hon. Greg Donnelly: Point of order: I am sorry—it is a slow reaction on my part. I would have thought that referring to my amendment as a "brain fart of an amendment" is a reflection on my amendment. The member also said it was a "late amendment". The truth of the matter is that there have been many amendments in circulation. I do not mind—I will keep interjecting.

Mr David Shoebridge: You will.

The Hon. Greg Donnelly: I am happy to do it. Listen—

Mr David Shoebridge: But only when women are contributing. Do you notice that?

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

The Hon. Greg Donnelly: You get up, mate. I'll be all over you, I can tell you. You get up and I'll be all over you.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I call the Hon. Greg Donnelly to order for the first time. I call Mr David Shoebridge to order for the first time. There will be no more interjections. The Hon. Greg Donnelly took a point of order about reflection.

The Hon. Greg Donnelly: The referral to my amendment as a "brain fart of an amendment" and that it is a "late amendment", I take great umbrage at that.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): There is no point of order on using the words "late amendment". It is not appropriate to say—

The Hon. Greg Donnelly: A "brain fart of an amendment".

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I do not think that is an applicable word but I do not uphold the point of order.

The Hon. Greg Donnelly: I am happy to continue the debate about—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Greg Donnelly will resume his seat. Ms Abigail Boyd will be heard in silence. The member spoke about some very dramatic and emotional material and was largely heard in silence. I was firm on that and I will be firm now. Ms Abigail Boyd has the call.

Ms ABIGAIL BOYD: The actual scientific consensus and literature that can be obtained from more than a simple Google search points out very clearly that the withdrawal reflex is certainly not the same thing as an indication of feeling of pain but I will leave the rest of that to the actual doctors. An attempt to ascribe personhood to a fetus on the basis of this unscientific assertion about fetal pain is wrong. The amendment is not harmless—it tries to force doctors to give anaesthesia or analgesia to a person, with no proven benefit to the fetus and at significant risk to their patients. Currently there is no way to do this. It is not done so there is no tested procedure and no way to know what dosage is safe for the woman. Doctors could not comply with this provision even if they had to. I hope and am confident that the Committee will reject this amendment.

The Hon. LOU AMATO (16:10): I make a brief contribution in support of the Hon. Greg Donnelly's compassionate and humane amendment. Current scientific research indicates that the basic anatomical organisation of the human nervous system is established by six weeks' gestation. Neurons in the cortical section

of the brain, which are responsible for higher cognitive functions such as thinking and memory, are being developed from that time. Sensory receptors for pain begin development in the mouth region at around seven weeks' gestation, hence the many photographs of babies sucking their thumbs from eight weeks onwards. At 20 weeks' gestation sensory receptors are present throughout the skin and mucosal surfaces, and nerve endings are transmitting sensory information by the spinal cord connection to the thalamus.

The thalamus is responsible for the interpretation of sensory data associated with pain. This means that the mechanical mode for pain transmission is active and functional by 20 weeks' gestation. There is compelling evidence that a baby at 20 weeks' gestation feels pain at a much increased level than an adult. The rationale behind this hypothesis is that neural mechanisms that inhibit pain sensations do not begin to develop until 34 to 36 weeks. The neural mechanisms to regulate or reduce pain sensations in humans continue to develop well after the birth of a full-term child. Observations of unborn as well as newborn and preterm infants indicate pain sensitivity at around four times that of an adult.

In response to those findings, the state of Utah in the United States has mandated that all babies being terminated must receive analgesia prior to the abortion. An important part here is that fetal surgeons recognise unborn babies as patients and treat them accordingly. Perinatal medicine now administers anaesthesia directly to a child to treat unborn babies as young as 18 weeks in critical open fetal surgery. One way to gauge fetal reaction to pain is observation. Babies as young as eight weeks have been observed reacting to noxious stimuli, including avoidance reactions and stress responses. Those responses include reflex movement during invasive procedures such as abortions.

Scientific research has discovered that a baby as young as 18 weeks shows increased cortisol and endorphins, which are produced in response to stress and pain stimuli. Brain scans of unborn babies concluded that cortical response was a direct response to pain stimuli. In summary, based on current scientific research the process of aborting a baby subjects the unborn child to intense agony—possibly four times greater than what an adult would feel in a similar life-ending event. I vehemently oppose any child suffering and I am sure that all members feel the same way. If we wish to allow the destruction of a child at least we can show some compassion and assure minimal suffering. I thank the Hon. Greg Donnelly for his compassion in moving the amendment.

The Hon. EMMA HURST (16:14): I oppose the amendment. As an MP within a party that is dedicated to protecting all sentient beings, whether human or non-human animals, I am of course concerned about ensuring that any pain and suffering involved in any procedure is limited as far as possible. However, I have researched this issue and found that there is no conclusive evidence that an unborn fetus suffers pain. In particular, I quote from a report published by *Ibis Reproductive Health* in the United Kingdom in April 2018, which summarises the latest scientific evidence on this issue. It states:

Based on the best available scientific, a human fetus does not have the functional capacity to experience pain until after the beginning of the third trimester of pregnancy, and it is unlikely that pain can be experienced until birth. Requirements to offer fetal anaesthesia, which provide no benefit to the fetus or the pregnant person, increase the risk of complications and delay access to care.

I am also somewhat troubled by the fact that an amendment on this topic has been raised for the first time so late in what has already been a very lengthy debate. If this was truly an issue of concern then one would have expected that it would have come up much sooner, either in the report on the bill published by the Standing Committee on Social Issues or much earlier in the debate. For those reasons the Animal Justice Party will be opposing the amendments.

Reverend the Hon. FRED NILE (16:16): I support the amendment moved by the Hon. Greg Donnelly on sheet c2019-166A and thank him for all the work that he has done. Proposed section 8 (1) (b) gives some flexibility to this amendment by leaving it open to what is prescribed by the regulations. I am not an expert on abortion but I have tried to read a lot of material from people involved in the abortion industry and one of those persons was Dr Bernard Nathanson, director of a New York abortion clinic. He is notorious for having performed—I am not sure of the exact number—over 100,000 abortions in his clinic. He was in favour of abortions but towards the end of the time when he was performing them, ultrasound was developed.

He saw an ultrasound of a baby that he was aborting and was shocked to see that at a certain point the fetus—the unborn baby—responded with what he called a silent scream. Not only did it feel pain, it screamed with pain. Its mouth opened up wide as it screamed. He said it was a silent scream because the baby was still in the womb so no-one could hear the scream. But he said he could see it. He then made a film called *The Silent Scream*, based on what he had learnt from the effect of pain on the unborn baby. It had such a dramatic impact on him that he never did another abortion. In fact, he became one of the leaders of the pro-life movement in the United States, campaigning against abortion, when all of his life and his career he had been the leading abortionist in the United States. We thank God for that change in the life of Dr Bernard Nathanson. He has written books and made a film as well.

Pain receptors have been found to be present throughout a child's entire body at no later than 20 weeks' gestation. An unborn baby responds to touch from eight weeks. By 20 weeks' gestation an unborn baby reacts to a painful stimuli by recoiling, and that is what Dr Nathanson saw in the ultrasound. As instruments came towards the baby, the baby was aware of it and kept trying to get away by pushing itself more and more into a corner, but there was nowhere to go. We have learned that unborn babies experience an increase in stress hormones if subjected to painful stimuli. Unborn babies also suffer long-term neurodevelopmental effects such as altered pain sensitivity and emotional, behavioural and learning disabilities when exposed to painful stimuli.

When surgery is performed on an unborn baby, fetal anaesthetic is usually administered. When anaesthetic is not administered, the unborn baby reacts in ways that we would recognise as a pain response when observed in a baby, child or adult. Unborn babies show and feel pain. This is just an overview of the evidence. I could go on, but I will conclude with that. There is substantial medical evidence that an unborn child is capable of experiencing pain halfway through a pregnancy at the latest. The loss of our next generation to abortion keeps me up at night. Passing this amendment will not alleviate this. This amendment simply provides us with a small measure of comfort that even though we could not prevent their deaths, we could prevent their pain. I will support the amendment.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind members that there is no need to go over evidence or material that has already been presented in this debate.

The Hon. SCOTT FARLOW (16:21): I support the Hon. Greg Donnelly's amendment and commend him for bringing it to the House. I had drafted and submitted my own amendment on this topic to Parliamentary Counsel, but I decided not to proceed with it and to instead commend the Hon. Greg Donnelly's amendment. While acknowledging the Chair's guidance, I bring the attention of the Committee to the receptors of pain. I raised this issue in an earlier debate on an amendment but it is also relevant to this amendment. This is what was offered in support of setting the threshold at 20 weeks in the bill. One of the reasons for this is that there is a general scientific consensus reflected in the *Australian code for the care and use of animals for scientific purposes*, published by the National Health and Medical Research Council in 2013, which states:

As a guide, when embryos, fetuses and larval forms have progressed beyond half the gestation or incubation period of the relevant species ... the potential for them to experience pain and distress should be taken into account.

That is exactly what the Hon. Greg Donnelly's amendment seeks to do. It was mentioned in debate that he has not consulted with doctors; nothing could be further from the truth. In his contribution the Hon. Greg Donnelly went through the number of doctors and medical practitioners he had consulted and who have provided expert evidence in this regard. I offer for the consideration of the Committee an expert report from Kanwaljeet S. Anand, MBBS, DPhil. He is not just some quack. This report was offered on behalf of the United States Department of Justice in response to the Partial-Birth Abortion Ban Act 2003. Dr Kanwaljeet S. Anand was educated at the Mahatma Gandhi Memorial Medical College in Indore, India. He is a Rhodes Scholar and has held academic appointments at the University of Oxford and at Harvard Medical School. On this topic he said:

It is my opinion that the human fetus possesses the ability to experience pain from 20 weeks of gestation, if not earlier, and the pain perceived by a fetus is possibly more intense than that perceived by term newborns or older children. The process of (a) grasping the lower extremity of the fetus with a forceps or other surgical instrument, (b) manipulating or rotating the fetal position within the uterus, (c) forcible extraction of the fetal legs and lower body through the uterine cervix, (d) surgical incision of the fetal cranium/upper neck area of the fetus, and (e) entrance into the cranial vault (followed by vacuum suctioning of the fetal brain) during an abortion procedure will result in prolonged and intense pain experienced by the human fetus—

these propositions were offered by the Hon. Greg Donnelly in his contribution—

if that fetus is at or beyond the neurological maturity associated with 20 weeks of gestation. Anesthetic agents that are routinely administered to the mother during this procedure would be insufficient to ensure that the fetus does not feel pain, and higher doses of anesthetic drugs, enough to produce fetal anesthesia, would seriously compromise the health of the mother. Thus, it is my opinion that the fetus would be subjected to intense pain, occurring prior to fetal demise, from the abortion procedures described in the Partial-Birth Abortion Ban Act of 2003.

I proffer that that Act would be similar to the legislation that is before us. On that basis I support the Hon. Greg Donnelly's amendment with respect to fetal analgesia. I commend his amendment to the House.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Thank you for adding new content to the debate.

The Hon. MATTHEW MASON-COX (16:25): I want to associate myself with the comments of the Hon. Scott Farlow, the Hon. Greg Donnelly and the Hon. Lou Amato. They have put forward some cogent evidence on where the science is on this matter and indeed the process that is undertaken when performing an abortion. Their evidence is distressing and confronting and I will not forget those contributions easily. The research is contested in that regard. I note the comments from the Hon. Emma Hurst and Ms Abigail Boyd and reflect on a couple of things. The reality is that science has been advanced this afternoon in relation to the

proposition put by the Hon. Greg Donnelly. The science that has been advanced to the other proposition—that we should not proceed with this amendment—has been distressingly thin.

Assertions do not amount to propositions worthy of support unless they are backed up with some scientific evidence. It occurs to me in hearing the debate that Ms Boyd really conceded that, whilst there is no scientific consensus, at some time a fetus will feel pain. I think that was conceded by the Hon. Emma Hurst as well. That might be in the third trimester at 27 weeks. The honourable member quoted from a publication, which I found on the internet, which confirms that view. I suppose the question is if we concede that there is a time when a fetus can actually feel pain—

Ms Abigail Boyd: May.

The Hon. MATTHEW MASON-COX: I thought I heard a little bit more than may, but if we concede that that is a real proposition, the question is: What is the gestation period? Would it be 20 weeks? Would it be 21? Would it be 22? When would it come in? Should we be considering this issue at all? Should we just ignore the reality?

The Hon. Niall Blair: Point of order: We have a very specific amendment that identifies a time period, not hypotheticals and not alternatives. The member has to talk to the time period that is in the amendment at the moment and directly to the amendment, not hypothetically about other alternative amendments that could have been moved but have not been moved. We have a very specific amendment before the Committee.

The Hon. MATTHEW MASON-COX: To the point of order: I am teasing out the arguments that sit behind the proposition. The Hon. Greg Donnelly drew a line at 20 weeks and I was about to get to that in relation to the consensus that I am able to deduce from the science that has been put forward.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Greg Donnelly extensively canvassed how he got to 20 weeks and the other arguments. You are getting to that point now, so I ask that you return to the amendment.

The Hon. MATTHEW MASON-COX: The Hon. Greg Donnelly has advanced a range of very persuasive arguments in that regard. I am also very concerned with the reality that is prescribed by the *Australian code for the care and use of animals for scientific purposes*. I have read the code. It is a 2013 Australian Government publication from the well-respected National Health and Medical Research Council. It clearly acknowledges in black and white that there is emerging evidence of sentience and ability to experience pain and distress at early stages of development for animals, which occurs at different stages of development in different species. The publication acknowledges that as a guide when embryos, foetuses and larval forms have progressed beyond half the gestation or incubation period of the relevant species, potential for them to experience pain and distress should be taken into account.

As a Parliament it is incumbent upon us to examine the science and the facts in order to make a judgement. In making a judgement it is very important to go back to the precautionary principle—which is often used in assessing contested evidence—whether it is more likely or not that a series of scientific papers or evidence on one side or other of a debate is likely to be something that this Parliament should be cautious of and whether in looking at responding to, on the balance of probabilities, this Parliament should act.

I strongly submit that it would be barbaric and inhumane not to respond to the proposition that has been put forward by the Hon. Greg Donnelly. It is incumbent on us as parliamentarians to consider the precautionary principle, to consider the evidence adduced, to note the realities of what has happened in Utah, to note the realities of what happens in relation to in-utero surgery where anaesthetics are given, and to note the scientific studies that have been put forward today by various members. I believe it would be the most humane thing to accept this amendment, noting the flexibility in it. I urge members to reflect upon that and to support the Hon. Greg Donnelly's amendment.

Mr DAVID SHOEBRIDGE (16:32): I make a brief contribution to deal with some of the claims about medical evidence supporting fetal pain. Much of the case for this amendment is based upon the opinion of Kanwaljeet Anand, a professor of paediatrics, anaesthesiology and neurobiology at the University of Tennessee, and his claim that a fetus may feel pain as early as 20 weeks post-fertilisation. On many occasions he has objected to the politicisation of his evidence, including in debates like this. He has not endorsed many of the inflated claims that have been made about his research and has refused to testify in court cases on the basis that the politicisation of his research is contrary to his own views. Some of the more comprehensive statements that have been made include the March 2010 statement of the Royal College of Obstetricians and Gynaecologists in the United Kingdom. They said, in part:

In reviewing the neuroanatomical and physiological evidence in the fetus, it was apparent that connections from the periphery to the cortex are not intact before 24 weeks of gestation and, as most neuroscientists believe that the cortex is necessary for pain perception, it can be concluded that the fetus cannot experience pain in any sense prior to this gestation.

That observation was endorsed by the American Congress of Obstetricians and Gynaecologists in 2012. They said, in part:

Supporters of fetal pain legislation only present studies which support the claim of fetal pain prior to the third trimester. When weighed together with other available information, including the JAMA and RCOG studies, supporters' conclusions do not stand.

That is not the only medical evidence that contest the claim about fetal pain. The entirety of the evidence that has been put forward is highly contested. Indeed, the weight of the expert evidence would suggest that the claims being made by the supporters of this amendment are not well founded. I do not want this to devolve into a "my googling of medical evidence is better than your googling of medical evidence". But I place on record that from the perspective of The Greens and my personal perspective, the overwhelming balance of the medical evidence that I have reviewed—and I cannot say I have read all in detail—does not support the claims of the proponents of this amendment.

The Hon. CATHERINE CUSACK (16:35): I too oppose the amendment. It does not reflect scientific consensus as has been repeatedly claimed in this debate. In fact, it is simply untrue. As the Mr David Shoebridge has explained, the neurological wiring that is required for someone to feel pain is not even in place until the third trimester. Even at that point, there is no evidence to suggest that there is pain that is felt. I understand the opponents of the bill are reaching a very upsetting point. In many cases they have been campaigning against this for all of their lives.

Everyone has spoken about the respect they have for women undertaking these and other gynaecological procedures, but these procedures are not confined to abortion. There are many other reasons why different gynaecological and similar procedures are undertaken. It is not respectful of these women to give the impression and to make the incorrect assertion that pain is being inflicted when it is simply not true. The most positive thing I can say about the amendment is that we live in a democracy and we have proven that everything that can possibly be put on the table has been put on the table. I do not support this amendment and I urge the Committee to reject it.

The Hon. PENNY SHARPE (16:36): I speak against this amendment. I am not a doctor and I am not a lawyer—we have talked about this at length—but I do, as I have previously said, look at the evidence closely. I also listen to women and know the lived experience of many of the women in our lives. What I disliked about this amendment more than anything—and it has been a pretty respectful discussion so far—was the suggestion by the Hon. Matthew Mason-Cox that passing this amendment is the humane thing to do. That somehow by not passing this amendment we are acting without humanity, without thought for women, without thought for a fetus and without care and understanding of what the reality of late-term abortion is—a tragedy for all concerned.

Can we just talk about women? Can we talk about what women have been through—having a much-wanted pregnancy that has not gone to plan for a range of reasons, none of them good. No-one wants to be in this position. The suggestion that only by passing this amendment we are somehow showing humanity towards a fetus, humanity towards the women or trust in our doctors, is the biggest load of rubbish I have heard in this entire debate. I have been very careful to be respectful of other people's views on this but that has been too much.

None of us are surprised—as Ms Abigail Boyd has said—by the careless use of clinical information as part of this debate. We know women who have been through it. If members think that somehow this is going to make us go "Yuck" or "It is not necessary" or that our failure to pass this amendment means that we do not care, that we want to do harm and cause pain, is just rubbish. The second part is about the science. Others have touched on the junk science. Let us be honest here: Lately there has been a lot of Dr Google in a lot of consideration of amendments. If they were serious about these issues, they would have had far more consideration.

I know there has been a lot of discussion and I am not trying to open it up yet again. We are now into about the fiftieth hour of debate. The people opposed to this bill, and who say that they care about this, have had weeks to get this right and be genuine in their attempt to deal with this matter. Dumping this late in the debate and telling the rest of us that we do not care, we lack humanity and we do not understand what is going on when women have late term abortions is offensive. We do. As I said, no-one thinks it is a good thing. Reverend the Hon. Fred Nile said, "All of those people in favour of abortion". None of us are in favour of abortion. It is like saying we are in favour of heart attacks. We just understand that the reality is that it is a medical procedure that needs to be safe, legal and accessible. That is all this is about.

None of us are in favour of it. Just as we are not in favour of heart attacks and, funnily enough, we are not in favour of cancer. To suggest otherwise has taken me to the end of my tolerance of some of the inferences made in this debate. I cannot support this amendment because it is not scientifically true. I am not canvassing the

to and fro of the debate. I make the point that the Hon. Greg Donnelly did consult doctors. I accept that they are doctors but they are also doctors who have a very firm view in relation to this matter. They are members of Right to Life. They do not believe that abortion under any circumstances is okay or if they do it is in the most extreme circumstances. That is okay. That is their position and I do not doubt their medical expertise. But I contest their view in relation to whether abortion should be criminalised, about whether abortion should be safe and whether it should be done appropriately by medical experts.

I again go back to the doctors that we trust every day to look after us. When we have something wrong with us we go to see them and we trust that they will do the right thing. Some of the work has talked about doctors who do the wrong thing. We have the Health Care Complaints Commission. We also understand that things do not always go right and that there are bad people who are doctors. The idea of using the worst cases to offend, insult and show a lack of trust in doctors throughout this entire debate has been, frankly, outrageous and cannot be supported. It is not our job to say in a bill what a doctor will do when they are performing a late-term abortion. What do they already do? They already follow the guidelines. They consult with the woman involved and with other medical practitioners to make sure it is done in the most humane, safe way and—what we hope after this bill—in the most legal way. That is the point. This amendment cannot be supported; it is an outrage.

The Hon. MARK LATHAM (16:42): Throughout this debate I have not only admired the contribution of the Hon. Greg Donnelly but I have also marvelled at the extent of his research, his command of detail and the power of his advocacy. However, on this matter I cannot support him. I came to this Parliament firm in the belief that as much as possible political power should leave civil society alone. The truth is that our communities are doing a lot better than the institutions of democracy. As I argued on the question of conscientious objection, it is not for the Parliament to intrude, coerce and force. I see in the amendment proposed by the honourable member a stark difference between the principles of codification and prescription.

Codification is required in this bill. It was not my choice to bring the bill forward. It is incumbent upon those sponsoring the bill to codify principles and practices in relation to these medical issues. To go a step further to prescribe medicine in a clinical situation I do not believe to be the role of this Parliament. I do not believe it is our role to tell doctors what to do in that situation. I have listened to a large part of the debate and have not yet heard an argument that doctors cannot prescribe these painkillers as they see fit in certain circumstances. The medical experts cited by Hon. Greg Donnelly will always be free to do that in the clinical situation they find before them. On that principle I cannot support this amendment.

The Hon. COURTNEY HOUSSOS (16:43): It was not my intention to speak to this amendment. However, having listened carefully to the arguments that have been canvassed. I now feel compelled to make a contribution. I say from the outset that I found aspects of the Hon. Greg Donnelly's contribution incredibly distressing—not because they are untrue, rather because they deal with the detail of this issue. It is distressing and it is difficult. I make the point, and I have said this frequently throughout this debate, that I find the idea deeply concerning that one's ultimate view on this bill somehow impedes one's ability to move amendments to it.

No-one in this place would dispute the incredible knowledge that the Hon. Greg Donnelly has in this area. Irrespective of his views and how he votes on the final determination of this bill, no-one can dispute his incredible understanding, meticulous research and amazing attention to detail across the issue. He has made extensive contributions in this debate. It is incredibly unfair for members to say that they are voting against the amendment he is proposing, as has happened on a number of occasions, because of his ultimate viewpoint on this issue. That is a very sad development and I do not think it is constructive. At times in this debate we have been very good at finding a way through it—

Mr David Shoebridge: Point of order: My first point is this is a straw person argument because these arguments were not made on this amendment.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I uphold the point of order. I am not aware of those arguments being made. I have been listening very carefully. The member will return to the leave of the amendment.

The Hon. COURTNEY HOUSSOS: Mr Temporary Chair, I will not cavil the ruling. I will move on. In this debate some members have talked about legislation that deals with the way we treat animals. Others have talked about babies being operated on while in utero having pain relief. It is only natural that we should support this amendment. I accept that the science is still being developed, but I would rather err on the side of caution and say at this point we can offer pain relief to babies before they are terminated. That is why I will be supporting this amendment.

The Hon. PENNY SHARPE (16:46): I will be brief. I did not get to this in my various contributions. There is already pain relief in most cases in the way in which a late-term abortion occurs because the woman is

given analgesia. I have information from an anaesthetic nurse, who knows what she is talking about, that depending on the use of the analgesia given to the woman during these procedures it flows through to the fetus. That is the way in which it works. It crosses the barrier and that is part of the process. I do not want to open up the details or the ins and outs of that. Let me be clear for those who may not be aware that is an important point of this entire discussion.

The Hon. GREG DONNELLY (16:48): I will respond because it is important to correct some things that have been said. The question about not consulting, I will not comment on. The evidence speaks for itself. The individuals that I spoke to were cited: One was a professor of paediatrics; one was an obstetrician and gynaecologists of 40 years service to the citizens of New South Wales based in south-west Sydney; one was a senior lecturer in medicine at a university; and one is a visiting medical officer employed by the State through NSW Health. I reject categorically the statement that I did not consult people with expertise in the area.

The proposition was put that a lot of googling has been done. I have referred to Google because that is the way in which one gets documents. It is not because I am trying to simply find something. It is a vehicle to get to documents, not as way of simply forming my opinions. I want to make that very clear. I thought that people would understand that but some people clearly do not. The suggestion was made in a recent contribution by a member whose name I will not mention—he spoke against the amendment, which he is entitled to—that I am politicising this matter. There is no attempt to politicise the matter. That is the last thing I want to do. I am trying to deal with the reality of something that happens and I am putting forward in a genuine sense a proposition that I believe could help the circumstances in which the fetus finds itself.

The Hon. Penny Sharpe said "just talk about women". Yes, we must talk about women but what about the unborn? Who is in the corner of the unborn who is about to be terminated through an excruciating procedure? Sure we talk about the woman but nothing I have done in my proposition in any way seeks to do anything with respect to disadvantage, harm, hurt or injure the woman. The woman is proceeding—the agreement has been entered into with the treating medical practitioner to proceed. I am talking about what is going to happen to the third party in this matter? We cannot say "just talk about the woman".

It was said that the only matter on the table really is whether this procedure of late-term abortion is safe, legal and accessible. Yes, that is on the table as a proposition but there is also another important proposition—that is, if there is going to be the demise of a fetus there should be pain relief. It is perfectly reasonable to make that a consideration in the proposition of this sort of practice. With respect to this issue of consulting with women, or lack thereof, at the end of the day how we discern how any other member in this room has gone about to try to discover information to help inform them about an important debate is entirely a matter for those individuals.

We all have our resources: one staff member, one computer and ourselves. That is the way we do it. That is just a fact of life. I have consulted with women in the best way I considered I could. I have consulted with the experts in the field and I have spoken to other women. I referred to those in submissions from organisations last night and I will not repeat that. The Hon. Penny Sharpe is just wrong in her statement about the crossing of pain relief in general anaesthetic from the woman to the baby—that is not the case. The Hon. Penny Sharpe may have spoken to an obstetric nurse but I have spoken to these people. I repeat, I have spoken to a professor of paediatrics—

The Hon. Penny Sharpe: Point of order: I am okay with contesting the idea—we can agree or disagree—but I am not okay with the Hon. Greg Donnelly basically repeating a speech he made at the beginning. I have been listening carefully. He has been responding to the issues in this debate and that is fine. But going back and saying "I will say again" tells me exactly—he has already fessed up—that we are going again.

The Hon. Matthew Mason-Cox: To the point of order: The Hon. Greg Donnelly is contending a point put by the Hon. Penny Sharpe in relation to a new matter that she raised. He is reflecting upon the advice he has received from the experts that he consulted on this new part of this debate. I think the Hon. Greg Donnelly should be given the opportunity to reflect on that.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Penny Sharpe was contesting the arguments she had put up and the Hon. Greg Donnelly was pointing out the people to whom he had spoken. I remind the Hon. Greg Donnelly not to read lists again because it is already in *Hansard*.

The Hon. GREG DONNELLY: I understand that. That is fair enough, someone has spoken to an obstetric nurse. I have consulted people who have titled positions in universities et cetera and the advice that I have received with respect to the general anaesthetic provided to the mother is, yes, it crosses the placenta to the unborn but it is a general anaesthetic. It does not provide for pain relief as I am providing for in my amendments. To simply think that that is the way through this and that there is no pain, the baby is out of it because it is getting the anaesthesia from the mother via the placenta, is absolute rubbish. I will leave my comments at that.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Greg Donnelly has moved amendment No. 1 on sheet c2019-166A. The question is that the amendment be agreed to.

The Committee divided.

Ayes 13
 Noes 27
 Majority..... 14

AYES

Amato, Mr L
 Donnelly, Mr G
 Maclaren-Jones, Mrs
 (teller)
 Moselmane, Mr S
 (teller)
 Tudehope, Mr D

Banasiak, Mr M
 Farlow, Mr S
 Martin, Mr T
 Nile, Revd Mr

Borsak, Mr R
 Houssos, Mrs C
 Mason-Cox, Mr M
 Roberts, Mr R

NOES

Blair, Mr
 Cusack, Ms C
 Fang, Mr W
 Graham, Mr J
 Jackson, Ms R
 Mitchell, Mrs
 Pearson, Mr M
 Secord, Mr W
 Taylor, Mrs

Boyd, Ms A
 D'Adam, Mr A (teller)
 Field, Mr J
 Harwin, Mr D
 Khan, Mr T
 Mookhey, Mr D
 Primrose, Mr P
 Sharpe, Ms P
 Veitch, Mr M

Buttigieg, Mr M (teller)
 Faehrmann, Ms C
 Franklin, Mr B
 Hurst, Ms E
 Latham, Mr M
 Moriarty, Ms T
 Searle, Mr A
 Shoebridge, Mr D
 Ward, Mrs N

Amendment negated.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We will now move on to amendment No. 1 on sheet 2019-059B regarding the prohibition on sale of fetal tissue. Members will recall that Mr David Shoebridge raised a point of order yesterday that amendment No. 1 on sheet c2019-059B relating to the prohibition on the sale of fetal tissue was outside the leave of the bill. I reserved my ruling on that issue. I have taken advice, with which I concur. Standing Order 144 (1) states:

An amendment may be made to any part of the bill, provided it is relevant to the subject matter of the bill and otherwise in conformity with the rules and orders of the House.

The subject matter of a bill is primarily determined by reference to its long title, which sets out its objects. The long title of the Reproductive Health Care Reform Bill 2019 states:

An Act about reforming the law relating to terminations of pregnancies and regulating the conduct of health practitioners in relation to terminations.

The amendment seeks to prohibit the sale or supply of tissue from the body of a fetus that has been or is anticipated to be or will be removed from the body of a pregnant person because of a termination. Given the amendment seeks to prohibit the sale or supply of fetal tissue as a result of a termination—and I emphasise that—I rule that the amendment as submitted by the Hon. Natasha Maclaren-Jones is within the leave of the bill.

The Hon. NATASHA MACLAREN-JONES (17:04): I move amendment No. 1 on sheet c2019-059B:

No. 1 **Prohibition on sale of foetal tissue**

Page 7. Insert before line 26—

16 Prohibition on sale or supply of foetal tissue

- (1) A person must not enter into, or offer to enter into, a contract or other arrangement under which a person agrees, for valuable consideration given or to be given to any person, to the sale or supply of tissue from the body of a foetus that has been, or it is anticipated will be, removed or expelled from the body of a pregnant person because of a termination.

Maximum penalty—40 penalty units or imprisonment for 6 months, or both.

(2) In this section—

tissue has the meaning given by the *Human Tissue Act 1983*.

The amendment seeks to clarify the prohibition on the sale or supply of fetal tissue in New South Wales. I am sure we would all agree that the act of selling tissue following a termination is appalling. However, there is no provision in the bill to prohibit the practice. Currently the Human Tissue Act 1983 only prohibits the sale of tissue "from the body of any other person". There are no restrictions on the sale of the tissue of a human fetus because a fetus is not deemed to be a body. A fetus is not recognised as a separate legal entity until it is born alive or delivered stillborn after 20 weeks. Therefore, there is a grey area around whether a terminated fetus can, essentially, be sold. Section 32 (1) (a) of that Human Tissue Act states:

32 Trading in tissue prohibited

- (1) A person must not enter into, or offer to enter into, a contract or arrangement under which any person agrees, for valuable consideration, whether given or to be given to any such person or to any other person:
 - (a) to the sale or supply of tissue from any such person's body or from the body of any other person, whether before or after that person's death or the death of that other person, as the case may be.

Because that provision refers to tissue "from the body of any other person" there is doubt as to whether the reference to "the body of any other person" includes the body of a fetus. This doubt arises because, unfortunately, an unborn child in New South Wales is not recognised as a person. Some will argue that it is part of the mother's body and therefore does not need to be deemed a person. However, others will argue that once it is removed it is no longer part of the mother and is a separate entity. Paragraph 1.3 of NSW Health's policy directive entitled "Donation, Use and Retention of Tissue from Living Persons" outlines the legal and legislative framework. Paragraph 1.3.1 states:

1.3.1 Human Tissue Act 1983 (the Act)

This policy directive describes requirements for the operation of Part 2 of the Human Tissue Act 1983 which regulates donations of tissue by living persons. Donation of ova, semen or foetal tissue is covered under different provisions within the Act or other legislation ...

On its website NSW Health also identifies that under section 4 of the Human Tissue Act human tissue includes fetal tissue and gametes—which is ova and semen—along with bones, hair and various other things covered under the Act. However, it goes on to state:

... under part 2 'Donations of tissues by living persons' of the Human Tissue Act, the reference to tissue does not include a reference to ova, semen or foetal tissue.

I am not a lawyer, but I have spoken to lawyers who advocate for both sides of the argument. I take the view that if lawyers cannot agree then it is better that we make it clear rather than leave it to the courts. The issue is further confused by looking at the Human Cloning for Reproduction and Other Prohibited Practices Act 2003. That Act identifies and refers to a fetus. It talks about not being able to use a human embryo, a human fetus, for the purpose of developing an embryo. Furthermore, under section 16, trading in or selling human sperm, eggs or embryos is an offence, with a penalty of 15 years imprisonment.

When this was drafted back in 2003 a fetus was not included in the bill. Obviously I was not here to ask Ministers as to why, but one could assume that at the time the sale of a fetus was not an issue. Whereas this bill, in particular, deals with reproductive health, they wanted to prohibit the trading of sperm and eggs and, more importantly, embryos. But the fact that they have included it when it comes to actually using cells from a fetus acknowledges that a fetus is separate from the woman—particularly if it is removed. So I do not accept we should wait for this to be addressed by future legislation by amending other Acts, whether it is a human tissue Act or a cloning Act.

But nor do I accept that we should allow the courts to decide or—worst case—someone exploits the situation and solicits and sells fetal tissue. The fact is we have an opportunity to put the checks and balances in place that will prevent the sale of the fetus and ensure not only that the remains are given respect but also that we have a law that is consistent across all legislation. Let me make it clear: This amendment will not impact on a woman's right to access abortion services. It simply prevents the sale and supply of fetal tissue following a termination, in the same way that you cannot currently supply an embryo, semen or an egg for commercial purposes.

I have had an interest in this particular area for over 20 years. When I was working in the United States a number of years ago, I came across the term—and it was used before—"partial birth abortion". Frankly, at the time I thought it was scaremongering. I thought it was terminology being used deliberately. But the reason this was such an issue back in 2000, particularly in the United States, was that an Act was being brought in called the

Partial-Birth Abortion Ban Act, which was ultimately passed in 2003. It was passed because it focused solely on the actual procedure as opposed to preventing in any way someone accessing an abortion. The reason the bill was introduced was to prevent the partial delivery of a fetus because it was not deemed a body until it was fully out of the womb. And there were cases where fetuses were being used for medical research. It is still an issue in America, and continues to be so.

Following the ban, clinics in the United States have adopted practices for late-term abortions known as "inducing fetal demise", whereby the administrator will provide digoxin or potassium chloride to stop the heart of the fetus so it cannot be delivered alive. Although laws have been put in place in the United States to prevent partial birth abortions as well as sales and the inducement of a woman to carry a fetus to term for the purpose of commercial gain, there is evidence in the past five years that facilities have entered into commercial arrangements with companies to sell fetal tissue. Currently in the United States it is explicitly illegal under 42 US Code 289g-2 section (c) to sell, receive or solicit human fetal tissue for commercial purposes. Further safeguards are in place to prohibit the solicitation or receipt of transplant fetal organs for financial gain and it is illegal to deliberately initiate a pregnancy or the gestation of a fetus for medical research.

New South Wales currently does not have a clause in this bill or any other Act that would prevent the harvesting or sale of fetal tissue for commercial purposes, except for the purpose of cloning. Before others claim I am scaremongering, the fact that the United States has had to legislate against these appalling acts is evidence it is occurring. In 2018 the United States Department of Health and Human Services announced a review of all federal contracts to ensure compliance with human fetal tissue laws. It was alleged that groups, including Advanced Bioscience Resources, were buying fetal tissue from Planned Parenthood affiliated clinics in the United States. According to news reports, the investigation found that Advanced Bioscience Resources had signed a contract in July 2018 with US Food and Drug Administration worth \$15,900 for the sale of human tissue. Furthermore, the fetal tissue that was being purchased was being used for scientific mutation of animals.

In a pre-solicitation notice it was found that the intent of this contract was to provide "fresh human tissues" for the "implementation into severely immune-compromised mice to create chimeric animals that have a human immune system." In fact, the General Services Administration's Federal Procurement Data System highlights eight contracts where "humanised mice" or "human fetal tissue" have been documented in a contract. Basically, this means that the sale of fetal tissue from abortions was being used to develop mice with human tissues that replicated the immune system of humans to test and develop resistances against diseases as well as vaccines, including for the Zika virus. This inhumane and unethical practice highlights that the sale of fetal tissue is possible, particularly when the motivation is high. While President Trump cancelled the contracts, the fact remains that the selling of fetal tissue occurred and it was being used for unethical research.

This is not an isolated case. Two years ago investigations by citizen journalists and whistleblowers found that several Planned Parenthood affiliated abortion clinics in the United States had arrangements with commercial companies such as StemCell Express LLC to sell fetal organs and tissues for prearranged prices. A purchase order from StemCell Express dated 7 July 2015 specifies the price for four intact hearts from 18- to 24-week-old fetuses valued at US\$595 each, for a total of US\$2,380. Another commercial company DV Biologics on 15 July 2015 charged US\$750 for "1-2 grams of fresh prenatal neural tissue 18-20wks, Fetalcide Free, Intact Tissue". The reference to "fetalcide free" means that no digoxin was injected into the fetal heart before the abortion was induced.

Digoxin is used in clinics prior to the procedure to stop the heartbeat before inducing. The reason for not providing digoxin is barbaric but deemed necessary by those selling the tissue to ensure the heart continues to pump blood to the brain. Of course, not using digoxin increases the risk that the woman would deliver a live birth. The late Holly O'Donnell was a phlebotomist employed by StemCell Express and was placed by the company in a Planned Parenthood abortion facility with which it had a commercial arrangement. Her tasks included identifying women scheduled that day for a late-term abortion, matching them with a procurement list for specified fetal tissue and fetal organs for which StemCell Express had a current purchaser and to organise for the woman to sign a consent form.

O'Donnell testified that in some cases when her co-workers failed to get the consent form signed the tissue was procured anyway. In many cases, the method used for the abortion was varied by the medical practitioner from that originally planned—not for any benefit of the woman but solely to increase the prospect of harvesting fetal tissue or organs in the desired condition. While those wishing to oppose this amendment may say there is not enough evidence available and that it may not happen, the possibility it can and the fact it is proven it is occurring in other jurisdictions is enough to warrant us placing the checks and balances in this bill.

While most people have good intentions, there are those whose intentions may be considered unethical and, as legislators, we must ensure that this legislation is watertight. Without these amendments, it is possible for an aborted fetus at eight weeks, 22 weeks or 30 weeks to be sold. There are no safeguards in place, which means

the legislation is reckless and is not in line with what the community expects of this Chamber. While there are provisions in the current legislation highlighting that the sale of human tissue post-birth is illegal—as is using fetal cells for cloning—there are no provisions covering the process during an abortion to prevent the supply and sale of a fetus. I encourage all members of the Committee to support this amendment.

The Hon. TREVOR KHAN (17:18): Whatever I am about to say, I am certainly not in any way impugning the good motives of the Hon. Natasha Maclaren-Jones. But if this bill had never been introduced or if it had been defeated, the practices that the Hon. Natasha Maclaren-Jones describes would never have been addressed with an amendment like this. One would think representations would then have been made to the health Minister, there would have been a process of investigation and a decision would have been made on what the member's amendment seeks to do. In that sense, the amendment has been introduced fortuitously because this bill is before the Committee but that is not the way to do it.

The member has referred to the Human Tissue Act. Section 32 of the Act talks about not entering into contracts and the like. Section 4 of the Act is the definition section, which specifically includes a reference to fetal tissue. One might think—it is certainly my view as a mere traffic court lawyer—that it is covered by the Human Tissue Act 1983. If I am wrong or if there is any ambiguity that the Hon. Natasha Maclaren-Jones is concerned about, as legislators, we should deal with that by amending the Human Tissue Act. That Act refers to fetal tissue and the amendment is to the Reproductive Health Care Reform Bill, which deals with the same issue of fetal tissue in a different way.

The Hon. Natasha Maclaren-Jones is seeking to clear up an ambiguity but in fact her amendment will create a mountain of ambiguity between the earlier Act—the Human Tissue Act 1983, which refers to fetal tissue—and this later Act, which refers to the same thing. We will not avoid the courts; we will end up before the very courts that the Hon. Natasha Maclaren-Jones says she wishes to avoid because her amendment will create a mountain of complexity. As I said, if we want to fix that problem, we should amend the Human Tissue Act. We do not do it this way because—I say this with the greatest of respect—it is the worst form of lawmaking to do it this way. I acknowledge the passion and concern of the Hon. Natasha Maclaren-Jones but I think this is not the way to achieve the end. On that basis, I encourage all members to oppose the amendment.

Ms ABIGAIL BOYD (17:22): I will be brief because the Hon. Trevor Khan has covered the objection that The Greens have to this amendment. In our view, the amendment does not introduce anything new to the bill to change the status quo. Prohibition on the sale of fetal tissue already exists in the Human Tissue Act. Obtaining tissue from terminations for research is governed by ethical standards with informed consent. There is no evidence that those guidelines are failing. Given that this amendment does not introduce anything new, it appears to be wholly irrelevant to the bill. The Greens agree with the Hon. Trevor Khan that it is inappropriate to address the issue with the amendment.

The Hon. GREG DONNELLY (17:23): This is a significant and important amendment. I am unequivocal about that statement because, whilst I had not been studying the area with the degree of specificity and attention that the mover of the amendment has, I have paid some attention to it over time. A member contributing to consideration of this amendment has said that it should be rejected because the issue is not being dealt with as it should have been done and that this matter should be addressed through the amendment of another legislation. When a member has not been incorporated into the process of the preparation of the bill, they are forced to bring their best endeavours to look at how the issues that they are concerned about are addressed.

That is precisely what the Hon. Natasha Maclaren-Jones has done: She has brought her best endeavours to look at a matter that stands out like the proverbial hairies because we are talking about regulating the practice, which has never been done before. The language in the legislation talks about a "person". There is a big question mark about whether there is a gap, which the member has legitimately argued exists, for the commercialisation of human tissue and organs. I am somewhat surprised the amendment does not have vigorous support from some members who, in the context of other sentient beings, would be the first to say, "We must close gaps. We must make sure gaps never arise." If they saw a gap coming up they would immediately say, "Don't let it happen. It must not happen."

If there is an open gap and it starts to get exploited, and then it gets normalised, then regularised, then structuralised in terms of how things are done and then commercialised to a scale, there will be really big problems winding it back. That is the reality. I am sure members need not be reminded that due to advances in biotechnology we are on the brink of things that we cannot even imagine science and medicine will provide for us in the future. At the cutting edge of that is medical research. Medical researchers, perhaps more than anyone else, want access to—I use the generic phrase—human product, which can be used to test. If you can get through the hurdles of rigorous regulatory frameworks that exist in developed countries such as Australia, the United States of America and others, then you can license, patent and commercialise. If companies get patents for those products,

pharmaceuticals or whatever the case may be for some period and are the first to the market, those products can almost become rivers of gold.

I want to bring to members' attention to one document with regard to the debate. I cannot believe the party that has contributed to this area in the most significant way has missed it. I acknowledge the work done by Mr David Shoebridge in the area of organ trafficking. If he is watching, I am happy to acknowledge the enormous work that he has done with the Chinese community, specifically the Falun Gong community, over the appalling trafficking of organs from political prisoners in the People's Republic of China. He brought to the House 18 months or so ago probably the biggest petition I have seen. I acknowledge that, and thank him for it. I pivot from that commitment on organ trafficking to the report that the Joint Standing Committee on Foreign Affairs, Defence and Trade—one of the most significant and powerful committees in the Commonwealth Parliament—tabled in the Federal Parliament last year.

The inquiry was into human organ trafficking and organ transplant tourism and the report entitled *Inquiry into Human Organ Trafficking and Organ Transplant Tourism* was tabled in Parliament on Monday 3 December 2018. With respect to that report I have the media release issued at the time by the chair of the committee on that day. I will not read out the media release, but I make a particular reference—and if members have not seen the report and if this is an area they have an interest in or is an emerging area of interest, I urge them to read it because it is the most up-to-date eyes into the issue of the trafficking of organs and body parts and human products. The particular issue that the report gave some specific attention to was the matter of the industrialisation through the globalisation of the traffic and sale of human organs and human products, which include blood products, genetic products and the like. A paragraph from the media release states:

[the] Chair of the ... Committee ... said while organ transplantation is one of the miracles of medical science giving hopes to hundreds of thousands of people, the demand for donor organs continues to outstrip supply—

they were also looking at matters to do with blood products and other human products—

"Unfortunately, this has enabled an illicit commercial market of organ trafficking and transplant tourism to flourish in some overseas destinations".

It then goes on to talk about the commercialisation of products derived from human matter—human cells. For those who want to get some insight into the first real work that is being done in this area into the use of human products—organs and blood, et cetera—in medical research in Australia, I direct them to—and I am not going to do it in any detail—an article that appeared in the *Medical Journal of Australia* in 2003. It is cited as—and this is specific in the context of this amendment—"The Use of Human Fetal Tissue for Biomedical Research in Australia 1994 to 2002". In 2003 in the *Medical Journal of Australia* there were publications dealing with, and basically shining a light into, the practice of the use of human fetal tissue for biomedical research in Australia. I urge members to read that article if they wish to do so. Part of what I believe is incumbent on all of us in our consideration and the creation of this new statutory regime on abortion is to stop and prevent matters that we can reasonably speculate and anticipate over, without gilding the lily or pretending, "This may happen so we better do this."

There is plenty of evidence for those who have eyes on this that there is a world market, a global market, for human products. Certainly in many cases that is specifically used for research in tertiary institutions, to specifically generate research outcomes that are used in the development of products obviously designed to take to market and commercialise. I consider it utterly repugnant that tissue, organ or any other body product matter from an aborted fetus should in any way be introduced into what is effectively a research supply chain that can ultimately end up in the production of an end line product that is ultimately commercialised. I strongly commend the amendment to the Committee.

The Hon. ADAM SEARLE (17:33): I will not be supporting this amendment, simply because I do not think it is necessary. I take what the Hon. Natasha Maclaren-Jones has said at face value and I understand the concerns very articulately presented by the Hon. Greg Donnelly. With respect, I think the amendment is a solution in search of a problem. The sale, supply and trading of human tissue, organs, blood and other products for medical or biomedical research—or any other purpose, really—is already comprehensively regulated by section 32 of the Human Tissue Act.

I accept that we should deal with consequences that we can reasonably anticipate may arise on the passage of legislation such as the one before the Committee. But I do not think that the concerns articulated as reasons for supporting the amendment are well founded because there is already comprehensive regulation and prohibition of those things that they are concerned about. Section 32 of the Human Tissue Act already expresses this in more comprehensive terms than the amendment that is currently before the Committee. It all hinges on the definition of "tissue" in the Human Tissue Act, which is defined to include:

an organ, or part, of a human body and a substance extracted from, or from a part of, the human body.

Fetal tissue is clearly a human body or part of a human body: It is legally inseparable from the body of a woman. It is unquestionably human tissue and to the concerns about blood, tissue, organs or any other product that might be generated by extracting and commercialising that tissue, it is already comprehensively included in the existing definition. If I thought for a moment that there was a real issue to be regulated, I think I am sufficiently open-minded to accept that and legislate accordingly. But I do not believe that we should legislate—in my view—needlessly or to over-legislate—to say, "Well, it is covered in this piece of legislation but because we are now dealing with a new Act regulating termination of pregnancy, we should add it here too, for more abundant caution."

I do not think there is any need to do so and I do not believe in overregulation: I do not think there is a problem that needs to be solved here. That is not to say that I do not accept as legitimate the concerns that have been raised, but I do not see that there is a legal gap in the definition of human tissue and the prohibition in sale, trading or extracting parts of it to generate other products. I would also have grave concerns about that, outside of the regulation of the Human Tissue Act, but I do not think that it is necessary to provide this additional protection. I simply do not think it is necessary and it is not really to the pitch of the ball about what the bill is concerned with. I will not be supporting the amendment.

The Hon. LOU AMATO (17:37): I support the amendment moved by the Hon. Natasha Maclaren-Jones and I congratulate her on moving this important amendment. I find it rather difficult to come to terms with the knowledge that aborted babies end up discarded in rubbish dumps; but humans seem to have no limits on their ingenuity to discover new evil practices. Dumping a baby in a rubbish dump is disgraceful. Splicing a terminated baby's DNA with a rodent in a lab takes on a whole new low. I am sure by now most members have done their own research and are hopefully aware of why aborted babies are sought after by biomedical laboratories: Apparently, dead babies have just the right amount of stem cells and other genetic material suitable for splicing into a rodent's DNA

One may ask, "Why bother?" The answer, it seems, is that scientists can destroy a mouse's immune system and, through the use of genetic engineering, replace a mouse's with a human's. In effect, they humanise a mouse. We all know The Greens will reject this amendment just because they can. I would hope that the Animal Justice Party, which loves animals so much, would believe that the procedure is quite cruel to the mouse. I am sure, given the opportunity, it would thoroughly object to it.

In these latter days it is becoming increasingly difficult to argue an issue on moral grounds alone. This is most certainly a moral argument. It is morally wrong to traffic and ultimately profit from the sale of fetal body parts. Personally I find the whole thing morally reprehensible. When a society lowers its moral threshold there is always a price to pay. So the moral argument ultimately becomes an economical one. No-one can see all the outcomes, but experience tells us that when we lower our standards and especially when money is involved the final outcome usually is undesirable. If we take the time to think outside the square for just a moment, we can with some reliability predict the final outcome of not supporting this amendment.

Biomedical corporations are part of the medical sphere. The close relationship between doctors and biomedical entities is known. Doctors do not run for the Erlenmeyer flask, fire up the Bunsen burner and cook up a batch of medicine for their patients; they just write a script. Doctors rely on biomedical and pharmaceutical companies to research, discover and ultimately manufacture medications. The pharmaceutical companies rely on doctors to prescribe them. No prescriptions equals no sales. It is common knowledge that many pharmaceutical companies offer monetary incentives for doctors to prescribe their drugs. If the demand for fetal body parts is allowed to increase, it is not too difficult to see the development of some sort of monetary exchange or other incentives for doctors who assist in supply.

Mandatory counselling and informed consent were rejected in this very Chamber. We all heard the cries that doctors know what they are doing. No-one disputes this. It is what they do is the cause for concern. Since it was decided not to enforce counselling and informed consent within the legislation, a doctor who is somewhat remiss in informing a woman of the possible long-term effects of abortion may escape being considered negligent. Besides, there is money to be made by selling fetal body parts to a biomedical lab. It costs money to dispose of a baby via waste collection services, but there is no harm in reducing costs and increasing the profit margin—especially when there is no prohibition on selling a baby's body parts. I encourage all members to support the Hon. Natasha Maclaren-Jones's amendment.

The Hon. WALT SECORD (17:42): I will oppose the amendment because it is unnecessary. As I said earlier, I have been reluctant to participate in the debate and have left it to others who are at the forefront of both sides. However, in the debate on this amendment I have heard some pretty unusual and pretty peculiar things. People are not dumping babies in dumps. That is ridiculous. I have had discussions with the Hon. Natasha Maclaren-Jones about this amendment. I have told her my views directly—that as a matter of principle I see a

fetus as part of a woman's body. I concur with the arguments put forward by Ms Abigail Boyd and the Hon. Trevor Khan on this amendment.

I have never encountered or read about the sale or commercial harvest of fetal tissue or cells as described by the Hon. Natasha Maclaren-Jones. She is overstating the case on this and she in fact gave it away in the final part of her contribution when she implored members to take action by using the phrase, "If this is occurring, it can." Even she, in her final statements on this amendment, gives it away that she is not even certain that this practice is occurring. This is a speculative amendment and tries to address something that does not exist. If it did exist, it would be best addressed as an amendment or through the Human Tissue Act. For those reasons I will not be supporting the amendment.

The Hon. EMMA HURST (17:44): I will speak briefly on this amendment. The Hon. Lou Amato commented on the moral argument on the sale of fetal tissue. I am pretty sure most members agree that nobody should make money from the trade of fetal tissue. But I do not think that is the argument here. The argument we need to consider in regard to this amendment is whether it is necessary. The sale and supply of fetal tissue, as I understand it, is already prohibited in New South Wales under section 32 of the Human Tissue Act 1983. The definition of "tissue" in section 4 includes fetal tissue. Further to that, I have not seen any evidence of any trade in fetal tissue occurring in New South Wales. I do not think that the amendment is necessary. Based purely on that, I will not be supporting this amendment.

Reverend the Hon. FRED NILE (17:46): I support the amendment moved by the Hon. Natasha Maclaren-Jones and thank her for moving it. I note the strong arguments by the Hon. Adam Searle and supported by the Hon. Emma Hurst. They both said that the Human Tissue Act is all-sufficient. Has anyone been charged under the Human Tissue Act over fetal tissue? I am not aware of anyone who has. I will support this amendment, which prohibits the sale or supply of fetal tissue. At the heart of this amendment on the prohibition of the sale or supply of fetal tissue is the removal of doubt. While the trading of human tissue and organs "from the body of a person" is already prohibited in New South Wales, it is unclear whether such a prohibition extends to the tissue and organs of a baby who has been aborted. An aborted baby is presently not viewed as a person. It is tragically viewed medically and socially as tissue.

We have all heard of the terrible cases in the United States of America when abortion industry providers have been exposed as participating in the sale of fetal organs and tissues for prearranged prices. A couple of years ago a huge refrigerated trailer was found parked in a parking yard and the freezer had been turned off. The person who was renting it had cancelled that arrangement so it was no longer being serviced. A great odour came out of this trailer. When it was opened by police they found 6,000 aborted human fetuses in the trailer, all neatly in plastic containers on shelves and so on. Obviously those fetuses were being collected and were to be used in some way in the sale of fetal organs. They probably were to be exported overseas because baby fetal tissues can be used to produce perfume in some factories in France.

This bill should be amended to remove any doubt that we in New South Wales are against the trading of any tissues or organs taken from an unborn baby following an abortion for any purpose. As a Christian and as the Leader of the Christian Democratic Party I strongly believe that all unborn babies deserve dignity, the right to life and respect. I am strongly opposed to abortion because of this. Tragically, many in this Chamber do not share this view and thus we are debating this amendment. The central tenet of this bill takes away the life of the unborn, let us not knowingly enable their dignity in death to be completely destroyed as well. I am supporting the amendment. May the babies be allowed to rest in peace.

Mr DAVID SHOEBRIDGE (17:49): Unfortunately, I am quite closely familiar with the Human Tissue Act 1983, having tried for a number of years to fill a number of gaps in it, particularly regarding the commercial trade of organs from people in New South Wales, from organs overseas and from organs that have been obtained from people without their consent in detention or in slave-like conditions. I have dealt in detail with the Human Tissue Act. Indeed, I have moved a private member's bill seeking to amend it. I am quite familiar with its terms. If I thought for a moment that this amendment was necessary, consistent with my previous efforts, I would be more than willing to support amendments to toughen up or fill any gaps there are in the Human Tissue Act.

To be quite clear, I believe there are gaps in the Human Tissue Act, but they are not the gap that is sought to be remedied with this amendment. The Human Tissue Act already makes it unlawful for any commercial trade in human tissue. As a number of speakers have set out quite clearly, the definition of "human tissue" is broad, on any view of it. There may be some lawyers at some fringe element who disagree with it, but you could not pretend that those views would be in any way accepted views from the majority of lawyers when you read the definition of "tissue". "Tissue" is defined in the Human Tissue Act—and it is an inclusive definition, not an exclusive definition—as follows:

an organ, or part, of a human body ...

Stopping there. Yes, it is true that under our law fetuses are not regarded as human persons, but it has never been argued by anybody that I have ever heard that a fetus is not a human body. There is quite a distinct difference—and blurring it in this debate is not helping the proponents of this amendment—between legal personhood and a fetus being a human body. Blurring the line between legal personhood and the definition as found in the Human Tissue Act is unhelpful to the members and does not give their argument much credit. On any view of it, a fetus is a human body. But even if that is not the case, the inclusive definition of "tissue" carries on:

tissue includes an organ, or part, of a human body and a substance extracted from, or from a part of, the human body.

If it is true that a fetus has no separate legal identity to the pregnant person then it is part of the pregnant person's body. Even if members do not accept that, once a fetus is removed from a body, it on any question would also fit on the third limb of the definition—that is, a substance extracted from the human body. There are three separate bases upon which it is already covered by the definition of "tissue" in the Human Tissue Act. It is not ambiguous. It is not open to rational argument. This amendment is not only unnecessary, it is also unhelpful because you will then have two parallel and contrary provisions in two separate Acts. This trade is already unlawful.

Finally, one of the reasons we have had difficulty in moving amendments to the Human Tissue Act and one of the reasons there is an ongoing concern about the commercial trade in human tissue is because in many parts of the United States they allow for the commercial trade in human tissues. They do not have the equivalent of the Human Tissue Act, which we have collectively said is important to us here—that is, prohibiting the commercial trade in human body parts and human tissues. In the United States they readily engage in the commercial trade of blood, human organs and tissues. In fact, parts of the medical establishment in the United States want to overturn international prohibitions on the commercial trade of human organs so they can make more money from the trade. It is deeply noxious, some of that debate in the United States, but that is not the situation in New South Wales. We have united around outlawing, and continuing to outlaw, the trade in human tissue, which includes, unambiguously, fetal tissue.

The Hon. PENNY SHARPE (17:54): I will speak briefly. I commend the words of the lawyers in the room on this matter. I have received a letter that I wish to read onto *Hansard*. This is a letter from Professor Bernard Tuch, who is Professor of Medicine at the University of Sydney, and Professor Gilles Guillemin, who is Professor of Neuroscience at Macquarie University. These people are researchers; this is what they do. They have written to me to explain why the amendment should not be supported:

We are medical researchers who have been using human fetal tissue for almost four decades now both for scientific and clinical purposes ... Women have been providing informed consent for this and do not receive any material benefit in doing so. Our work and those of other colleagues in Australia who use the tissue in a similar manner has been approved by relevant Human Research and Ethics Committees [HREC] and have followed the specific principles concerning the use of human fetal tissue for research purposes, as outlined by the National Health and Medical Research Council of Australia [NHMRC]. (<https://www.nhmrc.gov.au/about-us/publications/national-statement-ethical-conduct-human-research-2007-updated-2018>).

We have used the tissue, which is a scarce resource, both in the clinic, for example, as a possible treatment of type 1 diabetes, and to explore the development of new therapies for a variety of chronic neurological disorders, such as Parkinson's disease, Alzheimer's disease, motor neuron disease, multiple sclerosis and also several types of cancers.

We are concerned that the Proposed Amendment will interfere with the continuing beneficent use of this valuable resource. We are concerned it will block innovation and interfere with the good intentions of the donors.

The Amendment will prevent the efficient use of the tissue, which is often managed by a single researcher who after obtaining informed consent, sorts the fetal tissue provided, and despatches relevant tissues/cells to individual researchers who have obtained consent from their HREC. The proposed Amendment will block this.

Human fetal tissue may be requested by entities that wish to commercialize an invention using this tissue. As per NHMRC Guidelines, this is permissible provided the donor receives no payment or other material benefit for this and acknowledges this in writing at the time the tissue is obtained.

I commend the Hon. Natasha Maclaren-Jones for dealing with an issue that does exist, and it particularly exists in the States. Again, we have talked about a few issues in this debate—like coercion and a whole range of problems that we have—but this is not the right place for this amendment.

The Hon. Niall Blair: The United States, not just "the States".

The Hon. PENNY SHARPE: Sorry, the United States is what I mean. Looking at a review of the Human Tissue Act is good and is welcome. We need to understand though that there are very strict guidelines in place. This does not happen without informed consent. Some of the contributions that have been made have used what I consider to be completely incorrect suggestions about the way in which tissue is dealt with. I am not going to keep going on with this, but we need to understand that there are researchers here who are doing amazing work. If members want to ban the use of that tissue in any circumstances, that is fine, but doing that through this bill though is not the place to do it. We will have that debate on another day. I put the case for science and for research and the vastly needed treatments that many people are currently waiting for and relying on in relation to this kind of research.

The Hon. NATASHA MACLAREN-JONES (17:58): I respond to comments made by the Hon. Penny Sharpe. This amendment is not about preventing medical research that is done freely—that happens now, whether it is following a healthy birth, a miscarriage or other things. This amendment is about stopping people deliberately selling the fetus once it is disposed from a facility. How it is disposed of is what needs to be looked at to ensure that it is not sold for medical research.

I am not implying or preventing in any way what currently happens. The medical profession do a fantastic job and the research that is done is very important. This amendment is about preventing sales. I will go back to the comments made by Mr David Shoebridge. As I said in my speech, America introduced legislation in 2003 at a Federal level to prevent sales because it had been a problem. The comments at the end of my speech that the Hon. Walt Secord referred to concerned taking action to prevent it occurring. I acknowledge and accept there are problems and evidence in other jurisdictions such as the United States. At the moment there is no evidence to say there are sales in New South Wales. I want to ensure that that does not occur.

Finally, I point out that a similar amendment was introduced in the Legislative Assembly to attempt to amend the Human Tissue Act and it was negatived. Unfortunately, with the length of time granted for the inquiry, which was only two days, we could not canvass or get the additional information to debate this further. That is one of the challenges with the bill. I acknowledge the comments made by all members. I go back to the point that lawyers on one side will be arguing one thing and another lawyer on the other. This amendment ensures that sales do not occur.

The Hon. WALT SECORD (18:00): I was unaware that the Hon. Penny Sharpe was going to refer to correspondence from Professor Bernie Tuck. I have known Professor Tuck for 20 years. I was unaware he was going to write this contribution. He is a genuine world expert into the research of diabetes and he is a principled man of deep faith. He is a world leader and would not tread into this area recklessly. If he makes a statement or writes about this area of debate it is something he has thought long and hard about and not something he would do in a reckless manner. He is a man of deep faith and a principal world-leading science researcher.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Natasha Maclaren-Jones has moved amendment No. 1 on sheet c2019-059B. The question is that the amendment be agreed to.

The Committee divided.

Ayes14
Noes25
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): We have one set of amendments from the Hon. Damien Tudehope on sheet c2019-175B. Four of those amendments deal with clause 6 and three of those

amendments deal with two other clauses. The Committee has already dealt with clause 6. If we choose to recommit those amendments we need to move a motion. I have been advised by the Clerk that the other amendments can be bundled together to be recommitted. We will go through that process now. The question is that the bill as amended be agreed to.

Motion agreed to.

The Hon. PENNY SHARPE: I move:

That the Chair do now leave the chair and report the bill to the House with amendments.

The Hon. NIALL BLAIR (18:12): I move:

That that motion be amended by omitting all words after "That" and inserting instead "the Committee reconsider clause 6, clause 13 and schedule 1."

I will briefly reiterate what the Chair said to let member knows where we are up to. One sheet of amendments is still left on the table that the Hon. Damien Tudehope would like to move. Amendments Nos 1 to 4 deal with clause 6, which the Committee has already considered during the Committee stage. The Hon. Damien Tudehope could have moved amendments Nos 5 to 7 which had not been dealt with to this point but because those amendments flow on from amendments Nos 1 to 4, it makes more sense to be able to move the amendments in globo and discuss them together. Therefore, it is best for the House to go into Committee and look at clause 6, clause 13 and schedule 1 as a whole so that the amendments can be moved in globo and debated together.

I know that this is somewhat unusual but these are the only amendments that are left to deal with. They have been circulated for some time. I am sure that some members may not want to relook at them and will oppose this motion but I believe these amendments should be reconsidered, but it is even more imperative that they be considered together. It makes sense because they flow on. It would be confusing to deal with amendments Nos 5, 6 and 7 and then discuss amendments Nos 1 to 4 separately in another debate. This is a cleaner way to address this part of the debate. The amendments will live or die on their own, based on the arguments. This is process is about getting us to the point that we can have that argument. We have got to this point and everyone has been able to have a lot of consideration of these amendments. I urge members to support this motion to allow the amendments to be moved and they will then be voted on on their merits once we are back in Committee.

The Hon. PENNY SHARPE (18:14): To be clear, my motion is that we are done with amendments on the bill. We have dealt with the ins and outs of each of these amendments for many hours in a very thorough form. What is being asked is that we recommit and return to a clause that we have previously dealt with, which is the highly contentious issue of post-22 weeks terminations. I understand what that is about but my view is that we have had a very long and extensive debate. A range of amendments have been moved, which was appropriate. Regardless of what I think about those amendments members have been able to do that. The Committee has decided on them, as is its job.

I believe that we are done. Debate on the amendments has been long, extensive and we have canvassed for a very long time the matters relating to late-term pregnancies and late-term terminations and what that has meant in terms of trying to finalise the bill. I can count and I suspect I am not going to be successful and it will be reopened. I do not have a problem with the amendments being dealt with in globo because it makes sense if we do that. I say that there is no need for this to be reopened; there is no need for us to continue this debate. We have dealt with this very carefully, mostly respectfully and the time now is to finalise the bill.

The Hon. BEN FRANKLIN (18:16): This has been a predominantly respectful debate, and one in which there has been a lot of agreement and discussion on all sides to make this work. A motion was moved that the bill as amended be agreed to, which those who are predominantly in the cluster, I will say, of opposing the bill let through on the voices without asking for a division because of exactly what the Hon. Niall Blair is proposing, knowing that with only one sheet of amendments left we would then revisit them. Then, in the good grace of this Committee we would consider them appropriately and then finally we would pass the bill or otherwise. I strongly support the motion moved by the Hon. Niall Blair.

Mr DAVID SHOEBRIDGE (18:17): A number of members of the public have been watching how the Committee has debated the bill. This is yet another occasion where the traditional way in which we debate things has been amended for this one special bill. Ordinarily, Committee debate proceeds in an ordered fashion and all amendments have to be delivered to the Chair before the Committee debate starts. This Committee debate started weeks ago. Contrary to the traditions of this House, we have continued to allow further amendments by leave which is the principal reason why this debate has never ended. We have rules for a proper purpose so that we can conclude our business in a timely and fair fashion. The rules to date in this debate have been stretched so far, with constant allowance of amendments, that it has gone on for days. Procedure is there for a good reason.

At the end of the debate when we thought we had dealt with all the amendments we now have another indulgence to allow members to amend the bill contrary to procedure. As the Hon. Penny Sharpe indicated, when will this end? When do we draw a line under it? Procedure is there for a reason: to prevent debate descending, as we have seen, into endless hours of endless amendments with endless iterations. Now we are going to revisit amendments we have already agreed to after hours and hours of debate. Proceeding with this motion brings the House into disrepute. The endless amendments brings the Parliament into disrepute and The Greens will not be supporting the motion.

The Hon. TREVOR KHAN (18:19): I was not going to comment but I have to respond to Mr David Shoebridge's comments. This House is the master of its own destiny. Contrary to what is suggested, either that this motion is unusual or is contrary in some way to the standing orders, nothing that has been proposed is in any way contrary to the rules and practices of this House. As I say, this House is the master of its own destiny. This is an important issue and there is no doubt this debate has been very long. Contrary to what Mr David Shoebridge said, we are clearly coming to the end of it and we are doing that in an orderly fashion. If people are watching, I believe they should be proud of the way in which democracy is unfolding in New South Wales.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind members of Standing Order 146 (2), which states:

On the motion that the Chair report the bill, the reconsideration of any clauses may be moved as an amendment.

The Committee is operating under Standing Order 146 (2).

The Hon. ADAM SEARLE (18:20): I understand that this procedure is provided for, but the subject matter of most of the amendments for which the mechanism is being invoked so they can be reconsidered has been debated extensively in this Chamber already and members have expressed their views on those matters. That does not mean that the Chamber cannot reconsider its view. I accept that this House is the master of its own destiny. But more fundamentally, having read the proposed amendments to be canvassed if the motion is successful, I simply do not support them. For that reason it would be ridiculous to support recommitment simply to vote against something I disagree with. I accept that that will not be the position of all members but these matters are not new. They have been debated for some hours and over some days in this place. It is just that at the heel of hunt, as it were, a number of members in this place have been able to reach agreement on matters—

The Hon. Trevor Khan: Indeed we have.

The Hon. ADAM SEARLE: I acknowledge that interjection. A number of members in this place have been able to reach agreement on matters where there was not previous agreement. That might speak well of the parliamentary process but I see no reason to reconsider my views.

The Hon. ROBERT BORSAK (18:21): I speak on behalf of the Shooters, Fishers and Farmers Party. We support the motion because the very nature of this place is that we debate and that we visit and revisit a lot of the issues dealt with in this place from time to time. This particular bill is of such fundamental importance that it requires us to really—and let us use this terminology—work it to death. Members on both sides of the House, and even on the crossbenches, hold some very deep convictions. We need to be able to vent, discuss and debate those properly and, in the end, divide and make our decisions. I do not think it is right to apply the guillotine. We should be supporting the motion and moving on, even if it takes another three hours. After all, today we decided we would sit beyond midnight if we wanted to.

Mr David Shoebridge: If we needed to.

The Hon. ROBERT BORSAK: I am not of any mind to do that at all. I am as tired as the rest of the members, especially my good friend Mr David Shoebridge, strange bedfellow that he is. For the sake of completeness, fairness, discussion and democracy, we will support this motion. We need to do that.

The Hon. Trevor Khan: I've got the hot flushes.

The Hon. ROBERT BORSAK: I also support the Hon. Trevor Khan.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Interjections are not helping the debate.

The Hon. NIAL BLAIR (18:23): I will be brief. I remind members that amendments Nos 5, 6 and 7 on sheet c2019-175A could have been moved during the normal Committee stage but, as I said, it is better to be able to debate those amendments together with amendments Nos 1 to 4 in globo. No other amendments have been submitted so the debate should be relatively quick. If members are worried about how long this process has taken, it is not because of the number of amendments. It is because we did not have time limits during debate on amendments to the bill. I am sure that Mr David Shoebridge is not complaining about the time because we do not have time limits. I remember in 2011 and 2012 he was one of the members who spoke for six hours. We have

considered many more amendments in Committee stage for many other bills but time limits are only applied if they are Government bills. We have not guillotined anyone from speaking. This House is the master of its own destiny. Every member has had a chance to contribute to the debate. I commend the motion to the Committee.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Penny Sharpe has moved a motion, to which the Hon. Niall Blair has moved an amendment. The question is that the amendment of the Hon. Niall Blair be agreed to.

Amendment agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that the motion as amended be agreed to.

Motion as amended agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I will now leave the chair. The House will resume at 7.30 p.m.

In Committee (Recommittal)

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Committee will reconsider clause 6, clause 13 and schedule 1. We are dealing with the amendments on sheet c2019-175B.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (19:30): By leave: I move amendments Nos 1 to 7 on sheet c2019-175B in globo:

No. 1 Termination after 22 weeks

Page 3, proposed section 6, lines 13 and 14. Omit all words on those lines. Insert instead—

- (a) the specialist medical practitioner, after considering the matters mentioned in subsection (3) and any advice received under subsection (4), considers that, in all the circumstances, there are sufficient grounds for the termination to be performed, and

No. 2 Termination after 22 weeks

Page 3, proposed section 6, lines 16 and 17. Omit all words on those lines. Insert instead—

- medical practitioner who, after considering the matters mentioned in subsection (3), also considers that, in all the circumstances, there are sufficient grounds for the termination to be performed, and

No. 3 Hospital advisory committees and multidisciplinary teams

Page 3, proposed section 6. Insert after line 33—

- (4) Without limiting subsection (3), the specialist medical practitioner may ask for advice about the proposed termination from a multidisciplinary team or hospital advisory committee.

No. 4 Termination after 22 weeks

Page 3, proposed section 6. Insert after line 44—

Note. This section is intended to reflect the common law position on terminations at the time this Act was enacted, subject to the purposes and requirements of this Act.

No. 5 Guidelines

Page 7, proposed section 13. Insert after line 8—

- (2) Without limiting subsection (1), the guidelines may include information about matters relevant to the role of multidisciplinary teams and hospital advisory committees in relation to the performance of terminations, including the following—
 - (a) the operation of multidisciplinary teams or hospital advisory committees,
 - (b) the assistance a multidisciplinary team or hospital advisory committee may provide about a termination to a medical practitioner.

No. 6 Meaning of "hospital advisory committee"

Page 8, proposed Schedule 1. Insert before line 7—

hospital advisory committee means a committee established by—

- (a) a statutory health organisation, within the meaning of the *Health Services Act 1997*, or
- (b) an approved health facility.

No. 7 Meaning of "multidisciplinary team"

Page 8, proposed Schedule 1. Insert before line 16—

multidisciplinary team means a group of registered health practitioners and other health professionals, from diverse fields of practice, who work together in a coordinated way to deliver comprehensive care to a patient in a way that addresses as many of the patient's needs as practicable.

This amendment seeks to complete the process, which began in the Legislative Assembly with the amending of clause 6 of the bill into the form currently before us, of ensuring that key elements of current common law and current practice, as they relate to late-term abortions performed in New South Wales, are reflected in the bill.

Amendment No. 3 inserts a provision that, before deciding whether there are sufficient grounds on which a termination after 22 weeks of pregnancy should be performed, a specialist medical practitioner may ask for advice about the proposed termination from a multi-disciplinary team or hospital advisory committee. Amendment No. 5 would allow guidelines, under proposed section 13 of the bill, to be issued specifically in relation to the operation of multi-disciplinary teams and hospital advisory committees and the assistance that they may provide a specialist medical practitioner in relation to a proposed termination.

Amendments Nos 6 and 7 simply add definitions of these bodies to the dictionary of the bill. A specialist medical practitioner is defined in the bill as either someone with a specialist registration in obstetrics or being a general practitioner with additional experience or qualifications in obstetrics. Terminations after 22 weeks of pregnancy often involve complex issues, which not every specialist medical practitioner will be equipped to deal with without seeking advice from other registered health practitioners and other health professionals, depending on the circumstances of each case. For example, in the case of a termination after 22 weeks, which involves primarily grave, psychological or social circumstances, it would be prudent for a specialist medical practitioner to consult with a specialist medical practitioner who holds specialist registration in psychiatry or to consult with a person who is registered to practise in the psychology profession and has the requisite training and qualifications to advise on such matters.

Amendment No. 1 ties the decision that a specialist medical practitioner must come to before performing a termination—that there are sufficient grounds to do so—to that practitioner's consideration of all the matters set out in proposed subsection (3) as well any advice—if any—received under proposed subsection (4). Amendment No. 2 on the sheet similarly ties the view formed by the second specialist medical practitioner—who is consulted by the first specialist medical practitioner—that there are sufficient grounds to perform the termination to that second practitioner's consideration of all the matters set out in proposed subsection (3). Finally, the note inserted at the end of proposed section 6 by amendment No. 4 simply gives effect, at least in relation to terminations after 22 weeks, to the view expressed by the Hon. Penny Sharpe earlier in the debate that:

Fundamentally the bill is about removing from the Crimes Act the threat of jail for doctors or women who are seeking terminations. It seeks to codify the current common law practices relating to abortion.

That is what she said. I commend the amendments to the Committee.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): In a mutual sense of commendation, I commend the Hon. Damien Tudehope for addressing the amendments specifically. I have reviewed the debate on these areas over the dinner break. I remind members to specifically address the amendments, as the Hon. Damien Tudehope has done.

The Hon. NIAL BLAIR (19:34): I will make a very brief contribution. I thank the Hon. Damien Tudehope for bringing these amendments. I have considered them carefully. I think that they basically codify what is in current practice at the moment. I believe they do not erode any further access for women seeking this type of termination. Therefore, I will support these amendments.

Ms ABIGAIL BOYD (19:35): The Greens will not support these amendments. We have a number of concerns, many of which were highlighted in a briefing note that we received today from the Australian Medical Association and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists. I understand that some of those concerns were addressed in an earlier version of these amendments. However, these amendments still go beyond a reflection of the status quo and would potentially cause delays or obstruct access to late term terminations. As with the other amendments that we have opposed, that could create additional barriers to access.

This amendment would impact disproportionately on those in regional and rural areas and those in domestic and family violence situations. It would also lead to additional pressure on pregnant people to have terminations earlier than they would otherwise or in circumstances when they would otherwise choose not to have a termination, in light of further information or consideration only becoming available at a later time and because of concerns over later access to abortion being governed by a regime, which includes these amendments.

We know from the Western Australian experience that hospital committees lead to unacceptable delays. In order to take the most cautious approach to compliance with the new provisions, many hospitals will be likely

to take time to establish relevant procedures. They may wait for guidelines under proposed section 13 to be produced before putting those procedures in place—which could, of course, take some time. What happens in the meantime, in the midst of that uncertainty, to those requiring access to late term abortions? The regulatory environment would then cause a significant backwards step in relation to accessible and quality reproductive health care for those individuals.

Amendments Nos 1 and 2 would create significant legal uncertainty in the use of the term "sufficient grounds". It is unclear from any research that we have done as to what that term means. We do not understand why a different test should be required in addition to what is already in the bill. Amendment No. 4 is, frankly, legal nonsense. How can we refer to the common law position as it applies prior to the bill when it is still subject to the requirements of the changes made by this bill?

On the one hand this bill is intended to reflect the common law position on terminations as at the time the Act is enacted—in other words, the common law position under the previous set of laws subject to the purpose of the Crimes Act—yet on the other hand that current common law is amended by the requirements of this Act. I understand that amendment No. 4 was put in to try to address or record the intention of the amendment, but as far as we are concerned it is of no effect and is quite confusing in itself. For those reasons The Greens will be opposing this amendment.

The Hon. ADAM SEARLE (19:38): I also will not be supporting these amendments—I know people will be shocked—because they are unnecessary, they constitute some legal nonsense and, at best, it is an attempt by some people of goodwill who are supporting the bill to paper over the cracks with some people who do not support the legislation to try to find an accommodation. At the moment pre-22 weeks, it essentially changes the law by providing fairly unrestricted access. There are no legal hoops or doublethinks to get through, no persuading doctors to find that people's lives are in jeopardy or the like. It is fairly straightforward. Post-22 weeks, in clause 6, the test essentially is that the specialist medical practitioner considers that in all the circumstances the termination should be performed.

One can assume the specialist medical practitioner would inform him or herself in the way that doctors currently do in determining whether or not to perform procedures at this point in time. That does not represent a fundamental change from the status quo, but it is simplified into that test and in all the circumstances the termination should be performed. In amendments Nos 1 and 2 that is replaced with a sufficient grounds test. Amendment No. 1 recalibrates what is already there. It states:

- (a) the specialist medical practitioner, after considering the matters contained in subsection (3) and any advice received under subsection (4), considers that there are sufficient grounds ...

Proposed section 6 (3) provides that in considering whether a termination should be performed a specialist medical practitioner must consider three things. In a sense amendment No.1 does not change that much because these things must already be considered by the medical practitioner. Amendment No. 3 imports a new subsection (4) about any advice from the specialist multi-disciplinary team.

I am glad to see that consulting the multi-disciplinary team is not mandatory. It is there for the specialist medical practitioner to access if he or she thinks that is necessary. One can well imagine some circumstances where the specialist, although a specialist, has a particularly tricky procedure to perform or there are other factors where they may wish to draw on the expertise of others. That is probably something that would happen anyway but nevertheless, this device of the multi-disciplinary team is invoked. My concern for both amendments Nos 1 and 2 is this sufficient grounds test. They are not spelt out elsewhere in the legislation. The current provision of "in all the circumstances" very much leaves it to the medical practitioner's medical judgement.

I am concerned that importing this new sufficient grounds test raises the bar to access. It would have to be assumed that there is some purpose in using that threshold test because it is not just a global "in all the circumstances"; it is sufficient grounds. What are the things that they need to be satisfied of? If it is merely the things that are listed here, then in one sense these amendments are unnecessary because they do not change anything. But if it is intended to import a new threshold, a threshold that is not otherwise defined in the legislation, I am concerned that it could create an additional barrier to access at this very difficult point of post-22 weeks.

If we reflect for a moment that in the real world at this stage of pregnancy people do not seek to access terminations for reasons of convenience or of lifestyle, or as a means of contraception or any of the other reasons that are sometimes trotted out in these debates. They occur because of medical difficulties. They occur as a matter of necessity, usually with pregnancies that are very much wanted. This adds to the trauma and grief of the prospective parents where they form the view that this procedure is necessary. I am concerned that if the sufficient grounds threshold requirement does raise the bar to access, we are visiting an additional hardship on people who are already vulnerable and traumatised in the fact that they have, for reasons of medical necessity, sought a termination at this point in the pregnancy.

Those are my fundamental concerns and why I will not be supporting this cluster of amendments. That encapsulates my concerns about the first two amendments. I am not so much concerned with the third amendment, the multi-disciplinary team, and the definition of what that is in Nos 6 and 7. As to amendment No. 4, I am not entirely sure whether proposed section 6 does capture the common law. If a court is called upon to interpret these provisions, it is probably a good thing that the notes do not form part of the legislation under the Interpretation Act 1987. I will leave that there. As I said, my concern is that at one end of the spectrum these amendments are simply unnecessary—although no doubt put forward in good faith—but I am concerned that they may, perhaps unintentionally, create some barriers to access. I urge honourable members to reflect carefully in their vote on this group of amendments. I will not be supporting them. I urge honourable members also to not support them.

Reverend the Hon. FRED NILE (19:45): I speak to the Reproductive Health Care Reform Bill 2019 and the seven proposed amendments on sheet c2019-175B. The amendments concern the bill's provisions for a termination after 22 weeks of pregnancy. The three previous amendments that were tabled, which also addressed this issue, were numbered c2019-129D, c2019-130D and c2019-160. This is clearly an issue on which there has been considerable discussion among members outside of this Committee. I presume this is because it is one of those issues that has aroused of public outcry and scrutiny.

The amendments outline the circumstances where an abortion can be carried out by specialist medical practitioner after 22 weeks and what considerations that specialist medical practitioner may take into account when making this determination. The proposed section 6 allows a specialist medical practitioner to carry out an abortion if he or she is of the belief that there is safe, sufficient grounds for it. The belief is formed after a consideration of the matters raised in proposed section 6 (3). These include the relevant medical circumstances, the current and future physical, psychological and social circumstances, and the professional standards relevant to the specialist medical practitioner. These are very broad and vague categories of criteria.

I note that the prior tabled amendments mentioned serious danger to life, physical, psychological and mental health. This amendment does not incorporate such language but rather retains the bill's current considerations as listed above. One wonders why the drafters would not want to include mental health as a consideration but retain a vague term such as "social circumstances". While we all know what a mental health issue may entail, social circumstances seems extremely vague and open-ended. Under proposed subsection 3, the specialist medical practitioner "must consider those proposed matters". But the bill as amended does not indicate how this information is to be weighed up in the mind of the doctor when he his determination.

Considered together, this is the kind of language that brings to mind the concept of abortion on demand. Moreover, given that we are talking about abortion after 22 weeks of pregnancy, we are well and truly in the horrific realm of late-term abortions. It is therefore relevant to put on record precisely what may be permissible under this bill is as amended here. The literature identifies two forms of abortion after 22 weeks gestation: The surgical approach, known as dilation and evacuation—

The Hon. Niall Blair: Point of order: This information has been well and truly canvassed in the earlier debate on the issue around what occurs after 22 weeks and the circumstances for it. We are now looking at very specific amendments. I believe that we have already covered this during the debate.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I uphold the point of order. Reverend the Hon. Fred Nile, I do not know whether you were present when I indicated that there has been extensive debate for many hours on proposed section 6. I ask you to hone in on the amendments before the Committee and whether you agree or disagree with the specific amendments.

Reverend the Hon. FRED NILE: Proposed section 6 (4), which states that the specialist medical practitioner may consult and seek advice from a multi-disciplinary team or a hospital advisory committee, does not add any clarity to the bill. The use of the word "may" means that the specialist medical practitioner does not have to make any such consultation. He can, he might, but there is no positive obligation for him to do so. In light of this it seems this bill is toothless in establishing a high standard of inquiry and care on the part of the specialist medical practitioner. That is because the matters he must consider are very broad, so there does not seem to be any real force behind the provisions that would limit abortions to only grave circumstances.

Moreover, the specialist medical practitioner is not subject to any mandatory requirement to consult with a colleague or a panel of colleagues. In contrast, the amendments on sheet c2019-129D and c2019-130D were much stronger in that they proposed a new subsection which read:

The specialist medical practitioner has consulted with another specialist medical practitioner and the other specialist medical practitioner is also satisfied there is serious danger to the life, physical health or mental health of the person according to section 7.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Reverend the Hon. Fred Nile, another point of order is about to be taken. There is no need to refer to previous amendments, just the current amendments.

Reverend the Hon. FRED NILE: Amendment No. 5 states that the guidelines may include information about matters relevant to the role of multi-disciplinary teams and hospital advisory committees. I note that enshrining guidelines into an Act of Parliament gives special status to such documents but there has been concern that doing so creates a dangerous precedent. While regulations under an Act are produced by the relevant Minister, a guideline is the product of a bureaucratic process by a professional body that is not subject to the broader democratic culture of society at large.

The point I am making is that professional guidelines are not expressions of public policy yet matters subject to legislation are. It may, therefore, be dangerous to give special legal status to a document or documents that are subject to drafting that is far too removed from the processes of State governance. Be that as it may, as I have repeatedly stated in these debates with respect to other amendments, while I strongly oppose the bill these amendments seek to mitigate the damage that will be done when it is passed. The amendments are weak but without them this bill would be far more horrific. Any attempt to mitigate is therefore to be supported.

The Hon. MATTHEW MASON-COX (19:52): The art of compromise, here we are. Can I say in relation to these amendments that it has been an interesting journey. The detailed amendments on guidelines and the meaning of "hospital advisory committee" and "multi-disciplinary teams", are a natural tightening and extension of proposed section 6 (1) (d) of the bill which states:

- (d) the termination is performed at—
 - (i) a hospital controlled by a statutory health organisation, within the meaning of the *Health Services Act 1997*, or
 - (ii) an approved health facility

It brings into the nomenclature of these facilities the expectation that in these facilities those sorts of committees were appropriate and that the supervising specialist medical practitioners would avail themselves of them as necessary. That is where the word "may" is important. It looks to give primacy to the initial oversighting specialist medical practitioner who would then, should the necessary circumstances occur, seek support from that multi-disciplinary team or the hospital advisory committee.

It is a lot of terms but it is all about trying to reflect the current clinical realities that occur in a post- 22 week termination. That is a useful addition to the bill. It clarifies things. There was confusion in the other House about how it works. We are not doctors or specialist medical practitioners but we have grown through this debate to know more about what happens in our public hospitals. That can only be a good thing. I have learnt a lot more about what specialists in this area go through. I have great admiration for them and for what they do. I honour that. We have been in that position and the trust of that relationship is incredibly important. This helps to clarify these issues in an important area post-22 weeks. It is an improvement to the bill. The note to amendment No. 4 states:

Note. This section is intended to reflect the common law position on terminations at the time this Act was enacted, subject to the purposes and requirements of this Act.

Some members have said that it is a bit circular. The intention behind it is to give life to the commitment from the proponents of the bill to look to codify the existing common law. That statement has been made a number of times. I will not go back to the second reading speeches of the Hon. Penny Sharpe and Mr Alex Greenwich or indeed the accompanying package that came with the bill. It is all very clear. The intention is to get back to that. It reflects the clinical guidelines that exist in our public hospitals. The guidelines exist to protect everybody involved in this process and provide wonderful support to women in this difficult situation.

We are familiar with the Superclinics test. That was the benchmark in that regard. I want to give people a little bit of comfort about that because how it all works is not as clear as day. Clearly the common law is the touchstone. In the Superclinics case with Justice Kirby—which is seen as the latest authority—it states that if a specialist medical practitioner forms an honest belief, on reasonable grounds, that the termination is necessary to save the person from serious danger to the person's life, physical health or mental health, which continuing the pregnancy would cause and not merely the normal dangers of pregnancy in childbirth.

If it is necessary to save the pregnant woman from serious danger to the person's physical health or mental health, the specialist medical practitioner considers these sorts of things. In Superclinics it is fairly clear that the person's medical, economic and social circumstances, which is reflected in that section of the bill, and the impact the pregnancy would have on the person's health during or after the pregnancy if the pregnancy were not terminated, is considered the common law test. The test in Wald is similar. Together, that is the basis of the common law which is accepted in relation to lawful terminations. This amendment is an honest attempt to bring that into clause 6, which deals with post 22-week abortions.

For completeness, I note that the common law test applies to abortions from conception. We have had that argument and landed here. I know that not everybody agrees with the landing but respects the processes of this House and the way we have developed this legislation over many hours of debate. I accept that is the landing; I cannot say that I am completely thrilled with it. But that is the explanation that sits behind some of the tortured drafting, which is reflected in the note to amendment No. 4. With those few words I commend the amendment to the Committee.

Mr DAVID SHOEBRIDGE (19:58): Just for the record, I do not think a fair reading of clause 6 would support the observations made by the Hon. Matthew Mason-Cox on clause 6 reflecting the common law position as it currently stands.

The Hon. ROSE JACKSON (19:59): I oppose the amendments moved by the Hon. Damien Tudehope. I accept that the intention of the amendments is to create a more specific and, in some ways, more rigorous or cumbersome—it is hard to find the right word—legal, medical framework for terminations post-22 weeks. As we know, those terminations represent 1 per cent to 3 per cent—a tiny fraction—of terminations that occur. They almost always occur because of fetal abnormality. In a very small percentage of the already very, very small percentage of terminations where they are not occurring for that reason, they are also—

The Hon. Niall Blair: Point of order: To be consistent, I took a point of order on an earlier speaker who was recanvassing the issues that have been clearly debated more broadly about 22-week terminations. We are now talking narrowly about the amendments before the Committee. We need to stick to that narrow view.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind the Hon. Rose Jackson that this is a recommittal of amendments that the Committee has dealt with before. I think we have had five hours of debate. We will not re-canvass the broader issues in those clauses; it is specifically about the amendments. I have already ruled on this matter. I invite the member to address amendments specifically.

The Hon. ROSE JACKSON: The arrangement, as presently outlined in the legislation, for terminations post-22 weeks is for the woman herself, her doctor and a second medical specialist, which is an adequate oversight provision for the occurrence of that termination. I think the inclusion of multidisciplinary teams and hospital advisory committees complicates and overburdens a matter in an unnecessary way. It is already an extremely complicated, challenging and complex decision, and these amendments only exacerbate that complicated situation. In fact, the uncertainty around the word "may" and other words, to me, creates more uncertainty and complication in a situation and a circumstance that is deeply tragic and already very challenging.

I think the current arrangements as they are drafted in the bill provide centrality to women and their specific doctors, with the support of a second medical specialist in particular circumstances, to make these decisions. I think they are the right people to make these decisions and that these amendments are unnecessary. There are other complex medical decisions involving challenging ethical considerations that we make every day. There is an entire discipline of medical law that addresses these complex and complicated ethical considerations when we deal with vasectomy, mastectomy, hysterectomy, patients with limited capability because of disability or mental illness, children and new or innovative medical treatment. They are all examples of complicated and complex medical decisions that are made every day with intersecting ethical considerations.

In none of those other circumstances that I briefly listed do we go into this level of specificity about how those decisions are made. In all those other circumstances where complicated decisions are made every day we give the authority in the agency for making those decisions in our legislation to patients and doctors. We allow those people who are best placed to make those decisions the space to make them. I do not think in this area we need to do anything different from that.

The Hon. Taylor Martin: This one takes a life.

The Hon. ROSE JACKSON: The current drafting provides an adequate balance with the level of oversight that I think is necessary for these kinds of decisions by creating the space and the agency for the woman and her doctor, with the support of a second medical specialist in some circumstances, to make those decisions. I do not think this circumstance should be any different. I note the interjection that some people consider this medical decision to be completely different from any other medical decision that a person might make because they believe it is taking a life. I understand that, although I do not agree with it—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! People in the public gallery will listen to the discussion in silence.

The Hon. Trevor Khan: Point of order: The Hon. Rose Jackson is straying beyond the leave of the amendments. We are getting into a generalised second reading debate. I ask that she be drawn back to the substance of the amendments. Repeating the same thing over and over again is of no assistance.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Interjections are disorderly, and that one did not help the debate. Responding to interjections is also disorderly. I uphold the point of order. I draw the Hon. Rose Jackson back to the specifics of the amendments. The area the Hon. Rose Jackson is canvassing has been canvassed extensively in the debate over the past 50 hours.

The Hon. ROSE JACKSON: It is true that it has been canvassed extensively by a lot of the men in this Chamber. I ask that I be allowed to wrap up.

The Hon. Wes Fang: Point of order: The comments of the Hon. Rose Jackson are deeply offensive to many people in this Chamber. I ask that you call her to order.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Wes Fang may have been offended but I was not so offended. I ask the Hon. Rose Jackson to be civil in this debate. She has made her position clear. She will address the amendments.

The Hon. ROSE JACKSON: I was intending to wrap up by simply saying a number of the amendments that have been moved—some of which I have supported—have been borderline unnecessary in that they have codified arrangements that exist elsewhere. In the spirit of compromise, I have been mindful of trying to find a way to win the broadest community support for this legislation going forward, partially because I am hopeful that we will not have to re-litigate this time and time again. But I think in this circumstance it is an unnecessary codification.

I conclude by saying that, in the spirit of compromise, I have sat on both sides of the Chamber for a number of the votes in an attempt to find a way through the messy area between codifications, directions, things that are unnecessary but acceptable and things that go too far. I ask that those members who have a different view about where they stand on this issue also consider the necessity of compromise and recognise that, as we reach the end of this debate, the community overwhelmingly supports the passage of this legislation. That is beyond doubt. There has been compromise on various points and I hope that that leads to some of those who opposed the passage of the legislation at the second reading stage recognising the compromises that have been made and supporting its ultimate passage in the spirit of supporting where the vast majority of the community has landed on this issue.

The Hon. WALT SECORD (20:07): I will make a brief contribution on the amendments, which I hope is my last contribution to debate on this bill. I have been advised that late-term terminations related to, at most, 3 per cent of terminations. The bill was introduced on 29 July and we have debated it for more than 50 hours in this Chamber. Hopefully, this area of policy can be resolved by the Parliament once and for all. I have looked at the amendments to the bill and the guiding principle that I have taken to each amendment before me was: Does it restrict or reduce a woman's access to terminations in any form? I fear that these amendments have the potential to do that. Therefore, I will be opposing the amendments. Unfortunately, they are unnecessary and an attempt to give in to, appease or paper over something for the member for Mulgoa and the member for Riverstone. On that note, I will end my contribution.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Damien Tudehope has moved amendments Nos 1 to 7 on sheet c2019-175B in globo. The question is that the amendments be agreed to.

The Committee divided.

Ayes23

Noes17

Majority.....6

AYES

Amato, Mr L
Borsak, Mr R
Fang, Mr W
Harwin, Mr D
Latham, Mr M

Mason-Cox, Mr M

Nile, Revd Mr
Tudehope, Mr D

Banasiak, Mr M
Cusack, Ms C
Farlow, Mr S
Houssos, Mrs C
Maclaren-Jones, Mrs
(teller)

Mitchell, Mrs

Roberts, Mr R
Ward, Mrs N

Blair, Mr
Donnelly, Mr G
Franklin, Mr B
Khan, Mr T
Martin, Mr T

Moselmane, Mr S
(teller)
Taylor, Mrs

NOES

Boyd, Ms A
 Faehrmann, Ms C
 Hurst, Ms E
 Moriarty, Ms T
 Searle, Mr A
 Shoebridge, Mr D

Buttigieg, Mr M (teller)
 Field, Mr J
 Jackson, Ms R
 Pearson, Mr M
 Secord, Mr W
 Veitch, Mr M

D'Adam, Mr A (teller)
 Graham, Mr J
 Mookhey, Mr D
 Primrose, Mr P
 Sharpe, Ms P

Amendments agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): After five sitting days, 122 amendments, 26 divisions, and 30 hours and 24 minutes in Committee of the Whole, the question now is that the bill as amended be agreed to.

Motion agreed to.

The Hon. PENNY SHARPE: I move:

That the Chair do now leave the chair and report the bill to the House with amendments.

Motion agreed to.**Adoption of Report**

The Hon. PENNY SHARPE: I move:

That the report be adopted.

Motion agreed to.**Third Reading**

The Hon. PENNY SHARPE (20:18): I move:

That this bill be now read a third time.

The DEPUTY PRESIDENT (The Hon. Niall Blair): Order! This is the third reading of the bill. It is not a second reading debate. There are numerous rulings in relation to what constitutes a contribution during a third reading debate. Members have one last opportunity to prosecute why the bill should or should not be supported. Members are not to reintroduce new material or go back over the substance of the second reading debate.

The Hon. PENNY SHARPE: The Reproductive Health Care Reform Bill 2019 should be supported at the third reading because it has been a long time coming for the women of New South Wales. The reason this bill has been before the Committee and has been the subject of such extensive debate is it is a difficult issue. It has been a difficult issue for 119 years. It has been a difficult issue for decades, as women have fought to have access to health care that is safe, that is legal and that is accessible. The bill is also important, and the reason the co-sponsors of the bill introduced it and have been willing to work closely with people throughout this process is we fundamentally believe women need to be able to make the choices that are right for them in order to be equal in our society.

One of the most important choices women have to deal with is their reproductive health and the timing of when, or if, they will have children. We are doing this also because the current law has meant that women and their doctors were under threat of 10 years in jail for making this decision. That is not okay. We also do this tonight because we are concerned that in other jurisdictions in the world—and I will not go far into this—women are at risk. The passage of this bill does not mean that there will be more abortions. But failure to pass this bill means that there will be fewer safe abortions, with terrible outcomes for women. We need to remember that across the world 40,000 women lose their lives every year as a result of unsafe abortions and seven million women end up in hospital as a result of botched abortions.

As we have considered the amendments during this very long process, the guiding principles for me have been straightforward. We have to trust that women will make decisions that are in their best interests, in consultation with the people they choose in their lives. We have to trust them to make the right decision; trust that they know what is best for them. Frankly, it is a deeply private decision that is nobody's business but theirs. We have to trust the doctors who care for women and pregnant people every day. There has been a lot of discussion about guidelines, about doctors and the role they play. I place on record my thanks to the Australian Medical

Association [AMA] and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG]. Your advice has been invaluable.

I also thank the other medical professionals like nurses—all of those who are involved in providing reproductive health care to women and other pregnant people in New South Wales. You are legends. You have given women the freedom they need to make choices in their lives at sometimes the worst times in their lives. You are to be congratulated and thanked. So we need to trust women and we need to trust their doctors. Everyone has finally accepted the common law position. While I know the preference for most is that abortion is safe, legal and rare, that is not the case. Tens of thousands of abortions are performed in New South Wales every year. What we have sought to do through this bill is to find a legal framework that views that work through the lens of health rather than through the lens of crime.

For me, the test with all these amendments has been: Are women going backwards or are they going forwards through the bill that we now see before us? I believe we have taken massive steps forward. People who I know are very frustrated with the amendment process need to know that what we have achieved through this bill is very significant. Women and pregnant people in this State are much better off today—and hopefully tomorrow—than they have been for the past 119 years. That is something worth celebrating. I am not going to traverse all of the amendments. Obviously I supported some of them. There were some that I could not support for the reasons I have outlined. But I believe the bill that is going forward should be adopted not just by this House; I urge the lower House to do the same. My last comment on this—I have another 25 minutes; I only just looked at the time—

The DEPUTY PRESIDENT (The Hon. Niall Blair): You don't have to use it.

The Hon. PENNY SHARPE: No. Don't worry.

The Hon. Don Harwin: No you don't, because I am now going to start taking points of order if you keep going.

The Hon. PENNY SHARPE: I am not going to do that. Have I done that at any time? Come on!

The DEPUTY PRESIDENT (The Hon. Niall Blair): Order!

The Hon. Don Harwin: I have to do it to you if I am going to do it to everybody else, Penny.

The Hon. PENNY SHARPE: You can do that. There are some final people whom we need to thank. I have already thanked the AMA and RANZCOG. I am going to name people and I am going to get in trouble because I will leave people out. For those I miss, I love you anyway and I figure you will forgive me. Elizabeth Evatt, Ann Brassil, Wendy McCarthy, Mary O'Sullivan, Danielle Crozier, Claire Pullen, Rosie Ryan, Georgie Slater, Charlotte Kennedy-Cox, Sinead Canning, Adrienne Walters, Edwina MacDonald, Renae Carr, Emily Mayo and Jozefa Sobski are incredible women who have done so much work behind the scenes. We can never thank you enough. We stood on your shoulders as we tried to progress this and take this important step forward for women in New South Wales.

To my parliamentary colleagues Alex Greenwich, Jo Haylen and the Hon. Trevor Khan, and particularly our staff, there was a huge amount of work—very stressful—but your determination to see this through has been commendable. I have loved working with you and we are here because of your excellent work. The same goes for the work of our co-sponsors. I also want to mention—and he will hate me doing this—the Minister for Health and Medical Research, Brad Hazzard. There was incredible work from him and a genuine commitment to getting law reform that is health based and about good health care. I tip my hat to him. To people in this Chamber, particularly the Hon. Niall Blair, the Hon. Adam Searle, Ms Abigail Boyd and the Hon. Emma Hurst, I know how much work that you have done behind the scenes. I know the frustrations that you have shared. I really just respect the work that you have done in getting us to this point.

Finally, I thank the Hon. Shayne Mallard, who spent many hours in the chair. I thank all those whom I would like to name but I will not because it is not good for them. I commend the bill to the House. Those of us who wanted to see this change need to understand that this is a massive step forward for women in this State. We should be very pleased with that. To the people who fundamentally will never be able to support this bill, I respect that we cannot reconcile these issues. But I thank those who have come to the debate in a fair way and have put their views. I hope you feel that you have been able to traverse the issues that you needed to. We just do not agree; we are not going to be able to. That is what the parliamentary process is about and that is what we have been through. I commend the bill to the House.

Ms ABIGAIL BOYD (20:26): The Greens opposed every amendment to the Reproductive Health Care Reform Bill 2019, both here in the upper House as well as in the lower House. We opposed them not because they were put forward by a particular side of the debate, but because every amendment took us further away from our

firm pro-choice stance and towards a regulatory regime that makes it just that much harder for people to access reproductive health care than it would be without the amendments. They create a regime that makes it that much harder for doctors to provide that health care. If we are honest, the people proposing those amendments are on record as opposing the core features of the bill—as it is their right to do. It is absolutely within their rights as members of this place to propose amendments that make access to terminations more difficult. And it is absolutely within our rights to oppose those amendments on the basis of our firm and unwavering commitment to the right to choose.

The bill we will deliver back to the lower House tonight is undoubtedly worse than the one that was sent up to us many days ago. It has more ambiguities, more legal nonsense and more statements perpetuating myths and harmful misunderstandings around the reasons that people seek terminations—particularly late-term terminations. However, the bill does still decriminalise abortion. It does still advance the fundamental human rights of those of us with a uterus. The debate has been controversial at times and really distressing for many. I am deeply sorry to all those who have suffered harm as a result of this debate and from the public focus and scrutiny on the incredibly difficult decisions that so many people have to make every single day.

Finally, I thank the fierce pro-choice individuals who have stood by us through this debate. The Hon. Penny Sharpe has mentioned many of them. I add my special thanks to a few of them, notably, Wendy McCarthy; Adjunct Professor Ann Brassil—I got great comfort to see her in the public gallery—Dr Vijay Roach, who was also a great source of strength; the NSW Pro-Choice Alliance; Our Bodies Our Choices; and so many others. I thank our pro-choice colleagues from the lower House—not least of all, Jenny Leong—and all of those who have sent us messages of support and encouragement. They have given us the strength to get through this debate. We do not want to see the bill back in this House. I look forward to seeing it receive its final vote in the lower House tomorrow—and to us making history.

The Hon. MATTHEW MASON-COX (20:30): I oppose this bill at its third reading stage for a range of reasons. At the outset I thank all members for their participation—it has been a robust debate. As I have said more than once, I think there has been a significant improvement on where this bill started and where it ended up tonight. That is a credit to the parliamentary process. Having said that, that process has had its difficulties. I will not reflect on that anymore—I understand the importance of a third reading debate—but at the end of the day, we are where we are. We are in a better position than where we were when we started.

I also put on the record my thanks to the NSW Parliamentary Counsel, Annette O'Callaghan, who has done an absolutely magnificent job in supporting all members in this Chamber. I acknowledge her and her staff because they have gone beyond any duty I can envisage in supporting us, particularly my office, on the bill. It is well known that abortion is safe and legal in New South Wales. I am concerned that the passage of the bill will make abortion much more abundant without adequate support and protection for the pregnant woman and her unborn child. I support the decriminalisation of abortion in New South Wales. Those provisions in the bill—bringing it out of the Crimes Act and into a health framework—are long overdue.

I think we could have done better about the support that we provide to pregnant women and how we deal with some of the more difficult late-term terminations. I will come to some of those amendments in this contribution. I rewind almost seven or eight weeks when the bill was introduced to the other place. There was a promise, which has been mentioned consistently, about codifying the existing law and practice governing lawful abortions in New South Wales. As members reflected in the last amendment, that is about the cases of walled and super clinics and about the threshold test being that abortion is necessary to protect the women involved from serious danger to their life or physical or mental health, which the continuance of the pregnancy would entail. That has been missed in this bill.

In a de facto way, that test is substituted in the bill in the context of late-term abortions. That is a good outcome. Abortions up to 22 weeks are on demand subject to the circumstances and the relationship between the woman and her doctor. That is a step away from the existing law and must be acknowledged. I also note that the lack of mention of the word "woman" throughout the bill and the reference to just "person" is a retrograde step. We must be honest about and acknowledge that the focus of the bill are women, their protection and ensuring that circumstances around termination are appropriate.

Mr David Shoebridge: Point of order: Mr Deputy President, you ruled at the beginning of this debate that this is neither a further second reading debate nor an opportunity to traverse each amendment. It is a third reading debate to put in place issues of principle.

The Hon. MATTHEW MASON-COX: To the point of order: In a third reading debate, it is appropriate to reflect on why one objects or does not object to a bill without going into inordinate detail of each amendment. I am simply traversing the key reasons of my objection to the bill.

The DEPUTY PRESIDENT (The Hon. Niall Blair): To provide some clarity, I might go through some of the previous rulings that have been provided on third reading debates. Debate on the motion for the third reading of a bill is the final opportunity for members to speak either in support of or against the bill. It is not an opportunity to engage in extended discussion of the provisions of a bill or to introduce new matters. This position has been consistently expressed by successive Presidents. Of note, in 2013 President Harwin ruled:

... the third reading stage of a bill is not an opportunity for a member to give a speech where the member may have missed the call at the second reading stage or, as others have said, canvass in detail amendments moved in the Committee stage. This is a last opportunity to state whether members are for or against the bill, but not to re-argue the propositions.

The restriction on debate on the third reading of a bill is also a longstanding one. In 1892 President Lackey indicated that it is very unusual to discuss a measure at great length at the third reading stage, and that if members took that course routinely the whole practice of Parliament would be undermined. The same principles are applied in the Australian Senate as per Odgers at pages 335 to 336 and in the House of Commons in Westminster as per Erskine May at page 704. I suggest that the member was getting close to canvassing over some of the amendments that have been agreed to. He will bring his remarks back to why, as he has indicated at the beginning of his contribution, he believes the bill should not proceed.

The Hon. MATTHEW MASON-COX: I was in a mixed mind about the debate on protecting doctors with a conscientious objection. I am strongly against where we ended up simply because doctors may be disbarred for refusing to terminate a pregnancy or refusing to refer a patient to another doctor when it is against their strongly held beliefs. I object to that. I think the bill fails to uphold the conscientious objection for doctors. That is a risk going forward. I note that a Commonwealth bill may address the issue in some time. I am also concerned about where the bill drew the guiding line for late-term abortions—20 weeks or 22 weeks. I think there is some real risk in it. At the end of the day there is a whole range of reasons that an abortion is safer for a woman at the 20-week mark, including the offer of counselling and other issues.

The DEPUTY PRESIDENT (The Hon. Niall Blair): Order! The member is re-prosecuting the argument of 20 weeks versus 22 weeks rather than commenting on why he disagrees with the bill going forward in the third reading. That is a bit of advice. The member will continue.

The Hon. MATTHEW MASON-COX: I disagree with the bill going forward simply because I believe the threshold should be 20 weeks of pregnancy. There are other reasons that cause me great concern with the bill. It misses the issue of counselling and offer of support to women prior to 22 weeks, particularly when they face the difficult situation of finding information that their unborn child is disabled. We can do more to support women who find themselves in that situation. Another disturbing omission from the bill is how we deal with the commercial trade in the tissue of an aborted baby.

Mr David Shoebridge: Point of order: I do not mean to be directing my point of order specifically to the member. There may be a number of contributions in the third reading debate and having the rule set early is good. The member is again going through each amendment at some detail. Even addressing individual amendments is contrary to the rulings you just read out, Mr Deputy President.

The DEPUTY PRESIDENT (The Hon. Niall Blair): It has been a while since there has been a third reading debate in this House. I remind the member again that listing through issues that were raised during the Committee stage and subjected to long debate and talking about whether an amendment should or should not have proceeded is not part of this debate. This is a final opportunity for members to stand up and put to the House why they think the bill should not proceed to be read a third time, not to go over arguments that have already been debated or amendments that got up or were lost. I bring the member back to those boundaries.

The Hon. MATTHEW MASON-COX: I accept your ruling, Mr Deputy President. In summary, the bill is dangerous: It lacks proper safeguards, fails to adequately support and protect pregnant women, and totally ignores the rights of an unborn child, particularly in the case of late-term abortions where the child is viable outside mother's womb. For that reason, I strongly oppose the bill.

The DEPUTY PRESIDENT (The Hon. Niall Blair): Before I give the call to honourable members, the last part of that contribution was more in line with a third reading debate—specifically suggesting why the member supports or does not support the bill being read a third time.

The Hon. SHAYNE MALLARD (20:40): I support the bill being read a third time, as amended. Having chaired the Committee of the Whole process over the past five sitting days—and I remind members it was 26 divisions and 102 amendments moved over 30 hours—I take the opportunity to comment in the third reading debate. I will keep my comments on the bill brief and to the point as per the standing orders, which has now emerged from this lengthy, in-depth and exhaustive Committee process. Members who are familiar with my contribution to the second reading debate will be aware that I strongly support taking terminations out of the

1900 Crimes Act and placing terminations—or abortions or reproductive health care—in a standalone health-centred Act.

My contribution to the second reading debate made it clear that I did not feel further amendments were warranted and I outlined my arguments on those amendments, including on sex selection, which I was concerned engendered racial stereotyping. My principle in approaching amendments has been echoed by others in the debate, including, but not limited to, the Hon. Adam Searle and the Hon. Penny Sharp: If we are creating a new, health-centred Act 119 years after abortion was listed in the criminal code, it is undesirable to now impose new legal restrictions and even criminality upon women who seek to have an abortion in the modern era.

One of the advantages—if you could call it that—of chairing the consideration of the bill in detail has been the opportunity to listen at great depth and in great detail to the many contributions by members. Some I agreed with and some I strongly disagreed with; some challenged my thinking. Again, they were on both sides of the debate and have evolved my thinking on this issue. I respect the passion and genuine beliefs that many members held and expressed in the debate and I was moved by speakers on both sides. I believe that all speakers were motivated by genuine, deeply held beliefs on this issue—as I am.

I was pleased to see the inquiry into the bill, which I chaired, referred to in detail by many speakers in the debate. Far from being some political fix, I noted that the extensive inquiry evidence and report informed members on all sides of the debate. In my consideration the amended reform bill that has emerged is not so disfigured, not so compromised from its original intent, that it reduces the central objective to support women through a non-judgemental health approach: That abortion—or terminations or reproductive health—is no longer in the criminal code using a legal exception created in 1971.

Just because I support this reform bill does not mean I think abortion is the best solution to every unwanted pregnancy. Earlier today during the debate in Committee, the Hon. Penny Sharpe took exception to the description that she was "pro-abortion". I concur with her view—I think every abortion is sad, if not tragic. But I am a pragmatist and I know, as we all acknowledged in the debate, that abortion is a reality in our society. It should therefore be treated as a health issue—safe, supported, informed and, very importantly, destigmatised. I believe the bill as amended will go a long way towards achieving those objectives in our society.

Finally, with indulgence, I put on the record my—and no doubt all members of this House—thanks and appreciation to the incredible work of the Clerks of the Parliament, Hansard and the parliamentary attendants, who provide the professional administrative services that largely go unseen by the public on all our legislation, but especially come to the fore on a marathon bill such as this. I want to single out particularly Principal Council Officer John Young, who engineered the entire process of the amendments. He worked with the team. These men and women must endure the emotional ups and downs that we all went through during this debate. They do so without any hint of compromise in their professional service to this Parliament and to the people of New South Wales. They are a credit to this Parliament. I commend the bill to the House.

The Hon. SCOTT FARLOW (20:44): On indulgence, I first pay tribute to the Hon. Shayne Mallard for the way he executed the Committee stage. For somebody who was a proponent of the Reproductive Health Care Reform Bill 2019 and someone who has very firm views, as he has outlined, he has chaired the Committee stage with great aplomb and I congratulate him on doing so. I cannot support this bill. It has been mentioned by many members throughout the debate that the yardstick for assessing this bill is whether it makes terminations easier or not and whether it makes access easier or not for a person seeking a termination. We were told from the outset of this debate that the bill is about codifying the current practices, decriminalising abortion and making sure that it is effectively taken out of its current archaic practices, as the proponents have said.

As the debate has continued, we have seen it emerge and members have acknowledged that this legislation is actually about making terminations easier and therefore making it easier to seek an abortion. I will say the Committee stage has improved the bill, to my mind, and I want to thank the proponents from all sides—both Coalition and Labor—for some of the issues they have given ground on. I commend them for listening to some of the points that were made. However, I believe the bill is still outside of the community's expectations when it comes to terminations. I believe that this is a special area and not just another health procedure, because it does involve two lives: It involves the life of the person seeking the termination—I will choose the mother—but it also involves the life of the unborn. For those reasons, I cannot support this bill.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:46): I also will not support the Reproductive Health Care Reform Bill 2019, notwithstanding the Hon. Rose Jackson's impassioned plea that those who oppose the bill show good faith by supporting the bill on its third reading. I must say that it would be bad faith for me to support this bill on its third reading. Before I go to the heart of the bill and the reasons why I will not support it on its third reading, I will comment briefly on some of the amendments—not in the sense that I want to relitigate them in opposition to your ruling, Mr Deputy President; I want to highlight them and some

of the amendments I support, but then say why others would sway the reasons that I could not possibly support this bill.

The DEPUTY PRESIDENT (The Hon. Niall Blair): The Minister is pre-empting the fact of what he is going to say. The opportunity to say whether he supports or opposes an amendment is when the amendment is moved in the Committee stage.

The Hon. DAMIEN TUDEHOPE: And I will say that I think some of the amendments are good, and I will acknowledge those.

The DEPUTY PRESIDENT (The Hon. Niall Blair): I encourage the Minister to find a way to link his comments to be within the bounds of the standing orders, otherwise he will hear from me again.

The Hon. DAMIEN TUDEHOPE: I will. The change of the title of the bill to the Abortion Law Reform Bill 2019 rightly, in my view, abandons the euphemistic reference to reproductive health care. How little I consider the bill a reform bill will be clear by the time I conclude these remarks. The bill now includes a clear statutory imposition of a duty on a registered health practitioner to provide medical care and treatment to a child born alive as the result of an attempted abortion, no different from a child born in any other way. Hopefully this most necessary amendment will ensure that the cruel practice prevalent in Western Australia and Victoria, under their so-called reformed abortion laws, of leaving children born alive after an attempted abortion—

The Hon. Don Harwin: Point of order: I have been very loath to take points of order right throughout this debate, because I want everyone to have their say, and even during the Committee stage when, frankly, I think a large proportion of what was said was outside the standing orders, but the third reading is a last opportunity to state our position. It is not an opportunity to re-canvas and re-argue the propositions. In particular I draw honourable members' attention to *A concise guide to Rulings of the President and the Chair of Committees*, which describes the third reading as:

Opportunity to advise of change in position following the outcome of the committee stage:

Brief comments advising of a change of position can be made on the motion for the third reading but with limited latitude. The member should confine comments to why the position is now different as a result of the outcome of the committee stage of the bill.

Every member who has spoken so far, from the mover to the Minister, has stated why their position is the same. None of them has spoken in the spirit of a third reading debate.

The DEPUTY PRESIDENT (The Hon. Niall Blair): I uphold the point of order. I will allow the Hon. Damien Tudehope to continue, but I ask him to come back to why he supports or does not support the bill.

The Hon. DAMIEN TUDEHOPE: To the point of order: I accept your ruling, but I want to understand what the point of order was, because the point of order is effectively saying—

The Hon. Don Harwin: Point of order: The Hon. Damien Tudehope is now canvassing your ruling. It is not for honourable members to ask the Chair what the ruling means; it is for honourable members to accept it.

The DEPUTY PRESIDENT (The Hon. Niall Blair): The point of order, for clarification, was that the bounds of the third reading had been crossed. That is what the point of order was. I uphold that point of order. I ask the Hon. Damien Tudehope to come back to and to stay within the remit of the third reading debate.

The Hon. DAMIEN TUDEHOPE: As I understand what the Leader of the House has put in his—

The DEPUTY PRESIDENT (The Hon. Niall Blair): Is the member taking a point of order?

The Hon. DAMIEN TUDEHOPE: I am taking—

The DEPUTY PRESIDENT (The Hon. Niall Blair): Because I have ruled. He has to take another point of order.

The Hon. DAMIEN TUDEHOPE: I will.

Mr David Shoebridge: You have to get on with your contribution.

The Hon. DAMIEN TUDEHOPE: But to get on with my contribution I have to know what the scope of the contribution is.

The Hon. Adam Searle: Narrow.

The Hon. DAMIEN TUDEHOPE: Clearly narrow. But, as I understand it, the point of order that the Leader of the House has taken is that I am only permitted to address why I would change a position in relation to a position that I—

Mr David Shoebridge: Point of order: The Minister is effectively seeking to dissent from the Chair's ruling. If he wishes to dissent from that ruling, he should move a motion of dissent. Otherwise he should comply with the ruling and get on with his contribution. It is not for him to debate with the Chair.

The DEPUTY PRESIDENT (The Hon. Niall Blair): I am able to rule on the points of order that have been taken. I do not need any advice. I suggest that the Hon. Damien Tudehope is seeking clarification as to where the boundaries are. The Hon. Don Harwin has read onto the record the bounds by which previous rulings and limitations have been set on contributions to the third reading debate. It is absolutely clear, though, that from the start of this debate more latitude than the narrow scope—

The Hon. DAMIEN TUDEHOPE: Clearly.

The DEPUTY PRESIDENT (The Hon. Niall Blair): I am doing the Minister a favour here, so he should let me get to the end of it. It is clear that from the start of this debate more latitude has been given than the narrow definition that probably could have been upheld from the start of this debate.

The Hon. DAMIEN TUDEHOPE: I accept that.

The DEPUTY PRESIDENT (The Hon. Niall Blair): But we have been here for a long time, and I will take responsibility for not taking that narrow interpretation from the start of this debate. I now have to preside over that. That was my interpretation. Because that latitude has been afforded to members that is as far as I am going. I have made it quite clear where my boundaries are. Members may tell the House whether they support or do not support the bill, but if they start recanvassing amendments and the debate on those amendments, that is where I have drawn the line. The Hon. Damien Tudehope has the call.

The Hon. DAMIEN TUDEHOPE: Thank you for that clarification. I will not be supporting the bill and I maintain the position I had when this bill was first introduced. Principally I have not waived my view in relation to the bill at any time during this debate, notwithstanding the goodwill expressed in terms of considering amendments and notwithstanding the goodwill with which a lot of the debate was conducted, although on some occasions in my respectful submission there were some instances of very ungracious behaviour. The principal reason for my view is this: This bill involves the termination of the life of an unborn child.

During the course of this debate I have not heard one thing that has changed my mind in relation to the protection of the rights of an unborn child. For that very reason, and that very reason only, I speak passionately and will remain an advocate—a voice for the voiceless—for the unborn child who is not protected in any way or in any manner in relation to this bill. For that reason I cannot possibly at any stage ever support a bill that a colleague of mine in another place said stops the beating heart of a human being.

I thank the House for the indulgence that has been extended to all members during the course of this debate. Like others, I acknowledge the contribution made by the Hon. Shayne Mallard as the Temporary Chair, the Hansard staff and the parliamentary staff who have worked with us. The Hon. Penny Sharpe will probably agree with what I am about to say: She and I will probably never agree on this legislation, and she said that we will never agree.

However, I have to say that at the conclusion of this debate I have the utmost respect for her and the views she has put. I feel the same about the Hon. Trevor Khan. I do not think the Hon. Trevor Khan and I would agree on much, but I still think he is a good bloke. That is because of the manner of his conduct during the debate. It is an example of not necessarily having to agree with everyone. It is the nature of this Parliament to have a debate, vigorously fought, but at the same time when it has concluded we should be able to walk out of the Chamber as mates. I have to say that in many respects, except for one or two that stick in my mind over which I am entirely angry, I am happy to walk out of this Chamber after this debate concludes knowing that potentially what I wanted to achieve has not been achieved, but that I walk out of here with people I still respect.

Reverend the Hon. FRED NILE (20:56): I oppose the third reading of this bill. When I was first elected to Parliament I stated my objectives. Since 1953 when I became an active Christian I have sought to be a consistent pro-life, pro-child, and pro-family campaigner for a caring, compassionate and responsible society. A leading paediatrician, Dr Clair Isbister, has drawn attention not only to the exploitation of living children but also of those who are as yet unborn. She said, "The most dangerous place for a child today is in the mother's womb." I said that in 1981 and I say it again tonight.

Tonight I will be opposing this bill. I voted for amendments during the debate when it became clear that the bill would be passed and that it was not possible to defeat it. I have voted to reduce the harm that this bill will visit upon mothers and their children. I have voted to change the title of the bill, which was successful, so that it reflects what it is really about—abortion, not reproductive health care. However, this is just window-dressing. Window-dressing is a good way to describe many of the amendments we have debated. I believe women need

more support, more information and more assistance. I have voted for conscientious objection so that medical practitioners must give information but not directly facilitate an abortion. This is flawed. I remain very concerned about the rights of healthcare professionals who share my views on the sanctity of life.

I voted for guidelines to be written to prevent sex selection. This will protect some girls from the fate of death simply because they are a girl. However, these guidelines are not strong enough and I object to that. Finally, I have voted for data collection so that we can get a clear picture of what is happening in this State; but, again, it does not go far enough. Unfortunately, other amendments around putting criminal offences into the bill or to prevent the trade of fetal tissue have not been successful. I am very disappointed that those amendments could not be passed. I do not support this bill going through to the third reading.

[Business interrupted.]

Visitors

VISITORS

The DEPUTY PRESIDENT (The Hon. Niall Blair): Before I call the Hon. Robert Borsak, I welcome to the President's gallery a former President of this House, Dr Meredith Burgmann. Welcome to the debate.

Bills

REPRODUCTIVE HEALTH CARE REFORM BILL 2019

Third Reading

[Business resumed.]

The Hon. ROBERT BORSAK (20:58): My colleague and I will not support the bill but perhaps not for exactly the same reasons. Of course I support all the reasons stated by my colleagues on the crossbench. I regret the way this commendable process was started, as an ambush of the lower House and an exercise in catch-up in this House, after a very poor process of review from a very short and gerrymandered committee. I do not see how that could ever have done proper justice to the opinions rightly held by members on the other side and the opinions held by members on this side.

Members can scoff if they like but at the end of the day they have not had to discuss and put through all these things in a pressure-cooker environment. The bill should not have had to be dealt with in this fashion. Members can smirk but the reality is this should have been done professionally. It should have been done properly and it should have been done with dignity. We have not seen that in this whole process, right from the very start. I reiterate that the Shooters, Fishers and Farmers Party, despite all the amendments that have gone through and which are far from adequate, will not be supporting the bill.

The Hon. LOU AMATO (21:00): I will be very brief. I will be opposing this bill. I sincerely thank my colleagues who worked tirelessly researching the impact of this bill on the unborn and their mothers. I found it difficult that even when members were presented with undeniable statistical data, most sensible amendments were rejected, leaving the bill completely at odds with community expectations. The sort of information that we had to wade through was disturbing. The sheer volume of misery has been exhausting. Some of us have put our careers on the line in the hope of defeating some of the more controversial elements of the bill. I am happy that it is a better bill than it originally was. In the next few minutes this bill will go through. My only hope is that one day others will follow us and redress the many errors of this bill.

The Hon. CATHERINE CUSACK (21:01): I advise the House that I have changed my position on the bill. As I have previously discussed, my situation is a complex one. I do not understand the certainty and the zealotry on both sides of the argument. I have felt very much at sea on this issue for my whole life, but the amendments have significantly improved the bill. Throughout the course of the debate the core issue of decriminalising it and removing it from the Crimes Act is what the public want and is a very healthy step for the women in this State.

I will not restate the reservations that I have, particularly in relation to the 20 or 22 weeks. I know I am not to talk about that. Conforming with the standing orders, I thank all members on both sides. The process was flawed in the beginning but the debate in this Chamber has been absolutely exhaustive. Every issue that everybody could think of has been placed on the table and patiently and thoroughly attended to. I acknowledge the Hon. Penny Sharpe for sitting here for the entirety of the debate as well as others who participated. I do not think any stone was left unturned in this debate, and that has been a good thing. It has been wearing but it has been positive and I have changed my views. Thank you for this opportunity.

The Hon. COURTNEY HOUSSOS (21:03): I indicate that I will be voting against the bill on the third read. This is not a decision that I have made easily; it is something that I have considered very carefully. From the outset I have participated in this debate much more than I anticipated. An important process has been gone through in this House. It is appropriate for legislators to make the law and not leave it to judges, but I do not agree with the system that the bill is proposing. I do not believe it codifies the current protections and guidelines that surround abortion in New South Wales. I want to be clear: I do not think abortion belongs in the Crimes Act.

There have been some compromises on the bill and I think I have voted for almost every amendment. I have sought to constructively improve the bill, but I am disappointed that some amendments, even the most logical and well researched, have been disregarded because of who was moving them. I make a final point around the length of debate in this House. I think this is a valuable part of the process, but it is important to place on record that it does not replace the time we need outside this place to speak to the people in the communities that we seek to represent. We have seen more than 14,000 submissions to the parliamentary inquiry, we have seen thousands rallying in the streets and, perhaps most surprising, at times our galleries have been almost full, which is not usual in this place. I believe that on issues such as this members have a greater responsibility to consult with the community and also to bring the community with them. I accept that the bill will pass tonight. However, I will be voting against it.

The DEPUTY PRESIDENT (The Hon. Niall Blair): The question is that this bill be now read a third time.

The House divided.

Ayes26
Noes 14
Majority..... 12

AYES

Boyd, Ms A (teller)
D'Adam, Mr A
Field, Mr J
Harwin, Mr D
Khan, Mr T
Mookhey, Mr D
Primrose, Mr P
Sharpe, Ms P
Veitch, Mr M (teller)

Buttigieg, Mr M
Faehrmann, Ms C
Franklin, Mr B
Hurst, Ms E
Mallard, Mr S
Moriarty, Ms T
Searle, Mr A
Shoebridge, Mr D
Ward, Mrs N

Cusack, Ms C
Fang, Mr W
Graham, Mr J
Jackson, Ms R
Mitchell, Mrs
Pearson, Mr M
Secord, Mr W
Taylor, Mrs

NOES

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

Mason-Cox, Mr M
Roberts, Mr R

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

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

Nile, Revd Mr

Motion agreed to.

Documents

LANDCOM

Further Return to Order

The CLERK: According to the resolution of the House of 18 September 2019, I table documents relating to a further order for papers regarding Landcom—four annexures received this day from the Secretary of the Department of Premier and Cabinet—together with an indexed list of the documents.

Claim of Privilege

The CLERK: I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

NSW LAND AND HOUSING CORPORATION CONTRACTS**Return to Order**

The CLERK: According to the resolution of the House of 8 August 2019, I table additional documents relating to an order for papers regarding the NSW Land and Housing Corporation contracts for public maintenance and planned works from the Secretary of the Department of Premier and Cabinet.

Claim of Privilege

The CLERK: I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

*Adjournment Debate***ADJOURNMENT**

The Hon. DON HARWIN: I move:

That this House do now adjourn.

DROUGHT ASSISTANCE**GIG ECONOMY**

The Hon. DANIEL MOOKHEY (21:15): My sympathies are with every town and regional community nearing the end of their water supply because of drought. The stories we are hearing about the devastating drought in regional New South Wales are heart wrenching. *The Australian* has reported that this season in the wool capital of Warren, which expects to go dry by November, local shearers have no sheep to shear. The local homewares shop is not moving its stock and the town is also at risk of having pubs with no beer. The owner of Warren's Royal Hotel said that he is struggling to limit the hike in the price of beer to just 20c a schooner, instead of the \$6 he needs to cover the real cost of doing business in western New South Wales. Drought relief is above politics but as we hear more stories about the drought's devastating effects and as the drought shows no sign of breaking we need to do more to show solidarity with the small businesses of regional New South Wales and we need to do more to foster drought resilience in small businesses.

The time of the millennium drought onwards has taught us that droughts break and economies recover, but regional New South Wales is always drought prone and drought survival is a vital skill for regional small businesses. Drought resilience also means acknowledging the climate crisis. To be clear, I am not trying to wage a culture war about drought and the climate crisis. I take my cue from the pragmatic small and big businesses that recognise the strong business case for mitigating the climate crisis. Tumbarumba small business owners Matt Lucus and Virginia and Bruce Robinson, who are active in the Tumbarumba for Climate Action group, told their local newspaper that they supported "anything that makes strides to address this issue".

I have two quick suggestions to address the issue. First, Treasury and the Department of Primary Industries should permanently and proactively release all economic modelling on the drought and the climate crisis. Small businesses do not have in-house economic modelling like big business. They rely on public sector modelling. The Government should make all of those models public. Second, there needs to be constant and vigilant oversight of the financial sector. It is pleasing that some banks are drought aware on matters of cash flow and debt for agricultural enterprises, but drought is hurting regional retailers too and they should also have drought-aware bankers. Drought relief and drought resilience joins the Parliament to regional New South Wales in the spirit of bipartisanship. Long may that continue.

On another note, California recently passed a law that workers in the gig-economy who work for the likes of Uber or Lyft henceforth have the rights of employees, not contractors. I ask members to stop and ponder that change. California, the home of Silicon Valley and the birthplace of the gig economy, now says that gig economy workers have the legal right to demand a living wage like employees. In America, where the line dividing the rights of employees and contractors is sharply drawn, California's new law is radical and progressive. In Australia we should consider that change, a cue that spurs us to action. California is deciding its ambitions for the gig economy and how gig economy platforms can earn high returns while gig economy workers earn high wages. In New South Wales inertia prevails. The New South Wales Government—we learnt from estimates—is doing nothing to answer the call for modern laws that provide gig economy workers with even the most basic of rights. In Australia, eight out of every 100 workers work in the gig economy.

New South Wales is home to the lion's share of gig economy workers—more than any other State. The gig economy adds at least \$504 million worth of extra activity to the New South Wales economy. The least the New South Wales Government could do is to keep up with the changes happening all around it. New South Wales

Labor certainly is. It means to act. The policy suite Labor seeks to design requires the creation of a mature and sophisticated coalition: industry, businesses and trade unions, who have in common the belief that we should shape the future economy and the future of work so it organically delivers fairness for all investing and working within it.

Labor is not obsessing about whether we call a gig economy worker an "employee" or a "contractor". It is obsessing about how they retain the flexibility many say they crave from gig work. It is also obsessing about how to design new institutions which draw no distinction between an employee or an independent contractor. Labor is obsessing about delivering the outcomes work is meant to deliver: the right to minimum pay, to improve your pay over time, to work in harassment-free workplaces, to have secure jobs and to join unions. We will learn lessons from California but above all the times call for urgency. Shaping an economy at its inception is a fleeting opportunity. We should not let this opportunity slip just because inertia is easier.

RECREATIONAL HUNTING AND SHOOTING

The Hon. ROBERT BORSAK (21:20): We regularly hear from the Premier singing the praises of the New South Wales economy but we never hear the Premier mentioning the contributions made by recreational conservation hunters and shooters in this State. As much as the Premier and the Liberal Party enjoy vilifying law-abiding firearms owners and hunting conservationists, they cannot deny it is a healthy and legitimate form of outdoor recreation that generates enormous economic activity for this State, especially in rural and regional areas that have been neglected by this Government. Rural and regional New South Wales receive vital economic support from the hunting and shooting community, by injecting their hard-earned cash, which directly supports these regional communities.

A report commissioned by the Australian Department of Health and published last Friday shows that recreational hunting and shooting sports are a major driver of economic activity in this country, with gross expenditure in 2018 amounting to \$1.9 billion and employing 19,500 full-time equivalent staff. The report, *Economic and social impacts of recreational hunting and shooting*, was prepared by the RM Consulting Group and gives a State-by-State snapshot of the enormous contribution that recreational hunters and shooters make. I am also heartened to see that there is a healthy number of active participants in shooting sports. There are an estimated 242,000 recreational hunters and shooters in New South Wales. It could be higher, of course, but the important thing is recreational hunting and shooting continues to grow each day.

The contribution by hunting and shooting in New South Wales is enormous. A report produced by the Department of Primary Industries last year estimated that recreational hunting was the fourth highest primary industry, with economic output ahead of wool, cotton and wheat. The RM Consulting Group report shows hunting and shooting generate \$847 million in New South Wales, \$229 million in direct expenditure on the purchase of firearms and equipment—and no, Premier, that does not include any firearms purchased by 10-year-olds—and \$31 million on licences and permits. The police Minister should be happy that hunters and shooters keep the people employed at the Firearms Registry at Murwillumbah in jobs.

The report shows over 6,500 equivalent full-time employment positions. The Treasurer should be happy with this contribution, especially now that the New South Wales economy has gone off the boil. Only the self-righteous Liberal-National party would go out of its way to actively avoid acknowledging this massive contribution to the State's economy that law-abiding firearms owners provide because of recreational hunting and shooting. But it is not just economic activity that law-abiding firearms owners and the shooting sports create. There are also substantial social and health benefits associated with recreational hunting and shooting.

For all age groups, 58 per cent of hunters and shooters, compared to only 44 per cent of the general population, engage in the minimum level of physical activity to support health and wellbeing. For those aged over 75, 46 per cent of hunters and shooters, compared to only 22 per cent of the general population, undertake the minimum physical activity to support health and wellbeing. This indicates that as a group, recreational hunters and shooters are less likely to be a burden on the State's health services. I am sure the Minister for Health will appreciate it is less likely to be hunters and shooters clogging up his overstretched hospitals. In fact, it might do the health Minister some good as well if he took up the sport and walked a little more.

The RM Consulting Group report has some important lessons for the Premier and her Government, if only they were not so arrogant and short-sighted in their prejudice towards law-abiding firearms owners in this State. Recreational hunting and shooting in this State continues to thrive and participation continues to grow, the economic contribution of hunting and shooting to this State is massive and can no longer be ignored and it is time hunters and shooters were given a fair go in this State instead of being vilified at every opportunity and treated like criminals-in-waiting.

JOLSON/HOULI UNITY CUP

The Hon. NATALIE WARD (21:24): This Saturday—as we all know—the Australian Football League [AFL] Grand Final will take place at the Melbourne Cricket Ground [MCG]. What many people do not know is that this weekend there is another football game taking place there too. Grand final weekends can be intense, full of energy and enthusiasm. However with such anticipation inevitably there is always disappointment for one side, as emotionally invested players, coaches, sponsors and fans have to face defeat after coming such a long way. On the other hand, one side always finds themselves celebrating after a hard-earned victory. It is at times like these that fans and players alike need to reflect on the fundamental values of the sport itself—the love of the game and putting that passion above all else.

Sometimes sport, and the playing of the game in itself, is the winner. This Sunday we will be reminded of just that through another incredible and life-changing, game of football. On Sunday the Jolson/Houli Unity Cup will be played in Melbourne between two teams. One side is from the Jewish community and the other is from the Muslim community. The match is jointly named after Richmond premiership player Bachar Houli, a practising Muslim, and Henry Jolson, OAM, QC, a Western Bulldogs board member and premiership player at the AJAX Football Club. Bachar Houli is an Australian rules footballer for Richmond in the Australian Football League. Houli plays as a midfielder. He is the second devout Muslim to play in the AFL.

In 2007, at the time of his debut, Houli stated in an interview that he was the first practicing Muslim to play for a senior AFL side, although he also acknowledged that prior to him there had been two other Muslims in the league, those being Adem Yze and Sedat Sir. He is the first Muslim to have won an AFL premiership. Jolson was Jewish and a barrister. He practised at the bar for just short of 40 years and of those, nearly 20 years as a silk. He was a pioneer of mediation in the law and legal profession, a foundation member of the Law Council Alternative Dispute Resolution [ADR] Committee for 20 years, chairman for seven years; and of the BarADR Committee for 18 years. A judge arbitrator of the International Court of Arbitration in Sport since 2000, he judged for the Sydney and Athens Olympics and the Melbourne and Delhi Commonwealth Games. In 2012 he was named a Legend of the Bar. He sadly passed away in 2013.

Players in this game will come from the Bachar Houli Academy, which supports young footballers from a Muslim background, and the Jewish-based AJAX. This is what sport is all about. Irrespective of religion or race, players come together in a positive way to play a healthy game of footy. In doing so, they demonstrate that they promote peace and social cohesion in our precious and successful multicultural society. The game begins at 8.30 a.m. this Sunday 29 September 2019, and team players are aged between 15 and 18 years old.

I have spoken previously in this Chamber about the terrible injustices of antisemitism and islamophobia that still continues in our century and the hate crimes that still exist on our streets and across the world. I have stood here giving speeches regarding swastikas being drawn on the posters of Jewish candidates in the Federal election and about the Muslim community in Christchurch rebuilding after experiencing a massacre. It warms my heart to have the opportunity to talk about the acts of unity and a demonstrable, tangible process of peace building. In my speech on Christchurch, I also spoke about how Mr Vic Alhadeff and the NSW Jewish Board of Deputies delivered a donation and demonstrable show of support by presenting a cheque to the Christchurch Muslim Community.

This is the sort of unity that our communities are trying to achieve through the Jolson/Houli cup. A mutual love of the game will prevail and together they will counter the hate that is unfortunately, so often, the loudest voice. At the end of the match—as a symbol of this unity and good sportsmanship—the teams will run through the same banner and exchange jerseys. This is another reminder that the game is about more than the scoreboard. It is about more than coming out as a "winner". This is about showing that in an uncertain world, what unites us—peace, harmony, co-existence, understanding, tolerance, acceptance and the joys of multiculturalism—is stronger than shameful and cowardly attempts to divide us.

I encourage everyone who loves the footy, everyone who believes in promoting multiculturalism in our society, everyone who wants to see a real change and denounce hate, to support the second-biggest event happening at the MCG this weekend. This is how real change occurs. I commend the Jolson/Houli Unity Cup, its organisers and supporters to this House.

SYDNEY DESALINATION PLANT

The Hon. WALT SECORD (21:29): Most dams across New South Wales are almost empty and our State is drowning in dust. While parts of the State have experienced rain, experts say we need at least two weeks of solid rain to fill dams to acceptable levels. To give context, the recent three days of rain in Sydney resulted in less than half of 1 per cent increase—0.4 per cent—in Sydney dams. Earlier this month we heard that Tamworth, Warren, Dubbo, Walgett, Bourke and Tenterfield are just weeks away from running out of water. In terms of

severity, we are experiencing one of the most protracted and intense droughts in memory, exceeding the Federation drought, the World War II drought and the Millennium drought.

The 2018-19 summer was the warmest on record, surpassing the previous hottest one on record in 2013. As of today Sydney's overall dam levels are at 49.3 per cent, with Warragamba Dam at 50.2 per cent. Seventy per cent of all water usage in Sydney happens at home. It was in that context that the Sydney Desalination Plant, which turns ocean saltwater into drinking water, was activated on January 27 of this year. The plant now provides 15 per cent of Sydney's drinking water.

Desalination is happening right across Australia with plants in Victoria, South Australia, Queensland and Western Australia. On 10 September 2019 I was given a formal tour of the Kurnell desalination plant. I thank water Minister Melinda Pavey and the operators of the plant for facilitating the visit hosted by Sydney Desalination Plant Chief Executive Keith Davies. That inspection followed comments made by NSW Labor on 11 August 2019 that gave in-principle support to the expansion of the Sydney Desalination Plant. A final decision will be made by April 2020. Our support is prudent, however, we want to see the modelling on the costs of the expansion and the impact on New South Wales residents.

Water security is above partisan politics, but we have a duty to ensure proper probity, procurement and fair value for New South Wales communities so our in-principle support is subject to appropriate, and final financial and environmental briefings. We stand ready to work with the Berejiklian Government to ensure that we have a safe and stable water supply. It is worth recalling that the ability of the current water Minister to act quickly to activate the desalination plant relies on the plant being there to activate in the first place. We thank the previous Labor Government for that.

The Sydney Desalination Plant was set up by Labor during the millennium drought as an insurance plan for precisely this scenario. Originally it was attacked by then Opposition leader Barry O'Farrell. Today we see that it is necessary and showed foresight. With our growing population, it is important that we have a secure water supply and the infrastructure behind it because we live on the driest inhabited continent in the world. Let us not forget: This plant can only assist Sydney and Sydney is not nearly our most drought-affected location. We want the Berejiklian Government to urgently detail its plans for rural and regional New South Wales because this drought is devastating water supply across the State and many places are doing it much tougher than we are here.

Finally, I will conclude with a short clarification. Earlier this year on Sydney television I said, "In the past people prayed that it would rain, but we need a plan and that's what we are supporting." My good friend Rabbi Mendel Kastel, whom I have known for 30 years, made contact and remarked, "Walt, are you throwing me under a bus?" He was referring to his core business of promoting prayer. I replied, "No, not at all". This is because the two propositions are not mutually exclusive. In the past we prayed for water because there was no other alternative. In Sydney today we have the alternative and we have the capacity to plan, but rain itself is better than any desalination plant. Therefore I say to Rabbi Kastel or any person of faith, "You can still pray for it to rain. In fact, please do, but we must also plan to help ourselves where we have the capacity."

All that reminds me of an old joke about the man who regularly bemoaned to his rabbi that, while he continues to pray, he never wins the Powerball. Then the rabbi says to him, "You have to give me a chance. For a start, you have to buy a ticket." Let us say to the people of New South Wales of various faiths, "Pray for rain, but let this Parliament plan for the reality we see in front of us." I thank the House for its consideration.

ABORTION LAW REFORM

Ms ABIGAIL BOYD (21:33): As I noted in my inaugural speech, I am a survivor of child sexual assault. As a young child I experienced a range of abuse, including rape. Long before I even began to menstruate I lived with the constant and pervasive worry that I was pregnant. With limited understanding at the time of the biological realities of conception, I was terrified that, one day, I would become pregnant and that I would be found out as having had sex when I was a child. As a 13-year-old I remember facing down my fears to ask a teacher how long sperm could live in the uterus after sex. Even after learning that sperm cannot get you pregnant years after having sex, I continue to have a recurring nightmare that I had become inexplicably pregnant and faced ridicule at school and being labelled a slut.

I still have that recurring nightmare to this day, although thankfully it comes less frequently these days. As is common for those who have experienced trauma, feelings of shame about my assault would be triggered easily and often unexpectedly. At times I would spend days in a row—during classes, at home, in bed—repeating to myself in my head, "It's okay, it's okay, it's okay", to drown out the fearful thoughts: fear of being found out, fear of being blamed, fear of being inexplicably pregnant.

Years later, when trying to fall pregnant with my first child, I thought back to those days a lot. I wondered whether all of those thoughts about fearing pregnancy as a child and teenager had somehow made me unable to

have children. When I did fall pregnant, every hiccup, every potential problem in my pregnancy brought with it those feelings of guilt—that if I lost my child it would be my fault for having been "bad" as a child. My first pregnancy was not without complications and the birth of my first daughter did not go according to plan. But she was born and it was the most wonderful and healing event in my life. Due to the difficulties of that birth, it was harder for me to fall pregnant again. I lost my second pregnancy in the second trimester and I was devastated. I did fall pregnant again and after an even more difficult pregnancy and a complicated birth I had my second daughter and our beautiful family was complete.

The last couple of months in this place have been tough going. They have been triggering; they have been emotional. We have all had to listen to comments that are insensitive to the realities of what it is like to be a woman in this world. We have been mansplained to about the special circumstances we are placed in simply because we have a uterus—as if those of us physically abused on the basis of our biological differences were not already well aware. Fetus dolls have been sent to women who, like me, know what it is like to lose a wanted pregnancy and who have mourned the loss of a fetus.

I am not alone, of course. My colleagues, our staff, people campaigning and people watching across the country have faced accusations of being heartless, of not understanding pregnancy and parenting, simply because they have chosen to stand for the right to choose, for the right of people like me to choose what happens to my body, to have it respected, for it to not be abused and for me to use it to have my children when I choose to. Attempts by some anti-abortion campaigners and politicians to use emotional and at times graphic and confronting content to change the minds of pro-choice politicians, on the mistaken assumption that we lack compassion or do not have a deep understanding of the issue, have not only missed the point but also caused such unnecessary distress to those who have already experienced trauma.

On the weekend I was speaking with my daughters about abortion law reform. My eldest daughter, now 10, spoke with the clarity and compassion of so many children her age. She said she agreed with me that no-one should be made to be pregnant or to have a baby against their will but she told me that that it is also very sad. She can see that although something can be the right thing to do, the decisions we make are often difficult and heartbreaking. My daughter's insight and compassion and knowing that she has my back makes me really proud and has provided me with much needed strength and comfort on days like today.

HENTY MACHINERY FIELD DAYS

The Hon. WES FANG (21:38): I thank Ms Abigail Boyd for such a powerful speech. Over three days from 17 to 19 September, the Riverina hosted the Henty Machinery Field Days. Now in its fifty-sixth year, 2019 saw a crowd of 55,000 inspect everything from farming machinery to outdoor camping equipment in one of the largest agricultural supermarkets in the world. This year an astounding 14 kilometres of shopfronts, 3,500 companies and a total of about \$120 million worth of equipment were on offer for visitors to explore. Officially opening this year's event was the former member for Riverina and local champion Kay Hull, AM, with new chairman Nigel Scheetz taking up the mantle and making sure the Henty field days remains a go-to annual event for southern rural and regional communities.

As with nearly every year for the past half century The Nationals had a strong presence at Henty. Unfortunately, as Parliament was sitting both here and in Canberra, we did not have the usual showcase of MPs, but that did not stop long-time party stalwarts and Henty regulars David Muller, Lindsay Cutler, Colin Noble, Neil Bahr and Austin Evans from manning the stalls and keeping the Nats home fires burning for the field days. From the outset, I would like to thank David, Lindsay, Austin, Neil and Colin and also Brett and Nick from head office for their diligence and commitment to the Nats and for their help at Henty. As a grassroots party, an active membership is crucial. It is because of members like these that we continue to thrive and get our message out that the Nats are the only party to truly represent rural and regional Australia.

Special thanks also go to the newly minted Nats field officer Carolina Merriman, our new southern regional coordinator. Her unbridled enthusiasm was a spark of energy for our regular Henty crew. Given her remarkable effort, we feel lucky that she has joined the Nats family. Over the course of three days, we had hundreds of people come to the Nats stall to have a chat, to grab a snag, coffee or balloon for the kids or just to let us know some of the good people in our party. Field days are an invaluable wealth of knowledge for a political party. We always need to remember that we serve the people of New South Wales and there is no better way of hearing what they think of the job we are doing than being out on the hustings.

Besides the Nats stall, other drawcards at the 2019 event were the daily sheepdog and yard dog trials, the Baker Seed Co agronomy demonstration site, the 2019 Natural Fibre Fashion Awards, vintage farm machinery, the reptile awareness display and the Farm Gate Produce Market pavilion which staged cooking demonstrations and entertainment. There were two exhibitions in particular at Henty this year that I would like to acknowledge. Despite welcome rain kickstarting the 2019 cropping season, we all know our farmers are still doing it tough and

the strain this can have on someone's health, both physical and mental. The Murrumbidgee Primary Health Network organised free farmer health checks with the National Centre for Farmer Health, a partnership between the Western District Health Service and Deakin University. Cholesterol, blood glucose and blood pressure readings, body mass index readings and diabetes risk tests were all conducted. The local health district also had its own stand and was able to provide information and support for mental health awareness.

One important service available is known as Question, Persuade and Refer [QPR], a free online training tool to help identify the warning signs of suicide and help potentially save a life. With suicide disproportionately over-represented in regional areas, programs such as QPR are incredibly important as we continue to face one of this State's worst droughts. I would also like to acknowledge Judy Brewer, the wife of the late Tim Fischer, who spoke to the crowds at Henty this year and unveiled a plaque in Tim's honour. Judy remarked that Tim would know to immediately head to "the stump", or the middle of Henty, to see the most people and added that he knew the area like the back of his hand and where all the best food stops were along the way. Congratulations to new chairman Nigel Scheetz as well as Belinda Anderson on a remarkably successful Henty 2019. As much as I love Parliament, I hope that next year we can make our way to the site to meet some of the patrons of Henty and enjoy the steak sandwiches.

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

Motion agreed to.

The House adjourned at 21:43 until Thursday 26 September at 10:00.