



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Seventh Parliament
First Session**

Tuesday, 11 May 2021

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Tuesday, 11 May 2021

The PRESIDENT (The Hon. Matthew Ryan Mason-Cox) took the chair at 14:30.

The PRESIDENT read the prayers and acknowledged the Gadigal clan of the Eora nation and its elders and thanked them for their custodianship of this land.

Members

COMMISSION TO ADMINISTER PLEDGE OF LOYALTY

The PRESIDENT: I announce the receipt of a Commission from Her Excellency the Governor authorising the President of the Legislative Council to be a person before whom any member of the Legislative Council may take the pledge of loyalty or oath of allegiance required by law.

PLEDGE OF LOYALTY

The PRESIDENT: At a joint sitting held on 6 May 2021 Peter John Poulos was elected to fill the vacant seat in the Legislative Council caused by the resignation of the Hon. John George Ajaka. I welcome into the President's gallery family members of Peter Poulos, who are in the House this afternoon for the member's swearing in. They include his wife, Vicki, and their three children, Maria, John and Christina. I also welcome his brother, Emmanuel. They can all be very proud of the honour bestowed upon Peter today, being sworn in as the newest member of the Legislative Council. I thank them very much for joining us today.

The Hon. Peter John Poulos took and subscribed the pledge of loyalty and signed the Roll of the House.

Documents

ADVOCATE FOR CHILDREN AND YOUNG PEOPLE

Reports

The PRESIDENT: According to the Advocate for Children and Young People Act 2014, I table a report of the Advocate for Children and Young People entitled *Review of the NSW Strategic Plan for Children and Young People: 2016-2019*, dated May 2021, received out of session and authorised to be made public on 7 May 2021.

The Hon. DAMIEN TUDEHOPE: I move:

That the report be printed.

Motion agreed to.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The PRESIDENT: According to the Independent Commission Against Corruption Act 1988, I table a report of the Independent Commission Against Corruption entitled *Investigation into the conduct of a Service NSW officer*, dated May 2021, received out of session and authorised to be made public this day.

The Hon. DAMIEN TUDEHOPE: I move:

That the report be printed.

Motion agreed to.

TABLING OF PAPERS

The Hon. DAMIEN TUDEHOPE: I table the following paper:

- (1) Law Enforcement Conduct Commission Act 2016—*Report on the Statutory Review of the Law Enforcement Conduct Commission Act 2016*, dated May 2021.

I move:

That the report be printed.

Motion agreed to.

*Committees***LEGISLATION REVIEW COMMITTEE****Reports**

The Hon. TREVOR KHAN: I table the report of the Legislation Review Committee entitled *Legislation Review Digest No. 30/57*, dated 11 May 2021. I move:

That the report be printed.

Motion agreed to.

SELECTION OF BILLS COMMITTEE**Reports**

The Hon. NATASHA MACLAREN-JONES: I table report No. 47 of the Selection of Bills Committee, dated 11 May 2021. I move:

That the report be printed.

Motion agreed to.

The Hon. NATASHA MACLAREN-JONES (14:36): According to paragraph 4 (1) of the resolution establishing the Selection of Bills Committee, I move:

- (1) That:
 - (a) the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021 be referred to Portfolio Committee No. 4 - Industry for inquiry and report;
 - (b) the bill be referred to the committee at the conclusion of the mover's second reading speech;
 - (c) the resumption of the second reading debate on the bill not proceed until the tabling of the committee report; and
 - (d) the committee report by 12 August 2021.
- (2) That:
 - (a) the Petroleum (Onshore) Amendment (Cancellation of Zombie Petroleum Exploration Licences) Bill 2021 be referred to Portfolio Committee No. 4 - Industry for inquiry and report;
 - (b) the bill be referred to the committee at the conclusion of the mover's second reading speech;
 - (c) the resumption of the second reading debate on the bill not proceed until the tabling of the committee report; and
 - (d) the committee report by 12 August 2021.
- (3) That:
 - (a) the Protection of the Environment Operations Amendment (Clean Air) Bill 2021 be referred to Portfolio Committee No. 7 - Planning and Environment for inquiry and report;
 - (b) the bill be referred to the committee at the conclusion of the mover's second reading speech;
 - (c) the resumption of the second reading debate on the bill not proceed until the tabling of the committee report; and
 - (d) the committee report by 27 August 2021.
- (4) That the following bills not be referred to a standing committee for inquiry and report this day.
 - (a) Payroll Tax Amendment (Jobs Plus) Bill 2021;
 - (b) Statute Law (Miscellaneous Provisions) Bill 2021;
 - (c) Work Health and Safety Amendment (Industrial Manslaughter) Bill 2021;
 - (d) Residential Tenancies Amendment (Reasons for Termination) Bill 2021; and
 - (e) Tax Administration Amendment (Combating Wage Theft) Bill 2021.

The Hon. DANIEL MOOKHEY (14:38): I move:

That the question be amended as follows:

- (1) Omit paragraph (4) (e).
- (2) Insert before paragraph (4):
 - (4) That:
 - (a) the Tax Administration Amendment (Combating Wage Theft) Bill 2021 be referred to Portfolio Committee No. 1 - Premier and Finance for inquiry and report;

- (b) the bill be referred to the committee at the conclusion of the mover's second reading speech;
- (c) the resumption of the second reading debate on the bill not proceed until the tabling of the committee report;
- (d) the committee hold a hearing of no longer than one day; and
- (e) the committee report by 8 June 2021.

If someone's wages are stolen, it is just as likely that payroll tax has not been paid. At the end of 2019 the House aggressively made that point when we invoked our powers under Standing Order 52 to seek certain documents to determine whether or not adequate investigations took place in the wake of some major wage theft scandals in this State. In response to that, the Government has brought forward this bill. It is a pleasing sign that the Government's response to the action taken by the House is to catalyse forms of executive action in the presentation of this proposal, but it is important that we get it right. When it comes to something as serious as wage theft we must make sure in the first instance that the provisions of the bill are fit for purpose and meet the Government's objectives.

Could the bill be improved further by adopting other forms of reform that apply in other jurisdictions, including the Commonwealth? If we are going to do this we must make sure that our agencies have the best tools that are available to them; therefore, it is necessary to look at the tools that are available in other places. Finally, it is necessary to see how the current law is being applied, particularly by Revenue NSW, especially as we have the ability to ask it some good questions. No-one is seeking to impede the passage of the bill but it is appropriate to dispatch it with some urgency as wage theft is ongoing and we want to ensure that we are sending this strong message to wage thieves: You are probably also a tax evader and we are going to crack down on you. That is a position that should be adopted by all parties but we want to make sure that we are getting it right.

A limited one-day hearing is the right way forward to check the provisions of the bill and to ensure that they are fit for purpose. In addition, we must ensure that the agency we are trusting to apply those provisions has in place policies and procedures of an acceptable standard, especially as the bill seeks to provide the Minister and the agency with broad swathes of power. As this issue is worthy of inquiry, Portfolio Committee No. 1 is the best committee to look into it.

Mr David Shoebridge: PC7!

The Hon. DANIEL MOOKHEY: Contentious.

The PRESIDENT: Order! Members should not fight over it. The Hon. Daniel Mookhey has the call.

The Hon. DANIEL MOOKHEY: Tax law is of such interest to many members in this House that it will always result in a huge squabble. I suggest that Portfolio Committee No. 1 is the appropriate body to look into it. I look forward to asking Revenue NSW some detailed questions about various parts of the Payroll Tax Act and other Acts if members endorse my amendment.

Ms CATE FAEHRMANN (14:41): I move:

That the question be amended as follows:

- (1) Omit paragraph (1).
- (2) Insert at the end of paragraph (4) (e):
 - (f) Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill 2021.

Essentially that will stop the Coal and Gas Legislation Amendment (Liverpool Plains Prohibition) Bill being referred to a committee for inquiry. Last week when I introduced the bill and made my second reading speech I was hoping that it would be debated and voted on tomorrow. This simple bill seeks to ban all coal and gas mining and exploration in the Liverpool Plains, including the Vickery Extension Project. On 21 April, during electioneering in the Upper Hunter, Deputy Premier John Barilaro and Leader of The Nationals said that the Government would pay Shenhua \$100 million to settle an agreement so that it would not mine in the Liverpool Plains. The next day the Deputy Premier said on 2GB—

The Hon. Trevor Khan: Point of order: The member is essentially rehashing her second reading speech and is not speaking to the motion, which is whether this matter should or should not be referred to a committee. Mr President, I ask you to call the member to order and direct her to address the matter before the House, and not rehash a matter that has already been ventilated.

The PRESIDENT: I uphold the point of order. I draw the member back to the leave of the motion.

Ms CATE FAEHRMANN: The reason that I was referring to what the Deputy Premier said at the time is this is a cynical move to refer the bill to an inquiry at this time when we know that the Upper Hunter by-election

will be held in two weeks. Farmers of the Liverpool Plains have said loudly and clearly to the Government to put its money where its mouth is and legislate—or do something similar such as develop a State environmental planning policy—before the Upper Hunter by-election. To refer this issue to a committee at this point is a basic refusal to commit to the Upper Hunter community that this Government is serious about banning gas and coalmining on the Liverpool Plains. I will amend the motion to cause the bill to be dealt with tomorrow so that the people of the Upper Hunter and Liverpool Plains will know once and for all where the parties stand on coal and gas mining on the Liverpool Plains. I am sure I will receive majority support for this amendment. Members will see sense and allow my private member's bill to be debated tomorrow. I commend the amendment to the House.

Ms ABIGAIL BOYD (14:45): I make a brief contribution to debate in support of the amendment proposed by the Hon. Daniel Mookhey. I also support the amendment proposed by my colleague Ms Cate Faehrmann. The committee structure and processes that have been set up in the upper House are incredibly valuable and do incredibly valuable work. There is a good time for a bill to be referred for a short and sharp inquiry before it is considered in full by the House. I would hate to think we are setting a precedent where we are now using that bill referral process to avoid having topical and perhaps difficult conversations in the House.

The bill was put forward by Ms Cate Faehrmann in order to put on record exactly what everybody in this House is thinking about a moratorium on gas and coalmining on the Liverpool Plains. That position must be known and I do not really believe anybody in this House thinks an inquiry into that bill is going to make a difference to their particular party's position. I do worry that this is an abuse of process and that we are putting an unreasonable load on members and committee staff by referring bills that the mover does not want to go to an inquiry and for which a good case has not been made out for an inquiry.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (14:47): That was an extraordinary contribution. On the one hand, Ms Abigail Boyd speaks about the benefits of a committee report and, on the next occasion, says that she does not want a report for this bill. It seems that her position is that there will be committee reports only when it suits The Greens. Either it is good or it is bad. I find I am in a difficult position because I oppose referral of the Tax Administration Amendment (Combating Wage Theft) Bill 2021 to committee on this basis. The committee met and considered this. It did so after a number of things occurred: first, the second reading speech last Thursday; and, secondly, a crossbench briefing that occurred in relation to the bill. In the circumstances, the committee members formed the view that it was appropriate that the bill proceed. That is the background: The committee found that this was a straightforward matter and the terms of the bill were such that it was appropriate for it to move forward.

I accept that the Hon. Daniel Mookhey has moved for a short, sharp inquiry into the bill. I have every confidence in the Chair of Portfolio Committee No. 1 that such an inquiry would be conducted quickly and the report made available as expeditiously as possible, to make sure that the bill proceeds as quickly as possible through this place so that the obvious benefits that arise from the bill are quickly legislated by this Parliament. To the extent that concession has been made, I appreciate it. However, it remains the fact that the terms of the bill are such that they are capable of being accepted now by this House.

The Hon. John Graham: They could be better, though.

The Hon. DAMIEN TUDEHOPE: They are capable of being accepted by this House. All you are required to do is vote for it, mate. That is all you have to do: vote for it and we will all be there.

The PRESIDENT: I ask the Minister to direct his comments through the Chair.

The Hon. DAMIEN TUDEHOPE: In any event, it goes to very straightforward amendments to a tax Act. I understand those opposite want to have an inquiry that is broad-ranging in addressing issues like wage theft generally and would probably seek to move amendments to the bill that will in fact be delivering amendments to the Crimes Act 1900. Last week in my second reading speech I made it abundantly clear that the Government would be in no position to accept amendments of that kind. That is specifically a Federal responsibility. It is specifically something we have urged on our Federal counterparts and something that will not occur in relation to this bill. If those opposite want to, they can play the politics and have an inquiry for the purposes of grandstanding in relation to the issue, but this is—

The Hon. Daniel Mookhey: We wouldn't dare.

The Hon. DAMIEN TUDEHOPE: I will hold you to that. The reality is that this bill can be debated and passed this week, and the provisions it contains should have the support of all those members of the House. It contains provisions about transparency in relation to underpayment of payroll tax. It has provisions in relation to increasing penalties in respect of underpayment or schemes to not disclose payroll tax correctly. It is a taxation bill that is being debated by the House, not a Crimes Act amendment. In the circumstances, it should be dealt with

by this House as expeditiously as possible with a debate this week. The Government will be opposing the second amendment, moved by Ms Cate Faehrmann. Again, the referral was approved by the committee and we endorse the decision of the committee.

The Hon. ADAM SEARLE (14:52): I make a brief contribution to debate on both amendments, obviously to support the amendment put forward by the Hon. Daniel Mookhey and to take up a point raised by the Leader of the House. For members on this side of the House it is not about grandstanding. Nor is it about taking the free advice given by the Government about what amendments it is or is not prepared to accept. All honourable members would recognise that the Crimes Act 1900 is now and has always been a matter for the New South Wales Parliament. Trying to fob it off that the criminal law of this State or this nation should exclusively be the province of the Federal Parliament is an exercise in severe duck-shoving because the Government knows it is very exposed on the issue of its inaction on wage theft.

The Opposition does not accept the second amendment, moved by Ms Cate Faehrmann. The amendment is not simply about what a person thinks about coalmining or gas mining on the Liverpool Plains as defined. It also seeks to cancel existing approvals given by the Independent Planning Commission. This Parliament has enacted a regulatory regime that provides for decisions on planning to be made by an independent umpire. It is an obvious point that if we are going to pick and choose which independently refereed decisions we like and which we do not, it begs the question about why we would bother having such a body. Those issues require close consideration. It is not a simple black-and-white proposition. The Opposition supports the Hon. Daniel Mookhey's amendment but does not support Ms Cate Faehrmann's amendment.

Mr DAVID SHOEBRIDGE (14:54): I speak briefly to the two amendments. First of all, as noted by both my colleagues, The Greens support the referral of the Government's novel and, some would suggest, quite difficult proposal—perhaps substandard proposal or inadequate proposal—in relation to wage theft to go to an inquiry so it can be improved. Of course we should. It was quite novel. The first time we saw it was about a week ago. There is a strong case for it to go to a committee to inquire rapidly so it can be improved, refined, perfected and brought back to the Chamber.

With regard to the amendment moved by my colleague Ms Cate Faehrmann and The Greens bill, this legislation has been brought to the House repeatedly since 2009 when Lee Rhiannon brought the first bill to the Parliament to protect the Liverpool Plains. There were busloads of farmers out the front of Parliament House and The Nationals stared them down and said it would not support the bill to protect the Liverpool Plains. For over a decade The Nationals have sat on those benches and refused to act to protect the Liverpool Plains. Now that there is a by-election in the Upper Hunter it desperately does not want to have a vote. The worst of it is that it is being joined by the Labor Party, which now desperately does not want a vote before the by-election and does not want to be seen to be standing up for the future food security of this country and to protect the Liverpool Plains by refusing to have a vote. Now The Nationals and Labor—

The Hon. Trevor Khan: Point of order: I repeat my earlier point of order relating to Ms Cate Faehrmann. This is now becoming a mockery. Mr David Shoebridge is not addressing the motion but engaging in a broad attack on the Chamber and it should be brought to an end.

Mr DAVID SHOEBRIDGE: To the point of order: The key issue here is the timing when we get to have a vote on this critical bill. The timing is important because there is an Upper Hunter by-election, which will happen in less than two weeks and the whole intent of referring the issue off to a committee is to avoid it coming to a vote within those two weeks. That is clearly the issue before the Chamber. It may make the honourable member uncomfortable, but that is the issue and it is clearly relevant.

The PRESIDENT: I uphold the point of order. In doing so I acknowledge Mr David Shoebridge's thoughts about it being relevant. The point has been made. I ask him to return to the amendments.

Mr DAVID SHOEBRIDGE: It may be uncomfortable to get a vote, but it is about time that the people of New South Wales saw where the Labor Party sits on coal and coal seam gas. It is about time it stopped the narrow casting that it is doing—one audience gets one message, another audience gets another message. The same applies to The Nationals. It is time to end the narrow casting. We can do that by having a vote on the bill here. I commend the work of my colleague Ms Cate Faehrmann for trying to smoke out both of those parties and their position on coal and coal seam gas.

The PRESIDENT: The Hon. Natasha Maclaren-Jones has moved a motion, to which the Hon. Daniel Mookhey has moved an amendment and Ms Cate Faehrmann has moved an amendment. The question is that the amendment of the Hon. Daniel Mookhey be agreed to.

Division called for.

Call for a division, by leave, withdrawn.

Amendment agreed to.

The PRESIDENT: The question is that the amendment of Ms Cate Faehrmann be agreed to.

The House divided.

Ayes7
Noes33
Majority.....26

AYES

Boyd
Faehrmann (teller)
Hurst

Latham
Pearson

Roberts
Shoebridge (teller)

NOES

Amato
Banasiak
Borsak
Buttigieg
Cusack
D'Adam
Donnelly
Fang
Farlow
Farraway (teller)
Franklin

Graham
Harwin
Houssos
Jackson
Khan
Maclaren-Jones (teller)
Mallard
Martin
Mitchell
Mookhey
Moriarty

Moselmane
Nile
Poulos
Primrose
Searle
Secord
Sharpe
Taylor
Tudehope
Veitch
Ward

Amendment negatived.

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

Motion as amended agreed to.

PRIVILEGES COMMITTEE

Report: Proposal for a Compliance Officer for NSW Parliament

The Hon. PETER PRIMROSE: I table report No. 83 of the Privileges Committee entitled *Proposal for a Compliance Officer for NSW Parliament* dated May 2021, together with submissions and correspondence relating to the inquiry. I move:

That the report be printed.

Motion agreed to.

The Hon. PETER PRIMROSE (15:10): I move:

That the House take note of the report.

This inquiry is the second time the Privileges Committee has examined a proposal for an independent officer charged with investigating complaints against members. In 2014 the committee examined a recommendation from the Independent Commission Against Corruption for an officer to investigate alleged breaches of the members' code of conduct, falling short of the systemic corruption dealt with by the commission. The committee saw value in adopting the United Kingdom Parliament's model of a standards commissioner to handle investigations quickly and confidentially for matters such as misuse of entitlements and conflicts of interest, with action needing to be taken only when a member fails to comply with rectification or other measures. Unfortunately, failure to reach agreement with the Legislative Assembly on a consistent model meant the proposal did not progress.

The proposal gained renewed impetus in 2020 when the Presiding Officers and then the Government leaders in both Houses prepared a draft resolution for what has now been renamed a "compliance officer". In November of that year both Houses referred the draft resolution to their respective Privileges Committees, which has led to this report. The major development since 2014 is the focus on receiving and investigating complaints regarding bullying and harassment. There is currently no mechanism for dealing with complaints against members

of the New South Wales Parliament in this area, except when the claims amount to sexual harassment. The committee supports amending the members' code of conduct to include bullying and harassment, but suggests a change in wording from that which is proposed.

In the time that this inquiry has been underway, the significance of this new role for the position has taken on added weight because of the emergence of various scandals in the Federal Parliament in early 2021. The draft resolution anticipates that the compliance officer may appoint an expert with specialist skills to investigate complaints of bullying and harassment. However, the committee believes this needs to go further and consider the UK model, where a dedicated officer, reporting to the compliance officer, is able to receive complaints in the first instance. Sensitive handling of an approach by a junior staffer who believes they are being harassed, for instance, requires a different skill set from dealing with a complaint that a member is claiming inappropriate travel expenses. It may be that one individual can encompass both roles, but the committee wants there to be an option for the compliance officer to engage a specialist if one is required.

In its inquiry the committee has been greatly assisted by detailed and considered submissions from the Clerk of the Parliaments, the Parliamentary Ethics Adviser, the Chief Commissioner of the ICAC, the New South Wales Auditor-General and the Acting Ombudsman, the Public Service Association, and The Ethics Centre and the UK House of Commons. Their analysis has contributed to the recommendations in this report, which makes suggested changes to the draft compliance officer resolution while retaining the main framework. One of the more significant recommendations is for the compliance officer to report to the Privileges Committee rather than directly to the House when action is needed.

In reviewing the evidence, the high importance of the investigation protocol is also apparent to the committee, and the compliance officer will need to develop a protocol within three months of being appointed. The way in which liaison between the compliance officer and the ICAC, the New South Wales Audit Office and the NSW Ombudsman takes place, as well as between the human resources and audit functions in the parliamentary administration, will be crucial to effective complaints handling, assessment and referrals. The protocol must also address the risk of complaints being weaponised for political purposes, although the committee notes several safeguards against this in the current resolution such as the ability of a member to request that a finding be made public.

The committee has reported its recommendations to the Legislative Council and is interested in its counterpart committee in the Legislative Assembly engaging with those recommendations with a view to coming to an agreed and consistent position between the Houses. It is in the interests of all members of the Parliament to have a quick, effective and confidential way of dealing with breaches of the code of conduct that do not involve matters going to the ICAC to avoid such complaints becoming entangled in the commission's much longer and more complex processes. I thank all members of the committee and the secretariat for their work on the inquiry. I also note the always professional contribution of the Deputy Clerk, Mr Steven Reynolds.

Debate adjourned.

PORTFOLIO COMMITTEE NO. 3 - EDUCATION

Report: Budget Estimates 2020-2021

The Hon. MARK LATHAM: I table report No. 43 of Portfolio Committee No. 3 - Education entitled *Budget Estimates 2020-2021*, dated May 2021, together with transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions and correspondence relating to the inquiry. I move:

That the report be printed.

Motion agreed to.

Documents

MONARO FARMING SYSTEMS

Correspondence

The CLERK: According to the resolution of the House of 5 May 2021, I table correspondence relating to an order for papers regarding Monaro Farming Systems, received on 10 May 2021 from the General Counsel of the Department of Premier and Cabinet, forwarding a certification from the Secretary of the Department of Regional NSW stating that, in relation to new paragraph (j) of the order, no documents covered by the terms of the resolution and lawfully required to be provided are held by Regional NSW.

NARRANDERA TO TOCUMWAL RAIL LINE REOPENING FEASIBILITY STUDY**Dispute of Claim of Privilege**

The PRESIDENT: I inform the House that on 31 March 2021 the Clerk received correspondence from the Hon. Mark Banasiak disputing the validity of a claim of privilege on documents lodged with the Clerk on 24 March 2021 relating to the Narrandera to Tocomwal rail line reopening feasibility study. Pursuant to standing orders, the Hon. Keith Mason, AC, QC, was appointed as an Independent Legal Arbiter to evaluate and report as to the validity of the claim of privilege. The Clerk has released the disputed documents to the Hon. Keith Mason, AC, QC, for evaluation and report.

*Business of the House***POSTPONEMENT OF BUSINESS**

The Hon. NATASHA MACLAREN-JONES: On behalf of Mr Justin Field: I move:

That business of the House notice of motion No. 1 be postponed until Tuesday 8 June 2021.

Motion agreed to.

Mr DAVID SHOEBRIDGE: I move:

That the matter of public importance standing in my name on the *Notice Paper* for today be postponed until the next sitting day on which Government business takes precedence.

Motion agreed to.

The Hon. NATASHA MACLAREN-JONES: I move:

That Government business orders of the day Nos 1 to 4 be postponed until a later hour of the sitting.

Motion agreed to.

SUSPENSION OF STANDING AND SESSIONAL ORDERS: CENSURE

The Hon. DANIEL MOOKHEY: I move:

That standing and sessional orders be suspended to allow the moving of a motion forthwith that private members' business item No. 1177 relating to the censure of the Leader of the Government for the Government for failure to table documents relating to an order for papers regarding stages one and two of the Parramatta Light Rail Project be called on forthwith.

Motion agreed to.

CENSURE

The Hon. DANIEL MOOKHEY: I move:

That private members' business item No. 1177 be called on forthwith.

Motion agreed to.

*Motions***THE HON. DON HARWIN, LEADER OF THE GOVERNMENT****Censure**

The Hon. DANIEL MOOKHEY (15:39): I move:

- (1) That this House notes:
 - (a) the numerous opportunities provided to the Government to comply with the orders of the House for the production of the final business cases for the Parramatta Light Rail project stages one and two;
 - (b) the continued non-compliance of the Government to produce the final business cases for the Parramatta Light Rail project stages one and two; and
 - (c) that the Government has claimed that these documents are Cabinet documents, and asserts the Legislative Council has no power to order their production.
- (2) That this House notes that, according to the resolution of the House of Thursday 18 March 2021:
 - (a) on Tuesday 23 March 2021 the Leader of the Government attended in his place to explain the reasons for non-compliance with the order of the House of 18 March 2021, and advised that, "... the Government assesses the need for voluntary disclosure of Cabinet information on a case-by-case basis. Within seven days of today, the Government will voluntarily provide to this House, under privilege, copies of the main bodies of the final business cases for both stages one and two of the Parramatta Light Rail"; and

- (b) on Friday 9 April 2021 the Department of Premier and Cabinet provided the business cases to the Clerk, along with correspondence which stated that the documents are Cabinet documents which "the Government has decided to provide on a voluntary basis" with significant amounts of information redacted, "the disclosure of which could compromise the financial interests of taxpayers, or relating to subjects which remain a matter for decision by the Government".
- (3) That:
- (a) this House reiterates the views expressed in the resolutions of the House of Thursday 6 August 2020 in relation to the Western Harbour Tunnel and Beaches Link business cases, that:
- (i) the only established mechanism by which the Department of Premier and Cabinet may lodge documents directly with the Clerk, or by which Ministers and government agencies may make a claim of privilege, is under Standing Order 52 in response to an order for the production of documents;
- (ii) the proposition that documents can be provided in response to an order for papers voluntarily is rejected; and
- (b) it is the will of the House that the Clerk administer the correspondence and documents provided in accordance with and under the authority of the provisions of Standing Order 52, including by treating the documents provided "under privilege" in the same manner as documents subject to a claim of privilege.
- (4) That this House:
- (a) notes that:
- (i) on Wednesday 5 August 2020, redacted documents were produced to the House in response to an order for the production of the Western Harbour Tunnel and Beaches Link business cases;
- (ii) on Thursday 6 August 2020 the House resolved that the production of redacted documents did not comply with an order of the House, censured the Leader of the Government for the Government's failure to comply with an order of the House and further ordered the production of the unredacted business cases;
- (iii) on Tuesday 25 August 2020 an unredacted copy of the Final Business Case: Western Harbour Tunnel and Beaches Link was produced to the House; and
- (b) reiterates its view that the production of redacted documents is not in compliance with an order of the House.
- (5) That this House:
- (a) reasserts its power to order the production of all documents in the possession, custody or control of the Executive Government with the exception of those documents that reveal the actual deliberations of Cabinet, as articulated by Spigelman CJ in *Egan v Chadwick*; and
- (b) rejects the definition of Cabinet documents used in the Government Information (Public Access) Act 2009, which if followed may lead to a much broader class of documents being withheld from this House.
- (6) That this House accordingly censures the Leader of the Government, as the representative of the Government in this House, for the Government's failure to comply with the resolutions of the House of Thursday 21 November 2019, Wednesday 18 November 2020, Wednesday 17 February 2021 and Thursday 18 March 2021.
- (7) That this House calls upon the Leader of the Government to table in the House, or deliver to the Clerk, by 9.30 a.m. on the day following the passing of this resolution, the final business cases relating to the Parramatta Light Rail project, stage one and stage two, without redactions, as ordered by this House on Wednesday 17 February 2021.
- (8) That:
- (a) should the Leader of the Government fail to table the documents ordered in this resolution, this House orders the Leader of the Government to attend in his place at the Table at the conclusion of prayers on the sitting day following the passing of this resolution to explain his reasons for continued noncompliance; and
- (b) this House notes that, in the event of continued failure to comply with this further order, it is open to the House to immediately adjudge the Leader of the Government guilty of contempt and to suspend the Leader of the Government from the service of this House.

I am an avid believer in accountability and a reluctant censurer in this respect, and I would have been open to further negotiations and discussions with the Government on the production of this particular business case. Sadly, despite the efforts of some of the more moderate parts of the Government, that was not able to be achieved and we return to a position we have now been in three times, in which the House has asked for two business cases relating to a key election promise made to a growing community in western Sydney about a major transport project. Three times we have asked for this document and three times it has not been produced.

The last time the House asked for this document, it censured the Leader of the Government and required him to attend in his place to set out the reasons at the time. The Minister made a point about providing a voluntary disclosure of a document, therefore tacitly accepting that it was not being produced under Standing Order 52. The Government said at the time the document will be produced on a certain date. We took the Government on good faith in respect to both commitments given to the House that: (a) the document will be produced, and (b) it will be produced on time. The document has not been produced. The version of the document that has been produced does not resemble anything approximating what this House would accept as an acceptable standard. In fact, it is

the Executive Government interpreting for itself what rules should be applicable when it is producing documents, be it voluntary or otherwise.

I will not go precisely into the exact detail of what the Government produced because I respect the convention that members do not do so. But I invite all members to look at that document and to reflect on whether that is a standard the House would accept in respect to any document. If we do accept that particular document to be of an acceptable standard then every member who asks for any document will continue to run the gauntlet of these tactics, which the House has already rejected multiple times in respect of this case and every other case in which those same tactics have been presented. It is not an acceptable standard, particularly on such an important matter as this or any other matter in which the House uses its power under Standing Order 52. I invite members to look at that document.

In respect to the second commitment given that the document will be produced at a certain time, I acknowledge the very good efforts the Leader of the Government in this place has made to obtain it and to seek to ensure that was the case. In moving this censure motion, I am being clear that the Leader of the Government and his office did take all reasonable steps necessary to ensure that at best they could comply with the order for papers. It was not done well. This then brings us to the heart of the matter: Why are we embroiled in this? Why are we always embroiled in these type of disputes about transport-specific documents? This is a mirror of the dispute we had on the Western Harbour Tunnel and the Northern Beaches Link. Almost word for word, it is exactly the same dispute.

That is because the transport Minister has a contentious attitude towards this House. He thinks that the laws do not apply to him and that he is above them. He does not think that he has any obligation to share information with the House at any level, and therefore we find ourselves in a dispute that ordinarily, with other Ministers of the Government, could be resolved amicably and peacefully. We cannot do that if the Minister continues to adopt such a contentious attitude towards this House. The dispute is not really of our making; it is more of the Minister's making. Nevertheless, we find ourselves in a regrettable position where an escalation is required in order to get a result, but that is on the Government and not on us.

I would prefer not to have to bring this matter to the House. I would have preferred to have dealt with this cooperatively, which we have done in respect to highly contentious issues elsewhere. That opportunity has not been forthcoming; therefore we find ourselves in this position of censuring and putting the Government on notice that the next step will be certainly the House considering a contempt motion, which may or may not lead to the suspension of the Leader of the Government in that respect. It is, again, regrettable because the Leader of the Government is not, in a personal or ministerial capacity, acting to frustrate the will of the House. He is the representative of the Government; he is standing in its place and he is accountable for the actions of all the Ministers in this place. Therefore, it is best that we direct the motion towards him.

I close with a simple point: The Opposition remains open to sensible conversations with the Government to resolve this dispute. We are more than happy to talk at any time about this. We have asked for the document and the people of Parramatta have a right to see it. It relates to a major transport project requiring the expenditure of massive amounts of public funds and it was a key election promise made at two successive elections. Thousands of people in Wentworth Point bought property, assuming that transport links would be coming. The suburb is missing a connection to the public transport network and as a result it is creating many road traffic issues. The Opposition would like to see what the Government's plan is and whether it is intending to meet its promise. If so, when and, if not, why not? They are the core matters of accountability. It is why the House has the power to compel the production of documents and it is best that we direct this power for the use of those residents. It is disappointing that we have come to this as I would have preferred not to. Nevertheless, here we are. I commend the motion to the House.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (15:45): The Government opposes the honourable member's motion. On behalf of the Government, a response to the resolution identified by the member has been provided to the Clerk by the Department of Premier and Cabinet. The Government does not dispute the authority of this House to make orders to compel Government Ministers and agencies to produce documents. However, it is well established that the authority of the House to compel documents does not extend to Cabinet documents. The motion alleges that the Government is not applying the correct rules set out by the court in *Egan v Chadwick* and is instead relying on the much broader definition of "Cabinet information" set out in the Government Information (Public Access) Act 2009, even though that Act does not apply to orders for papers by the Legislative Council.

The Government maintains the view, consistent with the court's decision in *Egan v Chadwick*, that this House does not have the power to require the production of documents if their production would undermine collective ministerial responsibility for government decisions. This includes documents that directly or indirectly

reveal the deliberations of Cabinet. It also includes any other Cabinet documents which would, if they were disclosed, undermine collective ministerial responsibility for government decisions. Under Premier's Memorandum 2006-08, Maintaining Confidentiality of Cabinet Documents and Other Cabinet Conventions, public officials are required to keep Cabinet information confidential. The orders for papers, and this motion, are premature in the case of the final business case for stage two of the Parramatta Light Rail project, which is being prepared for Cabinet's consideration in the very near future.

The New South Wales Government has sought to provide the information the Hon. Daniel Mookhey seeks regarding the Parramatta Light Rail project while also protecting the financial interests of New South Wales taxpayers. It has provided to the House redacted versions of the business cases for Parramatta Light Rail stage one and stage two on a confidential basis outside of the standing order process. Information was redacted from the documents to ensure that sensitive information likely to compromise the financial interests of taxpayers and the commercial interests of the Government is not disclosed. The Government is in the middle of delivering Parramatta Light Rail stage one. It is a \$2.4 billion program. It follows that as it continues to deliver this important project Transport for NSW will continue to have commercial dealings with its contractors. The public disclosure of such sensitive information risks adversely impacting commercial negotiations as the project continues.

The Government has not yet made a formal investment decision on the Parramatta Light Rail project stage two. Even those opposite would have noticed the Government is delivering a multibillion-dollar infrastructure program and that means managing a pipeline of work going to market, giving robust and detailed consideration to new project proposals and ensuring we get value for money for the people of New South Wales through procurement. Should the Parramatta Light Rail project stage two proceed, the public disclosure of the information that was redacted from the stage two business case could jeopardise the Government's commercial position in procurement. It could result in higher contract prices. It would also reveal funding options, program and contingency details and route details and stop locations, with likely impacts on properties. It beggars belief that the Opposition would want information about property to be prematurely made public. The Hon. Daniel Mookhey should explain why.

Labor has made plenty of allegations about property speculation in relation to transport projects, yet here it is seeking to have sensitive information about property impacts from a major transport project made public before the Government has made a formal investment decision. The Government has already provided to the Legislative Council thousands of documents about Parramatta Light Rail in compliance with standing orders. This has been done at great expense to the New South Wales taxpayer and has placed significant demands on the time of public servants that would have been better spent focusing on the delivery of light rail for the people of Parramatta. Transport for NSW has spent more than 11,000 hours dealing with Standing Order 52 applications since 2019. That is the equivalent of at least 6½ full-time public servants working exclusively on responding to orders for papers for an entire year, without taking any leave.

It is not appropriate for the House to censure me for not providing documents that the House is not able to compel the production of, including documents in relation to which the Cabinet is yet to make critical decisions. For the information of the House, stage one of the Parramatta Light Rail project will connect Westmead to Carlingford via the Parramatta CBD and Camellia with a two-way light rail service spanning 12 kilometres. The route will link Parramatta's CBD and train station to the Westmead Health Precinct, Cumberland Hospital Precinct, the Bankwest Stadium, the Camellia town centre, the new science and technology Museum Powerhouse Parramatta, the private and social housing redevelopment at Telopea, Rosehill Gardens Racecourse and three Western Sydney University campuses.

Although production of the business cases cannot be compelled, it may become appropriate for the Government to release further financial information about the program in the future. However, the project is currently at a critical point. The Cabinet will consider the final business case for stage two of the Parramatta Light Rail project in the near future. While not exhaustive, the following categories of information form part of the business cases relating to the program: first, information that reveals commercial and contractual positions that would be agreed by Transport for NSW which might prejudice it with respect to its current and future involvement with private sector parties; and, secondly, information about Transport for NSW funding, budgets, and contingencies that would prejudice Transport for NSW in the award of contracts and in the management of claims made by private sector parties. They include estimated construction costs, market and client contingencies, escalation allowances, State-critical milestones or time lines, operating costs, comments on market depth, optioneering, traffic data, and potential market respondents.

Given the sensitivity of information contained within the business cases, their release would undermine the competitive environment that the Government has fostered for effective procurement processes and would be detrimental to the State's objective of achieving value for money for the people of New South Wales in delivering the program. This would be detrimental to the Government's position in future commercial negotiations, which

could compromise the financial interests of taxpayers. In the interests of transparency, on 9 April 2021 the Government voluntarily provided redacted copies of the main bodies of the final business cases to the House. In conclusion, the motion of the member is opposed by the Government.

The Hon. DANIEL MOOKHEY (15:53): In reply: I appreciate the contribution by the Leader of the Government and reject pretty much everything he said. I do not think that Labor has done anything to aid or abet property speculation in that part of the world. In truth, Transport for NSW has—but that is for another time. I commend the motion to the House.

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

The House divided.

Ayes23
Noes17
Majority.....6

AYES

Banasiak	Houssos	Primrose
Borsak	Hurst	Roberts
Boyd	Jackson	Searle
Buttigieg (teller)	Latham	Secord
D'Adam (teller)	Mookhey	Sharpe
Donnelly	Moriarty	Shoebridge
Faehrmann	Moselmane	Veitch
Graham	Pearson	

NOES

Amato	Harwin	Nile
Cusack	Khan	Poulos
Fang	Maclaren-Jones (teller)	Taylor
Farlow	Mallard	Tudehope
Farraway (teller)	Martin	Ward
Franklin	Mitchell	

Motion agreed to.

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

Questions Without Notice

MINISTERIAL DRIVERS

The Hon. ADAM SEARLE (16:03): My question without notice is directed to the public service and employee relations Minister in his own capacity and representing the Premier. Given disgusting reports of Government Ministers acting inappropriately in relation to ministerial drivers, including forcing drivers to hitchhike home and Ministers urinating inside ministerial cars, what steps has the Minister taken to investigate these reports to ensure that staff are being treated with dignity and respect?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:04): I thank the Hon. Adam Searle for his question. I will take the question on notice.

STATE LIBRARY OF NEW SOUTH WALES

The Hon. SHAYNE MALLARD (16:04): 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 upgrades occurring at the State Library of New South Wales?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:04): I am pleased to advise that the State Library has received \$24.3 million through the 2020-21 budget as part of the arts maintenance and upgrade program. The State Library is one of our most loved and treasured cultural institutions and I am thrilled the New South Wales Government will be realising its aspirations to expand its audiences, improve productivity and, importantly, to

make its spaces fully accessible to the public. This funding is going towards three projects that are a key part of the story.

The first project is the development of a new auditorium in the Mitchell building. This \$9.8 million project will result in a new underground auditorium that is three times larger than the existing one. This space will allow the library to facilitate conferences, community and cultural events, attract new audiences and increase revenue from events and public programs. The second component is a \$2.2 million update to the retail and kitchen areas in the Macquarie Street building. Refreshing and expanding these areas will service the growing demands of audiences and also increase self-generated revenue, sustaining the library in the future. The final project, totalling \$12.3 million, includes some much-needed changes to make the library fully accessible to all visitors for the first time. Lift access will be installed next to the external Mitchell stairs to provide satisfactory access to the State Library's historic building. A new accessible link between the Mitchell and Macquarie Street buildings will be added, creating an additional gallery space in the process for the incredible photographic collection that the library has.

The buildings will also be improved through ramps to ensure easy access for all visitors. The library's vision is to be fully accessible to all. This includes opening up parts of the historic Mitchell building rooftop, which has for a long time been a staff lunch area. It will be replaced by an area on the eastern side of the Mitchell building accommodating a maximum of 120 people. The rooftop area will offer Sydneysiders and visitors a unique experience at the top of one of Sydney's most magnificent buildings, while at the same time helping to encourage people back into the CBD. It has always been used for that purpose but now the public will be able to go there as well. Development and delivery of these important works is already underway with completion planned by June 2022—all part of the economic stimulus of the 2020-21 budget.

MUSWELLBROOK SOUTH PUBLIC SCHOOL

The Hon. PENNY SHARPE (16:07): My question is directed to the Deputy Leader of the Government, Minister for Education and Early Childhood Learning. Given her 28 March 2019 election commitment to remove all demountable classrooms at Muswellbrook South Public School, why is the school still relying on eight demountable classrooms to house the 504 enrolled students?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:08): I thank the Hon. Penny Sharpe for her question and I am very happy to talk about what we are doing at Muswellbrook South Public School and the upgrade for that school community. At the last election the NSW Nationals made a commitment to the community of Muswellbrook that if they saw fit to re-elect us as a government we would deliver an upgrade to Muswellbrook South Public School. Despite what some might suggest, this upgrade is well and truly underway. The people of the Upper Hunter have a long memory and they will remember that the Opposition promised nothing in relation to this school at the last election. It is pretty galling watching some of the members of the Opposition feign outrage, pretending to care about a community that they committed nothing to at the last election.

An upgrade of the size and scale of what will be delivered to the community of Muswellbrook must be planned and designed and it must receive the relevant funding and planning approvals to ensure that it is an appropriate use of taxpayers' money. I am pleased to inform those opposite—who clearly have not done their homework—that tenders for the construction contract were called for earlier this year and have now closed. The Department of Education is currently assessing the applications and the contract will be awarded soon. Progress has been made on the planning of the design of the project and a development application [DA] is due to be lodged shortly. This is very exciting. It is an upgrade that the school community will welcome.

The honourable member also specifically asked about the removal of the demountables at the school. Again, I am very pleased to tell the House that the upgrade at Muswellbrook South Public School will deliver 13 new learning spaces. That is a net increase of three permanent learning spaces, upgrades to existing learning and administration facilities, and the removal of eight demountable units. I am pleased to advise that the project is progressing well. The business case was lodged at the end of last year and approved in February this year. The design and construction tender closed recently and will be awarded in late May. The DA is anticipated to be lodged in mid-2021. Going through the approval processes and having the construction tender awarded is very exciting and means we will start to see the school project delivered. I know that the school community will appreciate it. I have visited the school outside the by-election period, unlike those opposite, who frankly do not go to regional New South Wales unless there is a by-election underway. I do not think they even knew where it was before this week.

The Hon. Penny Sharpe: Supplementary—

The Hon. SARAH MITCHELL: I have not finished. I have 17 seconds.

The Hon. Penny Sharpe: Tell us when?

The Hon. SARAH MITCHELL: I have answered the question relating to that part of the member's question. As I said, we are about to award the contract to construct it. The DA will be lodged shortly and construction will start shortly thereafter.

The Hon. PENNY SHARPE (16:11): I ask a supplementary question. Will the Minister elucidate her answer to advise when the demountables will leave the playgrounds of Muswellbrook South Public School? What is the date they will go?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:11): I have answered the question in my original answer. As I said, we have done the planning. The development application is about to be lodged and the tender for construction is due to be awarded. All eight of the demountable units will be removed as we deliver the 13 new spaces and the upgrades to existing learning and administration facilities. It is very exciting for that school community. They are happy about it. If the Opposition bothered to talk to the school community it would know how happy they are about it.

The Hon. COURTNEY HOUSSOS (16:12): I ask the Minister for Education and Early Childhood Learning a second supplementary question. Will the Minister outline when construction will commence and if it will be completed before the next election?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:12): I thank the Hon. Courtney Houssos for her second supplementary question. As I said in my earlier two answers, the development application is anticipated to be lodged mid-2021. Again, if those opposite ever built schools they would know that there is a process that has to be gone through when that is done. The advice I have at this time is that the construction start is subject to the approval of the DA. As members on this side know, that is part of what happens when something is built. We are expecting that to be in February—early next year. It is very exciting. We can start work on that on the ground, which is great for the community.

HUNTER VALLEY LABOUR HIRE

The Hon. MARK LATHAM (16:13): My question is directed to the Acting Treasurer and Minister for Finance and Small Business. How does the Government explain the collapse of a series of labour hire companies in the Hunter Valley: SubZero, Valley Labour Services and One Key? The first and last of these phoenixed out, leaving millions of dollars of unpaid entitlements to mine workers. Given that all three companies were closely linked to the Construction, Forestry, Maritime, Mining and Energy Union official, Jeff Drayton, what can be done to undo the damage of this \$307,000 shelf company enterprise agreement—his agreement—which undercut wages, leave entitlements and job security, causing other labour hire companies to tear up their enterprise agreements and create a race to the bottom in the mining industry, massively hurting the workers?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:13): I thank the Hon. Mark Latham for his question. Phoenixing is a serious issue. It is behaviour that has real impact on employees, creditors, families and the people of New South Wales through employee entitlements vanishing and avoiding liabilities to the State and other creditors. When phoenixing happens in the construction industry, many of those opposite are quick to call out employers. Revenue NSW has to deal with it consistently when companies with potential revenue liabilities emerge as another entity and deprive the State of money to which it was rightly entitled as a result of the demise of that company. Those companies all of a sudden existing in another guise is a well-known scourge on society. The Commonwealth Government is addressing phoenixing to a great degree and has recently passed two pieces of legislation to combat it with restrictions, sanctions and recovery powers as well as an improved ability to track director interest across companies as part of investigations and debt recovery activities.

In this House last week, four members of the Opposition—the Leader of the Opposition, the Hon. John Graham, the Hon. Daniel Mookhey and the Hon. Rose Jackson—all had the opportunity to get to their feet and tell the House what happened to \$307,000 that was paid to a company in respect of which Mr Drayton signed an enterprise bargaining agreement selling out workers' rights at a mine in the Hunter Valley. I invite them again to come to the podium and tell us what happened to the money. Those opposite have a history when it comes to the way that money is used, whether it is former secretary Kathy Jackson, Michael Williamson, Derrick Belan or Craig Thomson. All of those people have a history of using union funds for their own benefit. Is the Labor candidate part of this new Labor team that comes to this place—*[Time expired.]*

The Hon. MARK LATHAM (16:17): I ask a supplementary question. Will the Minister elaborate on any information available to the Government on what did happen to the \$307,000? Where did it end up?

The Hon. Mick Veitch: Daryl Maguire, Michael Johnsen, John Sidoti—let's rattle them off. Let's go.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:17): The interjection is interesting. It is interesting that those opposite want to raise bad behaviour as an excuse for bad behaviour. They are effectively saying, "Oh well, it doesn't matter if one of our guys gets involved in schemes to defraud workers of money"—

The Hon. Adam Searle: Point of order: The Minister is being disorderly. He is talking directly to members opposite rather than through the Chair. He is also misleading the House because these matters were dealt with in the debate last week.

The Hon. DAMIEN TUDEHOPE: That point of order shows the sensitivity of members opposite about this issue. I go back to the point that they had an opportunity—

The Hon. Adam Searle: Point of order: The Minister is again misleading the House. It is not a question of sensitivity; it is a question of the Minister misleading the House in the first place.

The PRESIDENT: The Minister will directly address the supplementary question.

The Hon. DAMIEN TUDEHOPE: The question is effectively: Where did the money go? Do we have any information about where that money went? Members opposite would have engaged in a probity check in respect of their candidate. We do not want another Michael Williamson. We do not want another Craig Thomson.

The Hon. Walt Secord: Michael Johnsen!

The Hon. DAMIEN TUDEHOPE: There we go. The only way to answer an allegation about this is not to claim that we have done the right thing but to point to others who may have done the wrong thing.

The Hon. Adam Searle: Point of order: In the debate last week we made the point that Mr Drayton did not personally benefit from the transaction. That matter was established in the debate. The Minister is misleading the House again.

The PRESIDENT: There is no point of order. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: That is the third time that point of order has been taken. At some point it has got to be disorderly.

The PRESIDENT: The Minister will be careful. The question of what is orderly or disorderly is in the hands of the Chair. The Minister will direct his comments to the question.

The Hon. DAMIEN TUDEHOPE: The question is not whether Mr Drayton got the money in his own pocket. The question is: Where did it go? Did it go into a union slush fund so that they could use it for their own personal benefit at a later time? That is the way they do it. Ask Derrick Belan where the money went. Ask Michael Williamson where the money went. Ask Kathy Jackson. That is the way it happens. That is the form that they use. That is the Labor Party approach to making sure that it gets seats in this place.

SCHOOL INFRASTRUCTURE

The Hon. LOU AMATO (16:20): My question is directed to the Minister for Education and Early Childhood Learning. Will the Minister provide an update on the start of term 2?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:20): The start of term is always an exciting time. Many students enjoy the break, but I think most parents like it when school goes back—including me. There is something exciting about coming back to school, particularly when it involves new learning spaces. Term 2 of 2021 saw five new and upgraded schools delivered, benefiting more than 4,400 students across New South Wales. The Premier, the member for Parramatta and I were able to join the school community at Parramatta West Public School to officially open the new \$28 million upgrade that has provided new classrooms, a new multipurpose hall and a new administration block.

It would be remiss of me not to mention the star of the day, young Sri Ram, who was very pleased with the additional play space. Members might have seen him on the news that night. He really did take the award for the star of the day. In his own words, Sri said that it was an honour to be in his school. He is a fine and upstanding young gentleman. I want all of our students to be inspired and to love their learning environment no matter where they live, and I hope that all of the students at Parramatta West Public School share Sri's excitement. In addition to Parramatta West Public School, this term saw the doors open on the \$32.9 million redevelopment of Mainsbridge School, providing new purpose-built facilities to cater for the diverse needs of the students at the school.

Picton High School has been completely transformed with a \$112 million redevelopment coming to completion. The 73 new classrooms and the flexible learning spaces will see the dismantling of the temporary

pop-up school, with the redevelopment also delivering new library and administration areas, improved play and sporting areas and safety improvements to the bus and car drop off area. I am looking forward to joining the member for Wollondilly, Nathaniel Smith, to officially open the new facilities soon. This term will also see the delivery of upgrades at Murrumbidgee Regional High School in Griffith as well as at St Ives High School. As education Minister, I am incredibly proud of our track record when it comes to the delivery of new and upgraded schools right across New South Wales.

Delivery of these projects brings the total delivered in 2021 to 15, with 10 delivered during term 1. Since 2019 the New South Wales Government has delivered more than 100 new and upgraded school projects, with countless more in stages of delivery. Each year that we are in government, communities see real improvements at their local schools, with everything from new canteens and playgrounds to new schools and significant upgrades. These projects have shown that even through the challenges of the pandemic, the Government has kept building and creating a safer and stronger New South Wales. We are investing \$7 billion over the next four years, continuing our program to deliver more than 200 new and upgraded schools to support communities across the State. This is the largest investment in public education infrastructure in the history of New South Wales.

COVID-19 VACCINE

Reverend the Hon. FRED NILE (16:23): My question is directed to the Minister for Mental Health, Regional Youth and Women, representing the health Minister. Will the Minister clarify why—despite the Government's claim to be pro-free trade and pro-free market—the public is not being given a meaningful choice when it comes to the available vaccinations for COVID-19?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:24): I thank the honourable member for his question that he has directed to the Minister for Health and Medical Research, whom I represent in this place. A mass vaccination rollout in Australia is seen as a priority because we know that the more people we can get vaccinated against COVID-19 the greater chance we have for more immunity and for a return to the lifestyle we all value and cherish. Also, the sooner that we are all vaccinated then the sooner our borders can start to open up as well, which is very important. The total number of vaccines administered by NSW Health to 8.00 p.m. on 9 May 2021 was 235,852. Vaccination hubs have now been established at Royal Prince Alfred, Westmead, Liverpool, Wollongong and John Hunter hospitals. Vaccination outreach clinics are also operating at locations throughout regional New South Wales from these hubs. We are aware of the recommendation for people who are over 50 to have the AstraZeneca vaccine. I cannot wait to have my vaccine; I am very much looking forward to it. I think it is an important thing. We know it is safe. We have seen really fantastic results.

Correct me if I am wrong but I believe today is the first day since the start of the pandemic that the United Kingdom has reported zero deaths due to COVID-19. The United Kingdom has been a stand-out with its vaccination program. They have worked very hard to get large numbers of the community vaccinated with the different vaccines that are available to them. I have an enormous amount of faith in and respect for the NSW Premier's Woman of the Year, Dr Kerry Chant, as I know all members do. She has done incredible work throughout the pandemic and provided reassurance to the community about the safety of the AstraZeneca vaccine and the vaccination program that is being run by the Federal Government in New South Wales. The decision to get vaccinated is a matter for each individual, but I wholeheartedly urge everyone in our community to have the vaccination so that we can see the end of COVID-19 and its worldwide consequences. I encourage everyone who is over 50 and eligible like me to get on the website—

The PRESIDENT: I cannot believe you are over 50, Minister.

The Hon. BRONNIE TAYLOR: I know, it is hard to believe, Mr President. But I am feeling every single day of it at the moment, I can assure you. I urge everyone to register through the website. Let us get those vaccinations.

The Hon. Walt Secord: You are not over 50, Bronnie. That is misleading the House.

The Hon. BRONNIE TAYLOR: Did the Hon. Walt Secord say something nice to me? I hope Hansard got that. It is the first time ever. We have come a long way in six years.

The PRESIDENT: Order! Compliments are always orderly.

COOLER CLASSROOMS PROGRAM

The Hon. JOHN GRAHAM (16:27): My question without notice is directed to the Minister for Education and Early Childhood Learning. Given that 24 schools in the Upper Hunter with an average January temperature of 30 degrees or above are still waiting for promised air conditioning, why have schools in Sydney with an average January temperature of less than 30 degrees been prioritised first?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:28):

I thank the honourable member for his question, which again relates to the Upper Hunter electorate and the rollout of the project in schools there. It is very interesting that members opposite suddenly care about what is happening in the Upper Hunter. In relation to the rollout of our Cooler Classrooms program, I am very happy to provide the member with the accurate figures, which is what I have. I can tell the member that, as at the end of March, in fact more than 30 schools have qualified through our program, and 19 schools now have air conditioning in all of their learning spaces. A further 13 schools are in the various stages of design, tender and delivery. It is very exciting for those schools.

I was at Quirindi High School recently, meeting with Principal Ian Worley. He is a great bloke who does a wonderful job at the school. The school recently had its air conditioning completed and everyone was excited about that. They were able to see the investment by the Government through its Cooler Classrooms program, which is tracking well. I repeat that 19 schools now have air conditioning in all learning spaces and a further 13 are at various stages of design, tender and delivery, which is exciting. The Government is looking forward to seeing the program continue to roll out in the Upper Hunter.

The Hon. JOHN GRAHAM (16:29): I ask a supplementary question. Would the Minister elucidate her answer about the number of schools still waiting for air conditioning in the Upper Hunter? Given that seaside schools such as Northern Beaches Secondary College, Balgowlah Public School and Kurnell Public School all have air conditioning, why are schools in the Upper Hunter still waiting?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:30): As the member should be well aware, this is a statewide rollout. Our Government is investing \$500 million into Cooler Classrooms right across New South Wales. We are very pleased with our track record of delivery on these projects. As I said, the rollout in the Upper Hunter is going very well—much to the delight of those school communities, including Quirindi High School, which I visited recently. Again, as the member would know because the rollout has been canvassed extensively in other question times, if other work is being done at a school and it makes sense to do the air conditioning at the same time as the other construction projects, we will do it. We have been quite open about that. I am pleased with how the program is rolling out. As I said, as someone who visits schools in the Upper Hunter outside of elections or by-elections—unlike members opposite—I am happy with how the rollout is going. It is good for the Upper Hunter, it is good for the State and we will continue to deliver it.

The Hon. COURTNEY HOUSSOS (16:31): I ask a second supplementary question. Will the Minister guarantee that all schools in the Upper Hunter electorate will be air conditioned by the next election, as her predecessor the Hon. Rob Stokes promised to the people of Upper Hunter on 11 March 2019?

The Hon. Sam Faraway: Point of order: That is a whole new question and it should be ruled out of order.

The Hon. Courtney Houssos: To the point of order: My supplementary question sought an elucidation of the answer provided by the Minister, which was about air conditioning in school classrooms in the Upper Hunter electorate. The Minister talked about schools across the Upper Hunter electorate, which directly relates to this. I am seeking an elucidation of an aspect of the answer that the Minister provided.

The Hon. Damien Tudehope: To the point of order: While I acknowledge that was a concise explanation of the question by the Hon. Courtney Houssos, it does introduce a new aspect. The first question asked the Minister to make a comparison between what was being delivered in the Upper Hunter as opposed to schools in metropolitan Sydney. This is in fact a new question that asks for a guarantee by the Minister in respect of the delivery of air conditioning to various schools. I suggest that there is a difference, albeit subtle, and this is in fact a new question asking the Minister to give a guarantee in respect of the delivery of air conditioning. The second supplementary question should be ruled out of order.

The Hon. Courtney Houssos: Further to the point of order: The question relates to the Cooler Classrooms Program, about which we have asked many questions in this House. The Cooler Classrooms Program is delivering this air conditioning. We are seeking an elucidation of the policy related to that election announcement. The question is directly seeking an elucidation of the information provided by the Minister.

The PRESIDENT: I thank members for their constructive contributions. Members are aware of the classic ruling by my predecessor, the Hon. John Ajaka, which runs through the three-stage test. I rule the second supplementary question in order, on that basis, and I ask the Minister to respond. The Minister has the call.

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:34): I think the question was in relation to the time line of the projects. As I have said many times in relation to cooler classrooms, it is a five-year rollout. We have said that and were quite open when we announced it. I think the

schools, communities and people of the Upper Hunter know that we are delivering those projects. As I have said, 19 have been completed so far and others are underway. I am sure they are very well aware that we are delivering those projects at schools in their communities.

MENTAL HEALTH ROUNDTABLE

The Hon. SAM FARRAWAY (16:34): My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister outline to the House the success of the mental health roundtable held recently with Orange City Council?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:35): I thank the Hon. Sam Faraway for this question. Last month I was pleased to hold the mental health roundtable in Orange, along with the Hon. Sam Faraway, with Mayor Reg Kidd and discuss solutions to the region's mental health and wellbeing needs with more than 40 health professionals—

The PRESIDENT: Order! The Hon. Robert Borsak will come to order. The Minister has the call.

The Hon. BRONNIE TAYLOR: As I said, we met with more than 40 health professionals, police, media and non-government organisations. The council first approached me about this event as it was concerned about recent suicides in the area and whether services were adequately engaged. I am pleased to say that it was a great opportunity to discuss the services and to bring them together. One thing that was discussed was the need for more collaboration and communication between the services. As an example, many attendees did not realise that suicide rates across New South Wales actually fell in 2020, with 10 per cent fewer deaths across the Central West and broader regional New South Wales.

Of course, every life lost is a tragedy, and my heart goes out to the families and friends who have lost someone who has taken their own life. But it is encouraging that, despite the many challenges faced during 2020, the number of suicides in the Central West has decreased. The Orange region is fortunate to have a range of health professionals, agencies, non-government organisations and government departments that are already doing very important work in this field. They have agreed to work together to help more people in the community find these services. Media representatives also attended and provided valuable insights into the difficulties that they have on reporting on suicide but also said that they are really keen to explore more of the good news that is happening in mental health support in the region. They absolutely acknowledged their responsibility to do that within the community.

I am also pleased to announce that the New South Wales Government is about to employ coordinators across the State to ensure all the services are working together. These 12 collaboratives, combined with 100 school nurses coming on board, mean there will be better communication. It is happening and the Central West will benefit from these. A strong theme on the day was the need to boost training for regular people in the community on mental health first aid as an extra safeguard. This is underway with our gatekeeper and Service NSW training as part of the Towards Zero Suicides initiative. We know that over 50 per cent of people who will attempt to take their own life have never contacted a health service. We need to make sure that those services are far and wide and that people are able to get the help they require.

The non-government organisations also agreed that they need to ensure they are clear in explaining what they do so it does not feel all too hard for people to access the help they need. I very much thank the Orange City Council and those who attended. It was a great chance to share all the great work the Government is doing, building a safer and stronger regional New South Wales.

HORSERACING INDUSTRY

The Hon. MARK PEARSON (16:38): My question is directed to the Minister for Finance and Small Business, representing the Minister for Better Regulation and Innovation. Given the failure of Racing NSW to sanction trainer Trevor Sutherland for transferring ownership of two ex-racehorses to a third party that killed the horses, will the Minister explain why the Government has not ended self-regulation of the New South Wales racing industry by legislating a birth-to-death racehorse tracking register and providing State-sanctioned penalties where healthy horses are treated as wastage and killed?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:38): I do not have immediately to hand an answer that I could reliably give to the Hon. Mark Pearson. I will take the question asked of me on behalf of Minister Anderson on notice.

WESTMEAD PRIMARY SCHOOL

The Hon. ANTHONY D'ADAM (16:39): My question is directed to the Minister for Education and Early Childhood Learning. Given the Minister's response to question on notice No. 5243, when she stated, "The

business case for the new Westmead primary school will be submitted shortly and considered as part of the budget process", what is the Minister's response to community and parental concerns that no money has been allocated in the budget for this project since 2018?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:39): I thank the Hon. Anthony D'Adam for his question that referenced a question on notice to which I responded. It will probably not surprise members opposite, because they lodge questions, that I receive a lot of questions on notice in relation to a range of issues, particularly concerning schools. I am happy to take the question on notice in relation to the new school at Westmead. If there are any updates I will be happy to provide them to the member on notice.

COVID-19 AND STATE ECONOMY

The Hon. WES FANG (16:40): My question is addressed to the Minister for Finance and Small Business. Will the Minister update the House on any recent economic reports that shed light on the New South Wales Government's economic response to the global health pandemic? Will the Minister advise whether there is an alternative to managing the economic recovery?

The PRESIDENT: I encourage the Hon. Walt Secord to contain his enthusiasm.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:41): I hope to make him enthusiastic, in fact. Members should have the picture in their minds—if it is not too horrific—of the Hon. Walt Secord waking every morning. He rolls out of bed, puts his feet on the floor and automatically says—

The Hon. Robert Borsak: Point of order: I refer to direct relevance. How is the mental condition of the Hon. Walt Secord relevant to the answer to the question?

The PRESIDENT: I uphold the point of order. The Minister will return to the substance of the question.

The Hon. DAMIEN TUDEHOPE: Members on this side of the House are focused on jobs, jobs, jobs.

The Hon. Greg Donnelly: And more jobs.

The Hon. DAMIEN TUDEHOPE: And more jobs. Keeping people in jobs has been the focus of the New South Wales economy. Obviously we talk up the economy and we want the economy to be successful. We want success for New South Wales. I have read lots of books to my kids over the years. There is a great book by C. S. Lewis called *The Silver Chair*. It has a character called Puddleglum the Marsh-wiggle. Puddleglum would normally say:

Don't try breaking it to me gently, for I'd rather have it all at once. Has the King been shipwrecked? Any forest fires?

That is the way the Hon. Walt Secord starts the day. He wants to hear the bad news.

The PRESIDENT: Order! I am enjoying this, but I bring the Minister back to the substance of the question.

The Hon. DAMIEN TUDEHOPE: The good news, however, for the Hon. Walt Secord is the NAB Monthly Business Survey that was released yesterday shows that business confidence in New South Wales rose by 10 points, from plus 17 to plus 27 index points, in April—the highest level on record for New South Wales. This result was equal highest, with Queensland, of the mainland States and one point above the national average. In March 2020, just 14 months ago, business confidence hit a low of negative 62. NAB said:

This month's survey saw another very strong result, with many aggregate indicators reaching new highs. Business conditions reset last month's record high, with trading, profitability and employment all reaching fresh highs. Business confidence also set a new record and implies that conditions will remain strong in the near term. The Government has worked with businesses, local communities and families to get this health pandemic under control so we can focus on our economic response in particular, I acknowledge our resilient small business owners, who have complied with the changing public health orders and implemented the QR code check-in and other COVID-safe practices. If there was any doubt before, there can be none now that there is no alternative when it comes to managing this global health pandemic than the manner in which the New South Wales Government has managed it. Those opposite should get on board and get with the competence of the New South Wales Government.

The Hon. Walt Secord: Time!

The Hon. DAMIEN TUDEHOPE: The Hon. Walt Secord can ask me a question about it. [*Time expired.*]

HUNTER VALLEY COALMINING ROYALTIES

The Hon. ROD ROBERTS (16:44): In directing my question to the Hon. Damien Tudehope, Minister for Finance and Small Business and representing the Treasurer, I draw his attention to the Treasurer's answer to the question on notice No. 937 in which he stated that each year the Government collects \$1.1 billion from coalmining royalties in the Singleton and Muswellbrook local government areas but returns only \$99 million of

that amount to the Upper Hunter electorate in transport infrastructure funding. I ask: Why has the Government budget after budget after budget short-changed the Upper Hunter by more than a billion dollars each year, leaving Dungog with the worst roads in Australia and Singleton and Muswellbrook without a four-lane dual carriageway running from Branxton right up through the valley, past Quirindi and on towards Tamworth?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:45): I thank the Hon. Rod Roberts for his question.

The Hon. John Graham: No, you don't.

The Hon. DAMIEN TUDEHOPE: Well, I do because fundamentally the fact of the matter is that revenue is collected from fines in West Pennant Hills that is not spent in West Pennant Hills. The nature of revenue collection is that consolidated revenue is developed for the delivery of all sorts of infrastructure for New South Wales, whether it is schools, hospitals, ambulance stations or police stations. They are all the product of the revenue raised from the people of New South Wales and in part from mining royalties. We make no excuse. The Opposition and the Hon. Rod Roberts know that there is no expectation that every dollar raised from every taxpayer in the Hunter Valley must be spent on people in the Hunter Valley.

Revenue raised from the people of New South Wales, and the nature of consolidated revenue, is for the purpose of delivering schools, hospitals, roads and police stations for the people of New South Wales. The Hon. Rod Roberts asked a question about Dungog. If I recall correctly, last week an announcement was made in respect of funding for exactly those roads. If the member wants to make the point, the money in consolidated revenue, some of which is mining royalties money, will be delivered for the construction of roads in the Hunter Valley. But the fact of the matter is that members opposite cannot point to any dereliction by the Government in its support for the people of New South Wales, in particular the people of the Upper Hunter. What we can say—

The PRESIDENT: The Minister may continue.

The Hon. DAMIEN TUDEHOPE: I did not want to interrupt the Hon. John Graham while he was interjecting. Is that all right?

The PRESIDENT: He has stopped.

The Hon. John Graham: No statement.

The PRESIDENT: Order!

The Hon. DAMIEN TUDEHOPE: The fact is that this Government will never make excuses for the fact that we deliver infrastructure for all the people of this State. Someone made the ludicrous comment that the mining money was used to build a stadium and that in some way that was supposed to divide the people of the Hunter Valley. It was suggested that that is where all the money went. If they were entirely truthful in terms of the manner in which the Government manages its money, they would acknowledge it has managed the economy through a pandemic, it has managed the economy through that pandemic for the purposes of making sure through infrastructure programs that the people and the economy— [*Time expired.*]

The Hon. ROD ROBERTS (16:48): I ask a supplementary question. Could the Minister please elucidate his answer and inform the House whether the Upper Hunter electorate is the biggest electorate in New South Wales with the biggest deficit in returns of revenue raised in relation to that particular electorate?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:49): I suggest that that is a new question.

The PRESIDENT: I uphold that.

MOUSE PLAGUE

The Hon. MICK VEITCH (16:49): My question without notice is directed to the Minister for Finance and Small Business. In light of the parliamentary briefing today by the Country Women's Association and the NSW Farmers' Association regarding the mouse plague in regional New South Wales, what is his Government doing to assist small business operators directly and indirectly impacted by the mouse plague?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:49): It is a fair question. The mouse plague throughout—

The Hon. Penny Sharpe: It is a mice breeding event. You guys call it a plague.

The PRESIDENT: Order! The Minister has the call.

The Hon. DAMIEN TUDEHOPE: It demands in the first place an acknowledgement of the extent to which this is a problem for people in western New South Wales.

The Hon. Penny Sharpe: This is correct.

The Hon. DAMIEN TUDEHOPE: I in fact talk regularly to people in western New South Wales who are friends of mine. They own properties in western New South Wales and they articulate the extent of the scourge of mice in western New South Wales. Quite frankly, as it stands at the moment, absolutely nothing can be done in terms of a solution to this problem. There is no known remedy. However, the member's question goes to whether there is any support for those small businesses. I note the representations of the Country Women's Association, who have been in the House today. This Government, in terms of its support for small business, is absolutely committed to making sure that we support small business. To the extent that there are opportunities for assisting small businesses, that is something that I am sure the Government will consider.

NATIONAL ART SCHOOL

The Hon. NATASHA MACLAREN-JONES (16:51): 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 he update the House on how the New South Wales Government is upgrading the National Art School?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:51): I most certainly will. In December 2020 I was delighted to announce that the much-loved and iconic National Art School [NAS] would be receiving \$18 million in funding from the New South Wales Government for maintenance and upgrades. The funding will facilitate much-needed restoration and repairs in the lead-up to the school's 100-year anniversary in 2022 and the 200-year anniversary of the jail's construction. Earlier this year, I placed the National Art School on the State Heritage Register. It has a rich history which we need to ensure we celebrate and conserve for future generations of Australian artists.

In the 2020-2021 budget, the New South Wales Government, as I mentioned earlier in question time, committed \$120 million to shovel-ready maintenance and upgrades to the State's cultural infrastructure, which will create around 1,100 new jobs as the State continues to recover from COVID. The funded works at NAS cover the whole site and extensive site investigations have already commenced including the sandstone along Forbes Street and Darlinghurst Road; as well as Building 11 and Building 12 will be remediated, making the site safer and preserving this important history; significant window repairs will be undertaken and water ingress will be remediated, making a more sustainable and comfortable space for students; and walkways will be replaced throughout the site, improving safety, access and functionality for students and visitors alike.

Best of all, the Cell Block Theatre will be upgraded. The space will have new lighting and a professional audiovisual fit-out, creating a more dynamic teaching space and, in particular, enabling greater use as an extraordinary performance venue. If members have not seen anything in the Cell Block Theatre, they absolutely should go and see something because a lot is being performed there.

The works will be delivered by mid-2022. To ensure a solid plan for the future of this important institution, a master plan has also been funded to guide the preservation of this vital heritage asset. The spaces at NAS are critical to supporting its studio-based teaching model, which is unique. I am thrilled that as part of the works the drawing studio will be upgraded and essential maintenance will be undertaken to the other studios. To quote artist Pat Hoffie, "Those who have experienced studio-based teaching know just how vital those studio spaces are to the making of and thinking about art." Too many of our university art schools have forgotten that. I am absolutely thrilled we are backing in NAS with this \$18 million investment.

STUDENT MENTAL HEALTH SERVICES

The Hon. MARK BANASIAK (16:54): My question is directed to the Minister for Education and Early Childhood Learning. Many rural and remote school students have experienced serious mental trauma due to drought, bushfires, the COVID-19 pandemic and now the mouse plague. One-day-a-week counselling services in those schools is not enough and the 100 school counsellors promised by the Government under the student wellbeing election commitment will do very little to address the shortfall. Many schools have requested a tele-psychologist service to be made available only to be told by the Department of Education and NSW Health that it is not possible, without actually giving any justification as to why. What is the specific reason the Minister's department cannot offer a tele-psychologist service for students who are suffering and will she commit to investigating how such a service could be provided?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:55): I thank the Hon. Mark Banasiak for his question about mental health support for students at schools, particularly

in rural New South Wales. As he highlighted in his question, there have been a lot of concerning issues in regional and rural New South Wales recently, and he referenced things like drought, the floods, the bushfires and the COVID pandemic.

The Hon. Walt Secord: Mice plague.

The Hon. SARAH MITCHELL: And the issues with the mice. I will acknowledge that. There are certainly mice in Gunnedah. I have seen them and I have had to become a lot braver around mice.

The Hon. Walt Secord: Name them.

The Hon. SARAH MITCHELL: Name them? There are too many; we catch a lot. It is a serious question and I do not want to trifle with it. In relation to the support that we are providing to our regional school communities, as the member is well aware and as he referenced in his question, we have a lot of support going out to our schools in terms of mental health and wellbeing. We have an \$88 million election commitment to support every student's mental health and wellbeing such as additional school counsellors and school psychologists being employed in every high school and 350 additional student support officers for high schools to ensure that they are able to provide additional support for students who might be experiencing bullying, stress or other wellbeing issues.

We have also partnered with 10 national and international leading mental health organisations so that we have best-practice early intervention in mental health support. I know the Minister for Mental Health, Regional Youth and Women is a big advocate of the 100 new school nurse positions, which I understand will begin rolling out very soon. That is exciting. The member asked specifically about support for tele-psychology services in school communities. That is available, and I know there are schools that have benefited from that. We have done a trial with Royal Far West and the department will be continuing that. The reality is, as we well know, a lot of our schools in very remote areas have issues accessing some of those services. That is not unique to school communities; the same can be said about the community in general. Using technology in a positive way to provide support via tele-psychology is absolutely something we are doing.

The member asked whether I will investigate what the options are. He did not name the schools, which I respect because I think that is appropriate given the seriousness of the issues around mental health and wellbeing. If any school has been brought to his attention that has concerns about accessing those services and wants to be considered for them or has received a response from the department that they are not happy with and would like it looked into, I encourage the member to come to me directly and have a conversation about that. As I said, tele-psychology has to be part of what we offer, particularly for our more remote communities, as it really is a great way to provide that support to our students. I thank the member for his question. As I said, I am very happy to look at any specific schools that have been raised with him and find more details on what we can do to support them.

VIDEO GAME PRODUCTION INDUSTRY

The Hon. DANIEL MOOKHEY (16:58): My question without notice is directed to the Leader of the Government, Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. What is the Minister's response to a March 2021 public letter addressed to him from the Interactive Games and Entertainment Association about the Government's neglect of the New South Wales video game production industry, which lags behind those of Victoria and Queensland? Why does he favour international film production companies at the expense of Australian entrepreneurs trying to grow in this fast increasing industry?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:59): I welcome the Federal Government's announcement of a 30 per cent digital games tax offset. It is the signal we have been waiting for. This will help to drive investment and jobs in a highly skilled sector in Australia where there is a significant crossover with the screen industry. I expect to have something to say on this matter very shortly.

The Hon. DANIEL MOOKHEY (16:59): I ask a supplementary question. Will the Minister elucidate the part of his answer where he referred to the digital tax from the Commonwealth? As a result of that, will the Government be adjusting its policy so that video game entrepreneurs in New South Wales can access support from Screen NSW?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (17:00): I would have thought the answer to that was self-evident from the answer I just gave. The honourable member obviously was not listening.

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

The Hon. Walt Secord: Point of order: The President often allows a second supplementary question. The House did not finish the bill until 4.07 p.m.

The Hon. Damien Tudehope: No, that is not right.

The Hon. Walt Secord: Absolutely! We still have seven minutes left in question time.

The Hon. Shayne Mallard: It was a censure motion, not a bill.

The Hon. Anthony D'Adam: It was at least five past.

The Hon. DON HARWIN: Was it five past? I am happy to take a second supplementary question if that is the case.

The Hon. WALT SECORD (17:01): I ask a second supplementary question. Will the Minister elucidate the part of his answer where he foreshadowed an announcement down the track? Has he consulted the industry about the contents of that announcement?

The PRESIDENT: Order! The Minister has the call.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (17:01): Obviously when we make significant changes and when we are minded to do so, we consult relevant industry associations and other stakeholders.

POWERHOUSE MUSEUM

The Hon. WALT SECORD (17:02): My question without notice is directed to the Leader of the Government, Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Does the Government stand by statements issued by the President of the Museum of Applied Arts and Science Trust, Peter Collins, QC, who rejected a detailed proposal by leading Australian philanthropist and art gallery expert Gene Sherman, AO, to split the Powerhouse Museum between Parramatta and Ultimo?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (17:02): I saw those comments that Gene Sherman made in the media on the weekend and then there was a backup to that with a discussion on—

The Hon. Walt Secord: Wendy and Robbie—love the program.

The Hon. DON HARWIN: —as the honourable member says, the ABC. The Powerhouse at Parramatta is going to be the flagship museum and the new home of science and technology. We have committed to renewing the Powerhouse Museum in Ultimo with a focus on fashion and design. The Powerhouse Museum in Ultimo will be Australia's leading museum of design and innovation. Its home in the Ultimo Power Station will provide the context to tell the stories of the age of industrialisation and its ongoing impacts, which continue to shape our world. The iconic Powerhouse objects, the Boulton and Watt Engine, Locomotive No.1 and the Catalina flying boat, frame periods of extraordinary innovation and creativity that influenced design, architecture, fashion and visual communication. The Powerhouse Museum has one of the most significant fashion and design collections in Australia, ranging from some of the finest surviving Australian-made jewels of the twentieth century, through to Australian designers Romance Was Born and Akira, and international designers Chanel and Alexander McQueen.

Thirty per cent of the 500,000 objects in the Powerhouse's collection belong to the decorative arts, and the museum holds more than 30,000 fashion items. I understand Gene Sherman's perspective but I respectfully think there is a strong role at Ultimo for the museum to reflect the heritage behind that fine institution. The Museum of Applied Arts and Sciences began on Harris Street at the Technological Museum, which was set up by a great man, former Premier Sir Joseph Carruthers, when he was Minister of Public Instruction. Prior to that it had its origins in the Garden Palace. It is appropriate that the museum reflects its own heritage as well as the design heritage through some of the traditional objects that I have mentioned. I stand by the chairman of the trust. He is doing a great job. On closer reading of what he had to say, I can say that it is consistent with the position of the Government. Gene Sherman's idea of clearing out the Catalina flying boat and the Boulton and Watt steam engine is clearly not on. [*Time expired.*]

The Hon. Walt Secord: Mr President—

The Hon. Don Harwin: I am happy to take another supplementary question just so that the member can get the seven minutes that he claims he is owed because we started late.

The Hon. WALT SECORD (17:05): I ask a supplementary question. In his answer the Minister spoke at length about Ms Sherman and her heritage and fashion expertise. Will the Minister elucidate when he will indicate to Ms Sherman his decision and response to Mr Collins' statements?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (17:06): I have had several meetings with Gene Sherman, whom I greatly respect. She does wonderful things for the arts in Sydney. Gene and Brian Sherman are people of immense patriotism and their philanthropic support of the arts is great. I note the naming of the entrance hall at the Australian Museum after the Shermans because of their generous gift to the museum. In relation to the honourable member's supplementary question, I have had this discussion with Gene so she is well aware of my views.

On that note, may I suggest that if honourable members have further questions they place them on notice.

WESTMEAD PRIMARY SCHOOL

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (17:07): Earlier in question time the Hon. Anthony D'Adam asked me a question in relation to Westmead. As he would be aware, Westmead is experiencing significant growth and, as a result, enrolment demand at the existing Westmead Public School has increased. Planning is underway for a new primary school in Westmead in response to the enrolment demand and broader growth across the school community and surrounding area. A number of projects have already been delivered in that area, including the new Bayanami Public School, which opened in 2019; the upgrade to Parramatta Public School, which was completed in time for day one, term 1 2020; the Rosehill Public School upgrade project; the upgrade to Maryland Public School; and, of course, Parramatta West Public School, which I mentioned earlier in one of my answers in question time. An upgrade to Wentworthville Public School is also in progress.

The New South Wales Government is committed to planning for a new primary school in Westmead, for which funding has been allocated since the project was announced. As I said in my answer to the question on notice asked by the Hon. Anthony D'Adam, the final business case has been submitted to NSW Treasury and will be considered as part of the budget process.

Supplementary Questions for Written Answers

COOLER CLASSROOMS PROGRAM

The Hon. COURTNEY HOUSSOS (17:08): My supplementary question for written answer is directed to the Deputy Leader of the Government, and the Minister for Education and Early Childhood Learning. Will the Minister provide a detailed list of the 19 schools in the electorate of Upper Hunter that have had their air conditioning completed, and the 13 schools and the stages of completion of those where it is underway?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. COURTNEY HOUSSOS: I move:

That the House take note of answers to questions.

MUSWELLBROOK SOUTH PUBLIC SCHOOL

The Hon. COURTNEY HOUSSOS (17:09): In March 2019 the now disgraced member for Upper Hunter and the then Minister for education, Mr Rob Stokes, stood in front of Muswellbrook South Public School and promised to get rid of all its demountable buildings and provide every classroom with an air conditioner. Even then the *Muswellbrook Chronicle* was onto them because at the outset the Government said there is not yet a time line or a budget guarantee. It actually said that the beginning and end dates of the project were a mystery but they are part of the current pipeline. The students, teachers and parents of Muswellbrook South Public School are still waiting for those eight demountable classrooms to be removed. School community after school community across the electorate of Upper Hunter are waiting for their promised air conditioning to be delivered.

Today in question time the Opposition asked for a simple guarantee that the demountable classrooms would be removed as promised before the last election and that the project will be completed before the next election. It has been four years but all the Minister said was that the planning is underway. A development application has not yet been lodged for the project and the school community continues to wait for the commencement of construction to be announced. Today in question time the Opposition also asked more questions about the fantastic Cooler Classrooms Program, which was announced with much fanfare in 2018. The first round of funding was quickly wheeled out the door before the election in March 2019 but what has happened to the over

1,000 applications that form part of the second round? We still do not know. It is now more than two years since those schools applied for funding and they are yet to be told whether they have been successful.

In her answer the Minister was happy to talk about the 19 schools that had been completed and the 13 schools that are at various stages of construction—we will find out about those tomorrow—but what about the other 13 schools in the electorate of Upper Hunter? What about the 13 schools that were told, "Don't worry about applying, because your average temperature is over 30. We will take care of you." Well, the Government has taken care of Beach School on the North Shore and Northern Beaches Secondary College but left kids in country New South Wales to swelter instead of prioritising their air conditioning. [*Time expired.*]

HUNTER VALLEY COALMINING ROYALTIES

The Hon. MARK LATHAM (17:12): I take note of the answer given by Minister Tudehope in relation to the mining royalties coming back to the Upper Hunter. The Minister basically said that the Upper Hunter can suck it up. He said there is a billion-dollar deficit whereby the Government raises \$1.1 billion in mining royalties from Singleton and Muswellbrook, which is clear from the written answer provided to my supplementary question on the *Notice Paper*, but only gives back \$100 million in transport infrastructure. No part of the State has such a big funding deficit.

Over a long period I have visited a lot of electorates around the country and I have never seen a place that generates so much private wealth yet receives so little public infrastructure in return. By now the Government should be able to point to several showpiece projects, such as an advanced mining and manufacturing training centre in the Upper Hunter—what the Germans call a polytechnic. It should be able to point to a four-lane dual carriageway from Branxton, where at the moment the good road ends. It gets to the boundary of the electorate of Upper Hunter and then it ends. By now it should be running up to Tamworth. The Minister's answer was hopelessly inadequate.

On the other answer he gave about Jeff Drayton, the verdict is in from honest trade union officials who are fingering this guy for selling out the workers time after time. It is not just the \$307,000 shelf company enterprise agreement. Take the words of Vern Faulkner, 40 years a union organiser at the Australian Workers' Union, an industrial officer, a former national secretary and a life member of the AWU. He wrote on my Facebook page:

Exposing the shameful fraud of the contractors agreement which rots the workers, with the author now the ALP candidate for the "workers" in the by election. Despicable!!

Indeed it is "despicable Drayton". A week before he signed the enterprise agreement with his mate Jono McTaggart, the Construction, Forestry, Mining and Energy Union criticised One Key in a submission to a Senate inquiry for its rock-bottom enterprise agreements made under the Fair Work Act. These enterprise agreements have allowed One Key to undercut other existing labour hire operators. It said there was a race to the bottom, and a week later Jeff Drayton added to the race by signing an even worse enterprise agreement that was on sold to One Key for \$307,000.

This guy has not looked after the mining workers and he is certainly not pro-coal. How can we tell? Look at the Labor Party how-to-vote card for the Upper Hunter by-election, where the second preference goes to Tracy Norman, a pro-Greens Independent, and the third preference goes to Malcom Turnbull's candidate, Kirsty O'Connell. How can the Opposition say it is against the demonisation of coalminers when it is giving its preferences to the demonisers-in-chief—Norman, O'Connell and Malcolm Turnbull? Jeff Drayton is a complete fraud.

COVID-19 AND STATE ECONOMY

SCHOOL INFRASTRUCTURE

The Hon. WES FANG (17:15): I take note of answers given by the Minister for Finance and Small Business about the recent report on business confidence. Like the Minister, I welcome the good news that business confidence in New South Wales has hit a record high of 27 points. The Minister reminded us that in March 2020, facing all the unknowns of a worldwide pandemic, business confidence dropped to a record low of negative 62 index points. The Minister rightly referred to the resilience of New South Wales small businesses and commended them for the vital part they have played in contributing to the State's twin goals of keeping the community safe and the economy open.

The Liberal-Nationals Government believes the role of government is to create the conditions that allow small businesses to flourish. However, it is ultimately the creativity, passion, determination and hard work of small business owners and their employees that make the difference. The Government has supported small businesses through this pandemic with targeted small business grants, fee and licence rebates, payroll tax relief and more. Just this past weekend a further 500,000 Dine & Discover vouchers were redeemed, bringing the total

consumer spend to over \$207 million, with 13,000 participating businesses. With the spend per voucher now averaging \$46.49, consumers are adding an average of 86 per cent to the \$25 face value of each voucher. There are many challenges ahead, but the New South Wales Government is backing and supporting small businesses and New South Wales to play their part in our economic recovery.

While I am here, I take note of the excellent answers given by the education Minister about the Government's delivery in the Upper Hunter electorate, particularly around schools. I also note that the Minister for Finance and Small Business talked about imagining what it is like when the Hon. Walt Secord rises in the morning. I can tell members what that would mean for schools in the Upper Hunter. If the Hon. Walt Secord were in government he would wake up and think, "Which school am I going to close today?", because we know those opposite close schools. People in those communities would be absolutely terrified that the Hon. Walt Secord and his colleagues were going to do that. But on this side of the House, we deliver schools. We deliver schools and air conditioning. Just say thank you, Walt, to the Government for delivering and doing what you could not do when you were in government.

The PRESIDENT: Order! The Hon. Wes Fang will direct his comments through the Chair.

The Hon. WES FANG: My apologies. We delivered the schools; members opposite closed them. We are fixing their problem. They should just say thank you.

HUNTER VALLEY LABOUR HIRE

The Hon. MARK BUTTIGIEG (17:18): I contribute to this take-note debate by zeroing in on the tag-team effort we saw earlier today. We saw it last week with the Hon. Mark Latham and the Leader of the House, the Hon. Damien Tudehope, over the whole Drayton business. The rank hypocrisy is breathtaking. This is a bloke who used to stand for the so-called "ladder of opportunity". Now it is the "ladder of opportunism". This is the third coalminer he has tried to throw under the bus. The first one was a bloke called Simon Turner, his colleague in Federal Parliament whom he trotted out to try to use as an emblem for exploited workers. Then a couple of months ago in March they proceeded to vote for legislation that allowed the classification of thousands upon thousands of casual workers to be unable to claim entitlements—the very entitlements you are talking about.

The Hon. Natalie Ward: Point of order: The first part of my point of order is to note your ruling, Mr President, that members should direct their comments through the Chair. The second part of my point of order is that, although spirited, the Hon. Mark Buttigieg's contribution is far from relevant to anything that occurred during question time. I ask that he direct his comments to the substance of the take-note debate.

The PRESIDENT: I uphold the first part of the point of order. In relation to the comments being directed to the Hon. Mark Latham, if the member wants to go down that path he should do so by way of substantive motion if he is going to go into detail.

The Hon. MARK BUTTIGIEG: Through the Chair, the Hon. Mark Latham was making a point about someone's reputation—namely, our candidate for Upper Hunter, Mr Drayton. The coalminers have been thrown under the bus, one by one, by his party. Thousands upon thousands of workers have been destroyed by that legislation and are not allowed to go back and claim entitlements. Simon Turner said, "I was disgusted. I felt betrayed at the highest level. It's a complete backflip from representing Hunter coalminers. They made no changes to the IR bill."

We then have the erstwhile candidate Stuart Bonds. I was doorknocking in the electorate on Saturday and I happened to come across a miner from the Construction, Forestry, Mining and Energy Union whose wife cleaned for Bonds. Do you know how she said he got sacked from the party? He received a text message that said, "You are no longer required." He was working in the mine on machinery and he received a text message from One Nation that said, "You are no longer required." Meanwhile, our candidate is out there having worked in the mines all his life representing working people, and the member comes in here to try to salvage that hypocrisy by besmirching the good name and good character of a hardworking Australian who sticks up for coalminers. Working class people will not cop it. They will see through it and they will not support him for it. [*Time expired.*]

ROUNDTABLE ON MENTAL HEALTH

The Hon. SAM FARRAWAY (17:21): I participate in the take-note debate to comment on the answer given by the Hon. Bronnie Taylor to my question regarding the Orange mental health roundtable. I congratulate the Minister because it was very successful. As she highlighted, I was in attendance. We identified a lot of NGOs and support agencies that need better collaboration and communication. It was good to see that some solutions should come from the roundtable in response to all the wellbeing challenges in that space. It was very good to see those in attendance—whether it was councillors, NGOs, government agencies, the local health district or mental

health services in the area. A commitment was made to work together to help more people within regional New South Wales to find, locate and utilise those services.

Despite the many challenges that New South Wales, and indeed the whole country, faced during 2020, it is encouraging that the number of suicides in the Central West has in fact decreased, as the Minister highlighted. Despite what some say and put out there, the numbers have decreased. That is pleasing but there is clearly still a lot of work to do. As the Minister highlighted in her answer today, the media were at the event. That was good. Print media and local television crews contributed to the roundtable and spoke of how the media report mental health issues and suicides to give an understanding of their contribution and their role in society. It was a very good cross-section. I congratulate the 40-odd health professionals, police media and non-government organisations on accepting the invitation to attend to discuss new ways of working together. I acknowledge counsellor Reg Kidd, Mayor of Orange, who really led this initiative. It was also great to be there as a member of State Parliament to listen and take my feedback from the day back to the Minister.

I note the interjections during the Minister's answers by the Hon. Robert Borsak, who carried on about "the shadow Minister for Orange". Well, I wear it with a badge of honour. Clearly there is a problem in the Shooters, who must be a little bit worried. I further note that the member for Orange was invited and was part of the process; I even sat next to him. He was there, so I do not know what this whole "he wasn't invited" remark is about. The Hon. Robert Borsak clearly has his facts all wrong and I stand here to say, "Sam Faraway, shadow Minister for Orange." I will wear it with pride.

The PRESIDENT: Before I call the Hon. Walt Secord, it would aid the Chair if members were to rise in their place with gusto on occasion when seeking the call, particularly when there is a lot of background noise. I call the Hon. Walt Secord.

COVID-19 AND STATE ECONOMY

POWERHOUSE MUSEUM

The Hon. WALT SECORD (17:25): As the shadow Treasurer, I participate in this take-note debate and refer to answers given by the Minister for Finance and Small Business. He is clearly in a parallel universe. He quoted selectively from the NAB report as he overlooked the fact that in New South Wales 234,000 people are still unemployed, which is an increase of 36,700 since the start of the pandemic. Official youth unemployment is 12.4 per cent and 84,100 young people are unemployed in New South Wales. This does not take into consideration those who are no longer seeking work or have given up seeking work. The arts and entertainment sector, international tourism and manufacturing sectors have all been hit. Hospitality and retail are starting to recover in some areas, but there is still much more to go.

CommSec's quarterly *State of the States* economic performance report card released on 27 April, which the Minister should have referred to, shows that New South Wales ranked seventh out of eight Australian jurisdictions. In fact, I have said publicly that I never thought I would see the day when New South Wales is behind Tasmania. That was in fact even picked up by Tasmanians who were absolutely startled that they were ahead of New South Wales. CommSec observed that this was the lowest rating for New South Wales in over nine years, and New South Wales used to be the engine room of the Australian economy. Now we are behind other States that have responded quicker and faster to the pandemic. We are sixth for unemployment, ahead of only Victoria and the Northern Territory. We are behind Tasmania, South Australia, Queensland, Western Australia and the Australian Capital Territory.

On other CommSec economic indicators, New South Wales is fifth for economic growth, fifth for equipment investment, sixth for housing finance, seventh for dwelling starts, seventh for population growth, fourth for retail spending and third for construction work. On top of this, this Government has perpetuated a cruel hoax on the community involving its COVID support. An analysis of various arts grants and waivers announced by the Government in 2020 showed that it claimed a pool of \$3.1 billion but only \$1.6 billion were spent.

I conclude on answers given by the arts Minister involving Mrs Gene Sherman. The Minister has shown complete disrespect for one of Australia's leading philanthropists. He should have listened to her, and if he disagreed with her, he should have given her the courtesy of a private meeting. I thank the House for its consideration.

SCHOOL INFRASTRUCTURE

The Hon. LOU AMATO (17:28): I thank the Minister for Education and Early Childhood Learning for the work being done to improve schools in New South Wales. Moving forward with new investment and infrastructure has been difficult during the pandemic, yet New South Wales has kept building. Students across the State are enjoying new classrooms, school halls, outdoor learning areas and libraries. The Liberal-Nationals

Government has opened 10 new schools this year, and in term 2 we will open another five. At the commencement of term 2 this year, the Liberal-Nationals Government had invested a total of \$223.4 million in making our schools the pride of the nation. School upgrades delivered by the Liberal-Nationals Government for day one of term 2 of this year include: St Ives High School upgrade, \$25.6 million; Parramatta West Public School upgrade, \$28 million; relocation of Mainsbridge School for Specific Purposes, \$32.8 million; Picton High School redevelopment, \$112 million; and Murrumbidgee High School upgrade, \$25 million.

The New South Wales Government is committed to the continual improvement of our education system and it will be investing \$7 billion over the next four years. The long-term investment will see more than 200 new and upgraded schools to provide first-rate educational facilities and support for communities across New South Wales. The New South Wales Government has an impressive track record in education of opening 50 schools during 2020. Since 2019 the New South Wales Liberal-Nationals Government has delivered more than 100 new and upgraded schools. To continue this impressive track record, the New South Wales Government will open more than 25 new schools in 2021.

HUNTER VALLEY LABOUR HIRE

The Hon. ROSE JACKSON (17:30): I take note of answers given by the finance Minister. Normally in question time questions are put to the Government and it then provides the answers, but today the Minister had a question that he kept throwing to the opposite side of the House: Where is the money? What happened to the \$307,000? I am pleased to be able to provide an answer to that question to the Minister, which is that the money is in the pocket of Jonathan McTaggart. Who is Jonathan McTaggart? He is the owner of the Valley Labour Services hire company. That is his company. He sold it. He got the money. Jeff Drayton and the CFMEU mining division have absolutely nothing to do with that financial arrangement. Allow me to be very clear: the shonky labour hire company owner Jonathan McTaggart is the one running the dodgy labour hire business. He is the one who sold the dodgy labour hire business. He is the one who has the money. He is on one side, and Jeff Drayton and the mining union are on another side. There is no connection between them.

The accusation that has occasionally been made under cover of parliamentary privilege by some members in this House is that there is some relationship between Jeff Drayton and Jonathan McTaggart. It is just made up. It is just fictional. They are not friends. They are not mates. They have no relationship. It is like saying, "Why doesn't Jeff Drayton prove to the people of the Upper Hunter that he is not in fact Voldemort or that he is not in fact completely fictional?" How do you refute that? We could say that *Harry Potter* is a made-up book, that it is not a real thing and that it is a work of fiction.

But, no, those opposite continue to say, "You've got to refute it. We have no proof that witches and wizards do not exist, and it is up to you to prove it." It is a work of fiction. It is made up. There is no connection between Jeff Drayton and Jonathan McTaggart. So I am pleased to put the Minister's mind at ease, who can rest assured that Jeff Drayton and the mining division of the CFMEU have not seen a cent of the \$300,000. It is a completely made-up accusation. Jonathan McTaggart has that money. He is not a candidate in the Upper Hunter by-election—thankfully—and that should be the end of the matter.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. NATALIE WARD (17:33): I welcome the opportunity to contribute to the take-note debate and ensure that we get some facts on the record. It is interesting that this House spent so much time and energy today on Labor's candidate in the Upper Hunter and that Opposition members are defending him before he is even in this place. It is a whole new standard to have to defend the guy before he is anywhere near the place, but that is a matter for the Labor Party and its NRC. Today we heard about Muswellbrook South Public School. We had some very passionate questions about air conditioning in Muswellbrook South. There seems to be an obsession with air conditioning, but that is okay. I take note of the Minister's answer that the promised air conditioning has in fact been delivered to Muswellbrook South Public School. It is done. It is finished. It is completed. We thank the interest of the members opposite, but it is done.

In relation to the air conditioning pipeline query, the fact is that the Government is delivering. It has opened 10 new schools this year and in term 2 will open another five schools. There is a proper process involved with the pipeline. As the Hon. Shayne Mallard pointed out, you do not pop down to Bunnings and get yourself an air conditioning unit and install it at the school. There must be a proper process that may include development applications and heritage issues before installation can occur. The Muswellbrook school upgrade is happening. The tender has just closed for that project. It will then be considered and a development application will be lodged. That is the proper process to build a school. Let us now talk about school report cards. Let us talk about education and how careful you must be as to who you elect to the Upper Hunter. The last Labor Government closed 90 schools. That is 90—not nine, not 19, not 29—90 schools were closed. That is their school report card. It is a fact. You must understand what it is that you are electing prior to the Upper Hunter by-election.

Labor spoke about building the education revolution and then spent 25 per cent of the \$3.4 billion budget on management and administration fees. They made sure they got the admin right before they built a single school, before they did anything about delivering—unlike this Government and Minister Mitchell, who is ensuring that we are opening schools and giving those opposite something to complain about. The Government is supplying the Opposition with its information for question time because it is actually doing something. I am proud to be part of this team, the jobs projects and the work that is being done to support business and business confidence. I take note of Minister Tudehope's answers that despite the pandemic, the State is recovering and this Government has given almost \$29 billion to support communities, businesses and the economy.

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

Motion agreed to.

Written Answers to Supplementary Questions

WEE WAA HIGH SCHOOL

In reply to **the Hon. MARK BANASIAK** (6 May 2021).

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

The school community was advised that a report had been completed by an external hygienist. The P&C were provided with an outline of its contents.

As the direct source of contamination and possible transference is still under investigation, further advice on the source is unable to be provided at this time.

WEE WAA HIGH SCHOOL

In reply to **the Hon. COURTNEY HOUSSOS** (6 May 2021).

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

On 11 November 2020, the former high school site closed. On 16 November 2020, year 11 students relocated to the primary school site and years 7-10 students continued to work from home. On 7 December 2020, all high school students commenced schooling at the primary school site.

Documents

BEFORE AND AFTER SCHOOL CARE

Return to Order

The CLERK: According to the resolution of the House of 17 March 2021, I table additional documents relating to an order for papers regarding before and after school care and vacation care received this day from the General Counsel at 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.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. WES FANG: I move:

That committee reports and government responses orders of the day Nos 1 and 2 be postponed until a later hour.

Motion agreed to.

The Hon. MARK BUTTIGIEG: I move:

That committee reports and government responses order of the day No. 3 be postponed until the next sitting day.

Motion agreed to.

*Committees***PORTFOLIO COMMITTEE NO. 1 - PREMIER AND FINANCE****Report: Budget Estimates 2019-2020 Relating to the Portfolios of Jobs, Investment, Tourism and Western Sydney and The Legislature**

Debate resumed from 2 June 2020.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): The question is that the House take note of the report.

Motion agreed to.

PORTFOLIO COMMITTEE NO. 2 - HEALTH**Report: Budget Estimates 2019-2020**

Debate resumed from 2 June 2020.

The Hon. GREG DONNELLY (17:41): This take-note debate relates to budget estimates for the period 2019-20. Honourable members are well aware that we have progressed into the cycle for 2021, and in that sense time has moved on. I will make a few brief comments. The form of this report is familiar to members of this House as it is in the standard format for budget estimates hearings. It endeavours to summarise the position relating to the round of budget estimates it is reporting on. This report relates to Portfolio Committee No. 2 - Health. A number of non-substantive members participated in the hearings. It is valuable to have the facility for the committees to enable non-substantive members to participate and ask questions. It adds to the whole dynamism of the committee when members have the opportunity to raise a range of questions within their policy interest.

Chapter 1 is an introductory chapter and I will not comment on it. Chapter 2, Health and Medical Research, outlines in paragraphs 2.1 and 2.4 the subject areas covered at the hearings. I note in paragraph 2.1 the health Minister and his senior bureaucrats were questioned about the operation of the Northern Beaches Hospital with respect to cardiac care. It appears the operation of the hospital is better than it was when it first opened. I do not seek to rake over the coals of the myriad number of problems associated with the hospital when it first opened.

But I make the point, as I have made on other occasions before the House, that the Northern Beaches Hospital now runs to a standard that one can say with some confidence accords with the standards of the delivery and availability of health and medical care in the hospitals in this State because NSW Health—and the Minister, the Hon. Brad Hazzard, was responsible for doing this—oversighted the incorporation into the operation of the hospital at the most senior level those individuals who had very extensive and detailed experience of the operation of public health in New South Wales.

The problem with Northern Beaches Hospital when it first opened, setting aside what were teething problems—and I say they were a lot more significant than teething problems, and they ran for a number of months before things started to bed down—was that there were people in the most senior positions at the hospital whose mindset was effectively to run it as a corporate enterprise—as a business. They just did not have the insights, the finesse and the thoroughness required to achieve and maintain the standard that the citizens of the northern beaches would expect in terms of the delivery of health care and services out of that hospital.

It was only after the Minister—whom I acknowledge was reasonably pragmatic about this—could see that things were floundering at the Northern Beaches Hospital that steps were taken to put into place, ultimately, a person to run the hospital who had detailed public health experience and was able to sync the operation of that hospital into the Northern Sydney Local Health District. At the hearing that I refer to here we dealt with issues with respect to that hospital. I am glad things are starting to stabilise. However, I assure the Minister that certainly this committee will continue to keep a very close watch on what is going on at that hospital.

Another point further down the page in the report is one the committee is experiencing in a current inquiry it is conducting into rural and regional health in New South Wales, being workforce issues with respect to nurses, midwives, locums and ambulance officers. I note at this budget estimates round we quizzed the Minister and senior bureaucrats on matters to do with workforce issues involving those very significant classifications of workers in the health system. Wherever we go across the State we still find these serious concerns of gaps and holes that need to be dealt with are being raised and prosecuted.

I quickly touch on the issue of security measures for hospitals and paramedics. It is a sad situation to have to acknowledge and reflect on. Those very important people working inside our health facilities and those who have that mobile role, being our ambulance officers and paramedics, are not uncommonly placed in situations whereby they are dealing with either threats of violence or, in fact, actual acts of assault. The ongoing need, firstly,

to understand that this is going on and, secondly, for the Government to have, where necessary, appropriate legislation to bring before the Parliament to provide proper protection for these people who are very much on the front line has been prosecuted well by their union, the Health Services Union. Without anticipating, later this evening members will have a debate that to some extent covers this issue.

I touch on item 2.4 regarding the portfolio areas of Mental Health, Regional Youth and Women. Pages 4 and 5 list the matters covered in some detail. In light of the time, I will not go through those; they are obviously all there for members to see. However, I make a particular comment about the tragedy of suicide in our society, particularly suicide in our Indigenous communities. Like so many areas we have talked about there are gaps in this area. The matter of suicide prevention really needs to be one of high priority for all of us. In fact, it is a duty that we as a Parliament do nothing to embed the idea that committing suicide in any way, shape or form is anything other than an utter human tragedy. It is the loss of a human being, the loss of a soul in our society. Like a pebble thrown into a pond, the loss of that precious human life simply emanates out in circles to family members and so on. The matter of suicide prevention is very important.

Pages 7 through 9 deal with the witnesses over the course of those hearings. As I have said previously, I acknowledge satisfaction with the cooperation of the Ministers and their respective departments for providing the witnesses whom we sought. They were quite experienced witnesses in terms of their period of service with the State sector in New South Wales. There is always a little bit of niggles around whether or not people can be relieved to come and give evidence. However, through proper negotiation and consideration of people's availability we have always been able to bring forward the witnesses whom we have most eagerly sought to participate in our hearings. On that note, I commend the report to the House.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): The question is that the House take note of the report.

Motion agreed to.

PORTFOLIO COMMITTEE NO. 3 - EDUCATION

Report: Budget Estimates 2019-2020

Debate resumed from 2 June 2020.

The Hon. MARK LATHAM (17:51): I take note of report No. 41 of Portfolio Committee No. 3 - Education entitled *Budget Estimates 2019-2020*. Our committee is very active and had extensive budget estimates interrogation of the Minister and also departmental officials. Much of this report—and, indeed, our work—goes to the central question of school education in New South Wales today. How do we lift school results given the slide we have seen in the international league tables for New South Wales? But also, in lifting results, how do we stick to the evidence base, and how do we find enough time in the school day for teaching the basics of literacy, numeracy, science, history and geography?

The Government has commissioned the Masters review to look at decluttering of the curriculum. It was curious indeed that Professor Masters thought he could look at the curriculum by not visiting a single New South Wales school in school hours and not actually examining the syllabus. He engaged in what I thought was—and the committee was consistent on this—a one-man tutorial on curriculum theories that, at the end of the day, has not provided a great deal of instruction for what decluttering might look like. At the other end of the scale the NSW Teachers Federation—which obviously has a big impact on schools policy in New South Wales and has done for a decade—has commissioned the Gallop report, which has found that teachers are overworked. One of the reasons teachers are overworked is they have put too much political content into the classroom. Those mental health issues raised by the Hon. Greg Donnelly in his contribution on Portfolio Committee No. 2's report, wellbeing in our schools and the question of the workload for teachers are very much linked.

My assessment is that our young people in Australia have lost their two great assets. Growing up in Australia in the sixties, seventies and eighties our children had two great assets: innocence and a sense of fun. Growing up in Australia in those conditions meant that young people were not burdened with adult-type issues. However, now in our schools—and also on social media and in other parts of society—young people can be in primary school and be hit with questions of political debate and controversy that adults are struggling to deal with. Our schools are full of the teaching of black lives matter, colonisation theory, invasion day theory, Greta Thunberg theory, gender and sexual fluidity. These adult topics that have found their way into the classroom burden young people with adult themes that adults are struggling with. It is hardly surprising that in that environment there is a concern about mental illness in schools; there is a concern and focus on wellbeing and the perpetual question of what schools can do about it.

The document from the Telethon Kids Institute in Perth commissioned by the Department of Education says no clear evidence was found that schools are capable of achieving behavioural change among students or that they can improve the wellbeing of students. We know what schools can do. If they do it right through phonics, schools can teach literacy. If they do it right, according to the evidence base, schools can teach numeracy. If they follow the chronology of history and provide content and deep knowledge, schools can teach history, and if they stick to the science textbook they can teach science. All these things that schools can do tend to be overcrowded and smothered by areas where it is not clear schools have a chance to achieve a great deal in political instruction, in wellbeing and behavioural change programs.

This is one of the great challenges. If the Teachers Federation reads the Gallop report and says that teachers are overworked, it needs to look in the mirror. It wants young people to believe the things that it believes in. These are political animals from the left side of the spectrum. The Teachers Federation website is full of political content for teachers to push upon students. That is plainly wrong. We should not have politics in our classrooms. The Minister made that point at the end of 2019. She said we should not have political content in the classrooms; we should have education rather than indoctrination. The question of political content, moral and social teaching is the preserve of parents. I support that very much and I am sure the committee supports that. When the amazing array of damaging political content in the classroom is looked at, one has to wonder what needs to be done to enforce the Minister's policy. It is one thing to announce the policy; it is a different thing to see it followed by teachers in the classroom.

Let us look at some of the atrocities that have come before us at budget estimates hearings and before me as a State member of Parliament. At the Lindfield Learning Village a year 5 to year 6 teacher, Kirsten Iman, ran lessons on black lives matter and when her students wrote "stop killer cops", "pigs out of the country" and "white lives matter too much" she proudly displayed the posters for all the students to read and absorb. That is supposed to be the work of teacher educators [WoTE] at this experimental school in Lindfield in the name of tolerance and respect. It is very clear that the material there for 11-year-olds is teaching hatred, disrespect and barbarism. The idea that young people could be writing "pigs out of the country" and "white lives matter too much" shows how far off the rails schools like this have gone.

The Minister has said there will be a review of the Lindfield Learning Village. I commend this philosophy to the Minister: Chairman Mao said only one decent thing in his entire political output and that was "execute one, educate a thousand". If one teacher was sacked in New South Wales for these sorts of atrocities that would say to all the other teachers who want to get on their soapbox and introduce radical politics into the classroom, "You can't do it." Sacking one teacher would send a lesson to all the other teachers that this sort of political content, "black lives matter", "stop killer cops", "pigs out of the country", and "white lives matter too much" is completely and utterly unacceptable.

At Lindfield there was a half apology at the end of the week and the very next week the school displayed posters on its website completely unapologetic, unrepentant about these atrocities, saying these were lessons in empathy. How sick are these people? How far off the rails are they? How far out of touch are they to have 11-year-olds writing on posters, "pigs out of the country", "white lives matter too much", and the teacher seemingly so proud of it she hangs it in the classroom and a week later the school posts items on its website to say these are lessons in empathy? These sick people are way out of touch with mainstream Australia. If the school is not closed down, certainly the principal should be sacked and this teacher should be sacked. What a lesson it would send to every other fruit loop in the education system who wants to do something similar. Oberon High School has been distributing Safe Schools program guides and other gender fluidity material, even though they are supposed to be banned. At Kirrawee High School in personal development, health and physical education [PDHPE] year 8 students have been made to fill out a questionnaire asking:

When and how did you first decide you were heterosexual?

Talk about age inappropriate. These are 13-year-old boys and girls having to answer that question. And further:

To whom have you disclosed your heterosexual tendencies?

These are sick people wanting to know these things. Really creepy things are happening at Kirrawee High School where year 8 students have also been shown the Bill Nighy video on sexuality and gender spectrum, promoting gender and sexual fluidity. Edgeworth Public School runs a so-called Rainbow Day to promote LGBTI among small children. At Wallacia Public School on Wear it Purple Day, the school and the Department of Education labelled infants and primary students in photographs as "young rainbow people"—five-year-olds described as "young rainbow people", meaning LGBTIQ. Maitland High School in year 7 English—forget about Orwell, Dickens or Shakespeare—taught black lives matter, the denigration of the NSW Police Force and jaundiced views of equality in the gender pay gap. The Minister said there should be no political content, and in school after school, classroom after classroom the Minister is being ignored. That is why the Education Legislation Amendment

(Parental Rights) Bill 2020 that I introduced to put a firm ban on this sort of nonsense needs to be legislated. If schools will not listen to the Minister and follow government policy, it needs to be the law of New South Wales.

The principal of Menai High School has told students to have understanding and sympathy for terrorist bombers, who supposedly have been victims of western civilisation. At Greystanes High School the deputy principal financially coerced Muslim and Christian students to participate in the schools rainbow mufti day against their religious faith. The head teacher of welfare at Wadalba Community School near Wyong made a female student apologise to Islander and Indigenous students for her private Facebook post, which had nothing to do with the school and simply said "all lives matter". The student who posted that on Facebook was attacked inside the school. Those students disrupted classes and yet the victim here had to apologise and has now left the school. That is the saddest thing about the reports I get from parents at these schools. They make the complaint, they know they have been wronged, and six months later they have left the school; they have to move. The victims of mad political indoctrination and attacks in the classroom have to leave the school while those who are comfortable with this sort of activity stay and seemingly prosper.

Late last year the after-school care staff at Newtown North Public School encouraged small children to write hateful, and what turned out to be misspelt, comments about Donald Trump. The teachers then displayed them on the sign-out desk for parents to see. They were so proud of political indoctrination of five-year-olds and six-year-olds they put it on the display desk at the sign-out point for parents. In English lessons at Pennants Hill High School that were supposedly structured to study the meaning of a single word, "devastating", students were indoctrinated about colonisation and Stolen Generations—a false, one-sided narrative encouraging students to hate Australia. At Maitland High School in PDHPE year 7 students were shown the Adam Goodes propaganda movie *The Final Quarter* and told that Australia is an inherently racist nation. Again, schools encouraging a hatred of Australia. At Albion Park High School students were made to kneel in homage to Black Lives Matter, an openly neo-Marxist organisation that attacks the nuclear family and promotes gender fluidity.

The Department of Education hosts the "Racism. No Way" website, with its critical race theory, denigration of Australia and whacky theories of unconscious bias pushed onto small children. The Great Lakes College at Tuncurry teaches black lives matter and ABC *Q+A* propaganda in primary school classes. Chatswood High School ran a Tomorrow Man program from a consultancy that told its year 11 boys that they were potential wife beaters, examples of toxic masculinity and also potentially the cause of suicide in their friends—talk about where the mental illness problem comes from. The boys walked out of there completely drained of self-esteem and confidence, thinking, "Why are we the problem? Why do we have to be told these things?" Should we not be building up our young people, their confidence and self-esteem? It goes on to non-government schools. St Augustine's College in Brookvale has distributed poems accusing the Prime Minister of being a white, privileged racist.

St Marys' Star of the Sea College, Wollongong, has taught misgendered babies to year 11 geography classes and degendered language to year 8 students. Corpus Christi Catholic High School, located at Oak Flats in the Illawarra region, has taught the Greta Thunberg propaganda and nonsense in year 7 English. This is one of the great frauds in the system. It is said to be a stimulus or comprehension item for young students in year 7 English, but it is political indoctrination material. From all the things one can find in English literature as a stimulus or comprehension item, time after time they pick intensely political content.

That is a catalogue of all the items which have been put to me. Time after time we have raised them at budget estimates. There is so much political content. I look forward to the matter of public importance debate later in the week when I can give an outline of what the NSW Teachers Federation teaches in its so-called professional development webinars. For example, I can give the House a little flavour of a webinar ran on 4 August 2020 by training officer Mel Smith. We talk about a decluttering of the curriculum and the Gallop report saying that teachers are overworked, but one of Mel Smith's recommendations was for teachers to take a day off from formal classwork. She recommended they go on an excursion to the Sydney Aquarium—not to study marine biology—where they would learn about sexual issues and fluidity from LGTBI penguins apparently hatching an egg. I know it has an element of amusement but it is serious. The NSW Teachers Federation complains about teachers being overworked and not having enough time in the classroom, yet they say, "Go to the aquarium to study two"—supposedly male—"penguins hatching an egg."

Our schools have become a theatre of the absurd and a theatre of tragedy. We will debate it further in the matter of public importance. At the budget estimates the message is clear: the Government needs to reclaim control of the classroom. It needs to drive out the political content and clear the heads of the young people to give them a chance to learn the basics of an education rather than this rubbish. [*Time expired.*]

Debate adjourned.

PORTFOLIO COMMITTEE NO. 4 - INDUSTRY**Report: Budget Estimates 2019-2020**

Debate resumed from 2 June 2020.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): The question is that the House take note of the report.

Motion agreed to.

PORTFOLIO COMMITTEE NO. 5 - LEGAL AFFAIRS**Report: Budget Estimates 2019-2020**

Debate resumed from 2 June 2020.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): The question is that the House take note of the report.

Motion agreed to.

PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND CUSTOMER SERVICE**Report: Budget Estimates 2019-2020**

Debate resumed from 2 June 2020.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): The question is that the House take note of the report.

Motion agreed to.

PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT**Report: Budget Estimates 2019-2020**

Debate resumed from 2 June 2020.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): The question is that the House take note of the report.

Motion agreed to.

SELECT COMMITTEE ON ANIMAL CRUELTY LAWS IN NEW SOUTH WALES**Report and Government Response**

Debate resumed from 16 February 2021.

The Hon. MARK PEARSON (18:09): It is just short of 12 months since this House received the final report from the Select Committee on Animal Cruelty Laws in New South Wales and five months since the Government tabled its response. For me, it was a long-awaited achievement to chair this committee after spending decades working and volunteering for animal protection agencies, and seeing on a daily basis the failures and shortcomings of our current animal protection regime. I keep an old issue—December 1997—of the *Good Weekend* magazine from *The Sydney Morning Herald* in my office at Parliament House. The cover shows an extremely photogenic piglet with the text underneath "What about me? It's strong on cats and dogs, but has the RSPCA abandoned farm animals?"

The feature story quotes me representing Animal Liberation NSW, discussing the work of the RSPCA, its powers and the practicalities of a charity failing to enforce State animal cruelty laws. Almost 25 years later, what has changed? Almost nothing. The RSPCA still suffers from a chronic lack of enforcement resources. It is lacking in accountability to the public and only successfully prosecutes less than 1 per cent of the complaints it receives. The committee's terms of reference focused on the effectiveness of arrangements for the administration and enforcement of New South Wales laws for the protection of animals from cruelty. The committee received 141 submissions—and many were extremely useful to the committee—and the subsequent hearings yielded very important information about the failings of the current enforcement system and suggestions for the way forward. There were three findings and 14 recommendations.

The Government response indicated that many of the concerns raised, discussed and developed into recommendations by the committee were already on the Government's agenda in its review of existing animal welfare legislation. That included consideration for the committee's recommendation for an education program

on the most effective methods of improving animal welfare outcomes. I am heartened by this response and I am optimistic that the information obtained by this inquiry will be of significant benefit to the Government. In fact, we have already seen movement on our second recommendation with the Government increasing penalties and statutory time limits for animal cruelty perpetrators, and strengthening other restrictions against perpetrators in their Prevention of Cruelty to Animals Amendment Bill 2021. The Government has also already shown its willingness to consult with the community regarding changes to the current laws and practices—as proposed in recommendation 9. The Animal Justice Party would like to see a much more expansive consultation that acknowledges the sentience of all animals and a change in societal attitudes to the way in which we exploit farmed animals, and the conditions under which they live and are slaughtered.

In several submissions a number of poor outcomes were identified in relation to the RSPCA's handling of allegations of farmed animal cruelty cases, such as Wally's Piggery where 53 charges were laid then mysteriously withdrawn; and the Lakesland court case where there were significant delays in responding to urgent calls for intervention to save layer chickens being subjected to an illegal "forced moult", followed by 3,000 victims sent to slaughter rather than being rehomed for their trouble. In the Yass truck crash case, we really do not know the true suffering of many of the 80,000 chicks that spilled out of their crates onto the road and verge. Were they buried alive by dozers that came in to clean up the crash site? Despite eyewitness accounts and evidence of the live chicks being unearthed by activists, the RSPCA failed to charge anyone with animal cruelty. In each case questions have to be asked about the RSPCA's ability to successfully prosecute allegations of animal cruelty or to adequately care for the surviving victims.

It is clear from the Government's response that the findings and recommendations that address practical issues, such as body-worn devices for investigations, improvements in data collection, and sharing and reviewing funding models for enforcement agencies, are far more palatable to the Government than are other recommendations that require systemic change to how we investigate and prosecute animal cruelty matters. I am grateful for the attention and committed consideration of my committee colleagues as we debated and drafted the final report. As with all inquiries, there were at times heated debates but I believe the final report fairly reflects the evidence contained in the submissions and given by witnesses at the hearings.

In particular, I am grateful for the highlighting of concerns that have never before been raised in Parliament in regards to the efficacy of our animal protection regulatory framework, the adequacy of funding for investigation and prosecution of offences and the lack of transparency and accountability in regards to those charitable agencies that conduct this work on behalf of the Government. Looking into the details of the report, I note a finding that the RSPCA NSW policy of not investigating Approved Farming Scheme producers, coupled with the evidence from the NSW Police Force that they do not have expertise in relation to intensively farmed animals, is potentially compromising the ability of RSPCA NSW to investigate alleged animal welfare breaches.

The RSPCA is clearly compromising the welfare of millions of intensively farmed poultry in these situations and yet the public trusts the RSPCA's "tick of approval" when purchasing these products. Consumers would react with surprise and disbelief that this is not being policed. This leads to the second finding that reliance of approved charitable organisations on donations for the majority of their total funding has the potential to compromise their independence and may lead to actual or perceived conflicts of interest. In 2021, in a wealthy State like New South Wales, it is utterly unacceptable for enforcement agencies that police our criminal laws to rely on public donations. Indeed, in a modern society, we should not be relying on charities to be our legislative enforcement agencies, full stop. Would we accept the Salvation Army seeking donations to fund officers for investigations into child abuse? That would be absolutely unconscionable and there is exactly the same concern and situation for animals.

The third finding is to improve transparency so that the Department of Primary Industries is required to make public the annual reports of the RSPCA NSW and the Animal Welfare League NSW when they receive them. These annual reports are the sole means by which the public can have insight into the activities of the private agencies that are responsible for policing animal cruelty. Recommendation 12 follows this up with a requirement that the Legislative Council portfolio committee responsible for primary industries conduct a one-day public hearing each year involving the approved charitable organisations, with the core requirement of the hearing to examine their compliance and enforcement responsibilities under the Prevention of Cruelty to Animals Act. I note that the Government does not support this recommendation but I welcome the motion moved by the Hon. Mark Banasiak for this House to cause this to happen.

The most welcomed recommendations as far as the Animal Justice Party [AJP] is concerned are those that call for sweeping changes to the animal welfare framework that meet growing community understanding of animal sentience and expectations about animal welfare and to reflect modern knowledge and practices regarding the treatment of animals. In particular, the AJP is very keen for recommendations 13 and 14 to be undertaken. The Government did not support recommendations 3, 13 and 14, which proposed that responsibility for animal welfare

matters be removed from the Department of Primary Industries and that a specialist unit within the NSW Police Force be established and funded to investigate and prosecute animal cruelty offences, and that the New South Wales Government establish an independent statutory body known as the Independent Office of Animal Protection to oversight the animal welfare framework. The AJP is pleased that recommendation 3 gained the support of the majority of the committee.

The Department of Primary Industries is responsible for assisting animal agricultural interests to maximise their productivity and profitability and, as such, sanctions such practices as the slaughter of newborn bobby calves and the live maceration of male chickens. Consequently, with this clear example, the Department of Primary Industries should never be in charge of animal protection. It is an obvious and blatant conflict of interest. The most groundbreaking proposals relates to, firstly, establishing an appropriately funded and resourced specialist police unit which would have access to all the powers currently available only to police, such as warrants and surveillance, as well as utilisation of the skills of police investigators, detectives and prosecutors. Secondly, an independent office of animal protection [IOAP] would be a real game changer for animals. We need a new independent and professional government-funded body with animal welfare and protection as its central focus and mission. The IOAP would not only stand independent from the agricultural industries that exploit millions of animals each year for profit but also take on the role of developing policies, procedures, standards and guidelines for the protection of animals in New South Wales.

At this point I make specific mention of the secretariat and all of the staff whom I have seen in every committee I have been involved with. Their standard of being able to examine forensically, study and put together all of the submissions and then advise the committee on how we should deal with this very complex task is outstanding. I really am grateful and, on behalf of the committee, thank the secretariat for their work. This committee's report is a truly historic document for animal protection in New South Wales and the world. While many of our lifesaving recommendations have been disregarded by today's Government, I am certain that a future, more empathetic government will take our report off the shelf and act on our advice. I am confident that before this report's cover is dusty and its pages have yellowed, the recommendations we penned within it will be actualised into a modern and compassionate regulatory framework for animal protection, fit for the twenty-first century. And for that, we in the Animal Justice Party will continue to fight.

The Hon. EMMA HURST (18:22): I contribute to debate on the report of the Select Committee on Animal Cruelty Laws in New South Wales. This inquiry, which was chaired by my colleague the Hon. Mark Pearson, was long overdue. It confirmed what I and anyone else working in this space could have confirmed: that our animal protection laws in New South Wales have been set up to fail. As a member of the Animal Justice Party I am often contacted by members of the public who are frustrated by the authorities for animal protection. They are upset that charitable organisations have failed to investigate a situation of potential animal cruelty or seize an animal who is clearly suffering or prosecute an animal agribusiness for harming animals. While I share their frustration, it is ultimately misdirected.

At the end of the day the appalling state of our animal cruelty regime is not the fault of charities but of governments. The enforcement of criminal law is a government responsibility but, as this inquiry exposed, animal cruelty is the only crime in Australia that is primarily investigated and prosecuted by private charities. We are relying on donations, fundraised from the public, to uphold the law. It is really quite hard to believe that in 2021 this is still occurring. Imagine if the police had to hold a cupcake day to raise money to investigate drug labs or a drink-driving charity had to organise a fun run to raise the money to investigate and charge people who caused accidents while driving under the influence. It would be considered completely unacceptable. But for some reason, the Government feels it is okay to outsource the enforcement of animal protection to charitable organisations that have fewer resources and less investigative powers than the New South Wales police.

But it gets even worse. The New South Wales Government only covers about 6 per cent of the RSPCA's costs for law enforcement. That is lower than any other State in Australia. It is not even enough to cover the wages of its inspectors. As we discovered during the inquiry, that is because government funding for animal cruelty enforcement is not determined according to the needs of the charitable organisations. In fact, nobody at the inquiry had any idea how funding for those organisations was determined—not the Department of Primary Industries, the RSPCA or the Animal Welfare League. It seems the funding amount for each year is an arbitrary figure, a lucky dip based on how generous the Government is feeling. With a funding model like that, it is no wonder that cases of animal cruelty are falling through the cracks.

We have around 50 animal cruelty inspectors across the whole of New South Wales. Those inspectors are expected to oversee more than 70 million animals in the New South Wales agribusiness industry and the many millions of native, wild and companion animals, as well as animals used in entertainment and medical experimentation. In the 2018-19 financial year RSPCA NSW received more than 16,500 complaints regarding

animal cruelty but initiated just 77 prosecutions. In the same period, it only conducted proactive inspections on three animal agribusinesses in New South Wales. It is clear that our animal cruelty laws need a massive overhaul.

The inquiry made some strong evidence-based recommendations that will significantly improve the animal protection regime in New South Wales. I will highlight just a few of them. First, the inquiry made recommendations to increase the funding of the charitable enforcement agencies to ensure that, at a bare minimum, the Government is meeting the cost of investigating and prosecuting animal cruelty offences each year and not just providing ad hoc amounts, leaving the rest to charitable donations. Secondly, the inquiry made a number of recommendations focused on increasing transparency. They included making it mandatory for annual reports from protection organisations to be published online and requiring that those charitable organisations respond to public information requests and appear before an annual inquiry similar to budget estimates where they can be asked questions about their work. I note that those measures were well supported by inquiry participants, particularly the Animal Welfare League.

I am pleased to see that, thanks to the work of the committee, the upper House is now looking to establish an annual inquiry into the work of the RSPCA, the Animal Welfare League and the Department of Primary Industries as part of Portfolio Committee No. 4. Another recommendation I am excited to see progress on is tougher penalties. As I note time and again in this Chamber, New South Wales has the lowest penalties for animal cruelty in the country; it is truly pathetic. We have finally seen some action from the Government with a bill that looks very similar to the one introduced by the Animal Justice Party. The bill will take New South Wales from being one of the softest States on animal cruelty to one of the toughest.

When the Prevention of Cruelty to Animals Amendment Bill 2021 came before the upper House, we passed amendments that will give effect to some other key reforms identified during this inquiry, including extending the time limit to commence animal cruelty prosecutions under the Prevention of Cruelty to Animals Act and the introduction of private prosecutions so that groups and individuals can take on animal cruelty cases when the RSPCA fails to act. I hope the Government sees the wisdom of those amendments and supports them in the lower House. Frustratingly, there has been no movement on the bill since it passed this House and it is unclear why the Government is still sitting on its own legislation.

Finally, perhaps the most important recommendation of the inquiry was to establish an independent office of animal protection in New South Wales. It was great to see cross-party support for that recommendation because it goes to the heart of all the issues that I have spoken about today and is absolutely crucial if we are going to see genuine improvements in animal protection. The inquiry shone a light on the many failures of the current regime and a lot of the problems come down to the way in which animal protection issues have traditionally been managed by governments. Right now, the Minister for Agriculture and Western New South Wales—the person responsible for promoting industries that use and abuse animals for profit—is also responsible for improving and overseeing animal protection. That is a hopeless conflict of interest and one that invariably produces results in favour of profit over the interests of individual animals.

In its very brief response to this inquiry, the Government referred heavily to its Animal Welfare Action Plan and suggested that we should take into account the recommendations of the inquiry when it introduces new, modernised animal welfare legislation later this year. I sincerely hope that is the case and that the Government takes the recommendation for an independent office of animal protection seriously. Animal protection is something everyone in the community cares about deeply and we need to see action in this space urgently.

Debate adjourned.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): I shall now leave the chair. The House will resume at 8.00 p.m.

Business of the House

WITHDRAWAL OF BUSINESS

The Hon. DAMIEN TUDEHOPE: I withdraw the notice of motion given this day relating to the Building Legislation Amendment Bill 2021.

Bills

REAL PROPERTY AMENDMENT (CERTIFICATES OF TITLE) BILL 2021

Second Reading Speech

The Hon. TAYLOR MARTIN (20:02): On behalf of the Hon Damien Tudehope: I move:

That this bill be now read a second time.

I am pleased to introduce the Real Property Amendment (Certificates of Title) Bill 2021. The bill will complete the move of the land titles system in New South Wales away from a paper process and towards a digital one. Since electronic conveyancing commenced some seven years ago, the industry has embraced its many benefits, including fewer errors and quicker processing times.

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

Leave granted.

Back in 2017 this Government made a commitment to move towards a wholly electronic conveyancing system and to abolish the paper process. It was well known that the presence of a paper certificate of title within an electronic process was an issue that needed to be solved to realise a fully paperless transaction and assure the security of the system.

As part of developing the proposals in this bill, the Office of the Registrar General went through an intensive 18-month public consultation process. Consultation looked at several options to implement reform for a paperless system. Feedback supported the move to eliminate certificates of title as part of the reform.

Other Jurisdictions have abolished paper titles as they also move to a wholly electronic land title system. South Australia started in 2016; Queensland in 2019 and the Australian Capital Territory in 2020. I am informed by the Office of the Registrar General that Victoria and Western Australia are looking to follow suit soon.

The reforms in this bill are a further demonstration of the Government's commitment to making our land title system the best in the world. Further work in this area is being undertaken by the Office of the Registrar General to introduce effective competition in electronic conveyancing. Changes to the Electronic Conveyancing National Law are being considered by the Australian Registrars National Electronic Conveyancing Council. We should hear more about those later this year.

However, today I am here to talk about the significant benefits that this bill will bring.

For most people owning property is the largest, most significant investment they will ever make. People need confidence in the security of their real property investment. The conveyancing system and the Torrens land register provides that security.

The Torrens land register is, and will always be, the single source of truth of a person's interest in property.

A certificate of title is a copy of the information about a parcel of land that is recorded and stored on the Torrens land register. A current edition of a certificate of title will detail information, including the name of the owner, the lot and plan number and any registered interests that affect the land, like mortgages, easements or covenants.

Conveyancing describes the process of transferring legal title from one person to another. Traditionally this involved a laborious paper process where the parties would meet, exchange documents and cheques between themselves and then lodge the paper documents at the Land Titles Office for registration.

This paper conveyancing process is largely extinct today—with close to 96 per cent of conveyancing now performed electronically. This electronic process, commonly known as e-conveyancing, is conducted in a closed, secure digital environment by subscribers—who are lawyers and conveyancers experienced in land law.

Despite the wide use of e-conveyancing, the Real Property Act 1900 still requires the Registrar-General to issue certificates of title and transacting parties to account for the certificate of title—adding inefficiency and cost to an otherwise seamless digital process.

In e-conveyancing the certificate of title is of little value. While it was used as a practical way of demonstrating ownership of land, these days Subscribers to e-conveyancing, being lawyers and licensed conveyancers, have a legal responsibility to verify the identity of their clients and obtain evidence to link them to the property being transferred or transacted. The mere existence of the certificate of title does not satisfy this obligation.

The Government's move towards e-conveyancing is also motivated by the benefits it brings to consumers. The reasons for this are self-evident: e-conveyancing is a secure system, with checks and balances to protect against fraud.

There have been no fraud cases relating to e-conveyancing since it began in New South Wales in 2014, but during that time, the New South Wales Government has paid over \$7 million in compensation for fraud cases involving paper conveyancing transactions.

Many of these fraud cases were the direct result of an illegally obtained certificate of title. As a token of ownership, a certificate of title in the wrong hands can be a tool to commit fraud.

Abolishing certificates of title will also eliminate the cost of replacement when they are lost. Around 4,500 applications for lost certificates of title are made every year, forcing owners to pay a fee for issue of a new certificate so it can be handed over the next time the property is sold.

A paper certificate of title is not suited to a digital process and has no utility in a modern land title system.

The reforms in this bill will focus reliance on the integrity of the Torrens land register as the complete and accurate record of land ownership.

I will now broadly address the changes that this bill makes.

Schedule 1 of the bill removes the requirement for the Registrar-General to issue, and for registered proprietors or mortgagees to produce, certificates of title. References to a person applying to the Registrar-General for the issue of a certificate of title or duplicate registered dealing will also be removed.

In some instances, the word "*certificate of title*" will be replaced by the word "*folio of the Register*"—indicating that the recording will be made on the Register and not necessarily duplicated on a certificate of title as is currently required.

The bill will also remove the current requirement for the Registrar-General, whenever of certificate of title is cancelled, to place a notification on the Torrens land register identifying the party who has control of the right to deal—commonly known as "CORD".

In 2014, when the Real Property Act 1900 was first amended to initiate e-conveyancing, paper certificates of title were to be gradually phased out and replaced by a CORD notification. The CORD system was essentially a consent process, introduced to mirror what happened in paper.

Under general principles of land law, the person with control of the right to deal is either the registered owner or the registered mortgagee. As both the registered owner and any mortgagee have a secure, registered interest in land, there is no extra utility gained from a separate CORD notification on title.

On commencement of this bill, the Registrar-General will no longer be required to issue CORD or require the holder of CORD to give its consent when accepting a dealing for lodgement or registration.

The Australian Banking Association supports the removal of CORD as it aligns with processes in other jurisdictions.

I now turn to other proposals that this bill makes because of certificates of title being abolished.

I have already explained why the certificate of title itself has little utility in e-conveyancing. However, the information it contains can be an important tool for a landowner to quickly understand what interests affect their title. This information should continue to be available to landowners when certificates of title are no longer issued. Therefore, schedule 1 of the bill introduces a requirement for the Registrar-General to issue a new document called an information notice to customers. This notice will contain the same information that a person would ordinarily receive had they been issued with a certificate of title.

The bill will also remove references to a court making orders for the production, issue or delivery of a certificate of title. In addition, all offences relating to certificates of title, including offences associated with wrongful retention of a certificate of title is removed.

Schedules 2 and 3 makes consequential amendments to twenty-seven other Acts and regulations to remove reference to certificates of title. Acts such as the Conveyancing Act, Crown Lands Management Act and Strata Management Act will no longer reference certificates of title once this bill comes into effect.

The Office of the Registrar General will work closely with those agencies that may be affected by the changes that this bill makes. Given that the bill is designed to streamline the conveyancing process instead of adding new processes to it the Government is confident that this bill will have no significant impact on anyone.

Once passed, this bill allows the Registrar-General to announce the date on which certificates of title will cease to be issued and will cease to have effect. This day, referred to in the Act as the cessation day, must be notified by publication in the *Government Gazette* at least three months beforehand. This will give time for industry to adjust their processes so that the change can be made seamlessly. The Office of the Registrar General is working closely with different industry sectors to prepare them for the transition.

The proposals in this bill will not require landowners to return their certificate of title or take any particular action. Owners can keep their certificates of title if they wish, or they can destroy them—it is up to them. All that changes is that a certificate of title will no longer be a legal document.

The Office of the Registrar General will give detailed guidance to the public about any matters relating to certificates of title and will make any announcements regarding abolishing them in due course. I am informed that we should expect certificates of title to be abolished by the end of this year.

In addition to abolishing certificates of title this bill makes other important amendments to the Real Property Act to remove any barriers for a full digital process. Parts of the Act use language that clearly embeds a paper process. The proposals in this bill will remove references that point only to a paper process and clear the way to allow a fully digital process.

One such change is to define the word "uplift" and make it technology neutral. When a document requires amendment to fix an error the current meaning of "uplift" means that someone must physically attend the land registry office and take the document away. The Office of the Registrar General is working with other jurisdictions to soon make it possible to have documents amended electronically, without ever needing to attend the land registry. The proposal in this bill ensures that uplifting a document can be made physically or electronically.

Another important change is the way the Registrar-General can accept lodgement of a document. Currently there are only two ways permissible for documents to be lodged with the Registrar-General—either in paper, or electronically through e-conveyancing operated by an electronic lodgement network operator—commonly known as a "ELNO".

E-conveyancing can handle most transactions; however, there will always be a small handful of low volume, complex transactions that are out of scope for e-conveyancing, which forces people to lodge in paper. The proposal in this bill will allow the Registrar-General to offer an option for people to lodge via electronic means if it is more convenient, such as uploading the documents to a dedicated online portal.

To achieve this, schedule 1.2 of the bill replaces the current provision allowing documents to be lodged via an ELNO under the Electronic Conveyancing National Law (NSW) with a provision that also allows lodgement by any electronic means approved by the Registrar-General. This is a straightforward proposal and will complement users of e-conveyancing by allowing them to continue to lodge their transactions electronically.

The amendment in schedule 1.2 of the bill allows the Registrar-General to approve ways of providing consents, evidence and certificates in relation to land dealings under the Real Property Act 1900. The amendment will allow the Registrar-General to approve a range of electronic methods for providing consents, evidence and certificates to accommodate for e-conveyancing.

Other consents that are required by legislation will remain. For example, an easement will still require the registered owner's consent as well as the consent from registered mortgagees and any registered lessees.

Other amendments to clear the way for a digital process is found in schedule 1.1 of the bill. For example, where a document needs to be substituted the Act currently requires lodgement of a paper form. The bill removes the reference for the Registrar-General requiring a dealing to be lodged in paper form and replaces it with dealings to be lodged in a way approved by the Registrar-General.

The acceptance of e-conveyancing by industry has been pleasing. There was some push back initially—that is understandable. The traditional paper process had existed for 150 years, and changing established practices takes time. The Government began a program of mandating in 2017, seeking to gradually make it compulsory to lodge electronically by mandating dealings in tranches.

E-conveyancing is now the normal way to conduct land transactions. The call from industry is to fully embrace digital and close the paper-based system. Users of e-conveyancing such as lawyers, conveyancers and banks no longer want to run dual processes when dealing with land transactions.

The Real Property Amendment (Certificates of Title) Bill 2021 before the House will ensure that the land title system will be governed by contemporary laws which are flexible and balanced. It retires redundant paper processes and embraces a digital future which is faster, more efficient and more reliable.

An efficient and secure land title system generates greater returns for the property and financial sector, which support the New South Wales economy. The benefits of this will flow on to the people of this State with the confidence that New South Wales continues to have a world class land title system.

I commend the bill to the House.

Second Reading Debate

The Hon. DANIEL MOOKHEY (20:03): I lead for the Opposition in the Legislative Council in debate on the Real Property Amendment (Certificates of Title) Bill 2021. If passed, the bill will amend the Real Property Act to remove:

- (a) the requirement for the Registrar-General to issue certificates of title for real property, and
- (b) requirements for the Registrar-General to make recordings on certificates of title, and
- (c) the Registrar-General's powers to require the production of certificates of title, and
- (d) requirements for land owners to produce and rely on certificates of title in conveyancing transactions, and
- (e) provisions that restrict the use of electronic conveyancing.

The bill also makes consequential amendments to other Acts and regulations. I cannot help but note that if all of those objectives are to be achieved, a great degree of my real property education in law school will be made redundant and a great many generation of law students will be spared an education in what to do with an actual certificate of title or what you could do with a certificate of title. I digress too far. I note that the Torrens system is a world innovative system and remains a world innovative system in terms of how to record land dealings. Thank you, South Australia and Mr Torrens himself. Incidentally, paper-based issuing of certificates of titles has been crucial to that and was the crucial innovation in order to avoid a lot of old title disputes, which, again, has taxed many law students in New South Wales since. I digress further.

I return to the substance of the bill. The New South Wales Labor Party does not oppose the passage of the bill. The bill amends the Real Property Act 1900 and 26 separate pieces of legislation. It removes any reference to certificates of title and makes all interactions with the Torrens Title Register electronically based. Concerns and recommendations have been brought forward by key peak industry bodies since 2018 when the New South Wales Registrar-General first released the discussion paper entitled *Certificates of title: the next evolution*, and more recently during the exposure draft of the Real Property Amendment (Certificates of Title) Bill 2020.

While some recommendations have been adopted in the proposed bill, a number of concerns are mentioned in the submissions. The bill marks another step in the path to digital conveyancing for New South Wales. Conveyancing is the legal process of transferring property from one party to another. In 2008 the Council of Australian Governments, commonly known as COAG, committed to creating a single national system to allow conveyancing transactions to occur electronically. Since then a number of reforms have taken place to roll out e-conveyancing across Australia. On 1 July 2019 New South Wales mandated that all property transactions take place electronically, which Labor supported.

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

Leave granted.

As our world becomes increasingly reliant on online services, it is appropriate for State legislation to adapt with the ever changing digital world around us.

The biggest and an historical change to this bill is to introduce is abolishing certificates of title. A certificate of title is the physical, paper copy of information recorded in the Torrens land register. It is also a legal document, and the holder of a certificate holds legal power over the land that the title covers.

However for many residents of New South Wales, the certificate of title is much more than a legal document, as it holds great sentimental value in their lives. For them it is tangible proof that the property they live on, or have invested in, is under their full ownership. This is a sense of pride, which many also choose to pass on to their children if they decide to transfer ownership.

This can be seen particularly in multicultural communities who came from all over the world to settle in this great State with the hope to one day live the Australian dream—to own their own property and enjoy quality of life this nation has to offer. It is a symbol of their hard work and dedication to their family. It should be noted that the bill propose to have an information notice issued in place

of a certificate of title. The information notice will only hold information about the land and, unlike the certificate of title, cannot be used as a legal document in conveyancing.

Though the certificate of title holds emotional value, I acknowledge that technological advancement marches on in 2021 and e-conveyancing is being more widely used than ever before. Accordingly, it makes sense that our legislation reflects the changes in the conveyancing landscape, particularly given that almost 96 per cent of conveyancing is now performed electronically.

As the Minister stated in his second reading speech, States like South Australia and Queensland, as well as the Australian Capital Territory have already abolished all paper titles and have introduced electronic based land title systems.

While moves toward mandatory e-conveyancing has merit, an unfortunate downside is that it has effectively created a private monopoly for conveyancing transactions in New South Wales. Currently PEXA is the dominant player in the e-conveyancing market. PEXA was originally set up about 10 years ago by a group of State governments and has since been privatised. PEXA manages many aspects of e-conveyancing, including providing Control of the Right to Deal (also known as CoRD) holder consent. (RE: PEXA NSW Labor supports a competitive market in e-conveyancing and believe that it should not be a duopoly)

CoRD is given to the party which has the authority to consent a subsequent interest on the land, be it the proprietor or the mortgage lender. It should be noted that in the New South Wales property market, most homes are mortgaged.

The Minister said in his speech, and I quote:

Under general principles of land law, the person with control of the right to deal is either the registered owner or the registered mortgagee.

As both the registered owner and any mortgagee have a secure, registered interest in land, there is no extra utility gained from a separate CORD notification on title.

While that may be the view of the Government, a number of peak industry bodies have continued to relay their concerns over the removal of CoRD holder consent. This can be seen by the submissions on of 11 key industry organisations and six private individual submissions sent to the NSW Office of the Registrar General as part of its 2018 Discussion Paper titled Certificates of title: the next evolution.

Dentons, one of the largest law firms in the world, drafted a submission highlighting their concerns. They state that they have a:

Significant concern about dealings being permitted without the consent of the CoRD holder

They believe there is "too much risk" involved when dealing with applications where by the CoRD holder did not give consent to the lodging party. Such unauthorised dealings like this can take years before coming to the attention of the CoRD holder causing delays, even if there was to be an express appeal solution.

The Mortgage and Finance Association of Australia [also known as the MFAA] mirror the concerns of Dentons when it comes to removing CoRD holder consent during dealings.

They state:

We have significant concern about dealings being permitted without the consent of the Control of the Right to Deal (CoRD) holder.

The exercise of mortgagee's powers may be delayed for a significant period while an application to remove any unauthorised dealing is processed.

Even if an express solution is mandated (e.g. produce evidence of consent within seven days), a process of appeal or dispute as to facts may cause significant delays.

The MFAA goes on to request that the CoRD consent is needed in order to ensure priorities and rights of the mortgagee such as removing easements and covenants should be protected, or it may potentially affect the value of the land.

While issues of CoRD consent are raised with the Registrar-General, the Australian Banking Association believes the bill's removal of CoRD would help to:

reduce the current administrative costs and delays associated with CoRDs

Sympli, an Electronic Settlements provider, echoed similar possible advantages of abolishing CoRD, focusing on streamlining processes and increasing efficiency.

Efficiency is important in any process, however, so is the level of effectiveness. NSW Labor does not support increasing efficiency if it means the effectiveness of protecting the rights of all parties involved in a Right to Deal transaction is diminished, especially when there is the possibility that an allegedly more efficient process is vulnerable fraudulent activity.

This bill aims to fully digitalise the conveyancing system, which will make New South Wales the first State in Australia to have a 100 per cent e-conveyancing system. This immense trust on an online platform is based off approximately the last seven years where there have been no fraud cases since the start of e-conveyancing in New South Wales.

We know that in this portfolio, there have been a number of cases where hackers have been able to infiltrate through departmental cybersecurity systems and successfully stole confidential and personal information of tens of thousands of New South Wales residents.

Need I remind the government, of last year's cyber attack on Service NSW where approximately 108,000 New South Wales residents had their private and personal information stolen. Due to no mandatory notifications, people are still receiving note of their data being breached almost a whole year after the incident. NSW Labor does not believe in reactionary policy making, particularly when increasingly daring criminals have developed more sophisticated hacking techniques.

If the Minister wants New South Wales to be the first jurisdiction in Australia to have 100 per cent e-conveyancing, then we must also be the best jurisdiction in Australia with the strongest cybersecurity protections.

Australia Post's submission to the Discussion Paper highlighted their belief that there is potential to "improve security services" in e-conveyancing, especially given this area's deals with high value transactions. They mention the use of Digital Identity services can be useful to verify multiple parties at multiple times during a transaction. In addition they believe that:

Strong, consistent electronic identity can streamline many of these processes, particularly when combined with the other documentation procedures involved in transactions

Aside from the fraud threats online, The Australian Institute of Conveyancers NSW Division (also known as the AICNSW) believe retaining the CoRD consent provides fraud protection from dishonest subscribers and persons posing as a registered proprietor.

They state:

a CoRD Holder Consent clearly provides for the stated consent from the registered proprietor, and that CoRD Holder Consent must be in accordance with the authority from the registered proprietor to the subscriber.

Accordingly, CoRD consent assists to reduce the chance of fraud. Members must keep in mind that with such high value transactions, fraudsters are willing to try almost anything.

We need to ensure that we strive to keep fraud at zero. For many people buying a property, particularly in today's high property markets around New South Wales, it is a life's worth of savings for many young couples, families or even retirees.

Concurring, it will be the most vulnerable in our community, such as the elderly, those from CALD backgrounds that have lower English proficiency, and those that have no computer literacy, that will be the biggest targets of fraud.

Moreover, a number of the organisations have also mentioned the introduction of Title Watch, should CoRD be removed. Title Watch is a service that provides notifications to advise of changes taking place on a particular title to involved parties, establishing a similar notification process that can be seen currently with CoRD holder consent to continue if CoRD is abolished.

Landcom, states in their submission:

If it was decided to remove eCTs and CoRD holder Consents a free service to monitor activity against certificates of titles should be introduced

The service should provide alerts when activity is detected via email or text message to a recorded subscriber. Its recommendation is also reflected in submissions by Dentons, AICNSW, MFAA, and the Law Society of New South Wales.

In a recent submission to the Registrar-General on the exposure draft of this bill, The Law Society of New South Wales goes further to mention Title Watch, stating:

a title watch scheme should be implemented prior to the commencement of the Draft Bill.

In our view, the trigger for the alert should include early activity on the title that may indicate a proposed transaction, such as a request being sent to NSW Land Registry Services for Lodgement Support Services in respect of a title.

We understand that development work for a title watch scheme is progressing, and we would be pleased to receive an update.

If the scheme cannot be fully implemented and operational in the next few months, we suggest that the commencement of the Draft Bill should be deferred until the scheme is in place.

I would like to inform the House that the Acting Registrar General has informed me that the Office of the Registrar General is looking into these suggestions.

I would like to state here that the Acting Registrar General has relayed to me that mortgagee consent will be required with all transactions that have required consent in the past. I acknowledge this and hope continued consultation with stakeholders, particularly with those that are concerned about the removal of the CoRD holder consent, are informed.

However given the apprehension that many stakeholders have with, among other things, CoRD holder consents, it is imperative that the government engage stakeholders in an intense education campaign to alleviate their concerns. I will address this in more detail shortly.

The Law Society drafted a policy submission to the Office of the Registrar General regarding the Exposure Draft Real Property Amendment (Certificates of Title) Bill 2020. The Society included many recommendations for amendments. The thrust of these recommendations was to improve the clarity of the bill.

I acknowledge that the bill before us in the House has included some of those recommendations, but not all. With any bill that passes through this House, we have a duty to leave no stone unturned in ensuring that it is as clear, equitable, and practicable as possible. Accordingly, I would like to briefly examine some of the recommendations that were not included in the bill before us.

Schedule 1.1 [4] details a new definition to be included in section 3 (1) (a) of the Real Property Act. The amendment will include the definition of *Uplift*, which is:

The removal of a dealing or other document that has been lodged for registration or recording from its priority position so that it can be corrected or amended without withdrawing the dealing or document.

There are concerns as to how restrictive this definition is, particularly the use of the word "**dealing**", which itself is defined in section 3 (1) (a) of the RPA as excluding grants, priority notices, and caveats. The Law Society has recommended that the definition of uplift should expressly include caveats and priority notices. Doing so will improve the clarity of the bill for anyone wishing to interpret this definition.

Schedule 1.1 [20] covers the introduction of information notices. Information notices will be introduced in section 33 (1) of the Real Property Act should this bill pass. In short, the section gives the Registrar-General the power to issue a person who lodges a dealing an information notice upon registration. However clarity is sought as to whether this section is only related to dealings, or if the bill intends information notices to include non-dealings such as caveats and priority notices. Whatever the case may be, the Law Society recommends that clarity is provided on these questions.

Schedule 1.1 [21] covers the replacement of section 36 (6) of the Real Property Act. Section 36 itself is concerned with the lodgement and registration of documents on the Torrens land register. Sub-section 6 covers the status of dealings and non-dealings (such as caveats and priority notices) while they have been removed from the register in order to make any material corrections, alterations, or additions. The amendment in this bill seeks to reduce the size of this subsection. Though the wording has been described as succinct, for clarity and educative purposes the Law Society has recommended that a new subsection is included in section 36.

In their submission, the Law Society has called for this new subsection to give clarity regarding any material corrections that may be needed for dealings, caveats, or priority notices. Clarity should also be given for the status of dealings, caveats, and priority notices while they have been uplifted for material corrections to take place. The purpose of this new subsection is, according to the Law Society, to reflect long established practices.

As I have previously mentioned, we have a duty in this House to make sure that any bill that passes before us must be as clear and practicable as possible. The government should consider these recommendations by the Law Society as an opportunity to enhance this bill.

Finally, I wish to make some comments about the intensive education campaign that must follow the implementation of this bill. I have detailed to the House today the number of concerns surrounding this bill. It is clear that implementation will not be easy, and an effective education campaign is imperative.

As mentioned earlier, Landcom would like to see a free Title Watch service in for e-conveyancing, particularly as CoRD is proposed to be removed. However, this would be managed by the privatised Land Registry Office. The Labor Party did not support the privatisation of the Land Titles Office. More and more now, everything is online—100 per cent online—and that is why we were absolutely against the privatisation of the Land Titles Office. This group is doing its job, but my concern is that they are going to charge if the Government goes down the path of the title watch proposal. This is where government privatises and does not have control of that part of the agency. I am urging that the registry services consider a free service.

It was not that long ago when the people of New South Wales became the victims of an unjust increase in lodgement fees. I am of course referring to the unnecessary 1900 per cent fee hike by the privatised New South Wales land titles registry in 2018. The fee hike saw a potential lodgement fee rise from \$141.60 to \$2,832. The reason for the fee hike was a "reinterpretation of the rules" by the NSW Land Registry Service. This "reinterpretation" was not corrected until the intervention of the Registrar-General. I acknowledge the intervention of the Registrar-General and thank him. However the intervention could easily have been prevented if the government had engaged the NSW Land Registry Service in an education campaign. And if the government had done so, clearly it was not enough.

That fee hike was completely unacceptable. Given the magnitude of change this bill will implement, and the volume of concerns that stakeholders have, it is imperative that the government gets this education campaign right. No stone can be left unturned, and if the concerns of stakeholders manifest as a result of the implementation of this bill and a weak education campaign, the government must accept full responsibility for any consequences.

The education campaign must also extend beyond conveyancers, legal practitioners, banks, and other stakeholders mentioned today. The entire State needs to be educated about this momentous change, right down to working mums and dads who believe that their certificate of title is more than a mere "token".

Before I conclude I would like to acknowledge the vital role many have played for this bill. I would like to acknowledge the all the industry bodies and stakeholders that submitted their recommendations and concerns during consultation periods. In particular, I would like to acknowledge:

- Dale Turner from Australian Institute of NSW;
- Fiona Landis of the Australian Banking Association;
- Joanne Tseng of Sympli;
- Australia Post;
- Dentons;
- Landcom;
- Mortgage and Finance Association of Australia;
- Northern Inland Credit Union Limited;
- NSW Land Registry Service;
- PEXA; and
- The Law Society of New South Wales.

I would also like make a special mention and thank the Acting Registrar-General, Leanne Hughes for her invaluable assistance during this process.

Lastly I would like to acknowledge the Minister's Office and the Shadow Minister's Office for their engagement.

Ms ABIGAIL BOYD (20:07): On behalf of The Greens, I support the Real Property Amendment (Certificates of Title) Bill 2021. We listened very carefully to the comments that were made by the Labor shadow Minister in the lower House—

[A member interjected.]

They were very persuasive. We share some of the concerns raised by the Opposition's stakeholders and we recommend that those concerns be addressed. We acknowledge that they are ancillary to the bill rather than part

of the bill itself. I note two of those concerns. First, we must ensure that the transition to a wholly digital conveyancing system is secure and safe, and that we are protecting and securing ourselves against fraudulent activity and misconduct. Secondly, we must ensure that the removal of Control of the Right to Deal, or CoRD, does not result in residents losing any property ownership rights to the mortgagee, especially when relating to dealings being permitted without the consent of the CoRD holder. With those brief remarks, I indicate that The Greens will support the bill.

The Hon. TAYLOR MARTIN (20:08): On behalf of the Hon. Damien Tudehope: In reply: I thank the Hon. Daniel Mookhey and Ms Abigail Boyd for their contributions to the debate. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The question is that this bill be now read a second time.

Motion agreed to.

Third Reading

The Hon. TAYLOR MARTIN: On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a third time.

Motion agreed to.

MANDATORY DISEASE TESTING BILL 2020

Second Reading Speech

The Hon. SCOTT FARLOW (20:09): On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Mandatory Disease Testing Bill 2020.

The bill seeks to establish a scheme under which a person can be ordered to provide a blood sample for testing if the person's bodily fluid has come into contact with a health, emergency or public sector worker as a result of the person's deliberate action, and the worker is at risk of contracting a bloodborne disease as a result.

For police officers, emergency services personnel, and other frontline workers such as healthcare professionals and correctional officers, involvement in confronting situations can be a routine part of the job, from responding to violent incidents to providing assistance during medical emergencies. These workers are on the front line and can be involved in dangerous situations to protect the health and safety of others and safeguard our community.

In the course of carrying out their duties, these frontline workers can be exposed to bodily fluids of others.

Where the exposure to the bodily fluids of a third party gives rise to the risk of transmission of a bloodborne disease such as HIV, hepatitis B or hepatitis C, this can be the cause of significant stress and anxiety for the worker and their families.

Workers can be tested personally for these diseases but they may have window periods of three to six months during which the disease is present in the body but antibodies cannot be detected with confidence. Therefore, an exposure incident can result in a long period of uncertainty for the worker before it can be confirmed whether or not the transmission occurred.

It is this uncertainty and anxiety that the bill is addressing by providing a framework for the testing of the third party if they do not consent to voluntary testing.

Under NSW Health policies, following an exposure incident involving a health care worker employed by NSW Health and a patient, the patient may be requested to consent to disease testing. However, the patient cannot be obliged to provide a sample.

Outside of NSW Health, no formal arrangements are in place to request that a person consent to disease testing, and there is currently no mechanism in New South Wales which requires or compels a person whose bodily fluids were involved in an exposure incident to be tested for infectious diseases.

The Mandatory Disease Testing Bill 2020 seeks to address this gap by introducing a scheme which, subject to detailed processes, allows mandatory testing orders to be made if a worker is exposed to a third party's bodily fluids as a result of the deliberate actions of the third party. The third party's blood can then be tested for bloodborne diseases.

The bill was recently considered by the Legislative Council's Standing Committee on Law and Justice, which took submissions and heard evidence from a wide variety of interested stakeholders.

As noted in the Committee's report, tabled on 30 April, there is a "delicate balance of rights to observe—between the bodily autonomy and privacy of the third party, and the wellbeing of the affected worker".

The Government has considered this balance when drafting the bill and is confident that the bill strikes the right balance through a range of measures such as:

- ensuring workers consult relevant medical practitioners prior to applying for an order;

- requiring senior officers to consult the third party to request consent to voluntary testing and invite submissions from the third party to help inform decision making;
- requiring senior officers to consider guidelines issued by the Chief Health Officer and any advice the worker has received from a relevant medical practitioner;
- providing for the review of a senior officer decision by the Chief Health Officer; and
- requiring court consideration of orders sought against a vulnerable third party.

These safeguards help ensure the rights and needs of workers and third parties are taken into consideration, and also looked at in the context of the medical guidelines around exposure and transmission risks. Bloodborne disease is defined in the dictionary of the bill as including HIV, hepatitis B and hepatitis C. While these diseases can be prevented and treated, if they are not, they can lead to serious health problems.

Bodily fluids are defined in the dictionary of the bill as including blood, faeces, saliva, semen, or other bodily fluid prescribed by the regulations.

I am aware that the Inquiry heard evidence that these diseases are not transmissible via saliva or faeces alone but, as reported by the Police during the Standing Committee's Hearings, many frontline workers will be exposed to mixed fluids. Where blood is mixed with these other fluids the worker may not be able to see if there is blood present in the fluid. And it may not be possible or hygienic for them to perform a close inspection.

According to police data for this financial year to date, I understand there have been at least 14 incidents in which a mixture of blood and other fluids were thrown or spat on police—which is why the bill provides for these substances.

The bill will allow prescribed workers, including police officers, correctional officers, firefighters and employees of NSW Health, to make an application for a mandatory testing order following an incident in which a third party's bodily fluids have come into contact with them. The application is to be made to a senior officer.

A senior officer may make a mandatory testing order if satisfied that the third party will not voluntarily provide blood to be tested for blood borne diseases, and that testing the third party's blood is justified in all the circumstances

If it appears to the senior officer on the information available that third party is aged between 14 and 17 years, the senior officer must either apply to the Children's Court for a mandatory testing order or refuse the application.

If the third party is above the age of 18 and appears to the senior officer on the information available to have a mental illness, mental condition, or cognitive impairment such as to significantly affect their capacity to consent to voluntarily providing blood to be tested, the senior officer must either apply to the Local Court for a mandatory testing order or refuse the application.

A mandatory testing order requires the third party to attend at a specified place to provide blood to be tested for bloodborne diseases, with those results to be provided to a medical practitioner specified by the worker.

Failure to comply with a mandatory testing order within two business days is an offence punishable by a maximum penalty of 100 penalty units, 12 months' imprisonment, or both.

I now turn to the detail of the bill.

Part 1 of the bill provides for preliminary matters, including clause (3) which sets out the objects of the proposed Act. These are:

- to provide for mandatory blood testing of a third party in circumstances where a health, emergency or public sector worker comes into contact with a third party's bodily fluid as a result of the third party's "deliberate action";
- to encourage the worker to seek medical advice and information about the risks of contracting a bloodborne disease while at work; and
- to protect and promote the health and wellbeing of workers covered by the scheme.

Clause 5 of the bill defines a mandatory testing order as an order that requires the third party in relation to whom the order is made to attend at a specified place within 2 business days of being served with the order, and to provide blood for testing for bloodborne diseases, and authorises the testing of that blood for the blood borne diseases specified in the order.

Part 2 of the bill sets out how applications for mandatory testing orders are to be made. Clause 7 states that a worker is eligible to make an application for a mandatory testing order if they have come into contact with the bodily fluid of the third party, the contact occurred in the execution of the worker's duty as a result of a deliberate action of the third party, and the worker did not consent to the contact.

Clause 7 further states that an application may not be made if the third party is under the age of 14 years.

Clause 7 also provides that an application must be made to the worker's senior officer within five business days of the contact occurring, and only after the worker has consulted a relevant medical practitioner.

Clause 8 of the bill makes provisions relating to the consultation with a medical practitioner that must take place before a worker can make an application for a mandatory testing order. Such a consultation is to take place as soon as reasonably practicable but no later than 24 hours after the contact occurred, although if reasonable in the circumstances, consultation may occur up to 72 hours after the contact.

This time frame ensures that any preventative measures that may need to be taken as a result of the contact, such as post-exposure prophylaxis, can be commenced as soon as possible.

The medical practitioner consulted is to be one with qualifications or experience in bloodborne diseases; however, if one is not available at the time the worker requires the consultation another medical practitioner may be consulted.

During the consultation the medical practitioner must inform the worker about the risk to the worker of contracting a bloodborne disease as a result of the contact, the appropriate action to be taken by the worker to mitigate risks of contacting a bloodborne disease or transmitting it to others, and the extent to which testing the third party's blood will assist in assessing the risk to the worker.

Clause 9 of the bill sets out the matters that an application for a mandatory testing order is to include, such as:

- a detailed description of the contact and surrounding circumstances;
- statements that the worker did not consent to the contact;
- that in the worker's opinion the contact was the result of a deliberate action by the third party;
- that the worker consulted a relevant medical practitioner; and
- the details of the medical practitioner who is to receive the results of any blood test on the worker's behalf.

Part 3 of the bill sets out how applications for mandatory testing orders are to be determined by senior officers. Senior officers are defined in the dictionary of the bill for each category of prescribed worker. In the case of a member of New South Wales police, a senior officer is to be a police officer holding the rank of inspector or above. In most other cases, the prescribed senior officer is the head of the agency which employs the worker. A senior officer's functions may be delegated pursuant to clause 34 of the bill.

Clause 10 requires a senior officer to determine an application within three business days, unless a longer period is necessary in the circumstances.

The senior officer must seek the third party's consent to provide a blood sample voluntarily and provide them with an opportunity to make submissions. If the senior officer is satisfied that the third party will not voluntarily provide a sample and that testing the third party's blood for bloodborne diseases is justified in all the circumstances, the senior officer may make a mandatory testing order.

A senior officer decision is made with consideration of Chief Health Officer guidelines.

Different processes apply if the third party appears to the senior officer to be a vulnerable third party based on the information available to the senior officer.

A vulnerable third party is defined in the dictionary as a third party who is between the age of 14 and 17, or an adult who appears to have a mental illness, mental health condition or cognitive impairment that significantly affects their capacity to consent to voluntarily providing blood for testing.

If the third party appears to the senior officer to be a vulnerable third party, the senior officer must provide the third party and their parent or guardian, if any, with the opportunity to make submissions. If the senior officer is satisfied that testing the third party's blood for bloodborne diseases is justified in all the circumstances, the senior officer may make an application for a mandatory testing order to the Children's Court or Local Court. Applications relating to vulnerable third parties aged between 14 and 17 years will be determined by the Children's Court. All other applications relation to vulnerable third parties will be determined by the Local Court.

I note the Inquiry heard concerns about the inclusion of children in the bill. The Government is cognisant of the special needs of children, which is why the bill only applies to children aged 14 and over; and why applications must be heard by the Children's Court. The Court can consider all relevant information, including the Chief Health Officer's guidelines. It is acknowledged that 10 infection rates for bloodborne viruses are much lower for children than adults, which the Children's Court may also consider when deciding an application for mandatory testing.

In all circumstances, the senior officer must make his or her decision having had regard to the guidelines issued by the Chief Health Officer of NSW Health and any other matters the senior officer considers relevant. Other relevant information may include, where available, any reports made in relation to the initial incident plus any written medical advice provided to the worker pursuant to clause 8. If no written medical advice is provided, the senior officer may discuss the consultation with the relevant medical practitioner and obtain the workers medical records relevant to the exposure incident. This provides the senior officer with access to medical and other information that may guide decision-making.

Clause 11 of the bill states that a senior officer may refuse an application if they cannot locate the third party after making reasonable enquiries, or for any other grounds the senior officer considers appropriate in the circumstances.

Clause 12 requires the senior officer to give written notice of their determination to the worker, the third party, and in the case of a vulnerable third party, their parent or guardian if any.

Part 4 of the bill sets out the processes involved in the Children's Court and Local Court for the making of mandatory testing orders which relate to vulnerable third parties.

Clause 13 of the bill prescribes the requirements for the making of an application to the Local Court. An application must be in writing, include a copy of the worker's application for a mandatory testing order, the bloodborne diseases for which the blood is to be tested, and any other information the senior officer considers relevant. As soon as practicable after making the application, the senior officer must notify the worker, the third party and their parent or guardian, if any, and the Chief Health Officer. The Chief Health Officer is entitled to make submissions to the Local Court in relation to an application made by a senior officer.

Under clause 14 of the bill, the Local Court may make a mandatory testing order if satisfied on the balance of probabilities that testing the third party's blood for bloodborne diseases is justified in all the circumstances, having had regard to the best interests of the third party, the wishes of the third party and their parent or guardian, the submissions made by the Chief Health Officer, and any other matters the Local Court considers relevant.

Clause 15 of the bill makes clear that clauses 13 and 14 also apply to the Children's Court. In addition, the regulations will provide further clarification for the procedures to apply in relation to applications made to the Children's Court. In respect of Local Court proceedings, Part 4 of the Local Court Act 2007 will apply.

Clause 16 of the bill provides that, if during the course of proceedings, it appears to the Local Court that the third party is not a vulnerable third party, the court may still proceed to determine the application. This is to avoid the considerable delay that may develop if the application were required to be referred back to the Senior Officer for decision.

There is no avenue for statutory appeal included in the bill. Decisions under the MDT scheme need to be made in a timely way in order to ensure the best possible advice is provided to the worker about risks and actions to be taken to mitigate risks. Allowing for a lengthy court-based appeal process would undermine the need for the testing to take place quickly. Review by the Chief Health Officer is provided for in clause 22 of the bill.

Part 5 of the bill addresses the content and service requirements of mandatory testing orders made by senior officers and the courts.

Clause 17 prescribes the contents of a mandatory testing order, which is to include:

- the place the third party is required to attend to provide blood;
- the name and contact details of medical practitioners authorised to receive test results on behalf of the worker and third party; and
- a statement that a failure to comply with a mandatory testing order is an offence.

Clause 18 sets out the service requirements for mandatory testing orders. If the order has been made by a senior officer, then the senior officer is to cause a copy of the order to be served in person on the third party as soon as reasonably practicable, but no later than five business days after the mandatory testing order is made.

In relation to orders made by the Local Court, in general the provisions will ensure that a registrar of the Local Court is to ensure that a copy of the order is given to the third party. However, if the third party is not present in court or is present but fails to attend the registry to obtain a copy of the order, the senior officer must cause a copy of the order to be personally served on the third party in accordance with the five business day timeframe. The Registrar of the Local Court will also arrange for the order to be posted.

Part 6 of the bill sets out how mandatory tests are to be conducted. Under clause 19, blood samples are to be taken by a person of a class approved by the Health Secretary, and a mandatory testing order authorises such a person to take a blood sample from a third party even if they do not consent to providing blood. A blood sample is to be taken in a manner consistent with relevant medical and other professional standards, and not using any more force than ordinarily required to take blood from a person.

Any blood taken from a third party under a mandatory testing order is to be tested for bloodborne diseases specified in the order in a pathology laboratory accredited by the National Association of Testing Authorities for that purpose.

Under clause 20, where a third party is in police custody or is an inmate, police officers and correctional officers are authorised to use reasonable force to transport the person to a facility where a blood sample will be taken, to assist a person to take blood from the third party, and to prevent loss, destruction, or contamination of the blood sample.

Results of blood tests are to be provided to the medical practitioners authorised by the worker and third party to receive results on their behalf, and if the third party has not authorised a medical practitioner to receive results, to the Chief Health Officer.

Part 7 of the bill provides for reviews by the Chief Health Officer of decisions by senior officers. Clause 22 permits a worker to apply to the Chief Health Officer for a review of a senior officer's decision to refuse an order, or in the case of a third party, a senior officer's decision to make an order. Applications must be made within one business day of the applicant being notified of a senior officer's decision. However, an application may not be made in respect of a senior officer's decision to make an application to the Children's Court or Local Court for an order in respect of a vulnerable third party.

The Chief Health Officer must determine a review within three business days by either affirming or setting aside the senior officer's decision. Where the Chief Health Officer sets aside the decision of a senior officer to refuse an application, the Chief Health Officer may:

- make a mandatory testing order; or
- if the third party appears to be a vulnerable third party, make an application to the Children's Court or Local Court for a mandatory testing order.

However, before making a mandatory testing order or an application to a court, the Chief Health Officer must provide the third party, and in the case of a vulnerable third party, any parent or guardian, with the opportunity to make submissions.

After determining a review, the Chief Health Officer must notify the worker, the third party, if the third party is a vulnerable third party, any parent or guardian, and the senior officer.

Clause 23 provides that if an application for review by a Chief Health Officer relates to a decision by a senior officer to make a mandatory testing order, the application for review does not stay the order. The third party must still comply with the order by providing a blood sample.

However, test results are not required to be provided until the Chief Health Officer has completed their review, and if the Chief Health Officer sets aside the decision of the senior officer to make a mandatory testing order, the test results will not be provided to the worker's authorised medical practitioner. This approach minimises delays for the prescribed worker, while allowing time for the review to be conducted.

Part 8 of the bill sets out matters relating to offences under the scheme and proceedings. Under clause 26, failure to comply with a mandatory testing order is an offence. It will be a defence to a prosecution if the third party proves that they had a reasonable excuse for the failure to comply.

It is also an offence under clause 27 for a worker or third party to knowingly give false or misleading information to a person exercising functions under the Act.

Clause 26 (3) provides that if, at the time a third party is being sentenced to imprisonment for an offence of failing to comply with a mandatory testing order, the third party is serving another sentence of imprisonment, the sentence for the offence is to be served consecutively with the other sentence of imprisonment, unless the court directs otherwise. A consequent amendment to section 58 of the Crimes (Sentencing Procedure) Act 1999 is provided for in schedule 2 of the bill to give effect to this provision.

Clause 28 prohibits the disclosure of information obtained in connection with the administration or execution of the Act, except in prescribed circumstances. Permitted disclosures include disclosures of health information relating to a third party with their consent, disclosures in connection with the administration or execution of the proposed Act or the Public Health Act 2010, and disclosures for the purposes of legal proceedings arising from the proposed Act. Disclosure of information other than as permitted by clause 28 is an offence. There is also a consequent amendment to section 56 of the Public Health Act 2010 in relation to the protection of patient's identities who may be diagnosed with a category 5 condition.

The maximum penalty for all offences under the bill is 100 penalty units, imprisonment for 12 months, or both. Clause 29 provides that proceedings for offences under the Act are to be dealt with summarily.

Clause 30 provides that information or documents given for the purposes of an application for a mandatory testing order or the determination of the application, and the third party's blood test results, are not admissible in any proceedings against a third party, with the exception of criminal proceedings under the proposed Act for failing to comply with a mandatory testing order or of providing false or misleading information.

Clause 31 of the bill provides protections from liability for persons exercising functions under the proposed Act. No civil liability attaches to a person for anything done in good faith and for the purpose of exercising functions under the Act. Similarly, no criminal liability attaches to someone for anything properly and necessarily done in good faith and for the purpose of taking or assisting someone to take blood under a mandatory testing order. Finally, a person will not be taken to have breached professional etiquette, ethics, or departed from accepted standards of professional conduct for anything done in good faith for the purposes of exercising functions under the Act.

Parts 9 and 10 of the bill contain provisions relating to the administration and oversight of the Act, and other miscellaneous provisions.

Clause 32 provides for the issuing of guidelines by the Chief Health Officer which are to assist senior officers, relevant medical practitioners, and persons taking blood from third parties when exercising their functions under the proposed Act. The guidelines are not limited to the following matters, but may include:

- information about how bloodborne diseases are transmitted and the minimisation of risks of infection and further transmission;
- information about the prevention, diagnosis and treatment of bloodborne diseases; and
- advice and information to be given to third parties providing blood under a mandatory testing order.

Before issuing guidelines, the Chief Health Officer is to consult with heads of agencies whose employees are prescribed as workers under the bill.

Clause 33 provides that costs incurred under the proposed Act relating to medical consultations by the worker, compliance with an order by the third party, and testing of the third party's blood are payable by the funding provider for the worker, as defined in the dictionary to the Bill.

Clause 34 permits functions of a senior officer and the Chief Health Officer to be delegated to a person of a class prescribed by the regulations.

The dictionary to the bill provides for key definitions related to the scheme. This includes the definition of a vulnerable third party. For an adult who may have a mental or cognitive impairment that significantly affects his or her capacity to consent to voluntarily providing a sample, the definition is linked to the Mental Health and Cognitive Impairment Forensic Provisions Act 2020.

The dictionary also provides a regulation-making power to add additional classes of workers, senior officers and funding providers into the Mandatory Disease Testing scheme via regulations. This provides flexibility to expand the operation of the scheme to other sectors of the public service in the future, should this be appropriate.

Under part 10 of the bill, the operation of the proposed Act is to be monitored by the NSW Ombudsman, who is to prepare a report about the monitoring as soon as practicable 12 months after the commencement of the Act, and every three years thereafter.

To facilitate the NSW Ombudsman's monitoring and reporting function, the Ombudsman may require information relating to an application for a mandatory testing order made by a worker to be provided by the senior officer for the worker, or in the case of a worker who is a police officer, the Commissioner of Police. Senior officers and the Chief Health Officer are to provide notifications, on a quarterly basis, of any determinations made under the bill.

The Ombudsman's function is supported by the provision of demographic information about third parties being provided to the Ombudsman, pursuant to clause 35 (4) of the bill, which was included in the bill following an amendment in the Legislative Assembly, which the Government was pleased to support.

The bill provides for a statutory review to be undertaken as soon as possible after the initial report by the NSW Ombudsman on the operation of the Act. The review will determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

The commencement of the bill will be delayed to allow time for agencies to implement changes to policy and to deliver training and education to their staff. This will also provide the Chief Health Officer time to develop and issue guidelines to support the scheme.

The Mandatory Disease Testing Bill 2020 implements recommendation 47 of the final report of the Legislative Assembly Committee on Law and Safety inquiry into Violence Against Emergency Services Personnel, released in August 2017.

The bill delivers on the New South Wales Government commitment in November 2019 to establish a mandatory disease testing regime for frontline workers, for police officers, those working in the correctional system, emergency services personnel and first responders.

I thank all the stakeholders who provided their time and expertise in the development of this bill.

Our police, emergency and health workers put their lives on the line to protect us every day, and this bill will help reduce some of the stress and anxiety they may suffer if exposed to the risk of a bloodborne virus.

I commend the bill to the House.

Second Reading Debate

The Hon. JOHN GRAHAM (20:10): I lead for the Opposition in debate on the Mandatory Disease Testing Bill 2020. The bill was introduced on 11 November 2020 by Minister Elliott in the Legislative Assembly and it was passed on 18 November 2020 with one amendment. It has since been the subject of a committee inquiry of this House and I commend that inquiry report to the House. Those committees always do good work. Mr Deputy President, I think you served on that committee. It is a particularly good committee report. One of the features of the report was that a range of its conclusions did not fall along party lines; on this delicate issue, that is particularly important. The committee inquiry report was certainly tremendously helpful in sorting through serious issues of law and practice. I note that the Deputy Opposition Whip, the Hon. Antony D'Adam, also served on that committee.

My colleague in the other place, the member for Auburn and shadow police Minister, has indicated that the Labor Opposition supports the introduction of mandatory testing order legislation. The Opposition reserved consideration of amendments until the bill reached this House and until the committee inquiry had given the bill consideration. I will return to the issue of amendments later. The proposed scheme applies to prescribed workers of the NSW Police Force, Corrective Services NSW, Youth Justice NSW, Fire and Rescue NSW, the NSW Rural Fire Service, the State Emergency Service, New South Wales Ministry of Health, the Office of the Sheriff, the NSW Ombudsman, the Office of the Inspector of Custodial Services, Official Visitors, and St John Ambulance Australia (NSW).

The object of the bill is to establish a scheme under which a person can be ordered to provide a blood sample for testing for bloodborne diseases if the third party's bodily fluid has come into contact with a health, emergency or public sector worker as a result of the third party's deliberate action and the worker is at risk of contracting a bloodborne disease as a result. An order under the proposed legislation is a mandatory testing order and the third party must not fail without reasonable excuse to comply with a mandatory testing order. The maximum penalty is 100 penalty units—currently \$11,000 or imprisonment for 12 months or both. So there will be serious penalties under the new Act.

The Opposition agrees that there is an issue of assaults against workers in this area. That is spelt out in the Bureau of Crimes Statistics and Research figures for 2019-20. For example, 2,537 incidents of assaults against police were recorded. In 490 of those incidents, police employees were reported as being exposed to bodily fluids, including 69 bites and 29 needlestick injuries. There has been a similar increase in assaults in the New South Wales prison system over the past six years, rising from 53 incidents in 2014-15 to 250 incidents in 2019-20. According to evidence from the Public Service Association of NSW, over the past three years 448 incidents have been recorded in which officers were exposed to bodily fluids such as saliva, blood, semen, faeces and urine, including 32 needlestick injuries.

It is important to say the Opposition is deeply concerned by those assaults on workers in their workplace doing their job for the State—that is, every one of those incidents is of real concern. That is far too high a rate of assaults on those workers in those two examples, and we know it applies also to other workers. It is far too high and it is rising, and that is of real concern to the Opposition. For this reason, the bill has been supported by key unions including the Public Service Association, the Health Services Union, the Police Association, and the Nurses and Midwives' Association. They have indicated that they would like this legislation brought before the Parliament. What is not known—and this is made clear in the committee inquiry report—is the rate of workplace transmission. The report states:

This was an area, however, where there seemed to be a paucity of data. The NSW Police Force and Corrective Services NSW provided data on the numbers of assaults and certain types of exposure incidents, however it was not clear how many of these involved 'deliberate' acts causing blood-to-blood exposure of a type that could cause disease transmission.

The evidence given by the Office of the Commissioner in Corrective Services was that this data is simply not collected. In further evidence, Dr Bruce Arnold, Assistant Professor, Law, University of Canberra, noted:

What we do not have—and should be seeking as the basis for fact-based policy making and evaluation—is comprehensive data regarding the number of exposure incidents, the number of mandatory tests, the demographics of people who deliberately engaged in exposure and the number of people whose health was compromised through deliberate exposure.

The Opposition supports that view. In passing the bill, the Government should do more to collect the basic information that is required to test how this law applies in practice. The Opposition calls on the Parliamentary Secretary, in his reply, to respond as to how the Government will do that. The committee inquiry heard good information from Health about the prevalence of HIV and hepatitis in New South Wales. In relation to HIV, the committee received evidence that community prevalence of HIV in Australia is low, at 0.14 per cent. The inquiry report went on to state:

HIV is not easily transmitted, and is not transmitted through saliva, whether or not it contains blood.

There have been no published cases of HIV transmission in Australia through spitting or biting, and no cases of occupational transmission since 2002.

The evidence is also clear about the low community prevalence of hepatitis B and C. There is an estimated prevalence of 1 per cent for hepatitis B and 0.6 per cent for hepatitis C across the New South Wales population. In the words of the report:

...neither Hepatitis B nor C can be transmitted through saliva.

Hepatitis C generally requires a large exposure to blood for transmission, with no infections reported with mucous membrane or intake skin exposure.

That is the good, reasonably clear-cut evidence contained in the report on the prevalence and risks of transmission. A key question that was examined during the inquiry and that came up during debate on the bill is what assistance the bill will give to workers. Representatives from the NSW Police Force and the Police Association said they hoped that these tests may reduce the exposed worker's need to take medication, minimising the potential side effects of that medication, including organ damage. They also hoped this would reduce the need for workers to make serious behavioural changes that might need to be made—for example, at home—to avoid passing on any disease. That view was heavily contested by health representatives, who disagreed that testing the third party is necessary to guide the medical care provided to the exposed worker. The Australian Medical Association [AMA] (NSW) said:

... testing of the source persons (whether that be mandatory or voluntary) does not alter the initial management of a potential bloodborne virus exposure.

It argued post-exposure prophylaxis for HIV must commence within 72 hours of exposure and continue for about a month. By the time a third party's blood results were known, under the procedures outlined in the bill, that treatment would be over. Hepatitis NSW gave similar evidence for hepatitis B or C. It said testing a source would have no impact on the medical treatment of an officer—especially for a spitting incident, which carries no risk of transmission.

The Australian Medical Association (NSW) also advised that for an unvaccinated worker hepatitis B post-exposure prophylaxis must be given within seven days and is initiated regardless of whether the source is positive. Hence, it is not likely to be impacted by the process outlined in this bill. That is the evidence about some of the physical damage and the conflicting views. One of the arguments then turned to the psychological damage, which is obviously significant for workers worried about potential exposure and what it means for them and their families. In this regard the NSW Police Force explained that the purpose of the bill is largely to promote the psychological rather than the physical care of the worker. In evidence to the committee this was contested by the AMA. On 11 February 2021 Dr Danielle McMullen, President of the Australian Medical Association (NSW), stated:

If we did not already know the status—it cannot reassure them; it should not reassure them. A negative test on that day could theoretically be within the window period of infection of the person who had done the attack. So even a negative test that day does not change our risk metric. I understand the psychological distress.

Even a test done that day would not address their psychological discomfort because they would still need to be a little bit worried. It is not over until that six-month test is done. The Minister's own view in the other place was instructive. He stated:

As these diseases may have window periods of three to six months during which the disease is present in the body, but antibodies cannot be detected with confidence, an exposure incident can result in a long period of uncertainty for the worker before it can be confirmed whether transmission occurred.

The sad truth, the concerning truth, the worrying truth, is that assaulted workers in this situation face largely the same long period of uncertainty following the risk of transmission. For some it may be reduced uncertainty and it is important that the House recognises that. It is concerning that for some it may turn out to be false hope. That uncertainty is not resolved by the bill.

In the face of those mixed conflicting views and evidence on the bill the Opposition has chosen to back the bill and protect staff and workers. I request that the Parliamentary Secretary respond by collecting more and better data and evidence than was able to be placed before the House today about the impact of this bill as it is legislated and driven into effect. I will now refer to the legal and medical principles. These concerns were placed before the committee. It is important to recognise that in a desire to protect workers some of those rights are infringed. Gabrielle Bashir, SC, Senior Vice-President of the Bar Association of New South Wales, highlighted that powers to mandatorily, and in some cases forcibly, take blood, "represents serious encroachments on the privacy and bodily integrity of those subject to mandatory blood testing".

Stakeholders also highlighted how the principle of informed consent underpins the approach to most medical procedures. It is an important medical principle that underlies the way in which the medical profession interacts with the citizens of New South Wales and it is diminished and infringed by the bill. Ms Bashir, SC, suggests that the threshold, as written in the bill, is very low by using the term "appears to a senior officer" rather than specifying a threshold such as "on the balance of probability", as would be the usual practice with a civil-based order. All of those matters underline that in taking these steps the Government and Opposition are proposing a serious intervention into the State's legal framework and principles. One concern that is spelt out is the overrepresentation of the disadvantaged communities impacted by the bill.

The Australian Services Union NSW & ACT (Services) Branch noted that many of the communities targeted by public health campaigns on bloodborne viruses already experience stigma and discrimination. That includes LGBTIQ communities, people who inject drugs, sex workers and Aboriginal and Torres Strait Islander people. The sad truth is that it is likely to happen and it is of concern to the Opposition. We call on the Government to closely monitor that situation as the bill is rolled out. Stakeholders have highlighted the risk that the bill undermines New South Wales' evidence-based approach to combating bloodborne viruses and diseases. It is a proud tradition in New South Wales. I thank the member for Newtown in the other place who reminded us of the fact that Neal Blewett categorically ruled out mandatory testing during the HIV crisis, declaring in 1989:

Public health and individual rights march hand-in-hand on the AIDS issue.

That is an important part of the tradition of New South Wales. It is a long-standing issue and that is why it raises real emotion and concern across New South Wales. Hepatitis NSW also raised similar concerns. It wants to maintain New South Wales' position as a leader, not a follower, in that health-based public health response. I seek reassurance from the Parliamentary Secretary that the approach the Government finally takes will not endanger that world-leading public health approach which characterises New South Wales. I ask that he explain how it is consistent with the view that the Government is taking on this bill.

I will spell out some of the risks that have been highlighted. While the bill is supported by key unions, others have expressed concerns. The Australian Services Union NSW & ACT (Services) Branch suggested that a mandatory disease testing scheme potentially creates new and additional health and safety risks. It is for frontline workers who are working with some of the most vulnerable communities in the State. In a similar vein the NSW Nurses and Midwives' Association has concerns that nurses or midwives could potentially be directed to perform procedures that might put them at risk of harm. The AMA NSW was concerned by the use of force by police or corrections officers and the risk that could cause to attending medical officers. The Opposition will watch this issue closely as the bill is implemented.

I turn to the definitions in the bill. A number of stakeholders, including academics and health advocates, contend that the bill is too vague on what constitutes a "deliberate action". The committee heard different views about what might constitute a deliberate act from witnesses when this was discussed. On 12 February 2021, at the conclusion of the evidence and reflecting on the views of other witnesses, Paul Miller—at the time acting NSW Ombudsman, now confirmed—stated:

I have listened to the debate about what "deliberate action" means in this context and I have to say that I am none the wiser as to what that provision is intended to mean.

I call on the Government to clarify and provide further guidance in its response tonight on what is meant by this term, as has been requested by the Ombudsman. That would be of practical assistance not only to the Ombudsman but also to other government agencies responsible for implementing the bill. Another concern is that the bill places decision-making power into the hands of a person who is neither medically qualified nor independent. That is the view of health researchers at the Centre for Social Research in Health and legal experts who were concerned about the independence of decision-makers. One suggestion is to require a mandatory disease testing order to be made by the Chief Health Officer or a suitable delegate. The Opposition has chosen to strengthen the appeals process rather than take that step in the bill.

Under clause 35 of the bill the NSW Ombudsman is tasked with monitoring the operation and administration of the legislation. The Ombudsman is to prepare a report 12 months after commencement of the legislation and every three years thereafter. The NSW Ombudsman noted that it will only be able to carry out the functions prescribed if it is given additional resources and if it is conferred the necessary powers to obtain the information in the first place. The Opposition supports that call for resources. We will support amendments to require additional notification to the Ombudsman. As it completes its 12-month review I invite the Ombudsman to make further observations if there are additional requirements it then has in order to do its job under this legislation, because it is particularly important that those safeguards are in place.

I return to where I started, that being the assaults on these workers. There were 2,537 incidents of assault on police in 2019-20 and a rise in assaults in New South Wales prisons over the past six years from 53 to

250 incidents. Of course, we know that paramedics, doctors, nurses and a range of other frontline staff are similarly affected; they are not in those figures. While this bill deals with one of their strong concerns, it does not deal with the very real issues that those workers face, being those threats to their safety and the reasons those assaults are occurring right across the State. Those things should be tackled head-on yet this bill does not take a step towards them. It deals with a single issue.

The bill does not deal with the lack of rehab facilities making it harder for people across New South Wales to get off drugs and alcohol. It does not deal with the outstanding need for mental health facilities across the State, which we know will cause some citizens of New South Wales to interact with the provisions of this bill. It does not deal with prison overcrowding. The figures released in February 2020 by the Bureau of Crime Statistics and Research showed the New South Wales prison population was approaching a record high. I acknowledge that it has fallen during COVID, but at the time those assault figures were rising that was one of the key causes. The bill does not deal with the fact that workers are being exposed to a whole range of work and safety concerns to which they should never be subjected. A bandaid afterwards is one thing; we should deal with the cause. Of course, these frontline workers could do with a pay rise—that would not hurt, either.

Just as those health and safety issues are true for assaults they are also true for the risk of bloodborne transmission. There should be a greater focus on work practices and the provision of necessary personal protective equipment [PPE] and vaccinations, which could be used to a greater extent to limit the exposure risk faced by frontline workers. There should be more expert assessment, supportive counselling and education of workers about the risks to which they are exposed. Frontline workers should be able to access prompt expert medical and mental health treatment in the event of an exposure incident. NSW Health does have a framework for managing occupational exposure to bloodborne viruses. Many of the stakeholders who gave evidence to the inquiry pointed to it as the standard that we should then apply elsewhere in the State for other workers.

In relation to the prison system, Justice Health informed the committee that its chief executive and the Commissioner of Corrective Services have agreed there is a need to improve bloodborne virus and harm reduction training for staff in the New South Wales custodial system. I welcome the acknowledgement that there is a screaming need for action in that space. One of the things we could do is take steps to eliminate hepatitis C in prisons. There is a very good record there. NSW Health noted that in just over two years the Hepatitis in Prisons Elimination Program virtually eliminated hepatitis C from the 12 participating correctional centres. It is no time to stop now. I note the view stated in the committee's report:

The committee also believes that the high rate of Hepatitis C in prisons should result in the expansion of the Hepatitis in Prisons Elimination Program to reduce the identified risks to inmates and prison officers. Given the success of these programs to date, this is the most effective way to meaningfully address this problem at the source.

I commend that view of the committee to the House. The Labor Opposition supports the legislation but will offer to the House six amendments regarding two issues for consideration. The first of those will be to the age of a person who will be subject to a test. Currently the recommendation is that a person under the age of 14 cannot be subject to this legislation. While the biggest risk from those under 18 has been identified within the juvenile justice system, there is little evidence to support the argument that those aged 14 or 15 are in a cohort that should be covered by this legislation. Therefore, I am advised the Labor Opposition will propose that the under-14 criterion be replaced with under-16.

The second amendment goes to the appeal process and whether a blood test should be allowed to proceed before the three-day appeal process is completed. The Labor Opposition does not think this is a reasonable outcome for an appeal process and will therefore put forward an amendment to pause the taking of the blood test until the Chief Health Officer has completed the review. We are cognisant of the arguments put forward by New South Wales police that once a person is released this may make relocating them more problematic. That has to be acknowledged but, given the significant impact of this bill on citizens, this power must come with some limitations. I will address those matters further at the Committee stage. There are three important sets of safeguards in place, beyond what is contained in the legislation, to guide how the Government deals with these issues.

The first of those is the guidelines from the Chief Health Officer. The Bar Association noted that, while there are no criteria guiding decisions to issue an order other than clause 10 (5) of the bill, it states the senior officer is to consider the guidelines issued by the Chief Health Officer and other matters that the senior officer considers relevant. They are very important guidelines. The second set of protections or safeguards are the police standard operating procedures. Mr Lanyon for the NSW Police Force suggested that the standard operating procedures and training be developed in accordance with the bill. The third of those protections I have already referred to—the oversight by the Ombudsman. These are some of the principles that the Opposition would like to see driven into those safeguards—into the guidelines and into the standard operating procedures, and matters that the Ombudsman should consider.

The first of those is the actual risk of transmission. I note that Mr Lanyon for the New South Wales police stated that a senior officer must consider circumstances including the nature of the deliberate act and whether there is an actual exposure risk due to the nature of the contact to decide if a mandatory blood test is justified. I welcome that acknowledgement in the evidence to the committee, and I indicate for the Opposition that it is a significant factor, and one we would hope is driven through the guidelines, driven through the operating procedures and considered by the Ombudsman. The second principle is that whatever action is taken should be evidence based from here.

Thirdly, the Opposition would like to see this power used as a last resort, and I note the Minister's own views that the appropriate, timely provision of medical advice to these workers may result in fewer applications for blood tests being used. I welcome that view, and it is a principle we would like to see applied in those safeguards. A further principle is that we seek not to harm those disadvantaged communities. Again, that is something that we would like to see taken into account in the guidelines, in the police standard operating procedures and by the Ombudsman. The Opposition would like a clear commitment that individuals will be advised of their rights to appeal a test order, including assistance to appeal if appropriate. The Opposition would like to see some evidence—actual data and a report—on occupational transmissions.

I have raised already those resourcing issues that the Ombudsman has placed on the record prior to this debate in the Parliament. All of those things are particularly important and the Opposition would like to see those principles driven into the important safeguards for the bill. I place the Opposition's views on the record.

Reverend the Hon. FRED NILE (20:38): I speak briefly in support of the Mandatory Disease Testing Bill 2020. The object of the bill is:

- (a) to provide for mandatory blood testing of a person in circumstances where—
 - (i) a health, emergency or public sector worker to whom this Act applies comes into contact with the person's bodily fluid as a result of the person's deliberate action, and
 - (ii) the worker is at risk of contracting a bloodborne disease as a result of the person's deliberate action.

The first time I became involved in a debate on a similar issue was some years ago about whether there should be restrictions on persons who donated blood to the Red Cross blood transfusion service. We were able to clarify that if a person was carrying the HIV/AIDS virus their blood should not be taken and used for another person, who may contract the disease. This is the first time there has been a debate about a similar issue. The bill goes on to state:

- (b) to encourage health, emergency and public sector workers to whom the proposed Act applies to seek medical advice and information about the risks of contracting a bloodborne disease while at work, and
- (c) to protect and promote the health and wellbeing of health, emergency and public sector workers to whom the proposed Act applies.

Obviously, it should be a priority for all members of the House to protect the health and wellbeing of health, emergency and public sector workers. I support that objective of the bill; therefore I support the bill.

Mr DAVID SHOEBRIDGE (20:41): On behalf of The Greens I indicate our opposition to the Mandatory Disease Testing Bill 2020. It is hard to believe that anybody who sat through the inquiry into the bill could then stand up in the Chamber, reference the detailed evidence we had, and support the bill. It is hard to believe that anybody who read the submissions from pretty much every medical organisation, the key public health officials and public health organisations, the NGOs, all of the unions except for two—who have all said that we should not pass the bill and have all pointed out credible and compelling reasons why we should not pass the bill—could then stand up in this Chamber and support the bill. It is hard to believe that members of a party that pretends to care about and stick to the compact we have had over the past 35 to 40 years to destigmatise bloodborne diseases and members of the community who have bloodborne diseases, whether HIV or hepatitis C, could stand up in the Chamber and support the bill.

But that is exactly what the so-called Labor Opposition has done tonight—the pretend Opposition. Labor transparently put on the record detailed and cogent evidence from every critical stakeholder—except for two unions that were against the bill—and then said that nevertheless it will support the bill. It was a truly low point in what has briefly been a principled position from Labor on this issue. It is a complete surrender on all of those key issues in this space about non-discrimination and a response led by public health, because two unions have pushed Labor and said that they will run a campaign against it in *The Daily Telegraph*. The Opposition folded like a pack of cards. It is truly a low point. Labor read onto the record, with pretend concern, the detailed submissions as though it cared about them and then it did the exact opposite and voted the bill through. I am almost at a loss for words.

What did we have? We had an inquiry into the bill, which was an opportunity to consider the harms and the pitfalls of the proposal. We had extremely detailed engagement from the most informed stakeholders. We could have used that inquiry to look at a series of amendments to take away the bill's most damaging aspects. I make clear what they are: mandatory blood testing of kids; decision-making not by public health officials who know about the public health issues and the risk of transmission of bloodborne viruses but, instead, by prison officers and police—the second critical problem with the bill; and, thirdly, permitting testing for bloodborne diseases where the only bodily fluid transmitted is saliva even though we know, from every piece of evidence we received, that saliva cannot transmit a bloodborne disease. Those are the three critical issues. Beneath that are a variety of other compelling reasons not to support the bill.

On each of those things it seems the Labor Party is willing to compromise principle because of its narrow political position and its fear of being attacked in *The Daily Telegraph* and, no doubt, by the likes of Ray Hadley—a shameful surrender of principle. We could have looked at amendments to fix those three things but we did not. We had detailed written submissions and we engaged in hours of questioning of experts in the field who were near unanimous, except for two unions, in their condemnation of the bill. From a health perspective, not a single expert stakeholder supported the bill in its current form—not one! They all said that the mandatory disease testing scheme should not be implemented. They made productive and positive suggestions for amendments, but none of those are found in the Labor amendments. They engaged in good faith to propose a scheme that would target circumstances where harm is possible and said, "If you want to address actual harm—the risk of bloodborne viruses being transmitted—focus on that, test for that," and they came up with productive answers. None of those are found in the Labor amendments—not one.

We heard credible evidence that the proposed scheme would, in fact, result in additional mental distress for frontline workers—the ones that the scheme pretends to help—for those living with bloodborne viruses and for any person unreasonably subject to the mandatory testing order. That is the evidence we heard: that the scheme will cause additional, unjustified, non-evidence-based stress for frontline workers by testing in circumstances where, according to all the medical evidence, there is no risk of transmission of bloodborne virus. Instead, frontline workers will be agitating to have people tested, sweating on the results and suffering additional mental distress when there is no credible evidence of the possibility of transmission of a bloodborne disease. Nevertheless, that anxiety will be aggravated by this bill, which raises that risk and concern at that critical time for the frontline worker.

We also heard that the final decision-maker about public health should be and must be an appropriately qualified medical practitioner—not a police officer or a prison governor. It is noteworthy that the position advanced by the Public Service Association [PSA]—my union, actually—was that the bill would be useful to ensure that there are "consequences" for inappropriate conduct. That is at odds with the stated position of the Government, of the NSW Police Force and of the Police Association of New South Wales, which is that this bill is intended to be a protective measure for frontline workers rather than a punitive measure for use against third parties. But the PSA's submission, which I as a member reject utterly, was that it wanted consequences for inappropriate conduct. It admits that the proposed scheme is about punishment, not about medical treatment. The PSA wants a power to punish people—in this case, prisoners and inmates—and to use the bill and the power being granted by, it appears, the Government and the so-called Opposition to punish people. Who will it punish? It will punish marginalised people. We know that.

Likewise, the failure to recommend removing the words "non-bodily fluids" and, critically, "saliva" from the bill is contrary to all the evidence. The presence of the word "saliva" in the bill as one of the bodily fluids proposed to be tested supports the prevalent but incorrect belief that it is possible to contract bloodborne viruses from spitting or kissing. There is no evidence to suggest that is the case and leaving those words in the bill works against more than three decades of work destigmatising people with bloodborne viruses, especially those who are HIV positive. I thought that Labor would not be negotiable on stigmatising people who are HIV positive but it is supporting the bill and that is exactly what it will do, to Labor's eternal shame. It is incredible that Labor read on record the evidence from key stakeholders and medical groups who say it will do that and yet it still supports the bill without a meaningful amendment.

The justification for this scheme within prisons has been provided because of higher than population level rates of hepatitis C in prisons, but we know hepatitis C is a treatable condition. One of the positive comments to come out of the inquiry was that we know hepatitis C is treatable and that it has been radically reduced in every prison where an evidence-based, well-resourced program has been put in place to eradicate it. If those programs are introduced in every prison then the risk is removed. In fact, the first hierarchy of response to a risk in a workplace like a prison is to remove the risk. Do not test for the risk. Do not test for exposure but remove the risk in the first place. That can be done and it can start tomorrow with political will. Instead, we have a testing regime. I will read onto the record a number of observations from stakeholders. I am sure many members have received submission after submission. I will not read them all onto the record but I am grateful for every intelligent

submission from stakeholders. On 10 May 2021 the Australian Federation of AIDS Organisations [AFAO], amongst other things in its submission, said:

We are writing this letter to voice our serious concern with the Bill and refer you to the pragmatic and evidence-based recommendations put forward by ACON. Adopting these recommendations will limit the dangers the current Bill presents for emergency service workers, vulnerable communities and NSW's world-leading response to HIV and bloodborne viruses. The Australian Federation of AIDS Organisations [AFAO] fully endorses ACON's position and urges you to consider these amendments.

AFAO also states:

As ACON states in their recent letter, mandatory health interventions "should be based on good evidence; administered by those with expertise, handled in line with the control of records, privacy and other proper governance arrangements; and receive oversight from the State's most senior health official—as is the case with other health laws that impact on liberty and consent." We are deeply concerned that **there is not a single health expert who supports this bill.**

The Bill, in its current form, places an unacceptable amount of control into the hands of untrained and non-expert professionals in the context of HIV and other bloodborne viruses. This is inconsistent with the State and National HIV Strategies, which are recognised globally as being at the forefront of the HIV response. As such, NSW and Australia have seen an impressive reduction in new HIV notifications. That is directly contrary to the better part of four decades of public policy. I will not read the balance of the submission from the AFAO but I will deal with some of the other detailed submissions to the inquiry. The Australian Medical Association [AMO], which knows a bit about public health, stated that the calls for a mandatory disease testing scheme exaggerated fears and misunderstandings about the prevalence and the transmission risk of HIV and hepatitis B and C. It said that all three diseases had a relatively low prevalence in the community. I will give the House an idea of that prevalence. In relation to HIV the committee received evidence that:

- community prevalence of HIV in Australia is 0.14 per cent, with 80 per cent of those with HIV having a suppressed viral load due to treatment, meaning they pose a 'virtually 0 per cent' risk of transmission
- HIV is not easily transmitted, and is not transmitted through saliva, whether or not it contains blood
- there have been no published cases of HIV transmission in Australia through spitting or biting, and no cases of occupational transmission since 2002.

Evidence relating to hepatitis B and C stated:

- community prevalence is low, with estimated prevalence of Hepatitis B at 1 per cent and Hepatitis C at 0.6 per cent of the New South Wales population
- neither Hepatitis B nor C can be transmitted through saliva
- Hepatitis C generally requires a large exposure to blood for transmission, with no infections reported with mucous membrane or intake skin exposure
- a vaccine for Hepatitis B has been available since 1986 and since 2000, New South Wales has had a comprehensive infant vaccination program
- police officers and paramedics in NSW are required to have a Hepatitis B vaccination on recruitment, making chance of transmission very low
- there is no vaccine for Hepatitis C, but there has been a cure available since 2016, which is successful in 95-98 per cent of cases, and takes 8 to 12 weeks. This has led to decreased prevalence of Hepatitis C.

In short, the Australian Medical Association states:

The risk of exposure of a bloodborne virus can be calculated by multiplying the risk of transmission with the likelihood of a source having a bloodborne virus. Both of these probabilities are low in the scenarios police and emergency services personnel face.

There is almost no risk of transmission, yet the Government and the Opposition have put that forward as a key health risk for frontline workers, but if we follow the evidence that is simply not true. When it comes to whether the bill will be useful in dealing with the actual risk of a bloodborne virus and the medical treatment, the Australian Medical Association notes:

Post-exposure prophylaxis for HIV must commence within 72 hours of exposure, continuing for 28 days. As such, the course of post-exposure prophylaxis would be close to finished by the time a third party's blood results were known, under the procedures outlined in this bill.

Treatment would not change. Further, President of the Australasian Society for HIV, Viral Hepatitis and Sexual Health Medicine Dr Nicholas Medland noted that a decision to put a patient on post-exposure prophylaxis is based on exposure risks. In medical care for the potentially exposed worker, perhaps the most senior public health officer dealing with this, Executive Director of the COVID-19 Response, Population and Public Health, Dr Michelle Cretikos, stated:

In all cases of occupational exposure to bodily fluids, it is important that the affected worker has rapid access to an appropriate health professional with experience managing bloodborne viruses, in order for a risk assessment to be conducted and appropriate management immediately commenced.

That is someone who knows their stuff; not the governor at the prison or the superintendent at the police station. Dr Cretikos continued:

A first step would be to determine whether there was, in fact, a risk of transmission based on the type of injury, body fluid, and a range of risk factors that may or may not be known about the source, with judgement about this being made by an appropriately trained and experienced practitioner ...

There are many circumstances involving bodily fluid exposure where there is no risk of transmission, meaning no further action would be required (such as testing the source patient, or behaviour change on the part of the affected worker) ...

Dr Cretikos further stated:

Knowing the virus status of the source may not affect the immediate management of the exposed person.

In most cases it would not change it. When it comes to providing comfort to workers, the most senior public health official dealing with this stated:

In all cases of occupational exposure to bodily fluids, it is important that the affected worker has rapid access to an appropriate health professional with experience in managing bloodborne viruses, in order for a careful risk assessment to be conducted and appropriate management immediately instituted.

It is NSW Health's experience that early access to an appropriately skilled and experienced practitioner is important not only for managing the risk but also to alleviate the anxiety of those affected.

The approach from the Police Association of NSW was to put out a media release, talk up catastrophe and say "go and get a blood test" from the person who in 99 per cent of cases is likely to have spat at somebody. That only leads to further uninformed, non-evidence-based agitation and concern for the police officer who was spat at. For the record, that is an appalling thing to do to any frontline worker. That, in most cases—in almost all cases—is a crime. But that crime is not lessened and the harm is not minimised by then, without any evidence and for a political purpose, making the police officer, the ambulance officer, the frontline health worker extremely agitated about the risk of getting a bloodborne virus and getting them to agitate to have somebody's blood taken for a mandatory test when there is no evidence—none at all—that the disease could have been transmitted. That does not help the frontline worker, it does not help the health system and it seriously infringes a third party's rights.

What we do know—and we heard this from the Australasian Society of HIV, Viral Hepatitis and Sexual Health Medicine, the Australian Services Union and all of the key stakeholders who came and saw us—is that the impact of this bill will be felt most by marginalised groups. Think of First Nations inmates in jail, 16-year-old Aboriginal boys in juvenile detention, members of the LGBTIQ+ community who are already marginalised in their interactions with the police; they will be the ones who will be copping this. The Coalition Government and the Labor Opposition know that the impact will be felt by those already over-policed and marginalised groups. They are quite comfortable with passing the bill because they do not think it will affect their view of middle Australia and the voters they think they need to persuade in a State election. It is a shameful betrayal of those groups.

The Greens will oppose this bill. We will deal with yet more unintended consequences of the bill in a detailed consideration of it at the Committee stage, where we will move a series of evidence-based amendments. We will speak to Labor's attempts to amend and we will continue to oppose this bill. Even if it passes we, together with all those other groups, will campaign to remove it from the statute book.

The Hon. ROD ROBERTS (21:01): On behalf of One Nation I lend our support to the Mandatory Disease Testing Bill 2020, which is needed and long overdue. Members will remember that on 21 November 2019 I gave notice to introduce a similar bill—item No. 415 on the current *Notice Paper*, for the information of those who are interested. However, the Government shortly after indicated that it would bring forward a bill that mirrored mine and here we are today. This bill introduces a process whereby a person can be ordered to provide a blood sample for the purpose of testing if that person's bodily fluid has come into contact with an emergency service worker. This contact must be deliberate—and I emphasise that it must be deliberate. I repeat: It must be not accidental, but the result of a deliberate action.

The men and women of our NSW Police Force and ambulance service, correctional workers and healthcare workers are often involved in confronting and violent situations as a direct result of the job that they are doing. What is that job? That job is protecting the community and protecting the health and safety of others. They do this on our behalf. They operate on behalf of the community and the community is under an obligation to ensure that they are provided with the safest work conditions possible. During the course of their duties there are times when those workers will be exposed to the bodily fluids of others. With this exposure comes the risk of transmission of bloodborne diseases, such as hepatitis B, hepatitis C and HIV.

Those diseases may have window periods of three to six months during which the disease is present in the body. This leads to long periods of uncertainty for the worker until it can be confirmed whether or not transmission has occurred. Mr Deputy President, imagine yourself in their position: covered in blood, or saliva, or faeces, or urine. That does happen; we heard evidence of it. We are not just talking about spitting on somebody. Imagine the stress and anxiety this would cause you—not only you but also your family. Imagine not being able to hug

and kiss your children, breastfeed your baby, or have unprotected sex with your partner. The effects on your everyday life are profound.

I have left a document on the One Nation bench; it is there for members to peruse, if they wish to. It was issued by NSW Health, the lead organisation for the State on matters relating to health. Its identification number is PD2017_010 and it was issued in May 2017. The title is *HIV, Hepatitis B and Hepatitis C – Management of Health Care Workers Potentially Exposed*. On page 5, under the heading "Risk assessment of the source patient", the document stated that the source patient is to be tested as soon as practicable. On page 9, under the heading "Advice for the exposed health care worker during follow up period", the same document stated:

During the follow up period the exposed HCW should be advised:

- Not to donate plasma, blood, body tissue, breast milk or sperm
- To protect sexual partners by adopting safe sexual practices (use of condoms)
- To seek expert medical advice regarding pregnancy and/or breastfeeding

Why is this information in a health directive? Because the health department knows that it is possible for those bloodborne diseases to be transmitted to their workers. This is not rhetoric or fantasy; it is in NSW Health's own document. The possibility of transmission is real and alive. It is not the posturing or musings of certain union bodies and organisations. No worker, no matter their profession, should be subjected to this. Every day in this Chamber mental health issues are raised, and today was yet another day. Imagine the mental health issues, anguish and uncertainty that this causes. As a society, we owe it to those who protect us to protect them. The bill seeks to address those concerns by mandating orders to require a third party who has deliberately—I emphasise the word "deliberately"—caused their bodily fluids to come into contact with prescribed workers to provide a blood sample for testing for the bloodborne diseases of HIV and hepatitis. The testing will provide certainty to those workers one way or another. It will determine and assist in the treatment phase. It will certainly have an impact on lifestyle issues.

I have heard concerns from numerous persons that the bill is a form of punishment; it is not. It provides a mechanism that is not present at the moment, to facilitate the obtaining of a blood sample for medical purposes to assist in the diagnosis and the treatment protocol for workers who may have been infected. It does not provide for a new category of assault, for example. I have also heard concerns that this will discriminate against members of the LGBTIQ community. I have read the bill numerous times; nowhere does it mention a person's sexuality. A person's sexual preference is not relevant to the bill. It is my belief, obtained through my personal experience, that the overwhelming majority of the LGBTIQ community are law-abiding citizens who go about their business like everyone else—and they should rightly be able to do so.

In other words, members of the LGBTIQ community do not go around assaulting emergency service workers and deliberately transferring their bodily fluids onto them. The bill would come into play only if those persons were to assault and deliberately transfer bodily fluids onto the workers prescribed in the bill. It needs to be pointed out and noted that the same provisions of the bill apply equally to members of the heterosexual community. The bill does not discriminate against particular individuals or groups in society; to do so would be morally wrong and something this Parliament should not and would not support. In that regard both the Police Association of NSW and the Public Service Association of NSW made submissions and gave evidence to the Standing Committee on Law and Justice when it examined the bill.

Those two bodies represent a large and diverse workforce. Both of those unions have members who identify as being in the LGBTIQ cohort. At no stage did those unions indicate that their LGBTIQ members had any issues with the bill. They do not. Why? Because they know that the bill targets those who commit disgusting criminal acts, no matter their sexual identity, and not innocent members of the LGBTIQ community. There is simply no evidence to support the suggestion that members of the LGBTIQ community go around with the intention of deliberately applying bodily fluids to emergency workers. The bill applies equally to all. It should be remembered that provisions in the Traffic Act already provide for the mandatory taking of blood from people involved in motor vehicle collisions. I am yet to see any evidence that suggests those provisions target only members of the LGBTIQ community.

I have heard opponents of the bill state that it impinges on the right of individuals to privacy and the integrity of their own selves. Perhaps they should consider that before they unlawfully assault and transfer their bodily fluids to others. While we are at it, what about the right to bodily integrity of the worker? They did not ask to be spat on or to have faeces thrown at them, urine tipped over them or someone else's blood introduced into their body. As a member of the Standing Committee on Law and Justice I had the opportunity to read all the submissions, hear the evidence from relevant stakeholders and examine the bill closely. In that regard I will be moving a couple of amendments at the Committee stage. My amendments do not alter the intention of the bill but

merely add to the integrity of it and may go some way towards appeasing some stakeholder concerns. I look forward to discussing them further at the Committee stage.

The Hon. EMMA HURST (21:11): On behalf of the Animal Justice Party, I strongly oppose the Mandatory Disease Testing Bill 2020. It is a dangerous bill, which has been poorly thought out by the Government and which will cause harm to vulnerable groups and frontline workers. The bill purports to establish a mandatory disease testing scheme to assist frontline workers exposed to a risk of transmission of a bloodborne virus in the course of their duties. However, in an upper House inquiry a majority of stakeholders, including peak health bodies representing frontline health workers, stated that they were opposed to the bill. They were opposed for a number of reasons.

They argued that, contrary to the Government's view, mandatory disease testing is unlikely to provide any real assistance to frontline workers. For example, the Australian Medical Association pointed out that in the rare circumstances where there is a risk that a bloodborne virus has been transmitted, knowing the test result of the third party would not change the medical treatment given to the frontline worker, particularly in the early stages following exposure. On the other hand, the health bodies had serious concerns about the new risk the bill could create for frontline workers—in particular, the physical and ethical risks to health workers who may be asked to take blood where force is used, as contemplated by the bill.

Perhaps of most concern, the bill perpetuates outdated fears and stereotypes about the transmission of diseases such as HIV, hepatitis B and hepatitis C, and may create additional stigma and discrimination towards people in the community who are affected by these diseases. Of particular concern is the Government's inclusion of fluids such as saliva in the bill, even though they do not carry any risk of transmitting those specific diseases. I will speak more about my concerns with the bill in the Committee of the Whole. I will be moving an amendment and also supporting other amendments moved by Labor and the crossbench, which I believe will lessen some of the harmful consequences of the bill. It is a dangerous bill and the Animal Justice Party believes it should not be supported.

The Hon. MARK PEARSON (21:13): I make a brief contribution to the debate on the Mandatory Disease Testing Bill 2020. For about 24 years I worked on the front line of acute adult psychiatry and with a lot of other frontline workers, including ambulance, police, and psychiatric staff at the admission unit. I think when one chooses to work as a frontline worker or in the prison system or as a police officer, it has to be accepted that there is the possibility of being assaulted—including in a way that possibly could cause infection, whether it be by an injection of blood or whether it be holding people down, trying to take their blood or inject them against their will. The chance of harm in that process is far higher than the chance in the other circumstances at the centre of concern in the bill.

The other issue is that it is misleading. Saliva, which does not contain any blood part or plasma part, does not carry the infection. That aspect in the bill is based on absolute nonsense. It is not supported medically or scientifically. So it raises the question: Is this part of a punishment? "When all of the evidence points to the fact that that provision specifically should be removed, no, we're going to keep it in there." To me that flags that one of the intentions of the bill is to punish these people. Such events are part of the job. You then get a test and treat yourself as if you have contracted HIV or other diseases, because that is what you have to do as a frontline worker. None of the frontline workers are supporting the compulsory holding down of anyone and the taking of fluids, blood particularly, from anyone, whether the person be in prison or in a psychiatric admission unit or be psychotic due to crystal methamphetamine and attack or bite a paramedic.

All of those things are terribly unfortunate, but they are part of being a frontline worker. To then take the blood from a person and say to the frontline worker after one test that the person is not positive is misleading, because there are a lot of false negatives and quite often HIV or other infections are not picked up with just one test. So the whole bill is flawed. It has a nasty, punitive tone and theme to it, which I thought we would have said goodbye to a long time ago, when we closed down the Grim Reaper.

The Hon. SHAYNE MALLARD (21:16): I speak in debate on the Mandatory Disease Testing Bill 2020 with a great deal of anxiety. I express my concerns with the bill and indicate some positions I might take regarding the bill. I come to this debate today after having spent more than two months in the party room, the subsequent inquiry and, indeed, our party room yesterday, expressing my concerns around some aspects of the bill. I come to this from quite a personal perspective. I spent half of the 1990s on the board of the AIDS Council of New South Wales [ACON]. Mr David Shoebridge referred to the Australian Federation of AIDS Organisations [AFAO] before. I was the vice-president of the AFAO for nearly two years.

We spent the nineties dismantling and fighting ignorance, prejudice and discrimination against not just the gay community but also users of intravenous drugs and others who had exposure to bloodborne viruses, particularly HIV but also hepatitis B and C. For me that work was some of the most important work I did as a

community activist. I continued that work and that representation right through to this place. Members may recall that a few months ago we debated a motion on *Fighting for Our Lives*, the book about the first 10 years of ACON. The House unanimously congratulated ACON on the work it has done in fighting HIV in Australia. So I come to the bill with that background. I was pleased that the bill was referred to an inquiry by the Standing Committee on Law and Justice, of which I was a member. In fact, I was substituted in for the deliberative on behalf of the Hon. Trevor Khan, who was preoccupied with other matters of the House at the time.

Mr David Shoebridge: He was a bit busy, I think.

The Hon. SHAYNE MALLARD: He was a bit busy, was he not? The inquiry's report was tabled on 17 February 2021. I will not associate myself with the critical comments of Mr David Shoebridge, as the evidence that was received and the arguments that were made have already been put on the record by the Hon. John Graham. During the inquiry not one health professional gave evidence that the measures outlined in the bill were needed. The overwhelming view of health professionals was that it was unnecessary in the current HIV and hepatitis climate of treatments.

The Mandatory Disease Testing Bill 2020 was introduced in response to the rising trend in assaults and violent incidents towards police, Corrective Services officers and other frontline workers. The statistics about that concerning increase were highlighted by the Hon. John Graham in his contribution. As outlined in the inquiry's report, this is not about people not being concerned about the safety of frontline workers. I cannot speak on behalf of all members, but I am confident that the majority are concerned for the wellbeing and welfare of the State's frontline workers. This bill represents a retrograde step in light of the work that has been done in the community with regard to the medical approach to HIV and awareness of bloodborne diseases.

The unions representing the police and Corrective Services workers have called for mandatory disease testing as a way to provide comfort to exposed workers, as the Hon. Rod Roberts explained graphically in his contribution to the debate. The inquiry heard that that comfort was more about psychological than medical support. The committee heard evidence that the medical treatments, by and large, will not change as a result of the bill. However, the medical and legal professions raised questions about whether a disease testing scheme is necessary at all. The report stated:

This inquiry heard that risk of transmission of a bloodborne virus is low or non-existent in most situations faced by police and emergency workers, and that existing medical protocols following an incident would not be altered by knowledge of the third party's blood test result.

The inquiry received 28 submissions from organisations including Family Planning NSW, the Australian Federation of AIDS Organisations, Hepatitis NSW, Positive Life NSW, the HIV/AIDS Legal Centre, ACON, the Australian Medical Association, the New South Wales Bar Association, the NSW Gay and Lesbian Rights Lobby, the National Aboriginal Community Controlled Health Organisation, as well as a range of academics and health professionals. Its report referred to the origins of the mandatory testing scheme idea, which came from the Police Association of NSW during the 2016 inquiry of the Legislative Assembly Committee on Law and Safety into violence against frontline workers. In its 2017 report it recommended:

That the NSW Government consider introducing legislation to allow mandatory disease testing of people whose bodily fluids come into contact with police and emergency services personnel, in consultation with all affected stakeholders.

However, that recommendation is accompanied by the following finding:

Under any legislative scheme, the power to conduct mandatory testing should only be able to be enlivened in circumstances where there is a risk of transmission of listed diseases. The legislation should clearly define the factual circumstances in which there is a risk of transmission of listed disease and this definition should be based on up to date medical evidence.

That is where the testing scheme proposed in the bill is derived from, and it has been sitting on the statute book for some time. Despite the fact that we are supposed to be on a unity ticket when it comes to relieving the stress of frontline workers, in 2020 the Labor Opposition leader announced that her party would introduce legislation on mandatory disease testing. The Government responded to that announcement with this bill.

Whilst accepting that this bill has a role in assisting frontline workers dealing with the stress of exposure—I and I have given it deep thought—I still have concerns about it. Fundamentally, the decision to compulsorily extract blood should be made only where medical circumstances are clear and have established a risk of infection. It should be based on how our whole approach to HIV and hepatitis has been. We heard the HIV/AIDS Strategy referred to before and that Dr Blewett, Chris Puplick and others were involved in that from day one. The national HIV/AIDS Strategy and the Hepatitis C Strategy have been based on medical evidence. We have put huge faith on the medical evidence from our professionals in regard to COVID and our response to COVID has been driven by medical responses, sometimes with much criticism of the Government for not relaxing the economy earlier. The principle that medical science should drive all of this is very strong to me and is certainly behind the work I have done in the past.

In our inquiry we heard how the Victorian bill operates and that the consent authority for compulsory blood tests in the Victorian bill is the Chief Health Officer of Victoria. In my view, having the Chief Health Officer as the consent authority—and we give her tremendous backing at the moment—is a medical science safety net that I know the community stakeholders that we have engaged with, including the AIDS Council of NSW [ACON] and others would accept as a safety net in this legislation. There is no reflection upon a prison governor or a police inspector, but the reality is that they will be under a lot of pressure to approve the testing in the context of their work environment and that it is a medical decision where a medical professional needs to have evidence of the likelihood of an infection.

We heard from other speakers in the debate about the low risk of infection. I note that there is an amendment from you, Mr Deputy President—and I believe Alex Greenwich from the other place has been involved in this—that involves developing practice notes or guidelines from the Chief Health Officer to guide police and prison officers and governors when approving the testing. When an officer is exposed, as you graphically described, Mr Deputy President, a medical practitioner is engaged in the workplace or privately straightaway in that circumstance and the medical practitioner will make an assessment straightaway if there is a slight chance of exposure to—more likely, in this day and age—hepatitis, because HIV is very hard to catch and, as we heard, 80 per cent of the HIV positive population now is on combined therapies, which make the viral load undetectable.

In fact, you cannot catch HIV from a person on combined therapies—we are in a miraculous time. Also, active gay men and men who have sex with men are on a program of pre-exposure prophylaxis [PrEP], which is a blocker for HIV and the rates of HIV are declining dramatically in our community, thank God—not in the developing world but certainly in Australia. I congratulate organisations like ACON and particularly people like Jillian Skinner, who drove that as the health Minister in this Government in a bipartisan way with the objective of eradicating HIV.

In my view, the arguments for this legislation have unintended consequences. It never crossed my mind, nor the minds of the people I spoke to about this—and I heard what you said, Mr Deputy President, in your contribution to the debate—that the legislation is targeting gay men or LGBTIQI people. It is about dismantling or challenging what we spent 30 years strengthening and dealing with through this legislation. It sends a message to frontline workers that HIV is prevalent and that they should be fearful of HIV, and it sends a message to the community that HIV is still out there.

The Hon. Mark Pearson referred to the Grim Reaper campaign, which was lauded at the time because it brought awareness to HIV. But it stigmatised the male gay community to the point where people lost their jobs, were thrown out of housing, were not allowed to work in restaurants and were rejected from their families. People who had HIV kept it secret from their family and friends. They died and people said it was cancer. That is where ACON and I are coming from. It is not that we think somebody is going to go to Oxford Street and target gays. That is not the issue for us at all.

We heard about the prevalence of risk, but it is important to put it on the record one more time. We heard evidence that community prevalence of HIV in Australia is 0.14 per cent, with 80 per cent of people having a suppressed viral load due to modern treatments, meaning they pose virtually a 0 per cent chance of transmission. HIV is not easily transmitted. It is not transmitted through saliva, whether or not it contains blood. I supported the amendment to remove that from the committee report, but that was unsuccessful. There has been no published cases of HIV transmission in Australia through spitting or biting and no cases of occupational transmission since 2002.

There is a lot of prejudice against people with hepatitis. I was involved with the hepatitis council as well. Community prevalence of hepatitis B and C is low, with an estimated prevalence of hepatitis B at 1 per cent and hepatitis C at 0.6 per cent. Neither hepatitis B nor C can be transmitted through saliva. Hepatitis C generally requires a large exposure to blood for transmission and no infections have been reported from mucous membrane or intact skin exposure. Both of those bloodborne viruses are treatable, are not fatal anymore and, frankly, are very hard to acquire.

I turn to the medical response to an incident of an assault that may have involved blood. As I said, a doctor or a qualified person will make an assessment of the chance of infection and they will err on the side of caution. We heard that evidence and we know it is a fact. If there is a likelihood that a person might have been exposed, the doctor will put them straight onto post-exposure prophylaxis [PEP] for HIV and also for hepatitis C. We heard evidence in the inquiry that all frontline workers whom this legislation is supporting are required to have a hepatitis B and C vaccine. That in itself means that hepatitis B and C is not a significant issue for frontline workers if they are up to date with their vaccines and boosters.

The prevalence of HIV is very much diminished in the community. A doctor will put a person who may have been exposed to on PEP for both of those diseases and over the next three or four weeks the test will come back showing whether the person who is alleged to have committed the assault has a bloodborne virus. I acknowledge that if the test comes back clear it is a great relief for the worker. But we heard evidence that other things could also be done, like providing better psychological support for workers. From what we heard, it appears that they are just being told, "Go home, don't kiss your wife, and go to the doctor." Workers certainly need stronger psychological support. We heard evidence that prison officers have a high rate of workers compensation claims for assaults. We heard good evidence about other approaches.

The bottom line is that I would be keen to see the Chief Health Officer be the default authority to approve this. The community would accept that as a basic safety net in this legislation. I support the reference to give the Ombudsman some oversight. That will give us some confidence that we can look at this bill in the future, but I know that once laws are passed and on the books they are rarely visited again. For that reason, I am attracted to the Labor amendment, which is a convoluted way to get the Chief Health Officer involved. In the legislation the Chief Health Officer is the person to appeal to against compulsory blood extraction.

But at the moment the draft legislation says the police or medical people take the blood pending the appeal. It counteracts the idea that the Chief Health Officer would be able to make that medical assessment, as they do in Victoria. That does interest me in that regard. I know Mr David Shoebridge has a number of amendments. I fought my battle in the committee process and did not win. I got one thing in there—which was referred to at least—which was the success of the prison program. I was pleased to have that included because that was a pat on the back for the Government.

Mr David Shoebridge: That was mine.

The Hon. SHAYNE MALLARD: Yes, I supported it. I acknowledge that it is Mr David Shoebridge's amendment, but I support it. That program should be expanded in prisons to eliminate hepatitis, particularly because of its prevalence in Indigenous and First Nations people. The mortality rate is very serious and we need to deal with it. I flag those concerns. My colleagues know about those concerns, which come from many years of genuine work in this area. We all represent different communities. One of the communities that I represent, the gay and lesbian community and also the organisations and institutions around it, are very concerned about this legislation being retrograde. They are not casting aspersions to pile onto frontline workers; they want to support frontline workers. They have all said that. They just feel that there could have been a better way to deal with this issue. The Chief Health Officer would go a long way towards resolving those concerns.

The Hon. PENNY SHARPE (21:36): I make a short contribution to debate on the Mandatory Disease Testing Bill 2020. I note from the outset that Labor will be supporting the bill. I make the following points and I commend those who have gone into some detail on the issues that were raised in the report because they are very serious. For the past 18 months the world has been in the grip of a pandemic that has infected over 159 million people. Some 3.3 million people have died. Today in India over 4,000 people will die of COVID. In Australia there have been 29,931 cases and 910 Australians have died. For the past 18 months, Australia has been one of the best-performing nations in the world when it comes to keeping our community safe. We have been able to achieve this because the community and our political leaders have been willing to follow the science and the expert medical advice.

We have had conversations about the need to socially distance, wash our hands, wear masks and get tested at the slightest cough. We have agreed to stay home and give up many freedoms. Who would have thought in just 18 months we would no longer shake hands? The community has undergone a population-wide education campaign and together we have achieved what so many other nations are struggling to get under control. We have adopted a scientific approach to a deadly virus that has made us one of the safest nations in the world. Part of our world-leading health response was a result of the lessons learned in another world-leading health response for which Australia has been globally recognised. That is, of course, our response to the HIV/AIDS crisis.

The first case of HIV was recorded in 1981. The first case in Australia was in 1982, just 39 years ago. Since that time, over 76 million people have been infected and 22 million people have died worldwide. Yet Australia, and New South Wales in particular, has been recognised as having the best response in the world. The Australian and New South Wales response involved a genuine partnership between government, health workers, researchers and affected communities. Those affected communities were not particularly popular with the general, mainstream population. They were gay men, sex workers and injecting drug users. Between 1982 and 2010, 6,776 people died of AIDS. I knew some of them. The death toll is now 7,000, but it has decreased markedly. We have a handful of deaths, if any at all. We are actually on the verge of ending HIV in this State.

The death toll was huge, but it could have been so much worse. That is because Australia chose to follow the science and work with the community. We chose education, we chose community to lead the response, we

supported brave and direct peer education, and we were prepared to invest in harm-reduction measures, including controversial measures like needle and syringe programs. If we were standing here tonight, 30 years later, having that debate I worry we would not get the needle and syringe programs up. Our health systems invested in prevention. In New South Wales we reformed our laws to remove stigma and advance equality for LGBTI people and their families. In relation to hepatitis B and C, there has been amazing success. Hepatitis B can be and is managed via vaccination of frontline workers and new treatments are virtually eliminating hepatitis C in many of our prisons. That is an extraordinary result that we do not take enough time to celebrate or reflect upon.

My great concern about the bill is it is a major departure from that approach. The bill seeks, rightly, to protect our frontline workers—and there is no-one in this House who thinks it is okay to spit on an ambulance officer or to punch a police officer, to threaten them with a syringe, to cut themselves and rub blood on them or to spit at them. Nobody thinks that is acceptable. In fact, it is disgraceful. Those people get up every day and work very hard for our community. The real difference is, if we are going to take this really important step, is it going to make a difference to the workers on the front line? The real issue I have with this bill is that it will not. It might provide some psychological comfort but it does not change the risk to workers who have these disgusting things happen to them. It does not change the regimes they have to follow.

Even if they force someone to be tested, it does not change whether people have to take pre-exposure prophylaxis or whether they have to take drugs to deal with hepatitis C because the science tells us that the windows for infection and detection are longer than 24 hours. That is the point I make tonight. We are going to make these changes and I think it is really disappointing. There are some important amendments to the bill that I encourage members to consider. We have had bipartisanship in this area for a very long time, and I thought we could do better.

The Hon. SCOTT FARLOW (21:41): On behalf of the Hon. Damien Tudehope: In reply: I thank all members who contributed to debate on this important Mandatory Disease Testing Bill 2020—the Hon. John Graham, Reverend the Hon. Fred Nile, Mr David Shoebridge, the Hon. Rod Roberts, the Hon. Emma Hurst, the Hon. Mark Pearson, the Hon. Shayne Mallard and the Hon. Penny Sharpe. I also thank everyone in the Chamber for their support of frontline workers. Whilst there may be different views on the bill—and particularly the amendments that are to follow—I know everyone in this place supports our workers and does not condone violence against them. Notwithstanding that support for workers, we need to back it up with tangible action and legislation so they can go into dangerous situations knowing the community has their backs if things go wrong.

We already see that New South Wales lags behind by not having a mandatory disease testing scheme in place, unlike the States of Queensland, South Australia, Victoria and Western Australia, and also the Northern Territory. The bill sends an important message to our police, emergency and health workers that we support and value them in practice, not just in rhetoric. As noted by the police Minister in the Legislative Assembly, passing this bill is a tangible show of support for the messy reality that our frontline workers face—whether they be in police, corrections, emergency services or, of course, health care, and in relation to which we heard firsthand from the Hon. Rod Roberts, who has worked as a police officer. A workplace injury can be physically painful, emotionally distressing and disempowering. Imagine if it also carried with it the risk of a chronic disease, plus the risk of passing that on to one's spouse, partner or a loved one.

The bill helps workers in that situation who have been potentially exposed to a relevant disease—which I will outline—through the deliberate actions of a third party whilst the workers were performing their duties. Both the Opposition and The Greens have proposed that the decision—and we will debate this further at the In Committee stage—to grant a mandatory testing order be stayed while the order is being reviewed by the Chief Health Officer or, under The Greens model, the Local Court. The time frames in the bill have been developed to balance the need for affected workers to obtain all relevant information as soon as possible and to keep things moving, whilst providing third parties with an opportunity to make submissions to the senior officer and to seek a review of a decision to impose a mandatory testing order.

In particular, proposed section 23 (1) expressly provides that if an application for review of an order is made the order continues to have effect and the third party must attend for testing. This is important to ensure that if an order is upheld the process of sampling and analysing is not further delayed by any review. Clause 23 (2) provides that clause 21, regarding the provision of results, does not apply until the Chief Health Officer determines the application for review. In this way, reviews are provided for whilst minimising delay. It must be remembered that at its heart this scheme is about frontline workers who already have the most agonising of waits to find out whether they have been exposed to a bloodborne virus. Imagine that for them every minute feels like an hour and every hour feels like a day. We owe it to them to provide as seamless a process as possible whilst still preserving the ability for third parties to seek a review. That is why the Government has taken the approach it has to clause 23.

The bill was developed based on input from a range of stakeholders over many years. Those stakeholders also had the opportunity to comment on the bill in the standing committee's recent inquiry—the Deputy President

and I took part in that committee inquiry. The report noted the views of all stakeholders, which have been referred to in this House, but did not make a recommendation to this House. It is for the House's consideration. Ultimately, however, the Government needs to balance the rights and interests of those in the community as well as those who serve the community. The bill, which has fully considered all the various views, reflects the balance by providing for mandatory testing if justified in all the circumstances following medical consultations and, of course, with reference to medical guidelines.

With respect to the points the Hon. John Graham raised in relation to data and evidence, I can inform the House that in 2021 to date 255 incidents have been recorded—59 of those incidents refer to bites and harm, and 18 incidents refer to needlestick injuries. Any mandatory disease testing application will be captured by the Ombudsman. I now turn to the Ombudsman's guidelines and guidance of deliberate action. The Hon. John Graham ventilated about some of the ambiguity referred to in the report in relation to the Ombudsman. The term "deliberate" is used to ensure that involuntary exposures are not captured. The Government also does not want the scheme to be so limited as to only be enlivened when a third party's conduct might constitute a criminal offence, such as when a third party is charged for assault as a result of their actions. Police officers will often exercise their discretion and not charge someone with assault even if a third party's deliberate actions have caused an injury or exposed the officer to bodily fluids. The term "deliberate" strikes a balance between excluding accidental exposures, while enabling the scheme to be enlivened without a corresponding criminal charge.

With respect to provisions for vulnerable third parties and minors, I note particularly that they will be dealt with by the Children's Court and that health guidelines for mandatory disease testing orders will be prepared in consultation between the Chief Health Officer and senior delegates from operational agencies. Many of the points raised by Mr David Shoebridge were ventilated against the Opposition. We take his opposition to the Government largely as a given—which is why some Opposition members call him the "real Leader of the Opposition". Mr David Shoebridge's comments gave no consideration to the psychological impacts and effects on frontline workers. Those were things—the Hon. Rod Roberts also raised those things in his contribution—that were heavily ventilated by both the Police Association of NSW and the PSA in helping to develop the bill and in their contributions to the Standing Committee on Law and Justice inquiry.

Health guidelines have been developed by the Chief Health Officer and senior heads of agencies—as I discussed with respect to the Hon. John Graham's points. The police have always acknowledged the low risk of transmission. It is about providing—as Deputy Commissioner Lanyon noted at the inquiry—timely and clear advice to frontline workers to particularly address psychological and welfare concerns. The evidence that was heard from both the PSA and the Police Association of NSW, particularly with respect to those cases, showed that we cannot be sure that saliva does not include blood. We also heard that in the comments ventilated by the Hon. Rod Roberts in his contribution to the House.

I acknowledge the incredible work done by the NSW Police Force on the bill, particularly Commissioner Mick Fuller, Deputy Commissioner Mal Lanyon, Nicole Miller, Jane Holden, Phaedra Parkins and Sylvia Huynh. I also acknowledge the advocacy and work of the Police Association of NSW, particularly Tony King and Tony Bear, and the representations of Public Service Association General Secretary Stewart Little, although I note Mr David Shoebridge's comments that they do not represent all members of the PSA in that regard. Lastly, I note the strong commitment of the police Minister, David Elliott, and his office in negotiating and leading the policy development of the bill. I particularly acknowledge the contributions of his chief of staff, Tanya Raffoul, and his deputy chief of staff, Rommel Varghese. I commend the bill to the House. We will have more to say at the Committee stage.

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

The House divided.

Ayes35
 Noes5
 Majority.....30

AYES

Amato	Harwin	Nile
Banasiak	Houssos	Poulos
Borsak	Jackson	Primrose
Buttigieg	Khan	Roberts
Cusack	Latham	Searle
D'Adam	Maclaren-Jones (teller)	Secord
Donnelly	Mallard	Sharpe
Fang	Martin	Taylor

AYES

Farlow
Farraway (teller)
Franklin
Graham

Mitchell
Mookhey
Moriarty
Moselmane

Tudehope
Veitch
Ward

NOES

Boyd
Faehrmann

Hurst (teller)
Pearson

Shoebridge (teller)

Motion agreed to.

The PRESIDENT: According to sessional orders, proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

The House continued to sit.**In Committee**

The CHAIR (The Hon. Trevor Khan): Is leave granted for the Committee to deal with the bill as a whole?

Leave not granted.

The CHAIR (The Hon. Trevor Khan): While we adjust ourselves to those circumstances, I observe that I have the following amendments: Opposition amendments appearing on sheet c2021-016D, The Greens amendments appearing on sheet c2021-017D, Government amendments appearing on sheet c2021-025C, Animal Justice Party amendments appearing on sheet c2021-033A, and Pauline Hanson's One Nation amendments appearing on sheet c2021-027C.

The question is that clause 1 as read stand a clause of the bill.

The Committee divided.

Ayes35
Noes5
Majority.....30

AYES

Amato
Banasiak
Borsak
Buttigieg
Cusack
D'Adam
Donnelly
Fang
Farlow
Farraway (teller)
Franklin
Graham

Harwin
Houssos
Jackson
Latham
Maclaren-Jones (teller)
Mallard
Martin
Mason-Cox
Mitchell
Mookhey
Moriarty
Moselmane

Nile
Poulos
Primrose
Roberts
Searle
Secord
Sharpe
Taylor
Tudehope
Veitch
Ward

NOES

Boyd
Faehrmann

Hurst (teller)
Pearson

Shoebridge (teller)

Clause 1 as read agreed to.

The CHAIR (The Hon. Trevor Khan): We will now move on to clause 2, subclause 1.

The Hon. SCOTT FARLOW (22:18): I move Government amendment No. 1 on sheet c2021-025C:

No. 1 Commencement

Page 2, proposed section 2 (1), lines 6 and 7. Omit ", except as provided by subsection (2)". The Government proposes this minor technical amendment to update the bill to reflect the commencement of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 on 27 March 2021. The Act repealed and replaced the Mental Health (Forensic Provisions) Act 1990. Clause 2 (2) was included in the bill so that if the Mandatory Disease Testing Bill commenced before the Mental Health and Cognitive Impairment Forensic Provisions Act the definition of "vulnerable third party" would be automatically updated to reflect the Mental Health and Cognitive Impairment Forensic Provisions Act once the Mental Health and Cognitive Impairment Forensic Provisions Act commenced. The Mental Health and Cognitive Impairment Forensic Provisions Act has now commenced, making clause 2 (2) of the bill redundant, which we will deal with subsequently.

The Hon. JOHN GRAHAM (22:19): I indicate at the outset that the Opposition supports the amendment. The Parliamentary Secretary has taken us through the history and the reason why the Government is advocating this amendment. The Opposition is satisfied with the case that the Government has made to the Chamber.

Mr DAVID SHOEBRIDGE (22:19): I am sorry to break up the kumbaya but The Greens oppose the amendment. We are always concerned when a bill proposes that all or part of it commence on proclamation. There have been multiple occasions where the Government has been given that leave, effectively a generous gift by the Parliament, to allow a bill to commence by proclamation and it has abused that leave by deferring, sometimes for a substantial time, 12 or 18 months, or in the case of the—

The Hon. Robert Borsak: Modern slavery.

Mr DAVID SHOEBRIDGE: —Modern Slavery Act even refusing to commence it. The definition of "vulnerable person" in the Mental Health and Cognitive Impairment Forensic Provisions Act 2020, which is obviously the issue at play in Government amendment No. 1, The Greens believe is important and should be required to be in the bill regardless of some ability of the Government to commence the legislation by proclamation at a later date. The Government has said this is just technical, not to worry about it, it is a non-substantive amendment. But when we are dealing with vulnerable people, as the bill proposes, and potentially ordering the taking of blood from vulnerable people without their consent, we should be sure that the definition of "vulnerable people" is the most robust that we can have. Therefore, the definition contained in the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 needs to be in the bill and cannot be vulnerable to the Government playing ducks and drakes by way of proclamation.

The bill creates a low trust environment. The suggestion is that we should be comfortable with the Minister and/or the Cabinet having this kind of power about proclamation. In a low trust environment we will not agree to amendments like this on the fly that are put forward with so little credible support and valid argument from the Parliamentary Secretary. I could not hear the basis upon which the Opposition supported it. It seemed to be that it just simply accepted the very flimsy arguments put forward by the Government. But The Greens do not accept them. As I said, it is a low trust environment. Because we believe that the definitions in the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 should and must be ingrained into this otherwise deeply offensive piece of legislation, we oppose the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Scott Farlow has moved Government amendment No. 1 on sheet c2020-025C. The question is that the amendment be agreed to.

The Committee divided.

Ayes35
Noes5
Majority.....30

AYES

Amato	Harwin	Nile
Banasiak	Houssos	Poulos
Borsak	Jackson	Primrose
Buttigieg	Latham	Roberts
Cusack	Maclaren-Jones (teller)	Searle
D'Adam	Mallard	Secord
Donnelly	Martin	Sharpe
Fang	Mason-Cox	Taylor
Farlow	Mitchell	Tudehope
Faraway (teller)	Mookhey	Veitch
Franklin	Moriarty	Ward

AYES

Graham

Moselmane

NOES

Boyd
FaehrmannHurst (teller)
Pearson

Shoebridge (teller)

Amendment agreed to.**The Hon. SCOTT FARLOW (22:34):** I move Government amendment No. 2 on sheet c2021-025C:**No. 2 Commencement**

Page 2, proposed section 2 (2), lines 8 and 9. Omit all words on those lines.

The Mental Health and Cognitive Impairment Forensic Provisions Act has now commenced, making clause 2 (2) of the bill redundant. The bill's dictionary defines "vulnerable third party" to include a person who is "suffering from a mental illness or mental condition, or is cognitively impaired". Those terms have a specific legislative meaning so they are defined by cross-reference to other relevant legislation. Prior to 27 March 2021 the relevant legislation that defined such persons was the Mental Health (Forensic Provisions) Act 1990. On 27 March 2021 that Act was repealed and replaced by the Mental Health and Cognitive Impairment Forensic Provisions Act 2020.

At the time of introducing the Mandatory Disease Testing Bill 2020, the relevant legislative cross-reference was to the Mental Health (Forensic Provisions) Act 1990. Schedule 2 to the bill provided that the cross-reference be automatically updated upon commencement of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020. At that stage the Mental Health and Cognitive Impairment Forensic Provisions Act had been assented to by Parliament but had not commenced. That Act commenced on 27 March 2021, which means there is no longer a need to commence schedule 2.2 to the bill separately; it can commence at the same time as clause 4 and the rest of the bill. Therefore the proposed amendment removes clause 2 (2). That amendment is minor but technically necessary to remove a now redundant subclause and to ensure that the definition of "vulnerable third party" remains correct and up to date. I urge the House to support the amendment.

Ms ABIGAIL BOYD (22:36): I will make a brief contribution to debate on the proposed Government amendment. I thank Mr David Shoebridge for his contribution to debate on the last amendment and for pointing out the inadequacies of the drafting not only in the original clause but also in the proposed amendment. It is worth looking at exactly what the amendment would do. At the moment schedule 2.2 to the bill talks about the definition of "vulnerable third party" and also about the "mental health impairment or cognitive impairment, within the meaning of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020". In a moment I will speak about the inadequacies of the drafting of the bill in relation to cross-referencing and the uncertainties around proclamations, but first I will go to the definitions in the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 because they are worth putting on record. The definition of "mental health impairment" can be found at section 4 of the Act, which, as the Parliamentary Secretary pointed out, was assented to in June last year but was not proclaimed until earlier this year. The definition states:

- (1) For the purposes of this Act, a *person has a mental health impairment* if—
 - (a) the person has a temporary or ongoing disturbance of thought, mood, volition, perception or memory, and
 - (b) the disturbance would be regarded as significant for clinical diagnostic purposes, and
 - (c) the disturbance impairs the emotional wellbeing, judgment or behaviour of the person.
- (2) A mental health impairment may arise from any of the following disorders but may also arise for other reasons—
 - (a) an anxiety disorder,
 - (b) an affective disorder, including clinical depression and bipolar disorder,
 - (c) a psychotic disorder,
 - (d) a substance induced mental disorder that is not temporary.
- (3) A person does not have a mental health impairment for the purposes of this Act if the person's impairment is caused solely by—
 - (a) the temporary effect of ingesting a substance, or
 - (b) a substance use disorder.

That definition was approximately 18 lines and it is effectively incorporated in whole into new schedule 2.2 that members are now being asked to consider. I turn now to the definition of "cognitive impairment" in section 5 of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020, which states:

- (1) For the purposes of this Act, a person has a cognitive impairment if—
 - (a) the person has an ongoing impairment in adaptive functioning, and
 - (b) the person has an ongoing impairment in comprehension, reason, judgment, learning or memory, and
 - (c) the impairments result from damage to or dysfunction, developmental delay or deterioration of the person's brain or mind that may arise from a condition set out in subsection (2) or for other reasons.
- (2) A cognitive impairment may arise from any of the following conditions but may also arise for other reasons—
 - (a) intellectual disability,
 - (b) borderline intellectual functioning,
 - (c) dementia,
 - (d) an acquired brain injury,
 - (e) drug or alcohol related brain damage, including foetal alcohol spectrum disorder,
 - (f) autism spectrum disorder.

This is another really lengthy definition, which effectively is being embedded by reference within schedule 2.2. I would argue that that is not particularly tidy drafting. But to make matters worse, the definition in section 3 (2) of the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 states:

Words and expressions used in this Act have the same meanings as in the *Mental Health Act 2007*.

Not only are we incorporating this definition into the bill we are considering tonight, but also the provisions we are incorporating include some interpretation from another Act. It is quite extraordinary that schedule 2.2 is attached to the bill at all because it is so reliant on what is happening in other legislation. At the time this was an Act that had not even been proclaimed and had not commenced. What we have in this bill is layer upon layer of uncertainty. The only certain thing we know now is that the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 has commenced, yet that is the provision that the Parliamentary Secretary is seeking to remove tonight.

I thank Mr David Shoebridge for bringing this to our attention. I remember when I was at law school being given examples of what bad legislation and bad drafting looked like. Basically, two of the main drafting errors are, first, uncertainty—and here we have uncertainty in relation to the proclamation because we do not know when it will be proclaimed—and, secondly, uncertainty caused by cross-referencing and the necessity of reading multiple layers of legislation to understand what is happening here. So the complexity in schedule 2.2 is quite disturbing for something that is so important and really will take away the liberties of very vulnerable people. That is all I will say about the amendment right now but I may come back for another stab when I hear other members' contributions to this very important debate.

The Hon. JOHN GRAHAM (22:43): I am advised that the Opposition does not oppose this amendment moved by the Government. The Parliamentary Secretary has run through an explanation about why it is required, which is the complex interaction of the Acts referred to. The necessity relates largely to commencement. For those reasons, the Opposition does not oppose it. I was concerned to have the Chamber reminded by Mr David Shoebridge about some of the other Acts that have been dealt with by the Government in inappropriate ways. Number one—and I think it is well known to the Chamber—is the way the Modern Slavery Act has been treated.

Those on this side of the Chamber see that as an absolute disgrace and not the intention of this Chamber, or indeed the other place, when that legislation was passed through this Parliament. I was concerned to hear the argument that the member put forward and I call on the Parliamentary Secretary to make it clear to the Chamber that this will not be the case with this piece of legislation. Finally, I indicate that I think Ms Abigail Boyd has been a little harsh on the drafting. I would like to defend the honour of the Parliamentary Counsel. There has possibly been a slight lack of Government coordination of legislation, but that should not rest at the feet of the Parliamentary Counsel's Office.

Mr DAVID SHOEBRIDGE (22:45): I endorse the contribution of my colleague Ms Abigail Boyd and indicate why The Greens are not supporting the amendment. The amendment effectively proposes to delete proposed section 2 (2) of the bill, which provides:

Schedule 2.2 commences on the day on which sections 4 and 5 of the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* commence.

Deleting that would allow for the bill, in whole or in part, to be commenced upon a day appointed by proclamation. We debated this point earlier and I will not repeat it, but I note that the Opposition has referenced the concerns we had regarding the Modern Slavery Act and the delay in its proclamation. In fact, members do not have to go to the Modern Slavery Act to see the delay. They can just look at the Mental Health and Cognitive Impairment Forensic Provisions Act 2020. That bill passed this House on 16 June last year. On 23 June 2020 it received royal assent and the approval of the Governor and then, as the Parliamentary Secretary noted in his contribution in support of this amendment, it was not proclaimed until March this year. There was an inexplicable nine-month delay between assent and proclamation.

The reason we would want to ensure that proposed section 2 (2) commences immediately and cannot be mucked around by proclamation is that proposed section 2 (2) puts into the bill the far more detailed, comprehensive and protective definitions of "cognitive impairment" and "vulnerable person" that my colleague Ms Abigail Boyd read onto the record. I do not think they bear repeating. Despite temptation, I will not read them onto the record because they have been set out in detail by Ms Abigail Boyd. Members would have noted the detail in those two definitions. They are quite thorough. They list a series of criteria which cover the definition of "vulnerable person". We say they are important to put into the bill from the very outset because, under proposed section 2 (2), they replace the very imperfect definition that was contained in the bill in its original drafting. Members can find that by going to the dictionary on page 21 of the bill and looking up the definition of "vulnerable third party". Without the immediate operation of proposed section 2 (2), which brings in—I agree, with some inelegance—the definitions in the 2020 mental health bill, the definition of "vulnerable third party" would read:

vulnerable third party means a third party who—

- (a) is at least 14 years of age but under 18 years of age ...

I think there will be further debate on that in Committee later. It would continue:

- (b) is suffering from a mental illness or mental condition, or is cognitively impaired, within the meaning of the Mental Health (Forensic Provisions) Act 1990, which significantly affects the vulnerable third party's capacity to consent to voluntarily provide blood to be tested for bloodborne diseases.

That therefore picks up a definition from a now defunct bill. Because we are concerned that the Government is not genuine about putting in protections for vulnerable people, we would not want the bill to possibly have a definition referencing the Mental Health (Forensic Provisions) Act 1990, which is now no longer in force. If that was to find its way into the bill and eventually came into force, it would remove all the protections for those persons who should be protected as vulnerable third parties. That would be an appalling situation. For those reasons, I add to the contribution of my colleague Ms Abigail Boyd and indicate that The Greens will not be supporting the Government amendment.

The Hon. WES FANG (22:50): I make a short contribution to the debate. I read these words:

I suggest that these amendments have minimal merit and I adopt the response of the Parliamentary Secretary. We have now had a series of partial debates—tiny little debates on tiny little issues—which do not go to the substance of the bill. I invite the movers of the amendments to move all of their amendments at once. Within the scope of those amendments, there is scope for a genuine policy debate. Even given their narrow view of the scope of the amendments they should move all of the amendments at once and let us have a genuine policy debate.

Mr David Shoebridge: Point of order—

The CHAIR (The Hon. Trevor Khan): Order! I call the Hon. Wes Fang to order for the first time.

Mr David Shoebridge: While those words from the Hon. Wes Fang definitely have an echo of authenticity to them—and I can see there is a time and a place for that kind of contribution—they are not relevant to the amendment currently before the Committee and should be ruled out of order.

The CHAIR (The Hon. Trevor Khan): The Hon. Wes Fang is invited to make a contribution that deals with the matter before the Committee, which is an amendment to schedule 2.2 to the bill. I am not ruling anything out of order, but the honourable member is not addressing the schedule.

The Hon. WES FANG: No, I am addressing the contributions of honourable members that have been made throughout the debate.

The CHAIR (The Hon. Trevor Khan): We are using an arcane method of dealing with amendments to a bill. Nevertheless, we have allowed that arcane mechanism to continue. Whether or not I am particularly enthused by it or whether or not the Hon. Wes Fang is, it does not matter. The committee has allowed it to be available and that is the mechanism we are using.

The Hon. WES FANG: I finish by reading those words:

Let us do it effectively and deal with the politics.

Those were the words of Mr David Shoebridge on the energy amendments.

The CHAIR (The Hon. Trevor Khan): Order! I call the Hon. Wes Fang to order for the second time.

The Hon. PENNY SHARPE (22:53): I make a brief contribution to consideration of the amendment, which is very important. The Government says it is serious about protecting vulnerable people. Last year the Government defunded the Cognitive Impairment Diversion Program. I was happy to see today that the Government has extended the funding for the Justice Advocacy Service until September this year—\$10 million to support people with cognitive disability.

The Hon. Scott Farlow: Point of order: It is again back to the relevance of the bill before us and, in particular, clause 2 (2). Broader issues concerning the funding of programs are not relevant to the bill before us. What is relevant is the commencement of the bill and the time at which it commences.

The Hon. Don Harwin: To the point of order: Moreover, the Hon. Penny Sharpe stood up after you twice called another member to order and did it herself. That certainly is quite disorderly.

Mr David Shoebridge: To the point of order: In dealing with that second contribution I do not know whether it was a fresh point of order. But if it was not, it was not relevant to the initial point of order.

The Hon. Don Harwin: Yes, it was. I apologise and withdraw that comment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge will continue.

Mr David Shoebridge: In relation to the first point of order, the whole purpose of the relevant debate about this is ensuring that vulnerable persons are protected. The fact that there are a lack of other protections around vulnerable persons, whether it is through provision of funding or other resources, is indeed directly relevant. In fact, the lack of support for access to justice for vulnerable persons could not be more critical than in relation to this bill because it proposes a set of purported legal protections to wrap around vulnerable persons. If vulnerable persons do not have access to legal resources in the community because their advocacy and other resources have been removed or are not adequate, that demonstrates why we must be extremely explicit in our protections for vulnerable persons in the bill. The contribution is therefore directly relevant to the issue at hand.

The Hon. John Graham: To the point of order: Firstly, I make clear that the Opposition did not seek to deal with the bill in this way.

The CHAIR (The Hon. Trevor Khan): No. I have not accused anyone of anything.

The Hon. John Graham: No, but I put that on record. Secondly, having been asked to deal with the bill in this way, we are supportive of your attempts to corral the debate within the forms of this Chamber. I did not take it that the Deputy Leader of the Opposition was seeking to step outside those. She knows the standing orders well. I took her comments as going directly to the matter before the Committee.

The Hon. Don Harwin: She is a repeat offender and, arguably, the worst behaved member of the House, other than the Deputy President.

The Hon. Penny Sharpe: I am not the worst behaved. That is outrageous.

The Hon. Don Harwin: I said the Deputy President was, actually.

The CHAIR (The Hon. Trevor Khan): I think the Leader of the Government said "arguably, the worst behaved" and I think there can be an argument in that regard. I uphold the point of order taken by the Hon. Scott Farlow, but it is a long bow. If the Hon. Penny Sharpe wishes to address the amendment and the clause or the subclause before the Committee then I invite her to do so. Otherwise, I intend to put the question on the clause. I just say this: This could get horribly out of control. If we are going to use the arcane method, that is fine. But we will stick to the knitting in what we are doing. Ms Abigail Boyd has the call.

Ms ABIGAIL BOYD (22:57): I clarify that my comments on the poor drafting of this bill were in no way casting aspersions on the Parliamentary Counsel's Office [PCO], which does a wonderful job. I understand that government departments do not always use the PCO, much to its frustration. I think there is a creeping tendency by Government Ministers and departments to instruct the drafting to be a in a certain way, and there is a preference for more discretion. That results in less certainty when it comes to people who are reading these laws. This is a really important law and must be incredibly well thought out and clear for people who are reading it, because the consequences of the bill could be grave.

The CHAIR (The Hon. Trevor Khan): The Hon. Scott Farlow has moved Government amendment No. 2 on sheet c2021-025C. The question is that the amendment be agreed to.

The Committee divided.

[In division]

The CHAIR (The Hon. Trevor Khan): I remind members that they cannot take photos in the Chamber.

Ayes35
 Noes5
 Majority.....30

AYES

Amato	Harwin	Nile
Banasiak	Houssos	Poulos
Borsak	Jackson	Primrose
Buttigieg	Latham	Roberts
Cusack	Maclaren-Jones (teller)	Searle
D'Adam	Mallard	Secord
Donnelly	Martin	Sharpe
Fang	Mason-Cox	Taylor
Farlow	Mitchell	Tudehope
Farraway (teller)	Mookhey	Veitch
Franklin	Moriarty	Ward
Graham	Moselmane	

NOES

Boyd	Hurst (teller)	Shoebridge (teller)
Faehrmann	Pearson	

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): I ask members to remain in place. I now ask a question that is related to what we have done before. The question is that clause 2 of the bill as amended stand a clause of the bill. Is leave granted to ring the bells for one minute?

Leave not granted.

The Committee divided.

Ayes35
 Noes5
 Majority.....30

AYES

Amato	Harwin	Nile
Banasiak	Houssos	Poulos
Borsak	Jackson	Primrose
Buttigieg	Latham	Roberts
Cusack	Maclaren-Jones (teller)	Searle
D'Adam	Mallard	Secord
Donnelly	Martin	Sharpe
Fang	Mason-Cox	Taylor
Farlow	Mitchell	Tudehope
Farraway (teller)	Mookhey	Veitch
Franklin	Moriarty	Ward
Graham	Moselmane	

NOES

Boyd	Hurst (teller)	Shoebridge (teller)
Faehrmann	Pearson	

Clause 2 as amended agreed to.

The CHAIR (The Hon. Trevor Khan): The question is that clause 3 as read stand a clause of the bill.

The Committee divided.

Ayes25
 Noes5
 Majority.....20

AYES

Amato
 Banasiak
 Borsak
 Buttigieg
 D'Adam
 Donnelly
 Fang (teller)
 Farlow
 Franklin

Graham
 Jackson
 Latham
 Maclaren-Jones (teller)
 Mallard
 Martin
 Mason-Cox
 Nile

Poulos
 Primrose
 Roberts
 Searle
 Secord
 Sharpe
 Taylor
 Ward

NOES

Boyd
 Faehrmann

Hurst (teller)
 Pearson

Shoebridge (teller)

PAIRS

Cusack
 Faraway
 Harwin
 Mitchell
 Tudehope

Houssos
 Mookhey
 Moriarty
 Moselmane
 Veitch

Clause 3 as read agreed to.

The CHAIR (The Hon. Trevor Khan): The question is that clause 4 as read stand a clause of the bill.

The Committee divided.

Ayes25
 Noes5
 Majority.....20

AYES

Amato
 Banasiak
 Borsak
 Buttigieg
 D'Adam
 Donnelly
 Fang (teller)
 Farlow
 Franklin

Graham
 Jackson
 Latham
 Maclaren-Jones (teller)
 Mallard
 Martin
 Mason-Cox
 Nile

Poulos
 Primrose
 Roberts
 Searle
 Secord
 Sharpe
 Taylor
 Ward

NOES

Boyd
 Faehrmann

Hurst (teller)
 Pearson

Shoebridge (teller)

Clause 4 as read agreed to.

The CHAIR (The Hon. Trevor Khan): We now move to clause 5 (1) of the bill.

The Hon. JOHN GRAHAM (23:42): I move Opposition amendment No. 1 on sheet c2021-016D:

No. 1 **Meaning of "mandatory testing order"**

Page 2, proposed section 5(1)(a)(i), lines 30 and 31. Omit all words on those lines. Insert instead—

- (i) attend the place specified in the order on the day specified in the order, being a day that is between 1 and 3 business days after being served with the order, and

This amendment works in interaction with a number of amendments and I will flag those for context. This amendment will deal with the meaning of the mandatory testing order. However, it works in concert with Opposition amendments Nos 3, 4 and 5. Together, these amendments will essentially remove the ability to take a blood sample before the three-day appeal by the Chief Health Officer is finalised if an individual has indicated that they wish to appeal the order. Those who indicate they will not be appealing and will submit to the mandatory order can still proceed, so in that case it would not be impeded, but otherwise it does halt the sample until the appeal is completed.

In its current form the bill allows for the use of force to take a blood test from a person who is detained even if that person wishes to make an appeal. Under clause 22 a person may apply to the Chief Health Officer to seek review of a decision by a senior officer to issue or not issue a mandatory disease testing order. However, it also provides that even if an application for review is made by a third party, a mandatory disease testing order continues to have effect and the third party must comply with the order. The current process only requires that the result of that test is not provided to frontline workers requesting the order if the appeal is successful.

That is essentially the difference between the two approaches. Under the Opposition's amendments—the ones that we are recommending to the Committee—once the appeal process has been completed, and if the decision after appeal is to proceed with a mandatory disease testing order, then the person will still be required to attend the place specified in that notice. The provisions for the use of force after the appeal process has been completed will still be permitted for the functions of the test for those in detention. That has been represented to the Opposition as a particularly important requirement, particularly within NSW Corrective Services, and that is why it remains in place under the approach outlined in this set of amendments.

By way of justification for this amendment, it is true, as I have indicated, that the State has a monopoly on the use of force so there should always be a balance and a caution as to how and when that force is used. That is the approach the Opposition has taken. Given the right of appeal, the forcible taking of a blood test before the three-day appeal process is expended is problematic when there has not been a sufficient case put forward to support its inclusion in the legislation. This was a controversial matter during the inquiry. Numerous submissions were presented on this point, and they were heated submissions. Stakeholders presenting to the inquiry into the bill, including ACON and the Australasian Society of HIV Viral, Hepatitis and Sexual Health Medicine, were very concerned about a mandatory testing order continuing to have effect despite a review being lodged, given that individuals must still undergo an invasive procedure under threat of fine or jail. Hepatitis NSW stated in evidence to the inquiry:

It is unacceptable that a person who has appealed a decision is still required, and indeed may be forced to undergo, a mandatory test pending the outcome of the appeal that would have disallowed the test.

Other stakeholders submitted that this completely undermines the process of the review and "is a gross violation of civil liberties" that impacts rights to bodily integrity and autonomy. So that is the effect of the amendments together. Very specifically, Opposition amendment No. 1 changes the timing to allow that process to take place. That is the specific impact but, as I have indicated, they are all important amendments. This is one of the two issues that the Opposition seeks to place before the Committee, but it will take four amendments to give effect to the change that we are proposing. I commend the amendment to the Committee.

The CHAIR (The Hon. Trevor Khan): I have before me a handwritten amendment to Opposition amendment No. 1 on sheet c2021-016D.

Mr David Shoebridge: I can move it now for clarity's sake.

The CHAIR (The Hon. Trevor Khan): I think that would probably be better. I am hoping that everyone has copies. That, I think, is fairly important. It is not a significant amendment, so even though it is being distributed late I do not think anyone is going to be caught by surprise by it.

Mr DAVID SHOEBRIDGE (23:48): I move:

That Opposition amendment No. 1 on sheet c2021-016D be amended by omitting "between 1 and" and inserting instead "at least".

The effect of the amendment would be to amend Opposition amendment No. 1 by omitting current clause 5 (1) (a) (i), which currently reads:

... requires the third-party in relation to whom the order is made to attend the place specified in the order as soon as practicable but no later than 2 business days after being served with the order.

The Opposition's amendment replaces it with:

... attend the place specified in the order on the day specified in the order, being a day that is between one and three days after being served with the order.

With The Greens amendment it would read:

... attend the place specified in the order on the day specified in the order, being a day that is at least three business days after being served with the order.

I will speak to that briefly. We have some difficulties with Labor's amendment as currently drafted. The bill in its unamended form provides that the third party on whom the order is made has to attend a place specified in the order as soon as they can, but no later than two business days. It has to be as soon as practicable but no later than two business days. Effectively, in most circumstances there are two days in which to attend to get the order. Labor's amendment does some small good by getting rid of the "as soon as practicable", but then puts in a minimum period of one day. Whereas, the Government's bill originally effectively had a minimum of two days before a person could have their blood taken forcibly, admittedly with the "as soon as practicable" putting a little bit of uncertainty on that. With the Opposition amendment, as proposed without The Greens amendment, that could go from two days down to as little as one day in which the person has to attend to have their blood taken forcibly.

There is some mischief buried in Labor's amendment as originally drafted because it reduces the amount of time within which a person can be compelled to have their blood taken but, more critically, it reduces the amount of time that a person has to put on a review. The purported benefit of Labor's scheme is that in conjunction with the other amendments a person who is served with an order, if they manage to get an appeal on to the Chief Health Officer, that appeal effectively acts as a stay and the order is not imposed. Labor's suggestion is that is the cure-all remedy to the problem of having prison officers and police making the initial order—they can always go to the Chief Health Officer and get a review. Realistically, if there is only one day to get a review on because the order specifies the blood has to be taken one day after being served with the order and they are a member of a community at Narrabri served at four o'clock on a Friday afternoon, how can they possibly get the review together within one day?

If they are an inmate in Grafton Correctional Centre and they get served with an order, how can they possibly get in contact with a lawyer, get the review together and filed within one day? Labor is putting forward a pretend remedy that will not fix the problem. There are almost innumerable circumstances where marginalised people—who are likely to be the people repeatedly hit with these orders—will not in most circumstances be able to access any legal advice within one or three days, and definitely not get a review on and finally get a merit-based decision made by the Chief Health Officer within one day. The Greens amendment proposes that instead of it being between one and three days when the order is served, there would have to be at least three days before the blood would be taken. That at least provides a vaguely realistic envelope in which to get some legal advice, get a review filed and have a merit-based decision made by the Chief Health Officer instead of by a prison officer or a police officer.

That is the purpose of The Greens amendment. I apologise for the handwriting. The handwriting part of the education system never really stuck with me. I ask Labor to speak to its amendment and explain the rationale for effectively going from a minimum of two days to a minimum of one day. The Opposition's amendment removes that little bit of uncertainty in "as soon as practicable", which is perhaps a minor step forward. But going from a minimum of two days to a minimum of one day does not seem rational. It does not seem to flow with the balance of Labor's amendments if we take Labor at its word that it wants a viable appeal. I do not see how they fit together. I will be interested to hear the Government's position on the matter. Maybe it also thinks the window is not long enough.

The Hon. SCOTT FARLOW (23:55): I will deal first with The Greens amendment to the Opposition amendment. The Government opposes The Greens amendment, noting that amendment would increase the time frame for the blood-taking process. The current wording of the bill is clear for a third party and a senior decision-maker who assesses the application. It provides, more reasonably, that the third party must attend for testing no later than two business days after service. The Government opposes the Opposition amendment. Although it is not clear, the amendment appears to provide that the mandatory testing order will specify the exact day on which the third party must attend for testing. That day could be between one and three business days after service. The Government sees no reason for the order to specify the exact day that the person must attend for testing. In providing that a third party must present for testing no later than two business days after being served with the order, the bill currently provides the appropriate balance between obtaining test results as quickly as possible to support the treatment of the prescribed worker while also providing reasonable flexibility for the third party in the circumstances before them.

The CHAIR (The Hon. Trevor Khan): For obvious reasons, I would be loath to call a division just on midnight, but I do not want members to feel the need to pad out their contributions.

The Hon. EMMA HURST (23:57): On behalf of the Animal Justice Party, I speak briefly on the Opposition amendment to the definition of "mandatory testing order" in the bill. We support the Opposition amendment. We also support The Greens amendment to the Opposition amendment. A "mandatory testing order" is currently defined in clause 5 (1) (a) of the bill as an order that:

- (a) requires the third party in relation to whom the order is made to—
 - (i) attend the place specified in the order as soon as practicable but no later than 2 business days after being served with the order, and
 - (ii) provide the third party's blood to be tested for bloodborne diseases,

Labor's amendment alters two elements of clause 5 (1) (a). First, it removes the requirement for a person to attend for testing as soon as practicable. Instead, it requires the person to attend for testing on the date specified in the order. Secondly, it provides that the day specified in the order must be a day that is between one and three business days after the third party is served with the order. The amendment is sensible and would provide greater clarity to individuals who are required to undertake mandatory testing. It requires a mandatory testing order to specify the day on which the person must appear for testing rather than simply requiring the person to attend as soon as practicable. The amendment will ensure that the testing date cannot be less than one business day after the order was served, which is reasonable to ensure that the third party who is required to undergo testing has time to understand the order and make appropriate arrangements to attend for testing. For those reasons, the Animal Justice Party will be supporting the amendments.

The Hon. JOHN GRAHAM (23:59): I have to respond vigorously to the suggestion that this amendment contains the slightest amount of mischief. That is absolutely untrue and I reject the assertion that has been placed before the Committee. Members have correctly observed that this amendment removes the "as soon as practicable" component, but the far more important provision is the protection or "stay," as it has been referred to, that strengthens the position of the Chief Medical Officer. That is the effect of these amendments together and this is part of that package. The Opposition appreciates the spirit in which The Greens amendment has been brought but is unlikely to support this minor tweak. It is happy to see how the Government travels with the bill as it stands with the Opposition amendment. The Opposition wants all four amendments to travel together; that is very important when it comes to their consideration. One amendment without the others may provide real administrative difficulties for the Government and the Opposition would be loath to see that occur. With those remarks, I will pause at this point.

The CHAIR (The Hon. Trevor Khan): According to sessional order, it being midnight, I will now leave the chair and report progress.

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

Adjournment Debate

ADJOURNMENT DEBATE

The PRESIDENT: I propose:

That this House do now adjourn.

INDIAN MYNAS

The Hon. LOU AMATO (00:01): As a young man growing up in suburban Sydney, wonderful birdlife graced our gardens. Most of us remember the musical call of the superb fairy-wren and the beautiful flash of blue as the male darted from branch and twig. There was also the calming song of the silvereye. I still remember the striking contrast of eyes crowned in fine white feathers against a head bejewelled with olive plumage. Of course we cannot forget the laugh of the world's largest kingfisher, the kookaburra. A particular favourite was the energetic willie wagtail fanning its tail feathers and providing the onlooker with a choreographed dance display. Sydney and its suburbs are home to about 365 native bird species. Sadly, we no longer hear the laughing call of the kookaburra as often as we once did and the superb fairy-wren, the willie wagtail and the silvereye seem to have given up on Sydney suburbia altogether. Where have they gone?

There is no doubt that cats are destructive biological weapons against much of our birdlife, and our persistence in using harmful pesticides and herbicides in our gardens has not helped. However, anyone who looks in their backyard will notice that there are plenty of birds there, perching on rooftops and fences and usually making an irritating ruckus. The only problem is they all seem to be the same species of bird. That species just happens to be *Acridotheres tristis*, the dreaded Indian myna. The Indian myna was first introduced into Australia from Asia in 1862 to control caterpillars and insects in Melbourne market gardens. By 1883 the Indian myna had been introduced into Queensland cane fields to control locusts and cane beetles. New South Wales, for reasons

not documented, also introduced the Indian myna in the late 1800s. What is documented is that New South Wales declared the myna a protected species in the nineteenth century for reasons unknown.

Thankfully, that protection status has long been lifted, yet in recent times we have seen an explosion of this introduced pest displacing native birds in our suburban gardens. Except for larger native birds such as sulphur-crested cockatoos, ravens and magpies, almost all native bird fauna in our suburbs is either totally absent or rarely seen. To understand the reasons for the displacement of native birdlife from our suburbs and the explosion of Indian mynas, the following numbers will shed some light on the matter. Under the right conditions, one breeding pair of mynas can explode to 13,000 birds in just five short years. Unfortunately, Sydney's suburbs provide the perfect conditions for the birds' exploding population.

In 2000, mynas were listed in the top 100 of the world's worst invasive species by the International Union for Conservation of Nature. Mynas threaten native biodiversity due to their aggressive territorial behaviour, which includes nest site competition. Mynas evict native bird species from nest sites such as tree hollows by destroying eggs and killing chicks. They carry diseases such as avian malaria, which is responsible for many suburban native bird extinctions. Mynas cause serious damage to crops including grapes and blueberries. Roosting and nesting near residential areas results in unwanted noise and health issues. Mynas carry influenza and salmonellosis in their droppings. The birds are a source of mites that are known to cause dermatological disease in humans.

A nationwide survey conducted in 2005 found that the Australian public rated the Indian myna a serious pest, far worse than cane toads, rabbits, foxes and feral cats. The dreaded Indian myna is causing significant loss of biodiversity in our suburbs. They present a health risk to the people of New South Wales and their numbers are exponentially exploding. The time to act against this biological threat is upon us. We must find ways to eradicate the pest before it eradicates more of our unique native wildlife. If we want the willie wagtail to return to our suburban backyards, the Indian myna must be eradicated. A serious conversation must be had about how to achieve that.

CHILD PROTECTION

TRIBUTE TO POLIKALEPO KEFU

The Hon. PENNY SHARPE (00:05): Tonight in New South Wales as many as 80,000 children are going to bed in a house that is not safe for them and there is no help on the way. Many of those children live in fear, suffer abuse and have not been provided with dinner or clean clothes. Too many children, despite being very young themselves, have been forced to parent their younger siblings because their parents are unable to do so. Abuse and neglect will stay with children for their entire lives. Worse, some children will die from the abuse and neglect they experience, and those deaths could have been preventable. Our child protection system is failing the most vulnerable children and young people in our community and the New South Wales Government has no serious plan to address that. According to the latest Government figures, more than 115,000 children in New South Wales were assessed as at risk of significant harm [ROSH] to the end of September last year.

Despite some children reaching the risk of significant harm threshold and being reported as such to the Department of Communities and Justice [DCJ] by adults in their life who are worried about them, 70 per cent or nearly 80,000 of those children have never been assessed by a child protection caseworker from DCJ. The shocking figure of the number of at-risk kids in New South Wales represents a 79 per cent increase since the Government began regularly reporting those figures in late 2013. The Government has boasted about the number of children who have been seen face to face, yet the increase in the percentage of those face-to-face visits is just 3 per cent, to an average of 31 per cent. In areas including the Central Coast, Sydney, New England, western Sydney and south-east Sydney, only one-quarter of children who are reported to DCJ are ever seen by a caseworker. In northern Sydney, just 22 per cent of kids reported as at risk are ever seen. The reason for that is a widescale failure from the New South Wales Government to make the investment and reforms that are urgently needed to make a real change for children who are at risk of harm.

The child protection and community sector was hopeful when the New South Wales Government outlined its plan for Their Futures Matter, a reform project that was supposed to break down the silos of government and funnel investment into early intervention to stop abuse and neglect before it happens. Now we know that it was set up to fail. Last year the New South Wales Auditor-General told us that the reforms lacked the funding, powers and direction to succeed. The blow from the failure of that reform may be felt by vulnerable children and their families for decades. For all the hope and the millions of dollars that were invested in Their Futures Matter, all we have is a handful of pilots and an incomplete evidence base—a blip compared to the large-scale reform that was promised and that vulnerable children need. What was once viewed as one of the most promising child protection reforms is now remembered as a failure that was rapidly hidden away within the DCJ bureaucracy.

One New South Wales Government target can genuinely tell us whether at-risk children and young people are getting the support they need: the ROSH re-reporting rate. That percentage tells us how many children have been reported as at risk of significant harm within the 12 months after their case was closed. The Premier has made it a priority to reduce that number to 32.3 per cent by June 2023, in just two years' time. But instead of heading towards the target, the figure continues to climb. To September last year 40.1 per cent of children were re-reported within 12 months of a case closure. That means someone has looked at a case, said that a child is at risk of harm, decided to close the case and within 12 months someone else is picking up the phone, calling the helpline and saying that they are still worried about that child. That is not good enough. The New South Wales budget is forthcoming. I call on the Government to commit to vulnerable children and young people and invest significantly in the programs that we know will work but lack funding.

I wish to send my deepest condolences and the deepest condolences of the Labor Party and, I believe, this House. As well, a candlelight vigil is being held on Tonga for LGBTIQ+ activist Polikalepo Kefu, who was murdered last week in Tonga as a result of a hate crime. Poli was the President of the Tonga Leitis Association and one of the head personnel of the Red Cross in Tonga. Poli was a quiet, determined leader of the Leitis Association. He was a human rights activist across the Pacific. He worked tirelessly to address issues of violence, hate crimes and discrimination against trans, gay, lesbian, bisexual and intersex people in Tonga and across the Pacific. On behalf of the House I send my deepest condolences to Poli's family and friends, and I especially send my love and thoughts to members of the Tonga Leitis Association, who are devastated by Poli's death.

COALMINING INDUSTRY

Ms ABIGAIL BOYD (00:10): Wollar is a village that has been all but destroyed by coalmining. In 2006 the Wollar village and its surrounds had a population of 304 people. By 2016 there were only 69 people living in Wollar. In what has been a deliberate effort to depopulate Wollar to make way for its Wilpinjong mine, the United States mining company Peabody purchased almost all of the houses and land in the town. The remaining residents of Wollar have seen their town transformed by open-cut coalmines. Black dust regularly covers the town's buildings, inside and out. Residents are subjected to pungent odours and to having their window panes rattle up to five times per week as Peabody uses explosives to blast through the countryside. And that is on top of the constant noise of bulldozers, night and day. With Peabody now owning the majority of properties in the broader Wollar area, services have been shut down, including the local school and the churches that are now owned by the mining company. The stress on locals has been enormous. Wollar resident Bev Smiles says:

We had a very tight-knit community of people. It was a lovely place to live. That is what's personally impacted me. Losing my friends.

As if they have not suffered enough, on 20 April this year the New South Wales Liberal-Nationals Government announced the release of yet another 80 square kilometres of land for coal exploration over an area encircling Wollar. That was the same day that the Government announced it was paying \$100 million to stop the threat of the Shenhua coalmine on the Liverpool Plains. Bev Smiles called it how she saw it. She said:

I feel like a second-class citizen. They have just traded us off. Wollar is the collateral damage to making that decision [on the Liverpool Plains].

One might think that Wollar has had its fair share of hardship, but not according to the Liberals and Nationals in this place. They see Wollar's demise as a justification for the decision to open the area up to further coal exploration. It is just another nail in the coffin. The decision to open Wollar to the possibility of more coalmines was done without notice given, without consultation with the surrounding community and without consideration of the social, health, and environmental repercussions. Having more coalmines in the area will make it unlivable for members of the local community. But it is not that the Liberals and Nationals do not already know that; it is just that they do not care. But perhaps they will say that we have got it all wrong and they do in fact care. If that is the case, this is what they will need to do next. They must commit to transparent and clear communication with the surrounding Wollar community regarding any further developments. Denying Wollar the process of a preliminary regional issues assessment for potential coal exploration was a mistake. As Bev says:

I don't know why the Wollar community is being singled out to be denied the opportunity to identify the huge number of cumulative impacts that we are already suffering from coal mining right up against our village.

The Government will also need to avoid, minimise and offset any impacts on ecologically endangered communities and threatened species, such as the regent honeyeater habitat, and ensure the protection of the Goulburn River National Park's heritage and biodiversity. The Government will need to assess and manage the potential impacts on surface water quality and flow regimes, particularly within the Goulburn River, which is a key part of the Hunter River catchment. And last but by no means least, the Government must ensure that any exploration focuses on a strong consideration of the significant Aboriginal heritage sites in the Wollar area in consultation with local Wiradjuri people to protect the many ceremonial, dreaming, art and grinding groove sites.

Existing mines in the Wollar area have already inflicted extensive harm on Aboriginal cultural heritage. Any further cumulative impacts must be limited. Better still though, the Government could just leave Wollar alone, finally admit that there is no need for new coalmines or expansions of existing mines and commit not to inflict more damage on the town of Wollar. The Government could focus instead on protecting jobs and working conditions in existing coalmines while facilitating orderly transitions away from reliance on the coal industry.

By opening up the Wollar area to exploration, the Liberal-Nationals Government is engaging in a dangerous fantasy. There is no future in coal—not for our workers, our communities, our environment or the economy. Global trends show that the demand for coal is decreasing rapidly. Renewable energy is no longer just a cleaner alternative but the only alternative to the dirty fossil fuel industry. To achieve internationally agreed climate targets, Australia must support our communities and the environment in the transition away from coal, ensuring that the industry does not inflict any more damage than it already has, sadly, on communities just like Wollar.

TRIBUTE TO JUDITH HELEN BAIRD

The Hon. NATALIE WARD (00:15): It is my sad duty to place on record my condolences for the death of Judith Helen Baird. I pay tribute in this House to a true angel, humanitarian and peacemaker. In this often combative and adversarial world, blessed are the peacemakers. We need them more than ever. Judith Helen Woodlands was born in 1942. She grew up in Brighton-Le-Sands, where her dad had a bike shop, and went to Hurstville Opportunity School and then St George Girls High School with her friend Adrienne McKeon. As was the style of the era, she finished school in third form and went to secretarial college, like so many women who had the choice between being a secretary, a nurse or a teacher. There, she met her friend Joan Short. She got bored as a secretary and so completed her HSC at night—all this while secretly meeting on the train with a bloke called Bruce Baird, whose dad called it off when he found out.

Judy later contacted Bruce to ask about attending university, but Bruce suggested it was a bit tough and said, "You have to be very committed." She did a full-time load of university subjects at night, while working at the sports union. Bruce and Judy got back together and Judy completed her undergraduate degree in psychology, English and history in three years, getting high distinctions and credits. She was invited by the professor of psychology to do honours and work as his executive assistant while also teaching. In 1964 she married Bruce Baird, who worked at Qantas, and they later went to Melbourne. While Judy taught at St Catherine's School in Toorak, she got pregnant with Michael—later to be the Premier of New South Wales—and was "asked to leave". There was no maternity leave. They went to Perth, Canberra and later Bonn, in Germany. Together in God's love, they created their family: Michael, Julia and Steven.

They lived in New York, where Judy worked at the United Nations in order to pay to study her Master's degree at Columbia. She had a special interest in the education of the gifted. They came back to Australia via Malaysia. Judy was the counsellor at MLC School, Burwood, where she counselled alumni such as Marise Payne, and then Presbyterian Ladies College, Croydon, which she loved. Judy developed a program first in Australia for sisters of girls in the school who would not normally meet the criteria to attend the school due to a physical or mental disability, like Down syndrome. It was very successful. She was on the board of Roseville College and then established her own practice, where she provided vocational guidance to students at Shore School, Frensham, Presbyterian Ladies College and the University of Sydney. She also was a counsellor to the NSW Police Force, counselling police suffering post-traumatic stress disorder and attending night call-outs to accident and trauma scenes to assist and counsel police.

With Kairos Prison Ministry Australia, Judy went into prisons and ran Christian counselling programs with inmates, including convicted murderers. She went back to counsel them regularly, with her strong and resolute Christian faith of forgiveness and living in God's grace; she always saw the best in them. She went to Egypt to support Mama Maggie with the charity Stephen's Children, looking after children and orphans in the rubbish dumps of Cairo—the poorest of poor. For such a short person, Judy Baird was a tower of strength. Her ability to see the goodness in others—even convicted murderers—her service to her fellow human beings, her steadfast belief in the potential for redemption and her ever-present grace are a beacon for us all. Her humility was renowned, as was her wicked sense of humour and notorious tennis forehand.

As the wife of Bruce Baird, AM, Judy was by Bruce's side for 57 years of marriage. The deeply loved Judith Helen Baird, wife of Bruce, mother of Mike, Julia and Steve, and mother-in-law of Kerryn and Annemaree, passed away peacefully on Tuesday 27 April 2021, surrounded by her children. Gentle Judith, adored grandmother of Laura, Cate, Luke, Poppy, Sam, Elijah, Oscar and Sebastian was, to quote Julia, "the lamp that lit her entire family". She will be sorely missed, but we know she has gone to be with her Father. Her faith was unwavering. As they say in Romans 8:38-39:

For I am convinced that neither death nor life, neither angels nor demons, neither the present nor the future, nor any powers, neither height nor depth, nor anything else in all creation, will be able to separate us from the love of God that is in Christ Jesus our Lord.

Vale, Judith Helen Baird.

STUDENT ACTIVISM

The Hon. ROSE JACKSON (00:19): Henry Kissinger once famously said, "Student politics is so vicious because the stakes are so low." In some ways, based on my own experiences, that is true. Student activism certainly does get a bad rap. It can be petty, silly and immature; we are talking about people just out of high school. But for all those things, it can also be incredibly significant and formative both for the individuals involved and the issues they work on. Think of the opposition to Australia's involvement in the Vietnam War. Think of the Freedom Ride and campaigns against racism and discrimination. Think of campaigns against sexual assault and sexual harassment. Those and so many more movements, which captured the imagination of the Australian people and changed the course of this country, started on campus.

Think of the individuals, too. Think of former Prime Ministers from both sides of politics, High Court judges, business leaders and, of course, many members of this Parliament. I am proudly a former President of the University of Sydney [USYD] Students' Representative Council [SRC] and the National Union of Students, and so is the member for Summer Hill. The Hon. Courtney Houssos, the Hon. Daniel Mookhey, the Hon. John Graham and the Hon. Penny Sharpe were all former student leaders. And it is not just our side of Parliament. The Speaker of the Legislative Assembly was active in the SRC. I attended the National Union of Students with the member for Kiama and the member for Miranda. The Treasurer was an active student politician in his time, as was the Minister for Energy and Environment at UTS. We were much more successful in elections against them at that time and we hope to recapture some of that former glory.

We were all young people interested in politics. We believed in something and we went to university to study the law or economics or history or engineering, or whatever it was, and also to learn about politics, the things we believed in and how to change the world. Yes, sometimes we were radical; we did foolish things. Certainly there were plenty of things I did and said that I am plenty embarrassed about now. Looking back, I will admit there was some cringe-worthy stuff, but it was formative and normal for enthusiastic young people to learn about politics. I fully accept that student activism can be disruptive and annoying. No doubt, the October 2020 protests at the University of Sydney were just that.

To give some context, COVID had smashed the university sector. Universities were not eligible for JobKeeper, the international student market had been decimated, there were massive funding cuts and considerable job losses. There was genuine concern that universities would not emerge from the pandemic in any way, shape or form able to deliver quality higher education in the way that they had before the crisis. Members might recall that there were protests on campus about those changes. They were passionate but, let us be honest, they were not that large. There was a massive police response. The protestors were angry, but they were peaceful. The only physical altercations involved police targeting people who were protesting and in some cases people who were not. Law professor Simon Rice was observing the protest as part of his legal research work. He was thrown to the ground, arrested and fined.

It has now emerged, thanks to the work of the USYD SRC, that the university and police response to the protests, before and after they occurred, was a massive surveillance and monitoring effort targeting students and staff on campus. A Government Information (Public Access) Act request has revealed evidence of a pattern of surveillance that involved plain-clothed officers in operations on campus; extensive surveillance networks; and itemised details of students "Going" and "Interested" on Facebook events, which shows how inept and ham-fisted those tactics were because everyone knows that just because someone clicks "Interested" on a Facebook event, it does not mean they are going to that event. Of particular concern was the use of Dataminr, a high-level artificial intelligence software used by the CIA to scrape social media for mentions of terms like "protest", "action", "demonstration" and even just "gathering".

Universities are special places of ideas and learning, and commitments to freedom of speech, academic thought and freedom of assembly. Those values are particularly significant on campus. A culture of critical thinking and dissent is central to higher education. Without it, our universities cease to be the places we hope they are and become hollow shells. Student activists can get a bad rap and of course there are genuine ratbags amongst them—not unlike in this Parliament. Many of those active on campus today will be the political leaders, lawyers and business leaders of tomorrow. We should respect and work with these passionate young people, not subject them to heavy-handed monitoring and surveillance that erodes trust and undermines respect.

RURAL, REGIONAL AND REMOTE HEALTH SERVICES

Ms CATE FAEHRMANN (00:24): I am a member of the committee inquiring into health outcomes and access to health and hospital services in rural, regional and remote New South Wales. Some concern has been expressed in the media and by members of regional communities that the hearings in the regions so far—namely, in Deniliquin and Cobar—have not been webcast. I understand that while options to do this have been considered, they have unfortunately not been deployed because they have been deemed too difficult or expensive. However, the irony that an inquiry established to investigate the issues faced by remote communities and provide an opportunity for them to tell their stories and have their voices heard by members of this Parliament is not available online has not been lost on those wanting to participate in, observe and report on the inquiry. I want to use tonight to share a few stories from the Deniliquin and Cobar hearings. Ms Shirlee Burge from Deniliquin has devoted 30 years to United Hospital Auxiliaries of NSW. In her submission she stated:

... we do not have permanent access to basic services like women's health and breast screening clinics ...

...

We have had mothers from Hay and Moulamein needing to birth in Deniliquin during COVID-19 being sent on to Canberra almost 600kms away and with no family support.

...

We have had women birthing on the side of the road and colliding with Kangaroos 5.5 hours after birthing.

Ms Lyn Bond, chair of the Deniliquin Mental Health Awareness Group, wrote:

... there is no option for a face-to-face assessment for mental health after hours or on weekends.

...

Should HOSPITALISATION be needed, more than often (as we do not have "mental health beds") the patients will then be transferred out to Albury or Wagga - 2-3 hours away.

We have to understand the significant trauma for patients who are now put in an ambulance, transferred out to a strange place, with no family supports ...

...

We have no access to headspace for our youth under 25 years of age and have to travel 200km plus to access headspace facilities.

...

We have NO addiction services apart from one D and A [drug and alcohol] worker in our specialised mental health team.

We have no groups or AA or access to group therapy.

Finally, Miss Ally Pearson, a new mother from Cobar, shared the story of her pregnancy. She stated:

... I became pregnant and due to [my endometriosis], I opted [for a] private gynaecologist. This now involved 10 hour round trips monthly for check ups, 6 hour round trips monthly for ultrasounds in Dubbo and various blood tests - some of which could be performed in Cobar, some in Dubbo. This means a minimum of 3 days off work, overnight stays and a minimum of around 1500km travel per month.

...

After a bout of concerning bleeding during my pregnancy, I was told that the local team were only able to check my baby using a hand held Doppler and had no one on staff at that time with extensive experience to do any kind of internal examination. That I would be referred to Bourke (a 320km round trip) the following day for an urgent ultrasound as I was too early in my pregnancy for the Doppler to be truly accurate. Upon calling Bourke I was told they were booked out and that I could sit in the waiting room for an opening anywhere between 9-5 to be ready at short notice with a full bladder for the entire time.

...

Upon examination, I was told that my baby had not survived. He then chose to look further and decided that the results were not as bleak - but still inconclusive. He encouraged me to go to Dubbo or Orange in 2 weeks and be retested. On the way home, flood waters rerouted our trip, resulting in several delays to go via Nyngan. Road blocks left me on the roadside, with my inconclusive results, still bleeding.

...

My baby had survived.

Those are just three stories out of the hundreds and hundreds of submissions we have received. It is assumed and known that there are thousands more out there. I hope that we listen to the legitimate concerns about this vital inquiry not being broadcast and find a way to do so for the future hearings in Wellington, Dubbo, Taree, Lismore, Tumut, Wagga Wagga, Walgett, Broken Hill and Sydney. I look forward to those hearings in future weeks and months.

BOYCOTT, DIVESTMENT, SANCTIONS MOVEMENT

The Hon. WALT SECORD (00:29): As Deputy Chair of the NSW Parliamentary Friends of Israel group and patron of the New South Wales Labor Israel Action Committee, I remind members that the Australian Labor Party [ALP] has supported the modern State of Israel since its creation as a nation more than 73 years ago. It is well known that I support a two-State solution for Israel and the Palestinians and oppose vehemently the Boycott, Divestment, Sanctions [BDS] movement.

I first spoke against the BDS movement in the Parliament on 15 September 2011 when it reared its ugly head with the ludicrous targeting of the Max Brenner chocolate cafe in Marrickville. BDS masquerades as a social justice movement but does nothing to advance peace. It is vile, discriminatory, anti-Semitic and incites hatred and violence. It has no place in mainstream political debate. Importantly, it fails to acknowledge that Israel is the only democracy in the region and is straight out of the discredited Jeremy Corbyn playbook. Unfortunately, some elements in the various branches of my political party circulate BDS motions. As a senior member of NSW Labor, I feel that members have a responsibility to nip this lunacy in the bud and speak out publicly against it. Those who support BDS are united by one goal: to destroy Israel. I pledge to fight the movement and resist anyone who promotes it in New South Wales and Australia more widely. I thank the House for its consideration.

The PRESIDENT: The House now stands adjourned.

The House adjourned at 00:30 until Wednesday 12 May 2021 at 10:00.