The House in Review provides regular updates of the activities of the New South Wales Legislative Council. Clicking on a hyperlink will take you to the relevant webpage. For further information refer to the NSW Parliament website www.parliament.nsw.gov.au or contact the Procedure Office on (02) 9230 2431. To be placed on the email distribution list of the House in Review, please contact us on council@parliament.nsw.gov.au.

Overview

This week saw the House resume sittings after a four-week break. At the start of the sitting week, six government bills were on the Notice Paper. By the end of the week, the House had concluded consideration of four of these bills. During the week another four government bills, one of which was a Council bill, were introduced. In addition, a private member’s bill – the Rights of the Terminally Ill Bill 2013 – was also introduced into the House.

Matter of privilege

In Volumes 55/43 and 55/44 of House in Review we reported on a serious matter of privilege: possible non-compliance with a 2009 order for papers by the Legislative Council concerning Mt Penny. The matter was referred to the Privileges Committee for inquiry and report on 14 March 2013. It is the first time that the House has decided that the evidence before it of the possible non-provision of documents in response to an order for papers warranted formal investigation and report.

The Committee tabled its report on Tuesday 30 April. In a unanimous report, the Committee found that at least 124 documents identified by the ICAC should, prima facie, have been provided to the House in 2009 in response to the Mt Penny order for papers. In effect, information was withheld from Parliament in 2009 in relation to Mt Penny.

The power of the House to order the production of State papers is fundamental to the constitutional role of the Legislative Council in holding the Government to account under the system of responsible government. Accordingly, the Committee recommended that the House refer a new inquiry to the Privileges Committee to inquire into the reasons why documents were withheld from Parliament in 2009.

Notice of motion for such a reference to the Privileges Committee was given on Thursday 2 May by the Leader of the House.

A copy of the Privileges Committee’s report is available here.

Ministerial statement – Death of Senior Constable Tony Tamplin

The Minister for Police and Emergency Services and Minister for the Hunter made a statement in the House on Thursday 2 May regarding the sudden death the previous day while on duty of Senior Constable Tony Tamplin. The Minister, on behalf of the House and of all members of the NSW Police Force, extended his deepest sympathy to the family of Senior Constable Tamplin. The Minister paid tribute to Senior Constable Tamplin’s unique and well-known policing and community roles in the Hunter and Central Coast regions over the last 29 years.

The Leader of the Opposition made a statement in similar terms.

Government business

Note: Government business includes Government bills introduced or carried by ministers in the Council.

Small Business Commissioner Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill creates the Office of the Small Business Commissioner and sets out the objectives and functions of that office, including dealing with issues concerning the small business sector and providing a central point of contact for small businesses to make complaints about their commercial dealings with other businesses and government agencies.

Proceeding: Debate on the second reading of the bill resumed on 30 April 2013 from 26 March 2013 (see the previous edition of House in Review for earlier debate). The Opposition continued to press the point that the bill was in many ways inferior to the Small Business Commissioner bill that the Opposition introduced in 2012 and which was ultimately rejected by the House in early 2013. The Opposition took the opportunity to criticise the Government over a number of decisions, such as the closure of some regional development offices, which it argued have negatively affected small business. In reply, the Minister emphasised the benefits that will flow from the alternate dispute resolution
mechanisms contained in the bill and stated that overall the bill will provide the State’s small business sector with an effective champion.

The second reading was agreed to.

In the committee stage, the Opposition moved a set of amendments that sought to provide the necessary architecture for the introduction of enforceable, industry-specific codes of practice. The amendments, which were supported by the Greens, were defeated (Division 19:21). Consideration of the bill in detail was interrupted for Question Time.

Consideration of the bill in detail resumed the following day, during which the Opposition, the Greens and the Christian Democratic Party all moved amendments. The Opposition and Greens amendments sought to either broaden the powers or scope of the Small Business Commissioner or establish penalties for failing to comply with requirements of, or interfere with investigations by, the Commissioner. However, neither the Greens nor the Opposition could garner support from the Government or the other cross-bench parties, and the amendments were negatived, primarily on the voices. Two Opposition amendments were defeated on division: firstly, a proposal to provide the Commissioner with a power to deal with complaints regarding unfair contracts and issue orders in relation to such matters (18:20) and secondly, a proposal to require the Commissioner to report on and make recommendations with respect to the regulatory burden faced by small business (19:21).

The Opposition and the Christian Democratic Party (CDP) each circulated an amendment that sought to establish an element of compulsory dispute resolution. The two amendments were identical, save in two respects: the penalty regime in the CDP amendment differentiated between corporations and individuals; and the CDP amendment provided that government agencies were not required to provide documents to the Commissioner, where access would otherwise be denied under the Government Information (Public Access) Act 2009. The Opposition amendment was negatived on the voices, following which the CDP amendment was agreed to.

The bill was reported to the House with an amendment, read a third time and returned to the Assembly.

Law Enforcement and National Security (Assumed Identities) Amendment Bill 2013

The bill originated in the Legislative Council.

Summary: The bill makes various amendments to the Law Enforcement and National Security (Assumed Identities) Act 2010 to strengthen the cross-border recognition of assumed identities and to require that applications for orders to make or cancel entries for assumed identities in the Births, Deaths and Marriages Register be heard in judge’s chambers.

Proceedings: Debate on the second reading of the bill resumed on 1 May 2013 from 26 March 2013 (see the previous edition of House in Review for earlier debate). The Opposition and the Greens spoke in support of the bill stating that the amendments to the Act were reasonable, having arisen from efforts to improve the law and harmonise it with Commonwealth legislation to facilitate cross-border recognition of assumed identities.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Road Transport Amendment (Obstruction and Hazard Safety) Bill 2013

The bill originated in the Legislative Council.

Summary: The bill amends the Road Transport Act 2013 to make it clear that a court is to take into account the presence of obstructions and hazards on a road in determining whether a person has committed an offence of driving a motor vehicle negligently, furiously, recklessly or at a speed or in a manner dangerous to the public.

Proceedings: Debate on the second reading of the bill resumed on 1 May 2013 from 26 March 2013 (see the previous edition of House in Review for earlier debate). The Opposition, members of the Government and the Christian Democratic Party all spoke in support of the bill. Members from all sides made reference to the tragic road incident in February 2012 on the Hume Highway that was the catalyst for the bill, and the overall Breakdown Safety Strategy developed by the Government. While supporting the bill and commending the Government for taking a positive step forward in motorist safety, the Opposition foreshadowed that it would seek to further strengthen the bill in the committee stage.

The second reading was agreed to.

In the committee stage, the Opposition sought to introduce a requirement for motorists to slow down by 30 km/h as they approach a breakdown or accident on a road with a speed limit of 80 km/h or above. The Government did not support the amendment as drafted, but acknowledged its positive intent and committed to put the proposal on the national agenda via the Australian Road Rules Maintenance Group. The amendment was negatived (Division 18:20).

The third reading of the bill was agreed to, and the bill was forwarded to the Assembly for concurrence.

Racing Legislation Amendment Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Thoroughbred Racing Act 1996 to provide that Racing NSW may impose sanctions on a registered race club for a breach of conditions of the club’s registration. The bill also amends the Totalizator Act 1997 to allow licensed bookmakers to offer totalizator odds on bets taken at a licensed racecourse, regardless of whether the other party to the bet is also at the racecourse.

Proceedings: Debate on the second reading of the bill commenced on 1 May 2013. The second reading speech of the Minister (Mr Gallacher) was incorporated into Hansard. In that speech, the Minister indicated that the bill makes two important changes to racing and wagering legislation that will, first, assist in ensuring the viability of New South Wales licensed bookmakers and their on-
going contribution to the State’s racing industry and
economy and, second, provide the controlling body of
thoroughbred racing in the State – Racing NSW – with
additional tools to effectively manage the conduct of race
clubs and ensure the continuing viability and future
development of the industry throughout the State.

The Opposition supported the bill, while the Greens and
the Christian Democratic Party indicated they were not
opposed to the objects of the bill. The Opposition and
the Christian Democratic Party took the opportunity
during the second reading debate to raise wider concerns
regarding the changing and more pervasive nature of
gambling in society, while the Greens raised the issue of
animal welfare in the horse racing industry.

The second and third readings of the bill were agreed to
and the bill was returned to the Assembly without
amendment.

State Emergency and Rescue Management
Amendment (Co-ordination and Notification of
Rescues) Bill 2013

The bill originated in the Legislative Council.

Summary: The bill amends the State Emergency and Rescue
Management Act 1989 to ensure that the NSW Police
Force is responsible for coordinating rescue operations
and is notified by emergency services organisations of
any incident requiring the rescue of a person.

Proceedings: The bill was introduced on 1 May 2013. In his
second reading speech, the Minister (Mr Gallacher)
indicated that the bill implements two key
recommendations from Mr Philip Koperberg’s report
entitled “Inshore Water Rescue—A review of
procedures”. After the drowning death of a rock
fisherman at Little Bay in November 2012, the Minister,
along with the Minister for Health, commissioned Mr
Koperberg to oversee the strengthening of response
procedures between different emergency service
organisations where a person in the water requires
rescuing. This review was conducted in consultation with
key stakeholders.

The Minister stated that the Government supports all 18
of the recommendations in the report and the bill
implements the two of those recommendations that
require legislative change.

Debate was adjourned for five calendar days.

Parliamentary Budget Officer Amendment Bill
2013

The bill originated in the Legislative Assembly.

Summary: In June 2011 a joint select committee was
appointed to inquire into the purpose and role of the
Parliamentary Budget Office and whether the terms of
the Parliamentary Budget Officer Act 2010 are appropriate.
The Committee identified a number of areas for reform
and this bill implements many of those changes and
makes some additional amendments to the Act.

The bill amends the Act so that the sole function of the
Parliamentary Budget Officer is to prepare election policy
costings. The Officer is to be appointed every four years,
for a term commencing on 1 September in the year prior
to a State election and ending within three months
following the election. During this time the Officer is to
prepare election costings, table a report in Parliament and
appear before the Public Accounts Committee.

Proceedings: Debate on the second reading of the bill
resumed on 1 May 2013 from 20 March 2013 (see Vol
55/44 of House in Review for earlier debate). The
Opposition did not support the bill, arguing that its effect
was to remove many of the essential functions of the Parliamentary Budget Officer (PBO), particularly the
ability to provide advice to the minor parties. The
Opposition argued that the Government was seeking to
limit the level of scrutiny that could be provided by the
PBO, and that this was reflected in the failure to appoint
anyone to the position for the last two years. The
Government countered that the bill arises from the
recommendations of the joint select committee and
provides the PBO with a necessary focus that meets
community expectations and the tests of common sense
and affordability.

Debate was adjourned until the next sitting day.

Health Legislation Amendment Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill makes miscellaneous and minor
amendments to six Acts relating to health, as part of the
Government’s regular review of legislation.

Proceedings: The bill was received from the Legislative
Assembly on 1 May 2013 and read a first time. The
second reading was set down for a later hour of the
sitting.

Statutory and Other Offices Remuneration
Amendment (Judicial and Other Office
Holders) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Statutory and Other Office
Remuneration Act 1975 to require the Statutory and Other
Offices Remuneration Tribunal to give effect to certain
government policies concerning the remuneration of
judicial and other office holders.

Proceedings: The bill was received from the Legislative
Assembly on 2 May 2013 and read a first time. The
second reading was set down for a later hour of the
sitting.

Crimes (Domestic and Personal Violence)
Amendment (Information Sharing) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Crimes (Domestic and Personal
Violence) Act 2007 to facilitate the sharing of personal
information and health information about victims and
perpetrators of domestic violence collected by domestic
violence support services for the purposes of
providing domestic violence support to those victims.

Proceedings: The bill was received from the Legislative
Assembly on 2 May 2013 and read a first time. The
second reading was set down for a later hour of the
sitting.
Messages from the Assembly

The House received the following messages from the Legislative Assembly relating to bills forwarded to the Assembly by the Council in previous sitting weeks.

Intoxicated Persons (Sobering Up Centres Trial) Bill 2013: On 27 March 2013 the Assembly advised it had agreed to the bill which it was returning without amendment.

Powers of Attorney Amendment Bill 2013: On 1 May 2013 the Assembly advised it had agreed to the bill which it was returning without amendment.

Private members’ business

Note: Private members’ business is business introduced by members of the House other than Government ministers. There are two types of private members’ business: private members’ bills and private members’ motions.

Bills

Rights of the Terminally Ill Bill 2013 (Ms Faehrmann, The Greens)

The bill originated in the Legislative Council.

Summary: The bill seeks to establish a legal framework for the rights of terminally ill persons to request and receive assistance to end their lives voluntarily. Under the framework, terminally ill persons may be assisted by their medical practitioners to administer a substance to themselves. The bill provides protection for persons providing such assistance and establishes safeguards against possible abuse of the scheme.

Proceedings: The bill was introduced, read a first time and printed on 2 May 2013. In commencing her second reading speech, Ms Faehrmann related details of the suffering and death endured by some terminally ill individuals she had known for whom palliative care had offered no relief. Ms Faehrmann said that over two years of intensive research and consultation had gone into the careful preparation of the bill, which drew on the best aspects of long-standing schemes overseas. Ms Faehrmann said that legislation such as this bill was long overdue and would give effect to the overwhelming community support for an assisted dying scheme for the terminally ill.

Ms Faehrmann emphasised that the bill establishes a highly controlled and regulated scheme that could not be circumvented; noting that a terminally ill person must meet a number of stringent criteria to be eligible, medical practitioners could not be obliged to partake in the process if morally or conscientiously opposed to assisted dying, and that a panel will be established to review all assisted deaths and to monitor the operation of the legislation.

Debate was adjourned for five calendar days.

Motions

Health budget (Mr Primrose, Australian Labor Party)

Summary: The motion called on the House to note the impacts of the Government’s cuts, stated in the motion as $3 billion dollars, to the State’s health budget and that the resulting staff shortages are putting the quality of patient care and the lives of patients at risk. The motion further called on the House to call on the Government to reverse the budget cuts.

Proceedings: Debate on the motion resumed, according to precedence, on 1 May 2013 from 27 March 2013 (see the previous edition of House in Review for earlier debate). Members of the Government continued to dispute the claim in the motion that the health budget is facing a budget cut, and again noted that the $2.2 billion of efficiency savings required of the Health Department over four years will be redirected entirely to frontline services of local health districts. Members of the Opposition argued that health services will inevitably suffer because of the current budget, and that many worthwhile non-government health programs in rural and regional areas will face uncertainty and a greater likelihood of funding cuts as a result of efficiency savings requirements.

The motion was not agreed to (Division 17:19), with the Greens voting with the Opposition for the motion, and the Government, Christian Democratic Party and Shooters and Fishers voting against the motion.

Actions of elected Greens representatives (Mr MacDonald, Liberal Party)

Summary: The motion notes that the public expects members to reject illegal activities and that the Greens have publically stated their support for illegal blockades and a recent hoax perpetrated by an environmental activist. The motion further calls on the House to condemn the Greens for this support.

Proceedings: Debate on the motion commenced according to precedence on 2 May 2013. Government members supported the motion and strongly condemned both State and Federal Greens members for their support of an activist who issued a fake media release on 7 January 2013 claiming ANZ Bank had withdrawn a $1.2 billion loan from Whitehaven’s Maules Creek project on environmental grounds, prompting a share-market sell-off. The Shooters and Fishers also supported the motion.

The Opposition stated that they supported the right to protest, but only supported the right to protest illegally in extreme circumstances and that the example cited in the motion was not such a case. In light of their qualified support for illegal protesting, the Opposition noted its concern with paragraph 1 of the motion which calls for an outright condemnation by members of all illegal protests.

The Greens opposed the motion arguing that this was an example where an illegal protest was justified and discussed past examples in history where illegal protests have been used to bring about positive social changes.

Debate was interrupted for Question Time.
Motions taken as formal business

The following items of private members’ business were agreed to as formal business without amendment or debate:

1. Father Superior Antoine Tarabay OLM (Mr Ajaka)
2. Welfare Rights Centre, Sydney (Ms Barham)
3. Assyrian, Armenian and Greek genocides (Revd Mr Nile)
4. Vietnam Sydney Radio (Mr Clarke)
5. Baroness Thatcher (Revd Mr Nile)
6. Mememe Productions (Ms Barham)
7. Premier’s Multicultural Community Medals (Ms Ficarra)
8. Order for Papers – Heritage order on “Peroomba”, Warrawee – Further order (Dr Kaye)
9. National Festival of Ukrainian Australians (Ms Ficarra)
10. Exhibition of Latvian Australian artists (Mr Clarke)
11. Joint Standing Committee on Road Safety – Membership (Ms Fachrmann)
12. Chrissy Amphlett (Ms Barham)
13. Hepatitis C (Ms Fazio)
14. Schizophrenia Awareness Week (Ms Fazio)
15. Appointment of Father Antoine Tarabay (Mr Moselmane)
16. Anniversary of Trinity Grammar School (Ms Ficarra)
17. Ernie Bridge (Ms Voltz)
18. Retirement of Her Excellency the Governor of New South Wales (Mr Moselmane)
19. General Purpose Standing Committee No. 2 – Authority to make visits of inspection (Ms Ficarra)
20. Central Coast Mariners victory (Ms Fazio)
21. Benevolent Society (Ms Fazio)
22. 60th anniversary of Battle of Kapyong (Ms Fazio)
23. Punjabi Council of Australia Vaisakhi Celebration (Ms Fazio)
24. Mr Peter (Boutros) Indari (Mr Moselmane)
25. Launch of People’s Daily Online Australia (Mr Moselmane)
26. Hellenic Lyceum exhibition (Mr Clarke)
27. Earthquake in Lushan, Sichuan China (Mr Moselmane)
28. Australasian Lymphology Association Awareness Campaign Launch (Ms Ficarra)
29. Punjabi Council of Australia reception (Mr Clarke)
30. New Consul-General of the Pakistan Consulate (Mr Moselmane)
31. 29th Australian Mens and Mixed Netball Championships (Ms Ficarra)
32. General Purpose Standing Committee No. 3 – Reference (Mrs Maclaren-Jones)
33. ‘Corroboree’ festival (Ms Ficarra)
34. Australian Federation of Ukrainian Organisations (Ms Ficarra).

Orders for papers

Note: The Council has a common law power to order the Government to produce State papers.

Order made

Heritage order on ‘Peroomba’, Warrawee – Further order (Dr Kaye): The further order relates to the imposition and lifting of the Interim Heritage Order on ‘Peroomba’, 11 Harrington Avenue, Warrawee. The motion was agreed to as formal business. Due: 12 noon Tuesday 7 May 2013.

Return to order

Heritage order on ‘Peroomba’, Warrawee: received 8 April 2013, one box public.

Petitions received

1. Tweed Shire fire and rescue services – 17 signatures (presented Mr Secord).
2. The right to die with dignity – 689 signatures (presented Ms Fachrmann).
3. Fernleigh Track conservation area land sales – 251 signatures (presented Ms Voltz).
4. Proud Schools program – 274 signatures (irregular, presented Ms Sharpe).
5. Byrill Creek dam – 16 signatures (irregular, presented Mr Secord).
6. Tamworth Fire Station – 12 signatures (irregular, presented Mr Secord).

Reports tabled


Unproclaimed legislation: Mr Pearce tabled a list of unproclaimed legislation as at 1 May 2013.
Committee activities

Note: Committee activities includes committee references, reports tabled, debate on committee reports, government responses received and any other significant committee activity in the House. Committee activity as part of a current inquiry is summarised in the following section entitled ‘Inquiry activities’.

Committee reference

General Purpose Standing Committee No. 3: The House referred to the Committee an inquiry into the value and impacts of tourism on local communities.

Committee membership

The following change to committee membership was reported:

Joint Standing Committee on Road Safety: Revd Mr Nile in place of Ms Faehrmann.

Committee reports tabled


Privileges Committee: Report No. 68 entitled ‘Possible non-compliance with the 2009 Mt Penny order for papers’, dated April 2013.


Committee reports debated

Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission: The House continued the take-note debate on the following reports:


Inquiry activities

Racial vilification law in NSW

The Standing Committee on Law and Justice has received over 40 submissions to its inquiry into racial vilification law in New South Wales. The Committee held two public hearings in April 2013 and is in the process of preparing its report.

Drug and alcohol treatment

General Purpose Standing Committee No. 2 has received 50 submissions to its inquiry into the effectiveness of current drug and alcohol policies with respect to deterrence, treatment and rehabilitation.

The Committee has held three hearings on 3, 4 and 10 April 2013, with a fourth hearing to be held on 27 May 2013. The Committee is in the process of organising site visits to drug and alcohol treatment centres in New South Wales and Western Australia.

Same sex marriage law in NSW

The Standing Committee on Social Issues is inquiring into a proposed same sex marriage law in New South Wales. The Committee has concluded its hearings and is scheduled to report in July 2013.

Strategies to reduce alcohol abuse among young people

The Standing Committee on Social Issues has received 52 submissions to its inquiry into strategies to reduce alcohol abuse among young people. The Committee held its first hearing on 29 April 2013 and will hold its second hearing on Monday 6 May 2013.

Partial defence of provocation

The Select Committee on the Partial Defence of Provocation tabled its report on Tuesday 23 April 2013, which recommended retaining, but reforming the partial defence to respond to concerns about its operation. The government response to the report is due by 23 October 2013.

Use of cannabis for medical purposes

General Purpose Standing Committee No. 4 inquiry into the use of cannabis for medical purposes has completed its hearings and is in the process of finalising its report. The tabling date for the report is 17 May 2013.

Management of public land in NSW

General Purpose Standing Committee No. 5 is continuing its inquiry into the management of public land in New South Wales. The Committee is currently preparing its report for tabling in May 2013.
Adequacy of water storages in NSW

The Standing Committee on State Development is continuing its inquiry into the adequacy of water storages in New South Wales. The final hearing is scheduled for 3 May 2013, with the Committee intending to report by the end of June 2013.

Adjournment debate

Tuesday 30 April 2013

Rural Fire Service Awards/Gunnedah and Somerton ANZAC Day services (Mrs Mitchell); Scotia Sanctuary (Mr Macdonald); Population growth (Mr Borsak); Indigenous service personnel (Ms Fazio); Housing affordability and homelessness (Ms Barham); Western Armenia study tour (Mr Secord).

Wednesday 1 May 2013

Armenian, Assyrian and Greek genocides (Revd Mr Nile); Ballard and Multiplex court case/ Occupational health and safety (Ms Voltz); Rural and regional health services (Miss Gardiner); International Workers Day/ Portable long service leave (Mr Shoebridge); Local government reform (Ms Cotsis); Yellow Ribbon road safety campaign (Mr Ajaka).

Thursday 2 May 2013

Tribute to Mr Jim Carey (Ms Cusack); Public transport accessibility (Ms Sharpe); Disability nurses wage parity; (Dr Kaye); ANZAC Day Exeter commemoration ceremony (Mr Blair); Palliative Care New South Wales (Mr Green); Public housing rent increase (Mr Donnelly).

Feedback on House in Review

We welcome any comments you might have on this publication.

We are particularly keen to know which parts of the House in Review you find most useful and whether you have any suggestions for improvement. Please email your comments to stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.

[Signature]

David Blunt
Clerk of the Parliaments