Overview

This week was notable for debate on the Election Funding, Expenditure and Disclosures Amendment Bill 2014, which passed on Tuesday night following lengthy debate, including the moving of 29 amendments in the committee stage.

Wednesday was characterised by the passing of seven Government bills, while Thursday saw the Council debate and pass a private members' bill, the Criminal Records Amendment (Historical Homosexual Offences) Bill 2014. The Council next sits on Tuesday 4 November 2014.

Government representation in the Council

Following the resignation of the Honourable Andrew Stoner MP, as a minister, on 17 October 2014, the Leader of the Government in the House (Mr Gay) made a number of statements on Tuesday 21 October regarding ministerial and parliamentary secretary appointments and the representation of Assembly ministers in the Council. This includes the appointment of a new parliamentary secretary from the Council, the Honourable Niall Blair.

Statement by President

On Tuesday 21 October 2014, the President made a statement that marked the service of two former members of the Council during the First World War.

Ministerial statement

On Tuesday 21 October 2014, Mr Gay made a ministerial statement regarding the passing of the former Prime Minister, the Honourable Edward Gough Whitlam AC QC.

Mr Foley also addressed the House.

Conduct of business

On Tuesday 21 October 2014, Government business took precedence of committee reports and the Budget Estimates take note debates.

Government business

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

Election Funding, Expenditure and Disclosures Amendment Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the Election Funding, Expenditure and Disclosures Act 1981 to make special provision with respect to the 2015 state general election and to make further provision with respect to election funding, expenditure and disclosures. The bill includes tougher penalties for breaching election funding laws, a new general anti-circumvention offence provision for evading the laws, a pre-election donations disclosure in early 2015 by recipients of political donations and an extension of the limitation period for prosecuting offences from three to 10 years.

Additionally under the bill as drafted, eligible parties were to receive $4 per first preference vote in the Assembly and $3 per first preference vote in the Council. Eligible parties that did not have any candidates elected in the Assembly election would receive $4.50 per first preference vote in the Council only, with no funding for first preference votes in the Assembly. Eligible independent candidates would be able to claim $4 per first preference vote in the Assembly or $4.50 in the Council.

Proceedings: Debate on the second reading of the bill resumed on 21 October 2014 from 15 October 2014 (see the previous edition of House in Review for earlier debate).

The Opposition indicated it would vote in favour of the bill but would seek to amend it in the committee stage. It argued that, if passed unamended, the bill would primarily benefit the governing parties at the 2015 election as it would increase their funding to an estimated $12 million. It would also cut the capacity of trade unions and community based organisations to participate in the political process by reducing the spending cap on third party campaigns from $1.166 million to $250,000.
The Christian Democratic Party indicated that it was pleased the Government had acted on the interim report of the expert panel on political donations but was concerned the bill would introduce a system where a party must win an Assembly seat in order to receive funding for lower House candidates.

The Shooters and Fishers Party argued that all minor parties will in some way be disadvantaged by the bill and that corruption will never be stopped by only amending political donations legislation.

The Greens supported parts of the bill, but argued that it would see a substantial increase in the power of major political parties and includes nothing meaningful on the disclosure of political donations or cuts to donations. However, The Greens indicated they would not vote against the bill, foreshadowing amendments in the committee stage.

The second reading was agreed to.

In the committee stage, the Government moved seven amendments, all of which were agreed to, the Opposition moved 12 amendments, four of which were agreed to, The Greens moved eight amendments, of which only one was agreed to, and the Shooters and Fishers Party moved two amendments and had both agreed to.

The Opposition and the Government had various amendments agreed to regarding timing of campaign expenditure and disclosures. The Opposition amendments extended the period of actual campaign expenditure for public campaigning from 1 October to the earlier date of 1 July while a Government amendment extended the period for additional disclosures from 1 February until 1 March 2015.

The Government had a further amendment agreed to regarding payment of campaign funding to party candidates to allow for funding that is distributed to a party under the interim funding model to be paid directly to a party candidate if the party directs this in writing. The Opposition did not vote against the Government amendment but instead moved its own amendments to this section of the bill to reintroduce the $30,000 cap on funding per electorate for candidates in lower House seats. The Opposition argued the amendments would decrease the risk of corruption that the bill introduces by centralising money in the party head offices and removing the $30,000 cap. The Opposition could only gain the support of the Shooters and Fishers Party and the amendments were defeated on division (14:19).

The Greens had an amendment agreed to that negated the section of the bill that required a party to win a lower House seat in order to receive funding to candidates in that House. Instead, the amendment introduced an alternate arrangement providing that if a party runs 10 or more candidates in the Assembly it gets $4 per vote plus $3 per vote in the Council. If the party runs fewer than 10 candidates in the Assembly it reverts to receiving only $4.50 per vote in the Council.

A further Opposition amendment was agreed to on division (19:14) that removed the provisions in the bill to significantly reduce third party campaigner caps.

The Government and Shooters and Fishers Party each had two amendments agreed to regarding payments for eligible parties. The Shooters’ amendments increased payments for these parties while the Government amendments introduced advance payments in each quarter of the calendar year for those eligible.

The bill was reported to the House with amendments, read a third time and returned to the Assembly. The next day the Assembly agreed to the Council’s amendments to the bill.

**Multicultural NSW Legislation Amendment Bill 2014**

The bill originated in the Legislative Assembly.

**Summary:** The bill amends the *Community Relations Commission and Principles of Multiculturalism Act 2000* to rename the Community Relations Commission as Multicultural NSW, to constitute the Advisory Board of Multicultural NSW and to make other changes with respect to the Commission and multicultural principles. It amends the reference to ‘multiculturalism’ to ‘multicultural’ throughout the Act and removes the term ‘racial and ethnic backgrounds’ replacing it with ‘ancestral background’.

**Proceedings:** The bill was received from the Legislative Assembly on Tuesday 21 October 2014 and read a first time. Debate on the second reading commenced the following day with the second reading speech of the Parliamentary Secretary (Mrs Pavey) being incorporated into Hansard. In that speech, the Parliamentary Secretary indicated that the purpose of the bill is to ensure that multicultural practice remains current and adaptive. The speech noted that the bill will give greater emphasis to the need for all citizens, regardless of nationality, cultural origin or religious affiliation, to have a collective responsibility to work together for our common welfare and future as Australians.

The Opposition did not oppose the bill, but raised concerns regarding changes to the scope and function of the Community Relations Commission.

The Greens also did not oppose the bill, but raised concerns that excluding ‘racial and ethnic’ and replacing it with ‘ancestral’ served to limit the objectives and the potential of the bill to build on and expand multiculturalism and a multicultural New South Wales.

The Christian Democratic Party supported the bill and its aim to allow greater emphasis to be placed on the need for commitment to shared democratic values, laws and institutions as Australians while still recognising and valuing the different linguistic, religious and ancestral backgrounds of all people. The second reading was agreed to.

The Opposition spoke briefly on the third reading to note its concern that aspects of the bill had already been implemented before being passed by the Council. The third reading was agreed to and the bill was returned to the Assembly without amendment.
Teacher Accreditation Amendment Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the Teacher Accreditation Act 2004 to require all persons who teach in early childhood education centres and schools to be accredited by the Board of Studies, Teaching and Educational Standards by the end of 2017, enables certain non-teaching persons to receive voluntary accreditation from the Board, and to make certain conditions regarding accreditation, revocation of accreditation and the functions of the Board.

Proceedings: Debate on the second reading of the bill commenced on 22 October 2014. The majority of the second reading speech of the Parliamentary Secretary (Ms Cusack) was incorporated into Hansard. In that speech, the Parliamentary Secretary indicated that the bill ensures that all school teachers, from early childhood to secondary school, are professionally accredited and that this is part of the Government’s ‘Great Teaching, Inspired Learning Blueprint for Action’ reforms. The speech further indicated that this bill complements the Board of Studies, Teaching and Educational Standards Act 2013 which facilitated the amalgamation of the Board of Studies NSW and the NSW Institute of Teachers and that the move towards mandatory accreditation is similar to other professions such as lawyers and accountants.

The Opposition, The Greens and the Christian Democratic Party supported the bill noting that it will bring the state into line with other jurisdictions. The Greens however raised some concerns regarding the bill’s impact on teachers who have been teaching for many years who will also require accreditation. The second reading was agreed to.

In the committee stage, the Greens moved an amendment to insert a requirement that the Minister must certify that the New South Wales Teachers Federation has approved the scheme applying to government school teachers before it comes into effect. The amendment did not receive support, with the Parliamentary Secretary noting that this matter had not been raised during extensive consultation on the bill. The amendment was negatived.

The bill was reported to the House, read a third time and returned to the Assembly without amendment.

Education Amendment (Not-for-profit Non-Government School Funding) Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the Education Act 1990 to prevent financial assistance being provided to or for the benefit of non-government schools that operate for profit and to provide for the recovery of any amounts paid to these schools.

Proceedings: Debate on the second reading of the bill commenced on 22 October 2014. The second reading speech of the Minister (Mr Mason-Cox) was incorporated into Hansard. In that speech, the Minister indicated the bill’s intention is to give the community greater confidence that the Government’s financial investment in schools is not directed towards schools that operate for profit. The bill includes measures that clarify and strengthen the powers of the Minister to enforce compliance, including the establishment of the Not-for-profit Advisory Committee which will advise the Minister directly on individual school compliance.

The Opposition, The Greens and the Christian Democratic Party all supported the bill and its aim to clear up a grey area regarding the Minister’s powers and punishing breaches of the legislation. The second reading was agreed to.

In the committee stage, The Greens moved an amendment to include a member of the New South Wales Teachers Federation on the Not-for-profit Advisory Committee. The amendment received no support and was defeated.

The bill was reported to the House, read a third time and returned to the Assembly without amendment.

Protection of the Environment Legislation Amendment Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends various State environment statutes and aligns them with existing arrangements for revenue retention, alternative sentencing options and a restorative justice process to provide support, enforcement and enhancement of ecologically sustainable development by the NSW Environment Protection Authority.

Proceedings: Debate on the second reading of the bill commenced on 22 October 2014. The second reading speech of the Minister (Mr Mason-Cox) was incorporated into Hansard. In that speech, the Minster stated that the bill will improve the effectiveness of the enforcement powers of the NSW Environment Protection Authority, improve sentencing options available to the court and facilitate implementation of the Auditor-General’s recommendation for managing contaminated sites.

The Opposition, the Christian Democratic Party and The Greens supported the bill, considering the increase of penalties a sensible and measured way of dealing with contamination.

While supporting the bill, the Christian Democratic Party noted that more work needs to be done to reduce the waste levy under section 88 of the Act as many councils are not receiving a fair return for the revenue collected under that levy. The Greens also asserted the need to implement pollution prevention programs and adequately resource regulatory agencies to enable them to implement these programs, monitor compliance and enforce any breaches.

The second and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.
State Revenue Legislation Amendment (Electronic Transactions) Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the Duties Act 1997 and the Taxation Administration Act 1996 to make further provision for the assessment and payment of tax by electronic means through the enactment and implementation of the Electronic Conveyancing National Law (NSW), which introduces a national electronic conveyancing system for the property industry, due to be operational in the last quarter of 2014.

Proceedings: Debate on the second reading of the bill commenced on Wednesday 22 October 2014. The Minister (Mr Mason-Cox) incorporated his second reading speech into Hansard. In that speech the Minister outlined how the provisions of the bill implement the Council of Australia Governments’ initiative to deliver a national electronic conveyancing system and the changes required by the NSW Office of State Revenue to integrate into the national online Property Exchange Australia Limited (PEXA) system. Mr Mason-Cox also highlighted the benefits of moving to a paperless system which connects all participants in the conveyancing process.

The Opposition did not oppose the bill, acknowledging that the Law Society had been consulted and had no objections in relation to the bill. The Opposition did however note that it would monitor the future impact of accrued interest which will result from the change in payment procedures.

The Greens and the Christian Democratic Party supported the bill. The Greens commended the Government for introducing environmentally sensible legislation as the paperless system it introduces will contribute to reducing the nation’s carbon emissions. The Christian Democratic Party acknowledged the contribution of the former Minister and certain members of the public in gathering support for the new system.

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

Constitution Amendment (Parliamentary Presiding Officers) Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the Constitution Act 1902 to ensure that both the President of the Legislative Council and the Speaker of the Legislative Assembly (and deputies acting when they are unavailable) may exercise the functions of parliamentary presiding officers relating to the administration of Parliament and the employment of staff during a State general election period when the Legislative Assembly is dissolved and the Legislative Council is suspended. The bill also makes a consequential amendment to the Parliamentary Remuneration Act 1989 to ensure that Parliamentary presiding officers (and their deputies) continue to receive remuneration during this period.

Proceedings: Debate on the second reading of the bill commenced on Wednesday 22 October 2014. In his second reading speech, the Minister (Mr Gay) stated the bill would ensure certainty and stability to the administration of the Parliament and the employment of parliamentary staff during the 2015 general election period by aligning provisions for the continued service of the President with the provisions currently in place for the Speaker.

The Opposition, Christian Democratic Party and The Greens unanimously supported the bill.

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

Rural Fires Amendment Bill 2014

The bill originated in the Legislative Assembly.

Summary: The bill amends the Rural Fires Act 1997 and related legislation to make changes to the issuing of fire permits during a fire danger period, to make it an offence to discard a fire risk object from a vehicle, and to require a court to take a total fire ban into consideration as an aggravating factor in deciding the penalty to be imposed on persons who set fire to another person’s land or property.

Proceedings: Debate on the second reading of the bill commenced on Wednesday 22 October 2014. The Parliamentary Secretary (Mr Blair) incorporated the majority of his second reading speech into Hansard. The speech noted that the NSW Rural Fire Service had investigated more than 1,900 suspicious bush and grass fires, separate to incidents investigated by NSW Police, and that the issue of fires being deliberately lit during a total fire ban was an emerging problem that the Government’s legislation sought to combat. The speech further stated that the bill sends a strong message to people who ignore fire bans and fire advice that their actions will not be tolerated.

The Opposition, the Christian Democratic Party and The Greens all spoke in support of the bill, discussing the seriousness of the issue, particularly at the beginning of the bush fire season and the scale of damage that can be caused by the irresponsibility of others.

While The Greens supported the bill, they did question how necessary some of the provisions were, given that the Crimes Act already creates a legal framework of offences relating to intentional lighting of fires. The Parliamentary Secretary, speaking in reply, addressed this issue stating that the bill aims to ensure that there is a distinction between criminal arson and bushfire protection.

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

Bills introduced and read a first time

The following bills from the Assembly were introduced, read a first time, and their second reading set down for a later hour:
requirement to disclose extinguished convictions, for
has both practical and personal benefits as there is no
motions.

business: private members’ bills and private members’
ministers. There are two types of private members’
bills
by members of the House other than Governm ent

Bills

Criminal Records Amendment (Historical
Homosexual Offences) Bill 2014 (Mr Khan, The
Nations)

The bill originated in the Legislative Assembly. Mr Khan
sponsored the bill in the Council.

Summary: The bill amends the Criminal Records Act 1991 to
enable certain convictions for a number of decriminalised
homosexual sexual conduct offences to be extinguished.

Proceedings: Debate on the second reading of the bill
commenced on 23 October 2014. In his second reading
speech, Mr Khan stated that the bill addresses an
injustice for people who have suffered an historical
wrong and were convicted for homosexual sexual
conduct that has since been decriminalised, but still have
this former offence on their record. The Crimes
Amendment Act 1984 decriminalised homosexual activity
for people over the age of 18 years and further legislation
in 2003 lowered the age of consent for male homosexual
activity from 18 to 16 years. Mr Khan argued that this bill
has both practical and personal benefits as there is no
requirement to disclose extinguished convictions, for
example when applying for a job, and it assists to reduce
the social stigma of having a criminal conviction for a sex
offence.

Members of the Government, the Opposition, The
Greens and the Christian Democratic Party joined in
support the bill noting in turn that it provides justice to
those wronged, corrects a terrible legislative oversight,
introduces long overdue reform and provides mercy and
compassion to those affected. Members joined to
commend the careful and collaborative approach taken in
drafting the bill. The second reading was agreed to.

In the committee stage, Mr Khan moved an amendment
to make absolutely clear that an offence becomes an
extinguished conviction if it was committed by a person
on or above the age of 16. The amendment addressed
commend the careful and collaborative approach taken in
drafting the bill. The second reading was agreed to.

Orders for papers

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

Orders made

Planning in Newcastle and the Hunter (Dr
Faruqi): The order relates to certain aspects of
planning in Newcastle and the Hunter, including heavy and light rail in the Newcastle CBD and Wickham Interchange. The motion was agreed as formal business. Due: Thursday 6 November 2014.

(2) “Going Home, Staying Home” reforms (Ms Costis): The order relates to the tender process and other aspects of the “Going Home, Staying Home” reforms to the funding arrangements for homeless services. The motion was brought on by suspension on Thursday 23 October 2014 and debated by the House. Ms Costis argued that the order was important for the numerous organisations who are seeking clarification and details on funding arrangements and the tender process. The Government opposed the motion stating that the reforms are ongoing, that information is already publicly available and that the large order for papers could negatively impact on the Department of Family and Community Services by detracting from frontline services. The House agreed to the motion. Due: Thursday 20 November 2014.

Return to order

(1) VIP Gaming Management Agreement: in accordance with resolution of the House of Wednesday 15 October 2014, a redacted claim of privilege relating to the order for papers was received.

Disputed claim of privilege

(1) VIP Gaming Management Agreement: Further to last week’s House in Review (see edition 55/77), on Tuesday 21 October 2014 the Clerk announced that the independent legal arbiter, the Honourable Keith Mason AC QC, had provided his report on the disputed claim of privilege on the VIP Gaming Management Agreement. The report was tabled, according to resolution of the House on Wednesday 22 October 2014.

On Thursday 23 October 2014 the House resolved as formal business to refer the implementation of the independent legal arbiter’s report regarding the disputed privileged document to the Privileges Committee for inquiry and report. The committee is due to report by Tuesday 11 November 2014.

Petitions

Petition received

(1) National Broadband Network in Bungendore – 22 signatures (presented Mr Whan)

Government response to petition

(1) Statement made by Prime Minister Tony Abbott regarding World War II Japanese troops (presented Mr Wong)

Reports tabled


Information and Privacy Commission: Annual report, including the reports of the Information Commissioner and the Privacy Commissioner, for year ended 30 June 2014.


Police Integrity Commission: Annual report for year ended 30 June 2014.

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

Privileges Committee: As noted above the Committee received a reference to inquire into and report on the VIP Gaming Management Agreement.

General Purpose Standing Committee No. 1: Mr MacDonald in place of Mr Pearce.

General Purpose Standing Committee No. 3: Mr Pearce in place of Mr MacDonald.

Joint Select Committee on loose fill asbestos insulation: Mr Shoebridge in place of Dr Kaye.

Committee on Children and Young People: Mrs Mitchell in place of Mr Blair.

Committee on the Independent Commission Against Corruption: Mr Khan in place of Mr Blair.

Standing Committee on Social Issues: Mr Lynn in place of Dr Phelps.

Committee reports tabled


Standing Committee on State Development: Report No. 38 entitled “Regional aviation services”, dated October 2014.

Government response


Inquiry activities

Standing Committee on Law and Justice
Inquiry into the family response to the murders in Bowraville
The committee is in the process of finalising its report.

Standing Committee on State Development
Inquiry into regional aviation services
The Chair tabled the committee report in the House on Thursday 23 October 2013.

General Purpose Standing Committee No. 1:
Review of the inquiry into allegations of bullying in WorkCover NSW
The call for submissions to the inquiry has now closed. The committee will hold a public hearing on 28 October 2014.

General Purpose Standing Committee No. 5
Inquiry into the Wambelong fire
The committee concluded its evidence gathering in mid-September. It is now preparing its report, which it expects to table mid-February 2015.

Inquiry into the performance of the NSW Environment Protection Authority
The committee has published 247 submissions and held its first public hearing in Sydney on 13 October 2014. The committee will hold three further hearings on 29 October (Lismore), 10 November (Hunter), and 24 November (Sydney).

General Purpose Standing Committee No. 4
Inquiry into the Fair Trading Amendment (Ticket Reselling) Bill
The call for submissions has now closed. The committee will hold a public hearing in Sydney on Monday 3 November. The committee intends to report by mid-February 2015.

Inquiry into Budget Estimates
General Purpose Standing Committee No. 5 tabled its report into budget estimates this week. General Purpose Standing Committee No 3 will hold a supplementary hearing into the portfolio of Trade and Investment on 5 November 2014.

Select Committee on home schooling
A draft report is currently being prepared, with a view to the final report of the committee being tabled during the second sitting week in November 2014.

Select Committee on the planning process in Newcastle and the broader Hunter Region
The select committee is currently receiving submissions, with a closing date for submissions of 24 October 2014. Two public hearings and a public forum will be held in Newcastle on 7 and 21 November 2014, with a final public hearing scheduled for Sydney on 24 November 2014.

Joint Select Committee on loose fill insulation
The closing date for submissions to the inquiry is 31 October. The committee will hold a public hearing in Sydney on Friday 14 November, followed by a public hearing in Queanbeyan on Monday 17 November.

The final reporting date for the inquiry is 16 February 2015.

Select Committee on ministerial propriety in New South Wales
The select committee has received seven submissions. The reporting date for the inquiry has been extended until 2 March 2015.

Adjournment debate

Tuesday 21 October 2014
Tooraweenah Centenary Show (Mr Colless); Bushfires (Mr Green); Death of the Hon. Edward Gough Whitlam, AC, QC, former Prime Minister (Mr Whan); South Korean ferry disaster (Ms Voltz); Japanese Prime Minister’s visit (Mr Lynn); Global warming (Dr Phelps).

Wednesday 22 October 2014
Blue Mountains bushfires (Ms Westwood); Special Religious Education (Revd Mr Nile); Education reforms (Mrs Mitchell); Motor accident insurance (Mr Primrose); Operation Protea (Mr Shoebridge); Liberal Party of Australia 70th anniversary (Mrs Maclaren-Jones).

Thursday 23 October 2014
Anti-poverty Week (Ms Barham); Counterterrorism measures (Mr Clarke); Japanese military history (Mr Wong); Capital region employment (Mr Whan); Gas supplies (Mr Borsak); International students and the Hon. Andrew Stoner, former Leader of The Nationals (Ms Cusack); Renew Newcastle (Mr MacDonald).

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.

David Blunt
Clerk of the Parliaments