

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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*Sitting period
20 to 22 November 2012*

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 sitting week, the last for the Council for 2012, saw the House consider six Government and two private member's bills. The House finalised consideration of all but one of the Government bills, two of which – the Ombudsman Amendment Bill and the Saint John's College Amendment Bill - were declared urgent. The Law Enforcement (Controlled Operations) Bill 2012 was introduced and now sits on the Notice Paper for consideration in 2013.

Most notably, the House sat late on Wednesday as it debated the passage of the Ports Assets (Authorised Transactions) Bill, which was returned to the Legislative Assembly without amendment.

On Thursday the House passed the Game and Feral Animal Control Further Amendment Bill, which had been introduced in September this year. The last sitting day also saw the introduction and second reading speech of the Road Transport (Safety and Traffic Management) Amendment (Child Safety on School Buses) Bill.

It is also noteworthy that 656 new written questions on notice were received and published this week.

The final act of the House prior to the adjournment debate on Thursday was the giving of thanks to members and staff and season's felicitations. The House then adjourned until Tuesday 19 February 2013, unless recalled earlier.

Government business

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

Ports Assets (Authorised Transactions) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill authorises and facilitates the transfer to the private sector of the State's ports assets at Port Botany and Port Kembla, subject to the restriction that the land concerned can be leased to the private sector for up to 99 years but ownership of the land remains with

the State. The bill also provides for the transfer of port employees and their rights and entitlements on transfer.

Proceedings: Debate on the second reading of the bill commenced on 21 November 2012. The Minister (Mr Gay) incorporated his speech into Hansard. In it, the Minister stated that the proceeds from the transfer would release billions of dollars to help fund a critical backlog of infrastructure across the State. In his speech the Minister argued the transfer will see ongoing private sector investment in the ports which will help drive growth in the State economy and support jobs while allowing the Government to focus its limited resources on areas that affect people's day-to-day lives. It was noted that proceeds from the transaction will be paid into the Restart NSW Fund, 30 per cent of which is dedicated for rural and regional areas and that \$100 million from the lease of Port Kembla will be spent meeting some of the Illawarra's urgent infrastructure needs. Other members of the Government spoke in support of the bill, pointing to successful similar leases of port facilities overseas and in Queensland.

The Opposition opposed the bill, arguing that no public case has been made to justify the transfer of the ports assets. The Opposition stated that the ports were in excellent condition, due to recent capital investment, and provided a steady revenue stream for the State, which the Government was in effect auctioning off for a one-off windfall. The Opposition cautioned that the passage of the bill would result in the creation of a private monopoly, free from regulation.

The Greens opposed the bill, deriding it as bad economics and as the squandering of a long-term income-bearing asset for short-term cash flow. The Greens argued that there was strong public opposition to the transfer and noted that the proposal was not part of the platform the Government took to the public in the 2011 election. During the debate the Greens moved that the question of the second reading of the bill be amended by instead referring the bill to a select committee for inquiry and report.

The Shooters and Fishers Party supported the bill, arguing that it was not in the Government's interests for the State's ports facilities to become uncompetitive and

not continue to contribute to the growth of the economy. The Shooters and Fishers stated that its support was contingent on assurances from the Government on some matters including the strict use of levies on the stated purposes for which they are raised and the guaranteed continued public access to certain areas within Port Botany.

The Christian Democratic Party also supported the bill, arguing that the investment in infrastructure arising from the proceeds of the transaction will be widely welcomed by the community. The Party said that it was satisfied that any issues arising from increased traffic movements around Port Botany would be dealt with appropriately by the Government, and also noted that the Government will retain step-in rights if the lessee breaches conditions of the lease.

In reply, the Minister noted that under the lease agreement the Government will retain ownership of the land as well as several important maritime functions, including harbour master, marine pilots and emergency response obligations, and that the Port Botany landside improvement strategy function will also remain with the Government. The Minister sought to address a number of issues raised during the debate and among other things advised that a key term of the lease will be the need to ensure free and unfettered access to Molineux Point; that it is the intention that port infrastructure charges will be levied only on those parties that benefit from the proposed infrastructure; and that port users can raise price and charges issues with the Minister, with further scope for references to the Independent Pricing and Regulatory Tribunal (IPART) and ultimately price regulation.

The Greens proposal to have the bill referred to a select committee for examination was negated (Division 17:20) and the second reading was agreed to (Division 20:17).

In the committee stage, the Greens and the Opposition each moved five amendments. All of the amendments were negated, either on the voices or on division. The Opposition amendments included a requirement for the port operator to exhibit a sense of social responsibility by having regard to the interests of the local community; and requirements for the Minister's approval and IPART's investigation prior to the imposition or variance of port charges and rent. The Greens amendments included attempts to overturn the provision in the bill prohibiting the imposition of any limit or restriction on the amount of cargo that can be received, handled or transported from Port Botany, to ensure continuing free public access to areas of Port Botany, and to double the employment guarantee period provided for in the bill.

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

Parliamentary Electorates and Elections Amendment (Redistribution) Bill 2012 and cognate Election Funding, Expenditure and Disclosures Further Amendment Bill 2012

The bills originated in the Legislative Assembly.

Summary: These bills primarily concern the redistribution of election boundaries for Lower House seats in NSW. Under section 28 of the *Constitution Act 1902*, in any distribution of electoral districts for the purposes of elections for the Legislative Assembly, the boundaries are to be determined so that there are an equal number of voters in each electorate at the time the distribution is made, but with a margin of allowance not exceeding 10 per cent. In addition, section 17A of the *Parliamentary Electorates and Elections Act 1912* further requires that the Electoral Districts Commissioners have regard to demographic trends and as far as practicable endeavour to ensure that, at the time of the next scheduled State election, the number of voters in each electorate will be equal, but with a margin of allowance not exceeding three per cent.

The Parliamentary Electorates and Elections Amendment (Redistribution) Bill 2012 amends the *Parliamentary Electorates and Elections Act 1912* to increase the margin of allowance from three per cent to 10 per cent. The cognate Election Funding, Expenditure and Disclosures Further Amendment Bill 2012 makes amendments to the *Election Funding, Expenditure and Disclosures Act 1981* to ensure that the Electoral Funding Authority is able to enforce disclosure requirement for political parties in relation to political donations and electoral expenditure.

Proceedings: Debate on the second reading of the bill resumed on 20 November 2012 from 25 October 2012 (see Vol. 55/37 of *House in Review* for earlier debate). Following a request by both the Opposition and the Greens, the question on the second reading of the two bills was put separately. The second reading of the Parliamentary Electorates and Elections Amendment (Redistribution) Bill 2012 was agreed to on division (21:18). The second reading of the cognate Election Funding, Expenditure and Disclosures Further Amendment Bill 2012 was agreed to on the voices.

In the committee stage, the Greens moved an amendment to reduce the margin of allowance between electoral districts projected at the time of the next scheduled State election from the proposed 10 per cent to 6 per cent. The Greens argued that this amendment would reduce the possibility of disenfranchisement of people in some electorates. The Government opposed the amendment as inconsistent with the recommendations of the current NSW Electoral Commissioner, Mr Colin Barry, while the Opposition indicated its support for the current *Parliamentary Electorates and Elections Act 1912* without any amendment. The amendment was negated on the voices and the bills reported to the House without amendment.

Following a request from the Opposition, the third reading of the bills was also put separately. The third reading of both bills was agreed to on the voices, and the bills were returned to the Assembly without amendment.

Miscellaneous Acts Amendment (Directors' Liabilities) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends various Acts and Regulations to implement Council of Australian Governments (COAG) reforms relating to the harmonisation across Australian jurisdictions of legislation relating to the criminal liability of directors, including by changing the category or type of liability imposed for certain offences. The bill reduces the number of offences to which special directors' liability provisions apply from over 1,000 to around 150, and for most of this 150 the reverse onus of proof has been removed.

Proceedings: Debate on the second reading of the bill resumed on 20 November from 24 October 2012 (see Vol 55/37 of *House in Review* for earlier debate). The Opposition did not oppose the bill in its entirety, but was opposed to those provisions which sought to weaken the current director liability provisions with respect to the areas of child protection, injured workers and the environment. The Opposition was of the view that, in these cases, there was a strong public policy reason to retain the existing protections and foreshadowed they would seek to amend the bill accordingly in the committee stage. The Greens strongly opposed the bill, which they said sought to reverse a century of strengthening the responsibility of corporate directors, arguing that it would inevitably lead to increased instances of corporate irresponsibility and mismanagement. The Greens further argued that many of the provisions in the bill did not meet the tests contained within the COAG agreement designed to ensure that harmonisation did not come at the expense of removing appropriate levels of public protection.

In reply, the Parliamentary Secretary (Mr Clarke) said the bill delivers on the COAG agreement made many years ago to reform the inefficient directors liability scheme across the nation, and that the bill represents a key element of the Seamless National Economy reforms which the Productivity Commission has estimated to have the potential to increase gross domestic product by around \$6 billion per year.

The second reading was agreed to (Division 28:5).

In the committee stage, the Opposition moved a group of amendments which together sought to retain, by omitting from the bill the proposal to remove, the existing director liability provisions contained in nine separate Acts. The amendments drew the support of the Greens only and were negated on division (17:20).

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

Ombudsman Amendment Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Ombudsman Act 1974* to provide for the Ombudsman to appoint an Australian legal practitioner to assist the Ombudsman for the purposes of an inquiry, and to enable the Ombudsman to restrict or prohibit the publication of evidence or information provided to an Ombudsman's inquiry. The

bill also amends the *Crime Commission Act 2012* and the *Police Integrity Commission Act 1996* so as to enable the Ombudsman to require officers of the Crime Commission or the Police Integrity Commission to give evidence or provide documents in connection with investigations of matters referred to the Ombudsman by the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission.

Proceedings: The bill was received from the Legislative Assembly on 20 November 2012 and read a first time. Having reached the Council after the cut off date of 25 October, the bill was declared urgent, allowing the second reading and subsequent stages to proceed.

In his second reading speech, the Minister (Mr Gallacher) said the impetus for the bill was the public concern over the long-running unresolved matters arising out of the report of the NSW Police Strike Force Emblems, which was an internal New South Wales Police Force inquiry established in 2003 to investigate aspects of Operation Florida, a joint operation involving the Crime Commission, the Police Force and the Police Integrity Commission. The Minister noted that on 7 October this year the Premier announced that the Ombudsman and the Inspector of the Police Integrity Commission had conferred and agreed that the Ombudsman would be well-placed to undertake an independent inquiry into Strike Force Emblems and any relevant matters leading up to it. The Minister said the intention of the bill is to provide the Ombudsman with the necessary authority to inquire into operations and matters that traverse the functions and activities of the organisations involved in crime detection and crime agency integrity.

The Opposition, the Christian Democratic Party and the Greens all supported the bill, based on the need to resolve the controversy surrounding the Emblems investigation and report. The Opposition expressed concern however that the powers conferred on the Ombudsman by the bill are not limited to the Emblems matter nor were they subject to a sunset clause. The Greens noted some concern about the right of the Ombudsman to restrict or prohibit publication of evidence – a right that had never been considered necessary in the past. Both parties commented on the fact that the introduction and passage of the bill through the Assembly and subsequent introduction into the Council had occurred on the one day.

In reply, the Minister said that while the Government clearly wished to provide the Ombudsman with the necessary powers as quickly as possible, it was also conscious of the need to allow members time to examine the bill prior to considering it in detail.

The second reading was agreed to.

In the committee stage, the following day, a Greens amendment seeking to limit the application of the Ombudsman's right to restrict or prohibit publication of evidence to inquiries into matters that were referred by either the Inspector of the PIC or the Inspector of the Crime Commission was negated (Division 5:31).

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

Saint John's College Amendment Bill 2012

The bill originated in the Legislative Assembly.

Summary: Saint John's College at Sydney University has been in the media recently following allegations of bullying, harassment and victimisation of students. This has prompted the resignation of all but one of the members of the College Council, rendering the Council inoperative.

The bill amends the *Saint John's College Act (1857)* to enable the Roman Catholic Archbishop of Sydney, in consultation with the Vice Chancellor of the University of Sydney, to appoint clerical and lay persons to fill the vacancies on the Council for terms of up to three years to enable the Council to govern the College.

Proceedings: The bill was received from the Legislative Assembly on 21 November 2012 and read a first time. Having reached the Council after the cut off date of 25 October, the bill was declared urgent, allowing the second reading and subsequent stages to proceed.

The second reading speech of the Parliamentary Secretary (Ms Ficarra) was incorporated into Hansard. In that speech, the Parliamentary Secretary indicated that the bill was prepared following a request for assistance from the University of Sydney and the Roman Catholic Archbishop of Sydney. The bill deals with the immediate problems facing Saint John's College by providing for an alternate process for appointment of fellows of the Council in the present unusual circumstances.

The Opposition did not oppose the bill, while suggesting that it is only a first step to addressing the problems at the college. The Greens also did not oppose the bill, while suggesting that more could have been done to begin addressing the issues facing Saint John's College. To this end, the Greens foreshadowed certain amendments. The Christian Democratic Party supported the bill, noting that the traditional values of Saint John's College are not being transmitted to current students. In reply, the Parliamentary Secretary noted that a longer-term review of the relationship between the University and the Council is being undertaken by the Vice-Chancellor. The second reading was agreed to.

In the committee stage, the Greens moved amendments to provide that the Minister for Education and not the Catholic Archbishop of Sydney should appoint members of the College Council, and that members of the new Council should be at least 50 per cent female, and that 50 per cent should have experience in dealing with institutional bullying and harassment. The Government did not support the amendments, arguing that institutions and their stakeholders – in this case the Archbishop and the Vice-Chancellor – are best placed to make decisions about who serves on their boards. The Opposition expressed some support for the Greens' amendments, but suggested that at this stage they were an overreach and that more consultation was needed. The Christian Democratic Party also did not support the amendments, expressing confidence in the Archbishop to correct behaviour and discipline at the college. The amendments were negatived.

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

Law Enforcement (Controlled Operations) Bill 2012

The bill originated in the Legislative Council.

Summary: The bill amends the *Law Enforcement (Controlled Operations) Act 1997* to provide for a secondary law enforcement officer to act as a principal law enforcement officer in authorised controlled operations whenever the principal law enforcement officer is unavailable. Presently an application to conduct a controlled operation must nominate a principal officer who conducts and is responsible for the operation. The bill also amends the *Surveillance Devices Act 2007* to permit the use of listening devices, without the need to seek a warrant, by authorised civilian participants in controlled operations.

Proceedings: The bill was introduced, read a first time and printed on 21 November. In his second reading speech, the Minister (Mr Gallacher) said the bill implements the two recommendations made in the recently tabled report on the review of the Act. The provisions in the bill will overcome operational inefficiencies that arise when a controlled operation needs to be conducted but a principal law enforcement officer is unavailable due to illness or conflicting duties or when an authorised civilian participant needs to wear a listening device. The Minister said the amendments to the Act contained in the bill will assist law enforcement agencies in the conduct of controlled operations and will reduce red tape.

Debate was adjourned until the first sitting day of 2013.

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.

Forestry Bill 2012: On 15 November the Assembly advised it had agreed to the bill which it was returning without amendment.

Statute Law (Miscellaneous Provisions) Bill (No 2) 2012: On 15 November the Assembly advised that it had agreed to the Council's amendments.

Local Government Amendment (Conduct) Bill 2012: On 15 November the Assembly advised that it had agreed to the Council's amendment.

Environmental Planning and Assessment Amendment Bill 2012: On 15 November the Assembly advised that it had agreed to the Council's amendments.

Emergency Legislation Amendment Bill 2012: On 21 November 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

Game and Feral Animal Control Further Amendment Bill 2012 (Mr Brown, Shooters and Fishers Party)

The bill originated in the Legislative Council.

Summary: The bill amends the *Game and Feral Animal Control Act 2002* and the *National Park and Wildlife Act 1974* by making further provisions with respect to the hunting of game birds and other game animals, including the creation of a game management licence authorising the hunting of game animals for non-commercial purposes on specified land, and the inclusion of ducks and other game birds in the list of game animals that may be hunted under the authority of the Act.

Proceedings: Standing orders were suspended on 22 November 2012 to bring on the item of business. Debate on the second reading of the bill resumed from 4 September 2012 (see Vol 55/32 of *House in Review* for earlier debate). The Opposition was opposed to the bill characterizing it as heralding the re-introduction of duck hunting in the State. The Opposition said that it had no objection to the properly regulated shooting of ducks to mitigate damage to crops, and that the current regime was well balanced in that regard. To that end it could not support the bill as it provided for an inappropriate extension of the role of the Game Council.

The Greens were strongly opposed to the bill, arguing there was no public opinion or support for an expansion of duck hunting, and that the bill will inevitably lead to an increase in the killing or maiming of protected native bird species. The Greens further argued that no public case had been made for any need to change the current regime.

During the debate both the Opposition and the Greens put forward the view that the only reason the Government was supporting the bill was because it was part of a deal to obtain the Shooters and Fishers Party support for the Ports Assets (Authorised Transactions) Bill 2012.

The Christian Democratic Party supported the bill, noting that even if the bill was not passed, duck hunting would still be allowed in the State and that in either case it can only occur on private land.

The Government indicated that it would support the bill provided that the amendments which it had circulated were adopted. The Government said that while a review of the current regime was timely, it noted that the bill proposes removing many restrictions on native game bird hunting, with the policy development and administration of licences to be done by the Game Council instead of the Office of Environment and Heritage. The Government's amendments provided better protection for native game birds and ensured an on-going role for

the Office of Environment and Heritage with the authorization for native game bird hunting to be given for sustainable agricultural purposes only. The Government amendments also provided for the establishment of a new Native Game Bird Management Committee to be responsible for policy development including the setting of quotas and compliance requirements.

In reply, Mr Brown said that while the Government's amendments replaced most of the text of the bill, the actual changes to the intent of the bill were minor, and as such, the Shooters and Fishers Party would support the amendments. The second reading was agreed to (Division 21:18).

In the committee stage, the five Government amendments were all agreed to on the voices. During debate, both the Opposition and the Greens commented they would prefer no change to the current system, and that they were not opposing the Government amendments only because they provided, in their view, a less unbalanced regime than that provided in the original bill.

The bill was reported with the amendments, read a third time (Division 21:18) and forwarded to the Assembly for concurrence. The Assembly agreed to the bill.

Road Transport (Safety and Traffic Management) Amendment (Child Safety on School Buses) 2012 (Ms Faehrmann The Greens)

The bill originated in the Legislative Council.

Summary: The bill seeks to amend the *Road Transport (Safety and Traffic Management) Act 1999* to ensure that from the first day of term 3 of the 2013 school year, passengers on any school bus, outside the areas of Sydney, Newcastle, Central Coast, Blue Mountains and Wollongong, will not be permitted to stand while the bus is travelling on an unsealed road or road with a speed limit of 80 kilometres per hour or higher.; to require from 2018 the fitting of seatbelts on school buses in rural and regional areas; and to require the Minister to prepare a Code of Conduct setting out the rights and obligations of school students on school bus journeys.

Proceedings: Standing orders were suspended to bring on the item of business. The bill was introduced, read a first time and printed on 22 November 2012. In her second reading speech, Ms Faehrmann said the bill's purpose was to improve school bus safety in regional and rural New South Wales by implementing key recommendations of the School Bus Safety Advisory Committee which was established by the Government in April 2011 and reported in October this year. Ms Faehrmann noted that there have been recent reminders of the seriousness of the issue of school bus safety with a number of school bus crashes in 2012, the most recent of which involved the tragic death of a young boy at Singleton. Ms Faehrmann said the cost involved in making the changes proposed in the bill was modest and affordable and should not be viewed as a barrier to action when considering the safety of school children.

Debate was adjourned.

Motions

Gaming machine entitlements (Dr Kaye, The Greens)

Summary: The motion called on the House to note the hardship suffered by a small number of individuals due to an anomaly in the application of the *Gaming Machines Act 2001* whereby gaming machine entitlements of hotels which they owned were sold or transferred without their consent or them receiving any financial benefit. The motion called on the Government to introduce legislation for the purpose of providing these individuals with ex-gratia payments to compensate for the financial hardship inflicted on them.

Proceedings: Standing orders were suspended on 22 November 2012 to bring on the item of business. In speaking to the motion, Dr Kaye said the matter relates to a change made to the Act in 2000 which provided for the transfer of gaming machine entitlements subject only to the approval of the then Casino, Liquor and Gaming Control Authority. An unforeseen consequence of the amendment was that a number of hotel owners lost hundreds of thousands of dollars of value out of their hotels because the legislation allowed the transfer of entitlements without their consent.

Members of the Opposition, the Shooters and Fishers Party and the Christian Democratic Party all indicated their knowledge of this particular issue and their support for the motion. The Government acknowledged the House's support and indicated that it would examine the recommendations contained in the motion.

The motion was agreed to

Motions taken as formal business

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

- (1) Hindu Council of Australia Festival of Deepavali celebrations (Mr Clarke)
- (2) National visitor tourism survey results (Ms Ficarra)
- (3) 30th anniversary of Women's Legal Services (Ms Fazio on behalf of Ms Cotsis)
- (4) US Secretary of State, Hillary Clinton (Ms Fazio on behalf of Ms Cotsis)
- (5) Aboriginal Women's Sexual Assault Network (Ms Fazio on behalf of Ms Cotsis)
- (6) Inaugural Deepawali Mela 2012 (Ms Fazio)
- (7) Dr Surendranath Rananavare (Ms Fazio)
- (8) 42nd S. Antonio da Padova Protettore di Poggioreale Trapani Ball (Ms Fazio)
- (9) Mukti-Gupteshwar Mandir Society Festival (Ms Fazio)
- (10) Book entitled: 'El Alamein – Halting a possible holocaust in the Middle East (Revd Mr Nile)
- (11) Australian Medical Association of New South Wales Charitable Foundation (Ms Ficarra)
- (12) Young Parents Program, Wyong region (Mr Donnelly)
- (13) HMAS Sydney (Mr Lynn)
- (14) Vietnam Veterans Remembrance Day (Mr Clarke)
- (15) Cann family exhibition, La Perouse Museum (Ms Ficarra)
- (16) Cabramatta fire station (Mr Lynn)
- (17) Mangalorean Catholic Association of Sydney (Mr Clarke)
- (18) American physician Don Thomas (Ms Ficarra)
- (19) Vietnamese Australian community fundraising dinner (Mr Clarke)
- (20) St Michael's Church and Church Centre of the Antiochian Orthodox Church (Mr Clarke)
- (21) Australia-Korea Foundation 20th anniversary (Mr Clarke)
- (22) Display of Aboriginal flag in Legislative Council Chamber (Mr Moselmane)
- (23) United Nations International Day of People with Disability (Ms Fazio)
- (24) Armenian National Committee of Australia (Ms Fazio)
- (25) K-Pop and K-Idol Contest (Ms Fazio)
- (26) Probash Parboni Bengal Cultural Festival (Ms Fazio)
- (27) Ahmadiya Muslim Association of Australia Peace Symposium (Ms Fazio)
- (28) Rabitah Tape Ball Cricket Competition (Ms Fazio)
- (29) Nasrin Sotoudeh (Mr Shoebridge)
- (30) Dimitria Festival and the 100th anniversary of the liberation of Thessalonka and West Macedonia (Mr Clarke)
- (31) Young People in Nursing Homes National Alliance (Ms Ficarra)
- (32) 72nd anniversary of Greek National Day (Mr Clarke)
- (33) Community language schools (Ms Ficarra)
- (34) Ordination of Father Zvonimir Gavranovic (Mr Clarke)
- (35) Mr Stuart Hetherington (Ms Ficarra).

Orders for papers

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

Disputed claim(s) of privilege

- (1) The Clerk announced receipt of the report of the Independent Legal Arbitrator, the Honourable Terence Cole, QC, dated 20 November 2012, on the disputed claim of privilege on papers relating to the Nimmie-Caira System Enhanced Environmental Water Delivery Project

On 21 November 2012, according to resolution of the House, the report of the independent legal arbitrator was published. On 22 November, according to resolution of the House, the documents relating to the Nimmie-Caira System Enhanced Environmental Water Delivery Project considered by the independent legal arbitrator not to be privileged were published.

Petitions received

- (1) Closure of Newcastle rail line – 1045 signatures (presented Ms Voltz)
- (2) Education funding cuts – 274 signatures (presented Mr Whan)
- (3) Death of Mr Robert Laudisio Curti – 28 signatures (irregular, presented Mr Shoebridge)
- (4) Commission of Inquiry into the Port of Newcastle – 881 signatures (presented Ms Faehrmann).

Reports tabled

Department of the Legislative Council: Annual Report for year ended 30 June 2012.

Department of Parliamentary Services: Annual Report for year ended 30 June 2012.

Police Integrity Commission: ‘Operation Winjana’, October 2012

Committee activities

Note: Committee activities includes ...

Committee references

General Purpose Standing Committee No 4: The House referred to the Committee an inquiry into the use of cannabis for medical purposes.

General Purpose Standing Committee No 2: The Committee self-referred an inquiry into drug and alcohol treatment.

Standing Committee on Social Issues: The Chair, Hon Niall Blair, informed the House that on 15 November, the Committee resolved to inquire into strategies to reduce alcohol abuse in young people.

Committee membership

The following change to committee membership was reported:

Standing Committee on Social Issues:

Hon Jan Barham in place of Ms Cate Faehrmann.

Committee report tabled

Legislation Review Committee: Legislation Review Digest No. 29/55 of 2012, November 2012.

Privileges Committee: Report No. 64 entitled ‘Citizen’s Right of Reply (Mrs Julie Passas) (No. 3), November 2012.

Privileges Committee: Report No. 65 entitled ‘Citizen’s Right of Reply (Mr Brendan Ritson), November 2012.

Privileges Committee: Report No 66 entitled ‘Citizen’s Right of Reply (Ms Heather Richards), November 2012.

Inquiry activities

Note: Inquiry activities include committee activities as part of an active inquiry. It includes hearings, site visits and other meetings. This section also notes which committees are receiving submissions and upcoming committee inquiry activity.

General Purpose Standing Committee No 5

The Committee will hold its last two public hearings on Tuesday 4 and Wednesday 5 December 2012 at Parliament House for the Inquiry into the management of public land in NSW. Government witnesses have been called to give further evidence at the final hearing, following a number of regional site visits and public hearings since their last appearance. The Committee has now published 513 submissions to the Inquiry.

Standing Committee on State Development

The Committee has received 110 submissions to its Inquiry into the adequacy of water storages in NSW. In late October, the Committee conducted site visits in Orange, Griffith and Wagga Wagga, and held a regional public hearing in Wagga Wagga. The final public hearing for 2012 was held at Parliament House on Friday 16 November.

The Committee will undertake further inquiry activities in the first half of 2013 prior to the tabling of its final report.

Select Committee on the closure or downsizing of Corrective Services NSW Facilities

Submissions to the Select Committee on the closure or downsizing of Corrective Services NSW Facilities closed on 7 November 2012, with 51 submissions received to date. The Committee held its first public hearing on 23 November 2012 at Parliament House. On 10 December 2012 the Committee will visit Grafton where it plans to tour the Grafton Correctional Centre and to hold a public hearing and a public forum to give members of the local community an opportunity to share their views.

Standing Committee on Law and Justice

On Wednesday 14 November the House resolved to designate the Law and Justice Committee as the parliamentary committee responsible for supervising the Motor Accidents Authority (MAA), the Lifetime Care and Support Authority (LTCSA), the WorkCover

Authority and the Dust Diseases Board in the exercise of their functions. This is an expansion of the role previously undertaken by the Committee to supervise the MAA and the LTCSA, since 1999 and 2007 respectively. This new role is a consequence of the passage of the *Safety, Return to Work and Support Board Act 2012*, which consolidated the governance arrangements for these compensation authorities, among other matters.

Select Committee on the Partial Defence of Provocation

The Committee has received 52 submissions, held three days of public hearings and received a number of responses to an options paper. On Wednesday 14 November, the Chair obtained the agreement of the House to extend the reporting date until no later than the Wednesday of the first sitting week of 2013, to allow the Committee to properly consider the complex issues and evidence involved, as well as the stakeholder responses to the Options Paper.

Budget Estimates 2012-2013

The General Purpose Standing Committees have now all met to consider whether to hold supplementary hearings for Budget Estimates 2012-2013. GPSC Nos 2, 3, 4 and 5 have resolved not to have any further hearings. These Committees are now finalising their reports. GPSC No. 1 has resolved to hold a supplementary hearing into the Treasury portfolio on Monday 26 November, from 1.00 – 4.00 pm and to invite the Treasurer as well as departmental officials to appear.

Statutory secrecy

As reported in Vol 55/35 of House in Review, during the GPSC No4 hearing into the Police portfolio, a witness declined to answer certain questions on the basis of secrecy provisions in the *Crime Commission Act*. The Committee resolved to adjourn questioning on the particular matter concerned until a Supplementary Budget Estimates hearing on 29 November 2012, in order to provide the witnesses and the Committee with the opportunity to seek legal advice.

On behalf of the Committee, the Clerk obtained advice from Mr Bret Walker SC regarding the effect of statutory secrecy provisions on the powers of the Council's committees. Mr Walker concluded that a person bound by the secrecy provisions in section 80 of the *Crime Commission Act 2012*, or section 56 of the *Police Integrity Commission Act 1996* or any relevant provisions which go to confidentiality in the *Police Act 1990* would not be in breach of those provisions if that person disclosed information to a committee of the Legislative Council in answer to questioning. Mr Walker therefore confirmed the view long held by the Clerks of the Legislative Council that statutory secrecy provisions do not have the effect of restricting the power of the committees of the Legislative Council to ask and compel answers to questions that would require the disclosure of information that may otherwise be caught by statutory secrecy provisions. This view is also shared by the Senate.

Following receipt of the legal advice GPSC No 4 met to further consider the supplementary hearing scheduled for 29 November, and resolved that, notwithstanding its power in relation to statutory secrecy provisions, the

Committee would not go ahead with the supplementary hearing. The Committee has therefore concluded its examination of the portfolio of Police for the Inquiry into Budget Estimates 2012-2013.

General Purpose Standing Committee No 4

The Committee met to consider the referral from the House of terms of reference of its inquiry into the medical use of cannabis. The Inquiry will consider the efficacy and safety of cannabis and the legal implications concerning the use of cannabis for medical purposes. The deadline for written submissions is 15 February 2013, and the Committee has a reporting date of 14 May 2013.

General Purpose Standing Committee No. 2

On 21 November 2012 the Committee resolved to self-refer terms of reference for an inquiry into drug and alcohol treatment. The Inquiry will examine the effectiveness of current drug and alcohol policies with respect to deterrence, treatment and rehabilitation. The deadline for written submissions is 1 March 2013, and hearings will be held in April/May 2013.

Standing Committee on Social Issues

Terms of reference for an inquiry into strategies to reduce alcohol abuse among young people were referred to the Committee by the Hon Kevin Humphries MP on 25 October 2012, and subsequently adopted by the Committee on 15 November. The Committee will examine the effect of alcohol advertisements on young people, including the consideration of placing restrictions on advertising as a preventative strategy.

The inquiry will also examine measures to minimise the impact of alcohol in the workplace and to reduce alcohol related violence in and around licensed venues. This also includes measures to address the impacts of alcohol abuse on the health system. The Committee will be reviewing existing minimisation strategies as part of its terms of reference. Submissions close on Friday 1 March 2013.

During a response to a question from Rev the Hon Fred Nile during Question Time on Wednesday 21 November, the Hon Michael Gallacher foreshadowed a reference to the Social Issues Committee from the Premier into the appropriateness of passing a same sex marriage law in New South Wales.

Adjournment debate

Tuesday 20 November 2012

Police sergeant Edmund Parry (Mr Blair); Government performance (Mr Veitch); Hamas (Dr Phelps); Blue Mountains Botanic Gardens, Mount Tomah (Mr Foley); Regional sustainability (Ms Barham); Israeli-Palestinian conflict (Ms Voltz).

Wednesday 21 November 2012

National Big Steps Day (Ms Westwood); Waste levy (Ms Cusack); Israeli-Palestinian conflict (Mr Secord); Operation Mascot (Mr Shoebridge); Battle of El Alamein seventieth anniversary (Revd Mr Nile); Tribute to George

Paciullo, OAM (Ms Ficarra); Tribute to Casey Stoner (Mr Blair).

Thursday 22 November 2012

Education funding (Dr Kaye); Postnatal depression (Mrs Mitchell); Industrial Relations Commission and Industrial Court (Mr Searle); Israeli-Palestinian conflict (Mr Green); Armenian genocide and the Republic of Nagorno-Karabakh (Mr Secord); Drug free Australia (Mrs Maclaren-Jones).

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.

A handwritten signature in black ink, appearing to be 'DB', written in a cursive style.

David Blunt
Clerk of the Parliaments