

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



Volume 55/4

Sitting period
30 May to 2 June 2011

The *House in Review* provides a summary of the New South Wales Legislative Council's activities for each sitting week. 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.

New members' first speeches

The following members of the House gave their first speeches:

- (1) The Hon Natasha Maclaren-Jones (31 May 2011)
- (2) The Hon Adam Searle (1 June 2011)
- (3) The Hon Walt Secord (2 June 2011).

To view the speeches, go to the Hansard link from the Parliament's website on the date listed.

Appearance by Magistrate Betts

The House resolved that in view of the Report of the Conduct Division of the Judicial Commission of New South Wales concerning complaints about Magistrate Jennifer Betts (tabled on 26 May 2011), Magistrate Betts be called on to address the House on Wednesday, 15 June and show cause why she should not be removed from office.

Conduct of business

During the sitting week there was a high-profile debate on the Industrial Relations Amendment (Public Sector Conditions of Employment) Bill (discussed further below). After heated debate, and several divisions, the House resolved that Government business should take precedence of private members' business on Thursday, to enable the House to consider the bill. Thus began a marathon session of the House that commenced at 9.30 am on Thursday and concluded at 5.48 pm on Saturday. On Thursday the House sat from 9.30 am until the ringing of a long bell at 3.19 am the next morning. The House resumed at 9 am on Friday and sat until the ringing of a long bell at 11.10 pm that night. The House again resumed at 9 am on Saturday and sat until the bill had passed the committee stage, which required the consideration of over 200 amendments. As noted earlier, the House ultimately adjourned at 5.48 pm. The session lasted for a total of 41 hours 17 minutes and the House did not break for lunch or dinner throughout this time.

In a procedural first, the Government introduced time limits on debate in committee of the whole, as well as restrictions on the number of times a member could speak in the committee stage.

It is also noteworthy that in debate Mr David Shoebridge (Greens) gave the longest single speech by a member of the Council (that is, a speech given in one delivery without interruption). Mr Shoebridge spoke for 5 hours 58 minutes. The record was previously held by the Hon Mick Ibbett who spoke for 3 hours 58 minutes in 1991.

Government business

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

Industrial Relations Amendment (Public Sector Conditions of Employment) Bill 2011

The bill originated in the Legislative Council.

Summary: The bill amends the *Industrial Relations Act 1996* to require the Industrial Relations Commission, when making or varying any award or order relating to public sector conditions of employment, to give effect to aspects of government policy on conditions of employment for the public sector. The bill applies to proceedings that are pending in the Commission, including claims filed under the previous Government.

Proceedings: In his second reading speech during the previous sitting week, the Minister (Mr Pearce) noted that the bill will require the Industrial Relations Commission to observe any regulations issued by the Government concerning public sector wage increases. The current policy of the Government is that wage increases beyond 2.5 per cent per annum must be funded by demonstrable employee-related savings that have already been achieved and detailed where appropriate in awards and agreements. The Minister argued that the previous Government's wages policy (that wage increases beyond 2.5 per cent must be funded by employee-related savings) was not achieved because the Industrial Relations Commission granted wage increase of 4 per cent,

but that the necessary savings offsets were not subsequently delivered.

Debate on the bill resumed on Wednesday 1 June 2011, and dominated proceedings in the House for the remainder of the week through until Saturday evening. The debate was one of the most passionate heard in the House for many years.

The Opposition and the Greens both strongly opposed the bill. It was argued by both Opposition and Greens speakers that the bill strips the Industrial Relations Commission of its role as an independent industrial umpire, contrary to the role that it has played for over a century, and contrary to the provisions of the *Industrial Relations Act 1996*. In turn, it was argued that the bill will allow the Government to cut the wages and conditions of up to 400,000 public sector employees. It was asserted that the Government has no mandate for the bill because it did not disclose its intentions at the last election. Speakers singled out the impact of the bill on specific categories of public sector employees such as police officers, nurses, teachers and so on, together with the impact of the bill on individuals. Labor Party speakers also strongly refuted the argument of the Minister that the bill seeks to implement past Labor Government policy. In debating the bill, two speakers, Mr Shoebridge and Dr Kaye from the Greens spoke for approximately 6 hours each, the longest continuous speeches ever made in the Council.

The Shooters and Fishers Party supported the bill, arguing that the Government has a mandate to implement its agenda, given that it went to the last election promising responsible fiscal management, and noting the current state of the Government's finances. The Christian Democratic Party also supported the bill, arguing that the bill simply implements the previous Government's wages policy, and accepting the mandate of the Government. Both the Shooters and Fishers Party and the Christian Democratic Party indicated that they had a commitment from the Government that it would not intervene in the current NSW Police wages case in the Industrial Relations Commission. The Christian Democratic Party also indicated it had received a number of commitments from the Government to maintain conditions of service for public sector employees.

Throughout the debate in the House over Thursday and Friday, the Government repeatedly accused the Opposition and Greens of filibustering to delay passage of the bill. Finally, on the morning of the third day (Saturday) the Government moved to guillotine the debate by moving 'that the question be now put'. This was the first time the guillotine had been used in the House since 1906. Amid considerable uproar in the House, the question was agreed to (Division 20:17).

In his reply to the second reading debate, the Minister argued that the bill strikes an appropriate balance between public sector wage increases and containing Government expenses to ensure the delivery of services to the people of New South Wales. The Minister confirmed certain

guaranteed minimum conditions of employment for public sector employees, and argued that wage increases of more than 2.5 per cent are still available under the new arrangements. The Minister further confirmed that the bill, if passed, would not be applied to the current NSW Police wages case.

A Labor amendment to refer the bill to General Purpose Standing Committee No. 1 for inquiry and report was negated (Division 17:19), and the bill was read a second time (Division 19:17).

The Government, in a procedural first, subsequently moved an instruction to the committee of the whole for consideration of amendments to the bill. The instruction imposed time limits on debate, both for individual speakers and for consideration of amendments as a whole, and restricted members to speaking twice on each amendment. Such restrictions have never previously been imposed in committee of the whole. Again following passionate debate concerning the constitutional role of the Legislative Council as the House of Review, the guillotine was used, and the question agreed to (Division 19:17).

In committee, the Opposition and Greens moved over 200 amendments:

- (1) The Opposition moved an amendment to delete from the bill a clause that prevents a contract giving effect to the Government's wages policy being appealed to a higher court on the basis that it is unfair.
- (2) The Opposition and the Greens moved amendments to provide that the Industrial Relations Commission 'may' but not 'must' give effect to the Government's wages policy, and should 'consider' rather than 'give effect to' the Government's wages policy.
- (3) The Opposition and Greens moved amendments to require the Government's wages policy to be declared in the regulation, and to ensure that the regulation is widely promulgated, including to the Legislative Council.
- (4) The Opposition moved an amendment to delete a provision from the bill that any award or order of the Commission does not have effect where it is inconsistent with the Commission's obligation to give effect to the Government's wages policy.
- (5) The Opposition moved 152 amendments to remove specific categories of public sector employees from the operation of certain sections of the bill. The Greens similarly moved 50 amendments to remove specific categories of public sector employees from the operation of certain sections of the bill.

The Opposition and Greens amendments were negated on division.

The Shooters and Fishers Party moved an amendment to remove local council and local authority workers from the provisions of the bill, on the basis that local government

workers are not NSW public sector employees. The amendment was agreed to.

The bill was reported to the House with the amendment, and the third reading of the bill set down for the next sitting day.

Crimes Amendment (Murder of Police Officers) Bill 2011

The bill originated in the Legislative Council.

Summary: The bill amends the *Crimes Act 1900* to provide for mandatory life sentences to be imposed on persons convicted of murdering police officers. A life sentence is a sentence for the term of a person's natural life without release on parole. The proposed change does not apply to convicted persons under the age of 18 years or suffering a significant cognitive impairment.

Proceedings: The bill was introduced and read a first time. In his second reading speech on 26 May, the Minister (Mr Gallacher) stated that the bill fulfilled a key election commitment by the Government. He noted that police officers put themselves at risk to protect the community, and argued that imposing life sentences on people who murder police officers would send a clear message about the seriousness of the crime.

Debate on the bill resumed on 1 June 2011. The Opposition and the Greens opposed the bill. The arguments against the bill included that the bill would hinder the judicial process by taking away the ability of a judge to consider the individual circumstances of an offence. It was also argued that the current laws impose appropriate, and stringent, penalties for the offence of murder. In addition, it was argued that mandatory life sentencing would not have a deterrent effect and would not reduce attacks on police officers. Another ground for opposition was to question why this bill was needed for police officers, but not other public sector workers such as nurses or emergency service personnel. The Christian Democratic Party supported the bill and argued that police officers deserve special consideration because they face the possibility of death in the course of their everyday duties. The second reading was agreed to (Division 19:16).

In the committee stage, the Greens moved an amendment to allow discretion for a judicial officer to impose a non-parole period of 25 years where a life sentence is imposed. The amendment was negated (Division 17:19). The bill was read a third time and forwarded to the Assembly for concurrence.

Courts and Other Legislation Amendment Bill 2011

Summary: The bill makes miscellaneous amendments to a number of acts. Of particular note, the bill amends the *Surrogacy Act 2010* to make the registration (as opposed to simply the notification) of a birth a precondition for the making of a parentage order under that Act.

Proceedings: In his second reading speech, the Parliamentary Secretary (Mr Clarke) indicated that the bill is part of the Government's regular review of courts-related legislation. In relation to the surrogacy amendments, Mr Clarke explained that it was necessary to register a child's birth with the Registry of Births, Deaths and Marriages before a parentage order is granted so that there would be a full record of the child's birth details, which the child could access later if they wished. The Government explained that registration provides an additional set of information that is of importance in identifying the parents, which is not captured if the Registry is simply notified of a birth. The Greens supported the bill on balance but were concerned that the surrogacy-related amendments may result in unforeseen deleterious consequences. The Opposition did not oppose bill and the Christian Democratic Party supported the bill.

The bill was read a second time. On the question of the third reading, the Greens moved that the amendments to the *Surrogacy Act* be referred to the Law and Justice Committee for consideration. The amendment was negated. The bill was read a third time and returned to the Assembly without amendment.

Library Amendment Bill 2011

Summary: The bill amends the *Library Act 1939* to enable two or more local councils to enter into arrangements for the provision, control and management of libraries and library services in the areas covered by the councils.

Proceedings: The bill was received from the Legislative Assembly and read a first time. In his second reading speech, the Minister (Mr Gallacher) indicated that the bill aimed to enable more effective collaboration between local authorities in the joint provision of library services, such as in regional areas. In debate a number of members acknowledged the important community service role played by libraries. The second reading was agreed to.

In the committee stage the Opposition moved an amendment, which was supported by the Greens, to prevent local authorities from outsourcing library services. The Government opposed the amendment. The amendment was negated (Division 17:20).

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

Petition received

- (1) Webbs Creek Ferry crossing – 1,225 signatures (presented Mrs Maclaren-Jones).

Committee activities

Committee appointments

The following appointments of chairs and deputy chairs of committees were reported to the House:

General Purpose Standing Committee No. 1

Chair: Revd Mr Nile; Deputy Chair: Mrs Pavey

General Purpose Standing Committee No. 2

Chair: Ms Ficarra; Deputy Chair: Mr Green

General Purpose Standing Committee No. 3

Chair: Mrs Maclaren-Jones; Deputy Chair: Mr Blair

General Purpose Standing Committee No. 4

Chair: Mr Mason-Cox; Deputy Chair: Mr Borsak.

General Purpose Standing Committee No. 5

Chair: Mr Brown; Deputy Chair: Mr Buckingham.

Committee reports debated

General Purpose Standing Committee No. 1: The House continued the take-note debate on Report No. 36 entitled 'The Gentrader transactions', February 2011.

Select Committee on Recreational Fishing: The House continued the take-note debate on the report entitled 'Recreational Fishing in New South Wales', December 2010.

Reports tabled

Report of an Inquiry by the Conduct Division of the Judicial Commission of New South Wales in relation to His Honour Magistrate Brian Maloney, dated 6 May 2011.

Submission on behalf of Magistrate Maloney as to report of the Conduct Division of the

New South Wales Judicial Commission, by Mr Greg Walsh OAM, dated 25 May 2011.

Judgement of Hoeben J in *Maloney v The Honourable Michael Campbell QC & Ors*, dated 24 May 2011.

Adjournment debate**Monday 30 May 2011**

Cystic Fibrosis 65 Roses Day (Mr Veitch); Gardens of Stone (Ms Faehrmann); Thirty-Fifth Mo Awards (Mr Ajaka); Boer War Commemoration (Ms Cotsis); Climate Change Campaign (Dr Kaye); Global warming (Dr Phelps).

Tuesday 31 May 2011

Tribute to Ralph Hunt AO (Miss Gardiner); Solar Bonus Scheme (Mr Foley); Markets for Change (Mr Brown); National Reconciliation Week (Mr MacDonald); Death of Patrick Brassil AM (Mr Kelly); National Coalition for Gun Control (Mr Borsak).

Wednesday 1 June 2011

Riding for the Disabled (Mr Blair); Community (Ms Barham); National Equal Pay Action Day (Ms Westwood); Heritage and development control (Mr Shoebridge); Regional arts (Mrs Mitchell); Palliative care (Mr Donnelly).

Thursday 2 June 2011

Please note: Hansard not available at time of publication.

Feedback on *House in Review*

We welcome any comments you might have on this publication.

We're 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.



Lynn Lovelock
Clerk of the Parliaments