

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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*Sitting period
12 to 14 March 2013*

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 the House considered four Government bills. In addition, three other Government bills were introduced into the House.

This week's edition of *House in Review*, also focuses on a significant procedural event – an investigation of a matter of privilege concerning a 2009 return to an order for papers (see article below).

24th Usher of the Black Rod sworn

The President informed the House that, on Wednesday 20 February 2013, Her Excellency the Governor, with the advice of the Executive Council, appointed Ms Rachel Lee Callinan as Usher of the Black Rod. The President further informed the House that a commission had been issued in favour of Ms Callinan, who took the Pledge of Loyalty and the Affirmation of Office before her Excellency on Monday 4 March 2013, at Government House.

Matter of privilege

During the sitting week, a matter of privilege arose.

In 2009, the House ordered the production of State papers concerning the Mt Penny exploration licence and tender process. Two boxes were returned.

Since then, the Independent Commission Against Corruption (ICAC) has commenced an investigation into the decision in 2008 to open a mining area in the Bylong Valley, which included Mt Penny, for coal exploration (Operation Jasper). As part of that investigation, the ICAC has made public a range of documents that were not included in the 2009 return to the House.

On Thursday 14 March, the President received correspondence from the Commissioner of the ICAC that indicated in the view of the ICAC there are certain documents made public as part of Operation Jasper that might also have fallen within the scope of the order of the House in 2009. The President tabled the correspondence from the ICAC in the House.

The House resolved immediately, on the motion of the Leader of the House, to refer the matter to the Privileges

Committee for inquiry and report on whether, prima facie, documents were withheld from the House in 2009, and if so, what further action should be taken.

The Privileges Committee is due to report by 30 April 2013.

A number of documents associated with the inquiry, including the documents tabled by the President on 14 March are available on the Privileges Committee inquiry webpage [here](#).

Government business

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

Crimes (Serious Sex Offenders) Amendment Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Crimes (Serious Sex Offenders) Act 2006* to extend the existing scheme for the continued detention and extended supervision of serious sex offenders to also include high risk violent offenders. The bill also extends the scheme to apply to offenders convicted of serious offences committed as a child.

Proceedings: Debate on the second reading of the bill commenced on 12 March 2013. In his second reading speech, the Parliamentary Secretary (Mr Clarke) indicated that the bill recognises that there are serious violent offenders in the State's prisons who are nearing the end of their sentences and have made no attempt to rehabilitate themselves or have made it clear to authorities that they intend to reoffend when they are released. The Parliamentary Secretary said the bill responds to this danger and ensures the protection of the community from a clear risk.

The Opposition did not oppose the bill, noting that the scheme that it seeks to extend was introduced by the former Labor government. However, the Opposition acknowledged that the proposed extension of the scheme did represent a dramatic step away from the legal principle of the finality of justice, and also noted the Law Society's stated opposition to the bill. The Greens were strongly opposed to the bill, noting that in 2010 the then

Opposition legal affairs spokesperson, currently Attorney General, was critical of a scheme such as that proposed in the bill. The Greens argued that courts have no proven capacity to determine whether people will commit crimes in the future; that the bill was a gross expansion of a scheme that had already been found to be incompatible with international human rights obligations. The Christian Democratic Party supported the bill, noting that it had been calling for the introduction of similar legislation for many years. The CDP noted there were similar legislative schemes operating in Victoria and Queensland.

The second reading was agreed to (Division 32:5).

In the committee stage, the Opposition sought to have the statutory review of the scheme undertaken by the Ombudsman rather than by the relevant Minister. Despite the support of the Greens, the amendment was negated (Division 17:21).

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

Liquor Amendment (Small Bars) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Liquor Act 2007* to introduce a new category of liquor licence for small bars across the State. A small bar is a venue that is open to the general public, has a maximum limit of 60 patrons, and at which food is available. Small bars are prohibited from operating gaming machines or offering take-away liquor sales.

Proceedings: The bill was received from the Legislative Assembly on 12 March 2013 and read a first time. Debate on the second reading of the bill commenced the following day. The second reading speech of the Minister (Mr Gallacher) was incorporated into Hansard. In that speech, the Minister argued that the bill will broaden the range of entertainment venues on offer to the people of New South Wales and help to reduce the alcohol-fuelled violence and antisocial behaviour that is associated with larger venues.

The Opposition supported the bill, in particular the importance of providing a wider choice of venues and the fact that small bars will be prohibited from providing take-away liquor sales. The Opposition acknowledged the debate on the question of whether 60 patrons was the appropriate maximum for defining a small bar, and that there will be provision within the regulations to increase this number following review of the legislation.

The Christian Democratic Party, while supporting the bill, did not agree with the proposal to remove the requirement for community impact statements to accompany application for a small bar licence. The Greens supported the bill, describing it as a step towards transformation of the existing entertainment culture of the State with its focus on large venues that encourage drinking.

The second reading was agreed to.

In the committee stage, the Greens moved to change the threshold definition from 60 to 120 with the opportunity for this to be reduced down, on application by the local

council, to a minimum of 60. The Greens could not garner any support and the amendments were negated. The Christian Democratic Party sought to insert a requirement, in particular circumstances, that a small bar licence application be accompanied by a community impact statement. They too could not draw any support and their amendments were also negated.

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

Powers of Attorney Amendment Bill 2013

The bill originated in the Legislative Council.

Summary: The bill makes a number of changes to the *Powers of Attorney Act 2003* to clarify sections and to simplify the process of appointing an attorney.

Proceedings: Debate on the second reading of the bill resumed on 12 March 2013 from 27 February 2013 (see the previous edition of *House in Review* for earlier debate).

Members of the Government, Opposition and the Christian Democratic Party spoke in support of the bill stating that the amendments were practical, allowing people greater flexibility and removing confusion.

The Greens, while supporting the majority of the bill, after receiving a letter of concern from the Law Society, indicated that the amendments dealing with vacancy in office and one attorney assuming the powers of joint attorneys needed further refinement. They argued that the section should be expanded to require a person to complete a notice of assumption before acting as a substitute attorney.

On 13 March 2013 the bill was considered in committee where the Greens, after further consultation with the Law Society, declined to move their circulated amendment and thanked the Government for the opportunity to have further consultation.

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

Local Court Amendment (Company Title Home Unit Disputes) Bill 2013

The bill originated in the Legislative Assembly.

Summary: Currently the forum for the resolution of company title home unit disputes is the Equity Division of the Supreme Court. The bill amends the *Local Court Act 2007* by conferring jurisdiction on the Local Court to hear and determine proceedings involving most types of home unit disputes between a company title corporation, a shareholder or former shareholder of a company title corporation or a resident or former resident of premises on land owned by a company title corporation.

Proceedings: The bill was received from the Legislative Assembly on 13 March 2013 and read a first time. In his second reading speech, the Parliamentary Secretary (Mr Clarke) said that the cost of taking company title home unit disputes to the Supreme Court is prohibitive and effectively disempowers residents in company title home units from holding the board of directors accountable, and that the bill will empower shareholder-owners and

residents to enforce their legal rights. The Opposition did not oppose the bill but stated that it was unfortunate that more emphasis was not placed upon alternative dispute resolution. The Greens supported the bill on the basis that it provides a cheaper and generally quicker forum for the resolution of disputes.

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

Independent Commission Against Corruption Amendment (Disciplinary Proceedings) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the *Independent Commission Against Corruption Act 1988* to enable employers of public officials to take disciplinary proceedings against those officials on the basis of corruption findings made by the Independent Commission Against Corruption (ICAC), including making admissible self-incriminating evidence given to the ICAC by those public officials. Currently, if a public official is found by the ICAC to have engaged in corrupt conduct the next step is for their employer to conduct a separate investigation to ascertain whether there has been misconduct.

Proceedings: The bill was received from the Legislative Assembly on 13 March 2013 and read a first time. The Minister (Mr Gallacher) incorporated the majority of his second reading speech in Hansard. The speech stated that the reforms in this bill stem from a request from the ICAC to strengthen both the Commission and the integrity of the public service by facilitating the removal of public officials who have engaged in corrupt conduct. It is the Government's view that the subsequent investigation by the employer is a duplication of the effort of the ICAC and a waste of resources, and that the bill will streamline the process by not requiring the employer to conduct a separate investigation. Debate was adjourned until a later hour.

Small Business Commissioner Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill creates the office of 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.

Proceedings: The bill was received from the Legislative Assembly on 13 March 2013 and read a first time. The second reading was set down for a later hour.

Royal Commissions Amendment Bill 2013

The bill originated in the Legislative Assembly.

Summary: On 11 January 2013, the Commonwealth Government established a Royal Commission into institutional responses to child sexual abuse. The NSW Government established an equivalent Royal Commission under the *Royal Commissions Act 1923 [NSW]* to provide legal support for the operation of the Royal

Commission. Under amendments to the *Royal Commissions Act 1902 [Cth]*, the chairperson of a Royal Commission is given certain powers, such as to authorise one or more of the commissioners to hold separate and concurrent hearings.

This bill amends the *Royal Commissions Act 1923* to give the chairperson of a Royal Commission in NSW similar powers to those given to the chairperson of a Royal Commission under the Commonwealth Act.

Proceedings: The bill was received from the Legislative Assembly on 14 March 2013 and read a first time. The second reading was set down for a later hour.

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.

Motions

Study mission to Israel (Mr Colless, The Nationals)

Summary: The motion noted that members of the NSW Parliamentary Friends of Israel participated in a bipartisan delegation of New South Wales parliamentarians on a study mission to Israel from 6 to 10 January 2013 in order to understand the complex and various issues affecting Israel and other jurisdictions in the Middle East.

Proceedings: Standing orders were suspended on 14 March 2013 to bring on the item of business, with the House also agreeing to extend the time for debate by an additional one hour. Debate on the motion resumed from 28 February 2013 (see previous edition of *House in Review* for earlier debate). Members who were part of the delegation spoke in support of the motion, noting that they were able to meet and speak with people from all sections of society and from across the political spectrum. Members commented on the effect on communities of the constant threat of hostilities suddenly breaking out and in this regard some members made special mention of their visit to the town of Sderot. Other members, who were not part of the delegation, argued that the itinerary of the study mission did not provide for a balanced examination of the situation with respect to Israel and Palestine, and that this was reflected in the wording of the motion. In reply, Mr Colless noted that, regardless of any argument over the content of the itinerary, travelling to the area and speaking with community members provides valuable insights and a greater understanding of the situation in the Middle East than if relying solely on media and other reports.

The motion was agreed to.

Community Building Partnership Grants (Mr Moselmann, Australian Labor Party)

Summary: The motion called on the House to condemn the Government for the reduction in funding for Community Building Partnership Grants and for the Government to restore funding to pre-budget levels. The

motion also calls on the House to note the number of diverse local community organisations in Rockdale that have benefited from these grants and the effects the reduction in funding will have on such organisations.

Proceedings: Debate on the motion resumed on 14 March 2013 from 21 February 2013 (see Vol 55/41 of House in Review for earlier update). Opposition members spoke in support of the motion, noting the benefits of Community Building Partnership Grants to local communities and stating that one of the most important ways in which governments can help community groups is by investing in them and helping them to drive their own projects. It was argued that removing this program has had a negative impact on communities' ability to undertake important works.

The Christian Democratic Party, while not supporting the motion, stated that the program is essential for local communities and questioned the Government's decision to cut this program.

The motion was negated on division (17:20).

Homelessness (Ms Barham, The Greens)

Summary: The motion calls on the House to note the rate of homelessness and the characteristics of the homeless population in New South Wales, and to in turn call for: retention of the Premier's Advisory Council on Homelessness; all local councils to report annually on initiatives for addressing homelessness and to have a nominated officer tasked with ensuring adherence to the Homeless Persons Protocol; the conduct of a review of the ten Regional Homeless Action Plans developed in 2010; and identification of the balance of funds allocated to NSW under the 2009-10 National Partnership Agreement on Homelessness for a funding program to support local government to meet the needs of homeless people.

Proceedings: Debate on the motion resumed according to precedence on 14 March 2013 (see Vol 55/36 of House in Review for earlier debate). Members speaking to the motion commented on the frequent link between homelessness and mental health, while it was also noted that while single males were the commonly known face of homelessness this was not the full reality with entire families increasingly being forced into homelessness. Government members stated that reducing homelessness was a clear priority and noted that the Premier's Council on Homelessness had been re-established and strengthened, with its first meeting held in December 2012.

Debate was interrupted for Questions.

Motions taken as formal business

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

- (1) Yeshiva Centre Gala Dinner (Ms Ficarra)
- (2) Ms Dawn Fraser AO MBE (Ms Ficarra)
- (3) Miss Mo'onia Gerrard (Ms Ficarra)
- (4) Pakistan Day (Mr Moselmane)

- (5) Hogs for the Homeless (Ms Ficarra)
- (6) Commonwealth Day (Mrs Maclaren-Jones)
- (7) 2013 Lunar New Year (Mr Moselmane)
- (8) Premier's Multicultural Media Awards (Ms Ficarra)
- (9) Domain Chinese property magazine (Mr Moselmane).

Orders for papers

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

Return to order

Former NSW Department of Primary Industries employee: received 13 March 2013, one box public.

Petition received

Game Council of New South Wales – 231 signatures (presented Mr Shoebridge).

Reports tabled

Ombudsman: Special Report entitled 'Ombudsman monitoring of the police investigation into the death of Roberto Laudisio-Curti', dated February 2013.

Unproclaimed legislation: Mr Gallacher tabled a list of unproclaimed legislation as at 12 March 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 references

Privileges Committee: The House referred to the Committee an inquiry into the possible non-compliance with the 2009 Mt Penny order for papers.

Committee report tabled

Legislation Review Committee: 'Legislation Review Digest No. 32/55 of 2013', 12 March 2013.

Committee reports debated

Joint Standing Committee on Electoral Matters: The House concluded the take-note debate on the Report entitled 'Inquiry into Administrative funding for minor parties', dated November 2012.

General Purpose Standing Committee No. 2: The House concluded the take-note debate on the Report entitled 'Budget Estimates 2012-2013', November 2012.

General Purpose Standing Committee No. 4: The House continued the take-note debate on the Report entitled 'Budget Estimates 2012-2013', November 2012.

Inquiry activities

Same sex marriage law in NSW

Submissions to the Standing Committee on Social Issues' Inquiry into a proposed same sex marriage law in New South Wales closed on 1 March 2013. More than 10,000 submissions have been lodged, the highest number ever received by a NSW parliamentary inquiry. The Committee held its first public hearing on 6 March 2013 and its second public hearing is scheduled for Friday 15 March 2013.

Strategies to reduce alcohol abuse among young people

The Standing Committee on Social Issues has received 43 submissions to its inquiry into strategies to reduce alcohol abuse among young people. Its first hearing will be on 29 April 2013.

Partial defence of provocation

The Select Committee on the Partial Defence of Provocation has received 52 submissions, held three days of public hearings and received a number of responses to an options paper. On Wednesday 20 February 2013, the Chair obtained the agreement of the House for a second extension to the reporting date until 2 May 2013, to allow the Committee to consider properly the complex issues and evidence involved, and to develop appropriate recommendations.

Management of public land in NSW

General Purpose Standing Committee No. 5 is continuing its inquiry into the management of public land in NSW and is currently preparing its report, which is due to be tabled in May 2013.

Drug and alcohol treatment

General Purpose Standing Committee No. 2 has received 44 submissions into its inquiry into the effectiveness of current drug and alcohol policies with respect to deterrence, treatment and rehabilitation. Hearings are scheduled for 3, 4 and 10 April 2013, and the Committee has a reporting date of 29 August 2013.

Racial vilification law in NSW

The Standing Committee on Law and Justice has received 29 submissions to its inquiry into racial vilification law in NSW. The Committee is planning to hold hearings in April 2013.

Adequacy of water storage in NSW

The Standing Committee on State Development is continuing its inquiry into the adequacy of water storages in NSW. Last week the Committee travelled to Inverell and Moree for its final site inspections. The Committee has scheduled its final hearing for 3 May 2013, after which it will proceed to finalise its report.

Use of cannabis for medical purposes

The General Purpose Standing Committee No. 4 inquiry into the use of cannabis for medical purposes held its first hearing this week, on Monday 11 March, and will hold its second and final hearing on Monday 18 March 2013. The Committee will report in May 2013.

Adjournment debate

Tuesday 12 March 2013

Way In Network (Mrs Maclaren-Jones); International Women's Day (Ms Westwood); Western Australia election results (Mr Brown); National indigenous cultural institution (Mr Secord); Pacific Highway upgrade environmental impacts (Ms Barham); Independent Commission Against Corruption inquiry into ministerial conduct (Mr Colless); Western Australia election results (Mr Mason-Cox).

Wednesday 13 March 2013

Humanitarian aid (Mr Moselmann); Civil liberties fire sale (Mr Shoebridge); Tribute to Florence Violet Lloyd, OBE (Mr MacDonald); Shallow water blackout (Mr Green); Paul Keating Prime Ministerial election anniversary (Ms Cotsis); Riverina Red Gum National Park (Mr Mason-Cox); Surfing Australia fiftieth anniversary (Ms Voltz).

Thursday 14 March 2013

Malaysian dam project (Dr Kaye); Legal profession standards (Mr Khan); Sydney Harbour foreshore (Mr Foley); Alcohol summit (Revd Nile); Workplace bullying (Mr Primrose); Australian Labor Party members conduct (Ms Cusack).

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
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