

NEW SOUTH WALES LEGISLATIVE COUNCIL

HOUSE IN REVIEW



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8 to 10 May 2012*

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Overview

From a procedural point of view this sitting week was highlighted by the intense scrutiny given to the Industrial Relations Amendment (Industrial Organisations) Bill during its passage through the House, including the consideration of, and eventual agreement to, a complex series of overlapping amendments. At one stage the committee of the whole had before it Shooters and Fishers Party and Greens amendments to a Government amendment to an Opposition amendment to the bill!

Also of note was the fact that the House finalised its consideration of the Firearms Amendment (Ammunition Control) Bill, debate on the second reading of which had commenced in mid-February this year.

Government business

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

Industrial Relations Amendment (Industrial Organisations) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The bill, as introduced, amends the *Industrial Relations Act 1996* to enable a Minister to appoint an administrator to a State industrial organisation if there is an ongoing investigation into or evidence of gross misconduct by its officers. In order to appoint an administrator, the Minister must have reason to believe that there is an ongoing investigation into alleged gross misconduct or that an investigation has found evidence of such gross misconduct.

Proceedings: The bill was received from the Legislative Assembly on 8 May 2012 and read a first time. Debate on the second reading of the bill commenced the following day.

In his second reading speech, the Minister (Mr Pearce) stated that the bill was introduced after serious allegations of wrongdoing were brought against office holders of the Health Services Union, in particular from its State-registered entity HSUeast. He indicated that the bill seeks to address shortcomings in the Act so that the State has the powers necessary, in line with those existing

at the federal level, to ensure that State-registered organisations operate appropriately.

The Minister argued that the appointment of an administrator for a State organisation would only occur for the most serious and urgent cases and that the bill sets a high threshold which must be surmounted before the power can be exercised.

The members of the Government supported the bill, as did the Christian Democratic Party.

The Opposition and the Greens supported the bill insofar as it mirrors provisions set out in the Federal *Fair Work (Registered Organisations) Act 2009* and agreed that an administrator should be appointed to the HSUeast as soon as practicable. However, both parties voiced concerns over giving the Minister unprecedented power to directly appoint an administrator to an industrial organisation, rather than applying to the Industrial Relations Commission. Both parties foreshadowed amendments in the committee stage to ensure there was an independent process, in which the public could have full confidence, for the appointment of an independent administrator. The second reading was agreed to (Division 31:5).

The Minister moved that debate in committee of the whole be adjourned to a later hour of the sitting. The motion was supported by all parties other than the Opposition and was agreed to (Division 25:12).

In the committee stage the Opposition moved eight amendments. An amendment which sought to remove the exclusion of the Minister from liability for acts or omissions of an administrator appointed for a State industrial organisation was negatived. Six amendments to remove the power of the Minister to appoint an administrator to an industrial organisation were agreed to.

The final Opposition amendment, which introduced a provision for the appointment of an interim administrator by the Commission, was agreed to as amended by the Government to provide for the Minister to exercise the functions of the Commission if the Commission failed to appoint an administrator after a period of time. The Government's amendment to the Opposition's amendment was agreed to on division

following amendments by the Shooters and Fishers Party and the Greens (Division 20:17).

The overall effect of these amendments was that the provision for the Minister to appoint an administrator was removed. Instead a provision was inserted to allow an interim administrator to be appointed by the Commission in cases where an application has been made to the Commission for a declaration that the organization is dysfunctional, or where there has been gross misconduct, and the basis for the declaration is likely to be established. In cases where the Commission fails to appoint an interim administrator within 28 days of an application for declaration, the Minister may exercise the function of the Commission and appoint an administrator.

The Greens then successfully moved an amendment enabling the Industrial Relations Commission to direct specified officers to remain in an organisation placed under administration to enable it to function effectively.

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

On 10 May 2012 the House received a message advising that the Assembly had agreed to the Council's amendments to the bill.

Firearms Amendment (Ammunition Control) Bill 2012

The bill originated in the Legislative Council.

Summary: The bill amends the *Firearms Act 1996* to prevent the sale of ammunition by a licensed firearm dealer to a shooter unless the shooter is the registered owner of, or has a permit to acquire, a firearm that takes that ammunition; and by requiring firearms dealers to maintain records of purchases and sales of ammunition.

Proceedings: At the first opportunity on 8 May 2012 the Shooters and Fisher Party sought to suspend standing and sessional orders in order to bring on private members' business item No 432 and resume the adjourned second reading debate relating to the Crimes Amendment (Possession or Discharge of Firearms in Commission of Offences) Bill 2012).

The Shooters and Fishers said there was an urgent need to immediately debate this bill as the next item on the notice paper was the Government's Firearms Amendment (Ammunition Control) Bill 2012. The Shooters and Fishers argued that their bill was superior to the Government's, as it would more effectively address the issue of the occurrence of drive-by shootings without unintentionally disadvantaging law-abiding citizens.

The motion attracted the support of the Opposition and the Christian Democratic Party. However it was opposed by the Government and the Greens and was defeated (Division 18:23)

Subsequently, debate on the second reading of the Ammunition Control bill resumed from the adjourned debate of 22 February 2012 (see Vol 55/19 of *House in Review* for earlier debate). During that earlier debate some members expressed doubt over the effectiveness of the

bill and its unintended negative consequences on law-abiding citizens.

Government members continued to speak in support of the bill, during which it was indicated that, following negotiations that had been on-going since the bill's introduction, the Minister (Mr Gallacher) planned to introduce accompanying regulations that would address many of the concerns that had been expressed about the bill.

Members of the Opposition argued that it was difficult to participate meaningfully in the debate without the benefit of being able to assess the substance of the foreshadowed regulation. The Christian Democratic Party while in general support of the bill, echoed some of the earlier concerns raised by the Opposition and indicated they had drafted proposed amendments to the bill. The Christian Democratic Party also called on the Government to inform the House of the contents of the proposed regulation in order to provide members with a clear picture of how the legislation would operate. Debate was interrupted for questions.

Following question time, the Minister moved to suspend standing orders to allow continued debate on the bill rather than commence debate on committee reports according to precedence. The motion, which was supported by the Greens, was agreed to (Division 23:18).

In his speech-in-reply, the Minister tabled a draft copy, for the advice of members, of the proposed regulation entitled *Firearms Amendment (Ammunition Permits) Regulation 2012*. The Minister argued that the regulation and the legislation, once passed, would work in conjunction to ensure that no undue onerous burden was placed on citizens needing to purchase ammunition. The second reading was agreed to.

In the committee stage, the Greens moved amendments to ensure that the holder of a licence or permit for a firearm must not purchase or possess ammunition in a quantity that exceeds a maximum to be prescribed in the regulations. However, the amendments did not gain support from any of the other parties, and were negatived (Division 5:34).

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

Sydney Water Catchment Management (Board Members) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The Sydney Catchment Authority Board is responsible for the policies and the long-term strategic plans of the Sydney Catchment Authority. The Board consists of the Chief Executive of the Authority and between four and eight other members.

This bill removes the current requirement for the Board to include nominees from the NSW Farmers Association, the Nature Conservation Council and a local councillor. Instead, the bill specifies that members of the board should have experience relevant to catchment management and protection, water quality and public

health, running a commercial entity, and water supply planning and asset management.

Proceedings: The bill was received from the Legislative Assembly on 2 May 2012 and read a first time. Debate on the second reading of the bill commenced on 9 May 2012. The second reading speech of the Minister (Mr Gay) was incorporated into Hansard. In that speech, the Minister indicated that the bill will provide the Sydney Catchment Authority Board with appropriate skills and expertise, and allow for the broadest stakeholder representation on the Board, while bringing it into line with governance arrangements for other statutory authorities and State-owned corporations.

The Opposition opposed the bill, arguing that the existing arrangements for representation of farming, conservation and local government interests on the Board were appropriate, while citing with approval the range of qualifications of members of the current Board. The Greens opposed the bill on similar grounds, arguing that the bill was an attempt by the Government to purge membership of the Sydney Catchment Authority Board for political reasons. By contrast, the Christian Democratic Party supported the bill, arguing that the Government has the right to appoint Board members with the greatest expertise in water management. In his reply, the Minister emphasised that the bill does not change the statutory objectives of the Authority, nor exclude any interests from representation on the Board.

The second (Division 20:17) and third readings of the bill were agreed to and the bill was returned to the Assembly without amendment.

Co-operatives (Adoption of National Law) Bill 2012

The bill originated in the Legislative Assembly.

Summary: The Co-operatives National Law is the proposed new national uniform template legislation for the regulation of cooperatives in all States and Territories, as provided for in the Australian Uniform Co-operative Laws Agreement. The purpose of the bill is to enable the uniform National Law and national regulations to be applied in New South Wales from the date of commencement of the Act. The law will apply to all non-banking cooperatives, which are also known as general cooperatives.

Proceedings: The bill was received from the Legislative Assembly on 9 May 2012 and read a first time. The second reading was set down for a later hour of the sitting, with debate on the second reading of the bill commencing later in the day.

After introductory remarks, the balance of the second reading speech of the Parliamentary Secretary (Mr Mason-Cox) was incorporated into Hansard. In that speech, Mr Mason-Cox indicated the bill provides for consistency of content and administration of laws across all States and Territories, which will provide greater certainty to all parties with rights, duties and powers in relation to co-operatives and assist in lowering costs and red tape with cross-border operations. The speech also noted the importance of co-operatives, of which, according to 2010 statistics, there are approximately 680

registered in New South Wales operating in a diverse range of industries.

The members of the Government supported the bill. The Opposition and the Christian Democratic Party also supported the bill, while the Greens did not oppose it. It was generally acknowledged that a uniform, harmonised approach would be beneficial as co-operatives could then operate across all jurisdictions, lowering costs and simplifying paperwork. It was also noted that the bill was the result of more than four years of dialogue and consultation and had been welcomed by the peak organisations of co-operatives around New South Wales and Australia.

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

Motion

The following item of government business was agreed to without amendment or debate:

- (1) Sydney Royal Easter Showgirl Competition (Mr Gay).

Private members' business

Note: Private members' business is business moved 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

Mother's Day (Mr Green, Christian Democratic Party)

Summary: The motion called on the House to acknowledge the remarkable sacrifice mothers make for the wellbeing of their loved ones.

Proceedings: Following debate involving members from all parties, with the Opposition and the Greens arguing that the House should be debating other matters, standing orders were suspended to bring on the item of business (Division 21:19). In opening debate on the motion, Mr Green said that one day a year is barely enough to pay tribute to the contribution that mothers make to society, and that it was his privilege to initiate this opportunity for the House to publicly acknowledge the important role that all mothers play.

In speaking to the motion, a number of Members took the opportunity to relate recollections of their own relationship with their own mother and other significant maternal figures and the sacrifices made by them on their and their families' behalf. A Greens amendment, which certain members opposed strongly in debate, to have the motion specifically include acknowledgement of single mothers and mothers in same-sex relationships was agreed to. The motion, as amended, was agreed to.

Regional development and small business jobs (Mr Veitch, Australian Labor Party)

Summary: The motion called on the House to condemn the Government for closing offices and cutting 47 regional development and small business jobs in Tweed, Broken Hill, Goulburn and Coffs Harbour; and to note that this breaches the Government's election commitments for a 'decade of decentralisation' and 40,000 jobs in regional New South Wales

Proceedings: Debate on the motion resumed on 10 May 2012 from 3 May 2012 (see the previous edition of *House in Review* for earlier debate). In concluding his opening speech Mr Veitch called on the Government to address rumours that the Goulburn Regional Development office will close a month earlier than the expected date of 30 June 2012.

The Opposition and the Greens joined in supporting this motion while the Christian Democratic Party stated that the Government needs to be aware that unemployment is an issue for regional areas and to listen to the concerns raised in the motion.

Government members stated that closing regional offices is part of NSW Trade and Investment's refocus of delivery of small business advisory services that will ensure greater alignment with local needs and with the overall strategic goals outlined in NSW 2021. In regards to the closing of the Department of Trade and Investment Goulburn office, it was confirmed that it will close earlier than previously announced, at the end of May 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) Australian Sikh community (Mr Donnelly)
- (2) Surf Life Saving NSW (Dr Phelps on behalf of Mrs Maclaren-Jones)
- (3) Mr Anjum Ayaz (Mr Moselmane)
- (4) Hurstville Chamber of Commerce (Mr Moselmane)
- (5) Liquor outlet application proposal (Dr Kaye)
- (6) Miss Lebanon Australia Beauty Pageant (Mr Ajaka)
- (7) Jewish ex-servicemen and women (Ms Ficarra)
- (8) Buddhist celebration (Ms Ficarra)
- (9) Charitable contributions of Bravo Coffee (Ms Ficarra)
- (10) 70th Anniversary of the Battle of the Coral Sea (Dr Phelps)
- (11) Our Big Kitchen charity bake off (Ms Ficarra)
- (12) Hat Day (Ms Ficarra)
- (13) Schizophrenia Awareness Week (Ms Ficarra).

Items unsuccessfully sought to be brought on

The following items of private members' business were unsuccessfully sought to be brought on for debate.

- (1) Item 432 Crimes Amendment (Possession or Discharge of Firearms in Commission of Offences) Bill 2012 (Mr Borsak). Motion defeated on Division (18:23)
- (2) Item 687 Victory in Europe Day (Revd Nile). Motion moved then, by leave, withdrawn.

Committee activities

Debate on committee reports did not occur this week. At the time when debate on committee reports was due, standing and sessional orders were suspended to allow resumption of the debate on the Firearms Amendment (Ammunition Control) Bill.

Committee report tabled

Legislation Review Committee: 'Legislation Review Digest No. 16/55', dated 8 May 2012.

Committee inquiry activities

Joint select committee on the NSW workers compensation scheme: The Committee is currently accepting submissions to its inquiry into the NSW workers compensation scheme, with a closing date for submissions of Thursday 17 May 2012. The Committee will hold three public hearings at Parliament House, on Monday 21 May, Friday 25 May and Monday 28 May 2012.

General Purpose Standing Committee No 5: The Committee is currently accepting submissions to its inquiry into the management of public land in New South Wales, with a closing date for submissions of Friday 3 August 2012.

Standing Committee on Social Issues: The Committee will visit Goulburn Local Court on Wednesday 16 May 2012 as part of its inquiry into domestic violence trends and issues in New South Wales. A round table with key stakeholders will be held on Monday 18 June 2012 to consider proposed areas for recommendation to be included in the Committee's final report.

General Purpose Standing Committee No 2: The Committee is currently drafting its final report on its inquiry into the Education Amendment (Ethics Classes Repeal) Bill 2011, which is due to be tabled on Thursday 4 June 2012.

Petitions received

- (1) Coal seam gas operation – 88 signatures (presented Mr Buckingham)
- (2) La Perouse Market Gardens – 28 signatures (presented Mr Buckingham).

Adjournment debate

Tuesday 8 May 2012

Australian rural health research collaboration (Ms Cusack); Special Olympics (Mr Green); Monaro Electorate Community Building Partnership Program Grants (Mr Whan); Northern Tablelands Electorate events (Mrs Mitchell); Sydney Cricket Ground redevelopment (Mr Foley); Tribute to Bob Brown (Ms Faehrmann); Communism in Australia (Dr Phelps).

Wednesday 9 May 2012

Forests NSW (Mr Whan); Food security (Mr Buckingham); Firearms Amendment (Ammunition Control) Bill 2012 (Mr Brown); Heartland Institute and climate change (Ms Voltz); Gunnedah Shire Band (Mr Khan); Armenian genocide (Mr Ajaka).

Thursday 10 May 2012

Feral animals (Mr Borsak); Global warming (Mr Colless); We're Family Too report (Ms Westwood); Holiday rental code of conduct (Ms Barham); Burmese National League for Democracy members (Ms Sharpe); Poland (Mr Clarke); Global warming (Ms Voltz).

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.



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