Mrs JILLIAN SKINNER (North Shore—Minister for Health) [10.46 a.m.]: I move:

That this bill be now read a second time.

I am pleased to bring before the House the Public Health (Tobacco) Amendment (E-cigarettes) Bill 2015. The bill proposes to amend the Public Health (Tobacco) Act to prohibit the sale of e-cigarettes and e-cigarette accessories to minors. The popularity and use of e-cigarettes are growing rapidly across the world. Regulators everywhere are faced with the challenge of responding in a way that is balanced and proportionate to the potential risks and possible benefits of these products. There is no conclusive evidence to say whether e-cigarettes help people to quit smoking. And there is a lot we still do not know about e-cigarettes. What we do know, and what we can all agree upon, is that these are not products for minors.

The Government is acting now to protect children and young people from the potential risks that e-cigarettes pose by making sure they cannot be purchased by minors. The New South Wales Government has made great strides in reducing smoking rates and preventing the uptake of smoking by young people. The smoking rate among secondary school students in 2012 was at an all-time low of 7.5 per cent. This is an impressive achievement, which demonstrates the effectiveness of our tobacco control efforts in New South Wales. We need to protect these gains at all costs.

What we are seeing in the United States and some other countries across the world is a sharp rise in the use of e-cigarettes by children and young people. Current e-cigarette use tripled among middle and high school students in the United States between 2013 and 2014. Among high school students alone, current use rose from 4.5 per cent to 13.4 per cent in one year, with two million high school students reporting current e-cigarette use in 2014. This figure is of great concern and is a warning to countries like Australia, where e-cigarette use is still low.

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I am aware of concerns that e-cigarettes will re-normalise tobacco smoking given the similarities that often exist between the two products. While evidence is not conclusive in regard to these concerns, I am sure that we all agree that it is vital that both the Government and the community continue to work to reduce the number of people who smoke and to stop young people and children from becoming addicted to nicotine and smoking.

We must move promptly to protect our young people. To that end, the Public Health (Tobacco) Amendment (E- cigarettes) Bill 2015 has been developed. Under the changes it will be an offence to sell an e-cigarette or e-cigarette accessory to a person who is under the age of 18 years. The offence will carry the same maximum penalty as for the sale of a tobacco product to a minor—that is, $11,000 for an individual or $55,000 for a corporation, and for repeat offenders $55,000 for an individual and $110,000 for a corporation. The bill includes a broad definition of "e-cigarettes" and "e-cigarette accessories" so as to capture any device that releases or generates an aerosol or vapour by electronic means for inhalation in a manner similar to the inhalation of tobacco from a tobacco product. However, the ban will not apply to legitimate stop-smoking aids that meet the definition of "e-cigarette" provided these are registered therapeutic goods or where there is an approval under the Poisons and Therapeutic Goods Act. The definition of "e-cigarettes" under the bill includes devices and liquids that contain nicotine as well as those that do not contain nicotine.

We know there are legitimate concerns that e-cigarettes could cause harm, particularly to children and young people, and the Ministry of Health is monitoring, and will continue to monitor, the evidence about the harms and potential benefits of e-cigarettes. The Government will, if appropriate, bring forward further legislation to regulate the use and sale of e-cigarettes but it is imperative that we act now to ban sales to minors and to prevent children and young people from buying and using e-cigarettes, which could undermine decades of bipartisanship in anti-smoking efforts in New South Wales. I commend the bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day.

COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2015

Bill introduced on motion by Ms Gabrielle Upton, read a first time and printed.

Second Reading

Ms GABRIELLE UPTON (Vaucluse—Attorney General) [10.53 a.m.]: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Courts and Crimes Legislation Amendment Bill 2015. This bill is part of the Government's regular legislative review and monitoring program, and makes miscellaneous amendments to legislation affecting the operation of the courts and tribunals of New South Wales and other legislation administered by the Attorney General and Minister for Justice. I will now outline each of the amendments in turn.

Schedule 1.1 amends the Children and Young Persons (Care and Protection) Act 1998 to restrict the proceedings in which a risk of harm report can be admitted into evidence before the NSW Civil and Administrative Tribunal [NCAT]. Before the NSW Civil and Administrative Tribunal commenced section 29 of the Children and Young Persons (Care and Protection) Act provided that risk of harm reports could be admitted into evidence only in the Guardianship and Victims Compensation tribunals. Section 29 was unintentionally widened when the Civil and Administrative Legislation (Repeal and Amendment) Act 2013 commenced. As a result, risk of harm reports can now be admitted in all NSW Civil and Administrative Tribunal proceedings. While in practice the NSW Civil and Administrative Tribunal would allow these reports into evidence only where they are relevant, it is important that risk of harm reports remain as confidential as possible. This amendment therefore re-establishes the previous position.

Schedules 1.2, 1.3 and 1.4 contain four amendments to the Civil and Administrative Tribunal Act 2013 and regulations. These amendments were proposed by the President of the NSW Civil and Administrative Tribunal and are minor or technical in nature. The first amendment will allow the NSW Civil and Administrative Tribunal to grant leave for a person to be represented by an Australian legal practitioner without specifying the practitioner by name. Currently, the NSW Civil and Administrative Tribunal Act permits leave to be granted to an identified representative only. This can be inefficient where, for example, a person is represented by Legal Aid and a different solicitor appears on each occasion. The second amendment will permit the NSW Civil and Administrative Tribunal to revoke orders it makes to appoint a person as guardian ad litem for a party to represent a party or that a person be represented separately. There may be situations where it is appropriate to revoke these kinds of orders—for example, if the person is not acting in the person's best interests.

The third amendment replaces references to the "Health Practitioner Division List" with "Health Practitioner List". This clarifies that there is no Health Practitioner Division of the NSW Civil and Administrative Tribunal. It does not make any substantive changes. The fourth amendment to the NSW Civil and Administrative Tribunal Act will allow senior professional members of the Guardianship Division to sit on internal guardianship appeals. The Act currently does not permit these members to hear appeals. This was a drafting oversight. Senior professional members have specialist expertise in guardianship matters and should be permitted to hear internal appeals. Schedule 1.5 contains a minor amendment to section 12 of the Water Act 1912 to correct a drafting oversight. The amendment updates the Water Act to reflect the fact that the NSW Civil and Administrative Tribunal is now responsible for making decisions for the purposes of the section.

Schedule 2 concerns amendments regarding guardianship. Schedules 2.1 and 2.2 contain minor and technical amendments to the Guardianship Act 1987 and Guardianship Regulation 2010 that were proposed by the President of the Guardianship Tribunal prior to its integration with the NSW Civil and Administrative Tribunal. The first amendment will ensure that enduring guardians are included as a party to guardianship applications and reviews of guardianship orders. Currently enduring guardians must make an application for joinder to become a party despite having sufficient interest to be included as a party, partly because their authority to make decisions is suspended by the operation of a guardianship order. This amendment will eliminate the need for these procedural hearings and improve the efficiency of the NSW Civil and Administrative Tribunal.

The second amendment to the Guardianship Act ensures that a person with a power of attorney will be included as a party to applications to review a financial management order or review of an appointment of a manager. Presently attorneys are included in applications for a financial management order but not in applications for a review. An attorney's authority is suspended during the operation of a financial management order and may recommence if the order is revoked. The Government considers they have sufficient interest to be included as a statutory party in relation to reviews.

The third amendment to the Guardianship Act will replace the term "alternative enduring guardian" with the term "substitute enduring guardian". Currently the Guardianship Act allows an instrument of appointment of an enduring guardian to appoint another person to be an alternative enduring guardian who can

exercise functions if the original guardian dies, resigns or has an incapacity. The word "alternative" may be misleading to the public as it may imply that either the alternative enduring guardian or the original enduring guardian can exercise functions at any time. This is clarified by replacing the word "alternative" with "substitute".

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The fourth amendment to the Guardianship Act 1987 will allow NCAT to proceed as if an application for a guardianship and/or financial management order has been made when reviewing the appointment of an enduring guardian, without the need to first revoke the appointment. Currently, section 6K of the Guardianship Act provides that on reviewing the appointment of an enduring guardian NCAT may either revoke the appointment or confirm the appointment with or without varying the functions of the enduring guardian. Where NCAT has decided to revoke the appointment of an enduring guardian, it may proceed as if an application for a guardianship and/or financial management order has been made. This amendment will improve section 6K of the Guardianship Act by providing greater flexibility for NCAT to make decisions in the best interests of the appointer, especially where a guardianship or financial management order might be needed for only a short time.

The fifth amendment to the Guardianship Act allows NCAT to renew and vary a guardianship order when reviewing the order. This amendment addresses situations where a person may request NCAT to review a guardianship order close to the end of the term of the order and another review would otherwise be required within a short time period. The sixth amendment to the Guardianship Act will allow people to apply for a financial management order for themselves and will provide that a person subject to a financial management order can apply for the review of an appointment of a financial manager.

The seventh amendment to the Guardianship Act replaces a reference to the now repealed section 68 of the Guardianship Act with a reference to the section that has replaced it, that is, section 61 of the Civil and Administrative Tribunal Act. The eighth amendment to the Guardianship Act will allow for NCAT to review both a financial management order and the appointment of a manager at the same time. Currently, a financial management order and the appointment of the manager are considered to be two separate orders. This causes confusion upon reviews. This amendment will also clarify that the power to vary an order includes the power to insert or remove an exclusion pursuant to section 25E. This will ensure that a tribunal constituted by fewer than three members can insert or remove exclusions upon the review of an order.

The ninth and final amendment to the Guardianship Act will allow NCAT to review the appointment of a manager within a specified time. For example, NCAT may appoint the NSW Trustee and Guardian as a manager to resolve a particular legal and financial issue, with a review within two months if it is considered that a suitable private person could take over once that issue has been resolved. Overall, the amendments to the Guardianship Act will provide NCAT with flexibility to manage guardianship orders by streamlining the tribunal process and will result in improved efficiency.

I turn to schedule 3, which contains amendments concerning acting judicial officers. Schedules 3.1 to 3.8 contain amendments to various court and tribunal Acts. Schedules 3.1, 3.2, 3.3, 3.4 and 3.7 amend the Children's Court Act 1987, the District Court Act 1973, the Drug Court Act 1998, the Dust Diseases Tribunal Act 1989 and the Local Court Act 2007 to enable the Attorney General to appoint a judicial officer who can act as head of jurisdiction for a particular absence or for any absence that occurs from time to time.

All court and tribunal Acts contain provisions that govern who is authorised to act as head of the court during an absence in office. In some cases, either the Governor or the Attorney General must provide a judge with a commission to act. In other cases, default provisions allow the next most senior judge to act if no commission is provided. However, this is not always the case. This can cause difficulties, especially where the head of the court needs to take leave unexpectedly. These amendments will provide the Local Court, the District Court, the Dust Diseases Tribunal, the Drug Court and the Children's Court with consistent provisions regarding acting arrangements. The heads of these courts support the amendments.

Not all court and tribunal Acts are being amended. The Coroner's Court, the Workers Compensation Commission and NCAT already have an equivalent provision. The Chief Justice of the Supreme Court, the Chief Judge of the Land and Environment Court and the President of the Industrial Relations Commission advised that the amendments are not required in their particular courts. Schedule 3.2 to the bill contains an amendment to the District Court Act 1973 that will allow retired judges of the Family Court of Australia to act as judges of the District Court after they reach the age of 72. Currently, section 18 (4A) of the District Court Act permits retired Federal Court judges to act as District Court judges after they turn 72, as well as retired judges of

other State and Territory Supreme and County Courts. However, there is no equivalent provision for retired Family Court judges. A number of former Family Court judges hold commissions as acting judges of the District Court. These judges will currently have to leave when they turn 72. This amendment will enable those judges to continue as acting judges after the age of 72 until they reach the age of 77. The Chief Judge of the District Court supports the amendment.

Schedules 3.2, 3.5, 3.6, 3.7 and 3.8 amend the. Local Court Act 2007, the District Court Act 1973, the Supreme Court Act 1970, the Industrial Court Act 1996 and the Land Environment Court Act 1979 to enable acting judges, magistrates and commissioners of the Land and Environment Court to be appointed for a period of up to five years. Currently, acting judges, magistrates and commissioners of the Land and Environment Court can only be appointed for 12-month terms. These appointments can be renewed each year until the statutory age limit is reached. In the Local Court, the District Court, the Industrial Court and the Land and Environment Court the age limit for judges and magistrates is 75. In the Supreme Court the age limit is 77 where a judge retires at 72. This amendment will enable acting judges, magistrates and commissioners of the Land and Environment Court to be appointed for up to five years. The provision still allows acting judges to be given shorter terms than five years. In order to authorise five-year appointments, the statutory age limit for all acting judges will also be lifted to 77 years. Lifting the acting judge age limit to 77 years will enable highly talented and experienced judges to keep working when they are able and willing to do so.

Schedule 4.1 amends the Crimes (Administration of Sentences) Act 1999 to enable information exchange between the Commissioner of Corrective Services and the Commissioner of Fines Administration. This is limited to information that assists in the exercise of both commissioners' statutory functions. The amendment will permit Corrective Services NSW to disclose certain details about inmates to help the Commissioner of Fines Administration identify which inmates in custody have outstanding fines. The Commissioner of Fines Administration can then take steps to help those inmates, such as delaying fine enforcement action while they are in custody and offering them appropriate payment options.

The amendments will also enable Corrective Services NSW to help eligible inmates make arrangements to work off the value of the fine by undertaking certain programs, treatment and counselling in custody through a work and development order under section 99B of the Fines Act 1996. This is especially important because we know that when people have outstanding debt on leaving prison their chances of reoffending are increased. To achieve this the amendments are intended to override the Privacy and Personal Information Protection Act 1998, which would otherwise prevent Corrective Services NSW from disclosing personal information about inmates for these purposes without their consent. By permitting the sharing of limited information about inmates this amendment will enable relevant agencies and inmates to identify whether there are outstanding fines and to take steps to resolve them. This amendment is modelled on a similar provision already in the Children (Detention Centres) Act 1987.

Schedule 4.2 to the bill contains amendments to the Jury Act 1977 that will enable Roads and Maritime Services to provide customer identification numbers to the Sheriff's Office for the purpose of determining whether a person should be excluded from jury service. Currently, Roads and Maritime Services is authorised to provide the Sheriff's Office with driver licence numbers, but these are not always the same as customer identification numbers. This amendment will enhance the ability of the Sheriff's Office to identify people who are ineligible for jury service because of their criminal history.

Schedule 4.3 to the bill contains several minor amendments to the Land and Environment Court Act 1979. The first amendment will add class 4 proceedings to the classes of proceedings in the Land and Environment Court where a commissioner may assist judges. Class 4 proceedings relate to civil enforcement and judicial review of decisions under planning and environmental laws. The proposed amendment will permit commissioners to assist and advise the judge adjudicating a matter. Commissioners can already do this in classes 1, 2 and 3 of the court's proceedings and this amendment will ensure that commissioners can provide their specialist, non-legal expertise to the benefit of the court in appropriate class 4 matters. The remaining amendments to the Land and Environment Court Act in schedule 4.3 remove several references to repealed legislation in provisions establishing the court's appeal jurisdiction.

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These references are obsolete as no relevant appeals can now be brought.

I turn to amendments relating to the New South Wales Trustee and Guardian Act 2009. Schedule 4 to the bill contains an amendment to the New South Wales Trustee and Guardian Act to allow the Mental Health Review Tribunal to revoke a financial management order relating to a person who is or was, or has now ceased

to be, a forensic patient if satisfied that the person has the capacity to manage his or her own affairs or it is in his or her best interests. In addition, the amendment will ensure that a financial management order for a person who is or was, or has now ceased to be, a civil mental health patient can be revoked by NCAT if it is satisfied that the person has the capacity to manage his or her own affairs or it is in his or her own best interests. This amendment was suggested by the Mental Health Review Tribunal, in part by including a reference to "forensic patient", and it corrects an oversight that occurred when the forensic patient provisions were separated from the civil patient provisions in 2007.

It also enables the tribunal to revoke an order where a person remains in a mental health facility but has not yet been discharged. Managing one's own affairs can be an important step in a patient's rehabilitation and these amendments go to that policy outcome. The proposal parallels the powers set out in section 25P of the Guardianship Act 1987. I turn to amendments relating to the Oaths Act 1900. Schedule 4.5 to the bill contains three minor amendments to the Oaths Act 1900 and clarifies that New South Wales justices of the peace [JPs] may witness statutory declarations and affidavits for use in tribunals and arbitration in Australian jurisdictions other than New South Wales. Currently, the Oaths Act refers to witnessing non-New South Wales statutory declarations and affidavits for use in court proceedings outside New South Wales.

The Crown Solicitor's Office has advised that the word "court" in the Oaths Act should not necessarily be interpreted as including a tribunal. So the first amendment to the Oaths Act clarifies that New South Wales JPs may witness statutory declarations and affidavits intended for use in a tribunal in an Australian jurisdiction outside New South Wales. The second amendment amends the Act so that the documents may be witnessed in New South Wales by JPs for the purposes of any arbitration where it is held in New South Wales or interstate. This clarifying amendment is to avoid any doubt. Section 26 of the Oaths Act currently only authorises JPs to witness statutory declarations interstate where they are required for court proceedings. The third and final amendment to the Oaths Act will authorise New South Wales JPs to witness in New South Wales all types of statutory declarations required for use interstate to ensure that JPs are authorised to witness statutory declarations required for public administrative purposes, as well as for court proceedings.

The amendments are necessary to ensure that JPs in New South Wales may witness affidavits and statutory declarations required for use in Australian jurisdictions outside New South Wales. They will also apply retrospectively to any oaths, affidavits or statutory declarations made or witnessed before the commencement of the amendments made by this bill. That is appropriate so there is certainty. Finally, I turn to the amendments to the Trees (Disputes Between Neighbours) Act 2006. Schedule 4.6 to the bill contains amendments to part 2A of the Trees (Disputes Between Neighbours) Act 2006 to include land zoned rural residential or its current zoning equivalent. Currently, home owners located in rural residential zoned properties have no recourse under the Trees (Disputes Between Neighbours) Act to minimise the impact of high hedges located on neighbouring properties. The only legal option available to rural residential home owners is to sue their neighbour under the tort of nuisance, which can involve large financial costs and lots of time.

The amendment will enable rural residential home owners to make applications to the Land and Environment Court to resolve disputes with neighbours relating to planted hedges that are over the height of 2.5 metres that are causing severe obstruction of sunlight to a window or views. This amendment implements the sole legislative recommendation of the 2013 statutory review of the Trees (Disputes Between Neighbours) Act. It provides rural residential zoned home owners with the same legal remedies afforded to home owners in residential areas, delivering rural residential home owners with a cost-effective means of resolving disputes regarding high hedges. Overall, the amendments in the bill will improve the administration of justice in this State. They will assist the courts and other agencies within the Department of Justice to perform their work more efficiently. I commend the bill to the House.

Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a later hour.

PESTICIDES AMENDMENT BILL 2015

Bill introduced on motion by Mr Mark Speakman, read a first time and printed.

Second Reading

Mr MARK SPEAKMAN (Cronulla—Minister for the Environment, Minister for Heritage, and Assistant Minister for Planning) [11.15 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Pesticides Amendment Bill 2015. This bill was debated and passed unanimously by the Legislative Assembly on 12 November 2014. As there was insufficient time for it to be considered by the Legislative Council before the end of the last Parliament, it needs to be reintroduced to this House. The bill remains the same as the 2014 bill except that the commencement of schedules 1.3 and 2.1, which relate to administration and enforcement, will now occur later this year. Particularly for the benefit of members who are new to this House, I will outline the key features of the bill and its place in the Government's ongoing program to improve New South Wales' environment protection legislation.

Chemical use is an essential part of modern life, so it is also essential that we have legislation that ensures proper chemical usage, storage and disposal. This bill is the first part of a series of reforms to be introduced by this Government to update and strengthen the specialised legislation that the Environment Protection Authority [EPA] uses to manage and prevent adverse impacts from chemical use on human health and the environment. The bill focuses on making amendments to the Pesticides Act 1999 to transfer the system for licensing pest controllers and aerial pesticide applicators, to implement national harmonisation reforms and to improve protection for landholders from pesticide misuse. The bill also makes a number of necessary amendments to update and improve administrative provisions of the Act.

This is a first step. As a next step in this new reform program, in this Parliament the Liberal-Nationals Government will bring forward a bill to thoroughly modernise and update the Environmentally Hazardous Chemicals Act and to achieve more streamlined and effective controls on transport of hazardous waste. That reform proposal will be subject to consultation with industry and the interested community during 2015. I return to the Pesticides Amendment Bill 2015. Currently in New South Wales aerial pesticide applicators are licensed by the EPA and urban pest management technicians and fumigators are licensed by WorkCover NSW. The first part of the bill deals with consolidating the administration of these licences at a single point by transferring the licensing of pest controllers and fumigators from WorkCover NSW to the EPA. By creating a single system for the licensing of these occupations, all pesticide licensing will be administered by the EPA.

This change is in line with national reforms which New South Wales agreed to in May 2013 when all jurisdictions signed an updated Intergovernmental Agreement on Agricultural and Veterinary Chemicals. It is also required because harmonised national work health and safety laws do not cover the licensing of pesticide users. The bill will also improve the public's access to information about businesses that provide these pesticide services. It will require the EPA to keep a register of all licensees, and to make it available to the public, in a way broadly similar to that already done by the NSW Office of Fair Trading for licensed building trades.

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This will replace the current requirement for the details of newly issued aerial licences to be published in the New South Wales *Government Gazette*. For pest management technicians and fumigators, the currently used term "certificate of competency" will be replaced by the more generally understood term "licence". As national harmonisation reforms are progressively implemented by all jurisdictions, the bill allows for future regulation changes to specify enhanced mutual recognition arrangements that would allow automatic cross-border recognition of licences. The aim is to create a seamless national licensing scheme that will benefit these occupations and the border communities they serve.

The Commonwealth Government regulates pesticides up until and including the point of sale. The second part of the bill provides amendments to update links to the Commonwealth's agricultural and veterinary chemicals legislation regarding definitions and notices issued by the Australian Pesticides and Veterinary Medicines Authority. These changes ensure the New South Wales Pesticides Act maintains precise alignment of common definitions and recognises notices that affect the status of products under the national assessment and registration scheme for pesticides.

The third part of the bill includes amendments that will improve protection for landholders from pesticide misuse by other persons. The first of these changes will improve existing protection for agricultural landholders where there is evidence of damage to non-target crops due to another person's pesticide misuse that is proven to be wilful, negligent or a result of lack of due diligence. It will clarify that "damage" can include a situation where, for example, a pasture becomes unusable for grazing because of chemical contamination. The second of these amendments extends existing offence provisions regarding on-premises harm to companion animals. This will better protect working dogs and household pets from deliberate or negligent pesticide poisoning by contractors and third parties. These amendments will come into effect later this year so the

Environment Protection Authority can first conduct an information campaign to ensure people are familiar with the changes.

Other amendments in the third part of the bill make improvements to tools that can be used for dealing with suspected pesticide residues in produce and provide for enforceable undertakings as an alternative to court proceedings. The New South Wales Pesticides Act and its regulation provide a well-developed framework for preventing problems with pesticide residues in produce by mandating that users follow approved pesticide label instructions, avoid off-target harm, keep records of pesticide use and have current training in safe chemical use. The amendments to the Act's existing residue notice and order powers simply clarify that these may be used to require laboratory analysis by the person growing or supplying the affected produce. A complimentary amendment allows for future regulation changes to specify consistent approaches for monitoring and analysis of pesticide residues, for example, to coordinate with national residue monitoring programs.

Turning to the amendment to introduce enforceable undertakings into the Pesticide Act, this change will provide an alternative to court action that has been well proven in other environmental legislation. The Environment Protection Authority will be able to enter into an agreement with a person to remedy or restrain breaches of the Pesticides Act. The negotiation of an enforceable undertaking with a person who has breached the Act can avoid unnecessary legal proceedings and result in direct restorative benefit to the community, commensurate or greater than the damage caused by the offence. When necessary, the court may make orders in response to any noncompliance with the terms of the agreement.

The fourth and final part of the bill makes a few miscellaneous amendments. One amendment is to remove references to the Pesticides Implementation Committee [PIC] which completed its work back in 2004, but the Minister will still be able to convene one or more committees to advise on matters relating to the Act. Other provisions deal with savings and transitional arrangements. These will ensure seamless transfer and continuity of licensing functions between WorkCover NSW and the Environment Protection Authority. In conclusion, this bill will provide an improved single point of contact for managing and licensing pesticide-using occupations and allow implementation of agreed national harmonisation reforms. It will also provide improved protections to property occupiers from pesticide misuse and make a number of necessary updates to the administration of the Pesticides Act. I commend the bill to the House.

Debate adjourned on motion by Ms Jodi McKay and set down as an order of the day for a future day.

COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2015

Second Reading

Debate resumed from an earlier hour.

Mr PAUL LYNCH (Liverpool) [11.25 a.m.]: I lead for the Opposition in debate on the Courts and Crimes Legislation Amendment Bill 2015. Opposition members do not oppose the bill nor do they object to the truncated period that they have had to debate the bill. Apart from one minor matter the bill is in identical in terms to a bill with a similar name that was introduced in November last year and second read but the legislative process was not completed. So effectively the Opposition has had notice of this bill since last November.

The objects of the bill are to make a number of disparate and miscellaneous amendments to a significant number of pieces of legislation. The bill is presented by the Government as part of its regular legislative review and monitoring program. The only common thread to the amendments is that they are to legislation administered by the Attorney General. Many of the proposed amendments are characterised by the Attorney in his second reading speech as technical in nature or resulting from a drafting oversight. There are a number of amendments to the Guardianship Act which provide for the NSW Civil and Administrative Tribunal [NCAT] more efficient and streamlined processes relating to guardianship orders. There are a number of amendments concerning judicial officers. Provisions are introduced to allow the Attorney to appoint an acting head of jurisdiction for a particular absence. Some jurisdictions already have these provisions.

There are interesting provisions relating to acting judges, magistrates and other judicial officers. At the moment they can only be appointed for 12-month terms but that will now be increased to five years. The major criticism of the concept of acting judges and magistrates has been that it strikes at the principle of the independence of the judiciary with judicial officers effectively able to be dismissed every 12 months which

some people argued was a theoretical rather than a practical problem. Whilst the extension of 12 months to five years does not altogether silence that theoretical criticism, it nonetheless contributes to mitigating or muting it. The bill also lifts the statutory age limit for acting judges from 75 years to 77 years. Granted many acting judges are as competent at the age of 76 as they are at the age of 74, if that makes sense. The one difference between this bill and its 2014 incarnation is that the provisions extending the appointment of acting judicial officers from 12 months to five years apply not only to acting judges of the Land and Environment Court but also to acting assessors.

There are provisions that allow the Privacy and Personal Information Protection Act to be overwritten to allow what is claimed to be the sharing of limited information about prison inmates between Corrective Services and the Commissioner of Fines Administration. This is to identify which inmates have fines outstanding and to help take steps to resolve those fines. The Jury Act is amended to allow Roads and Maritime Services [RMS] to provide customer identification numbers, in addition to the current permissible driver licence numbers, to the Sheriff to help identify people ineligible for jury service because of a criminal history. There are minor amendments to the Land and Environment Court Act. The New South Wales Trustee and Guardian Act is amended to allow the Mental Health Review Tribunal to revoke a financial management order for someone no longer a forensic patient. The same power goes to NCAT for a civil mental health patient. There are a number of other proposed amendments about which I do not propose to trouble Hansard. The Opposition does not oppose the bill.

Mr GEOFF PROVEST (Tweed) [11.28 a.m.]: Mr Deputy-Speaker I congratulate you on your reappointment as Deputy-Speaker. The ship is in good hands. I make a brief contribution to debate on the Courts and Crimes Legislation Amendment Bill 2015. As the Attorney General pointed out, this bill, which was introduced in the last session of Parliament, seeks to amend and to remove a number of minor pieces of legislation to ensure that this Government and the legal fraternity are given the best tools to administer justice in New South Wales.

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Some of these issues affect my area, and I am sure they affect the great area of Lismore as well. The Government introduced the Civil Administrative Tribunal Bill 2012, which established the NSW Civil and Administrative Tribunal, commonly called NCAT, which merged 23 tribunals, including the Consumer Trader and Tenancy Tribunal, the Administrative Decisions Tribunal and others into a one-stop of tribunal service. NCAT commenced operation on 1 January 2014 delivering prompt and accessible civil justice to the people of New South Wales. In the great electorate of Tweed we have more people living in relocatable homes and caravans than there are anywhere else in the State, and the process that many of my constituents had to go through to appear before the tribunal always concerned me.

Following a review of the Residential Tenancies Act, the Government further streamlined the Residential Tenancies Act and gave greater rights not only to tenants but also to owners. I applaud the Government for taking such action. As the Attorney General said, NCAT aims to provide fair, transparent and quick resolutions to civil disputes, and improve access to justice for New South Wales citizens by providing a single and simple point of access for tribunal services. The key objectives of NCAT include improving the quality of tribunal decision-making through consistency in standards, processes and professional development and prompting greater transparency through accountability.

In the first six months of operation NCAT has received more than 39,509 applications and has finalised 40,873 matters. I am sure a great percentage of those applications would come from the north. Over the next 12 months NCAT will continue to look for innovative ways to improve overall performance and user experience. This is a great bill. It represents the first opportunity for the Government to listen to feedback, which I think this Government is renowned for, and implement practical changes to the Civil Administrative Tribunal Act that will endorse and strengthen the objects of the Act.

Further, the bill contains amendments in relation to guardianship. As the Attorney General said, the bill provides for minor and technical amendments to the Guardianship Act 1987 and the Guardianship Regulation 2010 that were proposed by the President of the Guardianship Tribunal prior to its integration into NCAT. These amendments are valid and relate to the great electorate of Lismore and to our area where issues are arising with guardianship of foster children, particularly if they cross over the border to seek medical treatment or education. Recently I was fortunate to have the Minister for Family and Community Services, the Hon. Brad Hazzard, visit my electorate. He took a very hands-on approach with staff from the Department of Family and Community Services and Housing NSW, particularly in relation to guardianship, which they had raised on a number of occasions. I am very pleased that these amendments have been brought forward.

The bill also contains judicial amendments, as noted and set out by the Attorney General. The amendment provides for retired judges of the Family Court of Australia to act as judges of the District Court after they reach the statutory age of retirement. This amendment will provide the District Court with greater flexibility to ensure judicial officers are able to be appointed beyond the statutory age of 72 up to a new limit of 77 years of age. There is hope yet for us, Mr Deputy-Speaker. This amendment will provide consistency with Supreme Court appointments, and give the Chief Judge wider discretion to appoint retired judges of the Family Court of Australia to act as judges of the District Court. Once again, this reflects our commitment to provide excellence in decision-making in the District Court. The bill will ensure that the skills and experience of retired Family Court judges continue to be used once they pass the age of 72.

Corrective Services NSW is an integral part of the criminal justice system and is committed to the delivery of quality professional correctional services and programs to reduce the risk of re-offending and enhance public safety. Many of the Corrective Services NSW functions, such as managing correctional centres, arise under the Crimes (Administration of Sentences) Act 1999. The proposed amendment will permit the Commissioner of Corrective Services to share information with the Commissioner of Fines Administration about inmates. The Commissioner of Fines can then identify any outstanding fines of inmates. Once again, this is a very important change.

Finally, schedule 4.3 amends the Land and Environment Court Act 1979 to enable courts to be assisted by the commissioner in class 4 proceedings and removes reference to repealed legislation. I also note that the Attorney General mentioned minor amendments to the Trees (Disputes Between Neighbours) Act 2009, particularly in relation to residential Acts and rural properties. The great electorate of Lismore has many rural properties bordering residential buildings. The Deputy-Speaker's office is probably similar to mine in that often a week does not go by when we are not dealing with a neighbour dispute about a tree overhanging a fence or something of that nature. I applaud that move in that area. As stated earlier, I think it is going to make the law far more accessible, far more transparent and far more simple for the wider population of New South Wales to understand. Therefore, I commend the bill to the House.

Mr DAMIEN TUDEHOPE (Epping) [11.36 a.m.]: It is great to be here to contribute to the work of this place. I also support the Courts and Crimes Legislation Amendment Bill 2015. I endorse the observations that were made by the Attorney General. I compliment the Attorney General's office for the work that it does in constantly reviewing the legislation. Generally these bills are uncontroversial and they simplify many of the issues that arise in the administration of justice.

The NSW Civil and Administrative Tribunal [NCAT] is one of the great success stories of the Coalition Government. Prior to the delivery of NCAT numerous tribunals existed in this State, from the Podiatry Tribunal to the plethora of health tribunals, building tribunals and the like. Many former governments had sought to amalgamate or simplify those tribunals by bringing them under one administration. It is to the great credit of the former Attorney General, the Hon. Greg Smith, that he was able to convince many of the jurisdictions to relinquish their hold on those tribunals and present a simplified system of the administration of justice for the people of New South Wales. We now have a common system with simplified forms and delivery. It is rightly referred to as a one-stop shop.

The Government, correctly, accepts many accolades for the delivery of service to New South Wales. In line with exactly the delivery of that great service, NCAT provides a similar service in relation to the administration of justice. When the President of NCAT, Mr Justice Robertson Wright, seeks small changes to the manner in which NCAT operates, it is a reflection on the teething problems that the new tribunal is currently facing.

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The figures show that 40,000 matters have been disposed of, representing the second-largest number of matters litigated, outside the Local Court, before any court in this country. Therefore, it is expected that simplifications will need to be made. Another important part of the bill is the amendment to that aspect of NCAT relating to the Guardianship Tribunal, which forms a significant part of NCAT and occupies approximately 14 per cent of the matters that it hears. We live in an increasingly ageing population, and the number of matters involving others needing to look after people's affairs is an increasing and important issue.

In deference to my profession, which is the legal profession, we are not doing enough to encourage people to plan for their future. This gives rise to family disputes where families are often torn apart in seeking to plan for the future of a loved one. That necessitates applications to the Guardianship Tribunal for the purposes

of making orders. This leads me to reflect on a matter in which I was involved that was possibly one of the more leading cases on the interpretation of powers of attorney, the case of *Szozda and ors v Szozda and anor*. In that case the person made a power of attorney, but there was a serious dispute as to whether the person had the capacity to do so at that time. The matter ended up in the Supreme Court and cost the parties and family involved in excess of $200,000 in litigation fees. It is a matter of great concern that families become involved in these sorts of arguments when looking after loved ones in their later years.

I take this opportunity to urge people to make provision for their future in the event that they are incapacitated either through old age or being involved in a car accident or the like. The amendments to the Guardianship Act and Guardianship Tribunal will give the tribunal more power to resolve disputes between parties by allowing people appointed as enduring guardians to be automatically part of the process. Families in dispute may find themselves in conflict with someone who has been appointed an enduring guardian and an application to the Guardianship Tribunal may suspend the appointment of the enduring guardian and put the person's affairs in a vacuum, The enduring guardian may not be aware that the application is before the tribunal. These amendments make it imperative that the person appointed as the enduring guardian be a party to the proceedings. It short-circuits the process of having to find the person or the person having to make an application to the tribunal to seek to be added as a party to the proceedings.

I encourage people to go to the website planningaheadtools.com.au, which assists people to make provision for their future. I refer also to the amendments that relate to the sharing of information between Corrective Services NSW and the Commissioner of Fines Administration under the Fines Act. Work and development orders were another great initiative of the former Government. These allow people who have incurred a large number of fines to work off those fines rather than being involved in a perpetual cycle of licence disqualification. The process gives people the opportunity to obtain counselling or health treatment, and was a serious initiative of the former Government to enable people to get out of the cycle of fines.

There are circumstances in which people involved in driving offences have received fine after fine, lost their licence, have driven unlicensed, incurred more fines for driving unlicensed and ended up in jail. This measure is an alternative to custody. People have the opportunity to work off the fine and receive counselling or health treatment, which gives them the opportunity to start again. The same applies to people in jail. It is dreadful that people leaving jail may find themselves with a significant number of fines that they have not repaid and do not have the resources to repay. If Corrective Services is aware of the fine system it could set up work and development orders within the corrective services system. It is common sense to have such a system so that people leaving custody do not have fines hanging over their heads that could lead them into a cycle of reoffending. There are many other matters covered by the bill. All of them are procedural matters and all of them bear the endorsement of this place. I commend the bill to the House.

Ms MELANIE GIBBONS (Holsworthy) [11.47 a.m.]: I support the Courts and Crimes Legislation Amendment Bill 2015, which makes amendments to court-related legislation and other legislation administered by the Attorney General. This bill is an important part of the Government's continued legislative review and monitoring program, which aims to create greater efficiencies across the portfolios of the Attorney General, Minister for Justice and Minister for Corrections. While the majority of amendments are minor and technical in nature the bill will provide a valuable opportunity for the Government to rectify and improve court and administrative procedures.

I will focus on the amendments relating to the way in which guardianship matters are managed by the Guardianship Act. I note that the Attorney General spent a great deal of her speech talking about guardianship as well. As the Attorney General stated, schedule 2 to the bill provides minor and technical amendments to the Guardianship Act 1987 and Guardianship Regulation 2010 that were proposed by the President of the Guardianship Tribunal prior to integration into the NSW Civil and Administrative Tribunal [NCAT]. People who use the services of the Guardianship Division are some of the most vulnerable members of our community.

Importantly, NCAT aims to ensure clients with additional needs receive the necessary assistance they may need to access its services. This includes promoting flexible hearing options such as wheelchair accessible hearing rooms and hearings by telephone or videoconference, free interpreter services for hearings—including Auslan interpreters—hearing loop access in tribunal hearing venues upon request and the promotion of the National Relay Service for parties with hearing or speech impairments. With my background in the disability sector, I believe this particular amendment is quite significant and one that should make a real different to those who need it.

Furthermore, the Guardianship Division exercises a protective jurisdiction in relation to people who do not have the capacity to assess important decisions in their lives. It appoints guardians and financial managers and can also provide consent for treatment by a doctor or dentist when a person does not have the capacity to do so themselves. It also deals with enduring powers of attorney and enduring guardianship appointments. All applications in the division are reviewed on receipt to determine whether the application identifies any risk to which the person who is the subject of the application might be exposed.

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The Government is committed to ensuring that NCAT has flexible and informal procedures that assist tribunals to provide a quicker and cheaper alternative to the courts for guardianship matters. This includes ensuring that the Guardianship Division operates an after-hours service to respond to urgent applications that require hearing outside business hours. In its first six months of operation, NCAT has received more than 5,610 applications for guardianship matters, which represents 14.2 per cent of all NCAT matters. Since its integration with NCAT, the Government has monitored and consulted closely with the Guardianship Division, advocacy groups and peak bodies to ensure that NCAT delivers the same high level of service that the community has come to expect from the division.

The minor amendments to the Guardianship Act will enhance the flexibility and efficiency of NCAT, and provide clarity to the public about substitute guardians. In the past enduring guardians and powers of attorney have had to make separate applications to ensure they are included as parties to matters relating to guardianship orders and financial management orders. This is a laborious and frustrating process for enduring guardians and powers of attorney to undertake. The removal of these procedural inefficiencies will enhance the user experience in NCAT, as well as support the whole-of-government policy to reduce the administrative burden for the citizens of New South Wales. Since 1 January 2014, NCAT has improved services for the community in guardianship matters. The Government is committed to improving access to NCAT and the overall quality of our tribunals. I am pleased to see that the amendments in this bill will remove unnecessary procedural hearings and streamline processes. It will enable the Guardianship Division to improve efficiency and ensure that matters are finalised more quickly.

I note other minor amendments to the Children's Court Act 1987, the District Court Act 1973, the Drug Court Act 1998, the Dust Diseases Tribunal Act 1989 and the Local Court Act 2007 to provide authority for the Attorney General to appoint a person to act as head of jurisdiction when appropriate. These amendments will enable courts and tribunals to be more flexible when managing the appointment of judicial officers as well as to ensure that an authorised person can act as head of jurisdiction on a temporary basis when needed. For those incarcerated with fines pending, amendments to the Crimes (Administration of Sentences) Act 1999 will permit information sharing between Corrective Services NSW and fines administration, and will provide for those fines to be suspended while they are in custody. There will also be provisions for those eligible to work off the fines through a work and development order.

This is a positive step toward helping those in custody to get on top of their situation once released, instead of accruing further costs and potentially causing further disadvantage in the future. Once they have done their time, if inmates are able to return to their communities with a clean slate they will have a better future and stronger foundations on which to rebuild their lives. Changes to the Jury Act 1977 will enable Roads and Maritime Services to provide the Sheriff's Office with customer identification numbers to assess their eligibility for jury duty. This amendment was designed to allow the Sheriff's Office to review a person's driver licence number and to determine whether that person has any prior criminal offences. This will enable the Sheriff's Office to determine quickly whether a person should be excluded from jury service. Suitable jurors are not always easy to find, so this amendment will help to reduce the number of those selected who are ultimately ineligible and to improve the efficiency of selecting suitable jurors.

Through my involvement in the Parliamentary Friends of Mental Illness and the Schizophrenia Fellowship I have heard many stories about the need for intervention in times of crisis. This may be to force admission to a hospital for someone's personal safety or to assume control over their finances for their protection. However, once the crisis has subsided and an individual is able to resume responsibility for their own affairs, it is not always appropriate to continue to manage an individual's life. The Government recognises that such orders should not always be permanent and that there should be powers available in individual cases to remove such orders. In response to this, amendments to the NSW Trustee and Guardian Act 2009 will give the Mental Health Review Tribunal the power to revoke a forensic patient's financial management order when it is satisfied that the patient has the capacity to manage his or her own affairs. The bill will provide flexibility to New South Wales courts and tribunals to improve court processes and to apply resources more efficiently.

In line with the Government's commitment to reduce red tape and the administrative burden on the community, this bill will make it easier for people to manage their civil matters in the New South Wales justice system. Overall, this bill will lead to a more positive outcome for the community in dealing with NSW Courts and Tribunal Services. The reforms support the Government's approach to creating a justice system in which the community can have confidence, and one that is faster and more accessible. I am pleased to see that the Government has made these amendments to improve the way courts-related legislation is administered by the Attorney General and to ensure that it is operating as intended. I thank the Attorney General and her staff for their work on this legislation and I commend the bill to the House.

Mrs TANYA DAVIES (Mulgoa—Parliamentary Secretary) [11.54 a.m.]: I support the Courts and Crimes Legislation Amendment Bill 2015. As has been said, the bill makes amendments to courts-related legislation and other legislation administered by the Attorney General to ensure it is operating as intended. This bill was introduced by the former Attorney General on 12 November 2014, but it lapsed on 2 February 2015. It has been re-introduced with an additional amendment to schedule 3.6 to enable acting commissioners of the Land and Environment Court to serve for up to five years like other judicial officers.

This bill makes minor amendments to a number of Acts, but I will focus on only a few that are important to me and my electorate. The Children and Young Persons Care and Protection Act 1998 was enacted to allow risk-of-harm reports to be admitted into evidence in proceedings in guardianship and victims compensation tribunals before the NSW Civil and Administrative Tribunal [NCAT]. This bill remedies a small drafting error relating to those reports being made available to a larger range of proceedings. The amendment will ensure that risk-of-harm reports remain as confidential as possible and re-establish the position before the commencement of NCAT.

In 2012 the Government introduced the Civil and Administrative Tribunal Bill to establish the New South Wales Civil and Administrative Tribunal. That involved the merging of 23 tribunals, including the Consumer, Trader and Tenancy Tribunal, the Administrative Decisions Tribunal and other bodies, into a one-stop shop for tribunal services. NCAT commenced providing services on 1 January 2014. It delivers prompt and accessible civil justice to the people of New South Wales. NCAT aims to provide fair, transparent and quick resolution to civil disputes and to improve access to justice for the citizens of this State by providing a single, simple point of access for tribunal services. The tribunal's establishment has provided the Government with a once-in-a-generation opportunity to create a new and innovative agency that can make a real and positive difference to the lives of tens of thousands of citizens in this State. NCAT's key objectives include improving the quality of tribunal decision-making through consistency in standards, processes and professional development, and providing greater transparency and accountability.

In its first six months in operation, NCAT has received more than 39,509 applications, finalised 40,873 matters and conducted more than 51,400 hearings. That is a phenomenal achievement in its first six months of operation. Over the next 12 months, NCAT will continue to look for new and innovative ways to improve its overall performance and user experience. It will expand online services trialling innovative online dispute resolution tools. It will also provide tribunal users with a cost-effective and efficient internal appeals mechanism, and consistent professional development and training for members. This bill represents the first opportunity for the Government to listen to feedback and to implement practical changes to the Civil and Administrative Tribunal Act that will endorse and strengthen its objectives.

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The amendments in schedule 1 to the bill were requested by the President of NCAT and will provide significant improvements to the operation of the tribunal on a day-to-day basis. As the Attorney General has said, the amendments will allow a person to be represented by various legal practitioners, enable NCAT to revoke orders regarding the representation of a party or a person, replace references to the "health practitioner division list" with a "health practitioner list" and permit senior professional members of the guardianship division to sit on appeals. These practical amendments will help to ensure that the NCAT continues to be accessible, efficient and accountable. The Government has listened to the President of NCAT and stakeholders and is delivering enhancements to the Act to ensure that NCAT can continue to be at the forefront of positive decision-making for the New South Wales community. The amendments are further evidence of the New South Wales Liberal-Nationals Government's commitment to improving court and tribunal efficiency through practical legislative development.

Schedule 4.1 to the Courts and Crimes Legislation Amendment Bill 2015 seeks to amend the Crimes (Administration of Sentences) Act 1999 to permit information-sharing between Corrective Services NSW and the Commissioner of Fines Administration to allow fines to be suspended while inmates are in custody and

ineligible to undertake a work and development order to work off the fine. This amendment will enable inmates to have a clean slate when they are released from custody and make a more productive contribution to their community. This amendment is particularly important to me as last week I had the pleasure of visiting an organisation called Christ Mission Possible, run by Martin and Georgina Beckett. Christ Mission Possible operates facilities in St Marys, in Kingswood and in Penrith. One of its main aims is to assist in feeding the homeless as well as feeding those on very low incomes or from low socio-economic backgrounds. During my visit I had the pleasure of meeting a number of volunteers, some of who had come to the organisation seeking assistance to get enough food for themselves and their families.

The SPEAKER: Order! Opposition members will come to order.

Mrs TANYA DAVIES: The gentleman I met was volunteering almost every day because he felt warmly welcomed by this community. The community enabled him to participate in one of the work and development order programs to pay off his fines. If Christ Mission Possible had not given him this opportunity, he would still be burdened with his fines and would be unable to find a way to pay them. This gentleman seriously wants to contribute to our community.

Schedule 4.2 to the bill seeks to amend the Jury Act 1977 to provide the Office of the Sheriff with customer identification numbers from Roads and Maritime Services to assess people's eligibility for jury service. This amendment will allow the Office of the Sheriff to review a person's driver licence number and determine whether they have any prior criminal offences. This will allow the Office of the Sheriff to determine quickly whether a person should be excluded from jury service. In totality, the bill will give New South Wales courts and tribunals the flexibility to improve overall court processes and apply resources more efficiently. In line with the Government's commitment to reducing red tape and the administrative burden on the community, the bill will make it easier for people to manage their civil matters in the New South Wales justice system.

Overall, this bill will lead to more positive outcomes for the community in dealing with the New South Wales courts and tribunal services. The reforms support the Government's approach to creating a justice system that the community can have confidence in, one that is faster and more accessible. This bill supports the Government's goal to reduce red tape and increase efficiency by making government departments respond to the people, rather than people being required to respond to government demands. The Government aims to create a seamless interaction between government services and the people of this State to continue to make New South Wales a desirable place to live, work and raise families. I commend the bill to the House.

Debate adjourned on motion by Mrs Noreen Hay and set down as an order of the day for a later hour.

INAUGURAL SPEECHES

Mr LUKE FOLEY (Auburn) [12.05 p.m.] (Inaugural Speech): On 1 September 2010 I delivered my inaugural speech as a member of the Parliament of New South Wales. I refer honourable members to it. That speech speaks for itself. It tells a story of my values and what I believe in. I feel no need to retell that story today. What I do intend to do is to make some remarks about the electoral district of Auburn and its people who have sent me to this place as their representative.

My uncle Brian Jackson, my mother's brother, was like a father to me for most of my childhood years. His best mate was Peter Cox. They worked together at the old Department of Motor Transport at Rosebery, before Peter Cox entered this place in 1965. He served eight terms as the member for Auburn. He crafted Labor's transport policy that was such a major vote-winner in the 1976 election campaign that returned Labor to government and brought Neville Wran to the premiership. Peter Cox then served as a Cabinet Minister for every day of Labor's 12-year period in government, until he retired at the 1988 election. Peter Cox was the first Labor politician I ever met. He sat with me at my uncle's funeral; I was 15 years old. I attended Peter's funeral in 2008. Peter Cox is one of the finest men I have ever met, the very best of old Labor. Never did I dream that I would one day succeed him as the member for Auburn. It is an honour beyond words to follow in Peter Cox's footsteps.

Jack Lang also served eight terms in this place as the member for Auburn, in addition to two terms as the member for Granville and three as the member for Parramatta. The contest for history inside the Labor Party between the admirers and the critics of Lang has never ended. Suffice to say that it is Bill McKell's portrait, not Lang's, that hangs on the office wall of the current leader of the State parliamentary Labor Party. But Lang's

obligation to offer an alternative program to the people over the years ahead. Over this term we will review our policies and challenge ourselves to develop new initiatives to address the challenges facing our State today. I am determined that the Labor Party I lead will be a party of solutions and never a mere party of protest.

I thank the people of New South Wales for bringing Labor back to relevance at the March election. I am proud to lead a revived New South Wales Labor Party. I am proud of the 20 new Labor members who have entered the Fifty-sixth Parliament. Labor's journey of renewal and change must continue. Under my leadership the New South Wales Labor Party will always be guided by our timeless Labor values: a fair go for all, a decent life for everyone and a helping hand to those who need it most in life. I thank the House for its courtesy.

The SPEAKER: Order! Thank you and congratulations to the Leader of the Opposition.

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COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2015

Second Reading

Debate resumed from an earlier hour.

Mr JOHN SIDOTI (Drummoyne—Parliamentary Secretary) [12.21 p.m.]: I support the Courts and Crimes Legislation Amendment Bill 2015, which makes a number of amendments to the NSW Civil and Administrative Tribunal [NCAT], guardianship, the judiciary and Corrective Services. The bill will provide flexibility to New South Wales courts and tribunals to improve overall court processes and to apply resources more efficiently. It will also reduce red tape—we talk a lot about that in this place—and remove administrative burdens from our community. I turn now to the NCAT amendments. As the Attorney General said, in 2012 the Government introduced the Civil and Administrative Tribunal Bill 2012, which established the New South Wales Civil and Administrative Tribunal. NCAT merged a number of tribunals, including the Consumer, Trader and Tenancy Tribunal and the Administrative Decisions Tribunal into a one-stop shop for tribunal services.

NCAT, which commenced on 1 January 2014, delivers prompt and accessible civil justice to the people of New South Wales. That is something we all like to see. NCAT aims to provide fair, transparent and quick resolutions to civil disputes and improve access to justice for New South Wales citizens by providing a single, simple point of access for tribunal services. In its first six months of operation NCAT received thousands of applications, finalised thousands of matters and conducted more than 51,000 hearings. That work will continue over the next 12 months. That is a great incentive to have these issues resolved. NCAT will be expanding its online services and trialling innovative online dispute resolution tools, providing tribunal users with a cost-effective and efficient internal appeals mechanism. In the end, it provides an opportunity to help the most vulnerable in our community.

The bill represents the first opportunity for the Government to listen to feedback and implement practical changes to the Civil and Administrative Tribunal Act that will strengthen the objectives of the Act. These practical amendments will help to ensure that NCAT continues to be accessible, efficient and accountable. The Government has listened to the President of NCAT and stakeholders, and is delivering enhancements to the Act to ensure that NCAT can continue to be at the forefront of positive decision-making for the New South Wales community. I turn now to the amendments to the Trustee and Guardian Act. The people who use the services of the Guardianship Division are some of the most vulnerable in our community. NCAT aims to ensure that clients with additional needs receive the necessary assistance for their services. This includes promoting flexible hearing options.

Also, the Guardianship Division exercises a protective jurisdiction in relation to people who do not have the capacity to assess important decisions in their lives. It appoints guardians and financial managers and can provide consent for treatment by a doctor or a dentist when a person does not have the capacity to do so themselves. It also ensures power of attorney and enduring guardianship appointments. The bill makes a number of minor amendments to the Guardianship Act to enhance the flexibility and efficiency of NCAT to provide clarity for the public about substitute guardians. Overall, the amendments in the bill will remove unnecessary procedural hearings and streamline processes to allow the Guardianship Division to improve efficiency, ensuring that matters are finalised more quickly.

Other speakers have referred to the amendments to the judiciary. As noted by the Attorney General, the bill proposes a number of amendments in that area that will lead to greater efficiency in court and tribunal services. These amendments are set out in schedules 3.1 to 3.8 to the bill, and will extend the age limit of retired

judges. The bill also does a number of things in that area. The amendments will create consistency across the courts throughout New South Wales and provide greater flexibility to making appointments. This is another example of the Government's commitment to taking steps to improving flexibility in the New South Wales courts system while ensuring that the system retains valuable experience and expertise.

A number of amendments have been made to Corrective Services in terms of information sharing. Corrective Services NSW is an integral part of the criminal justice system, and is committed to the delivery of quality, professional corrective services, including programs to reduce the risk of reoffending and enhance public safety. Corrective Services NSW works in partnership with other government and community agencies to ensure effective service and support for inmates, offenders and their families. Overall, the bill provides many efficiencies and offers flexibility in many different areas. In general, the bill is an important part of the Government's continued legislative review and monitoring program, which aims to create greater efficiencies across the portfolios of the Attorney General, Minister for Justice and Minister for Corrections. While the majority of amendments in the bill are minor and technical in nature, the bill offers a valuable opportunity for the Government to rectify and improve court processes and administrative procedures. On that note, I commend the bill to the House.

Ms ELENI PETINOS (Miranda) [12.27 p.m.]: I support the Courts and Crimes Legislation Amendment Bill 2015. I thank the House for the opportunity to speak so soon after my maiden speech about this important component of the Government's ongoing legislative review and monitoring program to ensure the most effective operation of the courts and tribunals in New South Wales, in addition to continuing the Government's commitment to fairness in our judicial and corrective services system. Recently the Attorney General was quoted in the *Australian Financial Review* as saying that a critical pillar of our democratic society is a faster, more efficient justice system. I concur with the Attorney General's comments and confirm that her belief is supported and enhanced by the amendments in this bill. I turn now to the amendments in the bill, starting with the NSW Civil and Administrative Tribunal [NCAT] amendments.

As the Attorney General said, the bill is part of the Government's regular legislative review and monitoring program, which aims to improve the efficiency of New South Wales courts and tribunals. NCAT merged 23 tribunals, including the Consumer, Trader and Tenancy Tribunal and the Administrative Decisions Tribunal and other bodies in a one-stop shop for tribunal services. Having had experience with them, I can say that it is a much more efficient and well-supported process for legal practitioners.

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NCAT aims to provide fair, transparent and quick resolution to civil disputes and improve access to justice for New South Wales citizens by providing a single, simple point of access for tribunal services. The key objectives of NCAT include improving the quality of tribunal decision-making through consistency in standards, processes and professional development and promoting greater transparency and accountability. It is of note that in its first six months alone NCAT received more than 39,509 applications, finalised 40,873 matters and conducted more than 51,400 hearings. During the next 12 months NCAT will continue to look for new and innovative ways to improve overall performance and user experiences.

The bill represents the first opportunity for the Government to listen to feedback and implement practical changes to the Civil and Administrative Tribunal Act that will endorse and strengthen the objectives of the Act. As outlined by the Attorney General previously, the amendments will allow a person to be represented by various legal practitioners, enable NCAT to revoke orders regarding the representation of a party or person, replace references to the "Health Practitioner Division List" with "Health Practitioner List"; and permit senior professional members of the Guardianship Division to sit on appeals. All those things will help to ensure that the NCAT continues to be accessible, efficient and accountable. These are very practical amendments. The amendments are further evidence of the Government's commitment to improve court and tribunal efficiency through practical legislative development.

I turn now to the guardianship amendments. People who use the services of the Guardianship Division are some of the most vulnerable members of our community and it is those people that our Government should protect. NCAT aims to ensure that clients with additional needs receive the necessary assistance to access its services. This includes promoting flexible hearing options such as wheelchair accessible hearing rooms and hearings by telephone or video conference, free interpreter services for hearings, hearing loop access in tribunal hearing venues upon request, and promotion of the National Relay Service for parties with hearing or speech impairments.

The Guardianship Division exercises a protective jurisdiction in relation to people who do not have the capacity to assess important decisions in their lives. These guardians can be appointed as financial managers and can also provide consent for treatment by a doctor or dentist when persons do not have capacity to do so themselves. It also deals with enduring powers of attorney and enduring guardianship appointments. The Government is committed to ensuring that NCAT has flexible and informal procedures that assist tribunals to provide a quicker and cheaper alternative to the courts for matters about guardianship. In its first six months in operation NCAT has received more than 5,610 applications for guardianship matters representing 14.2 per cent of all matters heard by NCAT.

I turn now to the judiciary amendments. As noted by the Attorney General, the bill proposes a number of amendments that will lead to greater efficiency in the courts and tribunal services. These amendments are set out in schedules 3.1 to 3.8 to the bill and will extend the age limit for retired judges and acting judicial officers, in addition to allowing flexibility for the appointment of an acting head of jurisdiction when the head is absent. The first amendment will allow retired judges of the Family Court of Australia to act as judges of the District Court after they reach the statutory age of retirement. This amendment will provide the District Court with greater flexibility to ensure that judicial officers are able to be appointed beyond the current statutory age limit of 72 to the new limit of 77. This will create consistency with the Supreme Court and allow the Chief Judge wider discretion to appoint retired judges of the Family Court of Australia to act as judges of the District Court.

In totality, the bill will provide flexibility to New South Wales courts and tribunals to improve overall court process and apply resources more efficiently. In line with the Government's commitment to reduce red tape and administrative burden on the community, the bill will make it easier for people to manage their civil matters in the New South Wales justice system. Overall, this bill will lead to more positive outcomes for the community in dealing with New South Wales courts and tribunal services. The reforms support the Government's approach to creating a justice system in which the community can have confidence and be proud of—one that is faster and more accessible. I commend this bill to the House.

Mr ADAM MARSHALL (Northern Tablelands) [12.35 p.m.]: I support the Courts and Crimes Legislation Amendment Bill 2015 and in doing so will focus specifically on the amendments to the NSW Civil and Administrative Tribunal [NCAT]. As other speakers have said, last year the Government introduced a similar bill which lapsed and which is now being presented again. I am pleased that Opposition members are also supporting this bill. As the Attorney General said, this bill is part of the Government's regular legislative review and monitoring program which aims to improve the efficacy of New South Wales courts and tribunals—something that I am sure everyone in this place supports.

In 2012 the Government introduced the Civil and Administrative Tribunal Bill 2012 which established NCAT, which merged 23 tribunals including the Consumer, Trader and Tenancy Tribunal, the Administrative Decisions Tribunal and other bodies into a one-stop shop for tribunal services. NCAT commenced on 1 January 2014 delivering prompt, accessible civil justice to the people of New South Wales. NCAT aims to provide fair, transparent and quick resolution to civil disputes and improve access to justice for all New South Wales citizens by providing a single, simple point of access for tribunal services.

The tribunal's establishment has provided the Government with a once-in-a-generation opportunity to create a new and innovative agency that can make a real and positive difference to the lives of tens of thousands of citizens in this State. Key objectives of the NCAT include improving the quality of tribunal decision-making through consistency in standards, processes and professional development and promoting greater transparency and accountability. In its first six months of operation NCAT has received more than 39,509 applications, finalised 40,873 matters and conducted more than 51,400 hearings. During the next 12 months NCAT will continue to look for new and innovative ways to improve overall performance and user experiences.

NCAT will be expanding online services, trialling innovative online dispute resolution tools, providing tribunal users with a cost-effective and efficient internal appeals mechanism and providing consistent professional development and training for its members. This bill represents the first opportunity for the Government to listen to feedback and to implement practical changes to the Civil and Administrative Tribunal Act that will endorse and strengthen the objectives of that Act. The amendments in schedule 1 to the bill have been requested by the President of the NCAT and will provide significant improvements to the operation of the tribunal on a day-to-day basis. As the Attorney General has said, the amendments will allow a person to be represented by various legal practitioners, enable NCAT to revoke orders regarding the representation of a party or person, replace references to the "Health Practitioner Division List" with "Health Practitioner List", and permit senior professional members of the Guardianship Division to sit on appeals.

These practical amendments will help to ensure that the NCAT continues to be accessible, efficient and accountable. The Government has listened to the President of the NCAT and to other stakeholders and is delivering enhancements to the Act to ensure that NCAT can continue to be at the forefront of positive decision-making for the New South Wales community. The amendments are further evidence of the Government's commitment to improve court and tribunal efficiency through practical legislative development. I commend the bill to the House.

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Mr LEE EVANS (Heathcote) [12.38 p.m.]: I am privileged that Sutherland Local Court is located in my electorate. As the Attorney General stated, schedule 2 to the Courts and Crimes Legislation Amendment Bill 2015 provides minor and technical amendments to the Guardianship Act 1987 and the Guardianship Regulations 2010 that were proposed by the President of the Guardianship Tribunal prior to its integration into the NSW Civil and Administrative Tribunal [NCAT]. People who use the services of the Guardianship Division are some of the most vulnerable members of our community. NCAT aims to ensure that clients with additional needs receive the necessary assistance to access this service.

Since the election one of my constituents has brought to my attention a major issue relating to guardianship. The ageing parents of children with a disability or with special needs must be able to organise guardianship for those children. Unfortunately, parents often pass away prior to organising guardianship for their children and they are subsequently cared for by the State. In the not too distant future I will be having discussions with the Minister for Disability Services to ensure that vulnerable people in our community are properly looked after. It would be preferable if the families of those children with a disability or with special needs are able to arrange for their guardianship.

My father had guardianship of my mother who suffered dementia. However, as he did not have enduring guardianship—we all thought he was going to live forever—she was left with no financial help when he passed away. As her child I could assist her to a point but I could not provide her with financial assistance so I subsequently went to the Guardianship Tribunal to obtain guardianship. Everyone in this Chamber should ensure that they have enduring guardianship of every member of their family because when the inevitable occurs they must be able to ensure their wellbeing. This includes promoting flexible hearing options such as wheelchair accessible hearing rooms and hearings by telephone or video conference, free interpreter services for hearings including Auslan interpreters, hearing loop access in tribunal hearing venues upon request and promotion of the national relay service (NRS) for parties with hearing or speech impairments.

The Guardianship Division exercises a protective jurisdiction in relation to those who do not have the capacity to make important decisions in their lives. It appoints guardians and financial managers and can also provide consent for treatment by doctors or dentists when persons do not have the capacity to do so for themselves. It also deals with enduring powers of attorney and enduring guardianship appointments. All applications in the division are reviewed on receipt to determine whether the application identifies any risk to which the person who is the subject of the application might be exposed. This includes ensuring that the Guardianship Division operates an after-hours service to respond to urgent applications that require hearing outside business hours. In its first six months in operation NCAT has received over 5,610 applications for guardianship matters, representing 14.2 per cent of NCAT matters.

Since the integration of the Guardianship Division with NCAT, the Government has monitored and consulted closely with the division and with advocacy groups and peak bodies to ensure that NCAT delivers the same high level of service that the community has come to expect from the Guardianship Division. The amendments to the Guardianship Act make a number of minor amendments to enhance the flexibility and efficiency of NCAT to provide clarity to the public about substitute guardians. In the past enduring guardians and those with the power of attorney have had to make separate applications to ensure they are included as parties to a matter relating to guardianship and financial management orders. This process is laborious and frustrating for enduring guardians and those with the power of attorney to undertake. The removal of these procedural inefficiencies will enhance user experience of NCAT and support whole-of-government policy to remove administrative burdens for the citizens of New South Wales.

Since 1 January 2014 NCAT has improved guardianship services for the community. The Government is committed to improving access to NCAT and it is committed to continuing to improve the overall quality of tribunals. Overall the amendments in this bill will do away with unnecessary procedural hearings and streamline processes to enable the Guardianship Division to improve its efficiency, thus ensuring that matters are finalised more quickly.

Debate adjourned on motion by Ms Noreen Hay and set down as an order of the day for a later hour.

LEGISLATIVE COUNCIL VACANCY

SENATE VACANCY

Joint Sitting

At 12.45 p.m. the House proceeded to the Legislative Council Chamber to attend a joint sitting to elect:

(1) A member to fill a seat in the Legislative Council vacated by the Hon. Penelope Gail Sharpe and the Hon. Steven James Robert Whan; and

(2) A senator to fill the seat in the Senate rendered vacant by the resignation of Senator the Hon. John Faulkner.

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At 1.05 p.m. the House reassembled.

The SPEAKER: I report the House has met with the Legislative Council in the Legislative Council Chamber this day for the purpose of electing persons to hold the places in the Legislative Council rendered vacant by the resignation by the Hon. Penelope Gail Sharpe and the Hon. Steven James Robert Whan and that Penelope Gail Sharpe and Nitin Daniel Mookhey have been duly elected. I also report that the House has met with the Legislative Council in the Legislative Council Chamber this day for the purpose of electing a person to hold the place in the Senate rendered vacant by the resignation of Senator the Hon. John Faulkner and that Jennifer McAllister has been duly elected.

I table the minutes of the proceedings of the joint sittings of the Houses of Parliament of New South Wales to choose persons to hold the places in the Legislative Council rendered vacant by the Hon. Penelope Gail Sharpe and the Hon. Steven James Robert Whan and a person to hold a place in the Senate rendered vacant by the resignation of Senator the Hon. John Faulkner.

Ordered to be printed.

COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2015

Second Reading

Debate resumed from an earlier hour.

Dr GEOFF LEE (Parramatta—Parliamentary Secretary) [1.09 p.m.]: First, I acknowledge the reappointment of Madam Speaker and congratulate her on her election and on being the first female Speaker in the House.

Mr Nick Lalich: And such a wonderful person too.

The SPEAKER: Thank you very much. The member for Cabramatta is acknowledging your comments.

Dr GEOFF LEE: I thank the member for Cabramatta for also supporting your wonderful appointment.

The SPEAKER: I do not know about that.

Mr Nick Lalich: Hear, hear!

Dr GEOFF LEE: I am sure he meant it with the best intentions.

The SPEAKER: Thank you very much.

Dr GEOFF LEE: I support the Courts and Crimes Legislation Amendment Bill 2015, which is part of the Government's regular review and monitoring of its legislative program that aims to increase the efficiency of

New South Wales courts and tribunals. Part of that involves the NSW Civil and Administrative Tribunal [NCAT], which is the merger of 23 tribunals, including the Consumer, Trader and Tenancy Tribunal, the Administrative Decisions Tribunal and other bodies into a one-stop shop for tribunal services. Parramatta is fortunate to have a large justice precinct, including a District Court and NCAT. The NCAT in Parramatta was established on 30 June 2014 and received a great reception by many people, including those who work in real estate, the industry body. Previously those in that industry had to travel to Penrith or the city to access the Consumer, Trading and Tenancy Tribunal so the establishment of this body was great news, saving people a lot of time.

The member for Mulgoa would support the courts at Penrith but she would equally support the courts at Parramatta, as it is the capital of Western Sydney. It is great to see her feverishly acknowledging the relevance and importance of Parramatta to the whole of Western Sydney. NCAT provides people in Western Sydney with quick and cost-effective access to justice. Tribunal proceedings are typically less formal than a traditional court hearing and often achieve earlier resolution. It is about procedural fairness, timeliness, access to justice and being able to solve important matters at the least cost to all the parties. When NCAT was initially established in Parramatta it sat for three days but overwhelming demand has meant that it now sits for four days. It certainly assists the legal profession.

Through having the benefit of its own law precinct Parramatta is the centre of law and justice. Indeed, the Attorney General's Department has about 1,000 staff members in Parramatta and it is a privilege to have that precinct in Parramatta resolving problems and providing opportunities for the University of Western Sydney [UWS]. Indeed, I congratulate the Dean of the School of Law at the University of Western Sydney, Professor Michael Adams, who has been in that position for seven or eight years and who is achieving fantastic results. I commend the law school for expanding into different regional areas

Mr Stephen Bromhead: Taree would be good.

Dr GEOFF LEE: I acknowledge the member's interjection that Taree would be an interesting place. I urge the university to consider that important area. The School of Law at the University of Western Sydney has established itself in the profession as a wonderful school that has produced some of our best law school graduates. Its mission is to serve the people of Western Sydney and it is a fantastic addition. The justice precinct includes the Parramatta Justice Clinic which involves a partnership between the School of Law at the University of Western Sydney and the Macquarie Legal Centre under the fantastic stewardship of Maria Girdler. The legal centre provides the essential practical legal training for UWS students as sometimes they cannot find the placements to do their professional legal training [PLT].

Mr Andrew Gee: It gives them a start.

Dr GEOFF LEE: I acknowledge the interjection of the member for Orange. His legal background allows him to give an informed opinion on the matter and I appreciate his support. Students who may not have professional or social connections to get their PLT can gain them through the Parramatta Justice Clinic. Indeed, it does more than that. It provides, free of charge, services to people who can least afford access to these legal services. For various reasons many people may not qualify for legal aid or may need advice about a dispute. The clinic provides assistance to those marginalised people who need access to fair and qualified advice at no cost. I commend the Parramatta Justice Clinic for its work. The clinic has been around for many years and is a real feature within the justice precinct.

I know the Assistant-Speaker is interested in the NCAT in Parramatta, which typically deals with four specialist divisions—the Administrative and Equal Opportunity Division, the Consumer and Commercial Division, the Guardianship Division and the Occupational Division. Each of those divisions deals with various areas. The Consumer and Commercial Division involves consumer claims and commercial matters, home building, motor vehicles, residential parks, dividing fences, retirement villages, strata and community schemes, tenancy and social housing, boarding houses and retail leasing.

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The local community is concerned about the establishment and management of boarding houses in Parramatta. While we acknowledge that the State needs boarding houses as an alternative form of accommodation, my constituents believe they should be in suitable areas that allow easy access to public transport and that they should not lead to overcrowding. Boarding houses should not be a burden on the local community. Too often people have proposed the establishment of boarding houses in unsuitable locations and their applications are rejected by the council. The proponents then appeal to the Land and Environment Court,

which has handed down some variable decisions. Local opposition to the establishment of boarding houses is clear and profound.

Mr Assistant-Speaker, I know that this issue probably does not concern your electorate, but I know of your great interest in boarding houses and affordable housing legislation. Affordable housing is important in Parramatta. Property prices in the area increased by 30 per cent last year, which increases the challenge of providing such accommodation. We are doing our best to offer the residents of Parramatta not only leafy, green suburban streets but also high-rise accommodation close to transport hubs.

Mr Andrew Gee: How are the Eels going?

Dr GEOFF LEE: The member for Orange draws my attention to a sore point. Although we are not happy with the Eels' results so far this season, the club is rebuilding and it has great plans for the future. I commend Steve Sharp for his wonderful chairmanship of the board. The club is going through interesting times with the relocation of its playing fields. We certainly wish them all the best for the rest of the season; it will get better. I commend the bill to the House.

Debate adjourned on motion by Mr Jamie Parker and set down as an order of the day for a future day.

Pursuant to sessional orders community recognition statements proceeded with.

COMMUNITY RECOGNITION STATEMENTS

NEPAL EARTHQUAKE

Mrs TANYA DAVIES (Mulgoa—Parliamentary Secretary) [1.17 p.m.]: On 1 April 2015, I was pleased to join with my family and the Nepalese Community of Western Sydney [NCOWS] to celebrate Nepali New Year 2072. I congratulate all the committee members, performers and organisers of this event. It was another evening filled with music, song, dance, culinary delights and friendship. I acknowledge the President of NCOWS, Kabin Joshi and his family, Sharma, Krisha and Joshi; chef Manju Shretha and her team; General Secretary Tara Pin Lama; and Treasurer Suneet Pradham.

However, no-one could have imagined the humanitarian crisis which would befall Nepal only 14 days later when a magnitude 7.8 earthquake hit the country. To date it has caused 7,673 deaths and thousands more have been injured. I extend to the people of Nepal and especially to my Nepalese friends and the Nepalese community of Western Sydney the sympathy, support and prayers of the New South Wales Government at this time. I encourage people in our community to get behind the humanitarian and fundraising efforts being run by various organisations in support of the Nepalese community.

MARRIAGE EQUALITY

Mr ALEX GREENWICH (Sydney) [1.18 p.m.]: I commend the public efforts of the corporate sector in supporting the lesbian, gay, bisexual, transgender and intersex [LGBTI] community. Corporates have offered support for the Mardi Gras Parade and Fair Day, World AIDS Day and special events on trans awareness, parenting, and the International Day Against Homophobia, Biphobia and Transphobia events. Banks and financial organisations have particularly led the way. My husband and I were pleased to join 180 businesspeople from 60 different national and international companies at a breakfast supporting marriage equality with Qantas Chief Executive Officer Alan Joyce, the Chief Executive Officer of Carnival Australia, Ann Sherry, the SBS Chief Executive Officer, Michael Ebeid, and Diversity Council of Australia Chief Executive Officer Lisa Annese. About 40 companies have signed a letter of support for federal marriage equality, advocating for their employees' equal rights. Increasingly these organisations do not want their LGBTI staff to be told to "wait in the car" for marriage equality and are filling the leadership void created by our federal politicians on this important reform.

MAN FROM SNOWY RIVER CHAMPIONSHIP

Mr ADAM MARSHALL (Northern Tablelands) [1.19 p.m.]: I commend Armidale horse breaker Bronson Macklinshaw, who recently won the 2015 Man from Snowy River Championship. It was fourth time

Mr Crouch	Dr Lee	Mr Ward
Mrs Davies	Mr Maguire	Mr Williams
Mr Dominello	Mr Marshall	Mrs Williams
Mr Elliott	Mr Notley-Smith	
Mr Evans	Mr O'Dea	
Mr Fraser	Mrs Pavey	*Tellers,*
Mr Gee	Mr Perrottet	Mr Bromhead
Ms Gibbons	Ms Petinos	Mr Patterson

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Ms Aitchison	Ms Harrison	Mr Parker
Mr Atalla	Ms Haylen	Mr Robertson
Mr Barr	Mr Hoenig	Ms K. Smith
Ms Burney	Ms Hornery	Ms T. F. Smith
Ms Car	Mr Kamper	Mr Warren
Ms Catley	Ms Leong	Ms Washington
Mr Chanthivong	Mr Lynch	Ms Watson
Mr Crakanthorp	Dr McDermott	Mr Zangari
Mr Daley	Ms McKay	
Mr Dib	Mr Mehan	
Ms Doyle	Ms Mihailuk	*Tellers,*
Ms Finn	Mr Minns	Ms Hay
Mr Harris	Mr Park	Mr Lalich

Pair

Mr Roberts	Mr Foley

Question resolved in the affirmative.

Motion agreed to.

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Pursuant to sessional order Government business proceeded with.

COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2015

Second Reading

Debate resumed from an earlier hour.

Mr STEPHEN BROMHEAD (Myall Lakes) [4.13 p.m.]: I support the Courts and Crimes Legislation Amendment Bill 2015. The bill states that its objects are:

(a) to amend the Civil and Administrative Tribunal Act 2013:

(i) to make further provision with respect to the powers of the Civil and Administrative Tribunal (the Tribunal) with respect to the representation of parties to proceedings, and

(ii) to rename the Health Practitioner Division List of the Occupational Division of the Tribunal as the Health Practitioner List, and

(iii0 to enable a person who is a senior member (but not an Australian lawyer) to sit as one of the 3 members of an Appeal Panel determining an internal appeal against a decision made in the Guardianship Division of the Tribunal,

(b) to amend the Guardianship Act 1987:

(i) to make further provision with respect to persons who are to be treated as parties to certain proceedings under that Act, and

(ii) to provide for alternative enduring guardians to be called substitute enduring guardians, and

(iii) to confer additional powers on the Tribunal in connection with the determination of proceedings under that Act, and

(iv) to enable a person to make an application to the Tribunal for a financial management order with respect to the person and to enable a person whose estate is subject to such an order to apply for a review of the appointment of a manager of the person's estate,

(c) to amend the Children's Court Act 1987, District Court Act 1973, Drug Court Act 1998, Dust Diseases Tribunal Act 1989 and Local Court Act 2007 to enable the Attorney General to appoint an acting head of the Court or Tribunal during a vacancy or absence from duty of the head of the Court or Tribunal,

(d) to amend the District Court Act 1973, Industrial Relations Act 1996, Land and Environment Court Act 1979, Local Court Act 2007 and Supreme Court Act 1970 to enable acting judicial officers to be appointed:

(i) for a period not exceeding 5 years (instead of the current 12 months), and

(ii) up to the age of 77 years (instead of the current 75 years),

(e) to amend the Land and Environment Court Act 1979 to enable acting commissioners to be appointed for a period not exceeding 5 years (instead of the current 12 months),

(f) to amend the Crimes (Administration of Sentences) Act 1999 to enable the Commissioner of Fines Administration and the Commissioner of Corrective Services to share certain information about inmates so as to identify any of their outstanding fines and to facilitate their participation in work and development orders to satisfy all or part of those fines,

(g) to amend the Jury Act 1977 to enable the sheriff to obtain a customer identification number allocated to a person by Roads and Maritime Services for the purpose of determining whether the person should be excluded from jury service,

(h) to amend the Land and Environment Court 1979 to extend the classes of proceedings in which judges of the Land and Environment Court of New South Wales may be assisted by commissioners to include Class 4 proceedings (Class 4 proceedings relate to environmental planning and protection and development contract civil enforcement),

(i) to amend the NSW Trustee and Guardian Act 2009 to enable the Mental Health Review Tribunal to revoke financial management orders made under the Act in respect of certain current or former patients admitted to mental health facilities,

(j) to amend the Oaths Act 1900 to enable justices of the peace to witness certain interstate and Commonwealth oaths, affidavits and statutory declarations,

(k) to amend the Trees (Disputes Between Neighbours) Act 2006 to extend the application of certain provisions relating to court orders in respect of high hedges that obstruct sunlight or views to land within a zone designated "rural-residential" under an environmental planning instrument,

(l) to make amendments to certain legislation in the nature of statute law revision,

(m) to make consequential amendments to certain legislation.

As I said, one of the objects of the bill is to amend certain Civil and Administrative Tribunal provisions. First, the bill proposes to remove section 29 (1) (d) (iv), which relates to the protection of persons who make reports or provide certain information and to insert a new subsection, which states:

(iv) proceedings before the Civil and Administrative Tribunal that are allocated to the Guardianship Division of the Tribunal or are commenced under the Victims Rights and Support Act 2013,

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This amendment to the Children and Young Persons (Care and Protection) Act 1998 "clarifies the kinds of proceedings before the Civil and Administrative Tribunal in which a report of harm made by a person concerning a child or young person will be admissible". The bill proposes to amend section 45 (1) (b) of the Act by replacing it with:

may be represented by another person only if the Tribunal grants leave:

(i) for that person to represent the party, or

(ii) in the case of representation by an Australian legal practitioner—for a particular or any Australian legal practitioner to represent the party.

The bill also provides for the renaming of the Health Practitioner Division List:

The renaming of the Health Practitioner Division List of the Occupational Division of the Tribunal by the *Courts and Crimes Legislation Amendment Act 2014* as the Health Practitioner List does not affect the continuation of any proceedings entered in the List before its renaming or the appointment of the List Manager for the List.

The bill contains a number of amendments relating to guardianship. Section 3F covers persons who are parties under proceedings of the Act and inserts:

section 3F (7) (d):

(d1) the person, if any, appointed attorney by the person to whom the relevant financial management order relates under a power of attorney (whether in force or suspended),

Many amendments are made to other pieces of legislation. This bill shows this Government is constantly reviewing legislation, and laws that need clarification are amended. I commend the bill to the House.

[*Business interrupted.*]

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Order of Business

Motion by Mr Anthony Roberts agreed to:

That standing and sessional orders be suspended on Thursday 7 May 2015 to permit:

(1) General business to take precedence of the Address-in-Reply.

(2) Private members' statements to be taken during the period in the routine of business set aside for consideration of committee reports.

COURTS AND CRIMES LEGISLATION AMENDMENT BILL 2015

Second Reading

[*Business resumed.*]

Mr JAMIE PARKER (Balmain) [4.22 p.m.]: On behalf of The Greens I address the Courts and Crimes Legislation Amendment Bill 2015. I acknowledge the efforts of the former Attorney General, and welcome and congratulate the new Attorney General. I look forward to working with the her and her office. As the Government has said, this bill is a compendium bill with a range of different elements and amendments, including to the Children's Court Act, the Guardianship Act, the Drug Court Act and the Industrial Relations Act. I acknowledge most of the amendments have the support of The Greens. However, The Greens are concerned that the proposed legislation extends the maximum term of acting judicial appointments from one to five years in the Local Court, the District Court, the Supreme Court, the Land and Environment Court and the Industrial Relations Commission. We seek clarification about the intention of this amendment.

The bill increases the maximum age of an acting judge in various courts and tribunals from 75 to 77 years, and allows the Attorney General, rather than the Governor, to appoint acting chief magistrates and judges. It also makes administrative and mechanical changes to many Acts. The concern of The Greens is the provisions that extend the maximum term of appointment for magistrates, judges and tribunal members from the previous 12-month limit to five years. In our view this is a concern and so we do not support schedule 3.2 [3], schedule 3.5, schedule 3.6, schedule 3.7 and schedule 3.8. The rest of the amendments are fundamentally uncontroversial.

As members of Parliament we should be concerned about these schedules. As I said, The Greens are concerned about the impact of extending the maximum terms for acting judges from one to five years. The bill proposes to increase the maximum term for acting judges in the courts that I have named. In our view five years is not a short-term appointment for judges. There are two troubling aspects to the appointment of long-term acting judges. The first is the loss of security of tenure for judicial officers. The approach of the Government is that members of the judiciary should be independent and fearless. For that they need to be secure in their positions and not have their continued appointment subject to the views of the Government of the day. There is a potential danger that a government could appoint acting judges for a period of two or four years to try them out.

Mr Jonathan O'Dea: It's more secure than 12 months.

Mr JAMIE PARKER: They could appoint them to see what they are like and if the Government does not like them then they could consider not making them permanent judges. The member opposite said it is more secure than 12 months, but the New South Wales Bar Association expressed its concerns in the 1990s when this crept in to legislation in New South Wales. Also, if a long-term acting judge does not meet the expectations of the Government, there is the possibility of the politicisation of our judiciary along the lines of the United States.

Our second concern is that by allowing the appointment of an acting judge for up to five years, it is increasingly likely the Government will choose younger acting judges from practitioners who are in the middle of their careers. For these acting judges it raises the apprehension that their decisions on the bench could be coloured by the need to return to the profession as practitioners once their acting appointment concludes. This would place acting judges in a difficult situation where a litigant before them is represented by a firm they may intend to join when they leave the bench, or a firm or practitioner who may otherwise be professionally important to their future career at the bar.

An obvious example would be a barrister appointed as an acting judge having to make a decision against a firm of solicitors who are a potential future source of briefs. If there is a known vacancy in the courts beyond 12 months then that should be filled by appointing a permanent judge. That would resolve the problem. Appointing a permanent judge for a period of longer than 12 months seems reasonable, and the case is even stronger when the Government knows there is a vacancy for up to five years in duration, as that should warrant a permanent appointment.

I draw the attention of the House to some correspondence from the New South Wales Bar Association expressing the association's concerns regarding acting appointments. In recent times the association has reluctantly accepted that the appointment of retired members of the judiciary to these positions is a practical measure to combat court delays. The association would prefer additional resources be allocated to courts to enable the appointment of additional permanent full-time judicial positions to deal with the issue. At the heart of this argument is how we fund our courts and how we approach them.

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The Bar Association goes on to say:

> The Association would be strongly opposed to any proposed system that involves the appointment of current legal practitioners to fixed term, part time acting judicial commissions.

I ask the Government to address that issue. Clarification from the Government on the difference between retired members filling acting positions and current legal practitioners filling those positions would be appreciated. The Bar Association continues:

> The issue is one of principle. Such appointments would have the potential to tarnish the reputation of the courts and create at least the perception of conflicts of interest in certain cases.

The Bar Association goes on to say:

> The potential to undermine the integrity of the court system and create potential and actual conflicts of interest is very real. It was for these reasons that the then Government—

and it is referring to a previous Government in the 1990s—

> abandoned the practice of appointing legal practitioners as part time acting judicial officers at the turn of the century.

We ask the Government to address that issue because the practice that we have today was adopted in the 1990s and there were cases where part-time acting judges had before them clients who provided substantial amounts of work to them when they were not sitting as acting judicial officers. A litigant could reasonably query whether he or she had a fair hearing in those circumstances. The Bar Association continues:

> If such a system is to be reinstated, it would substantially undermine the concept of the independent judiciary. The Association would find such a fundamental and undesirable alteration to this State's constitutional fabric unacceptable.

I acknowledge that the majority of the issues within the bill are mechanical and worthwhile, and that the provisions in the bill are modest and deliver positive changes for New South Wales. As I have stated, our concern is about who will fill these acting roles, whether or not up to five years is a reasonable period for a judge to be acting in that role and what that means for our judicial system. On balance and for those reasons we are unable to support the bill at this time, but we hope the Government will engage in discussions and give some

thought to the issues around this measure and find ways to mitigate any potential problems. We hope the Government will fully address the issues raised by the New South Wales Bar Association.

I thank the House for the opportunity to speak on this bill and I look forward to this being resolved in a positive way. I conclude by noting the work of the staff in the Minister's office and in the Attorney General's department. I know there is a bigger workload in that area and I acknowledge the work of not only the Minister but all the people behind the scenes who bring these issues to the House.

Mr KEVIN ANDERSON (Tamworth) [4.32 p.m.]: I support the Courts and Crimes Legislation Amendment Bill 2015. This bill is an important part of the Government's continued legislative review and monitoring program, which aims to create greater efficiencies across the portfolios of the Attorney General, the Minister for Justice and the Minister for Corrections. A couple of issues were brought to my attention by people who came to my office and I will point to a number of areas where this legislation will enhance the lives of those in the Tamworth electorate.

Schedules 2.1 and 2.2 amend the Guardianship Act with a number of minor amendments to enhance the flexibility and efficiency of the NSW Civil and Administrative Tribunal [NCAT] and to provide clarity to the public about substitute guardians. The amendments also reduce the administrative burden on enduring guardians and powers of attorney by acknowledging that they are parties in matters relating to guardianship orders and financial management orders.

The Guardianship Division of NCAT deals with very important, sensitive and complex cases about the authority of substitute decision-makers for people who lack the capacity to make decisions for themselves. The amendments remove some of the procedural complexity associated with people who are parties to applications and with the types of orders that can be made in dealing with applications. As a protective jurisdiction the tribunal must ensure that its paramount consideration is the best interests of the person with the disability when considering any application. Members of the public can visit www.planningaheadtools.com.au for more information about making enduring guardianship and enduring power of attorney appointments. The NSW Public Guardian provides free advice on enduring guardianship appointments. The NSW Trustee and Guardian can also provide advice and can draft applications for members of the public in relation to enduring powers of attorney.

Another issue that is raised quite frequently in my office in Tamworth is in relation to correctional centre inmates and accrued fines. There is a corrective centre in Tamworth and from time to time a number of issues are raised that we deal with locally. I thank the staff of Tamworth Correctional Centre for their excellent service and for the great work they do. I also thank the Attorneys General who have assisted me in sorting out some of the issues raised, namely, the former Attorneys General Greg Smith and Brad Hazzard, and the current Attorney General, Gabrielle Upton.

Corrective Services NSW is an integral part of the criminal justice system and is committed to the delivery of quality professional correctional services and programs to reduce the risk of reoffending and to enhance public safety. Corrective Services NSW works in partnership with other government and community agencies to ensure effective service and support for inmates, offenders and their families. A number of programs are on offer for inmates at the Tamworth Correctional Centre. Ultimately, rather than just incarcerating them for a period of time and then releasing them with no support mechanisms, the facility wants to ensure that the inmates turn out to be good, reliable and responsible community citizens when they are released. To be able to provide those effective services and that support for inmates while they are serving time certainly bodes well for them to be responsible when they are released back into the community—not only responsible for themselves but also for their loved ones and their families—and to have a worthwhile place in society.

The Commissioner of Corrective Services oversees Corrective Services New South Wales, and I acknowledge the great work of the commissioner, Peter Severin, who does a wonderful job. We have had a lot of contact with the commissioner and he has always been a very willing and cooperative person in ensuring that we have the best outcomes for inmates in the Tamworth facility. I thank him for his professional cooperation. The Crimes (Administration of Sentences) Act 1999 governs the administration of most sentences in New South Wales and is the legislation under which Corrective Services NSW operates. We look forward to working with the new Minister for Corrective Services on enhancing the functions of Corrective Services and looking after not only those who work at the Tamworth facility but also the inmates. Many Corrective Services NSW functions, such as administering correctional centres, prison sentences, parole orders, home detention orders,

intensive correction orders and community service orders, arise under the Crimes (Administration of Sentences) Act 1999.

The proposed amendments to section 257 of the Crimes (Administration of Sentences) Act 1999 will permit the Commissioner of Corrective Services to share information with the Commissioner of Fines Administration about inmates. The Commissioner of Fines Administration can then identify any outstanding fines of inmates. The proposed amendments also will enable Corrective Services NSW, where appropriate, to assist the inmate in making arrangements with the Commissioner of Fines Administration to work off all or part of the value of those fines by way of a work and development order under section 99B of the Fines Act 1996—and so they should pay them. If an inmate has received ill-gotten gains in any way, shape or form they should be paid back, and there is no reason why that cannot happen while they are serving time.

Some personal information about inmates will need to be disclosed in order to enable the Commissioner of Fines Administration to identify any outstanding fines of inmates. The purposes for which information may be shared under the proposed amendments are limited to assisting with the exercise of the statutory functions of the Commissioner of Corrective Services and the Commissioner of Fines Administration. Work and development orders are made by the State Debt Recovery Office. Work and development orders for eligible inmates include undertaking programs, drug and alcohol treatment and counselling in custody.

The community work programs that inmates who are in minimum security are capable of undertaking enable them to go out into the community and perform some work for the community. Last year—and we will be doing it again this year—a group of inmates worked on Graffiti Removal Day cleaning up graffiti. A group of about six or seven will work under close supervision wearing hi vis vests bearing the words "Giving back to Tamworth".

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The inmates paint the graffiti and clean walls, giving back to the community against which they offended. I have met the inmates on several occasions when we have run this program, and they are willing participants in it. Work and development orders are made by the State Debt Recovery Office. The amendments will assist Corrective Services NSW in providing effective services and support for inmates. They can help inmates to reduce or eliminate their fines. This may also prevent the negative impact of enforcement action that some inmates will encounter when released from custody.

The amendments demonstrate the Government's commitment to making the justice system fairer and more efficient. The Government will go a long way to ensure that the right support programs are put in place, and to give local members up-to-date information on what is available and the role of Corrective Services in the community. I note that the member for Epping, who is the former chief of staff to the previous Attorney General, Greg Smith, is in the Chamber. We welcome him to this place. I place on record my sincere thanks for the support, encouragement and advice about corrective services that he offered when in his former role. The Courts and Crimes Legislation Amendment Bill 2015 takes a common-sense approach. It is getting on with the job of reducing red tape and making life easier for the people of New South Wales. We should continue to do that. I commend the bill the House.

Mr RON HOENIG (Heffron) [4.41 p.m.]: In contributing to debate on the Courts and Crimes Legislation Amendment Bill 2015 I endorse and adopt the views and reasoning of the shadow Attorney General and member for Liverpool concerning the bill. Nothing I say should be construed either directly or indirectly as being inconsistent with the views expressed by the shadow Attorney General. The shadow Attorney General has brought to my attention a letter dated 6 May 2015 that he received from Jane Needham, Senior Counsel, who is President of the New South Wales Bar Association. In the letter Ms Needham expressed concern about some provisions in the bill—particularly those in schedule 3—that had not been brought to the attention of the shadow Attorney General prior to his contributing to the debate. Accordingly, the shadow Attorney General has brought the letter to my attention, and I wish to bring it to the attention of the House. I refer to a paragraph that indicates a matter of considerable substance. In relation to the possibility of introducing a system as permitted in this legislation, Ms Needham said:

> … it would substantially undermine the concept of an independent judiciary. The Association would find such a fundamental and undesirable alteration to this State's constitutional fabric unacceptable.

Those are quite strong and powerful words for the Bar Association to use in respect of the wording of a bill that is being put through the House on the assumption that its many amendments are simply fixing specific provisions and do not necessarily involve multiple changes to public policy. That was certainly the view of many participants in this debate, and it may well have been my view. However, the concern expressed by the

Bar Association must cause the House to consider whether the provisions in schedule 3 to the bill should remain or whether they interfere—

Mr Jonathan O'Dea: Which ones?

Mr RON HOENIG: I will come to that in a moment. We must consider whether the provisions have the potential to obstruct fundamental principles, in particular the principle of the doctrine of separation of powers. The participants in this debate know that the bill proposes amendments to the Supreme Court Act, the Industrial Relations Act, the Land and Environment Court Act, the District Court Act and the Local Court Act to enable judicial officers to be appointed up to the age of 77 years rather than 75 years. That does not pose a particular problem. Many of us recall when the Commonwealth Constitution was amended to require the retirement of High Court judges at the age of 70 years. I venture to say that when the Whitlam Government proposed such constitutional amendments 70 was seen to be the age at which senility approaches. Now age discrimination laws apply. In the old days there were difficulties getting judges to retire; the United States Supreme Court had the same problem. When judges reached an age at which they should no longer be on the bench, the doctrine of separation of powers prevented anybody from doing anything about it. There is also an obligation to protect the reputation of the judiciary, which is another fundamental function of both this House and the Executive Government.

There is no particular problem with the provision; the problem occurs in relation to the appointment of acting judges for periods of up to five years. The Bar Association and probably most of us would oppose acting appointments because they risk infringing on the doctrine of separation of powers. No doubt it is done for financial reasons and to clear the backlog on court lists to enable matters to proceed. In recent years judges who reach retirement age have been generally appointed as acting judges, and those appointments are renewed on a yearly basis. It does not cause any practical problem because, first, those acting judges are remunerated; secondly, they are very experienced judges so the ones who should not be appointed usually are not so appointed—sometimes those at the bar are terrified that a retiring judge might return but generally the selection of acting judges is exemplary—and, thirdly, they already have their judicial pension so have nothing to gain or lose by accepting a temporary appointment. It is not ideal.

What then happens if we adopt something similar to the recorder system of the United Kingdom, where members of the bar are plucked out for acting appointments midway through their careers for periods of up to five years and then face renewal? The Bar Association is concerned that that interferes with the doctrine, and there is a risk that it can do so. When the Labor Government amended the Crown Prosecutors Act and the Public Defenders Act for those reasons I was fearful. I can remember being at the bar cross-examining senior Labor Ministers in a particular trial and putting propositions to them. I thought then it was just as well I had security of tenure because after the trial a Labor government probably would not reappoint me if my appointment were to come up for renewal.

I did not think that had much substance. But when it comes to the judiciary—again, with great respect to Local Court magistrates—we are not talking about magistrates. We are talking about Supreme Court judges, judges of the Court of Appeal or judges of Supreme Court status. It is not appropriate to appoint a practitioner as a Supreme Court judge for five years and then say, "You're not reappointed". One might have served on the Court of Appeal and overturned amendments to the Independent Commission Against Corruption Act that the Government wanted desperately for whatever purpose.

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There is a substantial risk, and the Bar Association has, in a far more complex and better way, expressed the relevant concerns. It states:

> I do however wish to raise a note of caution. The Association would be strongly opposed to any proposed system that involves the appointment of current legal practitioners to fixed term, part time acting judicial commissions.
>
> The issue is one of principle. Such appointments would have the potential to tarnish the reputation of the courts and create at least the perception of conflicts of interest in certain cases.

The Bar Association refers to examples in the 1990s, and further states:

> When this practice was adopted in NSW in the 1990s, there were cases where part-time acting judges had before them clients who provided substantial amounts of work to them when they were not sitting as an acting judicial officer. A litigant in such a case could reasonably query whether he or she had a fair hearing in such circumstances.
>
> There were also instances where acting judges were part-heard as barristers before other acting judges.

> Without wishing to impugn the integrity of those practitioners who were appointed as part-time acting judges at that time, there was also a popularly held perception in some quarters that such acting judges might fashion judgments in such a way that might ensure their reappointment at the expiry of their term.

[*Extension of time agreed to.*]

Ms Needham continues:

> The potential to undermine the integrity of the court system and create potential and actual conflicts of interest is very real. It was for these reasons that the then Government abandoned the practice of appointing legal practitioners as part time acting judicial officers at the turn of the century.

I recall a member of the bar who was an acting judge in the District Court being given the responsibility of determining victims' compensation matters. It was indicated to her that she was required to determine a certain number per day—a task that she found impossible. At the time she was a member of some ability, and is now a silk. After 12 months she was not reappointed. Judicial officers should be able to complete their task thoroughly and to the best of their ability without having reappointment held over their heads—and not by the Executive Government. I am also concerned about the appointment of acting judges by the Attorney General rather than by the Governor. We all know that as a matter of practice the Attorney General appoints judges but this occurs via the Executive Council, where there is a checking mechanism in place. There is usually an informal consultation process involving the bar and the Law Society and a Cabinet consultation process involving Ministers of the Crown. So the Attorney General, who can prosecute individual offenders, has some theoretical removal from the actual appointments.

I raise these matters on behalf of the Bar Association, on my behalf and on behalf of the shadow Attorney General in order to bring to the attention of the House and the Government the serious consequences of the provisions in this bill. I ask that the Attorney General rethink these issues, because sometimes provisions can slip through in legislation, particularly when it contains a large number of amendments. I urge her to consider whether perhaps the Bar Association is correct; I think it probably is. I ask that the Government engage in consultation with the Bar Association before this legislation completes its passage through the Legislative Council. As I indicated earlier, in the second-last paragraph of the letter Ms Needham refers to the ability to reinstate the situation that existed in the 1990s, and writes:

> … it would substantially undermine the concept of an independent judiciary. The Association would find such a fundamental and undesirable alteration to this State's constitutional fabric unacceptable.

Not one member of this House would agree to any action that risks undermining the alteration of the constitutional fabric of this State. I ask that the Attorney General not allow departmental officials to flush this legislation through because it is convenient. Between now and its passage in the other place the Government must examine the bill carefully and engage in genuine consultation with the Bar Association and Law Society to make sure that there are no errors in its provisions.

Mr JONATHAN O'DEA (Davidson—Parliamentary Secretary) [4.56 p.m.]: While the majority of amendments in the Courts and Crimes Legislation Amendment Bill 2015 are minor and technical in nature, the bill will help to rectify and improve various court processes and administrative procedures. It will provide flexibility to New South Wales courts and tribunals to improve overall court process and apply resources more efficiently, reducing administrative burdens and empowering people. It will deliver better outcomes for people through our legal system. This is in turn works to help generate improved confidence and trust in our public institutions—a goal that I am sure we all strive to achieve. I will focus on two areas: the NSW Civil and Administrative Tribunal [NCAT] and judicial officers. I will respond to some of the concerns raised but I am sure the Attorney General will make more considered responses either in reply or in due course. I do not dare speak for her.

The NSW Civil and Administrative Tribunal was introduced via legislation passed by this Government in 2012. From 1 January 2014 NCAT merged 23 tribunals, including the Consumer, Trader and Tenancy Tribunal and the Administrative Decisions Tribunal, into a consolidated tribunal that provides prompt, accessible services and delivers fair civil justice. NCAT is an innovative agency that is making a real and positive difference for the people of New South Wales, including through improving the quality of tribunal decision-making. There is now greater consistency in standards, processes and professional development, and improved transparency and accountability. As the Attorney General has said, the bill contains practical amendments relating to NCAT that will allow a person to be represented by various legal practitioners; enable NCAT to revoke orders regarding the representation of a party or person; replace references to the "Health

Practitioner Division List" with "Health Practitioner List"; and permit senior professional members of the Guardianship Division to sit on appeals.

I understand that those amendments in schedule 1 to the bill were requested by the inaugural President of NCAT, the Hon. Justice Robertson Wright. Prior to his appointment as NCAT president, Justice Wright practised as a barrister for 30 years. His previous appointments included serving as a judicial member of the Administrative Decisions Tribunal from 2007. I remember Justice Wright as a lecturer in evidence at Sydney University Law School when I studied there more than 27 years ago. I have met him a number of times since then and he has always struck me as a very intelligent, decent and personable man. The general community should be grateful for the outstanding service provided not only by him but also by his team at NCAT.

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Mr Andrew Gee: Subordinates.

Mr JONATHAN O'DEA: I note the interjection. I turn now to those amendments in schedule 3 concerning acting judicial officers, and particularly schedule 3.2 to the bill, which contains an amendment to the District Court Act 1973. That will allow retired judges of the Family Court of Australia to act as judges of the District Court after they reach the age of 72. Currently section 18 (4) (a) of the District Court Act permits retired Federal Court judges to act as District Court judges after they turn 72, as it does for retired judges of other State and Territory Supreme and County courts. However, unfortunately, there is currently no equivalent provision for retired Family Court judges. I understand that a number of former Family Court judges hold commissions as acting judges of the District Court but they will have to leave their positions upon turning 72. This bill will enable those judges to continue until they reach the age of 77—a situation that has been supported by the Chief Judge of the District Court. Schedules 3.2, 3.5, 3.6, 3.7 and 3.8 amend the Local Court Act, District Court Act, Supreme Court Act, Industrial Court Act, and Land and Environment Court Act to enable acting judges and magistrates to be appointed for a period of up to five years.

Currently appointments of acting judges and magistrates can be only for a maximum term of 12 months but they can be renewed each year until the statutory limit is reached. In the Local Court, District Court, Industrial Court, and Land and Environment Court the age limit is 75 and in the Supreme Court the age limit is 77 when a judge retired previously at 72. Although there is flexibility for acting judges to receive shorter terms, this legislation will enable acting magistrates and judges to be appointed for up to five years. In order to permit those five-year appointments, the statutory age limit for all acting judges will be lifted to 77 years. This will enable some very talented, able, willing and experienced judges to keep working, thus using their skills and experience for our community's benefit. So the changes will create consistency across New South Wales courts and provide greater flexibility to make acting appointments in a way that utilises valuable human resources in the public interest.

I note that the member for Balmain and the member for Heffron raised various concerns, mainly those articulated by the Bar Association that I acknowledge—albeit I have not seen the letter—indicated a potential to undermine the concept of an independent judiciary. I listened to those arguments and I must say that I do not think they were presented as clearly as perhaps the letter may articulate them. But I am sure that it will be examined. Certainly the arguments put forward by the member for Balmain were not totally logical. He seemed to argue that there was a problem with security of tenure if an appointment is lengthened, but I would have thought extending a term of appointment from 12 months to potentially up to five years creates greater security of tenure. I did not necessarily follow that argument.

The member for Balmain and the member for Heffron advanced an argument about the danger of appointing younger judges or current practitioners. However, that issue does not go directly to the provisions in this bill. Those risks may exist currently but they are not risks introduced by this bill. If the argument is that there is potentially a greater inducement when somebody is offered an appointment of more than 12 months, I do not necessarily agree. In fact, I would have thought there would be a higher risk of potential conflict of interest if a younger or current practitioner judge were appointed for only 12 months and had the potential to return to full-time practice and use that as leverage. But we are getting into hypothetical, conspiracy-type arguments. Although I was not personally convinced by the arguments put forward, they obviously come from a credible source and I am sure will be considered by the Attorney General, who has just entered the Chamber.

I will make some general comments in relation to age requirements on the bench. But before I do that I must acknowledge that a large amount of the reform in this bill was identified by former Labor Attorney General John Hatzistergos. Indeed, the essence of the legislation that appears before us with slight amendment was embodied in legislation introduced in the last Parliament. So legislation has been around for some time for

people to consider. The bill was introduced in this Parliament by the new Attorney General, Gabrielle Upton, whom I congratulate on being the State's first female Attorney General. [*Extension of time agreed to.*]

I conclude by making some general comments that go particularly to the appropriateness of changing the somewhat arbitrary mandatory age retirement requirements for the bench. I raise that issue in the context of an environment where life expectancy is increasing, there is a greater societal consciousness of age discrimination and where the societal norm increasingly is to encourage people to work longer where reasonably possible. Certainly it is my view that capacity assessment for judicial officers and others should occur on the basis of a person's ability to perform the tasks involved, without undue reference to their age. Individual capacity-based assessments can account for potential health and safety concerns, and should be preferred, in my view, to imposing a compulsory retirement age. That is not to say age is irrelevant; but it should not be compulsory to retire at a certain arbitrary age, allowing no flexibility.

In early 2012 the Australian Law Reform Commission was asked to identify any changes that could be made to relevant Commonwealth legislation and legal frameworks to remove age barriers for people aged—and this was a little concerning to me—45 years and over. I must admit to falling into that category; I have never thought of myself necessarily as an older worker but maybe I am. The commission's inquiry was driven partly by concerns about the implications of an ageing population and a recognition that expanding workforce participation by older Australians may assist in that regard. In response, the "Access All Ages—Older Workers and Commonwealth Laws" (ALRC Report 120) was tabled on 30 May 2013. The ALRC recommended that the Australian Government should initiate an independent inquiry to review the compulsory retirement ages of judicial and quasi-judicial appointments. The Law Council of Australia has supported this position.

As was alluded to earlier, under section 72 of the Australian Constitution the maximum age for justices of the High Court and any court created by the Commonwealth Parliament is 70 years. While the section provides that Parliament may make a law fixing a lower age, it does not make provision for a higher age. The Constitution can be changed only through a referendum, which potentially could flow from the findings of the recommended independent inquiry.

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The ALRC preferred to recommend such an inquiry over an immediate removal of compulsory retirement ages. That was particularly in light of potential complexities, such as those constitutional requirements to which I have referred and public policy arguments for compulsory retirement. The ALRC suggests that such an inquiry should be conducted in cooperation with State and Territory governments and consider current inconsistencies and alternatives to compulsory retirement ages. I acknowledge that there is jurisdictional inconsistency in the compulsory retirement provisions, partly as a result of provisions for the appointment of acting judges and magistrates in some jurisdictions like New South Wales. National consistency in the compulsory retirement ages of judicial and quasi-judicial appointments is desirable but that does not mean that New South Wales should sit on its hands in advance of more uniform reform across Australia. That is what New South Wales has done and what it continues to do—lead the debate and I think sensibly make reforms. In the future there is scope for greater consistency across Australia. In the meantime I commend this bill to the House.

Ms GABRIELLE UPTON (Vaucluse—Attorney General) [5.10 p.m.], in reply: I thank all members for their contributions to the debate today. I thank members on this side of the House who have spoken for the first time in this Chamber, particularly the member for Miranda and the member for Epping who made great contributions to debate on the Courts and Crimes Legislation Amendment Bill 2015. I thank them and congratulate them both. I thank also the members representing the electorates of Menai, Tweed, Myall Lakes, Mulgoa, Drummoyne, Parramatta, Heathcote, Northern Tablelands, Tamworth, Davidson, the shadow Attorney General and member for Liverpool, and the members for Heffron and Balmain. It is pleasing that this administrative bill has brought about significant debate. The bill focuses on creating a fairer, faster and more efficient justice system.

I make it clear that this bill in no way intends to compromise the integrity of our court system. As the new Attorney General I am acutely aware of the need to preserve the separation of power and the integrity of the legal system. I have a healthy respect for the legal system and will now focus on the intent behind the bill. It is an administrative bill that seeks to create greater flexibility in the functioning and operation of our courts. It will enable the judiciary, in many cases, to continue to hear matters faster and in a more timely fashion than currently is the case. I refer to two issues raised by the member for Balmain and the member for Heffron. One relates to the appointment of acting judges for up to five years. Currently acting appointments can be made for up to one year. It is proposed that the appointment of acting judges for up to five years can be made in the

District Court, the Industrial Relations Commission, the Land and Environment Court, the Supreme Court and the Local Court. The process of appointing up to a maximum of 12 months currently places an administrative burden on the courts as all acting appointments need to be renewed every year, impacting on the ordinary business of the courts.

Not all acting judges will want a five-year appointment but we are allowing courts the flexibility by providing for up to five years. We know that some acting judges simply step in to help the courts for short periods. This amendment does not mandate a five-year term; it merely allows some flexibility by providing for an acting appointment of up to five years where it is considered appropriate because, of course, acting appointments are made in consultation with the Government and the heads of courts.

The other matter I wanted to address in reply relates to the assertion that the flexibility of allowing appointments for acting judges of up to five years instead of one year somehow creates a greater perception of a conflict of interest. However, this amendment helps to support the independence of people appointed to these acting positions for whatever period is considered appropriate up to five years because it gives them tenure for that period; it gives more certainty to their appointment or remit within the court.

I commend the bill to the House. It is about assisting our courts to do their job better. The bill has been drafted in consultation with the courts; indeed the bill does many other things. The debate has focused around particular provisions of the bill but the bill has a very broad remit and contains sensible provisions. It allows the sharing of information between Roads and Maritime Services and our courts to ensure that the people who serve as jurors have the appropriate qualifications and credentials. It allows applications for the revocation of financial management orders where the Mental Health Review Tribunal is convinced that the persons making application or the persons who are subject to the application are of sound mind and should have their financial affairs management returned to them. I thank the House for the opportunity to introduce my first bill in this House. It is a wide-ranging, primarily administrative bill and I commend it to the House.

Question—That this bill be now read a second time—put and resolved in the affirmative.

Motion agreed to.

Bill read a second time.

Third Reading

Motion by Ms Gabrielle Upton agreed to:

That this bill be now read a third time.

Bill read a third time and transmitted to the Legislative Council with a message seeking its concurrence in the bill.

The DEPUTY-SPEAKER (Mr Thomas George): Order! Government business having concluded and in accordance with the earlier resolution private members' statements will now be proceeded with.

PRIVATE MEMBERS' STATEMENTS

CENTENARY OF ANZAC

Mr DAVID ELLIOTT (Baulkham Hills—Minister for Corrections, Minister for Emergency Services, and Minister for Veterans Affairs) [5.16 p.m.]: I draw to the attention of the House the exemplary Anzac centenary of Gallipoli commemoration program that The Hills community benefited from, thanks to the tireless efforts of The Hills Centenary of Anzac Committee and, in particular, its Chairman, Colonel Don Tait, OAM. In the first official report on the landings at Gallipoli to reach Australia, writer Charles W. Bean described the bravery of the Anzacs, who swiftly and defiantly traversed the steep terrain of the peninsula. For the covering force seizing the ridges around the landing he said:

Each ridge was higher than the last, and each party that reached the top went over it with wild cheers.