Overview

The sitting week before the Easter break saw the House finalise consideration of five Government bills, two of which were considered in detail in committee of the whole. In addition, three Government bills, two of which originated in the Council, were introduced into the House.

The House now stands adjourned, and will next meet on Tuesday 30 April, unless recalled earlier.

Government business

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

Crimes (Criminal Organisations Control) Bill 2013

The bill originated in the Legislative Assembly.

Summary: In 2009, the Parliament enacted the Crimes (Criminal Organisations Control) Act 2009 which introduced a scheme for the declaration of criminal groups by an eligible judge of the Supreme Court on the application of the Commissioner of Police. Under that Act, an eligible judge could make a declaration in relation to an organisation if he or she was satisfied that the members of the organisation were involved in organising, planning, facilitating, supporting or engaging in serious criminal activity and that the organisation represented a risk to public safety. Once an organisation was so declared, the activities of its members could be restricted through control orders issued by the Supreme Court.

In 2010 the constitutional validity of the Act was being challenged in the High Court. Recently, the High Court in Pompano upheld the validity of the Criminal Organisation Act 2009 of Queensland. Subsequently, the bill introduced into the Assembly in November was discharged, and replaced by the current bill.

The bill amends the Crimes (Criminal Organisations Control) Act 2012 in order to adopt a number of elements of the model used by the Queensland Act. The bill provides for: the Supreme Court (rather than eligible judges) to make declarations; the Supreme Court (rather than the Police Commissioner) to make determinations whether information is criminal intelligence, and the creation of the position of criminal intelligence monitor to assist the Court in these matters; and for declarations of criminal organisations to be in force for 5 (rather than 3) years.

The bill also provides for the recognition and enforcement in NSW of comparable declarations and control orders made in other States and Territories.

Proceedings: The bill was received from the Legislative Assembly on 25 March 2013 and read a first time. The second reading speech of the Minister (Mr Gallacher) was incorporated into Hansard. In that speech, the Minister indicated that the Government had anticipated that the High Court's decision in the Pompano matter would have a significant impact on declaration-based legislation Australia-wide, and that by waiting for that decision it was now able to present this bill that adopts those aspects of the Queensland model which have withstood challenge in the High Court.

The Opposition supported the bill, which they agreed was an important and necessary piece of legislation which represented a significant improvement to the principal Act, particularly the improved oversight mechanisms with respect to applications for criminal intelligence determinations. The Opposition nonetheless chided the Government for the time taken to introduce effective legislation. The Christian Democratic Party supported the bill and the Government's decision to await the recent High Court decision.

The Greens opposed the bill, arguing that it represented an affront to civil liberties and a serious trespass on the rights of the individual. The Greens reiterated their
concern over the broad powers provided for in the Act and their belief that they could in the future be used to encompass organisations involved in advocacy, protest or civil dissent. While strongly opposed to the bill on principle, the Greens also acknowledged that the inclusion of the position and role of the criminal intelligence monitor was an important improvement to the Act.

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

**Intoxicated Persons (Sobering Up Centres Trial) Bill 2013**

The bill originated in the Legislative Council.

*Summary:* The bill facilitates a trial of sobering up centres for the temporary detention and/or care of intoxicated persons to enable them to return to sobriety. The trial incorporates two types of centres: a mandatory centre in Sydney City operated by the NSW Police Force and two non-mandatory centres operated by accredited persons.

*Proceedings:* Debate on the second reading of the bill resumed on 25 March 2013 from 19 March 2013 (see previous edition of *House in Review* for earlier debate).

The Opposition did not support the bill. While acknowledging that sobering up centres was a pre-election commitment of the Government for which it could therefore claim a mandate, the Opposition said that it held a number of concerns regarding the bill – such as the potential for violence and self-harm by intoxicated persons and the diversion of police officers away from core duties – and argued that there was not enough detail in the proposed legislation to have confidence in the effective operation of the trial.

The Greens opposed the bill, arguing that there was little likelihood of the trial being able to operate effectively or produce any tangible benefit. The Greens argued that while touted as a means by which to address alcohol-fuelled violence and anti-social behavior, the trial does not seek to address this problem at the root cause.

Members of the Government and the Christian Democratic Party spoke in support of the bill, arguing that there was community desire for the trial which was based on the positive aspects of similar trials in other States and Territories.

The second (Division 19:16) and third readings of the bill were agreed to and the bill was forwarded to the Assembly for concurrence.

**Public Interest Disclosures Amendment Bill 2013**

The bill originated in the Legislative Assembly.

*Summary:* The bill makes a number of amendments to the Public Interest Disclosures Act 1994, including: making it clear that an employee of a corporation that is engaged by a public authority to provide services is a public official under the Act; including the Public Service Commissioner on the Public Interest Disclosures Steering Committee; removing the requirement that a disclosure be made voluntarily in order for an officer to be protected under the Act; and extending, from 2 to 3 years, the time for instituting proceedings for the offence of reprisal for a disclosure.

*Proceedings:* The bill was received from the Assembly on 25 March 2013. The second reading speech of the Parliamentary Secretary (Ms Ficarra) was incorporated into Hansard. In that speech, it was noted that a function of the Public Interest Disclosures Steering Committee is to provide advice to the Premier on the operation of the Act and recommendations for reform, and that this bill seeks to make the first changes to the Act recommended by the Committee since its establishment in 2011. The Opposition did not oppose the bill, noting that each provision in the bill will improve the operation of the Act. However, the Opposition argued that more fundamental changes to expand the scope of the Act and the protections provided to whistle-blowers are desirable. Similarly, the Greens supported the bill, while arguing that there was room for broader ranging reform to the Act. In this regard, the Greens referred to the Dreyfus Report and its recommendations with respect to Commonwealth legislation. The Christian Democratic Party supported the bill, noting the increased level of protection provided to whistle-blowers.

In reply, the Parliamentary Secretary advised that if the Commonwealth introduces whistleblower legislation, then the Steering Committee is obliged to review that legislation within six months and report back to the Premier with any recommendations for further reform. The Parliamentary Secretary concluded that the minor but essential reforms contained within the bill should not be delayed while awaiting any action at the Commonwealth level.

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

**Independent Commission Against Corruption Amendment (Disciplinary Proceedings) Bill 2013**

The bill originated in the Legislative Assembly.

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

*Proceedings:* Debate on the second reading of the bill resumed on 26 March 2013 from 13 March 2013 (see Vol 55/43 of *House in Review* for earlier update). The Opposition, Christian Democratic Party and members of the Government spoke in support of the bill, arguing that the bill would streamline disciplinary procedures against public officials who are the subject of a corrupt finding by the ICAC. The Greens, while supporting the bill, outlined some concerns that had been raised by Unions NSW. The Greens stated that the importance of
identifying and exposing corruption must be balanced by protecting the fundamental rights of public sector workers, such as the presumption of innocence and due process.

The second reading was agreed to.

In the committee stage the Opposition and the Greens each moved three amendments. The Opposition sought to amend the wording of the bill, which they considered imprecise, to ensure that the executive is not given unintended powers. The Greens amendments sought to ensure that evidence against a public official is made available to them to provide them the opportunity to respond and to give the ICAC the discretion to exempt witnesses from the risk of giving self-incriminating evidence. All of the amendments were negatived, five on the voices and one on division (17:20).

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

Election Funding, Expenditure and Disclosures Amendment (Administrative Funding) Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill amends the Election Funding, Expenditure and Disclosures Act 1981 to increase the amounts which political parties and elected members of Parliament are eligible to be paid by the Election Funding Authority for administrative expenditure incurred, to enable quarterly payments of such amounts and for the required payments to be made by the Authority within six weeks after a claim is made.

Under the current Act, parties and independent elected members are entitled to receive a single annual payment from an Administration Fund to cover their actual administrative and operating expenses. The maximum amount that can be claimed per party per year is the lesser of $80,000 per elected member or $2 million.

Proceedings: The bill was received from the Legislative Assembly on 25 March 2013 and read a first time. Debate on the second reading of the bill commenced the following day, with the Minister (Mr Gallacher) incorporating his speech into Hansard. In that speech, the Minister indicated that the bill implements the recommendations made by the Joint Standing Committee on Electoral Matters following its inquiry into administrative funding for minor parties in New South Wales. The Committee observed that as a result of previous amendments to the Act that improved accountability, minor parties now have an increased administrative burden as they can no longer rely solely on volunteers, but must employ staff with professional skills in order to meet their disclosure and administrative obligations. The Minister stated that instead of applying a flat rate of $80,000 per endorsed member or independent member, the maximum amount of funding should be determined on a sliding scale according to the number of elected members endorsed by the party.

The Opposition, Shooters and Fishers Party and the Christian Democratic Party all supported the bill, stating that major parties, due to their size, can spread their resources and expenditure across all of their members while minor parties do not have that luxury, and that the bill addresses these imbalances in the legislation. Members spoke of the cooperative approach taken by the Joint Standing Committee and that the bill implements the recommendations made in the final report.

The Greens, while supporting the bill, spoke of their concerns regarding its genesis. In their view, the bill was a product of arrangements made between the other minor parties and the Government. The Greens also raised practical concerns arising from the retrospectivity of the funding arrangement in the bill.

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

Road Transport Amendment (Obstruction and Hazard Safety Bill) 2013

The bill originated in the Legislative Council.

Summary: The bill amends the Road Transport Act 2013 to make it clear that a court is to take into account the presence of obstructions and hazards on a road in determining whether a person has committed an offence of driving a motor vehicle negligently, furiously, recklessly or at a speed or in a manner dangerous to the public.

Proceedings: The bill was introduced on 26 March 2013. In his second reading speech, the Minister (Mr Gay) said that the bill is a key element of the Government’s Breakdown Safety Strategy, which was developed following a tragic incident on the Hume Highway near Mittagong in February 2012 in which two people who were attending to a broken down vehicle were struck by another vehicle and lost their lives. The Minister reminded the House that in May 2012 a petition signed by 23,000 community members advocating for legislative change and other action was presented to Parliament. The Minister said that the bill responds to these community concerns, has broad community support and will improve public awareness of breakdown safety.

Debate was adjourned for five calendar days.

Small Business Commissioner Bill 2013

The bill originated in the Legislative Assembly.

Summary: The bill creates the Office of the Small Business Commissioner and sets out the objectives and functions of that office, including dealing with issues concerning the small business sector and providing a central point of contact for small businesses to make complaints about their commercial dealings with other businesses and government agencies.

Proceedings: Debate on the second reading of the bill commenced on 26 March 2013. The second reading speech of the Minister (Mr Gay) was incorporated into Hansard. In that speech, the Minister indicated that the role of Small Business Commissioner was established by the Government in recognition of the fact that the 680,000 small businesses across New South Wales are an integral part of the State’s economy. The Minister said that the appointment will be as a statutory officer with a strong and independent voice, and that the bill confers...
the necessary legislative powers and responsibilities so that the Commissioner can effectively represent and assist small businesses.

The Opposition did not oppose the bill, noting that it largely reflected the bill introduced by the Opposition but rejected by the House earlier in the year (see vol 55/41 of House in Review for debate on that bill). However, the Opposition was critical of the bill for, in its view, failing to provide meaningful powers to the Commissioner or legal rights for small businesses afflicted by unfair contracts, and for not introducing enforceable codes of practice. The Opposition foreshadowed that it would seek to address these shortcomings during the committee stage.

The Greens supported the bill, however, they also believed the bill needed to be amended during the committee stage in order to provide the Commissioner with greater power to protect and provide practical assistance to small businesses. The Christian Democratic Party supported the bill, acknowledging the need to have some form of legislative support and protection in place for small businesses. The CDP also foreshadowed that it would seek to improve the bill during the committee stage.

Debate was adjourned until the next sitting day.

**Law Enforcement and National Security (Assumed Identities) Amendment Bill 2013**

The bill originated in the Legislative Council.

**Summary:** The bill makes various amendments to the Law Enforcement and National Security (Assumed Identities) Act 2010 to strengthen the cross-border recognition of assumed identities and to require that applications for orders to make or cancel entries for assumed identities in the Births, Deaths and Marriages Register be heard in judge’s chambers.

**Proceedings:** The bill was introduced on 26 March 2013. In his second reading speech, the Minister (Mr Gallacher) indicated that the bill implements recommendations of the Report on the Statutory Review of the Law Enforcement and National Security (Assumed Identities) Act 2010. The purpose of the bill is to fine-tune the legislation and cut red tape to ensure law enforcement agencies can effectively investigate and prevent crime throughout Australia. The Minister stated that as the Commonwealth does not administer a register of births, deaths and marriages, Commonwealth agencies rely on mutual recognition provisions of State assumed identities laws to obtain evidence to support their assumed identity authorities.

The Minister noted that the bill will improve the ability of law enforcement agencies to combat the increase in cybercrime, and will increase the number of approval delegations a law enforcement agency may have in force from four to five to meet law enforcement demand for assumed identities to gather intelligence and investigate these crimes.

Debate was adjourned for five calendar days.

**Racing Legislation Amendment Bill 2013**

The bill originated in the Legislative Assembly.

**Summary:** The bill amends the Thoroughbred Racing Act 1996 to provide that Racing NSW may impose sanctions on a registered race club for a breach of conditions of the club’s registration. The bill also amends the Totalizator Act 1997 to allow licensed bookmakers to offer totalizer odds on bets taken at a licensed racecourse, regardless of whether the other party to the bet is also at the racecourse.

**Proceedings:** The bill was received from the Legislative Assembly on 26 March 2013 and read a first time. The second reading was set down for a later hour.

**Messages from the Assembly**

The House received the following messages from the Legislative Assembly relating to bills forwarded to the Assembly by the Council in previous sitting weeks.

**Road Transport Bill 2013:** On 25 March 2013 the Assembly advised that it had agreed to the Council's amendments.

**Law Enforcement (Controlled Operations) Amendment Bill 2013:** On 26 March 2013, the Assembly advised it had agreed to the bill which it was returning without amendment.

**Private members’ business**

**Note:** Private members’ business is business introduced by members of the House other than Government ministers. There are two types of private members’ business: private members’ bills and private members’ motions.

**Motions**

**Edward Kenna VC (Mr Ajaka, Liberal Party)**

**Summary:** The motion noted that a dedication ceremony was conducted for The Edward Kenna VC Heavy Vehicle Rest Area at Pheasants Nest on 8 August 2012 and acknowledged the immense degree of bravery of Edward Kenna VC displayed during battle in the Pacific War on the 15 May 1945. The motion also acknowledged that the Government is supporting the Remembrance Driveway Committee and the establishment and maintaining of other Victoria Cross Rest Areas.

**Proceedings:** Debate on the motion commenced according to precedence on 27 March 2013. In speaking to the motion, Mr Ajaka related details of his attendance at the Victoria Cross rest area dedication organised by Roads and Maritime Services and the Remembrance Driveway Committee and stated that the vehicle rest area is part of the Government’s continuing investment in roads infrastructure throughout the State. Mr Ajaka paid tribute to the bravery displayed by Mr Kenna in the action that saw him awarded his Victoria Cross.
Members from all sides of the chamber spoke in support of the motion and stated that the rest area is a very practical memorial to honour Australia’s heroes. They stated that the development of the rest areas has been a long-term project of State and Federal governments of both persuasions. Members also discussed other Victoria Cross rest areas along the road between Canberra and Sydney and the bravery of the people to which they are dedicated.

The motion was agreed to.

**Health budget (Mr Primrose, Australian Labor Party)**

*Summary:* The motion calls on the House to note the impacts of the Government’s cuts, stated in the motion as $3 billion dollars, to the State’s health budget and that the resulting staff shortages are putting the quality of patient care and the lives of patients at risk. The motion further calls on the House to call on the Government to reverse the budget cuts.

*Proceedings:* Debate on the motion commenced according to precedence on 27 March 2013. In speaking to the motion, Mr Primrose said that while the State currently has one of the world’s finest health systems, it was facing a crisis due to the prospect of having to find $2.2 billion in efficiency savings and $775 million in staffing reductions. Mr Primrose argued that the health system required an 8 per cent budget increase each year in order to maintain levels of service and that it was not possible to cut millions from hospital budgets without compromising patient care, and that a number of local communities were concerned over recent downgrading or reductions to their local health services.

The Government opposed the motion, claiming that it was misleading as the health budget had been increased by 5.4 per cent with $17.3 billion in recurrent funding and a record $1 billion in capital funding. The Government noted that efficiency savings were introduced into the health budget by the previous Labor Government and that the current savings are being retained by the relevant district health areas and reinvested in front line services, with this arrangement encouraging innovation in service provision.

The Christian Democratic Party did not support the motion, noting with approval that efficiency savings were being invested in front line services, and that the creation of district health areas with local control over budgets had been well received by the health system.

Debate was interrupted for Questions.

Motions taken as formal business

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

1. Celebration of Republic Day of India and Australia Day (Ms Fazio)
2. Assyrian Universal Alliance Gala Dinner (Ms Fazio)
3. Northern Territory Container Deposit Scheme (Ms Faehrmann)
4. Global Organisation of People of Indian Origin Young Achievers Awards Night (Ms Fazio)
5. Multicultural Media at a Cross Roads (Ms Fazio)
6. Mrs Gwen Riley (Mr Lynn)
7. Middle Harbour Yacht Club and the Property Industry Foundation fundraiser (Ms Ficarra)
8. Order for Papers—Heritage Order on ‘Peroomba’, Warrawee (Dr Kaye)
9. Sydney Sze Yup Society (Ms Fazio)
10. TISI Sangam fundraiser (Ms Fazio)
11. St Antonio da Padova Association (Ms Fazio)
12. Cypress Community Club of NSW function (Ms Fazio)
13. United Indian Association function (Ms Fazio)
14. Eid Milan Party for Eidul Fitr (Mr Moselmane)
15. Greek Independence Day (Ms Cotsis)
16. Aspire Yarruwala program (Ms Ficarra)
17. Mr Edward Harb, Lebanese poet (Mr Ajaka)
18. Hornsby Art Society (Mr Donnelly)
19. Mr Minhas Zulfiqar (Mr Moselmane)
20. The Sydney International Rowing Regatta (Ms Ficarra)
21. Mr Pete Everett (Ms Ficarra)
22. Sydney Royal Easter Show (Mr Colless on behalf of Mr Blair)
23. Lymphoedema Awareness Month (Mrs Maclaren-Jones)
24. World Autism Awareness Day (Ms Westwood)
25. Nurses Christian Fellowship Australia (Ms Fazio)
26. Gardens of Stone (Ms Fazio)
27. Carers NSW 2012 Carer Survey (Ms Barham)
28. Community radio stations (Ms Barham).

**Order for papers**

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

**Order made**

**Heritage Order on ‘Peroomba’, Warrawee (Dr Kaye):**
The order relates to the imposition and lifting of the Interim Heritage Order on ‘Peroomba’, 11 Harrington Avenue, Warrawee. The motion was amended by leave to restrict the order to documents generated from 1 April 2010 to 1 October 2010. The amended motion was agreed to as formal business. Due: Monday 8 April 2013.
Committee activities

Note: Committee activities includes committee references, reports tabled, debate on committee reports, government responses received and any other significant committee activity in the House. Committee activity as part of a current inquiry is summarised in the following section entitled ‘Inquiry activities’.

Committee reports tabled


Privileges Committee: Report No. 67 entitled ‘Citizen’s Right of Reply (Mr Heath Aston)’, dated March 2013.


Committee reports debated


Inquiry activities

Racial vilification law in NSW
The Standing Committee on Law and Justice has received 29 submissions to its inquiry into racial vilification law in NSW. The Committee will commence public hearings next week with hearings scheduled for 5 and 8 April 2013.

Drug and alcohol treatment
General Purpose Standing Committee No. 2 has received 45 submissions to its inquiry into the effectiveness of current drug and alcohol policies with respect to deterrence, treatment and rehabilitation. The Committee will hold its first hearings next week on 3 and 4 April 2013, with a third hearing to be held on 10 April 2013. The Committee will report by 29 August 2013.

Same sex marriage law in NSW
The Standing Committee on Social Issues is inquiring into a proposed same sex marriage law in New South Wales. The Committee has concluded its hearings and is scheduled to report in July 2013.

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

Partial defence of provocation
The Select Committee on the Partial Defence of Provocation is in the final stages of its inquiry and is currently preparing its report. The report is due to be tabled by 2 May 2013.

Use of cannabis for medical purposes
General Purpose Standing Committee No. 4 inquiry into the use of cannabis for medical purposes has completed its hearings and is in the process of preparing the final report. The tabling date for the report is 17 May 2013.

Management of public land in NSW
General Purpose Standing Committee No. 5 is continuing its inquiry into the management of public land in New South Wales. The Committee is currently preparing its report for tabling in May 2013.

Adequacy of water storages in NSW
The Standing Committee on State Development is continuing its inquiry into the adequacy of water storages in NSW. The final hearing is scheduled for 3 May 2013, with the Committee intending to report by the end of June 2013.

Petition received

Uranium mining in New South Wales – 2,422 signatures (presented Ms Faehrmann).

Reports tabled


Independent Commission Against Corruption: Report entitled “Investigation into allegations that a manager at the University of Technology, Sydney (UTS) solicited and accepted money, gifts and other benefits from UTS contractors”, dated March 2013.

Adjournment debate

Monday 25 March 2013
Same-sex marriage (Mr Khan); New South Wales cricket (Mr Foley); Christian celebration of Easter (Revd Mr Nile); Snowy Scientific Committee (Mr Whan); University of New South Wales and Dr Paul Barach (Dr Kaye); Photo Create (Mr MacDonald).

Tuesday 26 March 2013
VIEW Clubs/ The Smith Family (Mrs Maclaren-Jones); Environmental protection and sustainability (Mr Primrose); Easter (Mr Green); State finances (Mr Roozendaal); Gay, lesbian, bisexual, transgender and intersex community (Ms Faehrmann); Rural Generalist Training Program (Mrs Pavey); Canberra Cavalry baseball team (Dr Phelps).
Wednesday 27 March 2013

Western Sydney employment strategy (Mr Searle); Hunting (Mr Borsak); Local land services (Mr Colless); Alison Homestead, Wyong (Mr Donnelly); Gas supply crisis (Mr Buckingham); Returned Services League Art Awards (Mr Lynn); Tribute to Mr Henry Benjamin (Mr Secord).

Feedback on *House in Review*

We welcome any comments you might have on this publication.

We are particularly keen to know which parts of the *House in Review* you find most useful and whether you have any suggestions for improvement. Please email your comments to stephen.frappell@parliament.nsw.gov.au.

All responses will be kept strictly confidential.

David Blunt
Clerk of the Parliaments