

## Agreement in Principle

**Mr BARRY COLLIER** (Miranda—Parliamentary Secretary) [11.51 p.m.]: I move:

That these bills be now agreed to in principle.

The Local Court Bill 2007 will replace the separately constituted Local Courts in New South Wales with the Local Court of New South Wales, which will sit at various locations across the State. A similar change occurred in 1973 when the District Court of New South Wales was created from a number of separately constituted District Courts. Local Courts play an important role in our justice system. The vast majority of people who come into contact with our justice system will do so in a Local Court. Local Courts sit at 155 locations across the State. According to the Productivity Commission's Report on Government Services 2007, Local Courts handle more matters than any other court in Australia. In 2005-06, Local Courts finalised 90 per cent of the State's civil matters and 95 per cent of the State's criminal matters. It was the best performing Local Court in Australia in 2005-06 in terms of criminal timeliness, a distinction that it has achieved for the last four years running. Before I outline the bills, I want to briefly outline the history of the Local Courts.

While the history of Local Courts stems from the British Crown, it was Aboriginal customary law that applied in New South Wales up until that time. Notwithstanding the achievements of various decisions of the High Court in relation to Aboriginal rights, more than any other court Local Courts have been instrumental in fostering initiatives that ensure traditional and customary law continues to play a role in Australia's legal system. One of those initiatives is circle sentencing, which successfully operates in a number of Local Courts across the State. Local Courts trace their origin back to the bench of Sydney magistrates that was established by Governor Phillip. All of the men who were appointed to the magistracy between 1788 and 1810 held other government positions. It was not until 1819 that a magistrate was appointed to a paid position. Payment of magistrates did not become common practice until 1830.

The Courts of Petty Session were formally established in 1832. A Court of Petty Sessions was constituted by two or more justices of the peace sitting in open court at places designated by the Governor. During the nineteenth century, the judicial and administrative functions of magistrates continued to increase. In 1881, the Metropolitan Magistrates Act authorised the creation of skilled and trained stipendiary magistrates for the Sydney District, having exclusive jurisdiction to deal with summary criminal offences in Sydney. In 1902, the Justices Act consolidated colonial legislation and provided the legislative underpinning for handling criminal cases and statutory applications in Local Courts. This Act remained in force for approximately 100 years until it was replaced in 2003 by a significant raft of reforms.

From 1955, all newly appointed magistrates were required to be legally qualified. Female magistrates began to be appointed from the 1970s onwards. In 1982 the Local Courts Act abolished the Courts of Petty Session and created Local Courts in New South Wales. Since that time Local Courts have continued to play an increasingly important role in the justice system. Not only do they handle the largest number of cases each year in New South Wales, but they are involved in innovative schemes designed to reduce reoffending. As I mentioned earlier, the circle sentencing program is now operating in several courts across the State. The Magistrates Early Referral into Treatment program, or MERIT, is designed to divert people into a short but intensive drug treatment program.

I turn now to the reasons why these bills are necessary. At present, each Local Court is established separately and proceedings are commenced in a specific Local Court. If a party wishes to have proceedings in one Local Court dealt with in another Local Court, the party has to apply to have the proceedings transferred to the other Local Court. The current structure creates restrictions on the efficient operations of Local Courts. For example, a registrar for one Local Court cannot exercise powers in relation to proceedings at another Local Court. The current structure also restricts parties who are required to file documents in proceedings at a particular Local Court, even though it may be more convenient for the party to file a document at another Local Court registry. By contrast, courts such as the Supreme Court and the District Court are established as a single entity with authority to operate throughout New South Wales. A registrar in one location can make orders in a case that was commenced in another location without first having to transfer the case to the other location.

The Local Court Bill will create a Local Court of New South Wales. Court and registry services will be able to operate more effectively once there is a single court operating throughout the State. A party will be able to make inquiries about his or her proceedings at any registry instead of having to contact the registry where the matter is to be heard. In the future, parties will be able to electronically file documents centrally through JusticeLink even though the proceedings might be heard at courts across New South Wales. The Local Court Bill will replace the Local Courts Act 1982. It largely carries over existing provisions although there has been some reorganisation of provisions to ensure that similar matters are grouped together. To make the transition easier, section headings in the bill refer to the section on which the new section is based.

The bill preserves the appointments of existing magistrates and other officers and enables the court to continue to deal with existing proceedings. A number of changes are being introduced in the bill. These include, firstly, requiring a person to have a minimum of five years' experience as a legal practitioner before being appointed as a magistrate and, secondly, creating a single Local Court Rule Committee to make rules in relation to civil, criminal and application proceedings instead of the existing two rule committees. The Local Court Bill introduces the

concept of a relevant registrar. Some Acts refer to actions that need to be carried out by the registrar of a particular Local Court, for example, notifying the Roads and Traffic Authority when a conviction or order is made under the Road Transport (Heavy Vehicles Registration Charges) Act 1995. This term will be used when an Act or regulation needs to refer to a registrar at a particular place instead of to registrars generally.

There are numerous references to Local Courts in Acts and regulations. The Miscellaneous Acts (Local Court) Amendment Bill will update these references with references to the Local Court of New South Wales. The changes being made by these bills will facilitate the Government's ongoing commitment to providing accessible court services across the State. I commend the bills to the House.