Speech by

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MENTAL HEALTH BILL

Miss SIMPSON (Maroochydore—NPA) (5.35 p.m.): One of the most significant health issues facing modern society aside from alcohol and drug abuse is in fact the nation's mental health. The 1993 Burdekin report found that in our community at least one in five will experience mental illness at some stage of their lives. A Bureau of Statistics report in 1998 stated that 17.7% of adults, almost one in six, had some form of mental illness in the previous year. The coalition will be supporting the Mental Health Bill with some important amendments, but I particularly wish to acknowledge the extensive work of consultation and preparation that was undertaken by the previous Health Minister, Mike Horan, and his staff and the former director of Mental Health, Dr Harvey Whiteford, as well as the current director of Mental Health, Dr Peggy Brown.

Before discussing the provisions of the Bill as well as my concerns about the funding implications and state of current services, I would like to focus on the significance of mental illness in the community. The World Health Organisation defines a mental disorder as "the existence of a clinically recognisable set of symptoms or behaviours associated in most cases with distress and with interference with personal functions". The Bill defines mental illness as "a condition characterised by a clinically significant disturbance of thought, mood, perception or memory".

The families and loved ones who know the effect of living with a mental illness when the illness is not under control will tell anyone that it can be devastating. Others, too, will talk about their pathway to wellness and the steps taken with the appropriate support to regain their quest for control over their lives. One report found that women were most likely to suffer from anxiety and depression and men from a dependence upon alcohol. In further information, a Bureau of Statistics report found that marital status was a significant factor, with 28% of separated or divorced people reporting a mental illness. This was almost twice the rate of those still married and slightly higher than those who never married.

Another major factor was unemployment, with more than one in three, or 34.1%, unemployed people reporting a mental illness. This was twice the national average. According to this report, the group with the best mental health were those who were neither in work nor looking for a job and people in full-time employment. The incidence of mental illness also fell sharply as people aged. More than one quarter of 18 to 24 year olds reported a mental illness last year compared with 5.5% of those people over 65. Drugs and alcohol appeared to play a major part in that, with 21.5% of young males reporting either an addiction to or harmful use of drugs and alcohol.

Suicide is a great tragedy in our community. It is a very final outcome for someone who is suffering a mental illness. In Queensland in 1998 some 579 people were recorded as taking their own lives. That figure is shocking enough, but in reality it is likely to be far higher given the anecdotal tales of people suiciding through road accidents. These fatalities, of course, are in the road statistics and not the suicide statistics. Statistics from the Australian Bureau of Statistics also show that 454 of the 1998 suicide figures were men and 125 were women. With regard to mental health in the community, for some sufferers it is a short-term experience. For others, it is a more chronic problem that severely affects their quality of life and daily functioning and also impacts upon the lives of their loved ones and community. There is a far greater understanding of the impacts of mental illness in all its complex manifestations in our community today than there was 20 to 50 years ago, but it is fair to say that there is still further to go.

I refer to the heartache of a parent whose child has been diagnosed with schizophrenia, for example, and their struggle to find treatment solutions and get back in control of their lives, or to the heartache of a child whose parent suffers from a mental illness, making home life a challenging arena as they struggle to understand their own identity and the weight of responsibility. There are many and varied scenarios that sufferers and their loved ones face.

There is also the increasing overlay of the use of illicit drugs or abuse of legal drugs with people who have a mental illness. Some workers in the field claim that there can be up to a 70% overlay between the existence of a mental illness and the abuse of drugs. This is a major problem, as is the conflicting service delivery models of the health profession and particularly the State Health Department. This is an issue that I believe needs to be addressed.

I believe further safeguards need to be looked at, in the legislation and in practice, to deal with this. For example, it may be that there is a need for further powers to detain people who are taken into a health facility for assessment under the Mental Health Act and who are found not to be mentally ill but intoxicated or under the influence of a drug. They are really not in a position to consent to treatment, yet they are not safe. If they were returned to a home situation or not admitted to a hospital or other treatment facility, they would be a harm to themselves. Unfortunately, there can be a breakdown in services. Somebody may have or may be suspected of having a mental illness but they also have problems to do with alcohol and drug abuse.

During our two short years in Government, the coalition State Government, under Health Minister Mike Horan, took a mental health service with the lowest per capita expenditure in Australia and started to rebuild it under the 10-year mental health plan. The 10-year mental health plan which Mike Horan took to Cabinet was focused on progressing mental health services throughout the State and provides an important blueprint for the planning of services with long-term as well as short-term horizons.

A significant move of the coalition was to quarantine mental health dollars. This is not just a moral issue; it is a legal one, due to the terms of the Medicare Agreement. Under the Goss Labor Government and then Health Minister Jim Elder, Queensland was clearly in breach in both of those areas. In fact, considering the findings of the Ward 10B inquiry, what is damnable is that an incoming Goss Labor Government stole money out of the mental health budget. Between 1992 and 1994, under the Goss Labor Government, funds were siphoned from mental health programs to fund other areas of health expenditure, with $1.8m of new funding—that was $1.8m of new funding intended for mental health—delivering only a $500,000 increase in actual mental health service funding. In other words, some $1.3m was siphoned out of mental health funds into other services.

The Ward 10B inquiry revealed shocking issues which had to be addressed, but what is unforgivable is that, following those revelations and recommendations, additional funding was taken elsewhere by a Labor Government. It was such an abysmal record that the then State Labor Health Minister, Jim Elder, was reprimanded by the then Federal Labor Health Minister, Carmen Lawrence, who raised her concerns about this issue with him in writing in 1995.

The history of the legislation is extensive, but it is important to note that the coalition Cabinet prior to the change of Government had given authority to prepare the Bill and the process was started after extensive consultation. It is interesting that this Minister, in bringing the legislation forward nearly two years after taking office, made the comment in 1998 in this Parliament that "all the work and all the consultation had been done before 1996, before the change of Government". Considering that in 1998 this Minister considered that all the work had been done, I wonder what she has been doing for the last two years. Two years later, essentially the same provisions have come forward, many of which we welcome. There are some differences which obviously are of concern and which I will seek to address with appropriate amendments.

In brief, the provisions of the Bill are well outlined within the Explanatory Notes, but some significant aspects of the Bill are the change from the Mental Health Tribunal to a Mental Health Court, the change from the Patient Review Tribunal to a Mental Health Review Tribunal and the change in the way evidence is handled in that Mental Health Court. The focus in this Bill is more and more on the supply of a mental health service in the community as a community-based treatment and on the need to recognise voluntary and involuntary treatment orders that take into account changing models of care. The current models of care options are very different from when the 1974 Mental Health Bill came before this Parliament. As I said, many aspects of this Bill were agreed upon during the time the coalition was in Government.

I think it is appropriate that at this time I outline some of the provisions we will be looking to amend. The first is the issue of the clash between the needs of treating someone with a mental illness and the needs of the victim of a person with a mental illness. Victims' needs are tragic and, unfortunately, have not previously been well addressed in law or in practice. There has been much discussion about the need to involve the victims of crime perpetrated by somebody with a mental illness. As I will outline later, the majority of people with mental illnesses are more of a threat to

themselves than to the community but, tragically, research shows that there is a high correlation between violent crime and mental illness. I stress: a majority of people with a mental illness are not a threat to the community.

The pain, fear and frustration of people who have been the victims of a violent crime committed by someone who suffers from a mental illness are well and truly on the record. This Bill seeks to establish a notification system for victims. I certainly welcome such a notification system so that victims have some concept of what is happening with a person who has been charged and who may be yet to face court, if they are found fit to stand trial at a later date, or who has been found to be of unsound mind at the time and detained in a treatment facility. However, I believe that the Government's provisions fall far short.

There is no provision in the Mental Health Bill to notify those victims of crime if somebody escapes from detention. There is no provision under the proposed notification orders to notify victims if somebody has gone AWOL. There are plenty of examples on the public record of this situation occurring. I will quote one of those. I believe that the stories of some of these victims of crime need to be noted for the public record. The Courier-Mail on 22 September 1999 reported the story of someone who was found not fit to stand trial. It states—

> "Claude John Gabriel was charged with murdering Janaya Clarke on November 1998 after he picked up her and two other female hitchhikers on the Gold Coast."

The article continues—

> "The murder charge was dropped after he was deemed to be suffering from schizophrenia and he was committed to the John Oxley Memorial Hospital for treatment in July. An autopsy found Ms Clarke, 17, suffered 13 knife wounds to the upper body in the frenzied attack. The incident has outraged victim support groups and Janaya's mother, Robyn Clarke. Gabriel left the hospital grounds at Wolston Park on Friday and was found about two hours later by staff hitchhiking along Ipswich Road."

Despite the fact that the Health Minister's office and prosecution staff had guaranteed that family that this could not happen, it did happen. We acknowledge that people going absent without leave from so-called secure facilities has been a problem. There is quite a well-documented problem in recent times of people going absent when they have been supposedly on escorted leave.

First, let us deal with this issue of notification to victims. This Bill does not give provision for notification to a victim if somebody escapes from detention in a mental health facility. We will be seeking to fix that in our amendments. Furthermore, our amendments will make provision for orders to be made for minimum periods of detention for forensic patients in a mental health facility. I am not proposing a mandatory period of detention but we intend to give the Mental Health Court judicial power to provide for that minimum period of detention in a mental health facility. This acknowledges that there has to be a balance of responsibilities. This will allow for the patient to be treated within the facility.

The coalition's amendments will provide for a toughening up of the provisions regarding escorted leave. Once again. I refer to articles on the public record concerning instances of forensic patients who have gone absent without leave. These are people who have been charged with an indictable offence. Once again, the victims of crime have not been notified. There is a need to toughen up the provisions in relation to that type of leave.

I have spoken with a lot of people who have had mental illnesses. I have also spoken with their families and the staff of these facilities. These are people who have a wide-ranging interest in this issue and are stakeholders in this matter. I am concerned to learn that so many people are allowed to go absent without leave. These are people who had a history of violence—sometimes only a month or two earlier. The victims have not been notified. There has not been sufficient accountability for the decisions that have been made about the level of security that is afforded to the person who has been granted leave from the facility. The coalition's amendments will provide for stricter criteria relating to escorted leave.

I want to refer to an article in the Sunday Mail of 7 March 1999. This was an article which was written by Chris Griffith. It was entitled Mental Patient Alert: Violent Offenders Among 37 Missing. It referred to the fact that dozens of mental health patients, including violent criminal offenders, had gone missing in Queensland. Among the 37 missing was dangerous schizophrenic Rosemary Helen Saibura who, in 1996, produced a steak knife from her bag and stabbed a stranger. It is obviously painful for people who have suffered in these cases to hear these facts repeated. This information is on the public record.

The article stated that the Queensland Health Department released statistics which stated that three of the 37 voluntary patients had disappeared from hospital grounds, one from day leave and seven from escorted excursions. The other 26 had disappeared while on extended leave to be treated in the community. All the missing persons had originally been held at the John Oxley Memorial Hospital.

It is one thing to talk about the rights of the victims and the rights of the community, but it is another thing to talk about the treatment of the people who have been put into these detention centres for treatment. These people go absent without leave and the people who may have suffered at the hands of these forensic patients are not notified. These patients are not in care and are not being treated. The provisions relating to people who achieve leave from these facilities must be much more strict.

The Bill should contain provisions which ensure that when an issue comes before the tribunal to review the treatment needs of the patient—they may be making application for leave or for different treatment—a range of evidence should be taken into consideration. Obviously the tribunal has the power to call certain evidence. I believe it is time that the professional standing of the mental health professionals who are treating and caring for our mental health patients in the mental health facilities needs to be taken into consideration. In its amendments, the coalition will be ensuring that not only are the reports made available to the tribunal, but the clinical notes of the mental health carers, including nursing staff who are professionals in 24-hour contact with the patients, are available to the tribunal. This will ensure that the best information is taken into consideration by the tribunal in considering the best treatment needs of the patient.

If the Minister makes a forensic order, it is imperative that she takes into account the seriousness of the offence and the protection of the community. This is a matter for the Mental Health Court and the Mental Health Review Tribunal when they make a decision.

I want to refer once again to the question of notification to the victim because much has been made by the Minister of the fact that the victims may be notified. This legislation is dreadfully flawed. For example, there is no way in which the department can be penalised if the person responsible does not fulfil the provisions of the notification order. In other words, if an officer of the department fails to notify the necessary person, there is nothing in this legislation which spells out the onus on the department. By contrast, the person whom the notification order is supposed to benefit— presumably the victim—could face a penalty order if they fail to comply with the notification order. I am shocked to think that we have a double standard here. This legislation contains no information with regard to the onus on the department and the implications if a departmental officer fails to notify someone who has a legitimate need to know.

The legislation does not contain provisions which deal with a patient being absent without leave from a detention centre. In contrast, the patient's victim in that case could face a fine of up to $3,000 if, in some way, the victim breached the conditions of a notification order. The provisions could be better framed in such a way that they still protect the rights of people who are forensic patients. There are better ways of balancing the situation and providing for the very real needs of the victims of crime who have lived through hell and who find that they are still living with that ongoing situation.

I want to address the issue of standards in the service. It is interesting to note that about five years ago an audit was undertaken of the facilities of the Mental Health Service. I call on the Minister today to guarantee that there will be an independent audit of the Mental Health Service, both operationally and financially. There is a great need to spend more money on mental health facilities. However, it is five years since the last audit was undertaken. That audit found that the Labor Government had not been spending the mental health dollars available on mental health services. The audit found that all mental health facilities which were audited did not meet minimum standards.

I ask the Minister to advise the Parliament of how many of the mental health facilities meet the minimum standard and whether she will support an independent audit of the mental health facilities in this State. It is important that we have an audit of the financial side of the delivery of care. This Government has siphoned off the mental health dollars. It is important that we have an independent audit of the way in which these dollars are spent. We need to spend more money on mental health, but it is not solely a question of the amount of money that is spent. We also need to know where it is spent and how it is spent to make sure that it gets to the area of service delivery.
