

2001-2002

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 30

WEDNESDAY, 28 AUGUST 2002

1 The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Berry) ordered the bells to be rung. A quorum having been formed the Speaker took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 PETITION

The Clerk announced that the following Member had lodged a petition for presentation:

Ms Tucker, from 515 residents, requesting that the Assembly call on the ACT Government to stop the proposed land auction at East O'Malley until a strategic and comprehensive framework for woodland conservation in the ACT has been developed in consultation with the community.

3 COMMUNITY REFERENDUM BILL 2002

Mr Humphries (Leader of the Opposition), pursuant to notice, presented a Bill for an Act to enable the people of the ACT to initiate and vote on legislative proposals.

Paper: Mr Humphries, by leave, presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Humphries moved - That this Bill be agreed to in principle.

Debate adjourned (Mr Stanhope – Attorney-General) and the resumption of the debate made an order of the day for the next sitting.

4 ADVENTURE ACTIVITIES (LIABILITY) BILL 2002

Mr Smyth, pursuant to notice, presented a Bill for an Act to regulate compensation payable in relation to the death or injury of people taking part in certain adventure activities.

Paper: Mr Smyth presented an explanatory memorandum to the Bill.

Title read by Clerk.

Mr Smyth moved - That this Bill be agreed to in principle.

Debate adjourned (Mr Quinlan - Treasurer) and the resumption of the debate made an order of the day for the next sitting.

5 DELIBERATIVE COMMITTEE MEETINGS BY ELECTRONIC COMMUNICATIONS – ADOPTION OF TEMPORARY ORDER

Ms Tucker, pursuant to notice, moved – That the following temporary order be adopted:

230A Deliberative Meetings by Electronic Communications

A committee may resolve to conduct deliberative meetings by electronic communications without the members of the committee being present in one place, provided that:

- (a) when a committee deliberates, members of the committee constituting a quorum are able to speak to, and hear, each other contemporaneously; and
- (b) the Presiding Member of such a meeting takes care to ensure that a quorum is maintained during the meeting and that the standing orders and rules of the Assembly are observed.

Mr Hargreaves moved the following amendment:

Omit “adopted”, substitute “be referred to the Standing Committee on Administration and Procedure for inquiry and report”.

Debate continued.

Amendment negatived.

On the motion of Mr Stefaniak the following amendment was made:

After the word “place,” insert “only when face to face meetings are impossible,”.

Question proposed – That the motion, as amended, be agreed to –

Debate continued.

Question – That the motion, as amended, viz:

That the following temporary order be adopted:

230A Deliberative Meetings by Electronic Communications

A committee may resolve to conduct deliberative meetings by electronic communications without the members of the committee being present in one place, only when face to face meetings are impossible, provided that:

- (a) when a committee deliberates, members of the committee constituting a quorum are able to speak to, and hear, each other contemporaneously; and
- (b) the Presiding Member of such a meeting takes care to ensure that a quorum is maintained during the meeting and that the standing orders and rules of the Assembly are observed –

be agreed to – put and passed.

6 DRAFT VARIATION 200 TO THE TERRITORY PLAN – PROPOSED WITHDRAWAL

Mrs Dunne, pursuant to notice, moved – That the Government withdraw Draft Variation 200 to allow further consultation and discussion on its implications, especially in relation to the future size and nature of Canberra and its relationship to other strategic documents, notably the Spatial Plan, the Social Plan and the Economic White Paper.

Debate ensued.

Mr Corbell (Minister for Planning), by leave, was granted an extension of time.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

7 QUESTIONS

Questions without notice being asked –

Paper: Mr Stanhope (Minister for Health) presented the following paper:

Hospital waiting lists – Answer to question without notice asked of Mr Stanhope by Mr Humphries (Leader of the Opposition) and taken on notice on 21 August 2002.

Questions continued.

8 PETITION – OUT OF ORDER

Mr Corbell (Acting Manager of Government Business) presented the following paper:

Petition which does not conform with the standing orders – Ms Tucker – East O'Malley proposed land auction (222 citizens).

9 MATTER OF PUBLIC IMPORTANCE – DISCUSSION – RIGHT OF THE A.C.T. TO SELF-DETERMINATION

The Assembly was informed that Mr Hargreaves had proposed that a matter of public importance be submitted to the Assembly for discussion, namely, “The need for the Commonwealth Government to recognise the right of the ACT community to self-determination.”.

Discussion ensued.

Discussion concluded.

10 DRAFT VARIATION 200 TO THE TERRITORY PLAN – PROPOSED WITHDRAWAL

The order of the day having been read for the resumption of debate on the motion of Mrs Dunne – That the Government withdraw Draft Variation 200 to allow further consultation and discussion on its implications, especially in relation to the future size and nature of Canberra and its relationship to other strategic documents, notably the Spatial Plan, the Social Plan and the Economic White Paper –

Debate resumed.

Mr Smyth, by leave, was granted an extension of time.

Debate continued.

Question – That the motion be agreed to – put.

The Assembly voted –

Ayes, 5

Mrs Dunne
Mr Humphries
Mr Pratt
Mr Smyth
Mr Stefaniak

Noes, 8

Mr Berry
Mr Corbell
Ms Dundas
Ms Gallagher
Mr Hargreaves
Mr Quinlan
Mr Stanhope
Ms Tucker

And so it was negatived.

11 GUNGAHLIN – TELECOMMUNICATION SERVICES

Notice No 5, private Members business, having been called on –

Ms Gallagher, pursuant to standing order 128, fixed the next day of sitting for the moving of notice No 5, private Members' business.

12 DISCRIMINATORY REFERENCES IN A.C.T. LEGISLATION – COMPILATION OF REPORT

Ms Dundas, pursuant to notice, moved – That this Assembly calls on the ACT Government to compile a report on necessary steps to achieve equal status for lesbian, gay, bisexual, transgender and intersex people in the ACT, to be provided to this Assembly before the end of November 2002. The report will include, but is not limited to:

- (1) a full audit of ACT legislation detailing all instances of laws that discriminate against lesbians, gays, bisexuals, transgender and intersex people, including reference to:
 - (a) legislation that discriminates in language or effect, including directly, indirectly or by omission;
 - (b) legislation that discriminates either in the definition, or the lack of definition, of relationships including spouse, de facto spouse, family, relative, kin, parent or guardian; and
 - (c) the reproductive and parenting rights of the abovementioned people, including adoption, artificial conception, substitute parenting and eligibility to be recognised on a child's birth certificate;
- (2) an investigation of possible means to introduce registered relationships, or Civil Unions, under Territory Law;
- (3) an investigation of the introduction of anti-vilification legislation to protect the above-mentioned groups, as well as persons infected with HIV/AIDS;
- (4) an investigation of the issue of explicitly excluding the defence of provocation being available as a result of a non-violent homosexual advance;
- (5) an investigation of the needs of transgender people in the ACT, including whether current legislative frameworks are adequately addressing their needs;

- (6) an investigation of the issue of normalising surgery for intersex adults and children; including possible legislative protection to prevent unnecessary intervention;
- (7) changes in Government policy, programs or priorities that would improve outcomes for lesbian, gay, bisexual, transgender or intersex people in the ACT; and
- (8) a process for community participation and input into the report.

Mr Hargreaves addressing the Assembly –

Adjournment negatived: It being 5 p.m. – The question was proposed – That the Assembly do now adjourn.

Mr Stanhope (Chief Minister) requiring the question to be put forthwith without debate –
Question – put and negatived.

Debate continued.

Paper: Mr Stanhope (Attorney-General) presented the following paper:

Discriminatory references in ACT legislation – List of legislation for possible amendment.

Debate continued.

On the motion of Mr Stanhope, by leave, the following amendments were made together, after debate:

- (No. 1) Omit all words from and including “That this Assembly calls on” to and including “The report will include but is not limited to:”.

Substitute:

“That this Assembly notes that the Government has undertaken a full review of all ACT legislation to identify provisions discriminatory to lesbian, gay, bisexual, transgender and intersex people and is compiling a report on the necessary steps to achieve equal status for lesbian, gay, bisexual, transgender and intersex people in the ACT and the Government will provide a copy of the report to the Assembly by 1 May 2003. The report will include but is not limited to:

- (No. 2) Omit clause (8), substitute the following clause:

“The Assembly also notes that a necessary step to the achievement of equal status will be community participation in the process of identifying and removing discriminatory legislation and practices.”.

Debate continued.

Question – That the motion, as amended, viz:

That this Assembly notes that the Government has undertaken a full review of all ACT legislation to identify provisions discriminatory to lesbian, gay, bisexual, transgender and intersex people and is compiling a report on the necessary steps to achieve equal status for lesbian, gay, bisexual, transgender and intersex people in the ACT and the Government will provide a copy of the report to the Assembly by 1 May 2003. The report will include but is not limited to:

- (1) a full audit of ACT legislation detailing all instances of laws that discriminate against lesbians, gays, bisexuals, transgender and intersex people, including reference to:
 - (a) legislation that discriminates in language or effect, including directly, indirectly or by omission;
 - (b) legislation that discriminates either in the definition, or the lack of definition, of relationships including spouse, de facto spouse, family, relative, kin, parent or guardian; and
 - (c) the reproductive and parenting rights of the abovementioned people, including adoption, artificial conception, substitute parenting and eligibility to be recognised on a child's birth certificate;
- (2) an investigation of possible means to introduce registered relationships, or Civil Unions, under Territory Law;
- (3) an investigation of the introduction of anti-vilification legislation to protect the above-mentioned groups, as well as persons infected with HIV/AIDS;
- (4) an investigation of the issue of explicitly excluding the defence of provocation being available as a result of a non-violent homosexual advance;
- (5) an investigation of the needs of transgender people in the ACT, including whether current legislative frameworks are adequately addressing their needs;
- (6) an investigation of the issue of normalising surgery for intersex adults and children; including possible legislative protection to prevent unnecessary intervention;
- (7) changes in Government policy, programs or priorities that would improve outcomes for lesbian, gay, bisexual, transgender or intersex people in the ACT; and
- (8) The Assembly also notes that a necessary step to the achievement of equal status will be community participation in the process of identifying and removing discriminatory legislation and practices –

be agreed to – put and passed.

13 COMMUNITY REFERENDUM BILL 2002

Mr Humphries (Leader of the Opposition), by leave, presented a Bill for an Act to enable the people of the ACT to initiate and vote on legislative proposals.

Paper: Mr Humphries, by leave, presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Humphries moved - That this Bill be agreed to in principle.

Debate adjourned (Mr Stanhope – Attorney-General) and the resumption of the debate made an order of the day for the next sitting.

14 WITHDRAWAL OF ORDER OF THE DAY

Mr Humphries (Leader of the Opposition), by leave, moved – That the Community Referendum Bill 2002 presented earlier this day be withdrawn from the *Notice Paper*.

Question – put and passed.

15 LEAVE OF ABSENCE TO MEMBERS

Mr Humphries (Leader of the Opposition) moved - That leave of absence for today, 28 August 2002 be given to Mrs Cross and Mr Cornwell.

Question - put and passed.

16 ADJOURNMENT

Mr Stanhope (Chief Minister) moved – That the Assembly do now adjourn.

Debate ensued.

Question – put and passed.

And then the Assembly, at 5.42 p.m., adjourned until tomorrow at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Mr Wood (on leave), Mrs Cross (on leave) and Mr Cornwell (on leave).

M J McRAE

Clerk of the Legislative Assembly