

1998-1999-2000

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 86

TUESDAY, 9 MAY 2000

- 1** The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Cornwell) 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 JUSTICE AND COMMUNITY SAFETY – STANDING COMMITTEE (INCORPORATING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE) – SCRUTINY REPORT NO. 6 OF 2000 – REPORT NOTED**

Mr Osborne (Chair) presented the following report:

Justice and Community Safety – Standing Committee (incorporating the duties of a Scrutiny of Bills and Subordinate Legislation Committee) – Scrutiny Report No. 6 of 2000, dated 1 May 2000

–

and moved – That the report be noted.

Debate ensued.

Question – put and passed.

- 3 OCCUPATIONAL HEALTH AND SAFETY AMENDMENT BILL 2000 (NO 2)**

Mr Smyth (Minister for Urban Services), by leave, presented a Bill for an Act to amend the *Occupational Health and Safety Act 1989* and for other purposes.

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 Berry) and the resumption of the debate made an order of the day for the next sitting.

Statement by Member: Mr Berry, by leave, made a statement in relation to the Occupational Health and Safety Amendment Bill 2000 (No 2).

4 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 3) 1999

The Assembly, according to order, resumed consideration at the detail stage.

Detail stage

Clauses 2 to 4, by leave, taken together and agreed to.

Schedule 1 –

On the motion of Mr Humphries (Attorney-General), by leave, the following amendments were made together:

Page 3, line 2, before the proposed amendment of the *Consumer Credit Act 1995*, insert the following amendment:

“Commercial Arbitration Act 1986

Subsection 20A (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.”.

Page 6, line 25, before the proposed amendments of the *Credit Act 1985*, insert the following amendment:

“Coroners Act 1997

Subsection 42A (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.”.

Mr Humphries moved the following amendment:

Page 7, line 4, before the proposed amendments of the *Fair Trading Act 1992*, insert the following amendments:

“Director of Public Prosecutions Act 1990

Paragraphs 6 (1) (fa) and (g)—

Omit the paragraphs, substitute the following paragraphs:

- ‘(fa) making applications for orders to review under section 219C of the *Magistrates Court Act 1930*, and conducting such proceedings;
- (fb) for prosecutions or other proceedings mentioned in paragraphs (a) to (fa)—causing the proceedings to be brought to an end;
- (g) for appeals in relation to matters mentioned in paragraphs (a) to (fb)—
 - (i) instituting or responding to appeals (including appeals against sentence);
 - (ii) conducting appeals (including appeals against sentence) as appellant or respondent, whether instituted or responded to by the director or not;’.

Paragraph 6 (1) (h)—

Omit the paragraph, substitute the following paragraph:

- ‘(h) functions given to the director under another provision of this Act or any other Territory law;’.

Subsection 6 (3)—

Omit the subsection.

Subsection 10 (3) (definition of *right of appeal*, paragraph (b))—

Omit ‘rehearing’, substitute ‘rehearing; and’.

Subsection 10 (3) (definition of *right of appeal*)—

After paragraph (b), add the following paragraph:

‘(c) a right to appeal against sentence.’.

Section 16A—

Repeal the section, substitute the following section:

‘16A Commonwealth prosecutions by director and staff of office

‘(1) This section applies to the director, or a member of the staff of the office who is a legal practitioner, if the director or member is authorised to prosecute offences against Commonwealth laws under—

- (a) a Commonwealth law; or
- (b) an instrument issued by or on behalf of the Commonwealth under an agreement between the Territory and the Commonwealth; or
- (c) an agreement with the Commonwealth director.

‘(2) The director or member may institute or conduct prosecutions against Commonwealth laws in accordance with the Commonwealth law, instrument or agreement.

‘(3) Without limiting subsection (2), the director or member may do any of the following in relation to offences against Commonwealth laws:

- (a) make applications for orders to review under section 219C of the *Magistrates Court Act 1930*, and conduct such proceedings;
- (b) cause prosecutions and other proceedings to be brought to an end;
- (c) institute or respond to appeals (including appeals against sentence);
- (d) conduct appeals (including appeals against sentence) as appellant or respondent, whether instituted or responded to by the director or member or not.

‘(4) In this section—

prosecution includes a proceeding for the commitment of a person for trial for an indictable offence.’.

Discrimination Act 1991**Subsection 96A (1)—**

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Evidence Act 1971**Part 12AA—**

Repeal the Part.

Evidence (Closed-Circuit Television) Act 1991**Title—**

Omit the title, substitute the following title:

‘An Act about evidence’.

Section 1—

Repeal the section, substitute the following Part and Part heading:

‘PART 1—PRELIMINARY**‘1 Name of Act**

This Act is the *Evidence (Miscellaneous Provisions) Act 1991*.

**‘PART 2—GIVING OF EVIDENCE ABOUT SEXUAL OFFENCES
BY CHILDREN’.****Section 2, heading—**

Omit the heading, substitute the following heading:

‘2 Definitions for pt 2’.**Subsection 2 (1)—**

Omit ‘(1) In this Act, unless the contrary intention appears—’, substitute ‘In this Part, the following definitions apply.’.

Subsection 2 (1) (definition of *child*)—

Omit the definition.

Subsection 2 (1)—

Insert the following definition:

Magistrates Court includes the Childrens Court.

Subsection 2 (2)—

Omit the subsection.

New Parts 3 and 4—

After section 11, add the following Parts:

‘PART 3—USE OF AUDIOVISUAL LINKS AND AUDIO LINKS***‘Division 3.1—Preliminary*****‘14 Definitions for pt 3**

In this Part, the following definitions apply:

audio link means a system of 2-way communication linking different places so that a person speaking at any of them can be heard at the other places.

audiovisual link means a system of 2-way communication linking different places so that a person at any of them can be seen and heard at the other places.

participating State means another State where provisions of an Act in terms substantially corresponding to this Part are in force.

recognised court means a court or tribunal of a participating State that is authorised by the provisions of an Act of that State in terms substantially corresponding to this Part to direct that evidence be taken or a submission made by audiovisual link or audio link from the Territory.

State includes Territory.

Territory court means—

- (a) a court constituted under a Territory law; or
- (b) a royal commission under the *Royal Commissions Act 1994*; or
- (c) a judicial commission under the *Judicial Commissions Act 1994*; or
- (d) a tribunal of the Territory; or
- (e) an arbitrator or umpire conducting proceedings under the *Commercial Arbitration Act 1986*.

tribunal, in relation to a State, means a person or body authorised under the law of the State to take evidence on oath or affirmation.

‘15 Application of pt 3

This Part applies in relation to all proceedings, including—

- (a) proceedings pending at the commencement of this Part; and
- (b) proceedings begun after the commencement of this Part that arise from circumstances, matters or events that arose or happened before that commencement.

‘16 Operation of other Acts

This Part is not intended to exclude or limit the operation of any Territory law that makes provision for the taking of evidence or making of a submission outside the Territory for a proceeding in the Territory.

‘Division 3.2—Use of interstate audiovisual links or audio links in proceedings before Territory courts

‘17 Application of div 3.2

This Division applies to any proceeding before a Territory court.

‘18 Territory courts may take evidence and submissions from outside the Territory

‘(1) A Territory court may, on the application of a party to a proceeding before the court or on its own initiative, direct that evidence be taken or a submission made by audiovisual link or audio link, from a participating State.

‘(2) The court may make the direction only if satisfied that—

- (a) the necessary facilities are available or can reasonably be made available; and
- (b) the evidence or submission can more conveniently be given or made from the participating State; and
- (c) the making of the direction is not unfair to a party opposing the making of the direction.

‘(3) The court may exercise in the participating State, in relation to taking evidence or receiving a submission by audiovisual link or audio link, any of its powers that the court is permitted, under the law of the participating State, to exercise in the participating State.

‘(4) The court may at any time vary or revoke a direction under this Division, either on the application of a party to the proceeding or on its own initiative.

‘19 Legal practitioners entitled to practise

A person who is entitled to practise as a legal practitioner in a participating State is entitled to practise as a legal practitioner—

- (a) in relation to the examination-in-chief, cross-examination or re-examination of a witness in the participating State whose evidence is being given by audiovisual link or audio link in a proceeding before a Territory court; and
- (b) in relation to the making of a submission by audiovisual link or audio link from the participating State in a proceeding before a Territory court.

***‘Division 3.3—Use of interstate audiovisual links or audio links
in proceedings in participating States***

‘20 Application of div 3.3

This Division applies to any proceeding before a recognised court.

‘21 Recognised courts may take evidence or receive submissions from people in the Territory

A recognised court may, for a proceeding before it, take evidence or receive a submission by audiovisual link or audio link from a person in the Territory.

‘22 Powers of recognised courts

‘(1) The recognised court may, for the proceeding, exercise in the Territory, in relation to taking evidence or receiving a submission by audiovisual link or audio link, any of its powers except its powers—

- (a) to punish for contempt; and
- (b) to enforce or execute its judgments or process.

‘(2) The laws of the participating State (including rules of court) that apply to the proceeding in that State also apply, by operation of this subsection, to the practice and procedure of the recognised court in taking evidence or receiving a submission by audiovisual link or audio link from a person in the Territory.

‘(3) For the exercise by the recognised court of its powers, the place in the Territory where evidence is given or a submission is made is taken to be part of the court.

‘23 Orders made by recognised court

Without limiting section 22, the recognised court may, by order—

- (a) direct that the proceeding, or a part of the proceeding, be conducted in private; or
- (b) require a person to leave a place in the Territory where the giving of evidence or the making of a submission is taking place or is going to take place; or
- (c) prohibit or restrict the publication of evidence given in the proceeding or of the name of a party to, or a witness in, the proceeding.

‘24 Enforcement of order

‘(1) Subject to rules of court, an order under section 23 may be enforced by the Supreme Court as if the order were an order of that court.

‘(2) Without limiting subsection (1), a person who contravenes the order—

- (a) is taken to be in contempt of the Supreme Court; and

(b) is punishable accordingly;

unless the person establishes that the contravention should be excused.

‘25 Privileges, protection and immunity of participants in proceedings in courts of participating States

‘(1) A judge or other person presiding at or otherwise taking part in a proceeding before a recognised court has, in relation to evidence being taken or a submission being received by audiovisual link or audio link from a person in the Territory, the same privileges, protection and immunity as a judge of the Supreme Court.

‘(2) A person appearing as a legal practitioner in a proceeding before a recognised court has, in relation to evidence being taken or a submission being received by audiovisual link or audio link from a person in the Territory, the same protection and immunity as a barrister has in appearing for a party in a proceeding before the Supreme Court.

‘(3) A person appearing as a witness in a proceeding before a recognised court by audiovisual link or audio link from the Territory has the same protection as a witness in a proceeding before the Supreme Court.

‘26 Recognised court may administer oath in the Territory

‘(1) A recognised court may, for the purpose of obtaining in a proceeding, by audiovisual link or audio link, the testimony of a person in the Territory, administer an oath or affirmation in accordance with the practice and procedure of the recognised court.

‘(2) Evidence given by a person on oath or affirmation so administered is, for the law of the Territory, testimony given in a judicial proceeding.

‘27 Assistance to recognised court

An officer of a Territory court may, at the request of a recognised court—

- (a) attend at the place in the Territory where evidence is to be or is being taken, or a submission is to be or is being made, in the proceeding; and
- (b) take such action as the recognised court directs to facilitate the proceeding; and
- (c) assist with the administering by the recognised court of an oath or affirmation.

‘28 Contempt of recognised courts

A person must not, while evidence is being given, or a submission is being made, in the Territory by audiovisual link or audio link, in a proceeding in a recognised court—

- (a) assault—
 - (i) a person appearing in the proceeding as a legal practitioner; or
 - (ii) a witness appearing in the proceeding; or
 - (iii) an officer of a Territory court giving assistance under section 27; or
- (b) threaten, intimidate or wilfully insult—
 - (i) a judge or other person presiding at or otherwise taking part in the proceeding; or
 - (ii) a master, registrar, deputy registrar or other officer of the court who is taking part in or assisting in the proceeding; or
 - (iii) a person appearing in the proceeding as a legal practitioner; or
 - (iv) a witness in the proceeding; or

- (v) a juror in the proceeding; or
- (c) wilfully interrupt or obstruct the proceeding; or
- (d) wilfully and without lawful excuse disobey an order or direction of the court.

Maximum penalty: Imprisonment for 3 months.

‘Division 3.4—Use of audiovisual links or audio links between Territory courts and places in the Territory

‘29 Application of div 3.4

This Division applies to any proceeding before a Territory court.

‘30 Use of link in proceedings

‘(1) Subject to any Act or rules of court, a Territory court may, on the application of a party to a proceeding before it or on its own initiative, direct that a person, whether or not a party to the proceeding, appear before, or give evidence or make a submission to, the court by audiovisual link or audio link from a place in the Territory that is outside the courtroom or other place where the court is sitting.

‘(2) The court may make the direction only if satisfied that—

- (a) the necessary facilities are available or can reasonably be made available; and
- (b) the evidence or submission can more conveniently be given or made from the place that is outside the courtroom or other place where the court is sitting; and
- (c) the making of the direction is not unfair to any party opposing the making of the direction.

‘(3) The court may at any time vary or revoke a direction made under this Division, either on the application of a party to the proceeding or its own initiative.

‘Division 3.5—Protection of certain communications and documents in criminal proceedings

‘31 Application of div 3.5

This Division applies to a communication made, and a document transmitted, by audiovisual link or audio link between an accused person and his or her legal representative during the course of a proceeding in relation to which, or to a part of which, an audiovisual or audio link has been used under this Part or a provision of another Territory law.

‘32 Protection of confidentiality

Without limiting any other protection that applies to it, a communication or document to which this Division applies is as confidential and inadmissible in any proceeding as it would be if it had been made or produced while the accused person and his or her legal representative were in each other’s presence.

‘33 Application of Listening Devices Act

The *Listening Devices Act 1992* applies to a communication or document to which this Division applies as if—

- (a) for a communication—the communication were a private conversation within the meaning of that Act to which the parties were the accused person and his or her legal representative; and
- (b) for a document—

- (i) any data, text or visual images in the transmitted document were words spoken to or by a person in a private conversation within the meaning of that Act to which the parties were the accused person and his or her legal representative; and
- (ii) a reference in that Act to the use of a listening device to overhear, record, monitor or listen to a private conversation included a reference to reading the document.

‘Division 3.6—Costs and expenses

‘34 Power to order payment of costs

A Territory court that directs evidence to be taken, or a submission to be made, by audiovisual link or audio link under section 18 or 30 may make such orders as it considers just for the payment of the costs and expenses incurred in relation to taking the evidence or making the submission, including any amounts prescribed under the regulations.

‘PART 4—MISCELLANEOUS

‘35 Regulation-making power

‘(1) The Executive may make regulations for this Act.

‘(2) The regulations may prescribe the amounts, or the way of calculating amounts, payable to a Territory court in relation to the cost of, or incidental to, the provision of an audiovisual link or audio link and ancillary equipment for Part 3.’.

Further amendments—

The following provisions are amended by omitting ‘Act’ and substituting ‘Part’:

Subsection 2 (1) (definition of *proceedings*), sections 3, 3A and 4, subsections 8A (1) and (2), heading to section 10 and subsections 10 (1) and (2).

Renumbering—

In the next republication of the *Evidence (Miscellaneous Provisions) Act 1991*, the provisions of that Act must be renumbered as permitted under section 13 of the *Legislation (Republication) Act 1996*.”.

Mr Stanhope (Leader of the Opposition) moved the following amendment to Mr Humphries’ proposed amendment:

Proposed new amendment of *Evidence (Closed-Circuit Television) Act 1991*, proposed section 14, definition of *Territory court*, paragraph (d), omit the paragraph, substitute the following paragraph:

“(d) a tribunal of the Territory, other than the mental health tribunal; or”.

Debate ensued.

Question – That Mr Stanhope’s amendment to Mr Humphries’ proposed amendment be agreed to – put.

The Assembly voted –

Ayes, 6

Mr Berry	Mr Wood
Mr Corbell	
Mr Quinlan	
Mr Stanhope	
Ms Tucker	

Noes, 9

Mr Cornwell	Mr Osborne
Mr Hird	Mr Rugendyke
Mr Humphries	Mr Smyth
Mr Kaine	Mr Stefaniak
Mr Moore	

And so it was negated.

Question – That Mr Humphries’ amendment be agreed to – put and passed.

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

Page 15, line 12, before the proposed amendments of the *Interpretation Act 1967*, insert the following amendment:

“Guardianship and Management of Property Act 1991

Subsection 36A (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Mr Humphries moved the following amendment:

Page 15, line 21, before the proposed amendments of the *Residential Tenancies Act 1997*, insert the following amendments:

“Judicial Commissions Act 1994

Subsection 43A (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Magistrates Court Act 1930

Paragraph 54A (2) (a)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Subsection 72A (3) (definition of *audio visual link*)—

Omit the definition, substitute the following definition:

‘audiovisual link—see the *Evidence (Miscellaneous Provisions) Act 1991*, section 14.’

Subsection 254B (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Magistrates Court (Civil Jurisdiction) Act 1982

Subsections 187 (7A) and 482 (6)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Mental Health (Treatment and Care) Act 1994

Paragraph 90 (5) (ca)—

Omit ‘85AQ (1) of the *Evidence Act 1971*’, substitute ‘30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Subsection 91A (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Mr Stanhope moved the following amendment to Mr Humphries' proposed amendment: Proposed new amendment of *Magistrates Court Act 1930*, insert the following amendment:

“Subsection 72A (1)—

Omit the subsection, substitute the following subsection:

‘(1) The court may order that an application by a person for bail be heard by audiovisual link if—

- (a) the person is in custody and is required or entitled to appear, or is required to be brought, before the court for the hearing of the application; and
- (b) an audiovisual link is available between the place where the court is sitting and the place where the person is in custody; and
- (c) the person consents to the making of the order.’.”.

Question – That Mr Stanhope’s amendment to Mr Humphries’ proposed amendment be agreed to – put and negatived.

Question – That Mr Humphries’ amendment be agreed to – proposed.

Mr Stanhope, by leave, moved the following amendments to Mr Humphries’ proposed amendment together:

Proposed amendment of *Mental Health (Treatment and Care) Act 1994*:

No. 1. Proposed amendment of paragraph 90 (5) (ca), omit the amendment, substitute the following amendment:

“Paragraph 90 (5) (ca)—

Omit the paragraph.

No. 2. Proposed new amendment of section 91, insert the following amendment:

Section 91—

Omit all the words after ‘attends’, substitute ‘before the tribunal as required’.

No. 3. Proposed amendment of subsection 91A (1), omit the amendment, substitute the following amendment:

Section 91A—

Repeal the section.”.

Question – That Mr Stanhope’s amendments to Mr Humphries’ proposed amendment be agreed to – put and negatived.

Question – That Mr Humphries’ amendment be agreed to – put and passed.

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

Page 16, line 9, proposed amendment of the *Residential Tenancies Act 1997*, insert the following amendment:

“Subsection 96A (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.”.

Mr Humphries moved the following amendment:

Page 16, line 11, before the proposed amendments of the *Tenancy Tribunal Act 1994*, insert the following amendments:

“Royal Commissions Act 1991**Subsection 34A (1)—**

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.

Supreme Court Act 1933**Subsection 55A (4)—**

Omit the subsection, substitute the following subsection:

‘(4) In this section—

audiovisual link—see the *Evidence (Miscellaneous Provisions) Act 1991*, section 14.’.”.

Mr Stanhope moved the following amendment to Mr Humphries’ proposed amendment:

Proposed new amendment of *Supreme Court Act 1933*, proposed new amendment of section 55A, insert the following amendment:

“Subsection 55A (1)—

Omit the subsection substitute the following subsection:

‘(1) The court may order that an application by a person for bail be heard by audiovisual link if—

- (a) the person is in custody and is required or entitled to appear, or is required to be brought, before the court for the hearing of the application; and
- (b) an audiovisual link is available between the place where the court is sitting and the place where the person is in custody; and
- (c) the person consents to the making of the order.’.”.

The question is – That Mr Stanhope’s amendment to Mr Humphries’ proposed amendment be agreed to – put and negatived.

The question is – That Mr Humphries’ amendment be agreed to – put and passed.

Schedule 1, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole and agreed to.

Question - That this Bill, as amended, be agreed to - put and passed.

5 PERIODIC DETENTION AMENDMENT BILL 1999

The order of the day having been read for the resumption of the debate on the question - That this Bill be agreed to in principle -

Debate resumed.

Question - That this Bill be agreed to in principle - put and passed.

Leave granted to dispense with the detail stage.

Question - That this Bill be agreed to - put and passed.

6 INTERPRETATION AMENDMENT BILL 2000

The order of the day having been read for the resumption of the debate on the question - That this Bill be agreed to in principle -

Debate adjourned (Ms Tucker) and the resumption of the debate made an order of the day for the next sitting.

7 FIRST HOME OWNER GRANT BILL 2000

The order of the day having been read for the resumption of the debate on the question - That this Bill be agreed to in principle -

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

8 PLANNING AND URBAN SERVICES – STANDING COMMITTEE – REPORT NO. 44 – TREE MANAGEMENT AND PROTECTION POLICY – REPORT NOTED

Mr Hird (Chair) presented the following report:

Planning and Urban Services - Standing Committee - Report No. 44 – An appropriate tree management and protection policy for the ACT, dated April 2000, together with a copy of the extracts of the minutes of proceedings -

and moved - That the report be noted.

Debate ensued.

Question – put and passed.

9 QUESTIONS

Questions without notice were asked.

10 JUSTICE AND COMMUNITY SAFETY – STANDING COMMITTEE – REPORT NO. 9 – 2000-01 DRAFT BUDGET – DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY AND RELATED AGENCIES – STATEMENT BY SPEAKER – MOTION TO AUTHORISE PUBLICATION OF REPORT

The Speaker made a statement in relation to the publication of the Standing Committee on Justice and Community Safety's Report No 9 entitled *The 2000-01 Draft Budget of the Department of Justice and Community Safety and Related Agencies* and the contents to the dissent attached to the report.

Mr Berry, by leave, moved – That the Assembly authorises the publication of the Standing Committee on Justice and Community Safety's Report No 9 entitled *The 2000-01 Draft Budget of the Department of Justice and Community Safety and Related Agencies*.

Debate ensued.

Mr Humphries (Attorney-General) moved – That the debate be adjourned.

Question – put.

The Assembly voted -

Ayes, 10

Noes, 5

Ms Carnell	Mr Osborne	Mr Berry
Mr Cornwell	Mr Rugendyke	Mr Corbell
Mr Humphries	Mr Smyth	Mr Hargreaves
Mr Kaine	Mr Stefaniak	Mr Quinlan
Mr Moore	Ms Tucker	Mr Stanhope

And so it was resolved in the affirmative.

Ordered – That the resumption of the debate be made an order of the day for the next sitting.

11 PRESENTATION OF PAPERS

The Speaker presented the following papers:

Legislative Assembly (Broadcasting of Proceedings) Act –

Pursuant to section 8 – Authority to broadcast proceedings concerning:

The public hearings of the Standing Committee on Planning and Urban Services for its inquiry into Gungahlin Drive extension given to the ‘Save the Ridge’ group, dated 31 March 2000.

The public hearing of the Standing Committee on Education, Community Services and Recreation on Thursday 13 and Thursday 20 April 2000 for its inquiry into adolescents and young people at risk of not achieving satisfactory education and training outcomes, dated 5 April 2000.

The public hearings of the Standing Committee on Planning and Urban Services for its inquiries into:

Gungahlin Drive Extension.

Draft management plans for urban parks and sportsgrounds in inner Canberra and Tuggeranong.

Draft variation No. 145 of the Territory Plan: Heritage Places Register.

Draft management plan for the lower Molonglo River Corridor.

Utilities Bill 2000.

Draft variation No. 139 of the Territory Plan: Additional uses in B11 area of North Canberra,

dated 7 April 2000.

The public hearing of the Standing Committee on Planning and Urban Services on Friday 7 April 2000 for its inquiry into Gungahlin Drive given to Radio 2XX fm community radio station, dated 7 April 2000.

The public hearing of the Standing Committee on Education, Community Services and Recreation on Thursday 4 May 2000 for its inquiry into adolescents and young people at risk of not achieving satisfactory education and training outcomes, dated 1 May 2000.

Pursuant to section 4 – A revocation and authorisations (2), dated 27 April 2000, given to specified government offices to receive sound broadcasts of Legislative Assembly and committee proceedings, subject to the certain conditions.

Financial Management Act, pursuant to section 25A – Legislative Assembly for the Australian Capital Territory Secretariat – Performance report for the March quarter 1999-2000.

12 PUBLIC SECTOR MANAGEMENT ACT – MANAGEMENT STANDARD NO. 6 OF 1999 – PAPERS – STATEMENT BY MINISTER

Ms Carnell (Chief Minister) presented the following papers:

Public Sector Management Act – Management Standard No. 6 of 1999, including an explanatory memorandum –

and, by leave, made a statement in relation to the papers.

13 PRESENTATION OF PAPERS

Mr Humphries (Manager of Government Business and Treasurer) presented the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated) and commencement provisions

ACTEW/AGL Partnership Facilitation Act 2000 – Notice of commencement (6 April 2000) of remaining provisions (No. 14, dated 6 April 2000).

Betting (ACTTAB Limited) Act – Amendment to ACTTAB rules of betting (excluding explanatory statement) – Instrument No. 114 of 2000 (No. 15, dated 13 April 2000).

Electoral Act – Appointment of Electoral Commissioner – Instrument No. 108 of 2000 (No. 13, dated 30 March 2000).

Environment Protection Act –

Environment Protection Regulations Amendment – Subordinate Law 2000 No 18 (S11, dated 31 March 2000).

Determination of fees – Instrument No. 107 of 2000 (No. 13, dated 30 March 2000).

Epidemiological Studies (Confidentiality) Act - Epidemiological Studies (Confidentiality) Regulations Amendment – Subordinate Law 2000 No 19 (No. 17, dated 27 April 2000).

Health Professions Boards (Procedures) Act and Pharmacy Act – Appointment of member of the Pharmacy Board of the ACT – Instrument No. 110 of 2000 (No. 15, dated 13 April 2000).

National Exhibition Centre Trust Act – Appointment of member of the National Exhibition Centre Trust – Instrument No. 112 of 2000 (No. 15, dated 13 April 2000).

Public Place Names Act –

Determination of street nomenclatures in the Division of Ngunnawal – Instrument No. 109 of 2000 (No. 14, dated 6 April 2000).

Determination of street nomenclatures in the Division of Greenway – Instrument No. 117 of 2000 (No. 17, dated 27 April 2000).

Public Sector Management Act – Management Standards –

No. 1 of 2000 (No. 13, dated 30 March 2000).

No. 4 of 2000 (No. 13, dated 30 March 2000).

No. 5 of 2000 (No. 17, dated 27 April 2000). (This amendment was incompletely tabled as Standard 4/1999 on 29 February 2000 and ceased to have effect on 2 March 2000 pursuant to subsection 6 (6) of the *Subordinate Laws Act 1989*).

Corrigendum

Public Sector Management Act – Management Standards 4, 5 and 6 of 1999 (No. 17, dated 27 April 2000)

Radiation Act – Appointment of member of the Radiation Council – Instrument No. 111 of 2000 (No. 15, dated 13 April 2000).

Road Transport (General) Act –

Determination of taxi fares – Instrument No. 115 of 2000 (No. 16, dated 20 April 2000).

Road Transport (Offences) Regulations 2000 – Declaration of declared holiday period (Thursday 20 April 2000 to Tuesday 25 April 2000 (inclusive)) – Instrument No. 113 of 2000 (No. 15, dated 13 April 2000).

Stadiums Authority Act 2000 – Notice of commencement (13 April 2000) of remaining provisions (No. 15, dated 13 April 2000).

Tenancy Tribunal Act – Variation to the Commercial and Retail Leases Code of Practice – Instrument No. 118 of 2000 (No. 17, dated 27 April 2000).

Water Resources Act – Determination of fees – Instrument No. 116 of 2000 (No. 17, dated 27 April 2000).

Performance reports

Financial Management Act, pursuant to section 25A – Quarterly departmental performance reports for the March 1999-2000 quarter for:

Chief Minister's Department.

Department of Treasury and Infrastructure.

Department of Justice and Community Safety.

Urban Services.

Education and Community Services.

Department of Health and Community Care.

Miscellaneous paper

Financial Management Act, pursuant to section 26 – Consolidated Financial Management Report for the month and financial year to date ending 31 March 2000.

14 JUSTICE AND COMMUNITY SAFETY – STANDING COMMITTEE – REPORT NO. 3 – ESTABLISHMENT OF AN A.C.T. PRISON AND REPORT NO. 4 – PROPOSED A.C.T. PRISON FACILITY: PHILOSOPHY AND PRINCIPLES – GOVERNMENT RESPONSES – MOTION TO TAKE NOTE OF PAPERS

Mr Humphries (Attorney-General) presented the following papers:

Justice and Community Safety – Standing Committee –

Report No. 3 – Inquiry into the establishment of an ACT prison: justification and siting – First interim report in the prison series (*presented 1 July 1999*) – Government response.

Report No. 4 – The proposed ACT Prison Facility: Philosophy and Principles (Second interim report in the prison series) (*presented 21 October 1999*) – Government response –

and moved – That the Assembly takes note of the papers.

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

15 INDEPENDENT PRICING AND REGULATORY COMMISSION – ACTION’S BUS FARES FOR 2000-2001 – PAPER – PAPER NOTED

Mr Smyth (Minister for Urban Services) presented the following paper:

Independent Pricing and Regulatory Commission – ACTION’s bus fares for 2000-2001 – Price direction, dated 10 March 2000 –

and moved – That the Assembly takes note of the paper.

Question – put and passed.

16 COMMISSIONER FOR THE ENVIRONMENT ACT – COMMISSIONER FOR THE ENVIRONMENT A.C.T. REPORT – PROGRESS TOWARDS NO WASTE BY 2010 – GOVERNMENT RESPONSE – STATEMENT BY MINISTER – MOTION TO TAKE NOTE OF PAPER

Mr Smyth (Minister for Urban Services) presented the following paper:

Commissioner for the Environment Act, pursuant to section 22 – Progress towards no waste by 2010 – A Report by the Commissioner for the Environment ACT (*presented 15 February 2000*) – Government response, dated March 2000 –

and, by leave, made a statement in relation to the paper.

Mr Berry, by leave, moved – That the Assembly takes note of the paper.

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

17 LAND (PLANNING AND ENVIRONMENT) ACT – VARIATION (NO. 113) TO THE TERRITORY PLAN – KINGSTON FORESHORE – PAPERS – STATEMENT BY MINISTER

Mr Smyth (Minister for Urban Services) presented the following papers:

Land (Planning and Environment) Act, pursuant to section 29 – Variation (No. 113) to the Territory Plan relating to the Kingston Foreshore, together with background papers, a copy of the summaries and reports –

and, by leave, made a statement in relation to the papers.

18 PRESENTATION OF PAPERS

Mr Stefaniak (Minister for Education) presented the following papers:

University of Canberra Act, pursuant to section 36 – University of Canberra – Report and financial statements, including the Auditor-General’s report, for 1999.

Annual Reports (Government Agencies) Act, pursuant to section 8 – Canberra Institute of Technology – Report and financial statements, including the Auditor-General’s Report, for 1999.

19 SUSPENSION OF STANDING AND TEMPORARY ORDERS – JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 3) 1999 – RESCISSION

Mr Humphries (Attorney-General) moved – That so much of the standing and temporary orders be suspended as would prevent a motion being moved to rescind the resolution of the Assembly of today, 9 May 2000 relating to the agreement to the Justice and Community Safety Legislation Amendment Bill (No 3) 1999, as amended, and to reconsider Schedule 1, as amended, of the Bill in detail stage forthwith.

Question – put and passed, with the concurrence of an absolute majority.

20 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 3) 1999 – RESCISSION AND RECONSIDERATION

Mr Humphries (Attorney-General) moved – That:

- (1) the resolution of the Assembly of today 9 May 2000, relating to the agreement to the Justice and Community Safety Legislation Amendment Bill (No 3) 1999, as amended, be rescinded;
- (2) Schedule 1 of the Bill, as amended, be reconsidered in the detail stage, pursuant to standing order 187; and
- (3) reconsideration of Schedule 1 of the Bill, as amended, in detail stage commence forthwith.

Question – put and passed.

21 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 3) 1999

The Assembly, according to order, reconsidered the Bill, as amended, at the detail stage.

Detail stage

Question proposed – That Schedule 1, as amended, be agreed to –

Paper: Mr Humphries (Attorney-General) presented a supplementary explanatory memorandum to Government amendments to the Bill.

On the motion of Mr Humphries (Attorney-General), by leave, the following amendments were made together:

Page 16, line 17, proposed amendment of the *Tenancy Tribunal Act 1994*: Insert the following amendment:

“Subsection 27A (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.”.

Page 16, line 23, proposed amendment of the *Tenancy Tribunal Act 1994*: Insert the following amendment:

“Subsection 43A (1)—

Omit ‘85AE (1) or 85AQ (1) of the *Evidence Act 1971*’, substitute ‘18 (1) or 30 (1) of the *Evidence (Miscellaneous Provisions) Act 1991*’.”.

Schedule 1, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole and agreed to.

Question - That this Bill, as amended, be agreed to - put and passed.

22 PLANNING AND URBAN SERVICES – STANDING COMMITTEE – REPORT NO. 46 – DRAFT VARIATION (NO. 110) TO THE TERRITORY PLAN – HERITAGE PLACES REGISTER ADDITIONS – NORTHBOURNE OVAL: AINSLIE PUBLIC AND PRIMARY SCHOOLS: GINNINDERRA VILLAGE PRECINCT – REPORT NOTED

Mr Rugendyke (Deputy Chair), by leave, presented the following report:

Planning and Urban Services - Standing Committee - Report No. 46 – Draft variation (No. 110) to the Territory Plan relating to a proposal to add to the Heritage Places Register the following three places: Northbourne Oval, Braddon; Ainslie Public and Primary Schools, Braddon; and Ginninderra Village precinct, Nicholls, dated 28 April 2000, together with a copy of the extracts of the minutes of proceedings -

and moved - That the report be noted.

Question – put and passed.

23 PLANNING AND URBAN SERVICES – STANDING COMMITTEE – REPORT NO. 47 – DRAFT VARIATION (NO. 145) TO THE TERRITORY PLAN – HERITAGE PLACES REGISTER – REPORT NOTED

Mr Hird (Chair) presented the following report:

Planning and Urban Services - Standing Committee - Report No. 47 – Draft variation (No. 145) to the Territory Plan relating to the Heritage Places Register, dated 3 May 2000, together with a copy of the extracts of the minutes of proceedings -

and moved - That the report be noted.

Question – put and passed.

24 PLANNING AND URBAN SERVICES – STANDING COMMITTEE – REPORT NO. 48 – URBAN PARKS AND SPORTSGROUNDS IN INNER CANBERRA AND TUGGERANONG – DRAFT PLANS OF MANAGEMENT – MOTION THAT REPORT BE NOTED

Mr Hird (Chair) presented the following report:

Planning and Urban Services – Standing Committee - Report No. 48 – Draft plans of management for urban parks and sportsgrounds in inner Canberra and in Tuggeranong, dated 3 May 2000, together with a copy of the extracts of the minutes of proceedings –

and moved – That the report be noted.

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

25 LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL 1999

The order of the day having been read for the resumption of the debate on the question - That this Bill be agreed to in principle -

Debate resumed.

Mr Corbell was granted leave to conclude his speech at a later time.

Debate continued.

Ms Tucker addressing the Assembly –

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

Mr Moore (Minister for Health and Community Care) requiring the question to be put forthwith without debate -

Question - put and negatived.

Debate continued.

Mr Corbell concluded his speech.

Debate continued.

Question - That this Bill be agreed to in principle – put.

The Assembly voted -

Ayes, 7

Mr Cornwell	Mr Smyth
Mr Hird	Mr Stefaniak
Mr Humphries	
Mr Kaine	
Mr Rugendyke	

Noes, 8

Mr Berry	Mr Quinlan
Mr Corbell	Mr Stanhope
Mr Hargreaves	Ms Tucker
Mr Moore	
Mr Osborne	

And so it was negatived.

26 ADJOURNMENT

Mr Humphries (Manager of Government Business) moved - That the Assembly do now adjourn.

Paper: Ms Tucker, by leave, presented the following paper:

Impulse Airlines – “Assembly unanimously approves Impulse plan” – Facsimile of media release from Kate Carnell MLA, Chief Minister, dated 30 March 2000.

Debate continued.

Question - put and passed.

And then the Assembly, at 5.53 p.m., adjourned until tomorrow at 10.30 a.m.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting.

M.J. McRAE
Clerk of the Legislative Assembly