

**1998-99**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**MINUTES OF PROCEEDINGS**

**No. 40**

**WEDNESDAY, 10 MARCH 1999**

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- 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 ENERGY EFFICIENCY RATINGS (SALE OF PREMISES) (AMENDMENT) BILL 1999**

Ms Tucker, pursuant to notice, presented a Bill for an Act to amend the *Energy Efficiency Ratings (Sale of Premises) Act 1997*.

*Paper:* Ms Tucker presented an explanatory memorandum to the Bill.

Title read by Clerk.

Ms Tucker moved - That this Bill be agreed to in principle.

Debate adjourned (Mr Smyth - Minister for Urban Services) and the resumption of the debate made an order of the day for the next sitting.

- 3 CASINO CONTROL (AMENDMENT) BILL 1999**

Mr Kaine, by leave, presented a Bill for an Act to amend the *Casino Control Act 1988*.

*Paper:* Mr Kaine presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

- 4 MOTOR TRAFFIC (ALCOHOL AND DRUGS) (AMENDMENT) BILL 1998**

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 Osborne moved - That the debate be adjourned.

Mr Osborne, by leave, addressed the Assembly.

Question - That the debate be adjourned - put and passed.

Ordered - That the resumption of the debate be made an order of the day for a later hour this day.

**5 ADMINISTRATIVE APPEALS TRIBUNAL (AMENDMENT) BILL 1998**

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 Osborne moved - That the debate be adjourned.

Mr Osborne, by leave, made a statement.

Question - That the debate be adjourned - put and passed.

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

**6 MINISTER FOR URBAN SERVICES - PROPOSED CENSURE**

Mr Corbell, by leave, moved - That this Assembly censures the Minister for Urban Services for misleading the Assembly by claiming that the Discussion Paper on Rural Residential Development paper was an "independent discussion paper" on 29 October 1998 and again on 9 March 1999.

*Papers:* Mr Corbell, by leave, presented the following papers:

A Study of Rural Residential Development in the ACT -

Copies of documents prepared by TBA Planners -

Handwritten notes headed "Trevor Budge", dated 3/9.

Surround isolated hills and ridges - Page 11 (annotated).

Facsimile transmission cover page from Trevor Budge, TBA Planners, together with annotated page headed 1.4 Issues.

Facsimile copy of E-mail message from Anne Moroney to Trevor Budge, TBA Planners, with handwritten response from Trevor Budge, dated 12 October 1998.

Debate ensued.

Mr Humphries (Attorney-General), by leave, was granted an extension of time.

Debate continued.

Mr Osborne, by leave, moved the following amendment:

Omit all words after "Assembly", substitute "expresses its grave concern at the use of the word 'independent' by the Minister for Urban Services in relation to the Rural Residential Development paper."

Debate continued.

Question - That the amendment be agreed to - put.

The Assembly voted -

Ayes, 8

Noes, 7

Ms Carnell

Mr Rugendyke

Mr Berry

Ms Tucker

Mr Cornwell

Mr Smyth

Mr Corbell

Mr Wood

Mr Hird

Mr Stefaniak

Mr Kaine

Mr Humphries

Mr Quinlan

Mr Osborne

Mr Stanhope

And so it was resolved in the affirmative.

Question - That the motion, as amended, viz:

That this Assembly expresses its grave concern at the use of the word 'independent' by the Minister for Urban Services in relation to the Rural Residential Development paper. -

be agreed to - put and passed.

**7 QUESTIONS**

Questions without notice were asked.

**8 LEGISLATIVE ASSEMBLY (BROADCASTING OF PROCEEDINGS) ACT - AUTHORITY TO BROADCAST**

The Speaker presented the following paper:

Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to subsection 8 (4) - Authority to broadcast proceedings in relation to the public hearings of the Standing Committee on Urban Services concerning an appropriate tree management and protection policy for the ACT on 26 February 1999 and 19 March 1999, dated 26 February 1999.

**9 ACT GOVERNMENT WORKFORCE STATISTICAL REPORT - SECOND QUARTER 1998-99 - PAPER AND STATEMENT BY MINISTER**

Ms Carnell (Chief Minister) presented the following paper:

ACT Government Workforce Statistical Report - Second quarter 1998-99 -

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

**10 PUBLIC SECTOR MANAGEMENT ACT - EXECUTIVE CONTRACTS - PAPERS - STATEMENT BY MINISTER**

Ms Carnell (Chief Minister) presented the following papers:

Public Sector Management Act, pursuant to sections 31A and 79 - Copies of executive contracts or instruments -

Barbara Norman (long term contract), dated 18 February 1999.

Short term contracts:

Miriam Jamieson, dated 24 December 1998.

Allan Towill, dated 22 December 1998.

Phillip Thompson, dated 22 December 1998.

Douglas Jarvis, dated 7 January 1999.

Philip Mitchell, dated 5 March 1999.

Edward Rayment, dated 19 February 1999.

Performance agreements:

David Butt, dated 16, 22 and 24 December 1998.

Vlad Aleksandric, dated 11 and 24 December 1998.

Penny Gregory, dated 16 and 24 December 1998.

Gordon Lee Koo, dated 10, 16 and 24 December 1998.

Jill Farrelly, dated 4 and 15 February and 1 March 1999.

Peter Hade, dated 29 January and 5 and 23 February 1999.

Christine Healy, dated 2 February and 1 March 1999.

Allan Hird, dated 2 February 1999.

Sandra Lambert, dated 2 and 8 February 1999.

Peter Gordon, dated 2 and 10 February and 1 March 1999.

Narelle Hargreaves, dated 2 February, 9 February and 1 March 1999.

Gerry Cullen, dated 2 and 8 February 1999.

Trevor Wheeler, dated 2 February 1999.

Mark Owens, dated 2 and 20 February 1999.

Michael White, 2 February and 1 March 1999.

Anne Thomas, dated 2 February 1999 -

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

## **11 PRESENTATION OF PAPERS**

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

### **Miscellaneous papers**

Financial Management Act, pursuant to section 26 - Consolidated Financial Management Report for the month and financial year to date ending 31 January 1999.

Remuneration Tribunal Act, pursuant to section 12 - Members of the Legislative Assembly for the Australian Capital Territory - Determination No. 43, including statement, dated 18 February 1999.

### **Petition - Out of order**

School children - Fare structure for buses - Mr Hargreaves (1,450 residents).

## **12 CORONIAL INQUEST INTO DEATH OF KATIE BENDER - PAPER AND STATEMENT BY MINISTER**

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

Coronial inquest into the death of Katie Bender - Timetable for submissions -

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

## **13 CORONERS (AMENDMENT) BILL 1998**

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

## **14 OATHS AND AFFIRMATIONS (AMENDMENT) BILL 1998**

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

## **15 SUPREME COURT (AMENDMENT) BILL (NO. 2) 1998**

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

**16 TERRITORY OWNED CORPORATIONS (AMENDMENT) BILL (NO. 2) 1998**

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.

Ms Carnell (Treasurer), by leave, again addressed the Assembly.

Debate continued.

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

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*Detail stage*

Bill, by leave, taken as a whole -

*Paper:* Ms Carnell presented a supplementary explanatory memorandum to the Bill.

Ms Carnell moved the following amendment:

Clauses 4 and 5, page 2, line 4, omit the clauses, substitute the following clause:

**“4. Insertion**

After section 12 of the Principal Act the following section is inserted:

**‘12A. Information to relevant committee on appointment of director**

‘(1) Where the voting shareholders have—

- (a) appointed a director of a Territory owned corporation; or
- (b) consented to the appointment of a director of a subsidiary, and the director has been appointed;

they shall inform the relevant committee of the name, qualifications and experience of the director.

‘(2) In this section—

“relevant committee” means—

- (a) a standing committee of the Legislative Assembly nominated by the Speaker of the Legislative Assembly for the purposes of this section; or
- (b) where no nomination in paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.’.”.

Debate continued.

Question - That the amendment be agreed to - put.

The Assembly voted -

Ayes, 6

Ms Carnell	Mr Stefaniak
Mr Cornwell	
Mr Hird	
Mr Humphries	
Mr Smyth	

Noes, 9

Mr Berry	Mr Quinlan
Mr Corbell	Mr Rugendyke
Mr Hargreaves	Mr Stanhope
Mr Kaine	Ms Tucker
Mr Osborne	

And so it was negatived.

Bill, as a whole, agreed to.

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

## **17 MOTOR TRAFFIC (ALCOHOL AND DRUGS) (AMENDMENT) BILL 1998**

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.





The Assembly voted -

Ayes, 8

Noes, 7

Mr Berry

Mr Quinlan

Ms Carnell

Mr Stefaniak

Mr Corbell

Mr Rugendyke

Mr Cornwell

Ms Tucker

Mr Hargreaves

Mr Stanhope

Mr Hird

Mr Kaine

Mr Humphries

Mr Osborne

Mr Smyth

And so it was resolved in the affirmative - Bill agreed to in principle.

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*Detail stage*

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

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

**18 SUSPENSION OF STANDING AND TEMPORARY ORDERS - CHILDREN'S SERVICES (AMENDMENT) BILL 1998 - RESCISSION AND RECONSIDERATION**

Mr Osborne moved - That so much of the standing and temporary orders be suspended as would prevent a motion being moved to rescind the resolutions of the Assembly of 17 February 1998 relating to the agreement to the Children's Services (Amendment) Bill 1998, as amended, and Mr Osborne's amendments, and to reconsider the Bill in the detail stage forthwith.

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

**19 CHILDREN'S SERVICES (AMENDMENT) BILL 1998 - RESCISSION AND RECONSIDERATION**

Mr Osborne moved - That:

(1) the resolutions of the Assembly of 17 February 1999, relating to:

(a) the amendments moved by Mr Osborne to the Children's Services (Amendment) Bill 1998; and

(b) the agreement to the Bill, as amended;

be rescinded;

(2) as there has been no notification in the Gazette of the passage of the proposed law under section 25 of the *Australian Capital Territory (Self-Government) Act 1988*, any action taken by the Clerk and/or the Speaker pursuant to standing order 193, be rendered null and void; and

(3) the Bill be reconsidered in the detail stage, pursuant to standing order 187; and

(4) reconsideration of the Bill in detail stage commence forthwith.

Question - put and passed.

**20 CHILDREN'S SERVICES (AMENDMENT) BILL 1998**

The Assembly, according to order, commenced reconsideration at the detail stage.

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*Detail stage*

Clause 1 agreed to.

Clause 2 -

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

Page 1, line 6, omit the clause, substitute the following clause:

**“2. Commencement**

This Act commences on 1 May 1999.”.

Clause 2, as amended, agreed to.

Clauses 3 and 4, by leave, taken together and agreed to.

Clause 5 -

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

Page 2, line 10, proposed new section 20, add the following subsection:

“(3) A magistrate shall be designated to be the Childrens Court Magistrate for a period of not less than 3 years.”.

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

Page 2, line 10, after proposed new section 20, insert the following section:

**“20AA. Deputy Childrens Court Magistrate**

“(1) The Chief Magistrate shall, by instrument, designate a magistrate (other than the Childrens Court Magistrate) to be the Deputy Childrens Court Magistrate.

“(2) An instrument under subsection (1) may designate the Chief Magistrate to be the Deputy Childrens Court Magistrate.

“(3) A magistrate shall not be designated to be the Deputy Childrens Court Magistrate for a period of less than 1 year.

“(4) Where a person is designated under subsection (1)—

- (a) a reference in a law of the Territory (including this Act) to the Childrens Court Magistrate includes a reference to that person; and
- (b) that person has all the powers, functions and duties conferred or imposed upon the Childrens Court Magistrate by this Act or by any other law of the Territory.”.

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

Page 2, line 19, proposed new section 20B, add the following subsection:

“(2) Subsection (1) does not by implication preclude a magistrate (being a magistrate other than the Childrens Court Magistrate) from exercising a power or performing a function conferred on a magistrate under a provision of this Act.”.

Clause 5, as amended, agreed to.

*Speaker’s ruling - Amendment out of order:* Mr Speaker ruled Mr Osborne’s circulated amendment No. 5 to insert new clauses 5A and 5B out of order under standing order 181, as proposed clause 5B did not come within the title of the Bill.

*Suspension of standing and temporary orders - Member to move amendment:* Mr Osborne moved - That so much of the standing and temporary orders be suspended as would prevent Mr Osborne moving amendment No. 5.

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

*New clauses -*

On the motion of Mr Osborne the following new clauses were inserted in the Bill: Page 2, line 19:

**“5A. Further amendments**

The Principal Act is further amended as set out in the Schedule.

**5B. Consequential amendment of Magistrates Court Act**

Section 10G of the *Magistrates Court Act* 1930 is repealed and the following section substituted:

**‘10G. Arrangement of business of Courts**

‘(1) The Chief Magistrate is responsible for ensuring the orderly and prompt discharge of the business of the Magistrates Court and accordingly may, subject to such consultation with the Magistrates and special magistrates as is appropriate and practicable, make arrangements as to the Magistrate or special magistrate who is to constitute that Court in particular matters or classes of matters.

‘(2) The Chief Magistrate is also responsible for ensuring the orderly and prompt discharge of the business of the Childrens Court.’.”

Remainder of Bill, by leave, taken as a whole -

On the motion of Mr Osborne, by leave, the following amendments were made together:

*New schedule -*

Page 2, line 24, after clause 6, add the following new Schedule:

**“SCHEDULE**

Section 5A

**FURTHER AMENDMENTS**

**Section 21—**

Omit ‘section 20’, substitute ‘this Part’.

**Paragraphs 22 (1) (a) and (b) and (2) (a)—**

Omit ‘20’, substitute ‘20B’.

**Subsection 25 (1)—**

Omit ‘section 20’, substitute ‘Part III’.

**Subsection 25 (2)—**

Omit ‘Section 20’, substitute ‘Part III’.”.

Long title, page 1, line 1, omit the title, substitute the following title:

**“An Act to amend the *Children’s Services Act 1986* and for a related purpose”.**

Remainder of Bill, as a whole, as amended, debated and agreed to.

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

**21 STANDING ORDER 229A**

Mr Berry, pursuant to notice, moved - That unless otherwise ordered new standing order 229A be adopted:

**“Presiding Member may adjourn or suspend sitting of Committee**

229A. In the case of grave disorder arising either when a committee is taking evidence or deliberating, the Presiding Member may adjourn the committee without the question being put, or may suspend the committee. The Committee shall reconvene at a time to be named by the Presiding Member or at a time to be fixed by the Speaker or, in the absence of the Speaker, the Deputy Speaker, on receipt of a request in writing from an absolute majority of members of the Committee.”.

Debate ensued.

Question - put and passed.

**22 MOTOR TRAFFIC (AMENDMENT) BILL (NO. 3) 1998**

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.

*Urban Services - Standing Committee - Reference - Motor Traffic (Amendment) Bill (No. 3) 1998:* Mr Hargreaves, by leave, moved - That the Motor Traffic (Amendment) Bill (No. 3) 1998 be referred to the Standing Committee on Urban Services for inquiry and report.

Debate ensued.

Question - put and passed.

**23 ADJOURNMENT**

It being 5.00 p.m. - The Speaker proposed the question - That the Assembly do now adjourn.

Question - put and passed.

And then the Assembly, at 5.00 p.m., adjourned until tomorrow at 10.30 a.m.

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**MEMBERS' ATTENDANCE:** All Members were present at some time during the sitting, except Mr Moore (on leave).

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**M.J. McRAE**  
Clerk of the Legislative Assembly