

1998

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 31

THURSDAY, 26 NOVEMBER 1998

- 1** The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Cornwell) 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 ACTEW (TRANSFER SCHEME) BILL 1998**

Ms Carnell (Treasurer), pursuant to notice, presented a Bill for an Act relating to the transfer of certain ACTEW body assets and shares, and for related matters.

Paper: Ms Carnell presented an explanatory memorandum to the Bill.

Title read by Clerk.

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

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

- 3 VICTIMS OF CRIME (FINANCIAL ASSISTANCE) (AMENDMENT) BILL 1998**

Mr Humphries (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Criminal Injuries Compensation Act 1983*, the *Victims of Crime Act 1994* and the *Crimes Act 1900*, and for related purposes.

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

Title read by Clerk.

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

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

- 4 CUSTODIAL ESCORTS BILL 1998**

Mr Humphries (Attorney-General), pursuant to notice, presented a Bill for an Act relating to the escort of persons in lawful custody.

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

Title read by Clerk.

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

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

5 CUSTODIAL ESCORTS (CONSEQUENTIAL PROVISIONS) BILL 1998

Mr Humphries (Attorney-General), pursuant to notice, presented a Bill for an Act to amend certain Acts in consequence of the enactment of the *Custodial Escorts Act 1998*.

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

Title read by Clerk.

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

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

6 MOTOR TRAFFIC (AMENDMENT) BILL (NO. 5) 1998

Mr Smyth (Minister for Urban Services), pursuant to notice, presented a Bill for an Act to amend the *Motor Traffic Act 1936*.

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

7 TRAFFIC (AMENDMENT) BILL 1998

Mr Smyth (Minister for Urban Services), pursuant to notice, presented a Bill for an Act to amend the *Traffic Act 1937*.

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

8 MOTOR TRAFFIC (ALCOHOL AND DRUGS) (AMENDMENT) BILL (NO. 2) 1998

Mr Smyth (Minister for Urban Services), pursuant to notice, presented a Bill for an Act to amend the *Motor Traffic (Alcohol and Drugs) Act 1977*.

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

9 MENTAL HEALTH (TREATMENT AND CARE) (AMENDMENT) BILL 1998

Mr Moore (Minister for Health and Community Care), pursuant to notice, presented a Bill for an Act to amend the *Mental Health (Treatment and Care) Act 1994* and for related purposes.

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

Title read by Clerk.

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

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

10 CRIMES (AMENDMENT) BILL (NO. 7) 1998

Mr Moore (Minister for Health and Community Care), pursuant to notice, presented a Bill for an Act to amend the *Crimes Act 1900*.

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

Title read by Clerk.

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

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

11 EDUCATION - STANDING COMMITTEE - INQUIRY - WORK FOR THE DOLE PROJECT IN PRIMARY SCHOOLS - PRINTING, CIRCULATION AND PUBLICATION OF REPORT

Ms Tucker (Chair), pursuant to notice, moved - That if the Assembly is not sitting when the Standing Committee on Education has completed its inquiry into the work for the dole project in primary schools, the Committee may send its Report to the Speaker, or in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication.

Question - put and passed.

12 TERRITORY'S SUPERANNUATION COMMITMENTS - PROPOSED SELECT COMMITTEE

The order of the day having been read for the resumption of the debate on the motion of Mr Stanhope (Leader of the Opposition) - That:

- (1) a Select Committee be appointed to inquire into and report on the Territory's superannuation commitments, with particular reference to:
 - (a) the adequacy of the Towers Perrin reports, entitled *Report on the Development of Alternative Superannuation Arrangements for the Australian Capital Territory Public Sector* and *Report on the Financial Management of ACT Government Financed Superannuation Liabilities* as a guide to the magnitude of the Territory's superannuation commitments;
 - (b) the efficacy of the proposed one-off funding option to settle the Territory's unfunded superannuation liability;
 - (c) any alternatives to the proposed one-off funding option;
 - (d) the potential downstream impacts on the ACT economy of each of the alternatives identified for meeting the Territory's unfunded superannuation liability;
 - (e) in relation to the proposed sale of ACTEW, the effectiveness of any regulatory regime in achieving:
 - (i) consumer protection mechanisms;
 - (ii) fair and just price setting mechanisms;

- (iii) adequate service standards; and
 - (iv) an adequate level of maintenance of system infrastructure; and
 - (f) any other related matter.
- (2) the Committee be composed of:
- (a) one Member to be nominated by the Government;
 - (b) one Member to be nominated by the Opposition; and

- (c) two Members to be nominated by the four Members of the cross benches to be notified in writing by 3 pm on Thursday, 19 November 1998 and duly appointed by the Assembly;
- (3) the Committee report by the first sitting day of February 1999, and the Government take no action in relation to the sale of ACTEW until the Assembly has considered the Government's response to the Select Committee report; and
- (4) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders -

Statement by Member: Mr Osborne, by leave, made a statement on the matter.

Debate adjourned (Mr Osborne) and the resumption of the debate made an order of the day for a later hour this day.

13 CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE - INQUIRY -DRAFT CAPITAL WORKS PROGRAM - STATEMENT BY CHAIR AND MEMBER

Mr Quinlan (Chair), pursuant to standing order 246A, informed the Assembly that on 20 November 1998 the Standing Committee for the Chief Minister's Portfolio resolved to inquire into and report on the form and content of the Draft Capital Works Program.

Mr Hird, by leave, also made a statement on the matter.

Motion to refer matter to Speaker moved: Mr Hird, by leave, moved - That the proposed inquiry by the Chief Minister's committee be referred to the Speaker to determine whether the inquiry properly belongs with the Urban Services committee or the Chief Minister's committee.

Debate ensued.

Mr Humphries (Manager of Government Business) moved the following amendment to Mr Hird's motion: Omit all words after "That" substitute "this Assembly directs the Standing Committee for the Chief Minister's Portfolio not to proceed with the inquiry on the form and content of the Draft Capital Works Program, and that the inquiry be undertaken instead by the Standing Committee on Urban Services."

Debate continued.

It being 45 minutes after the commencement of Assembly business -

Ordered - That the time allotted to Assembly business be extended by 30 minutes.

Question - That the amendment be agreed to - put.

The Assembly voted -

Ayes, 8

| | |
|--------------|--------------|
| Ms Carnell | Mr Rugendyke |
| Mr Hird | Mr Smyth |
| Mr Humphries | Mr Stefaniak |
| Mr Moore | |
| Mr Osborne | |

Noes, 9

| | |
|---------------|-------------|
| Mr Berry | Mr Quinlan |
| Mr Corbell | Mr Stanhope |
| Mr Cornwell | Ms Tucker |
| Mr Hargreaves | Mr Wood |
| Mr Kaine | |

And so it was negatived.

Question - That the motion be agreed to - put and negatived.

14 DAYS OF MEETING - 1999

Mr Humphries (Manager of Government Business), pursuant to notice, moved - That, unless the Speaker fixes an alternate day or hour of meeting on receipt of a request in writing from an absolute majority of Members, or the Assembly otherwise orders, the Assembly shall meet as follows for 1999:

| | | | |
|----------|----|-------|-------|
| February | 16 | 17 | 18 |
| March | 9 | 10 | 11 |
| | 23 | 24 | 25 |
| April | 20 | 21 | 22 |
| May | 4 | 5 | 6 |
| June | 22 | 23 | 24 |
| | 29 | 30 | 1 Jul |
| August | 24 | 25 | 26 |
| | 31 | 1 Sep | 2 |
| October | 12 | 13 | 14 |
| | 19 | 20 | 21 |
| November | 16 | 17 | 18 |
| | 23 | 24 | 25 |
| December | 7 | 8 | 9 |

Debate ensued.

Question - put and passed.

15 QUESTIONS

Questions without notice were asked.

16 PAPER

Mr Moore (Minister for Health and Community Care), having added to an answer, presented the following paper:

Annabelle's care - Workers Resource Centre - Copy of answer to question asked by Mr Rugendyke and taken on notice on 24 November 1998.

17 AUDITOR-GENERAL ACT - AUDITOR-GENERAL'S REPORT - NO. 7, 1998 - MAGISTRATES COURT BAIL PROCESSES - PUBLICATION OF PAPER

The Speaker presented the following paper:

Auditor-General Act - Auditor-General's Report - No. 7, 1998 - Magistrates Court bail processes, dated 26 November 1998.

Mr Humphries (Manager of Government Business), by leave, moved - That the Assembly authorises the publication of the Auditor-General's Report No. 7 of 1998.

Question - put and passed.

18 STATEMENT OF REGULATORY INTENT FOR UTILITIES IN THE A.C.T. - PAPER - MOTION TO TAKE NOTE OF PAPER

Ms Carnell (Chief Minister) presented the following paper:

Statement of Regulatory Intent for Utilities in the ACT -

and 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.

19 PRESENTATION OF PAPERS

Mr Moore (Minister for Health and Community Care) presented the following papers:

Calvary Public Hospital - Information Bulletin - Patient Activity Data - October 1998.

The Canberra Hospital - Information Bulletin - Patient Activity Data - October 1998.

Department of Health and Community Care - Activity report - September quarter 1998.

20 MENTAL HEALTH (TREATMENT AND CARE) ACT - MENTAL HEALTH SERVICE PROVISION FOR THE AUSTRALIAN CAPITAL TERRITORY REPORT - PAPER AND STATEMENT BY MINISTER

Mr Moore (Minister for Health and Community Care) presented the following paper:

Mental Health (Treatment and Care) Act, pursuant to section 120 and the Annual Reports (Government Agencies) Act - Mental Health Service Provision in the Australian Capital Territory - Report for the period 1 July 1997 to 30 June 1998, including the Mental Health Services Director's Report for 1997-98 -

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

21 SUSPENSION OF STANDING AND TEMPORARY ORDERS MOVED - CONSIDERATION OF ASSEMBLY BUSINESS

Mr Quinlan moved - That so much of the standing and temporary orders be suspended as would prevent the order of the day No. 1, Assembly business, relating to the establishment of a Select Committee on the Territory's Superannuation Commitments being called on forthwith.

Debate ensued.

Mr Quinlan, by leave, withdrew his motion.

22 WATER RESOURCES 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 Smyth (Minister for Urban Services), by leave, was granted an extension of time.

Mr Smyth addressing the Assembly -

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

Ms Carnell (Chief Minister) requiring the question to be put forthwith without debate -

Question - put and negatived.

Debate continued.

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

Detail stage

Clause 1 agreed to.

Clause 2 -

Paper: Mr Smyth presented an supplementary explanatory memorandum on amendments to the Bill to be moved by the Minister for Urban Services.

On the motion of Mr Smyth the following amendment was made: Page 1, line 12, subclause (3), omit “6”, substitute “12”.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Clause 4 -

Paper: Ms Tucker presented an explanatory memorandum on amendments to the Bill to be moved by Ms Tucker.

Ms Tucker moved the following amendment:

Page 2, line 16, definition of “allocation”, omit the definition.

Debate continued.

Question - put.

The Assembly voted -

Ayes, 8

Noes, 9

| | |
|---------------|-------------|
| Mr Berry | Mr Stanhope |
| Mr Corbell | Ms Tucker |
| Mr Hargreaves | Mr Wood |
| Mr Osborne | |
| Mr Quinlan | |

| | |
|--------------|--------------|
| Ms Carnell | Mr Moore |
| Mr Cornwell | Mr Rugendyke |
| Mr Hird | Mr Smyth |
| Mr Humphries | Mr Stefaniak |
| Mr Kaine | |

And so it was negatived.

On the motion of Mr Smyth the following amendment was made: Page 2, line 28, definition of “bore”, add “but does not include a subsoil drain;”.

On the motion of Mr Smyth the following amendment was made: Page 2, line 38, insert the following definition:

“ ‘environmental flow guidelines’ means guidelines approved under section 5D;”.

On the motion of Mr Smyth the following amendment was made: Page 3, line 23, insert the following definition:

“ ‘subsoil drain’ means an underground pipe or construction the purpose of which is to drain underground water—

- (a) to protect a building, retaining wall, excavation, roadway or other construction from seepage or water pressure; or
- (b) to facilitate the use of an area of ground by eliminating or reducing wet ground conditions in that area;”.

Clause 4, as amended, agreed to.

Clause 5 -

On the motion of Mr Smyth the following amendment was made, after debate: Page 4, line 26, omit the clause, substitute the following clauses:

“5. Preparation and variation of environment flow guidelines

- (1) The Authority shall prepare draft guidelines for ascertaining the flow necessary to maintain aquatic ecosystems.
- (2) The Authority may prepare a draft variation of the guidelines.
- (3) In preparing draft guidelines or a draft variation of the guidelines, the Authority shall take into account the environmental, economic and social impact of the guidelines.
- (4) Sections 5A to 5F, inclusive, apply to a draft variation of guidelines as if they were draft guidelines.

5A. Guidelines—consultation

- (1) After preparing draft guidelines under section 5, the Authority shall publish in the *Gazette*, and in a daily newspaper printed and circulating in the Territory, a notice—
 - (a) containing a brief description of the guidelines;
 - (b) indicating the place from which copies of the draft guidelines may be obtained; and
 - (c) inviting any person who wishes to do so to lodge any suggestions or comments about the draft guidelines in writing with the Authority within 60 days after publication of the notice.
- (2) The Authority shall consider the suggestions and comments lodged in accordance with an invitation under paragraph (1) (c) and, if the Authority considers it appropriate to do so, may revise the draft guidelines in accordance with any of those suggestions or comments.

5B. Guidelines—formal changes

Section 5A does not apply in relation to a variation of draft guidelines that is for the sole purpose of making changes of a formal nature.

5C. Guidelines—submission to Minister

The Authority shall submit draft guidelines (as revised under subsection 5A(2)) to the Minister for approval, together with—

- (a) a written report setting out the issues raised in any written comments submitted to the Authority in relation to the draft; and
- (b) a written report about the Authority’s consultation with the public and with any other person or authority about the draft.

5D. Guidelines—Minister’s powers

On receipt of draft guidelines submitted under section 5C or 5E for approval, the Minister may—

- (a) by notice in the *Gazette*, approve guidelines in the form in which the draft is submitted; or
- (b) refer the draft to the Authority together with any of the following written directions:
 - (i) to conduct further specified consultation;
 - (ii) to consider any revision suggested by the Minister;
 - (iii) to revise the draft in a specified manner.

5E. Guidelines—referral back to Authority

If the Minister refers draft guidelines to the Authority under paragraph 5D (b), the Authority shall—

- (a) comply with the Minister's directions;
- (b) if the Minister gives a direction under subparagraph 5D (b) (i) or (ii)—revise the draft guidelines;
- (c) revise the draft guidelines to correct any formal error; and
- (d) re-submit the draft guidelines (as revised) to the Minister for approval together with a written report about the Authority's compliance with the Minister's directions and about any revision of the draft guidelines under paragraph (c).

5F. Guidelines disallowable

(1) A notice under section 5D approving environmental flow guidelines is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

(2) Section 6 of the *Subordinate Laws Act 1989* applies to environmental flow guidelines as if paragraph 6 (1) (b) were omitted and the following paragraph substituted:

‘(b) takes effect on the first day on which the environmental flow guidelines are no longer liable to be disallowed under this section; and’.”.

Clause 5, as amended, agreed to.

Clauses 6 to 13, by leave, taken together and agreed to.

Clauses 14 and 15, by leave, taken together and agreed to.

Clause 16 -

On the motion of Ms Tucker the following amendment was made, after debate: Page 8, line 35, add the following subclause:

“(2) Where the Authority makes a change of a formal nature to a management plan, the Authority shall notify the making of the change in the *Gazette* and in a newspaper.”.

Clause 16, as amended, agreed to.

Clauses 17 to 20, by leave, taken together and agreed to.

Clauses 21 to 26, by leave, taken together -

On the motion of Mr Smyth the following amendment was made: Clause 22, page 10, line 23, subclause (6), after “writing”, insert “, on payment of the determined fee”.

Clauses 21, 22 (as amended) to 26 agreed to.

Clause 27 agreed to.

Clause 28 -

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

Page 14 -

Line 18, paragraph (1) (c), omit “or”.

Line 20, paragraph (1) (d), add “or”.

Line 20, after paragraph (1) (d) insert the following paragraph:

“(da) is adversely affecting the environment;”.

On the motion of Mr Smyth the following amendment was made: Page 15, line 11, subclause (6), omit “Authority” (last occurring), substitute “Territory”.

Clause 28, as amended, agreed to.

Clause 29 -

On the motion of Mr Smyth the following amendment was made: Page 16, line 11, paragraph (9) (a), after “record”, insert “both in the Territory and elsewhere”.

Ms Tucker moved the following amendment: Page 16, line 26, paragraph 10 (a), omit the paragraph, substitute the following paragraph:

“(a) if, in the opinion of the Minister—

- (i) the amount of water that, in the aggregate, could be taken under licences to take water in force under this Act would exceed the total amount of water determined in respect of a period (if any) specified under a management plan if, in that period, all licensees were to take the total volume of water permitted to be taken under their respective licences; or
- (ii) to do so would otherwise be inconsistent with a management plan;”.

Debate continued.

Amendment negatived.

Clause 29, as amended, agreed to.

Clause 30 agreed to.

Clause 31 agreed to.

Clauses 32 to 39, by leave, taken together and agreed to.

Clause 40 -

On the motion of Mr Smyth the following amendment was made: Page 21, line 24, subclause (1), omit “without limiting the generality of”, substitute “subject to”.

Clause 40, as amended, agreed to.

Clause 41 agreed to.

Clauses 42 to 57, by leave, taken together and agreed to.

Clause 58 agreed to.

Clauses 59 to 61, by leave, taken together and agreed to.

Clauses 62 and 63, by leave, taken together -

On the motion of Mr Smyth the following amendment was made: Clause 62, page 32, line 3, subclause (1), omit “in a waterway” (first occurring).

On the motion of Mr Smyth the following amendment was made: Clause 62, page 32, line 9, subclause (2), omit the subclause, substitute the following subclause:

“(2) Subsection (1) does not apply to the construction or alteration of—

- (a) a dam not in a waterway, the capacity of which is less than 2 megalitres; or
- (b) a prescribed water control structure.”.

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

Clause 62, page 32, line 10, add the following subclause:

“(3) In proceedings for an offence against subsection (1), a certificate purporting to be signed by the Authority stating that, on a particular date, there was, on land to which the proceedings relate, a dam, water storage or other water control structure, is evidence of the matters so stated.”.

Clause 63, page 33, line 5, subclause (8), omit the subclause.

On the motion of Ms Tucker the following amendment was made, after debate: Clause 63, page 33, line 8, add the following subclause:

“(9) Nothing in this section affects the operation of the *Land (Planning and Environment) Act 1991*.”.

Clauses 62 and 63, as amended, agreed to.

Clause 64 -

On the motion of Mr Smyth the following amendment was made: Page 33, line 31, subclause (4), omit "Authority" (last occurring), substitute "Territory".

Clause 64, as amended, agreed to.

Clauses 65 and 66, by leave, taken together and agreed to.

Clauses 67 to 69, by leave, taken together and agreed to.

Clause 70 -

On the motion of Mr Smyth the following amendment was made: Page 36, line 22, subclause (3), after "damage", insert "by the Authority".

On the motion of Ms Tucker the following amendment was made, after debate: Page 36, line 22, subclause (3), omit "caused in", substitute "in excess of that which could reasonably be expected to occur as a consequence of".

Ms Tucker moved the following amendment: Page 36, line 23, add the following subclause:

"(4) Compensation is not payable under this section in respect of the modification or removal of a dam, embankment, wall or other structure constructed after the commencement of this section."

Debate continued.

Amendment negatived.

Clause 70, as amended, agreed to.

Clause 71 agreed to.

Clauses 72 and 73, by leave, taken together and agreed to.

New clause -

On the motion of Mr Smyth the following clause was inserted in Part IX of the Bill, after debate: Page 38, line 28:

"73A. Review of Act

(1) The Minister shall review the operation of this Act as soon as possible after the period of 2 years after the date of commencement of section 3.

(2) A report on the outcome of the review shall be tabled in the Legislative Assembly within 6 months after the end of the period of 2 years."

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

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

23 BUSHFIRE (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 and passed.

Detail stage

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4 -

Paper: Mr Humphries (Minister for Justice and Community Safety) presented a supplementary explanatory memorandum on amendments to the Bill to be moved on behalf of the Government.

On the motion of Mr Humphries the following amendment was made: Page 2, line 1, paragraphs (c), (d) and (e), omit the paragraphs, substitute the following paragraphs:

“(c) by adding at the end of subsection (2) the following paragraphs:

- ‘(d) the lighting, maintenance or use of a fire in accordance with an exemption permit granted under section 7B; or
- (e) the maintenance of a fire declared by the Minister under subsection (3) to be an exempt fire.’;

and

(d) by omitting subsection (3) and substituting the following subsection:

‘(3) The Minister may, by instrument published in the *Gazette*, declare a fire to be an exempt fire where—

- (a) the fire is maintained for a ceremonial or commemorative purpose;
- (b) the fire is less than 1 cubic metre in volume;
- (c) the surrounding area within a radius of 3 metres from the fire is clear of flammable material;
- (d) reasonable steps have been taken to prevent the escape of flame, sparks or burning or incandescent material from the fire; and
- (e) written consent to the maintenance of the fire has been given by—
 - (i) in the case of a fire in a built-up area—the Fire Commissioner; or
 - (ii) in the case of a fire outside a built-up area—the Chief Fire Control Officer.’.”

Clause 4, as amended, agreed to.

Clause 5 -

Mr Kaine, by leave, moved the following amendments together:

Page 2 -

Line 11, proposed subsection 7B (1), after “use a fire”, insert “or use fireworks”.

Line 15, proposed subparagraph 7B (2) (a), after “proposed fire”, add “or fireworks”.

Line 16, proposed subparagraph 7B (2) (b), after “proposed fire”, add “or fireworks”.

Line 17, proposed subparagraph 7B (2) (c), after “proposed fire”, insert “or fireworks”.

Line 19, proposed subparagraph 7B (2) (d), after “proposed fire”, add “or fireworks”.

Line 23, proposed subparagraph 7B (3) (b), after “proposed fire”, add “or fireworks”.

Line 25, proposed subparagraph 7B (3) (c), after “proposed fire”, insert “or fireworks”.

Debate continued.

Question - put.

The Assembly voted -

Ayes, 9

Noes, 6

Mr Berry
Mr Hargreaves
Mr Kaine
Mr Osborne
Mr Quinlan

Mr Rugendyke
Mr Stanhope
Ms Tucker
Mr Wood

Ms Carnell
Mr Cornwell
Mr Hird
Mr Humphries
Mr Moore
Mr Smyth

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

On the motion of Mr Humphries the following amendment was made: Page 2, line 29, proposed new subsection 7B (4), omit "the built-up area" (first occurring), substitute "a built-up area".

On the motion of Mr Kaine the following amendment was made: Page 2, line 33, proposed subsection 7B (5), omit the proposed subsection.

Clause 5, 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.

24 SUSPENSION OF STANDING AND TEMPORARY ORDERS - CONSIDERATION OF ASSEMBLY BUSINESS

Mr Berry moved - That so much of the standing and temporary orders be suspended as would prevent the order of the day No. 1, Assembly business, relating to the establishment of a Select Committee on the Territory's Superannuation Commitments being called on forthwith.

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

25 TERRITORY'S SUPERANNUATION COMMITMENTS - SELECT COMMITTEE - APPOINTMENT

The order of the day having been read for the resumption of the debate on the motion of Mr Stanhope (Leader of the Opposition) - That:

- (1) a Select Committee be appointed to inquire into and report on the Territory's superannuation commitments, with particular reference to:
 - (a) the adequacy of the Towers Perrin reports, entitled *Report on the Development of Alternative Superannuation Arrangements for the Australian Capital Territory Public Sector* and *Report on the Financial Management of ACT Government Financed Superannuation Liabilities* as a guide to the magnitude of the Territory's superannuation commitments;
 - (b) the efficacy of the proposed one-off funding option to settle the Territory's unfunded superannuation liability;
 - (c) any alternatives to the proposed one-off funding option;
 - (d) the potential downstream impacts on the ACT economy of each of the alternatives identified for meeting the Territory's unfunded superannuation liability;
 - (e) in relation to the proposed sale of ACTEW, the effectiveness of any regulatory regime in achieving:
 - (i) consumer protection mechanisms;
 - (ii) fair and just price setting mechanisms;

- (iii) adequate service standards; and
 - (iv) an adequate level of maintenance of system infrastructure; and
 - (f) any other related matter.
- (2) the Committee be composed of:
- (a) one Member to be nominated by the Government;
 - (b) one Member to be nominated by the Opposition; and
 - (c) two Members to be nominated by the four Members of the cross benches
- to be notified in writing by 3 pm on Thursday, 19 November 1998 and duly appointed by the Assembly;
- (3) the Committee report by the first sitting day of February 1999, and the Government take no action in relation to the sale of ACTEW until the Assembly has considered the Government's response to the Select Committee report; and
- (4) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders -

Debate resumed.

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

- (1) Paragraph (1), omit paragraphs 1 (e) to 1 (f) inclusive.
- (2) Paragraph (2), omit "by 3 pm on Thursday, 19 November 1998", substitute "within 10 minutes of the motion to establish the select committee being agreed to".
- (3) Paragraph (3), omit the words "in relation to the sale of ACTEW", substitute "on the final ownership aspect of ACTEW".

Mr Berry, by leave, moved the following amendment:

Paragraph (2) (a), after "one", insert "backbench".

Question - That the amendment be agreed to - put.

The Assembly voted -

There being confusion concerning the numbers reported, the Assembly, in accordance with standing order 165, proceeded to another vote -

Ayes, 7

Noes, 6

Mr Berry
Mr Kaine
Mr Quinlan
Mr Rugendyke
Mr Stanhope

Ms Tucker
Mr Wood

Ms Carnell
Mr Hird
Mr Humphries
Mr Moore
Mr Osborne

Mr Smyth

And so it was resolved in the affirmative.

Question - That the motion, as amended, be agreed to - proposed.

Debate continued.

Question - put and passed.

26 TERRITORY'S SUPERANNUATION COMMITMENTS - SELECT COMMITTEE - MEMBERSHIP

The Speaker, pursuant to the resolution of the Assembly of today, 26 November 1998, informed the Assembly that he had been notified in writing of the nominations of Mr Hird, Mr Kaine, Mr Osborne, Ms Tucker and Mr Quinlan to be members of the Select Committee on the Territory's Superannuation Commitments.

The Speaker informed the Assembly that there being more nominations than there are places, the Assembly would proceed to ballot.

Mr Kaine, by leave, withdrew his nomination.

Mr Humphries (Manager of Government Business) moved - That the Members so nominated be appointed as members of the Select Committee on the Territory's Superannuation Commitments.

Question - put and passed.

27 TERRITORY'S SUPERANNUATION COMMITMENTS - SELECT COMMITTEE - PROPOSED DISCHARGE OF MEMBER

Mr Osborne, pursuant to standing order 223, moved - That Mr Osborne be discharged from the Select Committee on the Territory's Superannuation Commitments.

On the motion of Ms Tucker the following amendment was made, after debate:

Add the following words "and appoint Mr Kaine in his place".

Question - That the motion, as amended, be agreed to - proposed.

Debate continued.

Mr Rugendyke moved - That the debate be adjourned.

Question - put.

The Assembly voted -

Ayes, 7

Noes, 6

Ms Carnell

Mr Rugendyke

Mr Berry

Mr Wood

Mr Hird

Mr Smyth

Mr Kaine

Mr Humphries

Mr Quinlan

Mr Moore

Mr Stanhope

Mr Osborne

Ms Tucker

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.

28 ADJOURNMENT

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

Debate ensued.

Question - put and passed.

And then the Assembly, at 8.01 p.m., adjourned until Tuesday, 8 December 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