

1998-99

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**MINUTES OF PROCEEDINGS**

**No. 38**

**THURSDAY, 18 FEBRUARY 1999**

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- 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 **EVIDENCE (AMENDMENT) BILL 1999**

Mr Humphries (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Evidence Act 1971*.

*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.

- 3 **COURTS AND TRIBUNALS (AUDIO VISUAL AND AUDIO LINKING) BILL 1999**

Mr Humphries (Attorney-General), pursuant to notice, presented a Bill for an Act to amend several Acts relating to the procedures of courts and tribunals.

*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 **REPORT OF THE REVIEW OF GOVERNANCE - SELECT COMMITTEE -  
ALTERATION TO RESOLUTION OF APPOINTMENT**

Mr Osborne (Chair), pursuant to notice, moved - That the resolution of the Assembly of 28 April 1998, as amended on 25 June and 10 December 1998, appointing a Select Committee on the Report of the Review of Governance be amended by omitting paragraph (3) and substituting the following paragraph:

“(3) The Committee report on:

- (a) the Report's recommendations, other than those made in relation to the Report of the Electoral Commissioner entitled *Review of the Electoral Act 1992 - The 1998 ACT Legislative Assembly Election*, by the first sitting day in March 1999; and

- (b) the Electoral Commissioner's Report entitled *Review of the Electoral Act 1992 - The 1998 ACT Legislative Assembly Election* and associated matters in the Report of the Review of Governance by the first sitting day in April 1999."

Question - put and passed.

**5 JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE - REPORT NO. 1 - CHILDREN'S SERVICES (AMENDMENT) BILL 1998 - REPORT NOTED**

The order of the day having been read for the resumption of the debate on the motion of Mr Osborne (Chair) - That the report be noted (*presented 10 December 1998*) -

Justice and Community Safety - Standing Committee - Report No. 1 - Report on the inquiry into the Children's Services (Amendment) Bill 1998, dated 8 December 1998 -

Debate resumed.

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

Children's Services (Amendment) Bill 1998 - Legal advice in relation to amendments to the Bill.

Question - put and passed.

**6 PLANNING AND ENVIRONMENT - STANDING COMMITTEE (THIRD ASSEMBLY) - REPORT NO. 38 - OUTDOOR LIGHTING IN THE A.C.T. - GOVERNMENT RESPONSE - PAPER NOTED**

The order of the day having been read for the resumption of the debate on the motion of Mr Smyth (Minister for Urban Services) - That the Assembly takes note of the paper (*presented 25 August 1998*) -

Planning and Environment - Standing Committee (Third Assembly) - Report No. 38 - The provision of quality outdoor lighting in the ACT - Government response -

Debate resumed.

Question - put and passed.

**7 LEAVE OF ABSENCE TO MEMBER**

Mr Humphries (Manager of Government Business) moved - That leave of absence from 1 to 14 March 1999 inclusive be given to Mr Michael Moore, MLA.

Question - put and passed.

**8 HEALTH AND COMMUNITY CARE - STANDING COMMITTEE - REPORT NO. 1 - MENTAL HEALTH SERVICES - STRATEGIC PLAN 1998-2001 - REPORT NOTED**

The order of the day having been read for the resumption of the debate on the motion of Mr Wood (Chairman) - That the report be noted (*presented 27 August 1998*) -

Health and Community Care - Standing Committee - Report No. 1 - The future of mental health services in the Australian Capital Territory - Moving towards 2000 and beyond - A whole of Territory Strategic Plan 1998-2001, dated August 1998 -

Debate resumed.

Question - put and passed.

**9 URBAN SERVICES - STANDING COMMITTEE - REPORT NO. 17 - EXISTING PETROL SITES POLICY - REPORT NOTED**

Mr Hird (Chair) presented the following report:

Urban Services - Standing Committee - Report No. 17 - The existing petrol sites policy, dated 12 February 1999, together with extracts of the minutes of proceedings -

and moved - That the report be noted.

Question - put and passed.

**10 CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE (INCORPORATING THE DUTIES OF A PUBLIC ACCOUNTS COMMITTEE) - PUBLIC ACCOUNTS COMMITTEE REPORT NO. 13 - REVIEW OF AUDITOR-GENERAL'S REPORT NO. 6, 1998 - ASSEMBLY MEMBERS' SUPERANNUATION AND SEVERANCE PAYMENTS TO FORMER MEMBERS' STAFFERS - REPORT NOTED**

Mr Quinlan (Chair) presented the following report:

Chief Minister's Portfolio - Standing Committee (incorporating the duties of a Public Accounts Committee) - Public Accounts Committee Report No. 13 - Review of Auditor-General's Report No. 6, 1998 - Assembly Members' superannuation and severance payments to former Members' staffers, dated February 1999, together with extracts of the minutes of proceedings -

and moved - That the report be noted.

Question - put and passed.

**11 EDUCATION - STANDING COMMITTEE - INQUIRIES - EDUCATIONAL SERVICES FOR CHILDREN WITH DISABILITIES: ADOLESCENTS AND YOUNG ADULTS AT RISK OF NOT ACHIEVING SATISFACTORY EDUCATION - STATEMENT BY CHAIR**

Ms Tucker (Chair), by leave, informed the Assembly that, on 8 October 1998, the Standing Committee on Education resolved to inquire into and report on educational services for children with a disability, with particular reference to:

- (1) the integration of students with a disability, eligible for special schools/units, in mainstream schools;
- (2) school organisation required to meet educational and personal care needs of students with a disability integrated in mainstream schools;
- (3) social and educational outcomes for students with a disability in the ACT;
- (4) appropriateness of resources available in schools for students with a disability;
- (5) the involvement of parents, carers and advocates in planning services and programs for students with a disability;
- (6) the adequacy of support services for schools and families;
- (7) interagency cooperation; and
- (8) any other related matter.

Ms Tucker also informed the Assembly that, on 15 February 1999, the Standing Committee on Education resolved to inquire into and report on adolescents and young adults at risk of not achieving satisfactory education and training outcomes, with particular reference to:

- (1) the relevance of mainstream school programs for young people at risk;
- (2) the availability of alternative educational programs;
- (3) support for families and young people to encourage retention in education and training including financial support and support for schools and other agencies;
- (4) support and programs available for young people at risk of not developing adequate literacy and numeracy skills;
- (5) attendance and truancy;
- (6) gaps in services;
- (7) the impact of common youth allowance on young people and educational institutions; and
- (8) any other related matter.

## **12 BUSINESS PROGRAM FOR 1999-2000 - MR MICHAEL MOORE MLA -PAPER AND STATEMENT BY MINISTER**

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

Executive Member's Business Program for 1999-2000 - Mr Michael Moore, MLA, dated February 1999 -

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

## **13 PRISONERS (INTERNATIONAL TRANSFER) 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.

Leave granted to dispense with the detail stage.

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

## **14 DUTIES 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.

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### *Detail stage*

Bill, by leave, taken as a whole -

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

On the motion of Ms Carnell, by leave, the following amendments were made together:

Heading to Part I, page 1, line 3, omit the heading, substitute the following heading:

### **“CHAPTER 1—PRELIMINARY”.**

Clause 4, page 4, line 8, definition of “Crown lease”, omit “any”, substitute “a”.

Clause 7, page 17, line 18, subparagraphs (1) (b) (iv), (v) and (vi), omit the subparagraphs, substitute the following subparagraph:

“(iv) a vesting of dutiable property on a merger of corporations, being a merger specifically provided for by a statute or subordinate law of the Territory, a State or another Territory.”.

Clause 8, page 18, line 12, Table in subclause (2), omit the table, substitute the following table:

“TABLE

Column 1	Column 2	Column 3	Column 4
Dutiable transaction	Property transferred	Transferee	When transfer occurs
Agreement for sale or transfer	The property agreed to be sold or transferred	The purchaser or transferee	When the agreement is entered into
Declaration of trust	The property vested or to be vested in the declarant	The person declaring the trust	When the declaration is made
Grant of a Crown lease	The leasehold interest	The lessee	When the lease is granted
Vesting on merger	The vested property	The person in whom the property is vested	When the vesting occurs”

Clause 17, page 23, line 3, subclause (5), omit the subclause.

Clause 20, page 23, line 30, subclause (2), omit the subclause.

Clause 24, page 26, line 2, subclause (2), omit the subclause, substitute the following subclause:

“(2) Dutiable transactions are not to be aggregated under this section if the Commissioner is satisfied—

- (a) that the transactions are for the purpose of acquiring 2 or more blocks of land in the same subdivision for the purpose of developing the blocks for resale;
- (b) that the transactions are for the purpose of purchasing 2 or more units in the same subdivision of land under the *Unit Titles Act 1970* for the purpose of investment;
- (c) that the transactions are for the purpose of acquiring 2 or more parcels of shares in a company or 2 or more parcels of units in a units trust scheme which parcels either alone or together with a lease or licence give an entitlement to occupy 2 or more areas that are on a single parcel of land; or
- (d) that it would not be just and reasonable for the transactions to be so aggregated.”.

*New clause -*

Page 30, line 11, after clause 32, insert the following new clause in the Bill:

**“32A. Certain business assets**

(1) Duty is chargeable at the determined rate on a dutiable transaction insofar as it is in respect of —

- (a) a business asset referred to in paragraph 10 (g);
- (b) a statutory licence or permission referred to in paragraph 10 (h);
- (c) a partnership interest referred to in paragraph 10 (i) insofar as it is not constituted by—
  - (i) an interest in property referred to in paragraph 10 (a), (b) or (c); or
  - (ii) an interest in property referred to in paragraph 10 (l), being dutiable property referred to in paragraph 10 (a) (b) or (c);

- (d) goods referred to in paragraph 10 (g) that are used solely for business purposes; or
  - (e) an interest in property referred to in paragraph 10 (l), not being —
    - (i) an interest in dutiable properly referred to in paragraph 10 (a), (b) or (c); or
    - (ii) an interest in dutiable property that is used for purposes other than business purposes.
- (2) The proportion of the dutiable value of a partnership interest that is chargeable with duty under paragraph (1) (c) is—
- (a) if no interest in property of a kind referred to in subparagraph (1) (c) (i) or (ii) is transferred as a result of the transfer of the partnership interest—the whole of the value of the partnership interest; or
  - (b) if an interest in property of a kind referred to in either of those subparagraphs is transferred as a result of the transfer of the partnership interest—the proportion of the value of the partnership interest that is equal to the proportion of so much of the unencumbered value of all the dutiable assets of the partnership as is not constituted by the unencumbered value of the dutiable assets of the partnership that are property of a kind referred to in either of those subparagraphs.”.

Clause 215, page 104, line 24, omit the clause, substitute the following clause:

**“215. Repossessed motor vehicles**

Duty under this Chapter is not chargeable on an application to register a motor vehicle if—

- (a) the applicant is in the business of financing the purchase or use of motor vehicles;
- (b) the vehicle was repossessed by, or voluntarily surrendered to, the applicant; and
- (c) the applicant, in the course of that business, does not dispose of a repossessed or surrendered vehicle except by public tender or public auction or through a person who is a licensed dealer under the *Sale of Motor Vehicles Act 1977*.”.

Bill, as a whole, as amended, agreed to.

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

**15 DUTIES (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) 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 -

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 -

On the motion of Ms Carnell (Treasurer) the following amendment was made:

Clause 31, page 12, line 24, after paragraph (1) (b), insert the following paragraph:

- “(ba) the rate of 60 cents for every \$100, or part of \$100, of the dutiable value of the property the subject of the transaction, insofar as it is property to which subsection 32A (1) of the Duties Act applies, shall be taken to have been determined for the purposes of that subsection;”.



Bill, as a whole, as amended, agreed to.

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

## 16 QUESTIONS

Questions without notice being asked -

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

Children's Services (Amendment) Bill 1998 - Copy of legal advice from Tim Keady, Chief Executive, ACT Department of Justice & Community Safety to Attorney-General, dated 18 February 1999.

Questions continued.

## 17 PAPER

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

Child care givers - Answer to question without notice asked by Mr Osborne on 16 February 1999.

## 18 PRESENTATION OF PAPERS

Ms Carnell (Chief Minister and Treasurer) presented the following papers:

Chief Minister's Portfolio - Standing Committee (incorporating the duties of a Public Accounts Committee) - Public Accounts Committee Report No. 11 - Review of Auditor-General's Report No. 3, 1998 - Major IT projects - Follow-up review (*presented 29 October 1998*) - Government response.

Duties (Consequential and Transitional Provisions) Bill 1998 - Supplementary explanatory memorandum to the Bill.

## 19 URBAN SERVICES - STANDING COMMITTEE - REFERENCE - 1999-00 DRAFT CAPITAL WORKS PROGRAM - PAPER

Ms Carnell (Chief Minister) presented the following paper:

1999-00 Draft Capital Works Program -

and moved, pursuant to standing order 214 - That the 1999-00 Draft Capital Works Program be referred to the Standing Committee on Urban Services for inquiry and report by 24 March 1999.

Question - put and passed.

## 20 PRESENTATION OF PAPERS

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

Australian Capital Territory - Consolidated Annual Financial Report for the 1997-98 financial year.

ACT Administration of Justice - Statistical profile (Volume 9) - July to September 1998.

Calvary Public Hospital - Information Bulletins - Patient Activity Data - November and December 1998.

The Canberra Hospital - Information Bulletins - Patient Activity Data - November and December 1998.

Department of Health and Community Care - Activity Report - September and December quarters 1998-99.

**21 CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE (INCORPORATING THE DUTIES OF A PUBLIC ACCOUNTS COMMITTEE) PUBLIC ACCOUNTS COMMITTEE REPORT NO. 10 - REVIEW OF AUDITOR-GENERAL'S REPORT NO. 7, 1997 - COMMUNITY NURSING - DISABILITY PROGRAM - GOVERNMENT RESPONSE - PAPER NOTED**

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

Chief Minister's Portfolio - Standing Committee (incorporating the duties of a Public Accounts Committee) - Public Accounts Committee Report No. 10 - Review of Auditor-General's Report No. 7, 1997 - The disability program and community nursing (*presented 29 October 1998*) - Government response -

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

Question - put and passed.

**22 YOUTH SUICIDE PREVENTION STRATEGY 1998-2001 - PAPER - PAPER NOTED**

The order of the day having been read for the resumption of the debate on the motion of Mr Moore (Minister for Health and Community Care) - That the Assembly takes note of the paper (*presented 8 December 1998*) -

ACT Youth Suicide Prevention Strategy 1998-2001, dated December 1998 -

Debate resumed.

Mr Stefaniak (Minister for Education), by leave, was granted an extension of time.

*Paper:* Mr Stefaniak presented the following paper:

Mental Health - YMAG, dated June 1998.

Debate continued.

Question - put and passed.

**23 SUSPENSION OF STANDING ORDER 69 - CONSIDERATION OF EXECUTIVE BUSINESS NOTICE RELATING TO PREPARATION OF THE BUDGET**

Mr Humphries (Manager of Government Business) moved - That standing order 69 be suspended on 9 March 1999, for the consideration of the Executive business notice relating to the preparation of the budget and its consideration as an order of the day.

Debate ensued.

Mr Kaine addressing the Assembly -

The time allowed by standing order 69 for the debate on the motion having expired -

*Suspension of standing and temporary orders - Conclusion of speech:* Mr Berry moved - That so much of the standing and temporary orders be suspended as would prevent Mr Kaine from concluding his speech.

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

Debate continued.

Ms Tucker, by leave, addressed the Assembly for five minutes.

Ms Tucker addressing the Assembly -

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*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.

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Debate continued.

Mr Rugendyke, by leave, addressed the Assembly for five minutes.

Mr Osborne, by leave, addressed the Assembly for five minutes.

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

## **24 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 5.20 p.m., adjourned until Tuesday, 9 March 1999 at 10.30 a.m.

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

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**M.J. McRAE**

Clerk of the Legislative Assembly