

2004–2005

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

MINUTES OF PROCEEDINGS

No. 32

WEDNESDAY, 24 AUGUST 2005

1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 **PETITION**

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

Dr Foskey, from 124 residents, requesting that the Assembly promote global social and environmental sustainability by using Fairtrade products, promoting the use of Fairtrade certified products and taking into account the global social sustainability provided by Fairtrade products.

3 **EDUCATION AMENDMENT BILL 2005**

Mrs Dunne, pursuant to notice, presented a Bill for an Act to amend the *Education Act 2004*.

Paper: Mrs Dunne presented an explanatory statement to the Bill.

Title read by Clerk.

Mrs Dunne moved—That this Bill be agreed to in principle.

Debate adjourned (Ms Gallagher—Minister for Education and Training) and the resumption of the debate made an order of the day for the next sitting.

4 **GINNINDERRA DISTRICT HIGH SCHOOL—PROPOSED CLOSURE**

Mrs Dunne, pursuant to notice, moved—That this Assembly:

(1) notes:

(a) the Stanhope Government's:

- (i) decision to close the Ginninderra District High School; and
- (ii) failure to properly consult the school and the wider community in the spirit of the Education Act before the decision was made to close the Ginninderra District High School;

- (b) the adverse impact that the closure of the Ginninderra District High School will have on the:
 - (i) present student body; and
 - (ii) other schools in the area and the wider community;
 - (c) that the present student body is being forced out of Ginninderra District High School now;
 - (d) that only now the Stanhope Government is consulting with the business community on the closure of the Ginninderra District High School; and
 - (e) the impact the closure of the Ginninderra District High School will have on surrounding schools; and
- (2) calls on the Stanhope Government to:
- (a) table by the adjournment on Thursday, 18 August 2005 all advice received that led to the decision to close Ginninderra District High School;
 - (b) share that advice with the school community at Ginninderra District High School;
 - (c) suspend all activity which would lead to the closure of the Ginninderra District High School until the whole community has been consulted on the educational, financial and social impact of the closure and the community has been given an opportunity to consider other alternatives; and
 - (d) ensure that proper consultation is carried out before the decision is made to close any other school in West Belconnen.

Ms Gallagher (Minister for Education and Training) moved the following amendment: Omit all words after “notes”, substitute:

- “(1) that the ACT Government has recently announced a proposal to build a new state-of-the-art school in West Belconnen;
- (2) the proposal will inject an investment of \$43 million of infrastructure with considerable educational benefits for the children and young people of West Belconnen;
- (3) the proposal involves a multi-campus, middle schooling model, already used successfully elsewhere in the ACT and Australia;
- (4) while the proposal will result in disruption to the current students of Ginninderra District High School, individual transition plans to address the educational needs of each student are being implemented to minimise the disruption to each student;
- (5) that the ACT Government has commenced an extensive process of community consultation due to conclude in December 2005; and
- (6) that, in response to community concerns, further work will be done by the ACT Government in response to community feedback, and that information will be made available to the community prior to the next public meeting in September.”.

Debate continued.

Paper: Mr Stefaniak, by leave, presented the following paper:

Schools with declining enrolments—Copy of guidelines prepared by the Department of Education and Community Services, dated October 1999.

Debate continued.

Mrs Dunne moved the following amendment to Ms Gallagher's proposed amendment:

Add:

“(7) that the ACT Government's ‘extensive process of community consultation’, due to conclude in December 2005, was undertaken only after the Government had already made a decision to close the Ginninderra District High School.”.

Debate continued.

Question—That Mrs Dunne's amendment to Ms Gallagher's proposed amendment be agreed to—put.

The Assembly voted—

AYES, 7		NOES, 8	
Mrs Burke	Mr Seselja	Mr Berry	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Corbell	Ms MacDonald
Dr Foskey	Mr Stefaniak	Ms Gallagher	Ms Porter
Mr Pratt		Mr Gentleman	Mr Quinlan

And so it was negatived.

Question—That Ms Gallagher's amendment be agreed to—put.

The Assembly voted—

AYES, 8		NOES, 7	
Mr Berry	Mr Hargreaves	Mrs Burke	Mr Seselja
Mr Corbell	Ms MacDonald	Mrs Dunne	Mr Smyth
Ms Gallagher	Ms Porter	Dr Foskey	Mr Stefaniak
Mr Gentleman	Mr Quinlan	Mr Pratt	

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

“That this Assembly notes:

- (1) that the ACT Government has recently announced a proposal to build a new state-of-the-art school in West Belconnen;
- (2) the proposal will inject an investment of \$43 million of infrastructure with considerable educational benefits for the children and young people of West Belconnen;
- (3) the proposal involves a multi-campus, middle schooling model, already used successfully elsewhere in the ACT and Australia;
- (4) while the proposal will result in disruption to the current students of Ginninderra District High School, individual transition plans to address the educational needs of each student are being implemented to minimise the disruption to each student;
- (5) that the ACT Government has commenced an extensive process of community consultation due to conclude in December 2005; and

- (6) that, in response to community concerns, further work will be done by the ACT Government in response to community feedback, and that information will be made available to the community prior to the next public meeting in September.”—

be agreed to—put.

The Assembly voted—

AYES, 8		NOES, 7	
Mr Berry	Mr Hargreaves	Mrs Burke	Mr Seselja
Mr Corbell	Ms MacDonald	Mrs Dunne	Mr Smyth
Ms Gallagher	Ms Porter	Dr Foskey	Mr Stefaniak
Mr Gentleman	Mr Quinlan	Mr Pratt	

And so it was resolved in the affirmative.

5 MINISTERIAL ARRANGEMENTS

Mr Stanhope (Chief Minister) informed the Assembly of the absence of Ms Gallagher (Minister for Education and Training) and advised the Assembly that questions without notice normally directed to Ms Gallagher could be directed to Mr Stanhope.

6 QUESTIONS

Questions without notice were asked.

7 PUBLIC SECTOR MANAGEMENT AMENDMENT BILL 2005 (NO. 2)

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.

8 FAIRTRADE PRODUCTS—PREFERRED USE BY A.C.T. GOVERNMENT

Dr Foskey, pursuant to notice, moved—That this Assembly:

- (1) recognising the imbalance in bargaining power between the small-scale growers of tea and coffee and the much larger international businesses that purchase, distribute and market the bulk of that product in the developed world;
- (2) acknowledging:
 - (a) the capacity of organisations and businesses to accept the responsibility for the social and environmental impact of their purchasing decisions; and
 - (b) the significance of such actions both practically and symbolically;
- (3) adopts a policy of the preferential purchase of tea and coffee from accredited Fairtrade suppliers in every possible situation;
- (4) indicate its preference for Fairtrade products whenever they are served to visitors and the public; and
- (5) calls on the ACT Government to pursue a similar policy through its agencies and its activities.

Mr Quinlan (Minister for Economic Development and Business) moved the following amendment: Omit paragraphs (3), (4) and (5), substitute:

“(3) where possible, and in accordance with prevailing legislative requirements, supports the use of products from accredited Fairtrade suppliers.”.

Dr Foskey moved the following amendment to Mr Quinlan’s proposed amendment: Omit “, (4)”.

Question—That Dr Foskey’s amendment to Mr Quinlan’s proposed amendment be agreed to—put and negatived.

Question—That Mr Quinlan’s amendment be agreed to—put and passed.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) recognising the imbalance in bargaining power between the small-scale growers of tea and coffee and the much larger international businesses that purchase, distribute and market the bulk of that product in the developed world;
- (2) acknowledging:
 - (a) the capacity of organisations and businesses to accept the responsibility for the social and environmental impact of their purchasing decisions; and
 - (b) the significance of such actions both practically and symbolically;
- (3) where possible, and in accordance with prevailing legislative requirements, supports the use of products from accredited Fairtrade suppliers.”—

be agreed to—put and passed.

9 KIPPAX LIBRARY

Ms Porter, pursuant to notice, moved—That this Assembly:

- (1) welcomes the opening of a permanent library facility at Kippax;
- (2) applauds the process of consultation undertaken during the preparation and planning stages of the new Kippax Library; and
- (3) encourages residents of the Belconnen region to make use of this new multi-purpose facility.

Debate ensued.

Question—put and passed.

10 ATTORNEY-GENERAL—PROPOSED MOTION OF CONDEMNATION—RESOLUTION OF CENSURE—SHADOW ATTORNEY-GENERAL

Mr Stefaniak, pursuant to notice, moved—That this Assembly:

- (1) notes the concern expressed by the:
 - (a) Chief Justice of the ACT Supreme Court regarding threats to the doctrine of separation of powers and the independence of the judiciary; and
 - (b) community, fire victims and legal practitioners at the Government’s unprecedented actions in initiating/joining the appeal against Coroner Doogan and the threat to the doctrine of separation of the executive and judicial powers as a result of such action;

- (2) condemns the Attorney-General for his interference in the administration of justice in the ACT that has led to the Chief Justice expressing his concerns; and
- (3) calls on the Attorney-General to stand aside as Attorney-General for the duration of the coronial inquest into the January 2003 bushfires.

Paper: Mr Stefaniak, by leave, presented the following paper:

Ceremony for admission of legal practitioners—Copy of speech by Chief Justice Terence Higgins on 19 August 2005.

Mr Stanhope (Attorney-General) moved the following amendment: Omit all words after “That this Assembly”, substitute:

“(1) notes:

- (a) comments on radio on 22 August 2005 by the Shadow Attorney-General that in the Government becoming involved in the apprehended bias appeal against the Coroner ‘there were big concerns that that was going against the doctrine of separation of powers’;
 - (b) further comments by the Shadow Attorney-General in this place, for example on 8 December 2004 that ‘by joining in an appeal [against the Coroner].....[the Government] contravenes the separation of powers’;
 - (c) the reported view of noted ANU academic, Hugh Selby (*Canberra Times* 30 October 2004) that ‘claims that a breach of the separation of powers is occurring are nothing more than a red herring’;
 - (d) a further reported view of a second expert in coroner inquiries, Dr Ian Freckelton (*Canberra Times* 1 February 2005) that the Government’s action was ‘valid and lawful’; and
 - (e) the fact that in the comments of the Chief Justice of the Supreme Court, relied on by the Shadow Attorney-General, nowhere does the Chief Justice suggest that the Government’s appeal against the Coroner was a breach of the separation of powers; and
- (2) censures the Shadow Attorney-General for his blatant and repeated misleading of the people of Canberra and this Assembly.”.

Papers: Mr Stanhope presented the following papers:

Coronial inquest—January 2003 bushfires—Copies of:

Affidavit (unsigned) prepared by Bruce Michael Kelly, Courts Administrator within the Courts and Tribunals Business Centre of the ACT Department of Justice and Community Safety.

Consultancy Agreement between the CSIRO and the Australian Capital Territory, dated 9 July 2003.

Debate continued.

Mr Smyth (Leader of the Opposition) moved—That the question be divided.

Question—put and negatived.

Closure: Mr Stanhope moved—That the question be now put.

Question—That the question be now put—put and passed.

And the question—That Mr Stanhope’s amendment be agreed to—being accordingly put.

The Assembly voted—

AYES, 7		NOES, 6	
Mr Berry	Ms Porter	Mrs Burke	Mr Smyth
Mr Corbell	Mr Quinlan	Dr Foskey	Mr Stefaniak
Mr Gentleman	Mr Stanhope	Mr Pratt	
Ms MacDonald		Mr Seselja	

And so it was resolved in the affirmative.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
 - (a) comments on radio on 22 August 2005 by the Shadow Attorney-General that in the Government becoming involved in the apprehended bias appeal against the Coroner ‘there were big concerns that that was going against the doctrine of separation of powers’;
 - (b) further comments by the Shadow Attorney-General in this place, for example on 8 December 2004 that ‘by joining in an appeal [against the Coroner].....[the Government] contravenes the separation of powers’;
 - (c) the reported view of noted ANU academic, Hugh Selby (*Canberra Times* 30 October 2004) that ‘claims that a breach of the separation of powers is occurring are nothing more than a red herring’;
 - (d) a further reported view of a second expert in coroner inquiries, Dr Ian Freckelton (*Canberra Times* 1 February 2005) that the Government’s action was ‘valid and lawful’; and
 - (e) the fact that in the comments of the Chief Justice of the Supreme Court, relied on by the Shadow Attorney-General, nowhere does the Chief Justice suggest that the Government’s appeal against the Coroner was a breach of the separation of powers; and
- (2) censures the Shadow Attorney-General for his blatant and repeated misleading of the people of Canberra and this Assembly.”—

be agreed to—put.

The Assembly voted—

AYES, 7		NOES, 6	
Mr Berry	Ms Porter	Mrs Burke	Mr Smyth
Mr Corbell	Mr Quinlan	Dr Foskey	Mr Stefaniak
Mr Gentleman	Mr Stanhope	Mr Pratt	
Ms MacDonald		Mr Seselja	

And so it was resolved in the affirmative.

11 ADJOURNMENT

It being past 6 p.m.—The question was proposed—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.23 p.m., adjourned until tomorrow at 10.30 a.m.

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

*On leave

Tom Duncan
Clerk of the Legislative Assembly