



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006

MINUTES OF PROCEEDINGS

No. 53

TUESDAY, 7 MARCH 2006

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

2 LEAVE OF ABSENCE TO MEMBER

Mrs Burke moved—That leave of absence be given to Mr Seselja from 6 March to 19 March 2006 inclusive.

Question—put and passed.

3 LEGAL AFFAIRS—STANDING COMMITTEE—REPORT 3—REPORT ON TERRORISM (EXTRAORDINARY TEMPORARY POWERS) BILL 2005—EXPOSURE DRAFT—MOTION THAT REPORT BE NOTED

Mr Stefaniak (Chair), pursuant to order, presented the following report:

Legal Affairs—Standing Committee—Report 3—*Report on Terrorism (Extraordinary Temporary Powers) Bill 2005—Exposure draft*, dated 24 February 2006, including additional and dissenting comments (*Mr Stefaniak, Ms MacDonald, Dr Foskey*), together with a copy of the extracts of the relevant minutes of proceedings—

and moved—That the report be noted.

Debate ensued.

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

4 LEGAL AFFAIRS—STANDING COMMITTEE (PERFORMING THE DUTIES OF A SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION COMMITTEE)—SCRUTINY REPORT 22—STATEMENT BY CHAIR

Mr Stefaniak (Chair) presented the following report:

Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 22, dated 6 March 2006, together with the relevant minutes of proceedings—

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

5 PLANNING AND ENVIRONMENT—STANDING COMMITTEE—PETITION—WOOLWORTHS, MAWSON—DIRECT LAND GRANT—STATEMENT BY CHAIR

Mr Gentleman (Chair), pursuant to standing order 246A, informed the Assembly that the Standing Committee on Planning and Environment had resolved not to conduct an inquiry into the petition referred by the Assembly to the Committee on 16 February 2006 concerning a direct land grant to Woolworths, Mawson.

6 CRIMES (OFFENCES AGAINST PREGNANT WOMEN) AMENDMENT BILL 2005

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 17, by leave, taken together and agreed to.

Proposed new clause—

Mr Pratt moved his amendment No. 1 (*see* [Schedule 1](#)), which inserts a new clause 17A in the Bill.

Debate continued.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour this day.

7 QUESTIONS

Questions without notice were asked.

8 PRESENTATION OF PAPER

The Speaker presented the following paper:

Study trip—Report by Dr Foskey, MLA—ACT Legislative Assembly, Canberra, 17 February 2006.

**9 PUBLIC SECTOR MANAGEMENT ACT—EXECUTIVE CONTRACTS—
PAPERS AND STATEMENT BY MINISTER**

Mr Stanhope (Chief Minister) presented the following papers:

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

Contract variations:

Beverley Helen Forner, dated 14 February 2006.

Diane Spooner, dated 18 January 2006.

Maureen Sheehan, dated 16 February 2006.

Michael William Kegel, dated 14 February 2006.

Peter Garrisson, dated 24 January 2006.

Long-term contracts:

Janet Davy, dated 17 February 2006.

John Hare, dated 16 February 2006.

Judi Childs, dated 24 January 2006.

Robyn Hardy, dated 31 January 2006.

Stephen Miners, dated 2 February 2006.

Short-term contracts:

Beverley Helen Forner, dated 16 February 2006.

Brett Phillips, dated 27 January 2006.

Danielle Krajina, dated 9 January 2006.

Elizabeth Kelly (unsigned), dated 3 February 2006.

Elizabeth Kelly, dated 7 February 2006

June Bronwyn Leslie, dated 18 January 2006.

Karl Phillips, dated 9 February 2006.

Lana Junakovic, dated 21 December 2005.

Maureen Sheehan, dated 16 February 2006.

Stephen Ryan, dated 22 February 2006—

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

**10 NATIONAL ENVIRONMENT PROTECTION COUNCIL ACT—NATIONAL
ENVIRONMENT PROTECTION COUNCIL—ANNUAL REPORT 2004-
2005—PAPER AND STATEMENT BY MINISTER**

Mr Stanhope (Minister for the Environment) presented the following paper:

National Environment Protection Council Act, pursuant to subsection 23(3)—National Environment Protection Council—Annual Report 2004-2005.

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

11 PRESENTATION OF PAPERS

Mr Quinlan (Treasurer) presented the following papers:

Financial Management Act—

Pursuant to section 16—Instrument directing a transfer of appropriations from the Chief Minister's Department to InTACT, including a statement of reasons, dated 22 February 2006.

Pursuant to section 19B—Instrument varying appropriations related to the Investing In Our Schools Programme—Department of Education and Training, including a statement of reasons, dated 22 February 2006.

Independent Competition and Regulatory Commission—Report 5—Issues Paper—Review of ACTION buses pricing for 2006-07, dated 20 February 2006.

12 WORKERS COMPENSATION AMENDMENT BILL 2006—REVISED EXPLANATORY STATEMENT

Ms Gallagher (Minister for Industrial Relations) presented the following paper:

Workers Compensation Amendment Bill 2006—Revised explanatory statement.

13 PRESENTATION OF PAPERS

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

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Canberra Institute of Technology Act—

Canberra Institute of Technology (Advisory Council) Appointment 2006 (No. 1)—Disallowable Instrument DI2006-15 (LR, 8 February 2006).

Canberra Institute of Technology (Advisory Council) Appointment 2006 (No. 2)—Disallowable Instrument DI2006-16 (LR, 8 February 2006).

Canberra Institute of Technology (Advisory Council) Appointment 2006 (No. 3)—Disallowable Instrument DI2006-17 (LR, 8 February 2006).

Canberra Institute of Technology (Advisory Council) Appointment 2006 (No. 4)—Disallowable Instrument DI2006-18 (LR, 8 February 2006).

Canberra Institute of Technology (Advisory Council) Appointment 2006 (No. 5)—Disallowable Instrument DI2006-19 (LR, 8 February 2006).

Domestic Animals Act—Domestic Animals (Fees) Determination 2006 (No. 1)—Disallowable Instrument DI2006-9 (LR, 8 February 2006).

Electoral Act—Electoral (Commission Chairperson and Member) Appointment 2006 (No. 1)—Disallowable Instrument DI2006-23 (LR, 8 February 2006).

Health Professionals Act—

Health Professionals (Fees) Determination 2006 (No. 1)—Disallowable Instrument DI2006-32 (LR, 21 February 2006).

Health Professionals Amendment Regulation 2006 (No. 1)—Subordinate Law SL2006-1 (LR, 16 January 2006).

Health Professionals Amendment Regulation 2006 (No. 2)—Subordinate Law SL2006-2 (LR, 16 January 2006).

Health Professionals Amendment Regulation 2006 (No. 3)—Subordinate Law SL2006-3 (LR, 16 January 2006).

Health Professionals Regulation—

Health Professionals (ACT Nursing and Midwifery Board) Appointment 2006 (No. 1)—Disallowable Instrument DI2006-11 (LR, 6 February 2006).

Health Professionals (Medical Board) Appointment 2006 (No. 1)—Disallowable Instrument DI2006-12 (LR, 6 February 2006).

Land (Planning and Environment) Act—Land (Planning and Environment) Territory Plan Amendment 2006 (No. 1)—Disallowable Instrument DI2006-14 (without explanatory statement) (LR, 6 February 2006).

Mental Health (Treatment and Care) Act—Mental Health (Treatment and Care) (Official Visitors) Appointment 2006 (No. 1)—Disallowable Instrument DI2006-24 (LR, 9 February 2006).

Public Place Names Act—Public Place Names (Several Divisions) Determination 2006 (No. 1)—Disallowable Instrument DI2006-25 (LR, 17 February 2006).

Public Sector Management Act—Public Sector Management Amendment Standard 2006 (No. 4)—Disallowable Instrument DI2006-31 (LR, 16 February 2006).

Race and Sports Bookmaking Act—

Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2006 (No. 1)—Disallowable Instrument DI2006-33 (LR, 27 February 2006).

Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2006 (No. 2)—Disallowable Instrument DI2006-34 (LR, 21 February 2006).

Rehabilitation of Offenders (Interim) Act—

Rehabilitation of Offenders (Interim) (Sentence Administration Board) Appointment 2006 (No. 1)—Disallowable Instrument DI2006-28 (LR, 17 February 2006).

Rehabilitation of Offenders (Interim) (Sentence Administration Board) Appointment 2006 (No. 2)—Disallowable Instrument DI2006-29 (LR, 17 February 2006).

Rehabilitation of Offenders (Interim) (Sentence Administration Board) Appointment 2006 (No. 3)—Disallowable Instrument DI2006-30 (LR, 17 February 2006).

Road Transport (General) Act—

Road Transport (General) (Application of Road Transport Legislation) Declaration 2006 (No. 2)—Disallowable Instrument DI2006-22 (LR, 8 February 2006).

Road Transport (General) (Application of Road Transport Legislation) Declaration 2006 (No. 3)—Disallowable Instrument DI2006-26 (LR, 16 February 2006).

Road Transport (General) (Driver Licensing) Exemption 2006 (No. 1)—Disallowable Instrument DI2006-20 (LR, 9 February 2006).

Road Transport (Public Passenger Services) Regulation—

Road Transport (Public Passenger Services) (Minimum Service Standards—Taxi Network) Approval 2006 (No. 1)—Disallowable Instrument DI2006-21 (LR, 9 February 2006).

Road Transport (Public Passenger Services) (Minimum Service Standards—Taxi Network) Approval 2006 (No. 2)—Disallowable Instrument DI2006-27 (LR, 20 February 2006).

Road Transport (Safety and Traffic Management) Act—Road Transport (Safety and Traffic Management) Amendment Regulation 2006 (No. 1)—Subordinate Law SL2006-4 (LR, 16 January 2006).

14 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—PUBLIC HEALTH SYSTEM

The Assembly was informed that Mrs Burke, Mr Gentleman, Ms MacDonald, Ms Porter and Mr Smyth (Leader of the Opposition) had proposed that matters of public importance be submitted to the Assembly for discussion. In accordance with the provisions of standing order 79, the Speaker had determined that the matter proposed by Mrs Burke be submitted to the Assembly, namely, “The state of the public health system in the ACT.”.

Discussion ensued.

The time for discussion having expired—

Discussion concluded.

15 CRIMES (OFFENCES AGAINST PREGNANT WOMEN) AMENDMENT BILL 2005

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

Detail Stage

Proposed new clause—

Consideration resumed on proposed new clause 17A (Mr Pratt’s amendment No. 1—see [Schedule 1](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 6		NOES, 9	
Mrs Burke	Mr Stefaniak	Mr Berry	Ms MacDonald
Mrs Dunne		Mr Corbell	Ms Porter
Mr Mulcahy		Dr Foskey	Mr Quinlan
Mr Pratt		Mr Gentleman	Mr Stanhope
Mr Smyth		Mr Hargreaves	

And so it was negatived.

Clause 18—

On the motion of Mr Stanhope (Attorney-General), his amendment No. 1 (*see* [Schedule 2](#)) was made, after debate.

Paper: Mr Stanhope presented a supplementary explanatory statement to the Government amendment.

Clause 18, 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.

16 CHILDREN AND YOUNG PEOPLE 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.

Detail Stage

Clauses 1 to 3, by leave, taken together—

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

17 ADJOURNMENT

Mr Quinlan (Treasurer) moved—That the Assembly do now adjourn.

Debate ensued.

Question—put and passed.

And then the Assembly, at 6.21 p.m., adjourned until tomorrow at 10.30 a.m.

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

*on leave

Tom Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

CRIMES (OFFENCES AGAINST PREGNANT WOMEN) AMENDMENT BILL 2005

Amendment circulated by Mr Pratt

1

Proposed new clause 17A

Page 5, line 20—

insert

17A New section 42A

insert

42A Offences relating to unborn children

- (1) This section does not apply to—
 - (a) a lawful abortion; or
 - (b) anything done by a pregnant woman in relation to her own unborn child; or
 - (c) anything done to save the life of, or preserve the health of, a woman who is pregnant, or her unborn child; or
 - (d) anything done otherwise within the usual and customary standards of medical practice.
- (2) A person commits an offence if the person—
 - (a) engages in conduct that causes the death of an unborn child; and
 - (b) is reckless about causing the death of, or serious harm to, the unborn child by the conduct.

Maximum penalty: 2 000 penalty units, imprisonment for 20 years or both.

- (3) In this section:

harm, in relation to an unborn child, means physical harm to the unborn child, including disfigurement and infection with a disease, whether temporary or permanent.

serious harm, in relation to an unborn child, means any harm (including the cumulative effect of more than 1 harm) that—

- (a) endangers, or is likely to endanger, the life of the unborn child; or
- (b) is, or is likely to be, significant and longstanding.

unborn child means an embryo or foetus at any stage of its development.

Schedule 2

CRIMES (OFFENCES AGAINST PREGNANT WOMEN) AMENDMENT BILL 2005

Amendment circulated by the Attorney-General

1

Clause 18

Proposed new section 48A (2) to (5)

Page 6, line 13—

omit proposed new section 48A (2) to (5), substitute

- (2) The offence is an ***aggravated offence*** if—
 - (a) the offence was committed against a pregnant woman; and
 - (b) the commission of the offence caused—
 - (i) the loss of, or serious harm to, the pregnancy; or
 - (ii) the death of, or serious harm to, a child born alive as a result of the pregnancy.
 - (3) However, the offence is not an ***aggravated offence*** if the defendant proves, on the balance of probabilities, that the defendant did not know, and could not reasonably have known, that the woman was pregnant.
 - (4) If the prosecution intends to prove that the offence is an aggravated offence, the relevant factors of aggravation must be stated in the charge.
 - (5) To remove any doubt—
 - (a) it is not necessary for the prosecution to prove that the defendant had a fault element in relation to any factor of aggravation; and
 - (b) the Criminal Code, chapter 2 (other than the applied provisions) does not apply to an offence to which this section applies, whether or not it is an aggravated offence.
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