



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

2004–2005–2006–2007–2008

MINUTES OF PROCEEDINGS

No. 138

THURSDAY, 10 APRIL 2008

1 The Assembly met at 10.30 a.m., pursuant to adjournment. A quorum of Members not being present, the Speaker (Mr Berry) 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 SUBMISSIONS TO THE REMUNERATION TRIBUNAL BY THE CLERK OF THE LEGISLATIVE ASSEMBLY—STATEMENT BY SPEAKER

The Speaker made a statement concerning his answer to a question without notice yesterday in relation to submissions made to the Remuneration Tribunal by the Clerk.

3 PAPER

Mr Mulcahy, making a personal explanation under standing order 46, by leave, presented the following paper:

Utilities (Network Facilities Tax) Repeal Bill 2007—Copy of Liberal Party Room submission, dated 17 September 2007.

4 PETITION

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

Ms Porter, from 29 residents, requesting that the Assembly disallow the development application relating to Block 6 Section 39 Fraser.

5 ABORIGINAL AND TORRES STRAIT ISLANDER ELECTED BODY BILL 2008

Mr Stanhope (Minister for Indigenous Affairs), pursuant to notice, presented a Bill for an Act to establish an Aboriginal and Torres Strait Islander Elected Body, and for other purposes.

Papers: Mr Stanhope presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 8 April 2008.

Title read by Clerk.

Mr Stanhope moved—That this Bill be agreed to in principle.

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

6 CRIMES (FORENSIC PROCEDURES) AMENDMENT BILL 2008

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Crimes (Forensic Procedures) Act 2000*, and for other purposes.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 8 April 2008.

Title read by Clerk.

Mr Corbell moved—That this Bill be agreed to in principle.

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

7 FIREARMS AMENDMENT BILL 2008

Mr Corbell (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Firearms Act 1996* and the *Prohibited Weapons Act 1996*, and for other purposes.

Papers: Mr Corbell presented the following papers:

Explanatory statement to the Bill.

Human Rights Act, pursuant to section 37—Compatibility statement, dated 8 April 2008.

Title read by Clerk.

Mr Corbell moved—That this Bill be agreed to in principle.

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

8 PLANNING AND DEVELOPMENT ACT—PLANNING AND DEVELOPMENT REGULATION 2008—SUBORDINATE LAW SL2008-2—MOTION TO DISALLOW

Dr Foskey, pursuant to notice, moved—That Subordinate Law SL2008-2, Planning and Development Regulation 2008, made pursuant to the Planning and Development Act, be disallowed.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 1	NOES, 16	
Dr Foskey	Mr Barr	Ms MacDonald
	Mr Berry	Mr Mulcahy
	Mrs Burke	Ms Porter
	Mr Corbell	Mr Pratt
	Mrs Dunne	Mr Seselja
	Ms Gallagher	Mr Smyth
	Mr Gentleman	Mr Stanhope
	Mr Hargreaves	Mr Stefaniak

And so it was negatived.

9 ETHICS AND INTEGRITY ADVISER FOR MEMBERS—APPOINTMENT

Mr Berry (Speaker), pursuant to notice, moved—That this Assembly requests the Speaker to appoint an Ethics and Integrity Adviser for Members of the Legislative Assembly for the Australian Capital Territory with the following functions:

Provision of advice

- (1) Advise Members of the Legislative Assembly, when asked to do so by that Member, on ethical issues concerning the exercise of his or her role as a Member (including the use of entitlements and potential conflicts of interest).
- (2) Giving advice that is consistent with any code of conduct or other guidelines adopted by the Assembly, but does not include the provision of any legal advice.

Records

- (1) The Ethics and Integrity Adviser shall be required to keep records of advice given and the factual information upon which it is based.
- (2) The Ethics and Integrity Adviser shall be under a duty to maintain the confidentiality of information provided to him/her in exercising the function and any advice given, but may make public any advice if the person who requested the advice gives permission for it to be made public.
- (3) The Assembly shall only call for the production of records of the Ethics and Integrity Adviser if the person to which the records relate has sought to rely on the advice given in relation to paragraph (1) or given permission for the records to be produced to the Assembly.

- (4) The Ethics and Integrity Adviser is to meet at least annually with the Standing Committee on Administration and Procedure for a discussion on matters raised and possible proposals to address them.
- (5) The Ethics and Integrity Adviser shall report to the Assembly on an annual basis detailing the number of ethical matters raised with him/her and the number of Members who sought advice on any issues concerning Members' entitlements that have given rise to requests for ethics advice and suggest proposals to address these issues.
- (6) The Speaker shall, after each Assembly is elected or whenever the office becomes vacant, appoint an Ethics and Integrity Adviser for the life of that Assembly.
- (7) Before appointing an Adviser, the Speaker shall consult with the Chief Minister, the Leader of the Opposition and Crossbench Members.
- (8) The Ethics and Integrity Adviser may resign in writing to the Speaker, or may be removed from office for proved misbehaviour or mental incapacity on a resolution agreed to by the Assembly.

This resolution has effect from the date of its agreement by the Legislative Assembly and continues in force unless amended or repealed by this or a subsequent Assembly.

Mr Berry addressing the Assembly—

It being 45 minutes after the commencement of Assembly business—

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

Paper: Mr Berry presented the following paper:

Ethics and Integrity Commissioner for the ACT Legislative Assembly—Copy of advice to the Clerk of the Legislative Assembly from the ACT Government Solicitor, dated 10 April 2008.

Debate ensued.

Mr Seselja (Leader of the Opposition) moved the following amendment: Omit all words after “Speaker”, substitute: “to present as soon as possible a Bill for an Act for the appointment of an Ethics and Integrity Adviser for Members of the ACT Legislative Assembly which sets out inter alia:

- (1) the role of the Ethics and Integrity Adviser;
- (2) the way in which the Ethics and Integrity Adviser might conduct his/her duties;
- (3) the manner of appointment and dismissal Ethics and Integrity Adviser;
- (4) remuneration (if necessary) of the Ethics and Integrity Adviser; and
- (5) any other relevant matter.”.

Debate continued.

Question—That Mr Seselja's amendment be agreed to—put.

The Assembly voted—

AYES, 6

Mrs Burke
Mrs Dunne
Mr Pratt
Mr Seselja
Mr Smyth
Mr Stefaniak

NOES, 11

Mr Barr
Mr Berry
Mr Corbell
Dr Foskey
Ms Gallagher
Mr Gentleman
Mr Hargreaves
Ms MacDonald
Mr Mulcahy
Ms Porter
Mr Stanhope

And so it was negatived.

Suspension of standing orders—Continuation of debate: Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent the Assembly completing its consideration of notice No. 2, Assembly business.

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

Question—That the motion be agreed to—put and passed.

10 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF ASSEMBLY BUSINESS

Mr Seselja (Leader of the Opposition) moved—That so much of the standing orders be suspended as would prevent notice No. 4, Assembly business, relating to the proposed establishment of a Select Committee on Estimates 2008-2009, being called on forthwith.

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

11 ESTIMATES 2008-2009—SELECT COMMITTEE—PROPOSED ESTABLISHMENT

Mr Seselja (Leader of the Opposition), pursuant to notice, moved—That:

- (1) a Select Committee on Estimates 2008-2009 be established to examine the expenditure proposals contained in the Appropriation Bill 2008-2009 and any revenue estimates proposed by the Government in the 2008-2009 Budget;
- (2) the Committee be composed of:
 - (a) two Members to be nominated by the Government;
 - (b) two Members to be nominated by the Opposition; and
 - (c) one Member to be nominated by the Crossbench;
 to be notified in writing to the Speaker by 4 p.m. today;
- (3) the Committee report by 17 June 2008;
- (4) if the Assembly is not sitting when the Committee has completed its inquiry 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, publishing and circulation; and

- (5) the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Mr Corbell (Manager of Government Business) moved the following amendments together:

- (1) in paragraph (2)(a), omit “two”, substitute “three”; and
 (2) insert new paragraph (3A):
 “(3A) the Committee Chair shall be held by a Government member;”.

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.

12 QUESTIONS

Questions without notice being asked—

Paper: Mr Barr (Minister for Tourism, Sport and Recreation) presented the following paper:

Balloon Festival 2008—Copy of Event Agreement between the Chief Minister’s Department and Balloon Aloft Canberra, dated 18 February 2008.

Questions continued.

Papers: Mr Pratt, by leave, presented the following papers:

Prostitution—Government housing in Theodore—

Copy of email to Mr Pratt, dated 13 March 2008.

Copy of email to Mr Corbell (Minister for Police and Emergency Services) and Mr Hargreaves (Minister for Housing), dated 14 March 2008.

Questions continued.

13 INDIGENOUS EDUCATION—PERFORMANCE IN INDIGENOUS EDUCATION—ANNUAL REPORT 2007—PAPER AND STATEMENT BY MINISTER

Mr Barr (Minister for Education and Training), pursuant to the resolution of the Assembly of 24 May 2000, as amended 16 February 2006, presented the following paper:

Indigenous Education—Performance in Indigenous Education—Annual report 2007—
 and, by leave, made a statement in relation to the paper.

14 PRESENTATION OF PAPER

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

Planning and Development Act—Planning and Development Amendment Regulation 2008 (No. 1)—Subordinate Law SL2008-8, together with its explanatory statement and a regulatory impact statement (LR, 27 March 2008).

15 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF ASSEMBLY BUSINESS

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent the order of the day, Assembly business, relating to the establishment of a Select Committee on Estimates 2008-2009 being called on and debated forthwith.

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

16 ESTIMATES 2008-2009—SELECT COMMITTEE—ESTABLISHMENT

The order of the day having been read for the resumption of the debate on the motion of Mr Seselja (Leader of the Opposition) and on the amendments moved by Mr Corbell (Management of Government Business) (*see entry 11*)—

Debate resumed.

Mrs Burke moved the following amendment to Mr Corbell's proposed amendments: In proposed amendment (2), omit "Government", substitute "non-government".

Debate continued.

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

Question—That the question be now put—put.

The Assembly voted—

AYES, 10		NOES, 7	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Smyth
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Stefaniak
Mr Corbell	Mr Mulcahy	Dr Foskey	
Ms Gallagher	Ms Porter	Mr Pratt	
Mr Gentleman	Mr Stanhope	Mr Seselja	

And so it was resolved in the affirmative.

And the question—That Mrs Burke's amendment to Mr Corbell's proposed amendments be agreed to—being accordingly put.

Question—put and negatived.

Mr Corbell, by leave, withdrew his amendments and moved the following amendments together:

- (1) in paragraph (2)(a), omit "two", substitute "three";
- (2) omit paragraph (2)(c); and
- (3) in paragraph (2), omit "4 p.m.", substitute "the adjournment of the Assembly".

Debate continued.

Mr Smyth addressing the Assembly—

Closure of Member moved: Mr Corbell moved—That the Member be no longer heard.

Question—put.

The Assembly voted—

AYES, 9		NOES, 8	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Seselja
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Smyth
Mr Corbell	Ms Porter	Dr Foskey	Mr Stefaniak
Ms Gallagher	Mr Stanhope	Mr Mulcahy	
Mr Gentleman		Mr Pratt	

And so it was resolved in the affirmative.

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

Speaker's ruling—Motion not in order: The Speaker ruled that the closure of Member motion was not in order.

Question—That the question be now put—put.

The Assembly voted—

AYES, 9		NOES, 8	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Seselja
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Smyth
Mr Corbell	Ms Porter	Dr Foskey	Mr Stefaniak
Ms Gallagher	Mr Stanhope	Mr Mulcahy	
Mr Gentleman		Mr Pratt	

And so it was resolved in the affirmative.

And the question—That Mr Corbell's amendments be agreed to—being accordingly put.

The Assembly voted—

AYES, 9		NOES, 8	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Seselja
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Smyth
Mr Corbell	Ms Porter	Dr Foskey	Mr Stefaniak
Ms Gallagher	Mr Stanhope	Mr Mulcahy	
Mr Gentleman		Mr Pratt	

And so it was resolved in the affirmative.

Mr Seselja sought leave to move an amendment.

Objection being raised, leave not granted.

Suspension of standing orders moved—Member to move amendment: Mr Seselja moved—That so much of the standing orders be suspended as would prevent Mr Seselja from moving an amendment.

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

Question—That the question be now put—put.

The Assembly voted—

AYES, 9		NOES, 8	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Seselja
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Smyth
Mr Corbell	Ms Porter	Dr Foskey	Mr Stefaniak
Ms Gallagher	Mr Stanhope	Mr Mulcahy	
Mr Gentleman		Mr Pratt	

And so it was resolved in the affirmative.

And the question—That the standing orders be suspended—being accordingly put.

The Assembly voted—

AYES, 8		NOES, 9	
Mrs Burke	Mr Seselja	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Berry	Ms MacDonald
Dr Foskey	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

And so it was negatived.

Debate continued.

Mr Mulcahy sought leave to move an amendment.

Objection being raised, leave not granted.

Suspension of standing orders moved—Member to move amendment: Mr Mulcahy moved—That so much of the standing orders be suspended as would prevent Mr Mulcahy from moving an amendment.

Question—put.

The Assembly voted—

AYES, 8		NOES, 9	
Mrs Burke	Mr Seselja	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Berry	Ms MacDonald
Dr Foskey	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

And so it was negatived.

Question—That the motion, as amended, viz:

“That:

- (1) a Select Committee on Estimates 2008-2009 be established to examine the expenditure proposals contained in the Appropriation Bill 2008-2009 and any revenue estimates proposed by the Government in the 2008-2009 Budget;
- (2) the Committee be composed of:
 - (a) three Members to be nominated by the Government; and

- (b) two Members to be nominated by the Opposition;
to be notified in writing to the Speaker by the adjournment of the Assembly today;
- (3) the Committee report by 17 June 2008;
- (4) if the Assembly is not sitting when the Committee has completed its inquiry 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, publishing and circulation; and
- (5) the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.”—

be agreed to—put.

The Assembly voted—

AYES, 9		NOES, 8	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Seselja
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Smyth
Mr Corbell	Ms Porter	Dr Foskey	Mr Stefaniak
Ms Gallagher	Mr Stanhope	Mr Mulcahy	
Mr Gentleman		Mr Pratt	

And so it was resolved in the affirmative.

17 SUSPENSION OF STANDING ORDERS—CONSIDERATION OF EXECUTIVE BUSINESS AND COMMITTEE REPORT

Mr Corbell (Manager of Government Business) moved—That so much of the standing orders be suspended as would prevent order of the day No. 1, Executive business, relating to the Water Resources (Validation of Fees) Bill 2008, and the presentation of Report No. 6 of the Standing Committee on Education, Training and Young People being called on forthwith.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 10		NOES, 7	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Smyth
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Stefaniak
Mr Corbell	Mr Mulcahy	Dr Foskey	
Ms Gallagher	Ms Porter	Mr Pratt	
Mr Gentleman	Mr Stanhope	Mr Seselja	

And so it was resolved in the affirmative, with the concurrence of an absolute majority.

18 WATER RESOURCES (VALIDATION OF FEES) BILL 2008

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.

19 EDUCATION, TRAINING AND YOUNG PEOPLE—STANDING COMMITTEE—REPORT 6—RESTORATIVE JUSTICE PRINCIPLES IN YOUTH SETTINGS—FINAL REPORT—MOTION THAT REPORT BE NOTED

Ms Porter (Chair) presented the following report:

Education, Training and Young People—Standing Committee—Report 6—*Restorative Justice Principles in Youth Settings—Final report*, dated 8 April 2008, 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.

20 ESTIMATES 2008-2009—SELECT COMMITTEE—MEMBERSHIP

The Speaker, pursuant to the resolution of the Assembly of today, informed the Assembly that he had been notified, in writing, of the nominations of Mrs Dunne, Mr Gentleman, Ms MacDonald, Ms Porter and Mr Smyth to be members of the Select Committee on Estimates 2008-2009.

Mr Corbell (Manager of Government Business) moved—That the Members so nominated be appointed as members of the Select Committee on Estimates 2008-2009.

Question—put and passed.

21 MATTER OF PUBLIC IMPORTANCE—DISCUSSION—HOMELESSNESS IN THE A.C.T.

The Assembly was informed that Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Ms Porter, Mr Pratt, Mr Seselja (Leader of the Opposition), Mr Smyth and Mr Stefaniak 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 Mr Smyth be submitted to the Assembly, namely, “Homelessness in the ACT.”.

Suspension of standing orders moved—Matter of public importance to proceed for one hour: Mr Smyth moved—That so much of the standing orders be suspended as would enable discussion on the matter of public importance to proceed for one hour, notwithstanding the imminent automatic adjournment at 6 p.m.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 8		NOES, 9	
Mrs Burke	Mr Seselja	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Smyth	Mr Berry	Ms MacDonald
Dr Foskey	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Pratt		Mr Gentleman	

And so it was negatived.

Debate interrupted in accordance with standing order 34 and the resumption of the debate made an order of the day for the next sitting.

22 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 6.30 p.m., adjourned until Tuesday, 6 May 2008 at 10.30 a.m.

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

Tom Duncan
Clerk of the Legislative Assembly