DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

5 March 2002

Tuesday, 5 March 2002

Tuesday, 5 March 2002

MR SPEAKER (Mr Berry) took the chair at 10.30 am, made a formal recognition that the Assembly was meeting on the land of the traditional owners, and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Petition

*The following petition was lodged for presentation, by **Mrs Dunne**, from 77 residents.*

Abortion legislation

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the proposed Crimes Amendment Bill and the Health Regulation Repeal Bill will make it legal to perform abortions at any stage of a pregnancy and will remove the requirement for women to be informed about the procedure.
>
> Your petitioners therefore request the Assembly to oppose the passage of the Crimes Amendment Bill and the Health Regulation Repeal Bill.

The Clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petition was received.

Legal Affairs—Standing Committee
Scrutiny Report No 4

MR STEFANIAK (10.31): I present the following report:

> Legal Affairs—Standing Committee—Scrutiny Report No 4, dated 5 March 2002, together with a copy of the relevant extracts of the minutes of proceedings.

MR STEFANIAK: I seek leave to move a motion relating to the report.

Leave granted.

MR STEFANIAK: I move:

> That the Assembly authorises the publication of Report No 4 of the Scrutiny of Bills and Subordinate Legislation Committee.

Question resolved in the affirmative.

MR STEFANIAK: I ask for leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny Report No 4 contains the committee's comments on six bills, 24 pieces of subordinate legislation and one government response. I commend the report to the Assembly.

MR HARGREAVES: I ask for leave to make a statement on this report, as a member of the committee.

Leave granted.

MR HARGREAVES: I wish to draw the attention of the newer members of the Assembly to this report. It provides two examples of issues that were of concern to the last Assembly. The first one was the possibility of having a charge levied through subordinate legislation—and members who were here last time would remember the angst that we went through about that, concerning the difference between a tax and a charge. A charge, clearly, is an amount levied in direct relation to the service being received. A tax has no relationship at all to that, and there is an example in the scrutiny report of how a tax would be applied.

The other example is a Henry VIII clause. For new members, I recommend the report to you for a good example of what constitutes a Henry VIII clause. That was also discussed quite extensively during the last Assembly. Essentially, we have to be particularly careful not to become connected with other jurisdictions, and not have any control over laws in another jurisdiction that may apply automatically in the ACT.

The legal adviser has given quite a good example of this, and I would draw that matter to the attention of members. I wish I had had the benefit of such advice when I first attended this place.

Crimes Amendment Bill 2001 (No 2)

Debate resumed from 19 February 2002, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR WOOD (Minister for Urban Services and Minister for the Arts) (10.35): I adjourned the debate, Mr Speaker, anticipating further speakers. If there are no further speakers on this issue, Mr Stanhope will be able to close the debate.

Ms Tucker: No, we want it adjourned.

MR SPEAKER: Ms Tucker?

Ms Tucker: Well, would you like me to move the adjournment?

MR WOOD: No, I think the matter should be debated.

Ms Tucker: Well, can I speak to that please, Mr Speaker?

MR SPEAKER: You can speak to the bill.

MR WOOD: I am not aware that anyone wanted to postpone it.

MR SMYTH (10.36): While discussions go on, on the other side, as to the progress of this bill, I might reiterate the opposition's position, which Mr Stefaniak put so well previously, that we have no objections to this bill. As you would be aware, both the Labor Party and the Liberal Party put forward similar bills in the lead-up to the election.

It is the government's bill that is now coming forward, and we have agreed to it. We believe that people should not be conducting hoaxes of this nature. It is detrimental to the community, it scares people, and I think it tears at those things we do hold sacred. At the same time, it puts to a great deal of expense, time and effort those members of our emergency services—the police, the fire brigade and the ambulance—who really should be spending their time doing better things.

The intent of the bill is to increase the penalties and, as Mr Stefaniak has already so well outlined on behalf of the Liberal Party and the opposition, we will be supporting this bill.

Debate (on motion by **Ms Tucker**) adjourned to a later hour.

Criminal Code Amendment Bill 2002

Debate resumed from 19 February 2002, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (10.38): This is national legislation and with good reason. It is actually going to be reasonably slow to implement. The previous government introduced some legislation last year in relation to this. This was meant to commence on 10 March 2002, but I think events were beyond the control of everyone here. That date must be put back to 1 January 2002.

It is important, I think, that we do get this right, to make sure that the relevant principles are incorporated, and to make sure that there is consistency across jurisdictions. I thank the Attorney for the briefing from his departmental officers, which refreshed my memory about where we were up to last year. They have been most helpful on this and several other bills, and I want to place that on record.

The delay is to enable the remaining principles of criminal responsibility to be incorporated into the code. It is also to redraft many existing offences into user friendly English. At present, the criminal code contains only some principles of criminal responsibility, and it cannot operate until the remaining principles have been included. When this occurs, in the subsequent bill, I will certainly look at those very carefully to ensure that everything is being done correctly.

This is a procedural bill that the government is putting in place. It is part of a continuing process that we commenced, as the previous government, and certainly, as the opposition, we are very happy to support this bill. Because this will produce an Australia-wide criminal code, I hope that we will all be winners. It is going to take some time. I do not know how many of us will be around to see the national criminal code come to fruition. However, I think it is eminently sensible.

There are some real and significant problems in having slightly different laws for different jurisdictions. With something as important as criminal law, I think it is very desirable to have a nationally consistent approach to, for example, principles, but also to things such as offences. This is something that can only simplify the process, and make the law more user friendly and a lot more relevant to everyone, not only in the ACT, but also in the country.

However, I do stress that it is a fairly slow and laborious process. I can understand the government's need to delay the commencement of the code. It has been discussed for years, but it has now commenced. Now we are seeing some legislation, and I certainly look forward to further legislation and consistency between the states, which is the ultimate aim.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (10.41), in reply: I thank members for their support for this bill. As the shadow Attorney has just indicated, this bill is fairly simple in its operation. It is designed to delay the commencement of the criminal code for a few months, to allow us to take the additional necessary steps in relation to codifying some principles of criminal responsibility that to date have not been considered.

I touched on those issues when I presented the bill, and I thank members for their support, and look forward to continuing to work with the Assembly on the criminal code. This is a very significant piece of legislation, as the shadow Attorney has just indicated, something on which all jurisdictions around Australia have been cooperating for a significant number of years. It is something that has been long in the genesis, but we are getting there now, and I am sure Mr Stefaniak will still be around when it is fully implemented.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 10.43 am to 2.30 pm.

Questions without notice

Education spending

MR HUMPHRIES: Mr Speaker, my question is directed to the minister for education, Mr Corbell. Minister, in the last sitting, you said, in respect of the $27 million extra to be provided to schools, that this money would be provided:

> … over a time frame that gives the greatest benefit as promptly as possible. One or two years is an option; equally, over a four-year period is an option. All these things will be considered in the context of the current budget.

Minister, on 5 February on 2CC radio, you said:

> This government will inject as additional $27 million into education over the next one to two years.

I hope you appreciate, Minister, that there is quite a difference between those two statements.

Would you concede that, in light of the Treasurer's concerns about a possible deficit in this time, there is no possibility whatsoever of bringing forward an extra $27 million spending in two years, much less in one? Have you the courage to admit that your comment on 2CC radio was a stuff-up from which you have been retreating ever since?

MR SPEAKER: Mr Corbell, you need not answer the epithet.

MR CORBELL: Mr Speaker, the quotation that the Leader of the Opposition reads from the *Hansard* is a correct representation of what I said in this place, and it is the approach the government will be adopting on the issue.

MR HUMPHRIES: In light of that statement, will you concede that you misled the listeners of 2CC on 5 February when you said, "This government will inject an additional $27 million into education over the next one to two years"?

MR CORBELL: No.

Gungahlin Drive extension

MRS CROSS: My question is to Mr Corbell and is in regard to the Gungahlin Drive extension and the government's proposed western alignment. The head of the Australian Sports Commission, Mark Peters, spoke out publicly in Senate estimates and to the media last week against Labor's proposed western alignment for Gungahlin Drive. He said that the western alignment would be a "disaster" for the Australian Institute of Sport as it would affect their future operations and the performance of elite athletes. He further believed that any option along the government's preferred route other than a tunnel would be inappropriate for the AIS.

In your surprise response to Mr Peters you are quoted as saying:

> It is an issue I am sure we can negotiate and reach a reasonable accommodation over.

You also said you were to have these negotiations with AIS officials last week. Minister, have you met with either Mr Peters or the AIS since you gave this public assurance? If so, what reasonable accommodation have you offered them?

MR CORBELL: I met with representatives of the Australian Sports Commission and the Australian Institute of Sport, including Mr Peters, last Thursday. We had very detailed discussion, including an inspection of a number of areas of the AIS campus, to discuss the AIS and the commission's concerns about the government's western

alignment. We are in ongoing discussion with representatives of the Sports Commission and the AIS as to the issues that they have raised concerns about. We have agreed that we will continue to work through those issues through the assessment process which is currently under way.

MRS CROSS: I have a supplementary question, Mr Speaker. I would like to ask the minister: if you are going through ongoing discussions with the AIS, when were you planning to advise this Assembly on the outcomes of those discussions?

MR CORBELL: Mr Speaker, I will advise the Assembly of the outcome of those discussions when those discussions are completed. They are not yet completed.

Callam Street realignment

MS TUCKER: My question to the Minister for Planning relates to the proposal to realign Callam Street in Woden with Athllon Drive and, in the process, free up territory land next to the Southern Cross Club redevelopment. Minister, I understand that the Southern Cross Club applied to the former government to purchase by direct grant the land next to the club in return for the club meeting the cost of constructing the new alignment of Callam Street.

Could you tell us if any formal agreement exists between the government and the club about the purchase of the land and, if so, when was this agreement made, how much money is the club proposing to pay for the land, and how does this compare with the government's assessment of the value of the land and the roadworks?

MR CORBELL: Mr Speaker, as I understand it, a deed of agreement was offered to the Southern Cross Club by the former government prior to the election in October last year. I further understand that that deed has subsequently been accepted by the Southern Cross Club. I do not have to hand the other details that Ms Tucker asks for and I will endeavour to get those before the finish of question time today.

However, I think it is important to note very clearly that what this government is doing in relation to the Callam Street alignment is something which those opposite would in no way have done. They would not have done it because they were moving ahead without any hesitation on the Callam Street realignment. The former minister had made the offer, the arrangement had gone through, and there had been no discussion with the Phillip Traders Association on the issue.

It is of interest to me that Mrs Cross is now out there seeking to make political capital on the issue when it was her party that put the Phillip Traders in this position in the first place.

Mrs Cross: On a point of order, Mr Speaker: I need to remind the minister that he was on the standing committee that recommended this proposal.

MR SPEAKER: That is not a point of order.

MR CORBELL: Mr Speaker, let us understand what this issue is all about. The previous government—and Mrs Cross, of course, is a president of the Phillip Traders Association along with being a Liberal Party candidate—

Mrs Cross: Mr Speaker, I take a point of order. Could I correct the minister—I am not the president of the Phillip Traders.

MR SPEAKER: There is no point of order. You either have a point of order or you do not. Mr Stefaniak, would you like to have a go?

Mr Stefaniak: Yes, Mr Speaker. Mrs Cross is not the president of the Phillip Traders Association at present, and I ask that the minister withdraw what he said.

MR SPEAKER: Sit down, Mr Stefaniak. That is not a point of order.

Mr Hargreaves: Mr Speaker, I just wish to congratulate you on your ruling and remind members of standing order 46. I think that would have been more appropriate if Mrs Cross had had a problem.

MR SPEAKER: Thank you for your help. Mr Corbell, would you like to resume your answer.

MR CORBELL: Mr Speaker, I apologise to Mrs Cross if she is no longer president of Phillip Traders. She was the president of Phillip Traders. In the lead-up to the last election she was the president of the Phillip Traders. When she was an endorsed Liberal candidate she was the president of the Phillip Traders. When the previous government was offering land to the Southern Cross Club she was involved with the Phillip Traders.

At no stage did she raise with the Phillip Traders the issue of the significance of this decision and now she has the gall to run around the Canberra community having a go at this government for trying to fix the mess that they left us. It is an unacceptable and hypocritical approach by Mrs Cross and the Liberal Party.

What the Labor government is doing in relation to this matter is that we have said we will not be progressing the realignment of Callam Street until we have seriously worked through the issues that the Phillip Traders have raised—something which the previous government was unwilling or unable to do. We will be working with the Phillip Traders on the issue.

I have met with the Phillip Traders this year—in fact, just a couple of weeks ago. They raised a series of detailed concerns, which I believe warrant further investigation, as to the previous government's conduct in processing the matters surrounding the Callam Street realignment. We will be looking very closely at those issues before making a decision on whether or not to proceed with the realignment. That is the commitment the Labor government has with the Phillip Traders—a commitment sorely lacking from those opposite.

MS TUCKER: Mr Speaker, I ask a supplementary question. Minister, what I would like you to do is please provide a copy of the agreement.

MR SPEAKER: Beware of preambles. I am red hot on preambles.

MS TUCKER: I didn't give a preamble. I just asked the question. Could I please have a copy of this agreement and any papers that describe the basis of the valuation of the land?

MR CORBELL: Mr Speaker, I would be happy to provide that documentation. I will just need to clarify whether or not the deed agreement is a document that can be made available. I will seek advice on that and I will get back to Ms Tucker on those matters.

Latham shops

MR HARGREAVES: Mr Speaker, my question is to the Minister for Planning. I am sure the opposition will be delighted to be reminded about what they did not do over the last four years and to hear what this government has done.

My question relates to the further measures the government has taken to fix the longstanding debacle left by the previous government in relation to the Latham shops. Will the minister inform the Assembly what action the government has taken to ensure the site no longer poses a safety threat and that the people of Latham can look forward to a local centre they can be proud of?

Mrs Dunne: On a point of order, Mr Speaker: wasn't this question asked in almost identical wording during the last sitting?

MR SPEAKER: If you are asking me that question, I do not think it was. I do not know that that is a point of order.

MR CORBELL: Mr Speaker, my understanding of Mr Hargreaves' question is that he asked what further measures have been taken since he last asked the question. It is a new question that he asked. I am very happy to answer it.

It is, indeed, Mr Hargreaves, a positive progress report for the residents of Latham. I am pleased to advise the Assembly that, since the last sitting, Planning and Land Management has issued an order against the lessee of the Latham local centre, requiring demolition of the derelict building within 30 days. I am further pleased to inform the Assembly that, as a result of that order, the lessee moved, the following day, to have the building demolished.

I am pleased to advise that the building is now partially demolished. Some further issues were identified about the adequacy of safety fencing, which temporarily halted demolition. That safety fencing, I understand, is now in place and I am advised that the demolition will be completed during this week.

Mr Speaker, unlike the previous government, which over two years did absolutely nothing with the Latham shops, leaving the residents of Latham with an eyesore which was, quite frankly, a disgrace, this government has moved to ensure that at least the building is cleaned up, and demolition is now under way.

Let us remember why Mr Smyth called in the development application on the Latham shops. Why did he do that? To speed the process up. When did Mr Smyth call in the development application? He called it in in April last year. What happened between then and when they lost office in October? Absolutely nothing.

In contrast, this government has moved promptly and effectively to address public safety concerns on the eyesore which was the Latham shops. We are now looking forward to redevelopment of the site so that at least some retail facilities are made available for residents of Latham in the future.

MR HARGREAVES: I have a supplementary question. What action has the government taken to expedite development on that site?

MR CORBELL: That is the other important element of this discussion. When Mr Smyth, as the former minister, called in the development application, contingent on the call-in and the ability to proceed with the development was the sale of some small parcels of government land around the local centre, by direct grant process.

What did the previous government do, between April and October last year, to expedite the sale so developmental activity could commence? They did absolutely nothing, Mr Speaker. They sat on their hands. Mr Smyth sat on his hands. He was very keen to use the call-in power but not so keen to actually do the things he committed the previous government to do in relation to the sale of land.

I am, again, pleased to advise members that the new government has expedited that process. The offer of land was made to the lessee last Monday or Tuesday.

Mr Smyth: The work was already being done. It is disingenuous, and you know it.

MR CORBELL: That land allows the development to proceed. Mr Smyth calls it disingenuous. Mr Smyth, I call your actions just plain lazy.

Skateboarding

MS DUNDAS: My question is to the Minister for Urban Services. As the minister may be aware, there is now a proliferation of small and sometimes very sharp metal devices attached to structures throughout Civic, seemingly with the purpose of deterring skateboarders. As the minister responsible for the public spaces throughout Civic, can you please inform the Assembly how many skateboard deterrent devices have been put in place throughout Civic and if any more are scheduled to be put in place throughout Canberra? Do you have any information to show they are actually a deterrent to skateboarders?

MR WOOD: The minister might direct most of that question to my predecessor, although I say I haven't to date had any objections to those little devices to inhibit skateboarders. In fact, I haven't heard any criticism of those devices until this moment. If Ms Dundas wants to give me some more detail about the problems that they may be causing, I would be interested to hear them. I have certainly, as I moved through Civic, heard the complaints of shop owners and diners about the actions of skateboarders. To them I have some sympathy, I might say.

I think it is a legitimate pastime—one for which all governments have catered because there are some very fine skate parks around the place. At least, in Tuggeranong we have a world-class skate park. I might indicate that it was this minister who years ago first allocated the land and that government developed it.

I haven't heard concerns about those sharp devices—I'm not sure that is the correct term. They are rounded; they certainly do stick out a little from the surrounding brick work or form work. It hasn't done anything more to me than to say that it seems a reasonably effective way of discouraging skateboarders where, perhaps, they might have found better places to engage in their activity.

MS DUNDAS: I have a supplementary question. I am interested to hear that the minister has not heard any complaints, because I have heard a number. I would like to ask the minister if he will be looking into this issue, as he has indicated. Will he also be looking into public safety concerns that have been raised about these devices? I can assure him that some of them are quite sharp—the ones around the chess pit, as an example.

Could he also see whether or not any consideration of public safety was taken into account when these devices were first put into place? If there are complaints being raised by shopkeepers, has he undertaken to have discussions with the skateboarders about the problems arising from these devices and how we can work with the skateboarders and the community to make the city safe for all?

MR WOOD: I had discussions with skateboarders, I confess, quite some time ago when we were planning the Tuggeranong skate park. That goes back in history. I haven't had more recent discussions. I certainly recall the vehement objections of shopkeepers around Garema Place, for example, about how the skateboarders disturbed their customers and the community.

I want to express sympathy to skateboarders. It is part of today's culture. I repeat: we have provided them with great facilities.

To get back to your question about the safety issues: you have raised if for the first time. I will take those on board and invite you to come and see me. Let us talk about it to see if there are genuine safety issues about those little bits of metal.

Gungahlin Drive extension

MRS DUNNE: Mr Speaker, my question is to the Minister for Planning. Minister, last year during the ongoing debate on the route of the Gungahlin Drive extension, you committed yourself, on behalf of the Labor Party, to building along the western route and, in doing so, meeting the schedule outlined in the capital works program of having it built by 2003-04.

In the *Canberra Times* of 26 February this year it was stated that the government was still working towards meeting that deadline of building the road by 2003-04 but that it was too early to say whether it would happen. Minister, can you confirm that the Gungahlin Drive extension will be finished by the end of the 2003-04 financial year?

MR CORBELL: That is still the government's intention. Clearly, though, as Mrs Dunne outlines in the preamble to her question, all of these decisions—indeed, a decision by any government in relation to any of the alignments—would also be determined by the assessment process that has to occur in relation to environmental and engineering studies. It would be silly to undertake such studies if you were not prepared to look at what those studies identify and the issues they raise.

But the intention of the government is to build the GDE on the western alignment and to build it within the time frame outlined in the current capital works budget.

MRS DUNNE: Minister, when will you tell the people of Gungahlin that they may not get their road on time?

MR CORBELL: The government has been quite open and up front about the process it has to embark on to build the road on the western alignment. Unlike those opposite, we are not going to engage in pre-emptive discussion about outcomes that are yet to be reached; instead, we are going to work through each of these issues sensibly. I have been very clear and this government has been very clear to the residents of Gungahlin about our intentions, and we will continue to be so.

Kambah—anti-social behaviour

MS MacDONALD: Mr Speaker, my question is to Minister Wood. The minister would be aware of my recent representations on behalf of the Kambah community about vandalism, anti-social behaviour and noise disturbing the residents around Kambah adventure playground and related speeding on Springbett Street in Kambah. Can the minister please inform the Assembly of what action he has overseen to address the problems?

MR WOOD: Mr Speaker, I can. I thank Ms MacDonald for the actions she has taken to bring those matters to my attention. She has been in close contact with the community there. I think she circulated more than 100 questionnaires and had a very substantial response. The problem has been well identified, which enabled us to make, I think, a fairly positive response.

Gates have now been erected to prevent congregation at the toilets. The gates and the toilets are now locked at 10.00 o'clock each night and unlocked in the morning. Graffiti is cleaned from those areas about once a week. That is a considerable change.

Ms MacDonald, I thank you for the work you have been doing with that community. I hope that brings about some improvement.

MR SPEAKER: Do you have a supplementary question, Ms MacDonald?

MS MacDONALD: Thank you, Mr Speaker. Can the minister inform the Assembly as to what is happening to address the rising and related problems with the adjoining Kambah woolshed?

MR WOOD: You have raised these further points with me, Ms MacDonald. They are related issues in relation to a neighbouring property. In response, I have sought, through DUS, priority listing for lights, as a starting point, and then community consultation over design changes to the car park, the gates and, perhaps, the possibility of opening up one side of the woolshed.

I understand you are interested in forming a community consultative group, with all the local residents and, perhaps, police and other people. That would be useful. I will consider also what advice they might bring to me.

Gungahlin Drive extension

MR SMYTH: Mr Speaker, my question is for Mr Corbell as the Minister for Planning. Mr Corbell, I refer to a report in the *Canberra Times* of 27 February this year that the ACT Tourism Industry Council has asked the ACT government to consider the impact of the route of the Gungahlin Drive on both the Brumbies and the Raiders, both of which have substantial interstate followings. The ACT rugby union and the Canberra Raiders both opposed the western route in submissions to the Standing Committee on Planning and Urban Services.

Has your government consulted with the ACT rugby union and the Canberra Raiders about the impact of the western route on them?

MR CORBELL: Mr Speaker, I think it is important to note that the submission as put by the Canberra Raiders and the Brumbies, as part of the Bruce precinct group, to the Standing Committee on Planning and Urban Services in the last Assembly indicated that their position was not the western alignment. That didn't mean that they supported the eastern alignment either. In fact, they were quite clear in their submission that that was the case. So I think it is important to clarify, as I understand it, the record.

Nevertheless, Mr Speaker, clearly all users of Bruce stadium, all users of the AIS, have an interest in this issue. It is the government's intention to ensure that those groups are consulted through the processes involved in varying the Territory Plan in relation to the preliminary assessment process that has to be undertaken. These are statutory processes which Mr Smyth, as the previous minister, would be very familiar with. They are the processes that will be made available to groups such as the Raiders and the Brumbies to raise any concerns that they have.

MR SMYTH: Why has your government not consulted with them, given their interest in this matter? Why have you not had the open and honest process that you promised?

MR CORBELL: Mr Speaker, we have. We did have an open and honest process. It is called work to inform a variation to the Territory Plan, work to inform a variation to the National Capital Plan, work to inform a preliminary assessment. These are all statutory processes that allow people to be involved and to make their comment. That is the process we will be using.

Mr Stanhope: We had an election campaign too, and you lost, with your position

MR CORBELL: In addition, as the Chief Minister rightly points out, there was also another fairly significant public consultation exercise last October, which was called the ACT election, where the positions of this government and those opposite were quite clear and diametrically opposed.

Members interjecting—

Mr Cornwell: Mr Speaker, I have a point of order.

MR SPEAKER: Have an all-in for a while and then we will get back to Mr Corbell so that he can finish his answer.

Mr Stanhope: We know how many didn't want the Liberal Party.

MR SPEAKER: Order! That is enough. Mr Corbell, would you like to finish.

Mr Cornwell: On a point of order, Mr Speaker: I think you have already upheld my point of order. I was going to say I can't hear Mr Corbell because the Chief Minister keeps interrupting.

MR SPEAKER: I think there were a few others in the melee, too.

MR CORBELL: Mr Speaker, there was another significant public consultation exercise. It was called the 21 October election last year. Our position was clear; the position of those opposite was clear. Are those opposite suggesting we should break an election promise?

Vocational education

MR PRATT: Mr Speaker, my question is to the Minister for Education, Youth and Family Services, Mr Corbell. Minister, the Liberal government over the last seven years was able to reinvigorate and rebuild the vocational education system after several years of Labor neglect. We now have a viable and still growing vocational education system—

Mr Stanhope: Who wrote that?

MR PRATT: Me.

Mr Stanhope: You are biased.

MR PRATT: Mr Speaker, I am wasting my time.

MR SPEAKER: Order, members! Let Mr Pratt ask his question.

MR PRATT: Thank you, gentlemen. I presume there will be no further interference. We now have a viable and still growing vocational education system, and we on this side of the Assembly congratulate the Labor government for seeking to further that development, particularly as it is our policies which you are adopting.

Minister, do you believe it is appropriate for schools and the education department to seek union approval when undertaking student placements with industry? Is this not simply archaic, unnecessary and an obstacle to the enhancement of the vocational education system?

MR CORBELL: Mr Speaker, I am not aware as to whether or not that practice occurs, and I will certainly clarify that matter for Mr Pratt. But if it does occur—and Mr Pratt is suggesting that it is archaic to ensure that an employer pays award wages, abides by occupational health and safety requirements and undertakes a range of other requirements that protect the interests of the employee—then I am quite happy for unions to be involved in that process. That would be, I think, quite a legitimate exercise for unions representing the interests of young people engaged in the workplace.

I think unions play a relevant and important role in protecting young people's—and, indeed, any employee's—rights and entitlements, as well as issues around workplace safety, and it would seem to me to be an entirely reasonable suggestion. I cannot believe that Mr Pratt is suggesting that young people who are perhaps new to the workforce should not be allowed to be made aware of their rights and their responsibilities.

Mr Pratt: Unions should not be approving the role—

MR SPEAKER: Mr Pratt, you kicked up a fuss a moment ago when other people were interjecting. Perhaps it would be better to sit there and listen to the answer to the question.

MR PRATT: Mr Speaker, I ask a supplementary question. Minister, will you undertake to review this requirement, given that you have already announced reviews of almost every other aspect of your portfolio responsibilities? Can you check this one out about approval verses advice?

MR CORBELL: As I have indicated to Mr Pratt, I am not aware whether or not this practice actually takes place and I will seek clarification on that matter. However, if this practice does take place it would sound to me like an entirely sensible and reasonable one and I would see no reason to change it.

Public liability insurance

MS GALLAGHER: My question is to the Treasurer. Can the Treasurer update the house on proposed meetings regarding the public liability insurance problem?

MR QUINLAN: Thank you, Ms Gallagher. I am grateful for the opportunity to inform the house of what is happening in regard to this quite serious problem. Some time ago several state and territory governments were calling for some concerted action, involving the Commonwealth and themselves, to have a look at this accelerating problem. On about 22 January, federal minister Joe Hockey announced that we ought to have a national scheme along the lines of the one conducted in New Zealand. A day or so later Senator Helen Coonan opposed Mr Hockey's idea, advising us that there was an unfunded liability of about $5 billion across the Tasman.

Since that time there have been attempts to have a meeting of the Commonwealth, the states and the territories or to have this matter addressed at the upcoming meeting of treasurers on 15 March. The federal government, at this point, has refused. The federal Treasurer does not want to talk about insurance. He is prepared to talk about the problem of insurance some time in late May after the delivery of the federal budget and some time in late May after the delivery of most state and territory budgets.

There seems to be a propensity on the part of the Commonwealth to give some advice—and then withdraw it, of course—but not to involve itself. This is a national problem, and we will be persisting in our efforts to get a meeting. I understand that, as of today, there may be a meeting on 27 March at least between Senator Coonan—I do not know what power she might have to make decisions on behalf of the government—and the state treasurers.

MS GALLAGHER: Can the Treasurer inform the Assembly what the position of the ACT government will be at the ministerial meeting in March?

MR QUINLAN: Expert and not-so-expert commentary is now emerging that challenges the conclusion that skyrocketing premiums are purely a blow-out at the level of payments because of a couple of high-profile insurance company failures. On behalf of the ACT this government will be asking for a national audit to ensure that there has been neither overreaction nor profiteering, in light of the current atmosphere, by the insurance industry in relation to the rapidly increasing premiums, which would seem in many cases to have gone up in orders of magnitude more than the payments that are recorded.

We will occasionally see some high profile court case and some high profile determination given a couple of days publicity, but in general the ratio of pay-outs to premiums paid has not changed to the same degree as the ratio of current premiums to past premiums.

We will be looking for a national review of the insurance industry, and we will be looking for the involvement of that industry and the Insurance Council of Australia in that process. They do have a responsibility to inform the community; the silence from the Insurance Council has been disturbing and very disappointing. I hope that, somewhere along the line, the Liberal Commonwealth government decides to take a bit more interest in a subject that is having such a wide-ranging negative effect on the community.

School retention rates

MR STEFANIAK: Mr Speaker, my question is to Mr Corbell, in his capacity as minister for education. The recent Australian Bureau of Statistics report on school retention rates indicates that ACT school retention rates for the year 2001 have dramatically jumped—by as much as seven percentage points. During the last election campaign, Minister, your party stated in its platform that it would "also address the problems faced by secondary schools and the reasons for the decline in retention rates under the present government".

Will you now concede that there was no decline in retention rates and that you misled the community in the lead-up to the last election?

MR CORBELL: No. The government did not mislead the community in the lead-up to the last election. There was a reduction in retention rates shown in the last available ABS statistics on the issue. In no way did the government mislead the community. On the best available data at that time, there was a reduction in retention rates, as you well know, Mr Stefaniak.

Mr Speaker, quite clearly there has now been an increase in retention rates. This shows two things. Firstly, retention rates have traditionally been higher in the ACT than in other jurisdictions. Secondly, and perhaps more importantly, there is now a significant variation between years on the retention rate level. I think a closer look is required at the factors driving the differences in the two figures. There is now a significant variation between the figures just released by the ABS and the previous figures released by that organisation.

I have made a request to my department for more advice in relation to that variation, to try to gain a better understanding. This government is interested in gaining a better understanding of what is happening in relation to overall retention rates. There is a clear difference between a reduction and an increase. Why are we seeing this variation? Why are we seeing this occurring over such a short period of time? These are the issues we need to be looking at.

Political activity in school grounds

MR CORNWELL: My question is to Mr Corbell as education minister. Recently the Marxist oriented socialist youth group, Resistance, which promotes civil disobedience and a call to school children to leave school and join them in political action, was allowed to stand in school grounds and hand out this wretched pamphlet—a very negative one, I might add. I seek leave to table that.

Leave granted.

MR CORNWELL: I present the following paper:

> "Resist"—Copy of publication of Resistance, socialist youth organisation.

Mr Stanhope We would like Mr Cornwell to disseminate their information. Are you on a retainer?

MR CORNWELL: I will translate for you. Minister, why was this group allowed to carry out its activities in school grounds, the sort of political activity that may be allowed and tolerated in universities and carried out by young adults but is totally unacceptable in the precincts of schools?

MR CORBELL: The first question that Mr Cornwell needs to address is: when were people in school grounds? Were they in school grounds during teaching hours? Were they in school grounds prior to school operating? I think that is the first thing that we need to be clear about, because there is legislation around as to when people can be on school grounds and those sorts of issues. So I certainly welcome Mr Cornwell's advice on those matters.

Secondly, Mr Speaker, and I guess more generally, the provision of information in a pluralistic and democratic society is one that I don't have a problem with. Indeed, I welcome the fact that young people are engaging in the political process. I certainly don't share all of the views of organisations like Resistance.

That, Mr Speaker, is really beside the point. The point is: are we going to have an environment in which we can foster young people engaging in the political process? If young people choose to engage in the political process in this way, then I welcome that. I welcome the spirit of thinking that comes with that.

I would be interested if Mr Cornwell could advise whether, if fact, it was a student that was distributing this information. If it were a student distributing this information, Mr Speaker—and, again, that is fairly unclear—then I think it says a lot about the health of the body politic that young people are prepared to engage in political processes from a young age.

MR CORNWELL: I have a supplementary question, Mr Speaker. I thank the minister for his response. Minister, in view of your response—and I can confirm that they were on school grounds during school times—in terms, therefore, of political consistency, will you allow groups like One Nation and the National Front to also appear on school grounds, handing out their literature, with the inevitable risk of violence in the playgrounds between the groups that clash? Obviously, Resistance is not exactly going to be all that happy, I would think, or even friendly with the National Front.

Do you believe that this is acceptable behaviour in the education—

MR SPEAKER: Mr Cornwell, I think you are stretching it a bit on a supplementary question.

MR CORNWELL: Au contraire, Mr Speaker. I am simply asking a supplementary question. Do you believe that it is acceptable that you should have political groups clashing in school playgrounds?

MR CORBELL: Mr Speaker, it is a hypothetical question, because I am not aware of any instances of political conflict in our school grounds. I am not aware of students manning the barricades in school grounds. I am not aware of political militias being formed in school grounds to fight out ideological battles over recess. I am really not aware of any of the instances that Mr Cornwell raises. So in that respect his question is hypothetical.

Mr Speaker, the issue is—and I think it needs to be clarified: was it a student that was handing out this information or was it people who were in some way associated with the school? These are issues that need to be clarified.

Mr Speaker, I am quite open to information being made available to students about the political process and about different streams of political thought, as long as they are consistent with the accepted parameters of democratic thinking in this country; that is, they do not promote violence, they do not promote philosophies that undermine democratic institutions of the nation, or, indeed, are illegal. I do not have a problem with that information being made available.

I am surprised, Mr Speaker, that the Liberal Party, which is meant to be the party of tolerance and the party of diverse views, is not prepared to commit—

Mr Stanhope: It gleefully ignores calls to free the refugees; that is what it is all about.

MR CORBELL: Awful stuff like freeing the refugees. Mr Speaker, the issue of politics in schools is always a sensitive one.

Mrs Cross: Get your facts straight.

Mr Stanhope: What, they weren't thrown overboard?

Mr Cornwell: On a point of order, Mr Speaker: I can't hear the answer of the minister to my question because the Chief Minister keeps interjecting.

MR SPEAKER: I take your point of order.

MR CORBELL: Mr Speaker, the issue of political education in schools is always a sensitive one. The issue around political parties being active in school grounds is also a sensitive one, but I believe it can be managed appropriately and sensitively and still allow students access to information on a range of political viewpoints. Mr Speaker, there are legislative requirements already about when people are and are not permitted on school grounds.

If Mr Cornwell would like to raise with me the specifics of the incident that he is clearly alluding to, I am happy to have the matter investigated.

Mr Speaker, as a matter of principle, this government welcomes young people being involved in the political process, being actively engaged in the political process and participating in a way that helps make other people aware of political issues. Mr Speaker, unlike those opposite, evidently, I happen to believe that people under the age of 18 do have a mind when it comes to politics and can exercise it very effectively.

Mr Stanhope: I ask that further questions be placed on the notice paper, Mr Speaker.

Personal explanation

MRS CROSS: Mr Speaker, pursuant to standing order 46, I seek leave to make a personal explanation.

MR SPEAKER: You may proceed.

MRS CROSS: Mr Speaker, I want to make a statement following the minister's—

Mr Quinlan: Only if you have been misrepresented.

MRS CROSS: Would you like to get up and make this personal explanation, Mr Quinlan, or shall I do so?

Mr Speaker, I want briefly to set the record straight. I want to say that, yes, before the election I was the president of the Phillip Traders Association and since becoming a member I have resigned. I also want to say that my involvement since becoming a member has centred on finding the truth of what happened regarding the Callam Street realignment, which is hardly what Mr Corbell described as political gain. I have also phoned Mr Corbell's office several times today seeking a brief meeting with him to discuss this issue.

MR SPEAKER: Order! Mrs Cross, resume your seat. The standing orders are pretty clear on personal explanations. Standing order 46 says:

> Having obtained leave from the Chair, a Member may explain matters of a personal nature, although there is no question before the Assembly; but such matters may not be debated.

Those final words are the key to this. If you want to stick to the personal nature of this you can continue, otherwise you will have to sit down.

MRS CROSS: Yes, I am, Mr Speaker. There were two comments made: one was regarding my role with the Phillip Traders; the other was my approach on this matter and political gain. What I am attempting to say is that I have tried to use amicable means to find a resolution to this issue with the minister's office, and I was simply setting the record straight.

Mr Stanhope: On a point of order, Mr Speaker: this is not a personal explanation.

MR SPEAKER: Resume your seat. I think the Chief Minister has a valid point. I think you have crossed the boundaries, Mrs Cross.

Paper

Mr Stanhope presented the following paper:

> Aged Care Assessment Team—Answer to a question without notice asked by Mr Cornwell on 19 February 2002.

Public Sector Management Act—executive contracts
Papers and statement by minister

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women): Mr Speaker, for the information of members, I present the following papers:

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—
> Long term contract:
> Dorte Ekelund, dated 3 February 2002
> Short term contract:
> Gail Winkworth, dated 18 February 2002

Schedule D variations:
Gordon Davidson, 6 February 2002
Hamish McNulty, 6 February 2002
Tony Gill, 7 February 2002

I seek leave to make a statement in relation to the contracts.

Leave granted.

MR STANHOPE: Mr Speaker, I have presented a set of executive contracts. These documents have been tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 21 February 2002.

Today I have presented one long-term contract, one short-term contract and three contract variations. The details of the contracts will be circulated to members. Mr Speaker, I alert members to issues of privacy surrounding these contracts.

National Environment Protection Council
Paper and statement by minister

MR WOOD (Minister for Urban Services and Minister for the Arts): Mr Speaker, for the information of members, I present the following paper:

National Environment Protection Council—Annual Report and financial statements, including the Australian National Audit Office Report, for 2000-2001

Mr Speaker, I seek leave to make a short statement.

Leave granted.

MR WOOD: Mr Speaker, under the National Environment Protection Act 1994 the government is required to table National Environment Protection Council annual reports within seven sitting days of the council's adoption of the report.

The 2000-01 NEPC annual report was adopted on 30 November 2001. The report covers the activities of the council, the operation of the service corporation that supports the council, and the implementation and effectiveness of national environment protection measures (NEPMs).

Mr Speaker, I will just point to an error in the ACT's movement of controlled waste NEPM report. The figure for "non-matching documentation" in table 26 should have been reported as 5 per cent, not 25 per cent. An erratum will be published on the website.

Block 14, section 6, Kingston
Paper and statement by minister

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations): Mr Speaker, for the information of members, I wish to present pursuant to paragraph 21 (4) (a) of the Lands Acquisition Act

1994 a certificate on the grounds of urgency for the compulsory acquisition of block 14, section 6, Kingston on behalf of the Kingston Foreshore Development Authority. I present the following paper:

> Lands Acquisition Act, Pursuant to Section 21—Certificate for acquisition of block 14, section 6, District of Kingston

I ask for leave to make a statement.

Leave granted.

MR CORBELL: Mr Speaker, section 21 of the Lands Acquisition Act 1994 provides for the executive to acquire leased land for a public purpose on the grounds of urgency. The land to be acquired is block 14, section 6, Kingston. The land is currently leased to Canberra Cruises and Tours Pty Ltd for the purpose of "bus storage and maintenance facility and offices ancillary thereto".

The land will be used to reconstruct and realign the boat harbour on the edge of Lake Burley Griffin as part of the redevelopment of the Kingston foreshore. The land has not been used for its approved purpose for 20 years, and is required urgently to allow the contractors for the Kingston Foreshore Development Authority access to the land by 1 May this year so that site works can begin.

Successive governments had unsuccessfully attempted to purchase this land by negotiation. In 1998 Canberra Cruises lodged a development application to vary the lease. Planning and Land Management refused the application and a subsequent application to the Administrative Appeals Tribunal resulted in PALM's decision being upheld. An application lodging an appeal to the Supreme Court was withdrawn in July 2001.

Mr Speaker, the executive believes it is not in the public interest to delay this acquisition as this is a project of major economic importance to the territory. Acquiring this land quickly is a critical path activity. To delay this early work will have a flow-on effect and delay the entire the harbour development program. Access to block 14 will be a major occupational health and safety risk for the lessee while this work is going on, and will also be impractical, particularly as Mundaring Drive will be closed.

Mr Speaker, the executive is satisfied that the urgency provision was appropriate and it consequently executed the section 21 certificate on 28 February this year. This is the certificate I have tabled this afternoon. This has allowed the executive to proceed with the acquisition of the land through a compulsory process.

Mr Speaker, once acquired, the buildings and other structures upon the land will be demolished and investigations will be undertaken to determine the presence or otherwise of contamination. Any contamination will be remediated in accordance with an approved remediation action plan and the environmental management agreement between the Kingston Foreshore Development Authority and Environment ACT.

Subordinate legislation

Mr Wood presented the following papers:

> Subordinate Laws Act, pursuant to section 6—
> Radiation Act—Radiation Regulations 2002—Subordinate Law 2002 No 1 (LR, 15 February 2002)
> Public Place Names Act—Street Nomenclature—Acton—Disallowable Instrument No DI 2002—17 (LR, 21 February 2002)

Legal Affairs—Standing Committee
Scrutiny Report No 5

MR STEFANIAK (3.28): Mr Speaker, I present scrutiny report No 5 of the Standing Committee on Legal Affairs, performing the duties of a scrutiny of bills and subordinate legislation committee, together with a copy of the relevant extracts of the minutes of proceedings. I seek leave to move a motion authorising the publication of Scrutiny Report No 5.

Leave granted.

MR STEFANIAK: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR STEFANIAK: Mr Speaker, I ask for leave to make a brief statement.

Leave granted.

MR STEFANIAK: Basically, Scrutiny Report No 5 contains the committee's comments on the government response to the Crimes Amendment Bill 2001 (No 2). We received the government's comments earlier today. The legal adviser prepared that response this morning.

Discharge of order of the day

MS TUCKER (3.29): Mr Speaker, I seek leave to move a motion to discharge order of the day No 3, Assembly business, relating to the partial disallowance of instrument No 262 of 2001 made pursuant to the Race and Sports Bookmaking Act.

Leave granted.

MS TUCKER: I move:

> That order of the day No 3, Assembly business, relating to the partial disallowance of Instrument No 262 of 2001, be discharged.

Question resolved in the affirmative.

Crimes Amendment Bill 2001 (No 2)

Debate resumed.

MS TUCKER (3.30): This is one of those pieces of legislation that react to a particular shocking event by adding a new crime to the Crimes Act. I understand that this bill has support from the Liberal government and that Mr Stefaniak has withdrawn his own hoax bill. On the one hand this is understandable. We as a society want to be able to name the particularly abhorrent action and to make whoever did it accountable somehow. But in the rush to do something as legislators, we do need to be careful.

Mr Stefaniak and Mr Stanhope both presented bills to address the series of hoax and threat scares in the ACT that followed on from genuine anthrax attacks in the US and the terrorist attacks on September 11. Both sought to have the bills debated almost immediately. Mr Stefaniak has included a retrospective commencement date, which the Greens could not support and will not support today as an amendment. I am pleased that the Assembly has taken more time to consider what we should be doing.

Last year the ACT experienced incidents in which people sent or otherwise distributed physically harmless white powder, causing a great deal of distress and a lot of complex precautionary and clean-up measures to be undertaken. We, as the ACT news-watching sector of the public, experienced it via news reports; the people working in the tax office, in one case, experienced it more personally.

The public nature of these events was fairly clear. It did not just concern the tax office employees, which would have been horrific enough in itself; it was a public event, by nature of the expectations and fears that were aroused by the attack on New York's World Trade Center. But what if it had not been reported so widely? If there is a white powder practical joker or hoaxer in a years time, will it still be seen as causing the same public alarm and anxiety?

It is important to consider the context in which threats take place. In this case it was immediately following the malicious distribution of actual anthrax spores in the US, and there was a climate of fear that we do not usually have as a Western country. The bill addresses the climate surrounding the threat, which will affect the level of alarm or anxiety felt by the public. The words used are "in the circumstances in which it is done", but it will be interesting to see how public an event it needs to be. I understand that there is support for this bill, and I understand the desire to specifically make these public, non-specific attacks a crime. But we must be vigilant about its effects in practice.

Who knows who actually sent the white powder? And without having contact with the person or people who set up those hoaxes we cannot really know why they did it. Was it a practical joke that had more serious consequences than usual because of the climate of fear and the justifiable reactiveness to anything that looked like an attack? Was it someone's short-sighted idea of fun to cause a stop to work and the emergency services to be brought in? Was it someone trying to get attention? Was it someone trying to cause trouble because they felt themselves to be hard done by—a kind of revenge in general on privileged people or in response to a perceived slight? Was there some more malevolent intent? Or did someone just spill the talcum powder?

We can guess, but we do not yet know and may never know. As far as I am aware—and I am only going on what has been publicly announced—there are no leads on who is behind the scares. So while it is easy to construct in our minds a nasty intention that is in proportion to the alarm caused and the horror that preceded it, we do not really know what was going on.

Mr Stanhope's approach is to try to define what is wrong with those acts in a more general sense rather than to add a specific offence covering distribution of possibly biochemical agents, as Mr Stefaniak proposed to do. The new offence is claimed to be needed because the only other option for this type of non-specific victim action is in public mischief legislation. Public mischief, a summary offence, which was explained to me as having the police called out unnecessarily, is punishable by fines.

My first concern with this legislation, after considering whether it really is necessary, was about whether it would unintentionally catch people who are protesting in a way that either causes harm—for example, self-harm through a hunger strike—or may be perceived as potentially causing harm. I understand that the Attorney-General has picked up on this concern in the scrutiny of bills report and has developed an amendment.

However, there are still questions about whether this type of provision could be used to punish organisers of an angry, noisy demonstration or, as we saw a few years ago, a few people getting out of control and barging the doors of Parliament House. Or imagine the alarm and anxiety that was aroused in some people by the anti-Vietnam protests or the Springbok protests.

I do not believe that we want to increase the penalty for this kind of action in the same way that we want to punish terrorism. Even terrorism is a vague and overused word at this point in time, and it is difficult to be clear about what it means—perhaps even some people at a demonstration burning a flag or getting violent. Don't we see these as different to large scale threats in which the main medium for the message is planned intimidation? I was concerned about this and not reassured by the explanation at first that the intent was not to widen the net and that no prosecutor would take up such a case. We do not know who will be in these positions in the future, and I am still cautious about it.

However, after the lengthy discussions that we have had through scrutiny of bills and more generally, it is clear that it must be proved that a person has the intention of causing public alarm or anxiety through an activity perceived to be one that could endanger human life or health, which could occur in a protest. But I am satisfied at this point that it is clear in this legislation that it has to be proved that the intention is to cause alarm or anxiety in the broad public sense, which I have already discussed.

The explanatory memorandum says that the offence does not apply where there is no intention to:

- behave in a way that, in the circumstances, raises a reasonable suspicion that human life or health could be at risk; and
- by doing so, cause public alarm or anxiety, …

This reading relies on the intention being to cause public alarm or anxiety around the risk to human life or health, and the Greens' support is premised on that interpretation of these words.

We have had a series of discussions about this through the scrutiny of bills report, the government's response to that report and the scrutiny report in response to the government's response, which Mr Stefaniak has just tabled. I think that there has been enough discussion to make quiet clear what the intent is and, of course, in any interpretation of law that very discussion becomes part of how that law is interpreted. So I am making it quite clear that my understanding and the understanding of the scrutiny of bills committee is that this would not pick up protests in the way that we might have thought it would have initially.

I will speak to the amendments as they are put, but in conclusion I would like to make the point that terrorism and other deliberate acts such as hoaxes would be made much less likely if we seriously concentrated, as a community, as a nation and as a planet on reducing poverty and inequity, on ensuring that enough of the basics—clean water and air, and a healthy land and ecology—are shared by all and on addressing serious hurts inflicted by more powerful people on less powerful people.

MS DUNDAS (3.40): Mr Speaker, I will also speak to the Crimes Amendment Bill 2001 (No 2) and the amendments that have been circulated but not yet tabled.

There is no doubt that the world has changed since the terrorist attacks that occurred in the USA in September last year. These tragic events have shaken the entire world and have affected the individual lives of many Australians, of the family and friends of the Australian civilians that we have lost and the community as a whole. There was the devastation caused by not only the human loss but also the economic and social loss. The world certainly seems more vulnerable now than it did six months ago.

Locally, a sense of fear was struck into the community. Security was raised at government buildings, embassies and within the private sector. Soon after the events of September 11, there were a few confirmed cases of anthrax being sent through the mail in the United States. This heightened awareness and fear was exploited by some people who caused an outbreak of anthrax scares—and I repeat, "scares"—within Australia, particularly in Brisbane and Canberra.

Items were placed in the mail, threats were made and more precautions were taken against what turned out to be no confirmed anthrax cases. The culprits no doubt range from stupid, thoughtless individuals who perpetrated what they thought were practical jokes to callous, cowardly individuals who deliberately sought to exploit community fear. The emergency services responded appropriately with the evacuation of office buildings and the necessary decontamination procedures.

Nobody would suggest that these precautionary methods were unnecessary; nor should we question the costs involved, as all threats must be responded to as if they were real. But we must remain calm yet vigilant in these times because there is a danger that we can become overwhelmed by the events that we witness. While I understand that each time a crime affects the psyche of the community there is a public cry for tougher

sentencing and to "lock them up and throw away the key", this is a time for cool heads, rational debate and leadership.

This bill is a typical case of policy by press release and then months later trying to work out how to put it into a legislative framework. Prime Minister Howard was the first. He issued his press release on 16 October last year, and our local Liberal candidate, the then Attorney, released his response the following day. Today in the Assembly we are debating this government's proposed response.

All of these responses included increased sentencing and some included inventing a new offence. However, the perpetrators of these hoaxes could have been arrested and charged under the public mischief provisions already in the Crimes Act, and to my knowledge, no-one has been arrested in regard to these hoaxes.

As legislators we must not respond solely to the events of today but must think about how the laws will work in the future. Defining an offence as broadly as this bill does is reprehensible. I note the government is proposing to change the offence to take out the action of self-harm, but I remind members that the offence is the causing of public anxiety, not the act itself. The offence is the causation of public anxiety, which could occur through a threat or an act or by a reasonable person suspecting a threat or an act.

In the amended form, this definition would apply to the people causing a large-scale anthrax hoax but would equally apply to a union protest where members act in a threatening way, to the members of the Aboriginal tent embassy carrying spears or even to the tragic case of Shahraz Kayani. Mr Kayani had applied to bring his wife and three children, including one disabled daughter, to Australia from Pakistan. His application was initially rejected because his daughter's disability was deemed too great a burden on taxpayers.

Shahraz, to bring attention to his case, or perhaps "to cause public anxiety", set fire to himself at Parliament House in April of last year. Although he only performed self-harm, a reasonable person could have suspected that the act could have endangered someone else's life. Similarly, a person who threatens to jump from a building or overpass would be committing this offence. Do we think that 10 years in jail or a large monetary penalty would help this person?

Although the intention of this legislation is to stop the hoaxes that surrounded the events of September and October last year, we as legislators must remain calm and examine what the resulting law is. I believe that this legislation, broadly applied, could apply to many unintended situations. This is bad law, and should be seen as such.

If this law is passed today, it could be misused in the future by a less understanding Attorney, DPP or police service. It could be used to arrest union or student protestors or any person deemed to have caused public anxiety. There have been other suggested amendments to this law, such as making the law retrospective. This is only making a bad law worse.

The practical effect of retrospectivity is nil. This change will catch no more criminals; therefore, the only reason for having the legislation backdated is to have it enacted on the day Mr Stefaniak issued a press release on the subject. On October 17 the press release

by the then Attorney-General was entitled "Government responds to anthrax hoaxes: tougher penalties". Yes, more policy by press release. And the response to every crime is tougher penalties.

But over four months have passed, and the Assembly has been given handwritten amendments today by the former Attorney-General listing 10 years or $100,000 in fines. Perhaps, more correctly, that should be 1,000 penalty units. A drafting error? Or perhaps it is because the shadow attorney expects this amendment to be defeated, and then we will have another press release accusing people of being soft on crime.

I will conclude by stating again that increasing penalties and creating an offence so broad and so subjective that it creates bad law is not a practice that the Australian Democrats can support. This is a time for cool heads, rational debate and leadership because each time a building is evacuated, each time a citizen thinks twice about opening the mail and each time the government reacts with high rhetoric about increased sentences, the terrorist campaign to increase community anxiety is successful.

It is extremely important that we as a community do not start leaping at shadows; it is more important that we as Assembly members do not start legislating against shadows. Inventing an offence via bad law will not stop the hoaxes. Only lowering community anxiety will stop the hoaxes, and only calm debate and leadership can do that.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (3.47), in reply: As members are aware—although I am not quite sure now that they all are—the purpose of this bill is to ensure that there are appropriate sanctions against people who intentionally cause distress and alarm through hoaxes and that the legislation is drafted and couched in those terms: people who intentionally cause distress and alarm through hoaxes.

Following the anthrax attacks in the United States last year there were numerous instances in Australia—not one or two, but dozens and dozens—of suspect substances being placed in public places or sent through the mail. Dozens. Here in Canberra the Australian Federal Police and the authorities responded to about 100 incidents in the flow-on from September 11.

In the ACT suspicious substances resulted in the evacuation of buildings and in decontamination procedures being followed. While none of the substances involved in these scares were found to be dangerous, these events caused significant disruption, distress and costs. As I indicated when I introduced the bill, the only offence that was being committed at the time was the offence of public mischief in the Crimes Act. That was the only offence available for any of these actions or activities—activities that, in some instances, caused severe distress and alarm and were extremely expensive.

Rolling out the police, closing down buildings and taking on researchers is an extremely expensive process. There is an enormous financial cost involved, let alone the cost in terms of anxiety and distress. And what was the offence that is currently available? Public mischief. And what is the penalty for causing public mischief? Public mischief is a summary offence, and it carries a maximum penalty of 12 months imprisonment or a $2,000 fine. We are talking here about somebody not really thinking about what they

are doing but determined to cause alarm and distress through a malicious act they think is a great joke facing a potential penalty of 12 months imprisonment or a $2,000 fine.

Mr Cornwell: Hardly worth pursuing, Chief Minister, is it?

MR STANHOPE: Well, it is a penalty that this government believes and which the opposition believes does not fit the offence. That is essentially what we are talking about here. We are talking about ensuring that the penalty fits the crime. That is the issue here. Given the distress and alarm that was caused and the cost that was incurred, is it appropriate to deal with an offence of that order as a summary offence with a maximum fine of $2,000, having regard to the way in which we these days deal with these issues?

This is the debate, and Ms Tucker and Ms Dundas have touched on it in relation to the tests and the standards. There is no standard or fixed rule for what reasonable grounds for suspicion are—this is part of the debate that we have had. An often cited test is whether a reasonable person would fairly suspect the matters in question given all the circumstances. It is clear that reasonable suspicion—and this is the test that is applied in the legislation—is something more than mere suspicion and does require a legitimate basis.

There are a couple of other points I will go to before returning to that. Suggestions have been made that this offence will be used by the authorities to control what we might otherwise regard as legitimate behaviour, such as holding protest rallies, and that it in some way criminalises protest or political activity. I need to repeat that to establish that an offence has been committed under these amendments, it will be necessary to show that a defendant has either done something that could endanger human life or health or something that in the particular circumstances a reasonable person would suspect could endanger life or health. In addition, the act committed by the person will have to be shown to have been done with the intention to cause public alarm or anxiety.

When one has regard to those tests, I cannot see how in the ordinary course of events the holding of a protest rally or some other political activity could possibly be seen to satisfy any of those requirements. Even if a protest rally were conducted in such a way as to endanger human life or health—of either the protestors or others—the intention of protestors would not normally be characterised as being to cause public alarm or anxiety but to raise public or political awareness of an issue. That is the intention of the protestor.

In the example that was used of somebody who, as a political protest, set fire to himself, it is quite clear that his intention was to raise public or political awareness of the issue. His intention, quite clearly, would not be characterised as being to endanger the life or health of others.

It is fanciful to suggest that a prosecution would be brought under this provision as a means of silencing protestors. As I said, that would have to be established through the tests. Firstly, the police and the DPP would have to be satisfied that the elements of the offence were made out, and I cannot see how that could be done. Secondly, the DPP would have to be satisfied in accordance with the officers guidelines that such a prosecution would be in the public interest and that there would be a reasonable prospect of conviction. There are prosecution guidelines, and they are adhered to rigidly.

In the unlikely event that any of those tests were satisfied and the prosecution were ever brought, a court would have to be satisfied that the elements of the offence had been made out. It is fanciful to suggest that these provisions could possibly be used in some way to silence protestors or to circumvent political activism. I do not see how that could seriously be suggested.

I think the point needs to be made and reiterated that the government has modelled its proposed new provisions on the existing product contamination offences in the Crimes Act 1900, which are in place in every other Australian jurisdiction. These offences are consistent with product contamination laws in every jurisdiction in Australia, and they were developed by the Model Criminal Code Officers Committee and endorsed by the Standing Committee of Attorneys-General. The penalties that are applied in this legislation were taken from the standard product contamination provisions which have been agreed by every jurisdiction in Australia and endorsed by every attorney-general from around Australia. Yet the suggestion here is that they are in some way onerous or draconian.

They are nothing but the level of offence that has been developed around Australia. They are completely consistent with penalties that have been developed by the Model Criminal Code Officers Committee; they are consistent with the penalties that are contained within the Crimes Act; they are consistent with the views of the model criminal code officers; and they are consistent with the views of every jurisdiction in Australia in relation to current regimes. They are entirely consistent—that is, at least the government's proposals. The opposition's proposed penalties are far too great, and I do not support them.

We are proposing that the penalty for product contamination offences, including offences relating to threats of contamination, is 10 years imprisonment, which reflects the seriousness of acts that are intended to cause widespread alarm and public disruption.

We have in the law around Australia today penalties for people who, as a prank or hoax, create the same circumstances by ringing up Woolworths and saying, "Guess what, I've stuck some arsenic in the baby powder." That is often used as a hoax. We all know that; it happens all the time. The penalty for ringing up Woolworths and saying, "Guess what, I've stuck some arsenic in the baby food" is 10 years imprisonment or a $20,000 fine.

If that same person rings up the Chief Minister's Department and says, "Guess what, I have scattered some anthrax powder around the place," the penalty is 12 months imprisonment, a $2,000 fine or both. How do you justify that? And if we accept in this place that it is reasonable to impose a penalty of 10 years imprisonment or a $20,000 fine for ringing up Woolies and saying, "I've stuck some arsenic in the baby food," why isn't it reasonable to impose the same penalty if I ring up and say, "I have scattered some anthrax throughout your department"?

That is the standard that has been accepted around Australia; it is a standard that has been accepted in this parliament. Now the suggestion has been made that it is somehow draconian. I do not accept that that is the case at all. The proposed maximum sentences that the government is suggesting are consistent with practice around Australia, and I think they are quite reasonable. This is not some fly-by-night attempt by the

government to capitalise in some way on the horrific events that occurred in the United States and which had an impact here in so many ways, including this outbreak of hoaxes.

Ms Dundas makes the point—and it is a fair point—that none of the perpetrators were actually identified and that no action has been taken against any of the perpetrators for the hoaxes that occurred here in the ACT. But the difficulty of detection is not really relevant to the question of the appropriateness of the penalty. They are separate issues.

But, whilst ever we have a difficulty in detecting the perpetrators in circumstances such as these, it seems to me that there is benefit in sending the signal: "Look, you may be having fun, you may think this is a smart thing to do, you may have a whole range of reasons for the behaviour you are engaging in, and I accept those, but there is now an increase in penalty for that."

Ms Tucker alluded to some of the reasons people do things. I know that we humans are incredibly complex, doing things for reasons that sometimes take some fathoming and about which we should be understanding, but there is also the need for us to develop appropriate deterrents in relation to them. The increase in these penalties—a signal from this parliament, this government, this community that it is not appropriate behaviour—is quite a reasonable thing for us to do.

I have circulated some amendments. The government amendments all share the same purpose: to make it clear beyond argument that the offences are only committed where the actions, threats or false statements involve harm to another person. I want to make that absolutely clear. It was the government's intention. The government's position on this is that that is what the legislation did, but concerns have been raised and I am content to put those issues to bed completely. I have circulated amendments to do that.

The amendments will ensure that, where the actions, threats or false statements only concern self-harm, no offence will have been committed. This was a concern to both Ms Tucker and Ms Dundas. I am happy to respond to that concern, although I do not believe the concern is real. But I am more than happy to respond to it, being the reasonable person that I am.

Therefore, a person who conducts a political protest involving potential self-harm—for example, refusing to eat or drink—will not have committed an offence under the new provisions.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MR STEFANIAK (4.01): Mr Speaker, I move amendment No 1 circulated in my name in relation to the commencement date *[see schedule 1 at page 591]*.

In relation to this amendment, on 17 October the previous government, a day after the federal government announced it would be bringing in similar legislation to this, indicated that it would proceed with legislation along these lines. At that time we had some legislation on the table. That was, and still is, our preferred legislation. We will see how the government bill goes.

As I indicated earlier, the gist of the government bill seems fine to the opposition. We think it is fundamentally good legislation. However, on 16 October when the federal Attorney-General, Mr Williams, indicated that the federal government was bringing in this legislation, he indicated it would run from 16 October.

I announced that we would be bringing in the legislation on 17 October. I recall a joint press conference between the then Chief Minister, Gary Humphries, Brendan Smyth, who was police minister, and me. We indicated that we would bring in the legislation and that it would run from 17 October. On that day, I think, the then shadow attorney—now Chief Minister and Attorney—indicated that, if his party got into government, they would bring in similar legislation. They have done so.

I note the Chief Minister has not included a clause specifying when the legislation should come in. As I say, we said 17 October. He has stated that it is to be the normal notification day.

Retrospectivity is not normally included in legislation, but this is a particular type of legislation. The Commonwealth have now introduced their legislation and have indicated it is to run from 16 October. It is my understanding that other states have indicated that they will bring in similar legislation and that it will run from a certain date. We indicated on 17 October that we would have the legislation run from that date.

I think the reason for that is fairly obvious. This is unique legislation and there are rather unique circumstances. I am amazed there were so many hoaxes. I thought there were something like a dozen hoaxes in October, but the Chief Minister has indicated that there were something like 100 hoaxes. I am well aware of the damage, angst and fear caused by those hoaxes.

I can recall some major public institutions having their workers evacuated. I can recall the CIT having one of its campuses evacuated because of anthrax scares. There was a lot of expense caused by these hoaxes. A great deal of effort was expended by the emergency services. Someone said they have to respond to each and every one of these instances.

There has also been a lot of fear and angst in the community as a result of these hoaxes. This was caused largely by the fact that some of the anthrax hoaxes in the United States turned out to be real. Indeed, people have died as a result.

These things have to be taken seriously, because they cause the public a lot of angst. As with all crimes, there are probably varying degrees of intent and variations in what occurs when the criminal perpetrates the actual crime. That is something on which a court exercises its discretion on the facts.

The Chief Minister was quite right in terms of the effects of these hoaxes, the damage they cause to the community and the very real need for proper legislation with proper penalties. The opposition concurs wholeheartedly with the comments he has made today in relation to that. It also concurs wholeheartedly with his comment that they could not possibly have been intended to be used for demonstrations and things like that. I will come to that later.

There is one thing on which we will disagree with the government. All right, I understand that no-one has been caught to date. It may be that no-one will be apprehended for these particular offences. It also may well be that they will be.

However, if anyone who puts the community at risk, and in fear, causes a lot of angst and expense to the emergency services and everyone else involved, is actually caught for an offence committed probably a couple of weeks from now—and I assume the government is going to get its bill up in this particular regard—then, as the Chief Minister says, the most they can be charged with is a misdemeanour. There is a maximum penalty of 12 months imprisonment and/or a fine of $2,000. That is the maximum, despite the angst, despite the intent, despite the damage caused to our community as a result of these hoaxes—and the fear engendered in perhaps tens, dozens, hundreds or even thousands of Canberra citizens.

That is why we feel that it should be commenced on the day we said it would be. Quite often, Mr Speaker, with police operations—and I know something about those from my days as a prosecutor—you will have someone who is picked up for another offence actually admitting to a series of offences. It is quite conceivable that there will be, in the months to come, people apprehended for these particular matters—the crimes they have committed back in October or November of last year. As the bill currently stands, they can be charged only with a misdemeanour. I do not think that is right.

If we, the federal government, or indeed some of the state governments, had not said, "We will date this legislation from the day we are making the announcement," the opposition would not be moving this amendment, because it offends the general principle against retrospectivity. However, we announced on 17 October that the bill we would introduce would run from that date. That is totally consistent with the federal government and, to my understanding, other states too.

For the reasons I have stated, I think it is important that, in this instance, this bill run from 17 October when we announced it. Accordingly, I commend amendment No 1 circulated in my name.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.08): Mr Speaker, the government will not support the proposal that these provisions be made retrospective. I understand what Mr Stefaniak is suggesting. Nevertheless, I think that, as a rule, we should avoid making criminal provisions retrospective.

There is often pressure on us to make provisions retrospective. Sometimes there is a very strong temptation to do so, and sometimes one is persuaded that there are occasions or circumstances when retrospectivity is relevant. Indeed, there have been a couple of occasions, in relation to particular circumstances that have arisen, on which retrospective

provisions have been included in laws that we have made. Nevertheless, I think that, as a rule, retrospectivity in relation to the criminal law should be avoided. I do not believe this is a circumstance where we should ignore that basic principle.

I am not sure how actively the police are continuing to investigate the particular events that were of concern last year. I would be surprised if those issues are still being actively investigated. I believe it is hardly likely, at this stage, that the offenders will be discovered. I think that, in terms of the force and purpose of the law we are debating today, we should look at it prospectively. We need to accept that extremely antisocial acts have been done in the past that did deserve a higher penalty than they would have attracted, had the perpetrators been discovered.

The government will not support a retrospective provision in this instance.

MR HUMPHRIES (Leader of the Opposition) (4.10): Mr Speaker, I want to support Mr Stefaniak in his amendment on this matter. It is true that retrospectivity is rarely incorporated in legislation, particularly in respect of criminal matters; yet there must be some circumstances where it is warranted. I would have thought that, given the enormous problems occasioned to this community following the incidence of the September 11 attacks, this is a case where one would contemplate the appropriateness of using this kind of power.

A clear indication was given to the community, in widely publicised terms, from 16 and 17 October—not just in the ACT but, I understand, in every jurisdiction in Australia—by the governments of every jurisdiction of Australia, that there was a need to amend legislation in these terms.

The fact that nobody in the ACT has been charged with this offence does not preclude the real possibility that a person may, at some future point, be arrested for an offence committed before today.

Of course, they cannot be arrested for an offence committed before today because, if we do not retrospectively apply the law to 16 or to 17 October, the legislation will not be capable of bringing a charge against a person who has committed an offence between then and today—or between then and whenever this legislation is actually gazetted. That would be unfortunate, because that appears to be the period during which the bulk of these offences have been committed.

I wonder how consistent the government's position here is with that of Labor governments elsewhere in Australia and the Labor opposition in the federal parliament. I am happy to be corrected on this, but my impression was that the Labor opposition in the federal parliament was happy to support the legislation applying from 16 October. Maybe that is also the case with the state Labor governments. I will check on that.

It would be ironic if this was the only jurisdiction in Australia where it did not apply from the date from which Australian governments uniformly decided that this legislation should be effective.

MS TUCKER (4.13): No, the Greens will not be supporting this amendment either. I am very aware of the arguments that have been put by Mr Humphries, Mr Stefaniak and Mr Stanhope. Regardless of whether or not a statement has been made by other governments, I think it is quite inappropriate to be applying criminal law retrospectively in this way.

There are principles that we try to have regard for when making laws in this parliament. We make the laws in this parliament according to our consciences. That is appropriate for us as people elected here. I do not think it is appropriate to have retrospective legislation of this kind.

Question put:

> That **Mr Stefaniak's** amendment No 1 be agreed to.

The Assembly voted—

Ayes, 7		Noes, 10	
Mr Cornwell	Mr Pratt	Mr Berry	Ms MacDonald
Mrs Cross	Mr Smyth	Mr Corbell	Mr Quinlan
Mrs Dunne	Mr Stefaniak	Ms Dundas	Mr Stanhope
Mr Humphries		Ms Gallagher	Ms Tucker
		Mr Hargreaves	Mr Wood

Question so resolved in the negative.

Amendment negatived.

Clause 2 agreed to.

Clause 3 agreed to.

Clause 4.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.18): Mr Speaker, I move amendment No 1 circulated in my name *[see schedule 2 at page 592]*.

I referred to this matter briefly when I spoke earlier. Just to clarify the position, I point out that the government's amendment puts beyond doubt that the government's intention is that proposed new section 140A in clause 4 will apply only in relation to a person doing "something that could endanger someone else's life or health; or"—and I emphasise the words "someone else's"—"something that, in the circumstances in which it is done, a reasonable person would suspect could endanger someone else's life or health (whether or not it could do so)".

I re-emphasise the point that there are a number of tests which the prosecution, the police or the DPP would need to hurdle in order to utilise this provision. It probably does bear repeating that the clause is drafted around the notion of reasonable suspicion. As I indicated before, where there are no standard or fixed rules to what are reasonable

grounds for suspicion, an often cited reasonable suspicion test is whether a reasonable person would fairly suspect the matters in question from all the circumstances.

It is clear that reasonable suspicion is something more than mere suspicion and requires a legitimate basis for the search. Reasonable suspicion is a suspicion based on facts which are objectively seen as sufficient to give rise to an apprehension of a suspected matter. By way of clarification, to say the suspicion is reasonable does not necessarily imply that it is well founded or that the grounds for suspicion must be factually correct. Although suspicion has a lesser standard of conviction than belief, there must still be a real foundation.

For the edification of members, Mr Speaker, the case law from Canada and the United States in relation to the analogous concept of reasonable cause suggests that reasonable suspicion must be something more than mere conjecture. Rather, it must be the suspicion of a reasonable person which is warranted by facts from which inferences can be drawn.

Mr Stefaniak: Great principle of law, Jon.

MR STANHOPE: Yes, and of course that is the test that applies in the extant provision, but we are amplifying that to make it absolutely clear that these amendments will ensure that where actions, threats, or false statements concern self-harm or political activity, no offence will be committed. Therefore, a person who conducts a political protest involving, say, self-harm, will not be committing an offence under the new provision. The amendments are designed to clarify, I hope beyond the doubt or concern of any member, that that is the government's intention. That is how the legislation is drafted and, we believe, will certainly be interpreted.

MR STEFANIAK (4.21): I can see why Mr Stanhope has moved his amendment. I agree with what he said in his letter to the scrutiny of bills committee, specifically at page 3, and I will read the first couple of paragraphs of that page. The letter stated:

> It is understood that a concern has been raised that a person engaged in a protest who, for that purpose, commits and act of self harm, might be caught by the offence on the basis that such a person would have:
>
> (a) done something that could endanger human life or health; and
> (b) done the act with the intent of causing public alarm or anxiety.
>
> It is certainly possible, though rare, for protestors to make their point by committing serious acts of self harm. However, the Government is not convinced that such an act would, if done as part of a protest, ordinarily, satisfy the requirement that it be done with the intent to cause public alarm or anxiety, particularly in view of the ordinary meaning of those words as noted above. The Government is, therefore, of the view that the provisions, as cast, and taken in their context, would not result in the criminalisation of self-harming protestors.

I must say, Mr Speaker, that I entirely agree with what the Chief Minister has written there. However, the opposition does not see the need to go one step further and put this in legislation. Although I suppose we will not die in a ditch over it, we would oppose this amendment—and, indeed, the subsequent consequential amendments, which I will not speak to again—as it is unnecessary.

When replying to what Ms Dundas said in her speech, the Chief Minister spoke about protestors, and I support his comments. I have been around a fair while and I have been involved in protests. I cannot recall many protests, even from the early 70s, where serious offences were laid against demonstrators. Offences usually involved damage to property, assaults and things like that.

Mr Wood: You were involved in the anti-Springboks tour?

MR STEFANIAK: Yes. I think the women against rape demonstrations in the 1980s were the last ones which resulted in some serious charges being laid and successful prosecutions, although they might have been rolled on appeal. I defy anyone to show me where charges have been laid and cases successfully prosecuted for serious matters in relation to any demonstrations here since that time.

The Chief Minister was quite right in talking about the sifting process these charges go through. To start with, the police have to lay them, and invariably they do not. Then you have the DPP, which has a statutory duty and a statutory right to say whether it will proceed to the prosecution. And then, of course, you have the courts, who have over probably a 30-year period shown themselves in my view to be absolutely fair and very tolerant in terms of these matters in the ACT. So I think the checks and balances are there.

Indeed, I would have to agree with what the Chief Minister said in his letter about it being almost impossible for anyone to construe this legislation being used wrongfully against a demonstrator. Even if a case were to get through the first two stages of the sifting process—if it passed the police and then passed the DPP, who are trained lawyers—it would be thrown out by a court. So I simply cannot see the need.

I suppose I have another concern. I would hope that these amendments do not have any adverse effect. I must admit that in the short time they have been available to me, I have not been able to check that. But I think there might be some potential danger. I think it is important to keep legislation simple, as simple as possible, for the benefit of statutory interpretation by the courts. Given that change is unnecessary, I think by accepting these amendments we might be perhaps unwittingly opening up some other unforeseen problem.

I think the Chief Minister got it right to start with but I do not think we need the amendments. Whilst I hope he is correct in saying they are neither here nor there, that they are not going to matter one way or the other, on balance we do not see the need for them .

I should point out, of course, that there are offences anyway for attempted suicide. Those types of offences are already in the Crimes Act. Again, I just do not see the need for the amendments. I think they are unnecessary. Hopefully, it is not going to matter. I know that Ms Tucker is very keen to see that the amendments are passed. The amendments are going to get through, but I hope that the change will not bite us in some potential way. However, as I said, we do not see the need for the amendments and so the opposition will not be supporting them.

MR HUMPHRIES (Leader of the Opposition) (4.26): Mr Speaker, I would like to amplify the concerns that Mr Stefaniak has just raised about this amendment effectively saying that self-harm, or the threat of self-harm, is an exemption to the provisions we are setting up here that prohibit a person from using a threat to life or health as a way of being able to cause public alarm or anxiety.

There is obviously a case at one end of the spectrum, to which I gather Ms Tucker and Ms Dundas have referred in earlier discussions, where a person might go on hunger strike, for example, and arguably, although I think this is drawing a bit of a longbow, cause public alarm or anxiety by threatening their own health or life.

I accept that that is a situation which probably the law should cover. But I also think it is the case that at the other end of the spectrum there are cases where a person might commit or threaten to commit acts of self-harm which the law most certainly should cover, and where most certainly a penalty should be provided for in law. Take, for example, the case of a person who decides to commit suicide by throwing themselves under a bus load of people. It is not merely the act of taking their own life, or attempting to take their own life, which would be a matter that might attract this legislation: it would be the fact that they were doing so in such a way as to alarm an entire bus load of people.

Take the case of a person who walks into a classroom with a gun, holds it to their head and threatens to blow out their brains in front of the class of kindergarten students. Under this amendment, that case would not be punishable except by the public nuisance provisions Mr Stanhope has referred to and derogated in this place by saying that it attracts only a $2,000 fine. Mr Speaker, I think if someone caused public alarm or anxiety by walking into a classroom and doing that, they would deserve much more severe punishment than a $2,000 fine.

It may be that the government should return to these amendments at some other point and consider whether they are couched in the best way to cover the situation they are attempting to avoid. But in order to avoid the possible harm of catching people who are, for example, on a hunger strike—a relatively innocent example, if you like, of self-harm—we are avoiding a whole suite of situations where a person could cause enormous public anxiety or alarm because they are using their own body as the weapon or tool to achieve their goal. This could even constitute a loophole of a kind which could be exploited by people who wish to engage in these sorts of activities. Unfortunately, we live in the kind of world where increasingly people do commit these sorts of acts.

Mr Speaker, I ask the government to consider whether it really intends that such acts should be excluded from the legislation. Is it intended that the legislation the government has brought forward in this place will not cover a situation where a person goes to a public place and causes enormous public anxiety or concern by threatening to harm themselves?

MS DUNDAS (4.30): The Democrats will be supporting this amendment and the subsequent similar amendments because we think they make a very important point that hoaxes, which is what these offences relate to, cause public alarm. We should be looking at what we are doing to cause alarm in other people.

The Leader of the Opposition gave us some examples of this sort of activity. While he was talking, I was musing about of some examples of self-harm and the possible causing of public anxiety, such as jumping off a detention centre building onto razor wire. What should we do with these people? Should we lock them up for 10 years? What about people who risk self-harm and cause public anxiety by standing in front of a tank? This is also a legitimate public action. What should we do with these people? Lock them up for 10 years?

We are focusing on people who are causing public alarm but are not actually hurting others; people who are not going through with an act. We are talking about hoaxes. We must realise that hunger strikes and these cases I have already mentioned of people going to extreme lengths are legitimate acts of public awareness raising and of political disobedience. To that end, I think these amendments go a long way to addressing the concerns that have been raised by me and Ms Tucker today about this law unintentionally impacting on people conducting legitimate political protest.

MS TUCKER (4.31): We also support this amendment. This matter was noted in the report of the scrutiny of bills committee. It is news to me if Mr Humphries is now suggesting that this legislation will cover the kinds of incidents that he gave examples of. I was hearing from government that in fact this was not what would come out of the existing wording. That is why Mr Stanhope said he thought this particular amendment was necessary. Obviously, the opposition said, "No, don't do it because it's going to stop us in fact having this law interpreted in the way that we were concerned that it would be interpreted." It seems the opposition wants it to be understood that way.

We have almost now moved into a different debate. Ms Dundas talked about legitimate protesters moving across the line and threatening to act in a way to cause public alarm and hoax. I think we need to have a debate on that broad spectrum. But this sort of thing has not occurred. This amendment makes it quite clear that in fact we are not going down that track with this legislation, and it is on those grounds that I am supporting this legislation at this point.

I heard what Ms Dundas said and I think she has misunderstood to a degree. I have similar concerns. However, when the courts look at what has been said in the context of this debate, at the explanatory memorandum and at the associated intrinsic material, I think it is clear that it could not be interpreted that the intention of the legislation is to stop a protest. You have to prove, as Mr Stanhope pointed out, the intention of causing public alarm; plus you have to be shown to have done something that could endanger human life or health; and you have to do something that, in the circumstances in which it is done, a reasonable person would suspect and this has to be warranted by facts. We have had that debate.

So, I think the amendment is very important. Indeed, if this amendment is not supported then I will not be able to support this legislation.

MR STEFANIAK (4.35): Mr Humphries raised a very good point. I recall there have been a number of instances in the ACT where someone did threaten to do harm to themselves and there were other people around who obviously suffered some consequences. Mr Humphries made a very valid point and I think there is a real potential danger.

The only other point I would like to make is that there is potentially a grey area with the amendment in terms of when does the self-harm stop and the endangerment to someone else's life or health actually kick in. There are some problems in relation to this. I think the Attorney had it right to start with in the first couple of paragraphs of page 3 of his letter, which I read out. I think the points raised by Mr Humphries are very valid. They are, in fact, backed up by some events in the ACT which over the years we have occasionally seen. I think it is far safer just to stick with the original bill.

MR HUMPHRIES (Leader of the Opposition) (4.36): Ms Dundas in particular cited cases of self-harm as a means of, if you like, legitimate political expression. I want to explain to her that I have no desire to see the legislation being drafted here apply to such people. You might argue that people, for example, who sew their lips together might be caught by this legislation. I would certainly agree with you that such a person should not be caught by the legislation, and should not be subject to prosecution under this legislation.

My point is that in trying to remove those cases from the ambit of the legislation, we also take out cases which are clearly much, much more serious—cases which go to the other extreme of the spectrum and which would be, I think, regarded as scandalous and inappropriate. A person who, say, goes into a classroom and threatens to blow their brains out in front of small children is not making any kind of legitimate statement about a particular issue. Even if they are trying to make some statement about an issue which is legitimate, using that device to do so is quite inappropriate.

Mr Speaker, my point is that I do not think the legislation should be so broadly drafted that it excludes all of those cases from prosecution under these provisions. I am suggesting that the government should go back and review this amendment, look at it again and ask itself whether it really intends that the cases that I have cited should be caught by this exemption.

Mr STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.38): If I might just respond, Mr Speaker. I made this point before and I think Ms Tucker just summarised it succinctly and correctly: in terms of the tests that have to be met, the particular example that Mr Humphries gave is not caught, and I think it is quite clearly not caught. The act that has been committed by a person must be shown to have been done with the intention to cause public alarm or anxiety.

Mr Humphries talked about the prospect of somebody with a loaded gun going into a classroom and threatening to blow his head off in front of children. It is all to do with the intention. There are a range of tests.

Mr Humphries: The test is to alarm the children, surely?

MR STANHOPE: Surely you are not suggesting that it is a legitimate political protest or tactic for the purpose of making some political point to go into a roomful of children and threaten to kill oneself? It is quite clear to anybody that that is behaviour designed to alarm.

Mr Humphries: That is just what I am saying.

MR STANHOPE: Yes, but it does not actually meet the test in relation to intention. The person's intention was not to engage in a legitimate political activity. The first mark that a person seeking exemption from this particular provision would have to get to is that they were engaged in some other activity, that they were not set on some design to deliberately alarm or cause anxiety. In your example, quite clearly the person seeking to gain an advantage of any so-called exemption would fall at the first hurdle.

Mr Humphries: So why?

MR STANHOPE: That their intention quite clearly is to cause alarm; that they had no other motive or motivation; that they went there with the determination to cause alarm and they did not have any other intention.

I think that point is made quite clearly. I apologise for the fact that the scrutiny of bills committee was presented with the government's response only today. I acknowledge that the time frame was short. We are determined to seek to overcome these sorts of time frames. I accept absolutely—and, as I say, I apologise to the Assembly—that this is not appropriate. It is extremely difficult for members to get across significant issues raised by the scrutiny of bills committee when the government's response is not presented in a timely way, and we will endeavour to overcome that issue.

If one then looks at the government's response to the scrutiny report, and then looks at the subsequent report of the scrutiny of bills committee, the second report that I tabled today—and I will read it for the sake of the Leader of the Opposition and for the sake of the committee's concerns—

Mr Humphries: I've read it, Jon.

MR STANHOPE: Well, what does it say? Ms Tucker points to the concerns raised by the scrutiny of bills committee. It may be that Ms Tucker has not read the second report of the scrutiny of bills committee, which says that the committee has accepted that the government's legislation, the original draft, was quite sound.

Mr Humphries: That's right, so why are you amending it?

MR STANHOPE: Because it clarifies the very point. It actually does not detract from the provision. It simply enhances the position.

Mr Humphries: That is all the report says?

MR STANHOPE: All it does is clarify—it does not change it one iota. And this is why I take issue with Ms Tucker. Ms Tucker suggests that she would not support this bill unless it were amended. The scrutiny of bills committee says the amendments really make no difference; they are just for the sake of clarification. It is interesting to look at what the scrutiny of bills committee wrote. The committee said:

> The committee accepts that it misunderstood the way proposed new section 140A should be read. The essence of the offence is that the person has done something, such as something that could endanger human life or health (paragraph 140A(a)), and did that with the intention of causing public alarm or anxiety. The Committee accepts that it was not correct to state 'that it is not necessary for the prosecution to prove that the person intended to cause public alarm or anxiety' by acting in a way described ...

Initially, the scrutiny of bills committee got it wrong. The report continued:

> The Chief Minister expresses surprise at some of the concerns and/or confusion which have arisen, and the Committee accepts that it did misread proposed new section 140A. The Chief Minister draws attention to the fact that the offences proposed 'are clearly stated and structured in accordance with the approach taken in the Model Criminal Code'. In relation to proposed new section 140A, the Chief Minister comments that the Government does not understand how the Committee reached the conclusion it did about how this section should be read. The Committee observes that this section is worded in a way that suggests that a reader asks first, whether the person had the intention of causing public alarm or safety, and, secondly asks whether the person did something that could endanger human life or health. It was by reading the provision this way that the Committee became confused. The Committee accepts that the provision may be structured in accordance with the Model Criminal Code, but the question is whether the provision is worded in a way—

and I guess this is the crux and something we need to dwell on here—

> that makes it easily intelligible for a citizen who is not familiar with the code.

Well, there are some citizens here who are not familiar with the code. The report continues:

> The Committee accepts that the word "public" qualifies both 'alarm' and 'anxiety'. It considers, however, that it is legitimate to ask whether a citizen not familiar with techniques for statutory interpretation would understand that this was the case.

The government has responded to the confusion that the scrutiny of bills committee felt by clarifying and providing some certainty to exactly what it was that the government intended to do in the first place. All the amendments do is clarify the position to overcome the confusion which the scrutiny of bills committee itself felt, and the scrutiny of bills committee now has most nobly acknowledged that it misunderstood what the government was doing. It now says that it has had another look at it, it has read it and it is really quite clear that the government in no way intended to trammel legitimate political activity, and there has to be a clear intention to cause the alarm or anxiety.

The report of the scrutiny of bills committee goes on to say:

> The Chief Minister's response makes reference to the fact that 'no other jurisdictions have judged it necessary—

and this is a very significant response by the scrutiny of bills committee—

> to provide guidance to the meaning of 'public alarm or anxiety' in the context of their product contamination offences'. The Committee does not challenge this point ...
>
> The Committee notes that the Government is prepared to amend the proposed provisions in the way indicated.

The report goes on:

> The committee accepts the Government view that proposed new section 140A will cover situations where an act does actually endanger human life or health. The Committee's comments at point 1 above apply in this respect.

In relation to the point which has been pressed by both the shadow attorney and the Leader of the Opposition, I refer them to that comment of the scrutiny of bills committee. And "point 1 above", of course, goes to the committee misunderstanding what it was that the government was intending to do.

I think Ms Tucker made a very clear and succinct statement of exactly the situation we are in. I support entirely what Ms Tucker and Ms Dundas said. But it is quite clear to me that the example the Leader of the Opposition proffered of somebody marching into a kindergarten class, supposedly as some legitimate act of political protest, and threatening to blow their brains out, would not be covered, would be exempt from this particular provision, and there would be no offence caused. I do not see that that particular example is at all relevant.

MS TUCKER (4.46): I just want to clarify a couple of points. I have read the scrutiny report, Mr Stanhope. I do not seem to have made my point clear. After listening to what Mr Humphries had to say, I said I would not support this legislation if this amendment did not get up. Basically, this is going to confuse how this discussion could be interpreted. Mr Stanhope, the Chief Minister, gave a response to the Standing Committee on Legal Affairs, in its capacity as a scrutiny of bills committee, and the question was raised whether the offence could cover acts of self-harm. The response stated:

> It is understood that a concern has been raised that a person engaged in a protest who, for that purpose, commits an act of self harm, might be caught by the offence on the basis that such a person would have:
>
> (a) done something that could endanger human life or health; and
> (b) done the act with the intent of causing public alarm or anxiety.
>
> It is certainly possible, though rare, for protestors to make their point by committing serious acts of self harm. However, the Government is not convinced that such an act would, if done as part of a protest, ordinarily satisfy the requirement that it be done with the intent to cause public alarm or anxiety, particularly in view of the ordinary meaning of those words as noted above. The Government is, therefore, of the view that the provisions, as cast, and taken in their context, would not result in the criminalisation of self-harming protestors.
>
> However, the Government is prepared to amend the proposed provisions ….

The point that was being clearly made was that this was not meant to cover incidents of self-harm. Mr Humphries has now come out and said, "This amendment makes this legislation significantly different." So there is obviously a contradictory position and understanding of what this legislation actually means. I think this amendment has become doubly important because of the debate that has occurred here and in particular the comments from the Liberal Party.

MR HUMPHRIES (Leader of the Opposition) (4.49): Mr Speaker, I want to clarify what I have said in case it was misunderstood. The comments made by the scrutiny of bills committee in their report this afternoon do not reflect in any way upon the government's amendments. They could not because I take it the committee did not know about the amendments, and even if they did, in accordance with our standing orders they could not comment on them. Incidentally, Mr Speaker, I think this is something we should fix up in due course. I think it should be possible for the scrutiny of bills committee to comment on amendments which are on the table to particular pieces of legislation. But that is another debate.

Mr Speaker, I am not referring to the situation of the kind I spoke about, involving a man who goes into the classroom with a gun, as being in any way a political protest, or some sort of legitimate act of demonstration or protest. Let us assume that that act is done for no other reason than to cause alarm and concern to the people there. I hope we would all concede that such an act could take place. Unfortunately, these days there are increasingly large numbers of acts being done in public places, the object of which appears to be to cause the maximum amount of distress and alarm to those who witness them. In those circumstances, Mr Speaker, I think the law ought to provide a sanction.

An example of such an event is the Dunblane massacre, which involved a man who apparently was intent on killing himself but who, at the same time as killing himself, wanted to make a very large statement to the world about his anger at the world and who committed some horrific acts in the course of committing suicide. Mr Speaker, what if such people commit such acts in public places, but do not actually suicide and therefore are not open to prosecution? My view is that they should be subject to prosecution. They should be capable of being prosecuted, and for more than just public mischief.

I am not suggesting that there is any question of political comment or overlay and in a sense that should be irrelevant in any case. Let us say the clear intention of the person is to cause public alarm or mischief, public alarm or anxiety. Their acts cannot be caught by this new piece of legislation because a person is specifically excluded from the ambit of the legislation if the act is one which endangers their own health or life. This specifically excludes the act from that ambit. Mr Speaker, I think that is an oversight. I think that is wrong. I think the act should say something about such circumstances. So, as I say, I hope that will be considered in the future by the government.

Amendment agreed to.

MR STEFANIAK (4.52): I will speak to this and my amendments Nos 3 and 4, so that we do not repeat ourselves. I move amendment No 2 circulated in my name *[see schedule 1 at page 591]*.

When the legislation was announced on 17 October 2001, including the first amendment I moved, which was defeated on about 17 October, we also announced that there would be a fine of $100,000. I note what the Attorney says in relation to legislation around the rest of the country, and it may well be that figure is, in fact, $20,000. We announced $100,000 for a specific reason, which is that it is very rare for courts in this land to ever impose a maximum fine.

This is a particularly serious offence, although there can be various manifestations of how it actually occurs. While I would imagine that most crimes committed under this particular category would warrant a term of imprisonment, there may well be circumstances where a court feels a fine should be imposed as well, or a fine should be imposed in lieu of a term of imprisonment. A fine could be imposed, for example, together with a bond, a community service order or similar.

The nature of this offence means that it causes so a great deal of dislocation in the community, and much expense is incurred by emergency services. I suppose that the old adage that time is money is relevant too when, for example, classes are disrupted if the offence occurs in an educational institution. Earlier, I mentioned the situation where the CIT had to be evacuated owing to one of these threats in October last year.

It may well be that, if a person has the means to pay a fine, a fine would be appropriate, and a substantial fine. As I say, courts rarely impose a maximum fine, and it may well be that a significant financial penalty should be imposed here. $100,000 is certainly a significant maximum. I would not expect a court to impose that fine. As history over the last 10 years has shown, you can probably count on one hand the times when courts around Australia actually imposed a maximum fine for anything.

Imposing this penalty sends a message to the judiciary that the Assembly regards this as a very serious offence and, if the court is considering a fine, it has a wide range of options there, including a very significant maximum, to consider. Quite often courts set fines at, say, 40 per cent, 50 per cent or 20 per cent of a maximum. For something like this, I think we need to send a very clear message that this is a rather unique type of offence, because it not only scares many people in our community but also results in a significant financial cost, both to the community and to community services, such as ambulance, fire brigade, police and emergency services, who have to attend. I think a serious fine for such offences is very important.

Again, it is something that we flagged we would do on 17 October. We indicated what we proposed as the maximum fine. We are abiding by what we said we would do then, but there are some very good reasons for that. I note what the Attorney has said in relation to the model code. I can see why he is sticking with that. However, I think that, because of the nature of this offence, and also because we did announce that we would be proposing this fine for this unique type of offence, it is appropriate to have a such a significant maximum fine. As I said earlier, I suspect that it would hardly ever be used, but at least it would indicate to the courts how serious the legislature considers such offences to be.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.56): Just for the record, I wish to indicate that we will not be supporting these amendments, Mr Speaker.

MS TUCKER (4.57): We also will not be supporting this amendment. We think it is more appropriate to keep the proposed penalties consistent with those associated with the contamination of goods.

Amendment negatived.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.57): Mr Speaker, I move amendment No 2 circulated in my name *[see schedule 2 at page 592]*.

I have expressed the government's position in relation to each of those amendments, Mr Speaker. I will leave it at that.

Amendment agreed to.

MR STEFANIAK (4.58): Mr Speaker, I move amendment No 3 circulated in my name *[see schedule 1 at page 591]*.

Amendment negatived.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Health, Minister for Community Affairs and Minister for Women) (4.58): Mr Speaker, I move amendment No 3 circulated in my name *[see schedule 2 at page 592]*.

Amendment agreed to.

MR STEFANIAK (4.58): Mr Speaker, I formally move amendment No 4 circulated in my name *[see schedule 1 at page 591]*.

For Ms Dundas' benefit, note that what is on this sheet is also handwritten. Sometimes we do not have time to type out these amendments, but in future, Ms Dundas, I will try to make sure all of them are typed out for you.

Amendment negatived.

Clause 4, as amended, agreed to.

Title agreed to.

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

Bill, as amended, agreed to.

Callam Street realignment

MR CORBELL (Minister for Education, Youth and Family Services, Minister for Planning and Minister for Industrial Relations) (4.59): In question time today I took on notice a question from Ms Tucker in relation to issues surrounding the proposed realignment of Callam Street, and the direct grant of land to the Southern Cross Club.

I have some additional information for Ms Tucker, which I wish to provide to her. It does not address all the questions she raised, but it does provide some additional information in relation to some of them.

At 5.00 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed..

MR CORBELL: On 26 April last year, the then Minister for Urban Services agreed to an increase in the development rights for the Southern Cross Club on part of section 108, Phillip, from 15,000 square metres to 17,500 square metres. This agreement was given in recognition of the increase in the cost of the road works at Callam Street, from $4.3 million to approximately $5 million, and on the understanding that the community benefit was retained—approximately $1 million to $1.2 million.

The cost to the club was therefore $5 million and the revised AVO valuation on the 17,500 square metres of this development is in the range of $3.8 million to $4 million. I am advised that this therefore delivers a public benefit of $1 million to $1.2 million. The deed of agreement has been signed by the Southern Cross Club, but has not been signed by the government. I am currently receiving legal advice as to whether I am able to provide information about that to Ms Tucker. I will get back to her on those other items as soon as possible.

Adjournment

Motion (by **Mr Wood**) proposed:

> That the Assembly do now adjourn.

Death of Mr Neil Harris OAM

MR CORNWELL (5.02): I wish to pass on my condolences, and I trust those of the Assembly, to Mrs Audrey Harris and her daughters, Shelley and Linda, and their families, on the death late last month of Neil Harris OAM. Neil was a generous and untiring contributor to the community, particularly to its more vulnerable members, through his extensive Lions Club and personal activities.

After distinguished military and civilian careers, he was publicly recognised with many awards, including the Order of Australia and, following his passing, by a memorial service, which was indeed a celebration of his life and his contribution to this community. Neil achieved the goal to which we, as elected representatives, aspire—he made a difference.

Rental accommodation

MS DUNDAS (5.03): I rise today to speak on the issues of rental accommodation and the "no groups" rule that is applied within Canberra. As occurs every February here in the nation's capital, the population increases as students move to Canberra to take up study at one of our fine tertiary education facilities, and graduates move to Canberra to take up their positions within the federal public service graduate program. As a result,

the demand for rental properties increases, and the price of rental accommodation goes up. One common way by which young people, students and graduates save money and increase their social connections is to live in a shared house.

However, the "no groups" rule, adopted by many rental agencies in the territory, makes it almost impossible for young people to find a home. "No groups" has become the mantra of complacent real estate agents, with such a high demand for rental accommodation in a city with one of the lowest vacancy rates in the country.

My personal experience is akin to that of many young house hunters in the ACT. Applications have been declined without reason: in many cases we are told not to bother. Young people can and do pay rent and, just like other tenants, we can maintain properties. When I first raised this issue last month, a property owner, Ron Mackie of Deakin, wrote to the *Canberra Times* stating that he knows "how easily a house can be trashed by groups of tenants, many of whom remain unknown to the owner and agent". However, in answer to Mr Mackie, I would suggest that sound property management, not discriminatory practices, ensure that houses are not trashed by any tenant, be they shared houses or otherwise.

Imagine the concern if an ad for a four-bedroom property stated "no families", because the property owner or real estate agent knew, to paraphrase Mr Mackie, how easily a house can be trashed by a family with children, many of whom remain unknown to the owner and agent. Further, imagine the concern if rental properties were advertised with a by-line that no women, heterosexual couples, Christians, unmarried fathers, Buddhists or vegetarians need apply.

Discrimination has been removed from many areas of the community, but we must remain eternally vigilant to prevent discriminatory practices, and to ensure that they are not condoned, implemented or advertised. Young people are sick and tired of being dismissed merely on the basis of age. If, as tenants, they can pay the rent and look after the property, then they should not be refused on the basis of age or marital status.

I welcome the support of the Real Estate Institute of the ACT, which indicated in its recommendations to property owners that it was not good practice to exclude a particular group of people. It recommended that all applications be considered on their merits and that references be checked. It seems the challenge is to now inform the property owners and the wider community that shared houses can be a good investment, and that discrimination in all its forms is not welcome in the ACT.

Question resolved in the affirmative.

The Assembly adjourned at 5.05 pm.

Blank page.

Schedules of amendments

Schedule 1

Crimes Amendment Bill 2001 (No 2)

Amendments circulated by Mr Stefaniak

Clause 2
Page 2 line 4—

Omit

"its notification day."

Substitute

"17 October 2001."

Clause 4
Page 2, line 18—

Omit

"imprisonment for 10 years."

Substitute

"$100 000, imprisonment for 10 years or both."

Clause 4
Page 2, line 23—

Omit

"imprisonment for 10 years."

Substitute

"$100 000, imprisonment for 10 years or both."

Clause 4
Page 2, line 23—

Omit

"imprisonment for 10 years."

Substitute

"$100 000, imprisonment for 10 years or both."

Schedule 2

Crimes Amendment Bill 2001 (No 2)

Amendments circulated by the Attorney-General

1
Clause 4
Proposed new section 140A (a) and (b)
Page 2, line 14—

omit proposed new section 140A (a) and (b), substitute

(a) do something that could endanger someone else's life or health; or

(b) do something that, in the circumstances in which it is done, a reasonable person would suspect could endanger someone else's life or health (whether or not it could do so).

Clause 4
Proposed new section 140B (1)
Page 2, line 21—

omit

human life

substitute

someone else's life

Clause 4
Proposed new section 140C (1) (a)
Page 3, line 7—

omit

human life

substitute

someone else's life