



WESTERN AUSTRALIA

# Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT  
FIRST SESSION  
1998

LEGISLATIVE COUNCIL

Tuesday, 17 March 1998

# Legislative Council

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**THE PRESIDENT** (Hon George Cash) took the Chair at 3.30 pm, and read prayers.

## TELEVISION OF DEBATE

### *Statement by President*

**THE PRESIDENT** (Hon George Cash): Before I call for petitions, I indicate to honourable members that I have had a request from the media to allow film footage of debate on the Criminal Code Amendment (Abortion) Bill 1998 from our internal television cameras to be released to the various television stations in Perth. As is the usual situation that has been followed in this House for many years, if a member does not accept that such film of that debate should be released, would he let me know as I understand that the House may deal with the Bill this afternoon. There is no need for a member to see me in this Chair. If I get a message to that effect, that will be sufficient for me to advise the television companies accordingly.

I should also advise that two newspaper companies have approached my office and asked that they be allowed to have photographers come onto the floor of the House for the purpose of taking photographs during that debate and I have already discussed that with a number of members who have indicated that that is not a course of action that they would want followed.

The question at the moment for members to consider is the release of the television footage from our internal television resources.

## REPEAL OF SECTIONS 199, 200 AND 201 OF THE CRIMINAL CODE

### *Petition*

Hon Cheryl Davenport presented the following petition bearing the signatures of 757 persons -

To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned residents of Western Australia call for repeal of Section 199, 200 and 201 of the WA Criminal Code. We urge you to amend the law to reflect the view that the decision to terminate a pregnancy is one for the woman in consultation with the doctor.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 1437.]

## RAIL SERVICE TO MANDURAH

### *Petition*

Hon J.A. Cowdell presented the following petition bearing the signatures of 123 persons -

To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We the undersigned request that the provision of a railway service to Mandurah be treated as a matter of urgency. A railway is a necessary solution to the inadequacy of the existing public transport system, the deferral of the freeway extension and the unacceptably high level of local unemployment.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See paper No 1438.]

## RIGHT OF WOMEN TO SAFE AND LEGAL ABORTIONS

### *Petition*

Hon Peter Foss (Attorney General) presented the following petition bearing the signatures of 276 persons -

To the Honourable the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

We, the undersigned residents of Western Australia, support the right of women to safe and legal abortions.

Your petitioners, therefore respectfully request that the Legislative Council will support any amendments to the abortion legislation which will ensure women's right to safe and legal abortions.

And your petitioners as in duty bound, will ever pray.

[See paper No 1439.]

## DEATHS IN CUSTODY

### *Urgency Motion*

**THE PRESIDENT** (Hon George Cash): I have received the following letter addressed to me and dated 17 March 1998.

Dear Mr President

At today's sitting, I intend to move under SO 72 that the House at its rising adjourn till 9.00 am on Friday 20 March 1998 for the purpose of discussing the government's failure to address the incidence of deaths in custody and related matters.

Yours faithfully

Nick Griffiths MLC  
Member for East Metropolitan Region

In order to discuss this matter, it will be necessary for at least four members to indicate their support by rising in their places.

[At least four members rose in their places.]

**HON N.D. GRIFFITHS** (East Metropolitan) [3.37 pm]: I move -

That the House at its rising adjourn until 9.00 am on Friday, 20 March.

Deaths in custody touch on a very important matter with respect to the administration of the State because it is a primary duty of those in power to protect the weak and vulnerable. It is a mark of civilised society. I regret this is yet another area of public administration involving the Minister for Justice which displays a failure to provide that very minimal protection.

I propose to speak very briefly by drawing the attention of the House to a number of relatively recent instances where the community has shown itself to be concerned about the incidence of deaths in custody and where the community has been informed that this unsatisfactory state of affairs exists. At the conclusion I will pose a number of questions which I trust the Minister for Justice will answer.

I will make reference to a number of media reports so that the House can see the relevance of this debate. It is important that the issue of deaths in custody and matters associated with it be addressed now and not wait until the Ombudsman has finished his inquiry. I applaud the Ombudsman for what he is doing. However, I regret that the problems with the treatment of people in custody which seem to be giving rise to unnecessary deaths in custody have not been appropriately addressed to date.

I will make passing references to a number of matters. An article in *The West Australian* of 9 January 1998 titled "Greenough prisoner dies" reads -

A 31-year-old man was found dead in his cell at Greenough Regional Prison on Wednesday night.

Reference is made in the article to his being the twenty-ninth Aboriginal to die in custody in Western Australia since the Royal Commission into Aboriginal Deaths in Custody report was released in 1991. On 27 January in the same newspaper, the executive officer of the Deaths in Custody Watch Committee stated -

Prisons are in chaos and staff are frustrated by lack of proper resources.

Morale is at an all-time low.

It is absolutely sickening to see the most vulnerable people in the prison system dying while the Premier (Richard Court) and Attorney-General (Mr Foss) play political games aimed at undermining the system still further.

A report in *The West Australian* under the headline of "Prisoner upset by lack of help" reads -

A Casuarina remand prisoner who tried to break his neck this week shared frustration about insufficient psychiatric services with a friend who killed himself in Canning Vale prison days earlier.

An article in *The West Australian* dated 31 January under the heading "Fears for street-gang prisoners" reads -

Fears are held for the safety of members of a tight-knit street gang in WA's two toughest jails after one was found hanged and a second tried to kill himself two days later.

An article in *The West Australian* on 29 January refers to moves to send emotionally disturbed prisoners to the former Riverbank juvenile detention centre at Caversham being put on hold. The article states the reason for that as being -

Justice Minister Peter Foss yesterday blamed the delay on upheaval at the Justice Ministry.

That is the Minister for Justice blaming himself. Then on 31 January reference is made again to the 18 year old who, it seems, hanged himself. I am drawing the Minister's attention to the fact that these matters are being reported upon. I want to know what has been done about them.

The gratifying headline on 2 February in *The West Australian* is "Ministry defiant on jail death". On 4 February the headline was "Officers reject face mask decree." That article contains a serious allegation about the treatment of a prisoner. It states -

The Justice Ministry yesterday refused to comment on claims by Deaths in Custody Watch Committee executive director Kath Mallott that the use of shackles in WA jails contravened United Nations conventions

...

These sorts of matters are raised all the time and need to be addressed. The report in *The Australian* on 7 February is titled "Watchdog to probe jail deaths" and refers to the very welcome news that the Ombudsman, Mr Murray Allen, will do something about it. That is Mr Allen's initiative. What do we hear from the Government? This is what is reported to have been said by the Government. The Minister for Justice will get his opportunity to tell us what he is doing, because I need to be assured that he is doing something fast. The article states -

Justice Minister Peter Foss refused to comment on Mr Allen's announcement but the outgoing head of the ministry, Gary Byron, welcomed the investigation.

Hon Peter Foss: That was my comment, actually.

Hon N.D. GRIFFITHS: I want to make this brief. I know other members want to speak. However, I am more interested in hearing the Minister's comments than others. I am not condemning the Minister; I am pointing out what is occurring. I think the Minister deserves to be condemned but I will not go through that process today; that will take place another day. The degree to which the Minister is condemned will be subject to his explanation today.

I note the Aboriginal Legal Service has sought greater powers for the inquiry of the Ombudsman. A nasty headline in *The West Australian* of 16 February 1998 is "Bash victim in jail suicide". On 17 February 1998 the headline is "Woman, 18, died a day after leaving Bandyup." This relates to one of the real problems about deaths in custody.

People in custody may be under some form of treatment but when they leave custody, nothing is done to follow up on their condition. I understand that many concerns about the lack of psychiatric treatment and services have been raised time and again in the findings of inquest after inquest and nothing seems to happen. Something may be happening. However, nothing seems to be happening because these unfortunate deaths are continuing and they should not be occurring at the rate that they are occurring.

A headline in *The West Australian* on 17 February 1998 is "Murder accused dead." The article states that guards found the body of this prisoner at about 1.00 am. On 18 February an article refers to the Auditor General's report titled "Waiting for Justice - Bail and Prisoners in Remand" dated October 1997. Particular reference is made in that report to the position of prisoners on remand. The article in *The West Australian* refers specifically to the Auditor General's report. I remind members what is contained in that report. Page 31 of the report states -

Remand prisoners made eighteen suicide attempts between January 1, 1994 and March 31 1997, with remand prisoners being more than twice as likely to be involved in incidents of self-harm as sentenced prisoners.

The report makes a number of recommendations for remand prisoners. An article titled "Jail riot fear" in *The Sunday Times* of 22 February 1998 states -

Every prison, except Casuarina, failed significantly to meet the recommendations of the 1991 Deaths in Custody Royal Commission and most failed to provide appropriate standards of medical and health care.

I note in particular that this is a matter into which the Ombudsman is looking. However, we should not have to wait for the Ombudsman to report. How many more people will die unnecessarily while we are waiting for the receipt of the Ombudsman's report? The Minister for Justice should be doing something about the matter now. I also note for the benefit of members a commentary by Amnesty International in its publication "Australia: Deaths in Custody: How many more?" I regret to say that Western Australia does not have many favourable mentions on that subject.

I wish that the Minister for Justice would tell us whether he is of the view that the medical observation rules are a civilised method of treating people who may be suffering some psychiatric or psychological difficulty. I wish the Minister, at the very least, would acknowledge some crisis with the issue of deaths in custody. That is something he has not done so far. I regret that the interpretation I placed on his remarks in answer to a question by me last Thursday was that he was treating it in a less than serious manner. I trust I am wrong in that. I will give him every opportunity to show that I am wrong. I specifically want to know what the Minister has been doing about this matter recently, what he is doing about it now, and what he will be doing about it.

Hon Peter Foss: Will you extend my time?

Hon N.D. GRIFFITHS: I am keen to listen to the Minister- although not so keen to listen to other members. Regrettably, the issue involving the Ministry of Justice, like so many matters for which Hon Peter Foss has the responsibility, is tainted by delay and indecision.

**HON PETER FOSS** (East Metropolitan - Minister for Justice) [3.50 pm]: I am not sure 10 minutes will be enough time in which to do justice to this debate but a tremendous amount is being done. It commenced with the appointment of Dr Michael McCall as Acting Director General. He has introduced a large number of specific things related to medical health and the assessment of prisoners. Since his appointment the amount of money spent on health services has doubled to \$8.6m and the number of full time staff has increased by 36. This includes two forensic psychiatrists, particularly for the juvenile area which is susceptible to deaths in custody through self-harm. More importantly, the ministry now has the most detailed at risk assessment process in the whole of Australia, and it is accepted as being such. A large number of extra people have been added to the assessment teams. There are the new teams - the forensic -

Hon Ljiljanna Ravlich: You do not even know what they are.

Hon PETER FOSS: They are called the FCMT, as opposed to PMT which seems to motivate Hon Ljiljanna Ravlich. The FCMT is a group of psychiatrists, social workers and prison staff who are particularly dealing with the question of the stress which affects prisoners. Dr Gerry Hodgkinson and Dr Pulella have made the point that there are no particular causes for deaths in custody. Unfortunately, as with suicide in the general community, a large number of factors, mainly personal, are involved. People entering gaol now are particularly susceptible to self-harm because many of them have been convicted of drug offences. Those people in the first instance are more likely to self-harm, because the things that caused them to take drugs will also cause them to harm themselves. At the same time they may be withdrawing from alcohol or drugs, have serious physical health problems, be emotionally and psychiatrically disturbed, and be suicidal or in a state of personal crisis. Imprisoning a person in that state of mind will only aggravate those problems. Locking up a person who is inclined towards self-harm is not the best thing to do.

Hon Ljiljanna Ravlich: Especially in crowded conditions.

Hon PETER FOSS: That does not seem to be the major factor. It is interesting that some of the musters have dropped off in recent times but, despite that, on occasions the number of cases of self-harm has increased. That is far too simplistic a way of dealing with it.

An at risk management system has been established. All prisoners who are identified as having a health or management problem are referred for assessment at a weekly "disturbed and vulnerable" meeting. This meeting is attended by health and custodial staff and arrangements are made for the ongoing management of these prisoners. Furthermore, each metropolitan prison holds multidisciplinary forensic case management meetings at three to four week intervals, where a small number of complex cases are reviewed and management plans are developed. Interestingly, most of the people who have committed suicide have not identified themselves as likely to commit suicide or claimed to be at risk of self-harm. Generally those who give no indication of being likely to suicide get away with suicide, for obvious reasons. However, when a person identifies himself as likely to self-harm the system has two choices; that is, that person can be put in the general prison population and have the benefits of mixing with other prisoners or can be placed under medical observation. Being under medical observation is similar to being in solitary confinement and that in itself may aggravate the situation, although in the case of an attempted suicide it does provide a better chance of detection. There are safe cells in each prison which comply with the requirements for looking after disturbed prisoners. Dr McCall was also responsible for the creation of 10 new positions of prison support officers. These officers are part of the forensic case management team, and many are of Aboriginal descent.

Their primary role is the coordination and facilitation of prisoner peer support groups. I emphasise that this one area has probably had the closest attention in the Ministry of Justice as a result of the efforts of Dr McCall.

In addition, the ministry has commissioned two reports on deaths in custody. The first, which I will table in the House shortly, is by Dr Howells, an eminent psychiatrist who once worked for the prison system. He prepared a report on the present system and went through every single one of the elements likely to lead to self-harm. Some of the recommendations in that report have been put into effect, and the remainder have been adopted in principle.

Hon N.D. Griffiths: Is it in the public domain?

Hon PETER FOSS: I hope to be able to table it tomorrow. I hoped to do so today, but the ministerial statement had not been completed. I will table the report either tomorrow or on Thursday, so it will be in the public domain.

This one area in the whole of the justice system has had a concentrated approach since Dr McCall became Acting Director General of the Ministry of Justice and he has put in place a system which, more than any other system in Australia, is devoted to the early detection and prevention of self-harm by prisoners.

Hon Tom Helm: Why is it failing?

Hon PETER FOSS: One of the things that must be taken into account is the type of people in prison and the problems they have. Probably the biggest single cause of the increase in the number of deaths in custody is the nature of people coming into the prison system. Those who self-harm tend to be younger and to be in the remand system. Those who are likely to commit suicide have psychological, social and personal problems that would lead to self-harm outside the prison system. Some people are determined to commit suicide; they have tried to do so on the outside and have been stopped, and have then come into the prison system. It is extremely difficult to handle these prisoners as opposed to the run of the mill prisoners of the past.

Hon Tom Helm: If they have a history, it should not be difficult.

Hon PETER FOSS: It is difficult because they must still be prevented from committing suicide. I refer to the issue raised by Hon Nick Griffiths. A prisoner who is put under 24 hour a day observation in a safe cell and whose activities are monitored by a camera is virtually in solitary detention. If that person attempts to commit suicide, an officer may get there before he does so, but it is hardly an appropriate way in which to treat a prisoner with the psychological problems that may lead to self-harm. Although that prisoner may be prevented from committing suicide, the intervention does not improve the situation that person is in. It is a real problem. Once those people have been locked up, there is the choice of putting them in the general prison population, with the possibility that mixing with other prisoners may help them, or locking them up in solitary detention which will do nothing for the problem and may further aggravate their condition or depress them. That is one of the medical problems involved.

My response to the Ombudsman's investigation is that I welcome it. I told Gary Byron that was my response and he gave it. I welcome it because we know we have made many efforts in this area, probably more than anybody else in Australia. The ministry has gone through an assessment process and has established these teams. Every prisoner has access to these teams. The number of forensic psychiatrists and other workers in the system has been increased but still people self-harm. They do so for a large number of different reasons. It is interesting that in many cases the self-harm rate is lower among the prison population than it is in the general community. Any amount of self-harm under those circumstances is undesirable, but in WA it is not caused by lack of effort. I particularly commend the efforts of Dr Mike McCall, who set this in place. The ministry has doubled the health budget and increased the number of people devoted to this area by 36 staff but, despite that, predictions cannot be made about self-harm. The majority of those who self-harm are people who give no prior indication of susceptibility. Others have given some indication but the treatment problem is whether to isolate prisoners at risk, which may prevent their suicide but does not address the basic problem. The system tries to address the basic problem.

Hon Tom Helm: There are alternatives to isolation.

Hon PETER FOSS: There must be 24 hour a day observation if officers are to physically prevent prisoners committing suicide. Most suicides take place in the middle of the night. If the prisoners are not isolated, there is no capacity to physically intervene. If those prisoners are among the general prison population they may get out of the suicidal state of mind, but it is not possible to intervene quickly enough.

Another report has been commissioned from Edith Cowan University. I welcome every opportunity to deal with this problem but the ministry has made a serious effort. It cannot prevent suicides taking place. It has done everything possible with regard to appropriate treatment for those prisoners. I welcome the Ombudsman's report because it will provide an opportunity for someone outside the system to go through each of those matters, on which I have been satisfied previously by reports from the Ministry of Justice.

**HON LJILJANNA RAVLICH** (East Metropolitan) [4.00 pm]: Deaths in custody have increased at an alarming rate under this Government. In 1992 there were four deaths; in 1993, four deaths; in 1994, six deaths; in 1996, six deaths; and, as at 12 March, there have been 18 deaths this year.

Hon Bob Thomas: It is 19 now.

Hon LJILJANNA RAVLICH: This represents an over 300 per cent increase from 1996 to 1997 and a 450 per cent increase since 1993.

Hon Simon O'Brien: No, that is wrong.

The PRESIDENT: Hon Simon O'Brien will come to order!

Hon LJILJANNA RAVLICH: This Government's record on law and order is appalling.

Hon Simon O'Brien: Your mathematics are appalling.

Hon LJILJANNA RAVLICH: Western Australia had the worst rate in Australia for car theft, other theft, sexual assault, and unlawful entry with intent to take property in both 1995 and 1996. That is the performance of members opposite, who promised in 1993 that a coalition Government would stop the revolving door. Now all we hear are excuses about young people and people in prison. We are told that young people are prone to suicide. That is not good enough.

This Minister has rested on his laurels; he has done nothing about law and order in this State. Australian Correctional Services delivered a report to the Minister at the end of November 1996 - that is, 16 months ago - and on 18 June 1997 he received another report on contestability and competition in the provision of prison services.

Hon Peter Foss interjected.

The PRESIDENT: The Minister for Justice has had his opportunity to speak and I ask him not to interject.

Hon LJILJANNA RAVLICH: I cannot go into what those reports said because I have limited time. On 24 June 1997 -

Several members interjected.

Hon LJILJANNA RAVLICH: He has left the Chamber!

The PRESIDENT: The member knows that it is out of order to refer to when a member leaves this House. There is every chance that he is leaving to attend to urgent parliamentary business; that courtesy is accorded all members.

Hon LJILJANNA RAVLICH: I apologise.

On 24 June 1997, the Minister received a report on prison musters and accommodation. Unfortunately I cannot go into that, but the bottom line is that he has had many facts at his fingertips and he has not used them to improve the prison system. Why has the Minister for Justice not acted? He does not seem to have the capacity to make the hard decisions and he is too busy trekking around the countryside and overseas with his principal private secretary to address some of the fundamental issues at home.

Hon Peter Foss interjected.

The PRESIDENT: The Minister for Justice will come to order.

Hon LJILJANNA RAVLICH: He is obviously too distracted by -

*Point of Order*

Hon PETER FOSS: The member should address the point of this motion. I have sat through her talking about law and order, burglaries and so on. She is meant to be speaking about deaths in custody and I have heard about almost every other topic.

The PRESIDENT: The motion is for purpose of discussing the Government's failure to address the incidence of deaths in custody and related purposes. That clearly widens the scope of the debate. In my view, the member has not transgressed any rules at this stage.

*Debate Resumed*

Hon LJILJANNA RAVLICH: Thank you, Mr President.

I will now turn to an issue of grave concern to me; that is, the conditions at Bandyup prison and the deaths of two

women. I have very grave concern about that prison and have heard horror stories from families and friends of prisoners. I believe that the Minister has failed in his duty of care. Although no-one can be held directly responsible, the recent deaths of an 18 year old and a 25 year old are a reflection of the lack of medical and psychiatric services for women at Bandyup. Government records show that Bandyup has been overcrowded for the past two years. It has a current shortage of 26 beds and an additional 50 beds will be required by 2005. Quite clearly there is a need for a minimum security prison in this State.

The response to question 2174 asked in the Legislative Assembly by the Opposition spokesman on justice, Mr Riebeling, stated that nine prisoners at Bandyup were doubled with other prisoners in single cells. Prisoners are catered for with folding beds when required. That is not good enough. The number of prisoners currently at Bandyup is 104, but the standard capacity is only 85. Unfortunately in this situation we have minimum and maximum security prisoners lumped together without any special provisions. We could have a situation where fine defaulters are dealing with the likes of Catherine Birnie. If it were my daughter who ended up in Bandyup for fine defaulting, the idea of her being placed with hard core prisoners would not be acceptable. It is not fair to mix minimum and maximum security prisoners. It also raises questions about incentives for rehabilitation of prisoners who have not committed heinous crimes.

There is clearly a need to question the adequacy of support services, and in particular health and psychiatric care. Bandyup has overcrowding and a lack of medical and support services. The response to question 2423 asked in the Legislative Assembly stated that the 1997-98 budget for psychiatric services in Western Australian prisons was \$219 600. Based on a prison population of 2 210 prisoners, that is \$99.36 per prisoner annually. Bandyup prisoners are allowed one psychiatric session per week compared with four at Casuarina. The response to a question in relation to training in picking up psychiatric problems stated that new prison officers at Bandyup receive one full day of training on special needs awareness, and those already in the system receive a three hour refresher course. We are talking about \$99 per head per inmate in Western Australian gaols for psychiatric services. That is nowhere near enough. It is not good enough that prison officers are given one day's training on special needs awareness and a three hour refresher course.

I am sure members will agree that \$219 600 does not go very far. One woman died as a result of an illness at Bandyup prison. It is alleged that she sought assistance but could not get it. She was eventually taken to hospital and subsequently passed away. Recently we have had a suicide.

The State's prison system is in crisis. The Minister must be held accountable for that. The situation will get worse with the proposed privatisation. We have already seen advertisements for the privatisation of transport. This Government knows it has failed in respect of law and order and it wants to pass the responsibility to the private sector. The Government has placed prisoners at risk by denying them basic human rights, such as medical and psychiatric support. The Minister has been negligent; he has been too preoccupied with travelling overseas. He has not read the reports nor has he acted on the recommendations, and he has had 18 months to do so. That is unforgivable and he must be held accountable. He has not responded to the problems of under-resourcing in the prison system. He is been negligent in not addressing the many issues surrounding deaths in custody and the recommendations. I do not have any hesitation in calling on him to resign given his disrespect for the health and mental well-being of detainees in our prison system and his appalling record as the Minister for Justice.

**HON HELEN HODGSON** (North Metropolitan) [4.10 pm]: It is quite clear that our prison system is in a state of crisis. We have had problems with accommodation and personnel and this massive problem of deaths in custody over the past year. The problem is getting worse, not better. I heard someone say this week that we now rejoice when we have a week go by without a death in custody. That is the rate at which prisoners are dying in our prison system in 1998. The prisons are state run and provide a service to the State through correctional services. The State owes a duty of care to prisoners. It is not good enough to say, as some people do, that because people have committed a crime they should be locked away out of sight and out of mind.

I draw the attention of the Minister for Justice to the excellent report tabled in October last year by the Auditor General. The report was on the subject of waiting for justice and dealt specifically with prisoners on remand. It reported that prisoners made 18 suicide attempts between 1 January 1994 and 21 March 1997, with remand prisoners being more than twice as likely to be involved in incidents of self-harm as sentenced prisoners. I noted that the Minister referred earlier to the character of the prisoners. He said that they were young people with drug backgrounds and problems. However, the Auditor General's report says specifically that the alleged offences of the prisoners who attempted suicide ranged from those of a minor nature, such as driving without a licence and possession of cannabis, to more serious offences including murder and armed robbery. According to the Minister, driving without a licence can be an indication of a propensity for self-harm.

I query whether prisoners are supposed to identify themselves as being at risk from self-harm. Every prisoner has an assessment procedure. The prisoner may be asked, "Are you likely to commit suicide? Have you ever tried to



commit suicide?" The prisoner may answer, "No, and I do not think I will while I am in prison." That must be part of the assessment, but to say that we can be excused because the prisoners did not know they would attempt to inflict self-harm while in the prison system is slightly backward logic. There is a history of reports of deaths in custody and the things that can be done to help rectify the situation. I welcome the moves that the Minister for Justice has said are in place to try to improve the situation. Let us come back to reality. We had a royal commission into deaths in custody several years ago and we still do not have all its recommendations implemented in the Western Australian prison system. How much longer do we have to go? Do we say that because we have had a reduction in the number of deaths for a few years it is no longer a problem and then wait for another crisis to hit, which seems to be happening right now? I do not think so. A lot of work has already been done in the area. We should not have to wait for new reports which will give us the same old information on how to deal with the problem. The Minister says that he welcomes the outside reporting of people like the Ombudsman. I am pleased that he welcomes it, but surely we have enough already to know that something must be done. We have concrete recommendations from some of the people who have conducted inquiries into this matter.

I have a particular concern with conditions in Bandyup Women's Prison. Hon Ljiljanna Ravlich has referred to some of the existing problems there. Last year I asked a couple of questions on Bandyup. The muster seems to have dropped since November last year but as at 18 November last year the Minister for Justice announced that 110 women were in accommodation designed for 85. How will we deal with the crisis? The Government will make alterations to the prison and convert some recreational and other areas into sleeping accommodation. That is a short term approach to a long term problem. What will we do during the day with the women who would normally be using those recreational areas? Does it mean that the facilities available to them during the day will be reduced? I note that that specific issue was raised by the Auditor General in his report. He wrote that under-employment during the day contributed to the problem of keeping remand prisoners occupied and their spirits high.

We have also the issue of minimum and maximum security prisoners being lumped together. It is about time we did something about minimum security prisons for women in this State. That we have only one women's prison is appalling. Women of all backgrounds who are concerned with all categories of crime are lumped together in one place. We have fine defaulters and social security offenders together with convicted murderers. It is about time that something was done about the delays in getting a minimum security prison for women in the metropolitan area. An article in *The West Australian* of 7 March 1998 referred to Coroner Alistair Hope's inquiry into the death in custody of Anthony John Wood in January 1997. He said that the double-up cells in Canning Vale are claustrophobic and there are also concerns about fires. No-one on-site is trained in the use of breathing apparatus, which would cause problems in emergencies.

Those are some of the issues relating to overcrowding that our prison system is facing. The problems are not arising merely from deaths in custody but from the whole administration and safety of all our prisoners within the system. I could go on because I have a series of newspaper articles and clippings which have raised this issue in the past. Basically the point needs to be made that something must be done, and now. We need to provide decent accommodation for prisoners. Because people are in prison does not mean that they should lose their basic human rights. We have a duty of care to provide prisoners with safe accommodation. It is time that something was done about the deaths in custody in this State.

**HON TOM HELM** (Mining and Pastoral) [4.17 pm]: I am happy to join in this debate. The Minister for Justice has said that he has put into the justice system various increases in facilities, yet the deaths go on. It would be nice to say that deaths are decreasing, but the position has not changed since the report of the Royal Commission into Aboriginal Deaths in Custody. We must look at the nature and culture of our prison system and perhaps the culture of our society. I am very uncomfortable that some people who are sent to prison will serve a death sentence, particularly as we have abolished the death sentence in this State.

Mr President, you will be aware that I am a founding member of the Deaths in Custody Watch Committee. The committee was set up as a result of the Royal Commission into Aboriginal Deaths in Custody under the auspices of the Australian Council of Trade Unions; in fact its meeting rooms are in Trades Hall in Brewer Street. The aims of the watch committee are -

- to educate the public, or any section of it, on the words and spirit of the Recommendations and foster support for their implementation;

- to hold government and all other relevant bodies accountable for the progress or lack of progress in the effective implementation of the Recommendations;

- to enter into any arrangement with any institution or organisation the objects of which include similar to, or compatible with, those of this organisation;

to disseminate, whether by written publication or otherwise, information and material of any nature whatsoever relating to the support and implementation of the Recommendations;

to act as an effective lobby group, Statewide, Nationally and Internationally with regard to all issues of social justice relating to Indigenous Australian peoples

to support and encourage the development of an effective National network of organisations or individuals supporting the aim and objects of this organisation;

to foster the commitment of all sections of the community to social justice for all Indigenous Australian peoples.

I attended a meeting on Thursday two weeks ago where it was rather heartrending to listen to a parent of two young Aboriginal people who had died in custody talk about the despair that those young people felt. That despair was not necessarily about being in custody, because, as the Minister pointed out, we really cannot do much, in the draconian way in which we implement a prison sentence by keeping a person in isolation, for a person who feels that death is the only answer.

Many of the young people in our society, particularly our young black people, believe they have no future. The recommendations made by the royal commission were aimed at giving the indigenous people of our nation some targets, some hope and some future. The Deaths In Custody Watch Committee does not deal exclusively with Aboriginal people, because many non-indigenous people experience the same feelings of despair as a result of unemployment and the many downgrading and belittling events that happen in their lives. The watch committee provides a visitors' service for prisoners. Those visitors have some authority within the prison and can advocate for prisoners in a way other than the advocacy provided by the governor of the prison or the social welfare people. That visitors' service has proved to be a success. However, we have not proved that we can build on that success and on the positive steps that have been taken.

Kath Mallott, the Executive Officer, and Glenn Shaw, the Chairman, of the Deaths in Custody Watch Committee meet with various Ministers at various times to ask why the Government is failing to implement the recommendations. It is not a matter of finding something new. The person to whom the Minister referred is not known to me, but I am sure he is some sort of expert in this field. We are talking about a royal commission that cost this nation about \$90m and was of four years' duration. It studied the cases of people who had died in our prisons - people who had no right to die and who went to prison for debts they owed to society when alternative and diversionary programs could have been used to keep them out of the prison system.

We need to take a holistic approach. We are very pleased that an additional 23 people have been put on by the Ministry of Justice to examine these matters, and I am sure we all join in congratulating the Minister for putting on these people. However, wise decisions need to be made and answers need to be found, because even though we are taking these steps, it is not working. People have been trying to wriggle out of implementing the recommendations of the royal commission and to put in place other regimes which are probably just as expensive but have been a total failure. I am happy to support the motion.

**HON KEN TRAVERS** (North Metropolitan) [4.27 pm]: I too would like to speak about the Government's failure to address the incidence of deaths in custody. To give some background to the issue, I refer to an article in the *Sunday Times* of 22 February, which states -

WA's overcrowded prisons have the potential to spark a riot, a State Government-commissioned report warns.

The incidence of riots and of deaths in custody is related to the failure of this Government to address that overcrowding.

The Minister for Justice has been on record around town of late blaming his ministry for the failure to properly address the planning of future prisons. I have been following this issue for some time, and I have asked the Minister a number of questions in this place to try to find out what is happening. During the Estimates Committee last year a number of questions were asked about future prison planning. I followed that up on 17 June with a question in this House to the Minister about a proposal to build a new minimum security women's prison, which is probably one of the most pressing needs, in Gnangara at the old Santa Maria site. At that time, the Minister told me that there was no suggestion of a new prison. However, the Minister misled the House on that occasion, because on 26 February 1997 the Director General of the Ministry of Justice wrote to the Minister requesting approval to explore the Saranna proposal for the old Santa Maria site.

The situation gets worse. I understand that one of the reasons that the project to build a new minimum security women's prison at Saranna was ceased on 6 February this year is that the Minister did not believe it would look

enough like a prison. It is no wonder that nothing has been done in this State to plan for future prisons when the Minister gives absolutely misleading and incorrect information to this House. One wonders whether the Minister has any idea of what is going on.

On 29 May during the Estimates Committee, at page 724 of *Hansard*, I asked the Minister whether a site in the northern suburbs was a possibility, and he ridiculed me and said nobody had suggested it. However, since March of this year the Minister has had in his office a detailed report and analysis from Australian Correctional Services that recommends nothing short of a 600 bed prison in the northern suburbs. Before the last election, the former Minister assisting the Minister for Justice misled the people of the northern suburbs by saying there would not be a new prison in the northern suburbs, and in May last year the Minister said that no-one had suggested a prison in the northern suburbs, when in fact he had in his office that report from Australian Correctional Services.

Many deaths in custody occur as a result of overcrowding, and that is a result of the failure and inaction of the Minister for Justice on prison planning. He should explain the reason that on two occasions he has misled the House about future prisons. I urge all members to consider the issue, because it is crucial to find a location in which to build another prison so that we can address the situation at Bandyup Women's Prison where minimum security prisoners share accommodation with maximum security prisoners. That is most improper. I cannot understand why the proposal for a minimum security prison at Saranna has been written off, other than it is not a prison-like area or there was no proposal for a prison in the Gngangara area - and the Minister should explain why he said that earlier this year.

Motion lapsed, pursuant to standing orders.

#### **SITTINGS OF THE HOUSE - EXTENDED AFTER 10.00 PM**

**HON N.F. MOORE** (Mining and Pastoral - Leader of the House) [4.32 pm]: I move -

That the House sit beyond 10.00 pm.

This is a procedural motion in order to allow some flexibility should we need it at 10.00 pm, when dealing with the Criminal Code Amendment (Abortion) Bill. I urge the House to allow that flexibility beyond 10.00 pm. I do not believe we will sit any later than 12 midnight. However, I would appreciate the opportunity to have that flexibility to sit beyond 10.00 pm.

I will discuss the matter with the leaders of the other parties later to get an indication of how progress of debate is headed. It is not my intention to bring on any business after 10.00 pm other than the Criminal Code Amendment (Abortion) Bill and perhaps a message, if one is received at that time.

Question put and passed.

#### **COUNTRY HOUSING BILL**

##### *Report*

Report of Committee adopted.

##### *Third Reading*

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and passed.

#### **CRIMINAL CODE AMENDMENT (ABORTION) BILL**

##### *Second Reading*

Resumed from 10 March.

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [4.33 pm]: I rise to oppose this Bill in very unusual circumstances, and to deliver a speech that contains a multitude of purposes, the first of which is a sincere and genuine attempt to persuade my colleagues to not support the Bill. I recognise that that is a tall order. I am told that the numbers on this Bill are said to be set, and that at least three members opposite will cross the floor and join members on this side in support of this legislation, thus ensuring it passes the Legislative Council. If that happens, it will be a great tragedy.

The focus of my speech will be on persuading those who are open to persuasion on the reasons for rejecting this Bill. Even if that is a faint hope, still it is important to place on this public record all the reasons this legislation should be rejected. I take this opportunity to place on the public record for the first time my views on abortion and abortion law. I want to provide for anyone listening or prepared to read the debate later tomorrow, or in the *Hansard* beyond, an opportunity of understanding the opposition of someone like me who is implacably opposed to a Bill of this nature.

Another purpose of this speech is to place on the record for the members of my political party, both the parliamentary and the lay party, my views and reasons, in the hope they will better appreciate the position of someone like me on these issues. Most importantly, it is essential to place it on the public record for the people of Western Australia and the people of my electorate, to whom we all have an obligation.

The Bill is one that would simply remove from the Western Australian Statute books any reference to abortion. The reference will disappear from the Statutes of this State, not simply be taken from the Criminal Code and placed elsewhere; it will disappear without reference to any other section of a Statute. This legislative initiative has come before this House, drafted with the assistance of the Attorney General, and introduced by Hon Cheryl Davenport, my Australian Labor Party colleague. The member who introduced this Bill knows that I hold her in the highest regard. I have for her the deepest respect. I know and understand her motivation. I know that she is a good and decent person, for whom I have the highest regard. She also knows that I still find myself implacably opposed to the initiative that she has placed before this House. She is aware that she has my full and unqualified support for many issues and the many values we share. This is not one of those issues, nor one of those occasions. I disagree with my colleague on this issue. I cannot support this Bill, and I hope that the House will not support it either.

The strong and emotional arguments in support of this legislation by the member when introducing it deserve respect, but they also deserve analysis. I conclude that any reasonable analysis will lead to the rejection of the Bill. Earlier I said that this Bill has been introduced in unusual circumstances. A Bill dealing with abortion has been introduced in this Chamber, while at the same time the Criminal Code Amendment Bill dealing with the same issue has been introduced in the other place by the Court Government. The government Bill is largely of the same type as this legislation -

Hon N.F. Moore: It is not a government Bill.

Hon N.D. Griffiths: Yes it is.

Hon N.F. Moore: That Bill is intended to give people a choice to make a decision on the issue -

The PRESIDENT: Order! Let us not argue whether it is or is not a government Bill. The Leader of the Opposition has the floor, and he is entitled to speak without interjection.

Hon TOM STEPHENS: I accept the proposition that it is a Bill introduced by the Government to provide Parliament with an opportunity of responding to these issues.

Hon N.F. Moore: Thank you.

Hon TOM STEPHENS: I hope that the two items of legislation will be dealt with in the same way; namely, dispensed with quickly. Nothing distinguishes between the two Bills in their current form as they are both measures that would provide effectively for abortion on demand, on request or however one wants to phrase it.

Our standing orders are constructed to limit our opportunity to refer to legislation before the other House. That is one of the constraints under which we will be obliged to operate. However, I reject both Bills in their current form, and the Bill before this Chamber in particular is incapable of being redeemed in any way.

We know that both Bills have come before the Parliament following the prosecution of two doctors under provisions of the Criminal Code relating to abortion. Again, the processes of this House are such that we cannot discuss items before the courts, although, interestingly, extensive discussion on the two prosecutions has taken place in the media. It is a rather odd process that we have provided ourselves with a limitation so Parliament cannot discuss the items before the court - although the media does - yet the item before the courts and circumstances relating to the prosecutions are the very reason for the unusual situation we face.

This Parliament has two Chambers, one of which is a House of Review. Rather than having the legislation introduced in one House and reviewed by the other, we have a two headed dog being fed a proverbial sausage at each head at the same time. It will meet in the middle. I do not like the extraordinary circumstances Parliament faces by virtue of the arrival of the two pieces of legislation at the same time. I find it a little gruesome to know that the abortion legislation will be dealt with in this parliamentary week, and that when we next sit following the break we will debate euthanasia.

Hon N.D. Griffiths: Bring back capital punishment the next week!

Hon TOM STEPHENS: We know the Premier has a penchant for capital punishment legislation; for some people death is a fetish.

Hon N.F. Moore: The Bills were brought in by private members.

Hon TOM STEPHENS: I understand that. It is a preoccupation of some people. I comment on the oddness of a community and a Parliament which focus this week on abortion, and on April Fools' Day will focus on euthanasia, and beyond that people are crying out for capital punishment. The euthanasia Bill is not about medical care for the dying, although again I cannot refer to that measure at this time.

In the lead-up to this debate we have been bombarded with letters and faxes by the pro-life and pro-abortion lobbies. As a demonstration was held at the front door of Parliament, at the back door was a group protesting that it wanted to protect karri tree saplings. We also will have before us soon legislation wanting to prevent cruelty to animals. I find the contradiction and paradox to be bewildering to my values in this extraordinary mix of legislative initiatives and community pressures to resolve these competing values all at the same time. Values are given different weights by different elements in the community.

I have responded to each and every person who has raised his or her concern about the legislation, whether in support or in opposition, in exactly the same terms. I have not done so with any lack of compassion or sensitivity to the arguments put to me by those supporting the legislation. Those who know me know that I can be accused of many things, but lacking sensitivity and compassion is not one of them. I have adopted that approach in handling the representations made to me. I have read everything put to me and listened to any arguments anyone wanted to pose. I drew the line at watching some video material. I assure people that I am squeamish, and my capacity to be exposed to the graphics that people want to add to the debate is limited.

I will not support the current argument to remove from the Statute book the current proscription on abortion. I am sure that we all feel great and real compassion for women faced with the trauma of an unwanted pregnancy. We understand that many women in our community have had abortions. One of the awkward processes we face as Parliament rushes to deal with the legislation - for external reasons about which we cannot talk relating to the charges to which I referred earlier - is that we are robbed of the opportunity to undertake some of the usual processes. For example, we will not deal with the matter in a select or a standing committee to enable us to take evidence from a variety of people.

One of the people who took the opportunity to speak to me last week was Julie Cook representing Women Hurt by Abortion. Her organisation finds within the WA community enormous pain, trauma and hurt caused to women by this process of abortion. I mention her because she has made herself available today in this Parliament. She is currently in the President's Gallery available to talk to any member about the issues involved. In the normal course of events we would form a committee of Parliament to resolve the matter, and people like Julie Cook and many others would have the opportunity to put their cases before Parliament. Nonetheless, there is no appetite for that process on this occasion. I urge any interested member to talk to people from that organisation before speaking to, and voting on, this legislation.

I refer now to some of the material referred to me by Julie and her colleagues. I have made the point to people who have raised the issue with me that this legislation must be handled with complete and underlying sensitivity, concern and compassion for women faced with unwanted pregnancies. Also, I am sensitive to the self-evident, fundamental need and obligation to protect the rights of the unborn at law. I will develop that theme a little later.

I recognise that leaving the current Statute in place presents ongoing difficulties to the community. However, I do not see any proposal before us that in any way improves the situation for the community. We would be the worse off for it. I accept that the current proposal for the straight repeal of this proscription is not in any way reflective of the majority community viewpoint. Straight repeal of the abortion law proscription does nowhere near approximate the majority view of the community of Western Australia. We hear all the arguments about how abortion might be handled in a variety of other ways, including its inclusion in the health codes or in some other prescriptive form, but there is never any indication of majority support for the concept of abortion, at any time, in any circumstance - no matter what the circumstances. There is no consensus for the view that abortions should always be allowed and provided for and, therefore, we should get on and repeal the legislation as it appears in the Criminal Code.

All members have the task to find common ground on issues, as far as it is possible, and to discover that upon which we can all agree. Hopefully we can all agree that law has a role in protecting the rights and freedoms of people in our community. Life is the most basic of all of those rights. The innocent unborn are unable to speak for themselves, but are most in need of the law's protection. In the debate over the changes to the abortion law, the decision to abort a child is presented as a woman's right to self-determination; that is, to determine for herself, uninfluenced by the viewpoint of the community as expressed in law. I put it to the House that that assumes the individual's perceived self-right is the highest value. It is a value, but it is only one of many. It also presents the juxtaposition of the woman's rights versus those of the unborn child, pitting the rights of one against the other, seeing only one as the victim over what is in reality another victim. We must work towards a way of respecting the rights of both mother and child, in a way that will lead to a healthier, more just, enlightened society.

It is the contention in the material supplied to me and of the women hurt by abortion, and my observation from discussions with a number of people in this context that women are deeply affected by having an abortion - psychologically, spiritually and physically. Indeed, the whole human instinct to preserve and protect life is abandoned by the decision to abort an unborn child; that sense of life yearning for itself is being deserted by that decision. The vast array of material about the experience of women who have encountered abortion refers to the phenomenon of the post-abortion syndrome and the enormous trauma that continues beyond the procedure of abortion, which is experienced by those women through the whole of their lives, with increased risk of suicide, with evidence of increased cancer statistics and other damage to their lives and health as a result of a procedure that is life giving neither to them, nor to anyone else.

The procedures of medicine that we allow at law generally try to protect patients from risk to their health and lives. Yet the process of abortion is no longer to be referred to in the Statute despite the doubts about the damage it is doing to women whose rights are being violated by this push - this pressure - for this to be the only option worthwhile exploring, if we believe the way the statistics appear to be emerging within our community.

This next point is important for those who are open to persuasion. The whole community suffers as a result of the decision by a woman to have an abortion. It is a life diminishing experience for her and for the wider community. It is a statement of despair that life cannot be fruitful and is not worthwhile at the very earliest stages; it is a giving in by the individual and a despair that the community does not deserve to fall into.

If the community accepts abortion, it is saying that we as individuals or as a society do not intend to make an effort to obtain justice for women nor do we intend to put adequate effort into guaranteeing good lives for our children. All of us, especially people like me who take this stance, have special responsibilities and obligations to increase our efforts to care for the needs that exist within the whole community in this area.

Programs for healthier relationships between men and women, sex education, family planning and birth control must be widely available in our community - programs of education to lead men and women to have a respect for the sacredness of all life and to be more aware of the consequences of the decisions they make and the responsibilities that go with those decisions. We need programs aimed at antenatal and postnatal care; physical and emotional support for women experiencing unplanned pregnancies; family and home support programs to assist families to cope with stress, particularly that of unplanned pregnancies; quality day care for children and adequate paternity and maternity leave; and valuable education within our schools and institutions. In circumstances like this, all members must recognise the need for a sense of security within our community so that people are not fearful of being parents and raising their families. That sense of security relates to people's employment prospects and security of employment and establishing safety nets for those in the community who, for whatever reason, fall out of employment or even for those who were never able to gain employment because of the structure of the modern economy as bestowed on us by governments.

I am pleased with the progress that has been made in the programs in the areas about which I speak which were put in place by both State and Federal Labor Governments. Regrettably many of the programs are under attack and are being dismantled by the conservative coalition Governments in Canberra and Perth. Those changes are an attack on the principle of justice that should be available for the community; the principle of ensuring that, across the nation, there are day care facilities, supported accommodation services, and shelters for women and children caught in domestic violence and other crises. Many other programs should be available for everybody. To attack those programs is an injustice that can lead people to the view that there is only one other alternative. That is another injustice and, in the circumstance of the unwanted pregnancy and in the absence of those programs, an injustice to the life of the unborn child. There is a need for ongoing support from government and all communities for these sorts of programs.

People watching this debate will be bemused by the next process that takes place. In those circumstances I will be asked to resume my seat for question time. At the end I will continue my remarks if the House will bear with me for a while because I have more to say on this topic. In the meantime I appreciate that the time for questions is dangerously close.

[Continued below.]

**[Questions without notice taken.]**

## **STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS**

### *Report on Petition Regarding Registration as Painter under Painters Registration Act*

Hon M.D. Nixon presented the twentieth report of the Standing Committee on Constitutional Affairs, in relation to

a petition regarding the application for registration as a painter under the Painters Registration Act 1961 of James Allison, and on his motion it was resolved -

That the report do lie upon the Table and be printed.

[See paper No 1441.]

## CRIMINAL CODE AMENDMENT (ABORTION) BILL

### *Second Reading*

Resumed from an earlier stage.

**HON TOM STEPHENS** (Mining and Pastoral - Leader of the Opposition) [5.37 pm]: I urge the people of Western Australia and the State Government to act carefully in this matter. I certainly welcome the opportunity of working with communities anywhere in the State to tackle the programs necessary to respond to the community needs that cry out for justice. It is one of the cornerstones for ensuring that the demand for the injustice embodied in this legislation before us does not grow louder.

The abortion Bill is a response to problems of injustice that I find myself completely unable to comprehend. It is deficient in so many ways. I ask members to think about some of those deficiencies. No reference would be left within the Statutes to the stage at which abortions could be carried out; it could be at three months, six months or nine months. No reference is made in the legislation to the trimester or to anything other than the removal of the legislation from the Statute book of Western Australia. No reference is made to obligations for independent counselling for women considering abortion. No reference is made to its being illegal to pressure, persuade or induce a woman to have an abortion. No reference is made to the rights of hospital and medical personnel should this procedure become legal and to their legitimate or conscientious objection to participating in such processes. Could these people lose their jobs for refusing to participate in what would then be a legitimate procedure?

No reference is made to restrictions on procedures in the abortion process itself, yet there are laws on the Statute book that prevent and endeavour to regulate any cruelty towards animals. We have obligations to the dead, yet no reference is made to how the body of the unborn shall be dealt with following an abortion. There is silence on the methods to be allowed to extinguish life, on whether experiments would be permitted, and on obligations for burial or respectful disposal of the bodies of the unborn.

We all know that Australia is currently endeavouring to come to terms with a relatively recent piece of collective national history. I speak of the trauma of the stolen generation and the episode that the community is endeavouring now to process. At the time it occurred the community thought it was right to enact laws that allowed Aboriginal babies to be taken from their mothers and institutionalised or placed in the care of non-Aboriginal families. The victims of that episode of national obscenity and insensitivity to the rights of children and women are making their voices heard on the national stage with understandable demands for an apology and perhaps compensation. Is it altogether too fanciful to imagine generations of women similarly rising up in anger directed at the community and the lawmakers that created a society which made abortion the easy or even the only option to which women felt they had redress? Will the scars and losses that they feel be viewed as having been inflicted upon them by pressure from a society hell-bent on the quick fix rather than a society prepared to accept that life requires protection and is entitled to support?

I understand only too well the full weight of the role of a parliamentary representative, particularly at times like this. Whatever the majority view of the community on an issue such as this, I may well be out of step. In my work as a parliamentarian, that is no new experience; it has happened from time to time. The rights of Aborigines, immigrants or refugees have never been consistently cherished or supported by the majority in Australia. However, that does not alter my determination to protect and support such rights no matter what the will or the whim of the majority might be. I hope that one day the wider community will discover the compelling moral obligations to those sections of our community. I respect the view of those who say that we have a higher call to include in law issues that might not always attract majority support.

I assure members that I have endeavoured in my preparation for this debate to read everything, to take everything on board and to engage in conversation with anyone. I have listened carefully to the introductory speech and the public debate. I will endeavour to be open to the contributions of the Parliament and the community on these questions. People from one side of this debate, particularly those outside this Parliament, tend to demonise those on the other side. That is not helpful. I know that in this debate I am opposed by people with whom I regularly and consistently walk in solidarity in relation to social justice, equity and life issues. Whether it is in support of a just wage or child care, against apartheid, for the rights of Aboriginal people and the environment or against capital punishment, I have been involved in a consistent process of pursuing that which flows out of the wellspring that is

the source of my involvement in the community and politics. These are core issues and they manifest themselves in what I believe is a consistent demand on me to respect life in its essence and expression at all ages.

I feel that I have been walking down a path arm in arm with people who think alike on a variety of issues. Suddenly I am deserted by that team and joined by people who have previously opposed me. Suddenly they have a sensitivity to the arguments that lead me along this path of the defence of life. I find it disorienting to be joined by people with whom I do not normally collaborate and deserted by people whose support I regularly enjoy and cherish.

Seeing the commitment of some to this issue of life is important. I hope that the debate flowing from our involvement in politics, the community, Parliament and government may open up sensitivities to the obligations that result from a respect for life at this early stage.

Hon Derrick Tomlinson's proposing to second this Bill suggests his support for it. I should work on the assumption that he will be joined by at least two members opposite to ensure that this legislation is passed. I regret that and I am very keen to discourage them from that path. However, I see some consistency.

Hon Barry House: You can exercise your conscience but no-one else can.

Hon TOM STEPHENS: We all have the opportunity to exercise our conscience on this issue. I said that I understand a level of consistency on Hon Derrick Tomlinson's part by adopting that approach. However, it is a pity that he endeavours to maintain that consistency in respect of this fundamental issue.

Hon Derrick Tomlinson: We will hold to solidarity on other matters.

Hon TOM STEPHENS: I look forward to that. I simply wonder what they are.

I know some people voting for this abortion Bill are filled with great sensitivity and compassion. I know that the sensitivity so many of us share for the hurt and pain that exist within our community continues to motivate us to try to make this community a better place in which to live. I see that sensitivity expressed by some of my colleagues regularly in relation to the natural environment. They are sensitive to flora and fauna, endangered species and so on and they demonstrate a consistent support for life within the natural environment. I am not trivialising the fact that they rejoice in the notion of hugging trees and embracing the environment. However, I find incomprehensible their desertion of those principles in this debate.

Hon J.A. Scott: I will explain it later.

Hon TOM STEPHENS: I was recently accompanied by parliamentary colleagues on a visit to Roebuck Bay. Those members will remember walking through the mud flats of the bay and looking at the flora and fauna. We noticed a sea slug in the mud. I had not seen a slug like that before, so I turned it over. I was genuinely interested to study it. It winced and had the look of a creature that was unhappy with being exposed to the light.

Hon Simon O'Brien: I am sure it was nothing personal.

Hon TOM STEPHENS: It was in discomfort. Perhaps I was slow in wanting to observe it carefully, but my colleague was obviously distressed at putting the slug through the pain of being observed and exposed to the sunlight.

I was asked would I mind if my colleague turned it back over in order to protect this life form from the discomfort to which it was exposed. I celebrate the sensitivity in that observation of the value of the natural environment. I am unable to comprehend the desertion of that sense of value in a debate such as this. I have genuine bewilderment. To me it is incomprehensible. I look somewhere for an explanation. I am unable to comprehend the desertion of the principle; I am flabbergasted; I do not understand it. I hope that the sensitivity expressed by the member for the natural environment will be shared widely in the community and that the same will apply to the question of life for a consistent life ethic, not just a preoccupation with life itself but the quality of life as well. That is the consistent life ethic to which we must be obligated as lawmakers.

In regard to women's rights, we are seeing in our societies a very justified and understandable reaction to the years, the centuries and the millennia, of the neglect of the rights of women in the truthfulness of the human value that women legitimately have in our community as equals in our society and their rights of equality at law. There is a demand for justice for all forms of discrimination on the basis of sex to be removed from any institution in our community. In that sensitivity to the legitimate aspirations for the rights of equality and the respect and dignity that women deserve, we must make sure that that preoccupation does not blind us into neglecting the rights of others, to an unquestioning displacement of the value of life of others, not only the rights of a partner but also the rights of the unborn. There is an undeniable right for women to have justice and equity but that should not be construed as a justification for setting women's rights against the child's right to life. That is to pit one victim against another.

A situation which is regrettably prevalent in our community and certainly in my electorate in the remote areas of



Western Australia is illustrative in this debate; that is, the use and abuse of alcohol by women during pregnancy. It is illustrative in this debate for several reasons. I believe that we do not accept that women have an unfettered right to ingest so much alcohol or to use drugs that expose their pregnant bodies to experiences that threaten the life and health of the unborn child. We know that this is not allowed at law in regard to the ingestion of drugs like thalidomide, which happens to be a satisfactory painkiller during morning sickness. It cannot be used by law because it attacks the rights of the unborn. I put it to members that the use of drugs and alcohol in a sense falls into the same category of matters which at law offset the rights of the woman in reference to her body for the duration of her pregnancy. It is not right.

Hon J.A. Scott: Where do you draw the line? What about sugar and salt?

Hon TOM STEPHENS: That is an open question, but from time to time at law we draw the line. At the moment we have at law drawn a line which says that there is an obligation to respect the rights of women but it does not allow the woman to take the life of the unborn. That is what is on the Statute books, just as it is not right for a woman to do anything, such as misuse alcohol or drugs or use drugs peddled by drug companies or anyone else, which would affect the life of those unborn children. These issues are related. We have seen questions established at law about the rights of the unborn, not only on the questions of drug use and abuse but also on other questions, such as the rights at law of the unborn in the area of inheritance. Areas of law give rights to the unborn.

In passing this Bill we can trigger a process which would see the most fundamental right extinguished. I believe that the community demands and expects the intervention of law in such circumstances in defence of the right to life and health of the unborn child, and intervention against drug companies, pharmacists and doctors who want to apply drugs which would in any way injure the life of the unborn child. It is certainly against mothers who may be determined to use drugs that are destructive or damaging of the life of the unborn child. I have recently seen details of studies available from the eastern States which refer to a process which is being triggered in a section of the ethnic community in Sydney and Melbourne. The studies show the embracing of the sex screening process by sections within our community who do not value female babies as much as male. It is hard to imagine that the Australian community would embrace a process that without any regulation would remove from the Statute book reference to abortion and would provide for an ethnic group to embrace such a foreign concept as to allow women to be pressured by an ethnic value system which says that male children are sought and the screening process will continue. They will wait for a pregnancy that produces a male before the baby will be brought to full term. I do not understand how we could allow such legislation. I cannot understand a Parliament that allows for such processes. I am again bewildered. I have the deepest respect for the argument which says that there is an obligation to treat men and women in our community, whether unborn children or at any age of their chronology, as equals. I will work consistently throughout my life towards that end. I do not believe that the Australian community wants to see the principles expressed in this Bill enshrined in the Statute book.

I hope my colleagues opposite will bear with me if I refer briefly to some matters that more appropriately are for the record and the ears of my Australian Labor Party colleagues. We know that on this issue, as on euthanasia, we have a conscience vote. On these two bioethics issues alone we have an opportunity to vote individually and separately from any caucus decision by virtue of a decision of the national executive. The playing out of this reality brings us today into a totally different experience, fortunately managed by us across understandable divides so far successfully and respectfully. I believe that in every other area it has been important for the collective good of the Labor Party to have the binding process that has been available to us. I embrace that discipline unashamedly and also believe in the wisdom of the party in making an opportunity for the exercise of a conscience vote on these issues. It is a very important decision indeed because it reaffirms the fact that in the wider community there is widespread division on these two questions which is reflected in our party.

*Sitting suspended from 6.00 to 7.30 pm*

Hon TOM STEPHENS: I say to my friends and colleagues in the Australian Labor Party that the policies and platforms of the Australian Labor Party are enormously bulky documents that embody the hopes and aspirations of the Labor movement and endeavour to reflect a broad cross-section of the community's aspirations, with many sections dealing with issues such as labour laws, industry, immigration, Aboriginal affairs, youth, the aged, health, education, social security, welfare, regional development, the environment, foreign affairs, law reform, and, of course, women's interests.

I stand fiercely proud of all of those sections, bar one, of that Labor platform and policy, and that is the section we are dealing with now. I truly appreciate, however, that my pleasant task will remain to be always enthusiastic in my support of all the other parts of the platform of the Australian Labor Party. I am, of course, relieved to have the opportunity of exercising my conscience vote on this issue, because, without that provision, people like me in the Australian community would be unable to vote for or be part of this great movement and great party. The Australian Labor Party has been wise in handling this issue in this way.

I want to make particular mention of the policies of the party with regard to the interests of women and to renew my pledge to work, for as long as the party entrusts me with that privilege and responsibility, to advance all other sections of that policy and platform, such as in the areas of youth, welfare and the aged. I appreciate the respectful way in which so many of my colleagues have been prepared to appreciate and understand my position, and I am sure that this diversity within our ranks will mean that we as a party will be able to more accurately reflect the diversity of view within the wider community and present through that process a healthy reality that will continue to attract broad community support.

Hon Max Evans: You are talking to her. She will not change her vote.

Hon TOM STEPHENS: I want to ensure that my position is understood by my colleagues and to assure them that the respect that I have for them and for our shared platform in all other areas has my absolute and passionate commitment.

In entering this debate we are, however, entering uncharted waters, because this is a process that no current member in the Parliament has experienced previously. In all the time that even the father of the House has been here, and certainly in my time, no other issue has seen the genuine exercise of a conscience vote on both sides of the House. This is the first time that abortion law reform has been debated in this place for many years. Speeches have been made about this issue, but there has been no debate on a concrete legislative proposal before the Chamber.

It is important in that context to put on record the law governing abortion in Western Australia. The provisions in the Criminal Code with regard to abortion were adopted from the English code. Section 199 deals with a person who has intent to procure a miscarriage, section 200 with a woman who procures a miscarriage, and section 201 with the supplying of drugs or things to procure an abortion. On the face of that Statute, it is illegal to perform an abortion in Western Australia. Section 199 states that -

Any person who with intent to procure the miscarriage of a woman, whether she is or is not with child, unlawfully administers to her or causes her to take any poison or other noxious thing, or uses any force of any kind, or uses any other means whatsoever, is guilty of a crime, and is liable to imprisonment for 14 years.

Section 201 adds to this general prohibition on abortion by stating that a doctor or any person may be liable for prescribing medication which is intended to procure an abortion.

I state these provisions of the code in the realisation that this is the reality of the Statute book, and although it is not a reality with which I am altogether comfortable, I do not yet see before this House or the Parliament a better alternative to the legislative framework with which we are entrusted.

Section 7 states that any person who aids or counsels the commission of an offence is as liable as if he had committed the offence himself. That has clear implications for nurses and other hospital or clinic staff who assist with abortions. However, section 259 of the code provides a general exception for persons performing abortions and other surgical procedures in good faith and with reasonable care and skill, which operations would otherwise constitute grievous bodily harm; that is, legally performing operations on an unborn child for the preservation of the mother's life. This exception militates against the application of the general provisions with regard to manslaughter in sections 280 and 287; and actions occasioning grievous bodily harm in sections 294, 297, 300 and 306, which could apply to persons who procure abortions.

The relevant Criminal Code provisions have never been tested in this State. Therefore, Western Australia has no case law on this point, and the Criminal Code is the principal legal reference point at this time. That being the case, the sole legal reason for allowing abortion is for the preservation of the mother's life. However, as we are aware, for the past 20 years the medical profession has proceeded on the basis that the provisions with regard to abortion are capable of further qualification due to judicial interpretation.

The Davidson case of 1969 and the ruling of Judge Menhennitt in Victoria was the start of case law in this country to change the way in which abortion was approached legally, which in turn affected medical practice with regard to abortion. The Davidson case involved criminal charges against a doctor for performing an abortion. Judge Menhennitt's statement to the jury was significant in that he articulated a meaning for lawfulness with regard to abortion. Criminal law in Australia generally describes only unlawfully performed actions in relation to abortion as criminal, which raises the possibility of lawful abortions. The equivalent Victorian provision states that whosoever with an intent to procure the miscarriage of any woman whether she is or is not with child unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or unlawfully uses any instrument or other means with the like intent, shall be guilty of a felony.

Judge Menhennitt's explanation of lawfulness was based on the principle of necessity. He stated that lawfulness

involved conditions such as the accused must have honestly believed on reasonable grounds that the act done by him was, first, necessary to preserve the woman from serious danger to her life or her physical or mental health - not being merely the normal dangers of pregnancy and childbirth - which the continuance of the pregnancy would entail; and, second, in the circumstances not out of proportion to the danger to be averted. This judgment began the process of broadening the legal basis for abortion in this country. It was now possible to legally perform an abortion on the grounds of preserving the woman from serious danger to her physical or mental health as well as to her life.

The WA provisions, being sufficiently similar to Victorian law, no doubt have been interpreted similarly, although the Victorian case has only persuasive authority and is not binding on any Western Australian court. The current State Government argues that the presence within the WA code of the section 259 defence means that it is not the judicial interpretation that leads to the offence being interpreted with greater severity. The Government has gone on record saying that section 259 does not necessarily contain all the instances in which abortion is lawful. There has been a quite reasonable assumption that Davidson applied in Western Australia, just as the Queensland District Court found the Davidson case applied there, where there were provisions in the Statutes nearly identical to those in Western Australia.

The Wald case broadened the basis for legal abortions even further. In that 1991 case of a criminal prosecution of doctors for performing abortions, Judge Levine in New South Wales advised the jury that he applied the approach taken by Justice Menhennitt in Davidson and extended it further by clarifying that the reasonable grounds for the accused's belief as to the justifiability of the operation included any economic, social or medical ground or reason which might lead to danger to the mother's life or health. It is worth noting that the WA Supreme Court has not been called upon to interpret our law.

It is also worth noting that the above judgments draw clearly upon the earlier English case of Bourne. In that case an eminent surgeon was prosecuted for performing an abortion on a young girl under section 58 of the Offences Against the Person Act 1861, which is virtually identical to section 199 of the WA Criminal Code. In both laws the emphasis is on the conduct in question being carried out unlawfully. The English Infant Life Preservation Act 1929 was written in terms similar to section 259 of the WA Criminal Code. In particular, it made reference to the preservation of the life of the mother in the context of whether an operation upon an unborn child - an abortion - would be criminal.

The trial judge directed the jury in the Bourne case that the preservation of the life of the mother does not only mean the preservation of her physical existence, but also refers to her health. Moreover, her health means not only her physical but also her mental health. Substantially representing the law in Australia, the Davidson and Wald cases are generally taken to be the foundation of the understanding of lawfulness in regard to abortion. Although those rules have not been appealed to or confirmed by any superior court, they have been widely cited in both criminal and civil courts. The one case on abortion in criminal law is Bayliss and Cullen, 1986. Judge McGuire in the District Court of Queensland held that the rulings in Bourne, Davidson and Wald substantially represented the law of Queensland.

The provisions of the WA Criminal Code relevant to abortion have not been tested, so there is no case law in relation to this current crime of abortion. Although courts in other States have determined that the notion of preserving the life of the mother includes the consideration of her general and mental health, this broad definition of life is yet to be confirmed by WA courts.

This interpretation has governed much of the medical practice regarding abortion in this State. The current Attorney General, while Minister for Health, the Arts and Fair Trading, wrote a letter to a citizen of Western Australia. He stated that the primary factor to be assessed in strict law is the mother's own attitude since, almost by definition, a resentment of the pregnancy is likely to impose mental or emotional or psychological strain falling within the definition of danger to her mental health.

Yet as the current WA law is written and as it is currently apparently being literally interpreted by the Director of Public Prosecutions, abortion is allowed only to preserve the life of the mother. It is this situation that has led Dr Harry Cohen, the Clinical Director of the gynaecological clinical care unit at King Edward Memorial Hospital for Women to estimate that only 1 per cent of abortions fits that criteria, leaving 99 per cent illegal. These figures reinforce the argument that at least in abortion clinics doctors who perform abortions do so by little more than endorsing a woman's request for abortion. Effectively, this means that we are close to operating a policy of abortion on demand. We are left with some questions in response to this situation: Why have there been no prosecutions until now and what has brought about the current charges being laid?

As we know, there has been much media speculation and commentary about this situation and even media reports of commentary from the Attorney General suggesting that the material circumstances in this case are sufficiently different to justify a prosecution. These charges have unleashed forces that have left the Parliament to tackle the issue

of the abortion law. As legislators, we are not privy to all the circumstances that have led the Parliament to be faced with this issue. However, we are being asked to respond urgently without the details of how it is this urgent situation was brought about. We know that some people were privy to this information for four or five months before the charges were finally laid.

Interestingly, no legislative reform was initiated until after the charges were laid and the headlines were in the media. I would very much prefer to be in a situation where I understood all of the circumstances surrounding these prosecutions and to make sure that they were open to full and complete public scrutiny to better understand the motivation of all the various players. I fear that in reference to this case those circumstances will never be known. If this legislation were passed through both Houses, or if the other Bill were successfully processed by the Parliament and there were a change in the abortion law of Western Australia, I anticipate there would be a change in the status of the case against those doctors. If that were the case, there would never be full exposure of what motivated the various players with reference to that issue. After the two doctors had been charged, initially an announcement was made that abortions in this State would cease. The Australian Nursing Federation advised its members to cease assisting in abortions, and there were reports that this led to the cancellation of many scheduled abortions. There was a call for clarification of the Western Australian abortion law, and this resulted in an attempt by the Director of Public Prosecutions to clarify the Western Australian law. Indeed, the DPP was quoted in a number of media references as saying that under the Western Australian Criminal Code abortion was legal only if a woman's life was under threat. A move to change the abortion legislation was, therefore, very substantial indeed.

Eventually a Bill has come before this House and the Government has sponsored a Bill in the other place to test the will of the Parliament. The Attorney General has attempted to reassure the medical profession with reference to continuing to carry out abortions. He responded to the fears of those working in hospitals and abortion clinics that they might be liable to prosecution, by saying it was an unusual case and doctors should carry on as they had for the past 20 years. Media reports indicated doctors agreed to resume abortions after receiving written guarantees from the State Government that they would not be prosecuted under the current laws. We are told that many in the medical profession were not convinced by this assurance, and that staff at the King Edward Memorial Hospital were restricting abortions to life threatening situations or cases involving malformed fetuses. Some lawyers and other citizens are on record as being critical of the Attorney General's suggestion that doctors could continue to carry out abortions outside the law without fear of prosecution. A further result of the charges being laid has been a threat from health professionals - some might see it as a promise - that abortion services would stop if the law were not changed within six to eight weeks. Basically they are telling the Parliament that they want it to reform this law by early April.

That brief history is important for the record because some people looking back on this period of the Western Australian parliamentary process may want to understand how on earth this has happened. I want to make sure that that objective record of what has happened is in the *Hansard* report of the debates in this Parliament.

The legislative responses to formalise the abortion practices of the past 20 or more years are before us. This Bill does exactly that; it puts in place a process by which, if the Bill were carried by this place and the other place, all abortions in Western Australia would become legal. The Bill seeks to repeal provisions of the Criminal Code and to leave no other reference in the Statute book to the process of abortion. The abortion process in all its detail would be beyond the law. In my view the Government's Bill effectively does the same thing but under a different guise.

Hon N.F. Moore: It is not a government Bill.

Hon TOM STEPHENS: It is the government sponsored Bill for the purpose of testing the will of the Parliament.

Hon N.F. Moore: It is not sponsored by the Government. It is to help the situation.

Hon TOM STEPHENS: We are from the Government and we are here to help you!

Hon N.F. Moore: That is right. On a few occasions it is a truthful statement.

Hon TOM STEPHENS: Many people in the community are cynical about that. I am not trying to articulate that cynicism; I am trying to distinguish between the two Bills - the private member's Bill and the other Bill which has been introduced.

Hon N.F. Moore: The original private member's Bill is different from the Bill before us now and in an endeavour to give people a say on what they felt was appropriate, a Bill was devised to give that choice to members.

Hon TOM STEPHENS: The problem with these two items of legislation is that they would enshrine in the Statute books a practice that has developed that does not have the support of the community. There is a problem that must be tackled, and people must understand what makes this practice of abortion so contentious within society. They must understand why people are so passionately in favour of women being able to choose for themselves whether to encourage the unborn child inside them to develop until it is born or whether to terminate their pregnancy and go

through an abortion. Why do others feel affronted by the idea of ever intentionally causing a developing baby to be aborted? We need to consider these issues to shed some light on the questions with which we are faced as a Parliament and a community.

A central issue in this debate about whether abortion can be a lawful course of action will come back to debate on the status of the prenatal life of human beings. This question will come before us even though it is not before us now. Eventually, we shall have to tackle that. At the moment under the provisions of this Bill abortion would be accepted at any stage and no reference would be made to any stage from conception until the end of the pregnancy. The Bill does not attempt to take abortion law out of the Criminal Code and put it in some other area of law with limiting proscriptions. Abortion law will simply be removed from the Statute book. In those circumstances there will be nothing to regulate or govern the abortion process. The Bill does not raise the fundamental question of the stage at which there is human life that warrants the protection of the law.

To illustrate the importance of this issue, I ask people listening to this debate - whether in the Chamber, in the gallery or in their rooms while preparing their contributions to the debate - to imagine a newborn child. At that stage at least I am sure no-one would ever countenance the life of that newborn child being taken. All people would want to enshrine in law the principle that the life of a newborn child must never be taken. Although there are many threats to life, I hope none of us would ever countenance infanticide. The purpose of that safeguard at law for the newly born child is to put legal value on the life of that small human being. We are hopefully all agreed that this newborn baby is a complete human being. I am trying to get people to think about these issues, to rewind the tape a little, to think of the baby in the third trimester and consider its form. At the beginning of the third trimester the unborn child is about 38 centimetres long and weighs approximately 1 000 grams. These days infants born at that stage usually survive.

Hon Derrick Tomlinson: We are talking about the third trimester.

Hon TOM STEPHENS: Yes. I am asking members whether they think at that stage we are dealing with a person. I am trying to describe the developments so that members can visualise the baby's growth during the pregnancy. The Bill does not do that. The Bill does not ask these questions. Before we countenance the passage of the Bill, we should ask ourselves these questions.

If we rewind this imaginary tape a little further, we will see the baby's development in the second trimester. From the science books, we know that at this stage the baby's eyes have opened. It is starting to move early in this stage. The mother, father and family can feel the baby kicking when it moves inside the mother's womb. At the beginning of this trimester the baby is about 7.5 cm long and weighs about 30 grams. It is easily recognisable as a small human being, although the head is large in proportion to the body. We must ask whether we are dealing with a human being at this stage.

Let us rewind the imaginary tape to the first trimester; that is, at eight weeks. The unborn child is becoming more human in appearance. The baby is about 2.5 cm long. We can see the baby's heart beating, and its rudimentary organs have formed. Is it a human person now? At two weeks we see the embryo - a very little, but nonetheless living organism - floating in a fluid filled sac attached to the uterine wall. Finally we go to the pre-embryo stage of the zygote, through multiple cell divisions until we see the fertilisation of the ovum.

I want people in their minds' eye to go back in time through that process of the pregnancy to visualise a newborn baby in the mother's womb. In that way they will get in touch with something intuitive within each of us when speaking about prenatal human life. I have a hunch our intuitive understanding of prenatal human life shapes our responses to these stages of life and the way in which we weigh up the values of this life when other pressing values compete for our attention and priority. Yet this Bill makes no accommodation for this intuitive understanding that we all have for these stages of the emergence of life in the womb.

Abortion is to be legal under this proposed regime at any stage, all the way through to birth. The unborn child in the second or third trimester is recognisably human, so I believe most people intuitively feel and accept that we are dealing with a human being in this time frame. I do not think this concept is challenged. There was a time when this train of thought was challenged by people in various movements. Some were quite vocal. Along with that challenge came certain responses, and scientists became more capable of exposing life in those early stages through all of the technology that is available to us today. The notion that somehow we are not dealing with life has fallen away.

Even the advocates for abortion law reform no longer adopt the defence that we are not dealing with a life in this situation. In recent times Naomi Wolf has been an articulate spokesperson who has identified a sense of her own error in her previous denial of what was inside the womb of a mother carrying an unborn child. Although she still maintains the right of women to abortion, she has a changed perspective that says that when women embrace abortion, they should also embrace the reality that they are destroying human life. For their own sanity and psychological

health, that requires the need to accept that they have engaged in the taking of life and have obligations to participate in atoning for that life. That is how Naomi Wolf currently constructs her defence for the right of women to take the life of an unborn child, even though she now accepts that this is the taking of a human life. Inevitably as we start to think about this process, we must feel uncomfortable with the idea of terminating the life of the unborn child during the second and third trimesters. Yet the legislation does not do that; it does no such thing.

Hon Cheryl Davenport: Are you aware of the number of pregnancies that are terminated in the second and third trimesters?

Hon TOM STEPHENS: Indeed, I am. If the member believes that issue should be addressed in law, if she thought there were only a limited number of second and third trimester abortions -

Hon Cheryl Davenport: For very good reasons.

Hon TOM STEPHENS: Perhaps my colleague should have constructed a Bill that reflects that reality. If she felt we should be dealing with abortion in only the first trimester, she should have brought forward a Bill that provided for that. She has not done so; instead, she has introduced a Bill that allows for abortion in all stages. In those circumstances, I am responding to the Bill before me, not the one that might be. I say that, yes, a limited number of abortions occur in the second and third stages. Nonetheless, they occur. This Bill seems to embrace that reality, accept it, seek to make it legal and allow for no-one to intrude into that process. It seems to me that most people in the Western Australian community do not accept the reality that this change in the law will visit upon them. I recognise that people have different perceptions of life in the first trimester, especially in the first few weeks. Often this can lead to different stances being taken on abortion. I think there is a common perception of what is going on, at least in the second and third trimesters.

For the first of the proposals currently before the House, I recommend the current law be retained for the following reasons. This is not altogether comfortable for me because I do not see before the Parliament any better alternative. Firstly, I am opposed to the proposal to legalise abortion on demand at any time during pregnancy; however, I am willing to participate in the discussion about how government can continue to provide support for every alternative means of addressing unwanted pregnancies and the obligations that leaves upon mothers, individuals, families and communities.

Secondly, as I am concerned about the way in which human life in our society is being devalued, I take a stand against a move in this legislation that will significantly downgrade the respect that life is given. I see some validity in the argument of the slippery slope, which legislation, such as this, is likely to have on other policies, the attitude of the community and laws in relation to other aspects of human life. That is the point to which I was alluding earlier. I am told that in a couple of weeks we will deal with the euthanasia Bill. We know there are advocates for laws on capital punishment to be introduced. We sense there is a disrespect for life within sections of the community. That is one reason I maintain, both privately and in my public role, opposition to starting the process through legislation of allowing the law and the community to continue down the slippery slope.

I am very aware that the unborn in our society are the least powerful in protecting their lives and interests. For me it is an issue of justice that requires an obligation to stand up for the right to life of the unborn child. I have some recommendations. Although I reject the legislation I note that there are many divergent views. Members implacably opposed to abortion appreciate that a different response may be necessary. Certainly neither this Bill nor the other Bill is that response. Even I may need to have a different response to this reality within the community. I will not tackle that issue. We are left with a much more simple issue.

Presumably other questions will arise down the track which will be complex and difficult for someone like me. I am left with the simplest of facts: This Bill is abhorrent, and when the community understands it, it will also find it abhorrent. When we all understand what we are doing here we should all find it abhorrent. We are not trying to remove abortion from the Criminal Code to the Health Act or certain associated regulations or to regulate it in any way through this Bill. After its passage the issue will be open slather. I find the last little bit of my speech particularly difficult to say; nonetheless, as a legislator I know that that is the reality with which we are faced.

Women are often placed in very difficult situations when they are pregnant. We know that we have a real obligation to respect human life. This is not just a matter of my trying to translate my religious views, although I am often portrayed in the role of "Captain Catholic" or some other allegedly offensive role. I do not see myself in that role. From time to time members opposite have good natured shots at me - sometimes not so good natured - and say that I remind them of a fearsome priest standing in the pulpit thumping his fist, trying to argue for the enactment of some bizarre Catholic code in the law and the Statute books of Western Australia.

Hon N.F. Moore: Perhaps it is a question of style rather than substance.

Hon TOM STEPHENS: I apologise for my style if it upsets people. I particularly want to avoid that style tonight because I want to be persuasive yet again. I want to ensure that my contribution is good natured, good mannered and persuasive. Nothing would give me more satisfaction than seeing this Bill defeated here this evening. In framing legislation that is responsive to the whole situation as we know it, we will serve our community well. I accept that politics is the art of the possible and I am in the end prepared to work on legislation with that in mind, but not on this Bill.

The community expects the Parliament to have in any of its law, but certainly in this area, at least the following: First, provision to encourage and require as much as possible good decision making processes from all those considering abortion. The other place is facing a start in that direction. There should be insistence that women seeking to procure a miscarriage be given the opportunity to give informed consent. Nothing in this Bill adequately covers those issues. It is defined as consent given by the woman after she has received counselling about the consequences of the induced miscarriage. Although that is a start, it sounds as though it could easily degenerate into a process of informing the woman of possible consequences of an induced miscarriage. The counselling process should not only deal with the consequences of abortion but also provide an opportunity to examine possibilities other than abortion. Counselling should be available to a woman independently and separately from the abortion clinics and hospital professionals involved in the abortion process. It seems that within the processes we have an industry primarily self-serving and not adequately connected to the protection of the rights and responsibilities of the woman. After all, there is a conflict of interest between the objective, independent counsellor and the doctor or clinic that is making money out of providing this service.

I am also concerned about the lack of any evidence of an interest in the principle of freedom of choice being exercised by those who choose abortion. It is alleged that some women submit to abortions because they are coerced by partners, parents or general practitioners. Some Statutes make it an offence to persuade, induce, or coerce. This Bill does none of that. A partner or anyone else could do what they like with a woman facing pregnancy if this Bill were enacted. Whatever the accuracy of the percentage figures referred to, we know the power of social and peer group pressure. Women deserve the right to work through these issues with professional support.

Recently I heard of a very chilling example that I believe illustrates the lack of freedom that could confront a woman. It concerned a 16 year old Aboriginal girl in my electorate who was pregnant. She attended a doctor's clinic similar to those in my community where the Royal Flying Doctor Service arrives a couple of times a fortnight these days if we are lucky. The young girl had her pregnancy diagnosed and was immediately asked by the doctor if she wanted the baby. She said no. Based on the story told to me, which is relatively close hand but not direct, without further ado the young girl was on the same plane taxiing out to the end of the airstrip. The young girl's parents and extended family were extremely concerned. This young member of their family had gone to the clinic without any sense of ill health and was suddenly on the Royal Flying Doctor plane. They drove their vehicle to the end of the runway and parked it in front of the plane. Then the dialogue began about what was occurring. The girl was at a loss to explain the situation. Eventually the members of the medical profession said that they thought she wanted an abortion. She said, "You only asked me if I wanted the child and I didn't particularly want the child. You didn't ask me whether I wanted an abortion." However, suddenly she was on a plane heading towards the process that presumably would have led to that inevitable result.

That is not a rare example in the Aboriginal community in Western Australia where the medical profession seems to take over the entire lives of women, children and men and presume so much. That young girl has happily had her baby. It is in the care of her parents, who have left the girl with the freedom to proceed with her own human development and education. They have accepted responsibility for the child which she was not wildly enthusiastic about having, but which she certainly did not want to abort, which outcome seems to be the immediate response of what is on offer from the medical profession. I do not understand that view of the Hippocratic oath. I recognise that we need alternatives, not the least of which is the importance of talking things through and examining the alternative possibilities to abortion. I do not believe those possibilities exist inside the abortion clinics of Western Australia. Sensitivity is needed, not the railroading of women into finding solutions. I believe it should be an offence to persuade or induce people to abort. However, this Bill does not make it an offence. That is another reason that the House should reject it. We would not tolerate it in any other area of law, so why should we tolerate it in this area of law? A law that countenances this situation is an abominable law. That opinion is not being expressed by some crazy, cracked Catholic; it is just not reasonable law.

My second recommendation is that, if this abortion legislation is to be carried by a majority in this Parliament - I hope it is not - it must take into account the intuitive sense that most in the community have that distinguishes and differentiates between the second and third trimester when life is well advanced along the road to being sustainable and independent, and place limits on how far into the pregnancy and under what conditions the procedure is to be performed. This Bill does none of that. Is it any wonder that I call on the House to reject it?

Further, the Bill does nothing about putting in place an obligation to establish some sort of audit process if abortions are to continue. "Audit process" in this area is something that I find offensive. However, let us at least develop it if we are to be faced with this offensive practice and put in place obligations for an auditory process that will give us some reference point about what is going on with abortions, so the decision makers and legislators have reliable data upon which to base their ongoing decision making in this area. If the complications and the damage being done to women are as bad as the statistics that are being provided to us indicate, we should not countenance the legalising of procedures that produce such shocking statistics in terms of the impact upon the health and the livelihood of the patients involved in the procedure or practice. We would tolerate no other medical practice that causes that level of damage to women. Yet for some reason, we are being asked not only to allow that in the abortion process, but also not to require in law an auditing of the damage that is being done to the women of this State. If Parliament is hell bent on this course of action, at least it should insert an audit process into the legislation.

There is a good deal of evidence to indicate that abortion, far from being a safe procedure for women, often results in complications and even death. David Reardon's book *Aborted women - silent no more* estimates that long term complications can be expected in 17 per cent to 50 per cent of all aborted women. That is an extraordinary range; but whatever it is, we need to know more about it. No other drug, process, or procedure would be tolerated at law with statistics as bad as these relating to the impact of that process upon the physical and mental health, let alone the spiritual health, of women.

It seems to me that the plea for justice for women demands that we should build into the legislation some requirement for the gathering of data of the experiences of the women so that we can all learn. That information should not be hidden or held only by the abortion clinics. We should all have that information so that we as a community can then make our decisions and require the Parliament to respond to that information if it is so determined to go down this path.

In the second reading speech on this Bill, Hon Cheryl Davenport referred to Megan Sassi and her efforts to bring about the repeal of the State's abortion laws. My colleague might be surprised to know that even though I have never met Megan Sassi as far as I am aware, I have developed an extraordinary respect for her because I was subjected to almost weekly lobbying on abortion law reform by this woman and her organisation. I have been bombarded with every conceivable argument that could be put to me and, to put it crudely, it referred to the various authorities that said that although I am a Catholic, I can in good conscience support these abortion law reforms. Although it was a very formidable assault, it was also a nuisance because it required me to rethink regularly my position to respond to the challenges that she laid down in her weekly bombardment of me! I did that during the time that Megan was involved in the organisation. Megan is no longer with us, as Hon Cheryl Davenport said. However, she was persistent in her lobbying of us; I can appreciate why her movement misses her. Her work made me, as a legislator, come to terms with the abortion issue. She made me sensitive to the many coherent arguments that are being presented by the pro-choice groups. I had to think through the moral, the legal, and the intellectual position of the opponents of abortion.

I know only too well that there have been many divergent viewpoints in the Christian tradition about the legality of abortion, particularly in recent times. I also know that there are many people in this Chamber who are the most committed Christians but who have indicated that they will support the abortion Bill introduced by Hon Cheryl Davenport. I know also that people who are committed Buddhists are also determined to support this Bill. Divergent viewpoints have also been expressed by the leaders of the Christian churches and some religions appear to be divided on the issue. Sometimes when people are faced with divergence on a question of law, they throw up their hands in horror and say that it is all too hard and they might as well toss it in. There is also divergence of opinion in the Christian tradition as articulated recently on the morality of abortion. I know that if we went through the long history of the Christian movement we would discover diverging viewpoints in the Christian movement. In that long tradition there have been a range of viewpoints about the morality or otherwise of abortion, with the position not always being consistent. Likewise, within that same tradition, there have been diverse viewpoints on issues such as slavery, capital punishment, and many others. It has not been a history of unanimity in respect of morality or legality.

Variations of these expressions of morals and ethical processes is not evolutionary. In many debates, there has been a blurring of the distinction between a moral belief and an obligation that might arise to see the embodiment of that belief in law. Is it the business of law to enforce morality? We are faced with that question. This debate has caused me to focus on an understanding of my role, in a way I have not had to since I arrived in Parliament. I have had to ask myself what I am on about in this process as I respond to this debate.

If it is to enforce morality, what is the public morality that must be enforced? Whose morality is it? These are age old questions. I am indebted to a book by Patrick Hannon entitled *Church State Morality and Law*. I studied the book attentively, and I draw on it unashamedly. I acknowledge that I draw support from the tradition that sees the dictates of morality and law as being capable of being deduced by people of goodwill, and from observation of moral



principles which are part of the natural order of things. That is, one may conclude that one may not commit murder. That comes from a self-evident, social principle that one must not do harm to anyone. It is a basic, deducible principle of morality that should be enshrined in law.

What other vices should be restrained by law? The answer lies in the central tradition of law. Chiefly, we do not allow vices that do harm to others and to the society. Murder and theft are the most illustrative. We also accept that the law has a role as an educator. It is not simply to be enforced, but also to be educative. It is a juxtaposition of the observation of the need for law against the observation that goodness cannot be forced. The observation that we live in a diverse or pluralist society with differing moral values, is not justification for giving up. There are minorities in our society that we would not even dream of accommodating or tolerating. I am thinking of criminals, subversives, terrorists, racists, sexists and other minorities. We do not tolerate them at law. Surely it is obvious that the mere fact that a belief is held by a minority is not the basis for that belief to be accommodated at law. In any society exercising any freedom, people must respect the principle of social and personal responsibility, because in exercising rights, individuals and social groups are bound to have regard for the lives of others, to their own duty to others as being for the common good of all.

Individual freedom is always limited by the requirements of peace, justice and public morality basic to the common good - the roots of which are found deep within the history of Greek philosophy and thought. The demands of aspiring after the common good are no less relevant to the States of the modern day Commonwealth of Australia than they were when Aristotle was probing about thoughts for the common good.

The requirement for the public morality is in shorthand the principle of pursuing what should be enforced at law. This does not equate with enshrining the moral views of the majority at law. Nor does it mean that which is done in private should be beyond the law. Most murders are carried out in private. Privacy is the essential prerequisite for theft, but its being private does not mean it should be beyond the law.

The issues with which we are dealing here are not totally dissimilar to those which the Wolfenden committee addressed in 1957. That committee was set up in England in response to the issues of homosexual law and laws on prostitution. The committee was interested in formulating the proposal for the reform of law in those two areas. Its task was to find a useful, general principle for governing the enforcement of morality by law - or, more accurately, the proscription of immorality. It formulated this principle, which is educative for us all, although members may not think initially it supports my position. However, I will develop it and show members exactly why it does. The principle reads -

The function of the criminal law - so far as it concerns the subject of this enquiry - is to preserve public order and decency, to protect the citizen from what is offensive or injurious and to provide sufficient safeguards against exploitation and corruption of others, particularly the young, weak in body and mind, the inexperienced, or those in a state of special physical, official or economic dependence.

This principle is a version of that doctrine that is linked most regularly with the name of the philosopher, John Stuart Mill. An implication of the principle is made explicit in the report where it states -

It is not, in our view, the function of the law to intervene in the private lives of citizens, or to seek to enforce any particular pattern of behaviour, other than to carry out the purposes which we have outlined.

The report remarked that unless a deliberate attempt is made by society, acting through the agency of law to equate the sphere of crime with that of sin, there must remain a realm of private morality and immorality which is, in brief and crude terms, not the law's business. One may ask why I cite this type of material in defence of my argument. That report led to the great debates on ethics and politics that took place in this century between the great ethicists, Patrick Devlin and H.L.A. Hart.

Hon J.A. Scott: When was that?

Hon TOM STEPHENS: These debates occurred in the late 1950s in Great Britain. Most students of ethics and politics rely on them when drawing up the principles of what should be done in law. Hon Derrick Tomlinson has shown some interest by nodding, and for his benefit, nothing should be punished by the law which does not lie beyond the limits of tolerance, said Patrick Devlin. Public judgment of the practices to be prohibited must amount to a real feeling of reprobation and there must be a deliberate judgment that the practice is injurious to society. In response, Hart stated that the debate is illustrative for all of us who are wrestling with these issues about the ethics and morality of the law. To try to place this beyond the questions of our religions and philosophies, and to throw us back to our roles as lawmakers in response to the cry of the community for law, there is revealed through divergent viewpoints agreement that some shared morality is a necessary essence within society. Hart concludes that the curtailment of liberty by law is warranted only if necessary for the prevention of harm to others or, in certain circumstances, the protection of people from their own destructive impulses.

Agreement is reached that the central task of law is reconciling individual freedom with the claims of common good. Each adverts to a social dimension in human conduct, and to a public interest in preventing social harm. Each is prepared to recognise a role for the criminal law in that process. The role of the law is distilled down to an essential prescription of conduct injurious to others. Again, that is not dissimilar to the philosopher John Stuart Mill's views on these issues. Into this category can easily fall the taking of life, unwarranted deprivation of liberty, injury to a person, fraudulent business transactions, and damage to property. These are things that come from an understanding of what should be enshrined from public morality into law.

Hon J.A. Scott interjected.

Hon TOM STEPHENS: Will the member repeat that interjection?

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order! Perhaps the Leader of the Opposition would like to continue his speech rather than engage in unsolicited discussion with Hon Jim Scott.

Hon TOM STEPHENS: This principle carries me on to what we should be doing in law. However, a number of questions remain unanswered: Are we dealing with only physical harm to individuals or moral harm as well? Is it applicable only to the individual, or also to institutions such as marriage and the family? There is another way of stating agreed principle; namely, that freedom is left in the possession of the individual unless it is at the expense of peace, justice or public morality.

I am reaching a conclusion to which I hope I am leading others; that is, determining the question of the enforcement of moral questions at law is the same for any lawmaker, be he or she with or without Christian views. It applies to those with religion, be it Catholic or Buddhist, and those with none. What does one put in law in response? One accepts that within law one places a framework to construct the common good.

I found particularly offensive the contribution to the public debate by the Attorney General when he responded to a letter about abortion from a group of lawyers. He replied that they were a group of well-known Catholics. I now quote the subsequent response of Terry O'Connor, QC, who was one of the lawyers involved: "Game, set, match. No further defence or justification of his position was required." Just because I happen to be a Catholic does not mean my viewpoint, or that of any people of my religion, should be rejected. I believe that in this debate I have successfully stripped myself of that aspect and tried to bring us as a group to focus on what we should do at law, and on our obligations as lawmakers.

We must consider whether a measure which gives or withholds a certain liberty is likely to promote the best social conditions for human flourishing. We are left with that question in all lawmaking. That leads, for a range of reasons, to pretty self-evident conclusions.

Hon Derrick Tomlinson interjected.

Hon TOM STEPHENS: Can answers to such broad questions be arrived at with any broad consensus? Hon Derrick Tomlinson's laugh was appropriate and legitimate. However, international communities have arrived at some broad consensus when drawing up the charter of human rights as an expression of international morality. If that can be done as a society of nations, the diversity of which is great on this planet, surely in Western Australia we have the opportunity to find that which embodies shared morality.

If nothing else, we have a task of subscribing to that which is upheld by civilised societies everywhere; namely, respect for life. I recognise that variations exist between societies in the ranking of values, particularly in communities with some mark of pluralism where the so-called "elastic principle" applies. Some societies have a bias to more use of freedom on this question than do other societies. Hart's contribution to the ethical debate is posing the questions: What is the harm? Who or what is harmed? How serious is the harm? Are there any countervailing benefits? Do those harms cause and deserve society's protection from them? What level of protection is most appropriate bearing in mind the cost or disadvantages?

Our task as lawmakers is to establish in part - this is part of the answer to the interjection, as far as I heard it, from Hon Jim Scott - the community consensus. The lobbyist's task is often to change public policy and overturn the establishment view. My contention is that in this society the current establishment view, as expressed in the tolerance of the law in question, is that abortions should be available on demand. That does not represent a community view. I well appreciate that lobbyists in the community respond to the current established view and try to overturn that reality. I do not believe that the establishment view represents a community consensus, and nor do I believe that people who want to overturn the establishment view should be viewed as nuisances; they are a sign of life and a vibrant society. Some laws that we consider to be essential to our Statute book were regarded as a nuisance when they first emerged. I refer here to laws regarding labour, environmental protection and equality for women, which have emerged from the nuisances of our society.

We are challenged by the task of responding to a nuisance again. We must tackle that challenge. What are we on about as lawmakers? When do we intrude to insist on the respect for life? Concern for special interest groups is not an aberration; it is a sign of life. The goal is to establish the common good. This is done through the democratic structuring of our society. Absence of a consensus is not an excuse for moving from the common good objective to put in place a framework at law. An opportunity exists for consensus to be created at law by us as community educators.

Do members remember the quote of Dr Martin Luther King in the face of legislative inaction against racism in the USA? He was told that law could not legislate morality. He accepted that view and responded -

Law may not make people love their neighbour, but it could stop them lynching them.

Law and public policy are not just the result of community consensus. They have a role in creating and shaping that consensus of what is in the public interest and what that represents to the common good. Common good is a moral concept, and it follows that the role of the legislator is a moral role. We are involved with questions of morality all the time. I have spent almost 16 years without specifically thinking about that reality, but upon reflecting on the processes with which I have been involved as a lawmaker, I realise that all questions have been moral, whether they have involved racial laws, discrimination laws or abortion laws.

I have always believed that capital punishment is wrong. It was on the Statute book in the past and I wanted it abolished: I campaigned against its use and I was delighted to be part of a Labor Government in this Parliament which removed capital punishment from the Statute book in 1983. I still feel obliged to work to prevent its reinstatement in the Statute book, despite the whim of the Premier or the bullies of talkback radio programs. No matter what their views on that issue, I will not cower in the face of their presentations of their case, which is a repugnant concept. In moral revulsion at that notion, I will continue to campaign for the proscription of that practice.

The sense of morality that drives me into political action on a question like that is effectively the same morality, stripped of religious content - narrow religious sectarian content - that has me responding with absolute abhorrence to the notion of racial discrimination. As my colleagues in this Chamber will know, that issue has been a driving force of both my political life and my life before involvement in politics. I have always been morally revolted by the notion of racial discrimination and it has been the wellspring of my involvement in public life.

That same morality led me to throw myself enthusiastically into debates on the labour relations laws last year. My core values then were deeply offended by what I saw as attacks on the rights of workers to organise and achieve equity and justice in rates of pay. I endeavoured to tell the Parliament something of that sensitivity. That sensitivity and morality is not just central to any religious tradition but comes from a response to one's role as citizen, which is then translated into a new role as lawmaker that leaves one with no excuse for indifference to what one sees to be in the common good. One does not discharge one's responsibilities easily in the face of that conviction. One then faces the task of how to maintain the principle of the common good and participate in democratic processes as a voter and a lawmaker and engage in shaping the conditions of the life of society. It is a fundamental project for all of us to endeavour to reconcile individual freedoms and the claims of the common good. Whether or not all religions in our societies wither and die, we are still left with that task as citizens.

It is as citizens and lawmakers that we come to this Chamber to respond to that challenge to find what it is in the service of the common good that is to be enshrined in law. The answer is clearly forged in the complex experience of social life in the law as we find it today with a communal obligation for action on behalf of justice and participation in the transformation of the world; to put it more simply and popularly, in the words of the song, that the world may be a better place. Aristotle went on record first to observe that the ethical does not easily equate with the clarity of the mathematical. Aquinas noted that the closer one got to the individual circumstances of the moral argument, the more difficult it became to formulate a clear and certain conclusion. They are the issues that are being hinted at across the Chamber by way of the gentle interjections that I am getting.

The issues for me of quality of life and right to life are inextricably intertwined: Abortion, euthanasia, capital punishment and war are all enmeshed for me in the same issues of justice and peace within our society. For me, and I believe for all of us, there should be no divide. For me it has been the wellspring that has motivated me to work against apartheid and capital punishment and for Aboriginal rights and the rights of workers, children, the aged and women. It comes from the same wellspring that leads me into the fight against legalising abortion on demand. It is an effort to maintain what one of my heroes of the modern age described as the seamless garment of respect for human life.

The community accepts that human life is sacred. I think that is self-evident. Society leaves us with a duty to protect and foster life. I believe again there is a sense within our community, a respect, to protect life at all stages of development, from inception to death. Clearly the question then is when is inception. Let us leave that question

aside. Once that question is determined at least people will have a consensus about that. Then some agreed morality hopefully will emerge in this process.

We see the observation of society's respect for human life in the way it pays respect to the dead. By law we pay respect to the dead; by law we require society to do so. We put in place laws for the disposal of the bodies of the deceased - the way they are to be cared for; the requirements for carrying the deceased through the streets. It must be in a covered vehicle, in case members want to check the Statute book. Disposal of the body must be by burial in coffins and graves to a certain depth, in specific locations of honour and respect, or cremated after ceremonies at a crematorium. These are not just health regulations. They are not requirements in response to health issues, but a reflection of the principle of the sacredness of human life that leads us to place on the Statute book respect for life in death.

It seems to me we have a greater obligation to put in place a legal and social framework for the protection of the social environment of the living that protects and fosters life and its development during its various phases. A society that contends that life should be protected from inception to death does not have a moral or political escape clause, or the opportunity to escape economic obligations and responsibilities. The defence of the right to life of the weakest among us requires consistency, authenticity and support and defence of the quality of the life of the powerless among us - the old, the disabled, the young, the hungry, the homeless, the refugee, the unemployed and the dispossessed. It is in the linkage of these issues, which require concern from everywhere, that we must see an opportunity of responding and dialoguing across this Chamber and across the community to build a consensus of support for this principle of the ethic of life.

As lawmakers and as a community we should be concerned, particularly those of us who say we are concerned about the right to life, about everything from armaments to welfare. Welfare and warfare are issues on which we face an obligation to express concern about, and participate in support for, the quality of life. It does not translate into some specific way of avoiding the issue of life itself. We are faced with a response to questions such as tax policy, employment generation, welfare policy, nutrition programs, health care, aged care, day care, family and children's services, prison services and health and hospital services. They are all consistent parts of a concern for the ethic of life in our community.

I hope we will see the building of some bridges across the community as we tackle these issues because we need support in the community for all these frameworks for the protection and support of life. I am not involved in a narrow sectarian claim. This is simply a human response to the humanity that we all share. I want to refer again - I guess I have been under attack from the source from where I come - to a question recently posed by the head of the law school at the University of Notre Dame, Professor Greg Craven. He articulates it well. Sometimes in the public debate on these issues one almost feels if one comes from a Catholic background that one should apologise first because if one does not, one will be attacked fairly early in the piece. So I will get the apology in first. I am sorry that he is a Catholic too -

Hon Derrick Tomlinson: I am not. I think he should be commended.

Hon TOM STEPHENS: All right. He is allowed to ask the question. These days on the cocktail circuit it is a bit rough if one is a Catholic who holds these views.

Several members interjected.

Hon TOM STEPHENS: Back to my humanity. Professor Craven poses the question -

What amount of pain on our part - even utter misery - can justify the taking of another guiltless human life?

That is a good question to ask at law.

Hon J.A. Scott interjected.

Hon TOM STEPHENS: I do not accept that. I understand that people respond that way and I find that completely offensive. That leads me to find a consistent response in my role as a human and citizen and to reject that. Just because some of those involved in sectarian violence are Catholic should not lead one to discount a question posed by another Catholic. I find those who participate in sectarian violence utterly revolting. That does not then leave all Catholics unable to ask a question.

The question has been posed by Professor Craven. Why do we suppose, simply because a life is somehow dependent on our own, that we are entitled to take it if its continued existence would seriously affect our own existence? When did we gain the right to eliminate people by reference to their unintended effect upon another? The response to the question should affect the way members will deal with the Bill before us tonight.

Humanity cries out for a different response to these questions from that which is contained in this Bill. Do we really feel justified in allowing for the ending of the lives of those unborn children whose existence does not live up to some socially agreed minimum standard? That is one of the practices provided for by throwing out reference to abortion in the Statute books. Eugenics allows the screening of people who do not meet the minimum standards of health. Somehow they can be legitimately screened out because this Bill has thrown out the processes that would proscribe an attack on the lives of such people. We are left with only one answer to the questions presented by Professor Craven.

I know there are some in this House and in the community who want to allow for abortion in some circumstances. Those people should put something in law which is unambiguous and which reflects their viewpoint and let us respond to that. What are the specific circumstances to which they want us to respond? We are not dealing with them; we are dealing here with abortion under any circumstances at any time.

There are some who believe that abortion should not be in the Criminal Code but regulated in the health code. This Bill does not do that.

Hon Cheryl Davenport interjected.

Hon TOM STEPHENS: There are some who say in defence of the Bill that this area of law should not be in the Criminal Code. If that is the precondition for parliamentary support, the member should come forward with a proposal because she will find an opportunity for discussion. This Bill provides no such opportunity and it deserves to be rejected for those reasons as well. The Bill does nothing more than repeal all statutory reference to abortion. It provides for abortion in any and all circumstances. The abortion issue is not referred to the health code for regulation, rather there is to be no regulation of abortion.

Several members interjected.

Hon TOM STEPHENS: As far as the Attorney General is concerned, by virtue of my religion I am to be ignored, interjected upon and laughed at as I speak. I do not appreciate that.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Perhaps the member would like to address the Chair rather than carry on conversations with other members.

Hon TOM STEPHENS: There is no regulation or definition of when abortion is to be allowed or disallowed. There is no protection for a woman from pressure or coercion. There is no guarantee of refuge for hospital or medical personnel who cannot in conscience participate in the process. There is no obligation to undertake counselling. There is to be no law. This does not reflect community opinion. If members think it does, they should put to a referendum that there should be no law in this area. If they are so confident that it is the view of the majority -

Hon J.A. Scott interjected.

Hon TOM STEPHENS: The advocates for this Bill. It is the result of the Bill; members are removing the references to abortion from the law books.

Hon J.A. Scott: Only if you take it in a vacuum.

Hon TOM STEPHENS: That is what the Bill is doing. If members think there should be some reference in the law to abortion, they should tell me where, put it back in and then deal with these issues. The passing of this Bill will mean that there will be no references in any other Statute.

Hon J.A. Scott: I know.

Hon N.D. Griffiths: What are you on about if you know?

The DEPUTY PRESIDENT: I ask the interjectors to come to order. The Leader of the Opposition has the floor.

Hon TOM STEPHENS: This Bill does not settle a community debate. It does not even have the House accept its own responsibility. In the absence of any specific law in regard to abortion, this Bill is an invitation to the prosecutors and the courts to endeavour to find another way of defining that which the community is currently prepared to have accepted at law. For all those reasons, this Bill deserves to be rejected by this House.

**HON LJILJANNA RAVLICH** (East Metropolitan) [9.05 pm]: It is a great honour to be the first speaker in support of this Bill. I fully support it and I am very much pro-choice.

I am a realist. One of my key functions as a member of this place is to represent my constituency and the wishes of the Western Australian public. At the outset, I do not agree with Hon Tom Stephens that this is a bad Bill or bad legislation. In fact, this is a very efficient way to bring about law reform.

The Bill repeals three parts of the Criminal Code covering abortion, changes related sections of the Evidence Act and removes the offence of procuring an abortion from the criminal law leaving control of abortion under existing health regulations. So, to suggest there will be no protection anywhere is a fallacy.

Since the charging of Dr Victor Chan and Dr Hoh Peng Lee of Rivervale we have had uncertainty, fear and panic. We have a medical profession in limbo and doctors who can now perform a termination only if there is a threat to the life of the mother. Two women have already self-aborted because they believed they could not get access to abortion, which was correct at that time. They are the two about whom we are aware, but there might be others.

Abortions have been going on in Western Australia for at least 20 or 25 years and it is only now we know that about 10 000 happen annually. It is only now that we have seen the issue really come to the fore, which begs the question of where the Right to Life people have been all this time. How could they live with themselves knowing this was happening?

Under the current law, any doctor who performs an abortion is at risk of prosecution. We are well aware of that. Medical practitioners have a belief - whether it is true is yet to be tested - that if they were charged the judge would rule in their favour, as occurred in New South Wales, Victoria and Queensland.

Most of the medical profession are not prepared to take the risk. We as a community should not expect them to do that. Over the past few weeks I have had a mountain of correspondence from both sides of the argument. I have gone through the correspondence and two pieces really sum up the position that the medical profession finds itself in. I have correspondence from Mr Brian Roberman, who is a senior specialist obstetrician and gynaecologist. He writes -

I am writing to you as a private individual and not as the Head of Obstetrics at King Edward Memorial Hospital for Women. I wish to make clear my views about the current abortion controversy.

Hon N.D. Griffiths: Whose letterhead did he use?

Hon LJILJANNA RAVLICH: He used King Edward Memorial Hospital paper. He has quite clearly indicated that he is writing as a member of the public. He continues -

Along with so many others from whom you have no doubt heard I have been trying to have clarified from both the Hospital Board when we had one and from my Medical Indemnity Insurance Fund, whether they would cover me if a criminal charge was brought against me, ie. performing an abortion. This is currently on the statute books as a criminal offence. They both said that they would cover me as long as I wasn't doing anything criminal so we kept going around in circles.

I am sure members will agree with me that the law is often a matter for interpretation. One lawyer says that one can go ahead and do something under certain circumstances and another one will say no, depending on the fee. He continues -

I am so pleased that this situation is to be aired in public at long last.

As a medical practitioner who performs the more difficult sorts of abortions, namely those which are being conducted for fetal and chromosomal abnormalities, terminations at an advanced stage of pregnancy, those when the abortion clinics find them medically too dangerous, etc. etc. Whilst the numbers are not high the risk of complications certainly is. This places me in an invidious situation as I am trying to do the right thing for the patients, but I have to also be aware of the risks that I am taking in a professional capacity. I cannot afford to embark on a costly legal defence of a charge brought against me, nor do I wish my career or family to suffer in any way.

It is clear that public opinion is strongly behind decriminalising abortion.

The public is also strongly supportive of termination of pregnancy where there is serious threat to the life of the mother.

He continues later -

We have women who have emotional disturbances but a psychiatrist would not be able to justify a termination under the current legislation. And what about the most common reasons for the 10,000 terminations performed in Western Australia each year, namely the pregnancy is unwanted, usually as a result of failed contraception, major social disruption, etc. etc. I do not believe there should be such a thing as abortion on demand, but abortion on request where the doctor performs the procedure in good faith for what he or she considers to be in the best interests of the woman and her family for both the short and long term.

In the latter set of circumstances I believe that it is appropriate for counselling to take place, both before and after the event should this be considered appropriate.

I strongly support terminations for all the above situations.

Quite clearly the medical profession finds itself in a quandary. We must make sure that situation does not continue. As members of Parliament we all bring to this place personal perspectives. I am no different. Being the first woman born in a non-English speaking country to be elected to the State Legislature, I have a very particular interest in the interests of ethnic women in Western Australia, not only those in my constituency. I also have a very strong commitment to ensuring that women from non-English speaking backgrounds are adequately covered in any legislation that passes through this place.

I have been elected to represent the East Metropolitan Region. As a parliamentary representative I cannot ignore the fact that over 82 per cent of Western Australians want abortion legalised, according to the latest Westpoll. I fully believe that my responsibility is to listen to Western Australians. I would be failing in my duty if I did otherwise. I have no problems with why I am here or the job I have been sent to do; in fact, I think I would be failing in my responsibility if I said that my personal beliefs were such that I would not go down that path. When 82 per cent of the population say basically that is what they want, I have an important part to play in delivering it.

Any legislation on this matter has historically had difficulties. No doubt depending on the outcome tonight it will continue to have difficulties. I hope that when a vote is taken this House resolves that it will pass the Bill. The difficulty arises that, when we look at the constitution of the State Parliament, basically men are making decisions about what is in the best interests of women. In the other place we have 13 women members out of a total 57 members, which means only 22.8 per cent are women. In the Legislative Council we have seven women members out of 34 members, which means only 20 per cent are women. I am convinced that if this Chamber and the other place were dominated by women, the Criminal Code provisions on abortion would have been repealed ages ago.

A range of matters must be considered in one's decision on this Bill and rightly so. For example, I had to think of the rights of the child. However, when doing so I had the experience on Saturday of bumping into a lady with a physically and intellectually disabled son of 20 years of age. I asked, "What do you think about the legislation currently before the House in relation to pro-choice?" She answered, "I would not wish any other woman to have gone through what I have gone through during the past 20 years. Quite frankly, I have not had much of a life and my child has not had a life." That certainly had an impact on me. Naturally we must consider the rights of fathers, of society and of women. We must ask ourselves whether this is a moral, political, social or health issue. It is probably all of those things. At the end of the day when we make a judgment about the people whom we represent it must be made on balance.

In regard to this being an important health issue, I will refer to a letter I received from the Women's Health Care House. It has a number of signatories who fully support this legislation. It highlights the fact of just how much this is a health issue. It reads -

We the staff and management of the Women's Health Care Association incorporating Women's Health Care House and the Perth Women's Centre would like to voice our concern regarding the current situation in this State relating to the abortion laws.

We believe that abortion is not a legal issue but a health issue and that the decision to terminate a pregnancy is between a woman and her doctor. That women should have access to choices, one of which is safe terminations by qualified medical practitioners. We also believe that medical and nursing staff should be able to conduct terminations without fear of prosecution.

We call on the WA Parliament to reform the law to decriminalise abortion, when performed with appropriate medical safeguards by a registered medical practitioner.

We urge you, as an elected representative of the people of Western Australia, to act in the interests of the health of the community.

I fully concur with the sentiments of that letter. All the factors I have outlined are very important considerations. The bottom line for me is that at the end of the day I do not want this State determining what is best for me and my body. Likewise, if I had a daughter - which unfortunately I do not have - who was in difficult circumstances, I would want her to be able to have a choice about this matter. There is no clear right or wrong with this issue. This issue is about priorities and about what is best on balance, and enormous shades of grey exist in between.

I congratulate my colleagues Hon Cheryl Davenport, who is not here at this time, and Diana Warnock, the member for Perth, who have been involved in this struggle for many years and have had a longstanding commitment to abortion law reform. I did not know Hon Cheryl Davenport particularly well before I arrived in this place, but after

I had been here for about three weeks we had a bit of a chat in the corridor and I asked her how things were going. She said, "I have been here for about a decade and I still have not done what I have come to do." I asked her what she had come to do, and she said, "The one thing that I really wanted to achieve in this place was to change the Criminal Code and promote pro-choice." I am very pleased that Hon Cheryl Davenport will have the opportunity to realise her wish, and I fully support her endeavours with this Bill.

I believe that abortion amounts to a woman's civil right. In 1963, a 42 year old housewife and mother shocked the American social structures when she published *The Feminine Mystique*, which was a best seller and launched the modern women's movement. At the first national congress for the repeal of abortion laws in the United States in 1969, Betty Friedan gave a powerful speech proclaiming abortion as a woman's civil right. She argued that motherhood will be a joyous and responsible act only when women are free to make the decision to become a mother with full conscious choice and in full human responsibility.

I do not think things have changed all that much since that time. At the forefront of any woman's mind when she is contemplating abortion is the question of what it means to be a mother and the overwhelming responsibilities that are associated with motherhood. I fully support the notion that motherhood should be a choice. I support the view that decisions about abortion are not about ending a pregnancy but about choosing motherhood and all that goes with it, given the fact that it is a lifelong commitment. Women must consider many factors before they bring a child into this world. The cost of raising a child is estimated to be between \$120 000 and \$140 000. No doubt some people do it with fewer resources and other people do it with more, but it is a large commitment. Whether we like it or not, not all women have the resources to fulfil the mothering role to the extent they would like.

An interesting article in *The West Australian* recently highlighted the fact that poverty is alive and well in our community. It states that one-third of Australians live below or just above the poverty line. Western Australia and Australia generally are moving along the same lines as we see in America with the concept of the working poor. An emerging class of people in our community are not on the dole and are not bludgers, and work very hard, but because of the meagre income they earn and because the State Government is squashing them with employment contracts and by reducing their conditions, they can be described as the working poor. The article states -

A third of Australians - nearly 5.5 million people - live below or just above the poverty line, according to a new report.

Governor-General Sir William Deane, who launched the report at Melbourne University, described the situation as an overwhelming national problem.

Australian Poverty, Then and Now is the first major report on poverty since 1975.

It paints a gloomy picture of social welfare, saying entrenched unemployment has undermined steady economic growth and increased government spending on health, education and social security.

"The gap between the haves and the have-nots, the advantaged and the disadvantaged seems to us to be widening rather than narrowing," Sir William said. . . .

WA Council of Social Service executive director Shawn Boyle said the extent of poverty was underestimated. Casual and part-time workers who did not earn enough to make ends meet were not counted in unemployment statistics.

He said the report confirmed welfare agencies' observations that more people were appealing for emergency help to pay bills and buy essential items.

Those comments should not be dismissed. The bottom line is that one-third of Australians live in poverty. We know that the wealthy will always have access to whatever is required. At the end of the day, money will buy most things, and people who happen to live in an affluent society where money is no object will be able to afford to buy an air ticket costing a couple of hundred dollars to go to one of the other States where abortion is legal, and it will not be a problem. However, it will remain an enormous problem for those people who do not have the economic resources to enable them to deal with such a situation. We know also that the divorce rate in our society is increasing, and whether we like it or not, women tend to be the main custodians of children after divorce. There has been a slight change and increasingly we are seeing shared parenting, but the bottom line is that women are usually left with this responsibility.

The option of adoption is often not a favoured position for women, because in giving up a child for adoption they wonder for a long time how the child is doing, and all sorts of emotional issues are associated with adoption. We have all heard many stories about unwanted children. I was saddened to read some of the letters to the editor over the past few weeks from people who said they were an unwanted child and had had a miserable childhood. One person went so far as to say that he wished he had never been born, given the quality of his childhood. That is a real



problem. We have also seen the fate that has befallen the unwanted children who have been left at the mercy of religious institutions. I do not want to go into that. The bottom line is that it is a problem.

I am a realist. I do not accept the argument that every unwanted child will in some way be sucked up by some goodwill suction vacuum, because that does not happen in reality. I was interested to read an article in *The West Australian* the other day entitled "Couple in plea to save unborn child". That article is very interesting because it highlights the hypocrisy of some people. The article was written by Vittorio Rechichi and states -

A couple are so opposed to abortion they will raise another woman's baby if it means saving the child's life.

Chereissa and Matthew Monisse want any woman planning an abortion to carry the baby full term and let them adopt the child.

The pair, who are expecting their second baby in July, say they cannot let another child's life be taken.

I can tell them that 10 000 lives have been taken annually over the past 25 years. The article continues -

"If there is a woman in a desperate situation who is contemplating an abortion, we want to adopt the baby and care for it," Mr Monisse, 25, from Eaton, near Bunbury said.

"We just love kids and their innocence and beauty. We want to convey that children are a joy, not a burden.

"There are women out there contemplating an abortion at this very moment. They are under a lot of pressure and we are available to raise the child."

Mr Monisse and Chereissa, 22, who will have been married for two years next week, have not yet spoken to adoption authorities.

What a lovely feel good letter that is. That couple has been married for two years. They want to adopt unwanted children. Ten thousand abortions are performed annually, and they have not even registered at the adoption centre! We must accept the reality of unwanted children and we can avoid a situation of having unwanted children. This sort of feel good stuff just gets in the way of intelligent debate.

Abortions have been performed in WA medical clinics and hospitals since the early 1970s. Two clinics provided abortions. The closure of the clinics has left the whole system in a quandary. The system has many problems and a repeal of the existing laws will make counselling for abortion much more accessible. Currently no counselling is available because the law says that there will be no abortion, and because abortions are officially not occurring, health services cannot easily provide the proper counselling before or after an abortion. Some women, especially young women, may have difficulty obtaining an abortion if they approach an unsympathetic doctor. Country and migrant women may have difficulties in particular. For instance, many migrant women from non-English speaking countries cannot access even mainstream services, so imagine the difficulties they would confront when looking for a doctor who can perform an abortion. Abortion services cannot be publicised, so many people do not know where to go. Problems exist with training doctors to perform abortions. If we do not have legislation to protect the doctor, basically it is a dead end career choice and many young doctors shy away from it altogether. The repeal of those three parts of the Criminal Code covering abortion, changes relating to sections of the Evidence Act and the amendment to section 259 of the Criminal Code by deleting "for the preservation of the mother's life" will ensure that existing problems in relation to counselling and service provision will in large part be overcome. I am not saying it is the whole solution but it will go some way.

Section 199 of the Western Australian Criminal Code states that any person who attempts to induce an abortion for a woman is liable to imprisonment with hard labour for 14 years. The Criminal Code Amendment (Abortion) Bill will repeal this section. Section 200 states that any woman who has an abortion is liable to imprisonment with hard labour for seven years. I do not know where we are going to put these poor women, because Bandyup Women's Prison is full and needs another 50 places by the year 2005. Section 201 of the code states that any person who supplies or procures a method of abortion for a woman is liable to imprisonment with hard labour for three years. Once again, I do not know where we are going to put the doctors in breach of the Criminal Code, because Casuarina and other prisons also have an overcrowding problem. Finally, under section 259 a person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon an unborn child for the preservation of the mother's life. The amendment proposes to delete "for the preservation of the mother's life". That makes perfectly good sense.

I made the point earlier that I do not agree with Hon Tom Stephens that this is bad law. It is good law. If I had my way every Bill to come before this House would be as efficiently and simply drafted as this one by Hon Cheryl Davenport.

There are many myths surrounding abortion, such as that criminalisation of abortion is a sure way to eliminate abortion. People think if it is a criminal offence we will get rid of it. Clearly, that has not happened: Ten thousand abortions are performed annually. It is already part of the Criminal Code and abortions have been performed for 25 years and no-one did zip about it until the recent incident which led to the charging of two doctors. Clearly criminalisation of abortion will only drive abortion underground. It does not stop women from having abortions; it will force women to have abortions in dangerous conditions which threaten their health and lives.

The second myth is that the legalisation of abortion prevents all clandestine abortions. The legalisation of abortion is insufficient to prevent clandestine abortions. The bottom line is that where information is lacking and services are inaccessible for many women clandestine and unsafe abortions will continue to take place. If these relevant sections of the Criminal Code are repealed it will be critical that we provide good counselling, government departments provide information, and we ensure abortion is dealt with under the appropriate sections of the Health Act. These changes are long overdue.

Another myth is that when abortion is legalised the abortion rate will increase. Comparative research in Europe on the developments with abortion have shown that the liberalisation of abortion has not caused an increase in the incidence of abortion. The abortion rate is not dependent on legalisation per se but on other conditions like the availability of contraceptive services and sex education. In many central, eastern and southern European countries the abortion figures remain high after legislation proscribing it because contraceptives and sex education are scarce. We must ensure these things are available.

A lady spoke to me the other day. She was not particularly affluent. She said that every repeat pill prescription costs her an arm and a leg. I would classify her as one of the working poor. Although she is not poor enough to have access to a health card, she is struggling. She said that she collects a three month pill prescription from her doctor. Every other time the doctor insists that she presents for a consultation and he insists on a variety of blood tests etc. If one's finances are sailing pretty close to the wind and one does not have a health card these things cost money, and some women say, "What the heck, I won't go." The cost of contraception is an important consideration and we need to ensure that contraception is made available and accessible. It is long overdue. I very much feel for women who do not have the resources and find themselves in this type of predicament.

Another myth is that mostly young unmarried women have abortions. Women of all ages have abortions. They can be married or unmarried. They have abortions for a variety of reasons: Bad relationships, economics, or they do not want adoption. Women seek abortions for a vast number of reasons. In Western Australia, quite clearly, the population is pragmatic. It has shifted its thinking in modern times, although I do not know whether that statement represents the membership of these two Chambers. I honestly believe the members of the Western Australian public are realistic about what they want, and they are realistic enough to send their members of Parliament a clear message about abortion law reform. In 1986 a market research company was commissioned by the then Department of Premier and Cabinet to ask people whether women should have an abortion if they so chose. The response of 76 per cent of those polled was yes. A Westpoll survey in *The West Australian* in July 1989 asked its readers whether they would be in favour of a change to the law to allow abortion on demand, and 63 per cent said yes. A national survey conducted in March 1991 by AGM McNair, a very reputable research company, asked whether the decision about abortion should be left to the woman and her doctor, and 81 per cent of those polled said yes. The latest Westpoll shows that 82 per cent of this State's population supports abortion law reform.

As members of the Legislative Council we represent our respective regions. I urge each and every member to listen to what their constituents are saying and to put aside their own beliefs. Members were elected to this place not as a Catholic, a Protestant, or a member of the Church of England. Nobody asked members their religion when they were elected. They were elected to be the voice of the people, and when 82 per cent of the people have advised in an opinion poll that they want abortion law reform, it is beholden on each and every member to ensure that the wishes of the Western Australian public are carried out.

Different religions have different beliefs in relation to abortion. The Islamic belief is that human life begins in the foetus after 150 days. The Shinto faith holds that the foetus becomes a human only when it sees the light of day. Since 1869 the Catholic Church has held that human life begins at conception, but before then it believed that human life was not present until between 40 and 80 days after conception. Yet, this argument is coloured by people's religious beliefs. Quite clearly, many religions have varying views on this matter. I was raised as a Catholic and I come to this place with the intent of ensuring that my own beliefs do not colour the judgments I make in the best interests of the Western Australian public.

The scenario throughout the rest of the land is interesting. In Victoria and New South Wales abortion remains in the Criminal Code. In South Australia and the Northern Territory abortion was made legal in the early 1970s, but the procedure must be performed in hospital and it requires the agreement of two medical practitioners. The requirement for hospitalisation has created major difficulties; nevertheless it is a requirement we should insist on. The procedure

should be carried out in a hospital or an approved medical institution to ensure that women contemplating abortion get the best services available.

I now quickly turn to my maiden speech. When I first came to this place I was all shaky and green. You, Mr President, coached me a little and I became confident. I often refer to my maiden speech, in which I said that I was here because I wanted to make a difference. I said that I hoped one day to look back and to take pride in the contribution I had made to this State. For that reason I did not intend to shy away from the hard issues or to be a shrinking violet in this place. Rather I looked forward with enthusiasm to being an active participant in this Chamber over the next four years. That is exactly what I think I am doing tonight. I do not believe we can legislate morality. It is a furphy. In any case, whose morals should we legislate? I do not agree with Hon Tom Stephens.

Hon Tom Stephens: You did not listen.

Hon LJILJANNA RAVLICH: I do not believe we can legislate morality. Issues such as abortion law reform are not easy issues to address because there are arguments on both sides. Hard as we might try, we bring some element of personal baggage with us. It is not a black and white issue; there are many shades of grey. However, the judgment one makes at the end of the day must be a judgment about what is best on balance. That is certainly where I come from. My decision is based on what is best for the community and those most likely to be affected. Certainly women in the situation in which they need the services of a medical practitioner to go through this procedure are most likely to be affected, and it should be their choice because it is their health, their body and their civil right. In exercising my role as a parliamentary representative for the East Metropolitan Region, I fully support this Bill.

**HON KEN TRAVERS** (North Metropolitan) [9.47 pm]: I am honoured to be a member of the Association for the Legal Right to Abortion, and to be the first male to speak in support of this Bill this evening. I thank Hon Giz Watson and Hon Helen Hodgson for their cooperation in allowing me to make my contribution at this point.

For many weeks I have thought about the contribution I should make to this debate. In her second reading speech Hon Cheryl Davenport put a strong, reasoned and concise argument in support of the Bill. She effectively addressed the arguments put up by those who oppose this Bill. One option I had was to make no comment in this debate. In fact, an idealistic young woman suggested I should not speak because it is a woman's issue. However, as a legislator, I believe it is important in these unusual circumstances to let the electors know my position. In considering my contribution, whatever I thought and felt I came back to the same realisation that, regardless of my views or feelings and whatever I do or say in this debate, the implications for me cannot be the same as they would be for my partner or for other women. Their voices and views should be heard in this place this evening.

Therefore, I asked my partner in life, Trish Cowles, to write a speech on this issue. My partner is a woman and a lawyer, and is President of the Family Planning Association of Western Australia. I stress that her comments reflect her personal views and not those of the Family Planning Association. We approached the speech in the same way as a couple should address the issue of termination. I offered comment, suggestions, options and support but in the end it was her decision, her speech and her choice. I will now quote from my partner's speech entitled "Arguments for the Repeal of Abortion Provisions in the Western Australian Criminal Code" -

As a woman, there are times throughout my life when, for many different reasons I quietly pray that I am not pregnant. Sometimes the fear of pregnancy almost has no basis at all. A menstrual cycle delayed due to stress. Doubt due to having suffered from the flu while on contraception.

This is a so-called 'universal experience', not one that is singularly mine. It doesn't matter what century a woman is in. What race or what country she lives in. What socio-economic background. What number of children a woman dreams of having, or what number she already has.

Many times, a woman is lucky and her prayers are answered. But there are also times when, no matter how much she wills it not to be so, she is pregnant, and she must decide what to do.

Deciding what to do is what choice is about. Choice may be exercised in a world that accepts a woman's right to exercise it, or it may be exercised in a world that completely denies such a right. Whatever the case, laws do not stop women deciding what to do, or exercising choice.

Laws may make it harder to exercise choice. They may make it more dangerous - particularly for the poor. Laws may impose a less compassionate and humane environment for a woman to do what she decides to do.

The centuries have shown that women will do what they believe is the right thing to do, regardless of safety, law, and the compassion from their community.

Women do lose their lives in some places of the world for deciding to have an abortion. The government

prohibits or restricts abortion and these women have no choice but to seek out the unskilled abortion provider. In some countries, where maternal mortality rates are high, the primary cause is the performance of illegal, unskilled abortions. UNICEF estimated in the early 1990's that throughout the world, 500 women, each day, DIE while having an illegal abortion performed on them.

In Western Australia our abortion laws are based on laws created in the United Kingdom in 1803. Prior to that time abortion was an issue for the ecclesiastical courts only. Historical records show that the criminalisation of abortion was introduced into law because abortions were being performed by unskilled persons, on many occasions the woman herself, and such abortions were dangerous.

Even at that time, the law was not without its critics. Lord Devlin, a well known lawmaker in the 19th Century, said of the law, "the act of abortion is being punished because it is dangerous, and it is dangerous because it is illegal and therefore performed only by the unskilled."

In Western Australia, abortions have been performed by European settlers since the very first days of settlement. Over the years since settlement, women in Western Australia have also lost their lives while undergoing unsafe procedures for abortions. But a comparison of the figures for maternal mortality over the century are startling.

According to figures from an investigation by the National Maternal Mortality Committee the number of deaths related to abortion were

|    |                     |
|----|---------------------|
| In | 1964-1966, 45 women |
|    | 1967-1969 25 women  |
|    | 1970-1972 25 women  |
|    | 1973-1975 2 women   |
|    | 1976-1978 3         |

In 1990 there were no deaths related to abortion.

These deaths are only the tip of the iceberg, many women have suffered infertility, chronic pelvic infections and other medical complications as a result of illegal abortions. Our law has essentially not changed since its inception.

The PRESIDENT: Order! I have been listening with great interest to what the member has been saying. I am puzzled by some of his opening comments. I thought he said that he was about to read his partner's speech. I thought that is not unreasonable if he is to quote from a speech that may have been written for some other purpose. However, I must make the point that the member cannot deliver someone else's speech in this House. If he is referring to comments made by another person, it is not unreasonable. However, this must be the member's speech. Perhaps he might intersperse some of his comments with appropriate words that will indicate that this is his speech, although he is recognising comments made by someone else.

Hon KEN TRAVERS: Mr President, I appreciate what you have said and I think it is important for me to read into the record comments from women, who are in a far better position than I am to comment on these matters. That is what I am seeking to do. The speech continues -

But over the past years women have not died while undergoing an abortion. Why is this?

The answer is terribly simple: The practice has been considered lawful and lawful abortions are safe.

Over the past 30 years abortions have been provided on the basis of legal grounds established in a case decided in Victoria in 1969. A case by the name of the Crown against Davidson (R v. Davidson). In that case Mr Justice Menhennitt laid down the formula which has been interpreted by health professionals in Western Australia and indeed throughout this country.

That case provided that an abortion was not illegal if it were determined that the abortion was necessary to preserve a woman from serious danger to her life or her physical or mental health, not being the normal dangers of pregnancy and child-birth, which the continuance of pregnancy would entail.

As a lawyer, my partner is well qualified on these matters. She went on to say -

The person entitled to assess this question was the medical practitioner. The Davidson decision was examined by Mr Justice Levine in the Crown against Wald (R. v. Wald) in 1972, where it was held that in deciding what constituted serious danger to the mother's physical or mental health, the jury could decide whether "there existed in the case of each woman, any economic, social or medical ground or reason which in their view could constitute reasonable grounds upon which an accused could honestly and reasonably believe there would result a serious danger to her physical and mental health."

The Davidson and Wald formulæ are broadly interpreted in all states that rely upon them. In Australia in excess of 80,000 abortions are provided each year. In Western Australia alone, some 9000 abortions are provided each year.

In Western Australia, there is an argument to say that the decisions in Davidson and Wald have no application because we have codified criminal law.

Whether this is true or not, and it remains a point of conjecture only at this stage, there is no doubt that the laws in Western Australia are ambiguous, and largely irrelevant to the practice of abortion in this state. The laws have provided sufficient loop holes for women and their doctors to be able to decide upon so called 'lawful' abortions.

Members will be aware that there have been a number of debates in the Federal Parliament about this issue. The most recent one was about drugs, such as RU486 and its availability. I will once again refer to my partner's speech -

On a national level, apart from occasional forays in Federal Parliament over the question of medicare funding for abortions, the only concrete action taken has been to establish the Royal Commission into Human Relationships. In 1977 the Royal Commission brought down the following simple finding, "Legal abortion is safe for women, illegal abortion is unsafe".

Regardless of the activities of Federal Parliament, the responsibility for legislating to repeal the abortion provisions in the Criminal Code, is the state parliament's. Women have no choice but to turn to the state of Western Australia.

That is why it is absolutely crucial that in tonight's debate the voice of women is heard very long and loud. I commend the Attorney General for some comments he has made in the media over the past couple of weeks. Members in this place and the other place should consult with their partners as we debate this legislation. The speech goes on to say -

For women who have had an abortion in the last 30 years, the choice before the Parliament now is a simple one. At the very least there should be an acknowledgement that their experience was a lawful one. To do otherwise would be to desert those women.

The truth of the matter is that in every day life, and this is what law makers should look at when they seek to ascertain community standards, women and their doctors are deciding what to do, they are exercising choice. If they are applying the Davidson and Wald criteria, it is only because it hopefully makes their choice a lawful one, but they can't be truly certain of that, and indeed recent events show that they should not be certain.

There is no place for the current provisions of the Criminal Code. Even with broad interpretations of the Davidson and Wald decisions, women and medical practitioners remain at risk of prosecution.

In Western Australia, the status quo is no longer a satisfactory state. Repeal of the abortion provisions in the criminal code is the only solution that will ensure certainty for women and their doctors - and with that certainly will come ongoing safety, proper support services, and the acknowledgment to women who decide to have an abortion that they do so within a compassionate society.

It has been put many times to me that one of the problems for women seeking proper counselling services is the fact that in Western Australia for the past 30 years abortion has been technically illegal. By bringing abortion into the domain of dealings between a woman and her doctor proper support services and counselling would be available. My partner's speech, which I am sure she will use on many occasions, continues -

There are some legislators now who say that they must exercise their individual moral discretion. They have posed alternatives. This is a philosophical game with no understanding at all of the individual decisions that are made by women daily.

A philosophical game of "I would support a termination if..." cannot answer the abortion debate adequately or at all.

In states in the United States that game has been played on an extreme basis.

In some states abortions are lawful only if the woman has been raped. Some of the states actually require the woman to report rape to the authorities to be able to access abortion services. The incidence of formal reporting of sexual assault is commonly acknowledged as low. What happens to women who feel unable to report sexual assault in the states where these laws apply?

Do any of these options acknowledge the reality of a woman's experience.

As members can imagine, that is why it is crucial that we continue to listen carefully to the voice of women. I probably cannot adequately describe or understand fully what it must be like to be a woman dealing with this issue. The speech continues -

The options presented in alternative proposals for addressing the current situation in WA do not present a viable alternative for women. At best these proposals would adhere to a status quo which is uncertain. The suggestion that certainty would result from a bill which reinforces the status quo is simply not true.

At worst, the alternative proposals will result in greater restrictions on women and medical practitioners. If this happened, the majority of women who have received abortions in the past 30 years will be basically told by this parliament that what happened to them was not lawful. This is an unacceptable statement to these women and to the people who provide our medical and support services.

What is to happen to the 9000 or more women in Western Australia who have abortions each year? Any proposal which does not result in the repeal of the Criminal Code provisions will turn away some of these women. If only the first two options presented in the alternative proposals are accepted, the majority of those 9000 or more women will be turned away from legal abortion providers. And if the state turns away these women what choice do we give them. The answer is clear. It is evidenced by history and by what happens everyday around the world. Women WILL turn to illegal abortion providers. Is the State prepared to bear this responsibility? Are individual members prepared to bear this responsibility?

It is the obligation of lawmakers to ensure that the laws they make are clear, enforceable, and in the best interests of the community as a whole. To make laws without taking into account reality and the serious consequences of such laws is irresponsible. It is an onerous obligation, and should be exercised over and above their own personal opinions.

How can the community respect the law and law makers if they are prepared to establish laws they know will be broken.

History shows that women will seek out abortion services, regardless of whether the law acknowledges this. The lawfulness of the procedure, only ensures that abortions are performed in the safest possible circumstances for the woman.

Repeal of the abortion provisions is the only way to ensure that women, the medical profession and other support services are assured of certainty, and with this certainty will come the commitment from the community that women who decide to have an abortion will be provided with safe and accessible procedures and will be regarded by a compassionate community.

That concludes the comments in my partner's speech. In the usual way of a woman it was concise, relevant and to the point. I fully respect and support all her comments.

One final point I feel qualified to comment on tonight is the argument we often hear about men's rights regarding termination of a pregnancy which results from their sexual conduct. This issue is clearly addressed on page 134 of *Men - Sex, Power and Survival* by Bill Williams and Gisela Gardener -

But what about the father? Doesn't he have a reproductive right too? Of course - our reproductive power resides in the capacity to produce and eject one of the active ingredients - spermatozoa. So our right to choose is the right to choose where we put our sperm. The point at which we have the right and the power to say no to an abortion is before we copulate with a woman. If you don't want a woman to abort any offspring of yours, you take the responsibility by not letting your sperm get anywhere near her eggs in the first place. If you haven't ascertained her attitude to an unwanted pregnancy beforehand, you have avoided the responsibility that goes with your reproductive capability and you have forfeited your reproductive rights. You can protect the unborn by being responsible with your semen.

In short we must discuss the possibilities before the event and then respect our partner's choice. I thank members for listening to me this evening and I urge them all to support the Bill.

**HON GIZ WATSON** (North Metropolitan) [10.06 pm]: I support this Bill wholeheartedly and express my heartfelt support to Hon Cheryl Davenport for introducing this very important legislation to this House. I acknowledge her long term commitment to this issue. The Greens (WA) have an unequivocal stance of support for legalised abortion. Our policy is to:

Enhance women's right to choose in all aspects of reproduction including:

- . Access to contraception and the support of Family Planning services.
- . Access to legal, safe and affordable means to terminate a pregnancy and to related support services. In particular, Section 199, 200 and 201 of the criminal Code must be repealed.
- . Meaningful choice in childbirth arrangements.

I emphasise that our support for the decriminalisation of abortion incorporates this full service. As has already been mentioned by a number of speakers this evening, the fact that abortion has been illegal in Western Australia has meant that full counselling and related support services have not been legitimately developed in this State. Combined with real cuts to health and family planning budgets that continue to occur, particularly under this Government, women requiring abortion face more and more limitations in accessing those services. In supporting legalisation of abortion, as Greens we are concerned that issues such as counselling services, training of doctors and medical practitioners and adequate family planning provisions should be handled appropriately under health regulations. The Greens (WA) would be fully supportive of a process that ensured that the relevant issues were clearly addressed in the appropriate place under health legislation and had nothing whatsoever to do with criminal law. It is also very important that as members of this place that we take into account what is obviously a very strong popular support for this move to repeal. I will not bother to repeat the issues about which poll said what. Basically about 80 per cent of the community is in favour of repealing the abortion legislation and taking it out of the Criminal Code.

I also want to say that I feel very strongly about my important role to represent women. The statistics show that one in three women in Western Australia will at some time in her life have an abortion. It is very important that those women have a voice in this place and I feel I would not be doing my job if I did not speak out on behalf of those women, including myself, who, under the current legislation, have broken the law. I also wish to say that it is important that we speak out here for those who are traditionally unrepresented in Parliament; that is, young women, women who do not have English as a first language, women in the country and Aboriginal women, because these are the women who will be affected most severely if the issue of abortion is not taken out of the Criminal Code. I feel very strongly that historically those sections of our community have not had their voices heard in decision making.

We are talking about laws which have not been written to include these people's concerns and their rights. It is time we did something to address that imbalance. This is not an easy issue. We are not dealing with a perfect society in which it might be fair to say that every pregnancy should be carried through and every child should be loved. The fact is that this is not the case and these sorts of choices are not easy. I am not about to shrink away from hard questions and I am quite happy to state my position on this issue and to defend the view as a moral stance, because we often hear that the moral high ground is taken by the vocal minority who have some very strong views on this issue. I think we on the other side of the argument have a moral obligation to talk about the choices that women have to make. Those choices are not easy but I absolutely support a woman's right to have a choice.

I want to talk a little about some facts of abortion because one thing apparent to me in this debate is that there is a lot of misinformation, a lot of scaremongering and a lot of what I would call hysterical information about this issue. I want to quote in particular from the Public Health Association of Australia's publication entitled *The Regulation of Abortion in Australia: Public Health Perspectives*. The document states -

Termination of unwanted pregnancy has been practised throughout recorded history and it has been clearly demonstrated that women will seek abortion whether it is legal or not. For many women, abortion is a moral dilemma, but they still choose termination.

This is a fact: We are not talking about whether there will be more or fewer abortions depending on whether abortion is legal. When we compare countries where abortion is legal with countries where abortion is illegal, we find no significant difference in the number of abortions occurring. What is significantly different is the mortality of the women having illegal abortions. I quote again -

Prior to 1971, abortion was a major cause of death related to pregnancy in Australia with an average of 25 per cent of maternal deaths being due to abortion.

This is the prospect we face if the current situation is not resolved in favour of legalising abortion. We will see a return to those sorts of statistics here in Western Australia in the 1990s, which is an absolutely appalling prospect. Again quoting from the same document -

The World Health Organisation (WHO), the World Bank and the United Nations Population Fund have found that in countries where family planning and safe abortion services are restricted, illegal abortion following unwanted pregnancy causes up to 25-50 per cent of maternal deaths.

The WA chart estimates that 61 000 women died in 1990 from the effects of illegal abortions. That to me is a moral issue. We cannot have it both ways and I feel most strongly that we must clearly understand those sorts of statistics - and they are unacceptable.

Some other facts are important to include in this debate. A lot of fierce debate is coming from the various churches, in particular the Catholic Church. However, what we find is that Catholic women are equal, if not over represented, in abortion statistics. Those within the church who press their own moral views on women in those churches are condemning them to a double burden of guilt. There should be a much greater degree of compassion shown by those who have religious beliefs, and they should appreciate the difficulty that women suffer when faced with the very hard choice of whether to have an abortion.

Another fact is that over 50 per cent of terminations are of pregnancies caused by failed contraception. If we have a situation in this State where abortion is illegal, we are condemning those women who are doing everything they can to have responsible family planning and contraception. Despite all the technology and drugs and whatever we have in our society, we still have a 50 per cent failure of contraception. We are condemning those women or leaving them with no choice, if the argument is in terms of requiring the women to carry pregnancies to full term, which is as I understand it. I think that is an appalling situation when women are doing everything they can to control their pregnancies but find that their contraception has failed. Termination is never the first choice of a woman in this situation. It is imposed by those who are opposed to abortion and say it is a method of birth control. I must say I find that a total misrepresentation and a lack of understanding of the very difficult choices that a woman in that situation must make. I have spoken to many friends about this issue, and I have been told that abortion would never be their first choice as a means of controlling fertility.

Another argument has been that this issue is all about murdering babies. I find that very offensive; it is also medically inaccurate. In 97 per cent of cases, abortion occurs within the first 10 weeks of a pregnancy. For those 10 weeks, the pregnancy represents a foetus, not a baby. The medical definition is that after 20 weeks we can talk about the foetus being a baby. Only one or two terminations each year in Western Australia occur beyond the 20 week period, and only then in exceptional circumstances. I learnt a little more at lunch time today when we received a presentation from some eminent doctors, including Dr Morris Ferri, the Chairman of the WA Committee of the Royal Australian College of Obstetricians and Gynaecologists; Professor Fiona Stanley; and Dr Jonathon Rampono, the head of the Department of Psychology at King Edward Memorial Hospital. They mentioned that 45 to 50 per cent of foetuses self-abort at about six to eight weeks. That occurs as a natural phenomenon.

This debate is very much about women's rights. It is about control of our lives and bodies, and reproduction. It is about the economic circumstances of women, women's aspirations, and what they choose to do with their lives. Women who choose to terminate a pregnancy live with that decision. Women will always be in the best position to make a choice about their future, their fertility, and whether to have a baby at any time.

Another argument bandied around is that this legislation represents abortion on demand. That is also a misrepresentation of reality. Consultation takes place between a woman and her doctor, or a health care professional, and often a partner. It is not as though the woman just walks into a surgery and asks for an immediate abortion. That is not the current process. If the legislation is passed and abortion becomes legal, it will result in a better process of counselling which can more adequately cover all questions.

In our society we trust women with many roles, such as looking after children, education and health. Women are entrusted with making decisions about very important matters which affect children particularly, the care of the elderly and other areas in which women have a disproportionate responsibility and spend a lot of energy. Why can we not trust women to make decisions that involve child bearing and fertility? It is a contradiction not to accept that abortion is a woman's choice.

I wish to respond briefly to the comments made by Hon Tom Stephens earlier this evening. He said that he could not understand how Greens (WA) members could be pro-choice and wish to decriminalise abortion. I will respond in two ways: Firstly, Hon Tom Stephens has the luxury of never having to make a choice in this matter - unlike the women in this House, who may or may not be faced with that choice at some time in their life. The bottom line is that if a person does not need to make that choice, he can take the moral high ground. Were Hon Tom Stephens able to get pregnant he might think differently about the issue.

Secondly, I have much time and respect for Hon Tom Stephens' position on indigenous life, and his support for the aspirations of indigenous people. However, with his respect and appreciation for Aboriginal culture he must understand the notion of women's business. If anything is women's business, it is the topic we are talking about tonight. Therefore, I suggest that if he could do a cultural shift, he could see why in our society this is women's business. Primarily and ultimately the decisions made about reproduction must rest with women.

Hon Simon O'Brien: Do traditional Aborigines use any form of abortion?

Hon Derrick Tomlinson: Indeed they do.

The PRESIDENT: Order! Members should not interject.



Hon GIZ WATSON: Many cultures have an attitude on and approach to this issue which is different from ours. It is worth doing some cross-cultural reading on this matter because, as Hon Ljiljana Ravlich mentioned earlier, the attitude in the Catholic Church is not one which has always been held. It appears to me that attitude is shifted around for political reasons. Indeed, the politics of control of reproduction are very much what the abortion laws are all about. It is about time we changed patriarchal laws which say that decisions made by the male majority on issues of birth control or reproduction are inappropriate. We must hear from women about how they want to manage fertility and the issue of abortion.

I wish to paint a picture of what will happen if we do not reach a resolution of this current debate on abortion. If we do not achieve a progressive resolution which will create certainty, take abortion from the Criminal Code and make provision under the Health Act for abortion, we will inevitably return to a very dire situation in this State, particularly for young women, women who do not have a large income, non-English speaking women, country women and Aboriginal women. They will suffer. Whether women suffer death as a result of backyard abortions, long term health problems, or the many medical problems which may result if abortion is returned to the backyard, members who are thinking of rejecting this legislation will be responsible for returning this State to an unacceptable environment.

It is unacceptable for women and for medical practitioners. I come from a medical family. My father is a general practitioner and obstetrician who has worked in that field for 45 years. I have spoken to him often over the past few weeks, and he told me that the only way to resolve this issue is to decriminalise, to repeal the laws and to put the management of abortion into the Health Act. Those are the words of someone who has worked in the health system for 45 years and has seen what it was like prior to the 1970s and to which we could return following certain action by the Parliament. Also, all the people I know who work in this area of medical practice are deeply compassionate and very responsible. I feel deeply for the dilemma they face in the current situation. We have an obligation to ensure that they can continue to practise without fear of prosecution.

Finally, if the clock is turned back on abortion, and we are looking at a situation where the present law will stand and doctors and women seeking abortions will be prosecuted, well, come and put me in gaol!

**HON SIMON O'BRIEN** (South Metropolitan) [10.32 pm]: I oppose this Bill. I will share with members an experience that I think all members have probably experienced in the past few weeks; namely, the difficult task of considering and coming to grips with the abortion issue. It is a matter of considering it not only in general terms in discussion with one's colleagues, friends or family, but also as legislators and being aware of the heavy responsibilities we face. We shoulder a difficult task. Sifting through the mass of correspondence we have received, weighing claim against counterclaim, contradiction against counter contradiction, lie against damned lie against statistics, is a difficult task.

As I consider the subject of abortion, I have an image in my mind which I use as something of an analogy, although not a perfect one. I cannot get the image out of my mind. It dates back to when I was about 12 years old and we saw the powerful film production of Macbeth by Roman Polanski, an image from which is etched in my mind. It is the birth, for the want of a better term, of Shakespeare's Scottish tragic-hero figure of MacDuff. He first saw the light of day before the end of his mother's pregnancy. Indeed, it involved a death on the maternal bed, but not the death of MacDuff. I said it was not the perfect analogy or abortion story. His mother died in the ninth or tenth century. I recall vividly that her belly was slit open after her death and the infant was removed from the woman alive. Incredibly, the young MacDuff prospered and grew to manhood. His family suffered many cruel setbacks but ultimately he triumphed. That story is not about abortion. However, for some reason when considering this equation, I see in my mind that bloody image I saw on the screen as an impressionable 12 year old. The aspect which gives me hope when I consider that image is the fact that MacDuff was an infant whose life was nearly snuffed out before he was born; nonetheless, he ultimately rose to defeat adversity and triumph over evil. I find myself considering the fate of the unborn child from his mother's womb untimely ripped. It is a very difficult thing to do.

I place that observation on the record, not only on my behalf, but perhaps on behalf of other members who share my sentiment; that is, that this debate is difficult because of the responsibility one feels. Sometimes it physically seems to hurt when one tries to resolve this issue. I record that view for the benefit of people who think that members of Parliament do not care about issues and use criteria other than their own knowledge of humanity and experiences of life in considering some of these difficult questions.

I now make a few preliminary remarks about how we reached this point. Reference was made by the sponsor of the Bill to a prosecution launched last month which has brought this issue into the public eye. Of course, I will not discuss that case - we are not entitled to do so. However, I cannot help reflecting that it would be useful for the debate to consider some of the questions which will arise in the court case when it is eventually held. I would like to have known the outcome of the case before having this debate as it would be very useful to know why, after so many years without prosecutions under the Criminal Code, we now have prosecutions on this subject. Do any special reasons attach themselves to this case? It would be helpful to know the court's verdict before holding this debate.

Hon Tom Stephens expressed the view that there seemed to be unseemly haste about the introduction and consideration of this Bill. Apparently, the Bill ignores many things which need to be addressed.

It has been said by many proponents and supporters of the pro-choice camp that we should take abortion out of the Criminal Code and place it in the Health Act or the Medical Act. Indeed, Hon Giz Watson drew her remarks to a close by referring to that point. I do not have any problem with where our society's legal provisions governing the termination of pregnancies are housed. I could not give a tinker's cuss whether they are in the Criminal Code, the Medical Act or any other Act as it makes no material difference. The Bill before us simply will remove certain key sections from the Criminal Code and not replace them. Therefore, it will leave a vacuum. Two points arise in creating that vacuum by removing legal provisions for matters relating to the regulation of abortion, which is a serious issue, and not having other provisions to take their place.

The first point is, who apart from me says that is a deficiency? I received a circular letter - I assume every member has one - dated 13 March and signed by the Honorary Secretary of the Association for the Legal Right to Abortion, to which reference has already been made in this debate. It strongly supports the pro-choice argument and is strongly behind the mover of this Bill. The letter is couched in very reasonable terms and offers general support to parliamentarians in considering the issue. I alluded to those difficulties in my opening remarks and it is good to know people are sensitive to that. It goes on to say -

We are enclosing a copy of legislation drafted by Dr Jocelyne Scutt, Barrister, earlier this week and reproduced here with her permission. In the light of the Government's discussion Bill being unanimously rejected by medical and health bodies on Tuesday, this draft shows how a replacement law could work. It suggests legal requirements for reporting exact numbers of abortions to health agencies, minimum qualifications of providers and appropriate penalties. The Scutt proposal is consistent with existing laws and would require very little public expenditure to implement.

One of the chief supporting organisations of the sponsor of this Bill has drafted its own Bill to address the deficiency in the Bill before the House. I will advise members of some of the provisions. It starts off in a similar vein to the Bill before the House and refers to the repeal of sections 199, 200 and 201 of the Criminal Code 1913. It goes on to refer to the Medical Act 1894. It tells us what we should now put into that Act. This is not in the Bill before the House, and that is one of the things wrong with it. I am glad so many members on this side of the House are in the Chamber now. I appreciate their being here anyway, but I want them all to listen to this. The draft says that a new section 19 should be put into the Medical Act 1894 saying in part -

From and after the passing of this Act no person other than a medical practitioner shall be entitled to -

- (1) Practise medicine or surgery in all or any one or more of its branches, including termination of pregnancy.

Penalty: For a first offence, \$10,000 or imprisonment for 12 months or both.

It also contemplates a second or subsequent offence. The penalty for that is a fine of \$20 000 or imprisonment of two years, or both. It goes on to a number of subsections relating to people advertising as medicos when they are not entitled to do so and a range of matters. The point I make is that this draft acknowledges that the Bill before the House is inadequate. It was drafted in haste and it leaves a gaping hole whereby it removes, as Hon Tom Stephens said during his brief remarks, every reference to abortion in the legislation apart from some minor ones that may exist incidentally elsewhere, but does not replace them with anything else. This draft Bill that has been sent to me then goes on to suggest some amendments to the Health Act 1911 relating to the reporting of abortions and other matters.

Hon Cheryl Davenport: They are already reported under Medicare.

Hon SIMON O'BRIEN: Okay. The point is this draft requires specific amendments to the Health Act in relation to abortion. But it is too late; we are already considering another Bill.

Hon Ljiljanna Ravlich: One step at a time.

The DEPUTY PRESIDENT (Hon J.A. Cowdell): Order members! Hon Simon O'Brien has the floor.

Hon SIMON O'BRIEN: So the answer to the question of who apart from me says there is a deficiency is that plenty of people in the community see this Bill as deficient. Hard written evidence has been provided by an organisation which claims to be one of the strongest pro-choice organisations. It knows the Bill is inadequate and has offered advice on how to change it.

The second point I want to make about this apparent vacuum relates to the red herring that "abortion has no place in the Criminal Code". In my view, if offences are to be created for certain aspects of people carrying out abortions -

for whatever reason; it may be the simple fact of an abortion, or people pretending to be doctors when they are not, or failing to report, or failing to have regard to the safety of the patient - it does not matter whether that is in the Criminal Code, the Health Act or the Medical Act.

Hon Cheryl Davenport interjected.

Hon SIMON O'BRIEN: I thank Hon Cheryl Davenport for that interjection. I do not have a problem with that.

Hon Cheryl Davenport: We cannot have a money Bill originating in this House.

Hon SIMON O'BRIEN: That is a good point.

The DEPUTY PRESIDENT: Order! I remind members that this is not the Committee stage.

Hon SIMON O'BRIEN: That is not a material pillar of this argument because the proposed amendment to the Medical Act countenances an offence and a penalty, including imprisonment, for someone who breaks the law in respect of abortion. Under section 19 of the Medical Act a person would be charged with an offence. It is not a matter of civil law but of criminal law, and a person who is found guilty will cop a penalty. That may include gaol and the person will have a criminal record. It does not mean the offence should go in the Criminal Code. I believe it should stay in the Criminal Code, but that argument is a red herring. There are more substantial issues at stake here.

The question is what we should do with this Bill. We have been advised, and the whole world knows it - according to the paper this morning even the Pope knows it - another Bill is coming from another place. The form has yet to be determined. We have had reports from one or two members about that.

The DEPUTY PRESIDENT: I remind members that they cannot refer to current proceedings in another place.

Hon E.J. Charlton: Not much is happening down there either.

Hon SIMON O'BRIEN: Mr Deputy President, I invite you to look forward to a day when, hypothetically, we might receive a Bill in this place which has a more considered approach to the issues raised. I have some hope that that may occur. Indeed, parliamentarians met earlier, including me, and some of the finest legal brains available are attaching themselves to the all-party task of addressing this issue in a legislative form. Of course, this will all be dealt with later. We are considering this Bill. I have already indicated that it is ill-conceived, ill-considered, ill-starred, immature and premature. It deserves to be defeated now, at the second reading stage.

I want to make a point very clearly and if members focus more intently on one part of my speech, it should be this: Quite apart from any views that any member might have about being pro-choice, this Bill is fundamentally flawed because it is an incomplete package.

I will place on the record my views on abortion. I need to do this for my own experience and it is also probably the only way I can hope to address much of the correspondence I have received. I have been provided with a mass of claims to test and evaluate. It has been put to me, and I am sure to others, that abortion on demand until the onset of labour - which is said to be implicit in the Bill - will cure many ills, botched operations, gynaecological risks and septicaemia will disappear, domestic stresses will be eased and so on.

Hon Cheryl Davenport: I did not say that.

Hon SIMON O'BRIEN: I have been informed verbally and in writing that if I take a particular stance on this issue I will be consigning people to premature death. Those supporting the other side of the argument have said that if I take the alternative stance I will be consigning human beings to a premature death. Only the death counts vary. The numbers quoted relate to former casualties of backyard abortions as opposed to the current casualties of backyard and quasi legal abortions as opposed to the number of casualties of backyard abortions that will occur unless this Bill is passed. These are some of the many claims I must sift through. I have had to investigate and question whether Dr Nathanson is what he appears to be. Is it true that when abortion was virtually legalised on demand in most of America the abortion rate went up 1 500 per cent as he claims? That seems extraordinary. I have heard other claims tonight that the rate tends to remain the same or decline. I have sifted through those various claims and I have come to a view.

However, before I conclude my remarks I will address the Catholic issue. Members and observers will readily believe that as a child I was an altar boy in several Catholic churches. Members would not need to stretch their imagination very much to see me in an angelic altar boy's outfit with a tucked waist. I was brought up as a Catholic and I went to St Louis Jesuit School at Claremont until a matter of discipline arose. However, I am not a completely lapsed Catholic. I object to the assumption that if one is a pro-lifer or has questions about abortion one must be a Catholic. That is irrelevant because Catholics have varying views on this subject. It is also stated that if one agrees with the pro-choice argument one is a progressive and a good Catholic and others are still in the too hard basket. I

do not know from where this idea has come. The Catholic Church does have a very strongly held point of view on the issue. I will tell members my point of view. I do not hold it because I am a Catholic, lapsed or otherwise, but it is not inconsistent with my upbringing, and the Pope and others agree with me. The idea that strong anti-abortion views are limited to those in the Catholic Church is not correct - most mainstream religions have a similar point of view. It is not the Catholics alone who are regressive in their approach to the abortion debate. By definition, that view suggests that, if one is not a Catholic, one cannot be a part of the debate from the anti-abortion point of view.

There is one central question in this debate: Do we believe that women have and can exercise control over their own bodies - we have heard that said - or that unborn children have rights? Some people adhere very strongly to the former proposition and others to the latter. I have looked at - indeed, I have had forced at me - various exhibits, pictures, models and so on depicting an unborn child. I look at a tiny shape that can sit in the palm of my hand. I look at it, its features and the life that pulses through it. As far as I am concerned, that is a unborn child.

A previous speaker said correctly that we are here to represent the people of our electorate. I also represent those 9 000 children who are being aborted in two chanel houses in Perth every year. That is my view and it will continue to be my view. However, I stress again that this Bill is fundamentally flawed. Putting all thought about pro-choice or pro-life to one side, the Bill should be defeated when the question is put.

**HON HELEN HODGSON** (North Metropolitan) [10.59 pm]: This debate is about choice. I am not pro-abortion but I am pro-choice. I believe that individual women have the right to decide for themselves what is right for them. Many stories have been publicised in the past month in the media - on talkback radio, in full size pictures in the newspapers, on television and so on. The thread throughout is, whether or not people believe in abortion, they believe that they have the right to make decisions in respect of their own bodies.

Those provisions in the Criminal Code take that choice away from women. Every year between 9 000 and 10 000 women make a decision to terminate a pregnancy for many diverse reasons. The reasons should not be the focus of this debate because abortion is an issue of self determination for women - the right to have control over their bodies, their fertility and their health rather than be dictated to by us or others in society who do not agree with their decision.

A hundred years ago, when this law was first introduced, women's rights were severely restricted. We could not own property or get equal pay for equal work - that still seems to be the case - and we could not vote or nominate to stand for Parliament. However, times have changed. Women now demand the right to be able to speak for themselves on issues affecting them. We believe that we are the people in this place who have the right to say what we think on this issue. The time for change is well overdue. We have the power today with this legislation to give back women control over not only their bodies but also their psychological wellbeing and in some cases their future and the ability to control their lives.

As it stands, the law places the health of thousands of women in this State in jeopardy as they ponder the alternatives open to them: Backyard abortion clinics, self-inflicted abortions and miscarriages. Already today I heard of an incident where a young pregnant girl tried to commit suicide as a result of that.

If, ultimately, the provisions remain in the Criminal Code the gap between the haves and the have nots will increase. Those who are financially capable will be able to travel interstate or internationally to get the medical treatment they seek. There is no doubt that we should clarify the law. We also need to change the law because the interpretation of the criminal sanctions as they stand has not been clarified in this State. We would be allowing, and in fact requiring, health professionals to work in an environment which would inevitably lead to their refusal to carry out certain procedures for fear of prosecution and the possibility of imprisonment.

Talk about abortion on demand and the use of abortion as a contraceptive demonstrates a paternalistic attitude to the issue. Suggestions have been made that women do not know what they are doing and they see abortion as an easy way out. I do not agree with that. When a person is granted rights, including the right of self-determination and the right of control over her body, she also accepts certain responsibilities. Women who make this decision do so with a very grave sense of responsibility not only to themselves and the people surrounding them but also to the child in question. They are well aware that a child is a lifelong commitment. One cannot walk away from a child and women want to be able to make that commitment.

Hon E.J. Charlton: What about those people who walk away; do we do something about them?

The DEPUTY PRESIDENT (Hon J.A. Coddell): Order!

Hon HELEN HODGSON: Three basic choices are available to a woman facing an unplanned pregnancy: First, she can have the child and rear it herself. That requires the commitment of not only the mother but also others in her life; the father if he is around, although quite often fathers choose not to be around in these situations; other children the woman may have; and members of her extended family. In many cases in the light of the support that is available

a woman decides that it is viable to continue with the pregnancy. If the support of others is not available the woman faces enormous odds in not only providing for herself but also caring for the child.

It creates the situation in which women are forced to go out to work because they do not receive enough money on the supporting parents' benefit to look after themselves. Therefore, they must provide child care. They must take all these factors into consideration. Sometimes a woman finds that is not a viable option without a good support network which is not available under our social security and welfare system in this State.

Hon E.J. Charlton: Some have additional children to supplement their income.

Hon Ljiljanna Ravlich: What a load of nonsense!

Hon E.J. Charlton: Do you want me to introduce you to a few?

The DEPUTY PRESIDENT: Order members, Hon Helen Hodgson cannot be heard at the moment because of the interchange across the Chamber.

Hon HELEN HODGSON: The second choice is to have the child and offer it for adoption. Plenty of evidence indicates that a lot of emotional trauma and guilt accompanies this decision. Members of this Chamber have reported on some of the issues relevant to the adoption of children. Adopting out a child can scar a woman for life. I use those words very carefully because we are continually being told by people who oppose abortion that abortion can scar a woman for life. I am sorry, but the alternatives have the same possibility. Plenty of evidence suggests that the adopted child feels an impact as a result of being adopted. No matter how loving the adopting parents, in many cases the child undergoes a lifelong search to find the natural mother. Additional trauma arises when the child contacts her mother at some stage down the track and finds her not welcoming. That trauma can then affect all parties. Adoption is not a guilt-free option.

Hon Derrick Tomlinson: Worse than that, we have laws prohibiting the adopted people from finding out.

Hon HELEN HODGSON: It is time those laws were also examined.

Hon Derrick Tomlinson: My word.

Hon HELEN HODGSON: We have been told that abortion leaves women with feelings of guilt. It does, but so do the other options. A woman will consider all these aspects regarding not only her own life but also her child's life and the lives of other people affected before making that decision. We should respect the decisions of these women, who are placed in an incredibly difficult situation. They sometimes face it completely alone. We should not tell them that they are wrong and we should not give them the message that they have no choice or say in their future. This is why choice is the essential element of this debate.

Women must have access to impartial, non-judgmental counselling to help them make their decision. Some women may choose not to access this counselling, but at present these services cannot be reliably provided because of the illegality of abortion. Rather, a series of places offer counselling about which we hear many stories of young women being provided with information that is so one-sided they feel guilty when they finally make a decision because they have been bombarded with information designed to make them feel that way. They need counsellors who are independent and impartial. The only way to ensure that is to have them properly established and funded through the public sector rather than relying on voluntary and non-government organisations to provide the services. We have already heard information from opinion polls which show the extent to which women and men in our community support the choice. I believe the most recent figure was 82 per cent. However, we have a very vocal minority conducting a well organised campaign for limitation and enforcement of abortion laws.

I will address the issue raised by a couple of previous speakers; that is, the role of religion in the debate. I am a practising Christian and I have a document issued in 1994 by the Uniting Church in respect of the abortion debate. This is not a biased document; it is intended to provide materials of free options to people who are required to face the issue of abortion. The first paragraph reads -

This section explores some biblical and theological issues and attempts to describe some ways Christians approach the issue of abortion. At the outset it is important to note that Christians have not reached a consensus about when human life begins, nor on the status of the foetus. There is also differences of opinion regarding the rights of the foetus in relation to the rights of the woman.

It is all about choice. One section is entitled "Grace Before Law". It reads -

Christians who believe that abortion must remain a legal option tend to do so acknowledging that this is an unhappy circumstance and represents some human failure . . . A person can only contemplate abortion, the deliberate destroying of potential life, with a deep sense of yearning that it could be otherwise.

The Christian affirmation of God's mercy, loving kindness and forgiveness of God means, that we live under grace not law. Those holding this biblical principle as a central guiding factor, will emphasise compassion and grace, when approaching the issue of abortion. This includes compassion for all those involved in a pregnancy.

The view that holds Grace before Law, recognises the complexity of living in an imperfect, broken world. Here, human beings face situations that are far from ideal. In acknowledging our brokenness before God, we also hear God's promise of forgiveness. God does not discard us when we make mistakes. The resurrected Christ offers us new beginnings. A believing community witnesses to the fact that we are all recipients of God's mercy and in need of God's forgiveness. God calls the Church to display unconditional love in tangible and practical ways.

I stress again that all Christians do not hold this position. I recognise that people are entitled to hold their own views on this. I firmly hold this view: My God is a God of love and kindness and a God who will consider the interests of the woman and the people surrounding her when this decision is made. Many couples and women do not believe that abortion is an option they would elect to take should they find themselves with an unwanted pregnancy, but they still support the legality of abortion as an option for others. How many members in this place have had to personally confront this issue? I have.

Several years ago I presented to my GP with symptoms which could have been consistent with pregnancy in spite of the fact that I was using birth control. I did not have to make the choice but I remember a period of about a week before the tests came back confirming that I was not pregnant when I went through agonies trying to decide what I would do if it were the case. However, it was my choice based on my circumstances. I would not impose my choice or decision on anybody else. This is the principle we are being asked to support today.

A vote in favour of this Bill does not mean that we would consider abortion as an option for ourselves or our partners but that we recognise the right of others to do so. We would be giving an option to those who want and need it. Although there is not universal support among doctors for abortion, those who choose not to perform the procedure would not be forced to do so. Those who wished to help those who seek termination would be free to do so from a position of legal clarity and without fear of repercussion. Giving women access to legal terminations would not lead to dramatic increases in abortions, while retaining the status quo would lead to a decrease in safe procedures in a caring environment and an increase in women who put their lives at risk by seeking backyard operations.

More than 40 per cent of the world's population live in countries where abortion is available on request. The United Nations' declarations enshrine this principle. Article 12.1 of the 1966 International Covenant on Economic, Social and Cultural Rights was reaffirmed at the Fourth World Conference on Women in Beijing in 1995. It stated that the right of women to control their fertility is basic to their empowerment. The declaration of United Nations International Conference on Human Rights held at Tehran in 1968 reads -

Parents have a basic human right to determine freely and responsibly the number and spacing of their children.

I do not advocate that we move to a system where abortion is used as a form of birth control. Steps to decriminalise abortion must be accompanied by steps to increase education and access to birth control to ensure that girls are equipped to take control of their sexual and reproductive health. However, when those steps fail, abortion will always be available as a last resort whatever the laws say. It is important that we make legal abortion available to ensure that qualified, experienced individuals are carrying out those procedures in a time frame that will not put women's lives at risk. We must step carefully in this revision of the laws against abortion, but it is necessary that we take those steps. We support totally decriminalisation. I support the Bill.

**HON J.A. SCOTT** (South Metropolitan) [11.17 pm]: I support the Bill. I disagree with a notion that this is an abortion Bill. The Bill is to change the responsibility for choice from the State to the individual. When people raise moral arguments against the Bill and point the moral finger, when we look at the morality -

Hon N.D. Griffiths: Have you read the title of the Bill?

Hon J.A. SCOTT: I certainly have.

Hon N.D. Griffiths: It uses the words "(Abortion) Bill".

Hon J.A. SCOTT: Indeed it does, but we are not talking about law; we are talking about reason. Sometimes those two things do not go together. Many good reasons will be put forward on both sides of this argument. I hope as this Bill passes through we have some respect for each other's point of view, provided they are not off the planet, as sometimes members' views can be. I refer to the comments of Hon Tom Stephens about "how can people who hug trees not be worried about the sanctity of human life". That is a misrepresentation.

Hon E.J. Charlton: Were you not sleeping at the park?

Hon J.A. SCOTT: No, I was not, but I do not suppose that makes a great deal of difference to my opinion. The misconceptions put forward in statements like that should be thrown out right at the beginning. To answer the hypothetical question that Hon Tom Stephens raised, which is basically how can a person who believes in the sanctity or reverence of life support a Bill to do with birth control, I do not look at it in a reductionist sort of manner, as Hon Tom Stephens does, but in a holistic manner. If we look at the world today we get a different angle on what really is morality. How can people say that it is moral to have huge increases in population in the world today, particularly in the western world, where we are consuming about 26 times the resources of people in the Third World and in so doing are causing many people in those countries to die from starvation and from the effects of poverty because this planet cannot support that level of population?

The reality is that the world's population is increasing rapidly. In the past 20 years, more people have been born on this planet than in all of previous existence, and in the next 20 years we will see an exponential increase. Sometimes morality changes, and morality has changed. I want members to consider when they look at this matter that sometimes these questions are not so simple and we need to look at them in a far more detailed way than the simple question of whether this is murder or someone's right. It is not so simple. How do we define morality?

Hon E.J. Charlton: This has nothing to do with morality.

Hon J.A. SCOTT: It certainly has been put that this is some sort of ethical or moral question about the type of society in which we live. Hon Tom Stephens said something about -

Hon E.J. Charlton: Tell us what you think. We have had two and a half hours of Hon Tom Stephens.

Hon J.A. SCOTT: I am competing with his position, so I can talk about his position. His view of morality is that we should do no harm to others. That is not simple. Just by being here, we are harming other people by consuming the world's resources. We may not intend to harm other people, but it is an unfortunate fact of life that we do. We need to move beyond the simple arguments.

Furthermore, I believe that in putting forward the proposition that we should prevent women from making this choice and should make the choice for them, we are putting ourselves in a very difficult position as legislators. We are often called to do exactly that, but the problem in this case, as Hon Helen Hodgson pointed out, is that each and every person faces different personal circumstances, and when we talk about whether something is right or wrong for one person in making a decision, we as legislators cannot possibly know all the circumstances that are involved in all those instances. That is impossible for us to do.

Hon E.J. Charlton: That is what we are paid for - to make decisions.

Hon J.A. SCOTT: It may be Hon Eric Charlton's view that we are paid to make decisions. I think that we are also sometimes paid not to make decisions and to give people some responsibility for themselves. One of the pillars of the platform of the Greens (WA) is participatory democracy. We want to empower people to make decisions for themselves. In the same way, when we help Third World countries that cannot provide enough food or resources for their populations, it is no good just giving them food or whatever they need. We must give them tools and skills to grow food themselves. In this instance, we cannot determine a narrow definition to suit a wide range of different circumstances.

Some of the people who are opposed to this Bill have said that this Bill does not provide for things such as counselling services and legislation to ensure that terminations do not take place right up until the day of normal birth. The very good reason for that is simply that this House cannot put forward money Bills that will affect the appropriation that is required by the Government. Therefore, it is very difficult to frame a Bill to take into account the expenses that will be incurred in setting up those counselling and backup services. However, we could put forward a Bill that penalised people for acting outside of any legislation that ensued from this Bill.

The other factor involved is that it would be easier for a Government to set up counselling services if the counselling was for an act that was not illegal under the legislation. Politically, it would be far more palatable to provide counselling services if the termination of pregnancy were taken out of the Criminal Code and put in the health or medical legislation.

Hon Tom Stephens said that he was proud to be one of the nuisances of society because the nuisances of society cause change. In this case I believe it is the opposite way around in that that particular nuisance is trying to prevent change, and the change is trying to occur in spite of that nuisance. The nuisances who have been trying to make changes are people like Wayner and company, who carried out terminations despite being liable to prosecution.

Hon Tom Stephens also said that all laws are moral questions, and that he had become aware of that after some time

in this House. He said that the more we considered various questions, the more we were considering questions of morality. The problem is that when we consider questions of morality, we all have a different perspective. As I said earlier, with my environmental background the morality in overpopulating the world must be weighed against the morality of a decision by a woman to have a termination. As has already been pointed out, morality is a personal question, not a matter for the State.

We should try to legislate in a way that reflects our trust in the people of this State, who will do the best they can when making decisions. We should not legislate in an atmosphere of mistrust, thinking the worst of people. It is nonsense to think that people will be sexually active and then as a first choice have a termination when they find they are pregnant. People do not behave in that way. Most people do not want to get pregnant every time they indulge in sexual acts. There may be times when they do, but mostly they do not. I do not know whether we should regard that as a sin. However, we should not require people to be punished if they have taken the proper precautions, because, as Hon Helen Hodgson said, 50 per cent of terminations are carried out after birth control methods have failed. I find it difficult to accept arguments against terminations from people who also oppose any form of birth control. That argument is unsustainable. It should be placed in cloud cuckoo land. Unless we are all meant to be on this planet to suffer all the time, that argument cannot be sustained.

Another argument was to have the common good enshrined in law. Once again, that argument begs the question, what is the common good? Is it the common good of individuals versus the common good of the masses on this planet? Without birth control, there appears to be a conflict between the two.

I understand the thinking of people who believe that we should protect the community against cynical attitudes towards life. The termination of a pregnancy should not be taken lightly. However, this is not a choice for the State; it is a choice for the individual. The right choice can be made only after all the necessary information and counselling has been made available.

If this Bill passes this House and the other place, I hope that the Government acknowledges the need to introduce further legislation quickly to ensure that the areas not covered by this Bill are addressed by legislation introduced in the other House, when appropriate to do so. I support the Bill.

Debate adjourned, on motion by Hon Derrick Tomlinson.

*House adjourned at 11.36 pm*

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**QUESTIONS ON NOTICE**

Answers to questions are as supplied by the relevant Minister's office.

**HOMESWEST - KARAWARA REDEVELOPMENT**

475. Hon CHERYL DAVENPORT to the Minister for Finance representing the Minister for Housing:

- (1) In conjunction with the proposed redevelopment of Karawara, why is Homeswest now selling another 71 units/duplexes outside the redevelopment zone, but still in Karawara?
- (2) Have these 71 dwellings been offered for purchase to Curtin University?
- (3) Will the current tenants of these 71 units be offered for relocation in Karawara?
- (4) If not, why not?
- (5) If Curtin University were to purchase the units would current tenants be guaranteed long leases, ie. 5 to 10 years?
- (6) Given the fact that some tenants in these 71 units want to stay, has Homeswest approached the Coalition of Community Housing with a view to offering those tenants who want to buy the dwellings they currently rent such an option?

Hon MAX EVANS replied:

- (1)-(6) Homeswest was negotiating the sale of 71 apartments and town houses in Karawara to the Curtin University of Technology to satisfy the University's need for accommodation in the area and to complement the proposed Estates Improvement Program. The situation has since changed and Homeswest has ceased negotiation with Curtin University and the sales will not proceed.

**KIMBERLY REGION - WATER RESOURCES STAFF**

846. Hon TOM STEPHENS to the Minister for Finance representing the Minister for Water Resources:

- (1) What is the number of FTEs, or other staff employed by agencies under the Water Resources portfolio, in the Kimberley region?
- (2) In respect of each agency -
  - (a) how many staff are employed;
  - (b) where are those staff located or based; and
  - (c) how many of those staff are deployed on matters related to the water and rivers of the East Kimberley region including the Dunham and Ord Rivers?
- (3) In relation to staff of the Waters and Rivers Commission, what is being done to ensure those staff monitor the waters of the Dunham and Ord Rivers?
- (4) Has any consideration been given to increasing FTEs and resource allocation to the agencies under the Water Resources portfolio in the Kimberley region to respond to the increasing pressure on the waters and rivers of the area?
- (5) If yes, what was the outcome of that consideration?
- (6) Is the Minister for Water Resources aware that dead fish have been noticed in the Dunham River and more recently in the Ord River near the D4 channel outlet of the lower Ord following desiltation work?

Hon MAX EVANS replied:

- (1) 51.25 FTEs.
- (2) Water Corporation.
  - (a) 47.
  - (b) East Kimberley (26); West Kimberley (21).
  - (c) Nil.

Water and Rivers Commission

- (a) Three.
  - (b) Kununurra.
  - (c) See (2)(a).
- (3) The Water and Rivers Commission has an ongoing monitoring program which includes the Dunham and Ord rivers with respect to flow and water quality.
  - (4) Yes.
  - (5) Staffing levels are considered adequate at the present time.
  - (6) Yes.

PUBLIC SERVANTS - CLUB MEMBERSHIP FEES

964. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Commerce and Trade:

- (1) Has any Government department or agencies within the Minister for Commerce and Trade's portfolios paid for membership to a club or association for a member of staff since February 1993?
- (2) If so, please provide -
  - (a) the name of the staff member;
  - (b) the name of the association; and
  - (c) the amount paid?

Hon N.F. MOORE replied:

Department of Commerce and Trade

(1)-(2) The Department of Commerce and Trade has paid for membership to the following clubs/associations for members of staff in the years indicated.

1993

|                  |                                                  |
|------------------|--------------------------------------------------|
| John Morhall     | Australian Institute of Petroleum, \$30          |
| Reece Waldo      | Australian Institute of Company Directors, \$195 |
| Sue Meek         | Australian Scientific Industry, \$55             |
|                  | Australian Biotechnology Association, \$70       |
| Bruce Sutherland | RIPAA, \$75                                      |
| John Wood        | Australia-South Africa Business Council, \$130   |
| Amy Chin         | WA Chinese Chamber of Commerce, \$150            |
| Ian Carter       | Australian & New Zealand Third Sector, \$90      |
| Karen Purdy      | Market Research Society of WA, \$120             |
| Kevin Strapp     | Bunbury Chamber of Commerce, \$85                |
|                  | Australia Arab Chamber of Commerce, \$50         |
| John Castrilli   | Italian Chamber of Commerce, \$125               |
| Colin Purcell    | Migration Institute of Australia, \$500          |

1994

|                |                                                    |
|----------------|----------------------------------------------------|
| Ross Field     | Hyogo Prefectural Government Cultural Centre, \$10 |
| Steve Arnott   | Australian Institute of Petroleum, \$60            |
| John O'Hare    | Australian Institute of Export, \$65               |
| Linda Penny    | Australian Evaluation Society, \$75                |
| Sue Meek       | AWWA, \$65                                         |
| Kevin Strapp   | Bunbury Chamber of Commerce, \$85                  |
|                | Australian Institute of Export, \$250              |
| John Castrilli | Italian Chamber of Commerce, \$125                 |

1995

|                |                                                      |
|----------------|------------------------------------------------------|
| Colin Purcell  | Migration Institute of Australia Ltd, \$500          |
| Jeff Lewis     | Australasian Evaluation Society, \$75                |
| Bruce Simpson  | Petroleum Club of WA, \$55                           |
| Sue Meek       | Australian Institute of Company Directors, \$235     |
|                | Australian Biotechnology Association, \$80           |
|                | Australian Marine Science Association, \$40          |
| Celia Cornwell | The Western Australia Vietnam Business Council, \$75 |
|                | The WA Chinese Chamber of Commerce, \$150            |
|                | Australian Institute of Public Affairs, \$50         |

|                  |                                                    |
|------------------|----------------------------------------------------|
| Ross Field       | Hyogo Prefectural Government Cultural Centre, \$10 |
| John Loney       | Australia-Malaysia Business Council, \$175         |
| Bruce Sutherland | RIPAA, \$100                                       |
| Michael Ashford  | Australian & New Zealand Third Sector, \$90        |
| John Loney       | Australia India Chamber of Commerce, \$150         |
| Kevin Strapp     | Bunbury Chamber of Commerce, \$85                  |
|                  | Australian Institute of Export, \$250              |
| John Castrilli   | Italian Chamber of Commerce, \$125                 |

1996

|                     |                                                             |
|---------------------|-------------------------------------------------------------|
| Celia Cornwell      | WA Vietnam Business Council, \$150                          |
| Paolo Amaranti      | Australian Institute of Export, \$65                        |
| John O'Hare         | Australian Institute of Export, \$65                        |
| Steve Arnott        | Petroleum Club of WA, \$50                                  |
| Barry Calderbank    | Australian & New Zealand Regional Science Association, \$50 |
| John Loney          | Australia Malaysia Business Council, \$175                  |
| Mike Dickson        | The WA Korean Chamber of Commerce, \$250                    |
| Geraldine Nimbalker | WA Vietnam Business Council, \$150                          |
|                     | Australian Thailand Business Council, \$250                 |
| Nathalie Goffroy    | French-Australian Chamber of Commerce, \$250                |
| Kevin Strapp        | Bunbury Chamber of Commerce, \$110                          |

1997

|                     |                                                                    |
|---------------------|--------------------------------------------------------------------|
| Rob Parker          | Petroleum Club of WA, \$30                                         |
| Paul Mercer         | Petroleum Club of WA, \$30                                         |
| Helena Zlatnik      | Petroleum Club of WA, \$30                                         |
| John Loney          | Italian Chamber of Commerce, \$225                                 |
| Kevin Strapp        | Bunbury Chamber of Commerce, \$110                                 |
| Simon Johnson       | Heritage Club Surabaya, \$410, +\$95 a month<br>(Overseas Posting) |
| Sonia Grincerri     | National Association for Women in Construction, \$200              |
| Jane Law            | WA Vietnam Business Council, \$150                                 |
| Geraldine Nimbalker | Australia-Philippines Business Council, \$375                      |
| Amy Chin            | Australia Malaysia Business Council, \$175                         |
| Elaine Yong         | Singapore-Australia Business Council, \$110                        |
| Mike Harold         | Australian Arab Chamber of Commerce, \$280                         |
| Bjorn Gillgren      | Institute of Public Administration, \$60                           |
| Colin Gilbert       | Institute of Public Administration, \$60                           |

## International Centre for Application of Solar Energy

- (1)-(2) (a) Mr G Thompson  
 (b) Rotary Club  
 (c) \$200 (annually)

## Kimberley Development Commission

- (1)-(2) (a) Jeff Gooding  
 (b) Regional Science Association  
 (c) \$55 (approximately for 1996)  
 \$65 (approximately for 1997)

## Peel Development Commission

- (1)-(2) (a) John Styants  
 (b) Director of the Peel Thunder Football Club  
 (c) \$30

## Pilbara Development Commission

- (1)-(2) (a) Tonia Swetman  
 (b) Australian and New Zealand Regional Science Association  
 (c) \$50 (membership for 1996), \$60 (membership for 1997)

There are a number of senior government officers who are required to fly frequently in order to carry out their duties. They are members of the airline clubs offered by major airlines and their membership is paid by the Government.

## METROPOLITAN WATER CONSUMPTION - DECREASE

1092. Hon KEN TRAVERS to the Minister for Finance representing the Minister for Water Resources:

I refer to questions on notice 3220 of August 31, 1995 and 813 of August 26, 1997: Can the Minister for Water Resources explain why there has been a decrease in metropolitan non-residential consumption from 34.5 percent to 23 percent?

Hon MAX EVANS replied:

The figures of 34.5 per cent and 23 per cent, which represent the proportion of water consumed by metropolitan non-residential properties in 1994/95 and 1996/97 respectively, should not be directly compared. The former includes the volume of water consumed at properties which, although used for residential purposes were, in the past, classified as non-residential due to their specific rating characteristics (eg exempt properties, long term caravan bays etc). The comparable percentages of water used by non-residential properties in the Perth metropolitan area are -

|         |     |
|---------|-----|
| 1994/95 | 24% |
| 1995/96 | 24% |
| 1996/97 | 23% |

#### LIQUOR LICENSING - HALLS CREEK AND DERBY

1291. Hon TOM STEPHENS to the Minister for Racing and Gaming:

- (1) What process was adopted to bring about alterations to the liquor licensing arrangements in the towns of Halls Creek and Derby ?
- (2) What, if any, is the statutory basis for this process?
- (3) What specific modifications to the liquor licenses in Halls Creek and Derby have been effected by this process and what has been the effect of these changes?
- (4) Does the *Liquor Licensing Amendment Bill 1997* have a specific provision that will enable local communities to apply to the liquor licensing authorities, or the liquor licensing courts, for a modification to be made in reference to either existing or new liquor licenses in a specific locality so as to restrict such licenses?
- (5) If yes, what is the specific provision in the bill that provides for such applications?
- (6) What process will be available by virtue of the new legislation?

Hon MAX EVANS replied:

- (1) Halls Creek: At the request of a local community group (the Alcohol Action Advisory Committee) and the local council, the Director of Liquor Licensing held an inquiry in Halls Creek on 25-26 August 1992 at which all the parties, ie licensees, community representatives, police and Council officials gave evidence.

Derby: A community group (the Derby Alcohol Action Group) requested an inquiry similar to the one held in Halls Creek. An inquiry was held on 30 September and 1 November, 1996.

- (2) Sections 13 and 64 of the Liquor Licensing Act 1988 give the Director of Liquor Licensing powers to inquire into any matters relating to the Act and if the safety, health or welfare of persons who resort to licensed premises is at risk, the Director may, if appropriate, place conditions on a liquor licence restricting trading hours and the kind of liquor sold. However, an appeal to the Liquor Licensing Court by licensees in Derby was upheld on the grounds that the provisions of Section 64 could not be used to effect matters of public health. The Court considered the regulatory provisions of the Act are about law and order and not about public health.
- (3) Halls Creek: The sale of packaged liquor is prohibited on any day prior to 12 midday, with the exception of sales made to persons purchasing other goods, and such goods being part of a consignment of general goods that is to be taken or delivered to properties, stations, mine sites or similar establishments, located beyond a 20 mile radius of Halls Creek. The licensee is still permitted to sell packaged liquor at any time to bona fide residents of the hotel. The sale of wine by the cask or by flagon is restricted to between the hours of 4pm and 6pm only, during which period no more than one cask of wine is to be sold to any one person, with the same provision as above for the consignment of general goods. However, cask wine may also be sold at any time to bona fide tourists who are passing through Halls Creek or who are staying overnight at approved camping and tourist facilities located in Halls Creek.

Derby: The sale of packaged liquor is prohibited on Thursdays and on other days is to be sold only between the hours of 12 midday and 10pm. However, it may be sold at any time on Thursdays and before 12 midday on any other day, to persons who are purchasing other goods and such other goods are to be part of a consignment of general goods that are to be taken or delivered to premises or locations beyond the 20 km radius of Derby. The sale of wine in four litre casks is prohibited.

- (4) Yes.

- (5) Clause 44, subclauses 2(b) and 2(c) [paragraph (cc)], together with the amendments to the objects of the Act effected through clause 7(a), will broaden the powers of the licensing authority under section 64 of the principal Act.
- (6) Similar process as occurred at Halls Creek and Derby, with inquiries held at the locality concerned.

#### WOOL SHEARING TRAINING CONTRACTS

1294. Hon JOHN HALDEN to the Leader of the House representing the Minister for Employment and Training:

- (1) When did the Department of Training last let a contract for the provision of wool-shearing training?
- (2) To whom was the contract let?
- (3) What is the value of the contract?
- (4) Under what department program were the funds allocated?
- (5) How many trainees will receive training under the contract?
- (6) Where is the training to be delivered?
- (7) Since 1993 how many other contracts for wool-shearing have been let by the department?
- (8) To whom were these contracts let?
- (9) What was the total number of trainees given training under these contracts?
- (10) What steps has the Minister for Employment and Training taken to ensure that the industry is undertaking sufficient shearing training at its own cost?

Hon N.F. MOORE replied:

- (1) The contract for shearing and woolhandler training was let on 26 February 1998.
- (2) The contract was let to Shearing Industry Consultants.
- (3) The value of the contract was \$300 000 for 12 months, with options to extend for two further 12 month periods at a value of \$300,000 for each period.
- (4) Funds for Shearer-woolhandler training were allocated from *Program 2.0 Vocational Education and Training*.
- (5) Approximately 2 000 trainees will receive training during the first 12 month period.
- (6) The training will be delivered on-site throughout the wool growing regions of the State.
- (7) Two.
- (8) South Metropolitan College of TAFE.
- (9) A total of 3 023 trainees received training during 1996 and 1997.
- (10) The shearer and woolhandler training that has been provided through the contracts since 1996 is an example of partnership between the industry and the Department. Industry contributes by the shearing contractors contributing the time of its employees whilst they undergo training and woolgrowers contribute by providing facilities and sheep for those undergoing training. Industry also contributes by providing the time of representatives to participate in a committee which has the role of advising the Department of Training on shearer training.

#### QUESTIONS WITHOUT NOTICE

##### CHILD CARE CENTRES

##### *Closure*

1248. **Hon TOM STEPHENS to the Minister representing the Minister for Family and Children's Services:**

- (1) Given that 22 child care centres have closed since January 1996 as a result of the Federal Government's savage budget cuts, does the Minister acknowledge that many child care centres are struggling to remain open?

- (2) Given that most centres have lost at least one full-time staff member as a result of belt tightening, what extra steps are being taken to ensure that the quality of child care services does not decline?
- (3) What are the implications for rural and remote areas which often have difficulty attracting child care centres to open in the first place?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) No; however, it is acknowledged that the child care industry has matured over the past five years with the consequence that some services may be having difficulties related to the change in demographics of the areas they are servicing and changing patterns of work which impact on child care and its use.
- (2) Child care services for children aged 0 to 6 are strictly regulated in this State under the Community Services (Child Care) Regulations and must comply with a series of quality standards.

In addition the long day care sector is required to participate in the national quality, improvement and accreditation system in order for parents to receive the Commonwealth Government's child care assistance.

- (3) The viability of small services has always been problematic in rural and remote areas and officers from Family and Children's Services are exploring a range of innovative options with local communities.

In addition, the Commonwealth has made a disadvantaged area subsidy available for community based services in rural and remote areas.

#### DEATHS IN CUSTODY

**1249. Hon N.D. GRIFFITHS to the Minister for Justice:**

- (1) How many persons have died so far this year while in the custody of the Ministry of Justice?
- (2) What are the names and ages of the deceased persons?
- (3) In what institution or place did each death occur?
- (4) Which of those deaths is the subject of coronial investigation?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) Seven. Another death which involves a prisoner who had been released from Bandyup Women's Prison is being investigated as a death in custody.
- (2)-(3) Bevan Burt Cameron, 32 years, Greenough Regional Prison; Winifred Michael, 18 years, Fremantle Hospital; Neil James Holt, 18 years, Canning Vale Prison; John Thomas Jackamarra, 38 years, Greenough Regional Prison; Huy Van Le, 23 years, C.W. Campbell Remand Centre; Steven John Dawson, 31 years, C. W. Campbell Remand Centre; and Tammy Green, 26 years, Bandyup Women's Prison.
- (4) All subject to coronial investigation.

Since I have been Minister we have ceased to give the names of people who die in custody for the principal reason that, generally speaking, the Prisons Act requires a certain degree of respect for the confidentiality of individuals in prisons. Once someone has died we have tried to respect that same right to have an anonymous death. Obviously if I am asked in Parliament for names I will provide them. Following a practice in the eastern States we will not make a general point of naming persons who have died in custody.

#### WESTERN SUBURBS COUNCILS

##### *Amalgamation*

**1250. Hon B.K. DONALDSON to the Minister representing the Minister for Local Government:**

Does the Government have any plans for the amalgamation of the western suburb councils?

**Hon E.J. CHARLTON replied:**

I do not have the answer or the question.

## COLD STORES, FREMANTLE

*Sale***1251. Hon J.A. SCOTT to the Minister representing the Minister for Housing:**

- (1) Which organisation applied for community housing funds to purchase the Cold Stores in Fremantle?
- (2) What is its project?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) No organisation has applied to purchase the site.
- (2) Not applicable.

## HOME SCHOOLED STUDENTS

*Insurance Cover for Work Experience***1252. Hon HELEN HODGSON to the Leader of the House representing the Minister for Education:**

- (1) Are students who are home schooled covered by the Education Department's work experience personal accident insurance policy?
- (2) Who is responsible for approving applications for coverage of home schooled students undertaking work experience?
- (3) How long does it take for such an application to be processed?
- (4) Can such an application be denied?
- (5) If so, on what grounds may the application be denied?
- (6) Is the Minister aware of the denial of any applications for insurance cover?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question and ask that the question be placed on notice.

## FITZROY RIVER DAM

**1253. Hon GIZ WATSON to the Leader of the House representing the Premier:**

In respect of the proposal to dam the Fitzroy River -

- (1) At what stage is the memorandum of understanding between Western Agricultural Industries Pty Ltd and the State Government?
- (2) Has the MOU passed Cabinet approval; if so, on what date?
- (3) Has the MOU been signed by the Premier; if so, on what date or on what date will it be signed?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question. There is no proposal to dam the Fitzroy River. The MOU between Western Agricultural Industries and the State Government is for a feasibility study into the development of an integrated irrigation project based on alternative sources of water. These could include groundwater from the Canning basin and ultimately surface water from the Fitzroy River basin. The MOU requires that WAI fully examine the technical, economic, environmental and social sustainability of any scheme it finally proposes. The duration of the study will be two to five years.

- (1) The MOU was approved by Cabinet on 22 December 1997.
- (2)-(3) The MOU was signed by the Premier on 3 March 1998, but has not yet been signed by WAI.

## ATTORNEY GENERAL'S VISIT TO JAPAN

**1254. Hon LJILJANNA RAVLICH to the Attorney General:**

I refer to the Attorney General's nine day visit to Japan as the Minister for the Environment and the Arts in May and June 1996 and ask -

- (1) What official government business did the Minister undertake during that trip and on what days?
- (2) What official business did the Minister undertake in Japan prior to the arrival of Dr Shea?
- (3) Has the Minister prepared a report on that trip?
- (4) If so, will he table that report?
- (5) If no report was prepared, why not?
- (6) Did the Minister or his Chief of Staff personally pay for any portion of the trip or were all expenses paid from the public purse?

**Hon PETER FOSS replied:**

I ask that the question be placed on notice.

AUSTRALIND BYPASS

*Access to Shell Gateway Garage*

**1255. Hon BOB THOMAS to the Minister for Transport:**

- (1) When did Barry Clarke meet with the Commissioner for Main Roads to discuss allowing an access way to be built across the Australind bypass to the Shell Gateway Garage?
- (2) Has the commissioner met or discussed this issue with the Minister or any member of the ministerial staff?
- (3) If so, when did those discussions occur?
- (4) Did the commissioner meet or discuss this issue with the proponents of the application, their representatives or any member of Parliament?
- (5) If yes, what are the names of those involved in the meetings or discussions?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) Discussions took place in December 1997 and January 1998.
- (2) Yes; the Commissioner of Main Roads was made aware of a request for access to the site in question as a result of the matter being brought to my attention.
- (3) Late 1997.
- (4) No.
- (5) Not applicable.

VALLEY OF THE GIANTS

*Treetop Walk*

**1256. Hon MURIEL PATTERSON to the Minister representing the Minister for the Environment:**

Since the Department of Conservation and Land Management built the treetop walk in the Valley of the Giants, has the expenditure of this project been justified?

**Hon MAX EVANS replied:**

I have not got a copy of that question; I know the answer but I have not got the question.

MURRAY RIVER

*E coli Bacteria*

**1257. Hon J.A. COWDELL to the Minister representing the Minister for Water Resources:**

- (1) Have dangerous levels of E coli been found in the Murray River between South Yunderup and Pinjarra?
- (2) What are the public health implications of such an outbreak?



- (3) How often is the Murray River tested for bacteria?
- (4) Has the frequency of testing been reduced in recent years?
- (5) What remedial action does the Government propose?
- (6) Will the Peel Inlet Management Authority be provided with sufficient funds to address the problem?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) No dangerous levels of E coli have been found in the Murray River between South Yunderup and Pinjarra. E coli are not dangerous in themselves, but are an indicator of other potentially dangerous organisms.
- (2) The public health implications are a matter for the Minister for Health.
- (3) The river is not routinely tested for bacteria. Bacteria testing is undertaken when a contamination incident is suspected.
- (4) Not applicable. Refer to (3).
- (5) As with (2), this is a matter for the Minister for Health.
- (6) Funding for the Peel Inlet Management Authority is being considered against all other priority areas of the State.

OLD GROWTH FORESTS

*Tourism*

**1258. Hon NORM KELLY to the Minister representing the Minister for the Environment:**

- (1) How many people are employed in the tourism industry in the entire regional forest agreement area?
- (2) Why is this figure not included in the comprehensive regional assessment?
- (3) Has any assessment been made of the effects of continued old growth forest clear felling on existing and potential employment in the tourism industry?
- (4) On page 103 of the CRA, it is stated that approximately 1 900 people are directly employed in native hardwood industries in the RFA region. What is the breakdown of this figure according to employment category?
- (5) How many people are directly employed in the plantation sector of the timber industry, and why is this figure not included in the CRA?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question. The answer to this question requires research and I request that the question be placed on notice to allow preparation of a response.

CHILD CARE CENTRES IN REGIONAL AREAS

**1259. Hon TOM STEPHENS to the Minister representing the Minister for Family and Children's Services:**

- (1) Which rural and regional areas have been identified as being in need of child care services?
- (2) What steps are being taken to ensure that child care services are being made available in these rural and regional communities?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (2) The Commonwealth has made a disadvantaged areas subsidy available to community based services in rural and remote areas where there is only one service provider.

Viability of small services has always been problematic in rural and remote areas. The local children's services officers from Family and Children's Services are exploring a range of innovative options with local communities.

WATER CORPORATION

*Advertising Campaign*

**1260. Hon KEN TRAVERS to the Minister representing the Minister for Water Resources:**

- (1) What is the estimated cost of the Water Corporation's advertising campaign to use a quarter less water this autumn?
- (2) Which advertising company is producing this campaign?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) \$151 466.
- (2) The Brand Agency.

SCARBOROUGH SENIOR HIGH SCHOOL

*Land*

**1261. Hon E.R.J. DERMER to the Leader of the House representing the Minister for Education:**

- (1) Will the Minister confirm that in 1997 the Education Department obtained real estate valuations for the Scarborough Senior High School land and buildings?
- (2) If yes, will the Minister table each of those valuations?

**Hon N.F. MOORE replied:**

I thank the member for some notice of this question.

- (1) Yes, the Education Department obtained valuations in 1997 for Scarborough Senior High School land and buildings.
- (2) These valuations were from the Valuer General's Office and from a private company, Chesterton International, as follows -

|                          | Highest and Best use<br>assuming an alternative<br>appropriate zoning | Continuing Use<br>for educational<br>purposes. |
|--------------------------|-----------------------------------------------------------------------|------------------------------------------------|
| Valuer General's Office  | \$7 350 000                                                           | \$7 295 000                                    |
| Chesterton International | \$7 750 000                                                           | \$9 250 000                                    |

LOCAL GOVERNMENT

*Premises Used for Prostitution*

**1262. Hon RAY HALLIGAN to the Minister representing the Minister for Local Government:**

Under the Local Government Act what powers does a local council have in relation to premises used for the purposes of prostitution?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

Although there are no specific provisions relating to prostitution within the Local Government Act, sections 3.1 and 3.5 could allow a council to make a local law dealing with such an issue. However, given the current drafting of legislation being undertaken by the State Government it is unlikely that the Minister for Local Government would allow such a local law to be made if it was likely to conflict with the proposed state legislation.

The PRESIDENT: Before I ask for the next question without notice, I remind members of standing order 140 which deals with the rules governing questions. Certainly the seeking of opinions or an acknowledgment of some matter is not permitted. However, I am sure members will read that before they go to bed tonight.

## ATTORNEY GENERAL'S VISIT TO NORTH AMERICA

**1263. Hon TOM HELM to the Attorney General:**

- (1) In respect of his visit to North America in 1997, when did the Attorney General request Mr Thompson to prepare a draft report on this visit?
- (2) When did the report come to hand?
- (3) Will the report include the details sought in question 1227 asked on 12 March 1998?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) Originally after the trip Mr Thompson was asked to prepare a typed and amplified and edited version of his notes. With further editing this would have provided the report. In late 1997 when this had not been completed, my office was asked to provide him with secretarial assistance and this was made available. Further assistance was requested in January 1998 and was given. Due to the delay, he was also asked to prepare the final version. As it transpires Mr Thompson has prepared a report on a topical rather than a meeting by meeting basis as well as the notes.
- (2) The notes were received mid February and the first draft report on 6 March. Further amendments were still being received.
- (3) Yes.

## HOUSING

*Purchase of Cold Stores***1264. Hon J.A. SCOTT to the Minister representing the Minister for Housing:**

Further to question on notice 986 -

- (1) On what date did the advisory council consider the purchase of the Cold Stores using community housing program (CHP) funds?
- (2) At what advisory committee meeting for CHP funding did Homeswest propose to sell the Cold Stores to a CHP organisation?
- (3) On what date did Hon Brian Howe approve in writing the purchase of the Cold Stores using CHP funds?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question.

- (1) The Cold Stores site was purchased for a future community housing project and therefore did not require the approval of the advisory committee.
- (2) No such proposal was made.
- (3) This purchase did not require commonwealth ministerial approval under the funding guidelines. The Commonwealth was kept fully informed of the purchase at the time.

## PRISON DEATHS

*Notification of Relatives***1265. Hon LJILJANNA RAVLICH to the Minister for Justice:**

- (1) What procedures apply to notify the relatives of prisoners who die in the custody of the Ministry of Justice?
- (2) Are these procedures set down in writing and if so will the Minister table a copy?
- (3) Who is responsible for notifying relatives?
- (4) What support services or advice does the ministry provide relatives following a death in custody?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question.

- (1) As per rule No 2M, section 6 of the director general's rules.
- (2) Yes. I table this document. [See paper No 1440.]
- (3) As per rule No 2M, section 5 of the director general's rules.
- (4) As per rule No 2M, sections 6 and 9 of the director general's rules.

WORKERS' COMPENSATION CLAIMS

**1266. Hon HELEN HODGSON to the Attorney General representing the Minister for Labour Relations:**

- (1) How many claims have been lodged under section 93D(2)(b) of the Workers' Compensation and Rehabilitation Act since 1 July 1993?
- (2) How many of these claims relate to injuries suffered before 1 July 1993?
- (3) How many of these claims have been settled by consent judgment for less than an amount of \$104 000?

**Hon PETER FOSS replied:**

I thank the member for some notice of this question. Data specifically related to this section are not readily available. However, WorkCover Western Australia has endeavoured to obtain information from the District Court and an actuarial analysis on data provided by approved insurers. The answer is provided with that qualification.

- (1) The District Court does not separate section 93D actions into section 93D(2)(a) and section 93D(2)(b) actions. However, it was able to provide the following total number of section 93D actions commenced before the District Court: 1993, no records; 1994, 148; 1995, 402; 1996, 837 and 1997, 1 230
- (2) Nil.
- (3) The information in relation to these claims is not readily available. However, the Minister for Labour Relations will be happy to provide a written response as soon as the data are available.

KEAN, MR S.

**1267. Hon GIZ WATSON to the Minister representing the Minister for the Environment:**

I refer to the ministerial apology dated Tuesday, 10 March 1998 by the Minister for Finance representing the Minister for the Environment.

- (1) Does the Minister recognise and realise the level of undue inconvenience, detriment and harm that has been caused to Mr S. Kean as a result of the misleading answer to question 1102, and if not, why not?
- (2) Will the Minister take disciplinary action against the departmental officers responsible for supplying misleading or inaccurate information to the Minister and latterly through the Minister to the Parliament?
- (3) Can the Minister detail what type of "more secure system would be put in place in relation to all correspondence received" by the Department of Environmental Protection to prevent instances of errors of this magnitude occurring again in the future?

**Hon MAX EVANS replied:**

- (1)-(2) The answer provided to question 1102 reflected the results of searches undertaken at the time. I acknowledge that the inability to locate the correspondence may have caused Mr Kean some inconvenience, but not detriment or harm. It was an honest mistake and as such there is no basis for disciplinary action to occur.
- (3) Prior to February 1998 correspondence marked "private and confidential" was treated separately from project files, even though such correspondence may have related to a specific project. Mr Kean has sent correspondence addressed to the department's head office, regional office and to various individual officers. Some of the correspondence addressed to officers was marked "private and confidential" and some was not. Thus multiple files were created - some with project references, and some that were "private and confidential". All incoming departmental mail is now recorded through the office records system even if it is marked "private and confidential". Any correspondence which is not immediately attached to a departmental file is placed on a part file to facilitate tracking through the department.

## CHILD CARE CENTRES IN METROPOLITAN AREA

**1268. Hon TOM STEPHENS to the Minister representing the Minister for Family and Children's Services:**

- (1) Which metropolitan areas have the greatest concentration of child care centres?
- (2) Is it proposed to introduce any form of regulation as to where centres may open?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) The information is not readily available, and I ask that this question be placed on notice.
- (2) No. The Commonwealth is addressing issues of oversupply and undersupply in some areas through the national planning system.

## SPEED LIMITS

*Motorists over 60 Years of Age*

**1269. Hon B.K. DONALDSON to the Minister for Transport:**

Does the Government intend to introduce lower speed limits for motorists over 60 years of age?

Several members interjected.

The PRESIDENT: Order! We need a little more decorum; it is the Minister's sixtieth birthday!

**Hon E.J. CHARLTON replied:**

No. Some Ministers and members of the community have a lot more driving ability than others - even though the records would prove otherwise. Hon Bruce Donaldson may be entering a significant phase in his life and therefore has a vested interest in the answer. I can assure the member that I will look after his interests as well as my own.

## ADOPTIONS

**1270. Hon TOM STEPHENS to the Minister representing the Minister for Family and Children's Services:**

How many children were placed for adoption in Western Australia in 1994-95 and 1995-96?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question. In 1994-95 a total of 46 children were placed for adoption in Western Australia. Of these placements, 20 were locally born children and 26 children were born overseas. In 1995-96 a total of 25 children were placed for adoption. Of these placements, 17 children were locally born and eight children were born overseas.

## LEGAL AID COMMISSION

*Funding Agreement*

**1271. Hon N.D. GRIFFITHS to the Attorney General:**

I refer to the proposed new state legal aid funding agreement.

- (1) Who is carrying out the negotiations?
- (2) What stage have the negotiations reached?
- (3) What is the minimum increase in funding to which the Government is committed?
- (4) When can the Legal Aid Commission expect funding pursuant to the agreement?

**Hon PETER FOSS replied:**

- (1) The person carrying out the negotiations on behalf of the State is Ms Judy Eckert, to a certain extent assisted by Mr Les Smith.
- (2) Ms Eckert has prepared amendments to meet some requirements of the Legal Aid Commission and as those are acceptable to the Government the agreement will proceed to being engrossed for signing by both parties.
- (3) The minimum amount the commission will receive is that amount which is necessary. One of the

difficulties is that it was not intended that the Government would make up the deficiency caused by the shortfall in federal funds, irrespective of the need for those funds. The efficiency committee was established to determine the amount that should be paid.

- (4) To some extent the commission has already anticipated that, because it has proceeded on the basis that it will receive the funds.

OFFICE OF THE ATTORNEY GENERAL

*Administration*

**1272. Hon J.A. COWDELL to the Attorney General:**

- (1) Is the Attorney General aware that the Director General of the Ministry of the Premier and Cabinet, Mr Wauchope, held discussions with the Commissioner for Public Sector Standards on issues raised with the commissioner about the administration of the Attorney's office?
- (2) Has the Attorney or any of his staff been asked to participate in those discussions or offer a response to those issues?
- (3) If so, what was the response?
- (4) Will Mr Wauchope oversee the Attorney's office on an ongoing management basis?
- (5) If so, what are the details of that arrangement?

**Hon PETER FOSS replied:**

- (1) No.
- (2)-(3) Not applicable.
- (4) There is no basis for doing so.
- (5) Not applicable.

RESEARCH PROJECTS FUNDED BY REGIONAL FOREST AGREEMENT

**1273. Hon NORM KELLY to the Minister representing the Minister for the Environment:**

- (1) How many of the 38 research projects funded by and prepared for the regional forest agreement are complete?
- (2) What is the title and status of each project that is currently incomplete?
- (3) Are all the completed projects now available to the public?
- (4) Will the Minister table the report written by Dr Per Christensen for the RFA on the effects of disturbance on native fauna?

**Hon MAX EVANS replied:**

I thank the member for some notice of this question. The answer to these questions requires research and I request that they be placed on notice to allow preparation of a response.

AUSTRALIND PASSENGER SERVICE PATRONAGE

**1274. Hon MURIEL PATTERSON to the Minister for Transport:**

- (1) What is the current level of patronage of the *Australind* passenger service?
- (2) What is the likelihood of relocating the Bunbury passenger terminal closer to the Bunbury central business district?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1) For the week ended Sunday, 15 March 1998 the total number of passengers carried on the *Australind* train service was 2 732.

- (2) A study is currently under way to examine a number of issues associated with relocation of the terminal. The possibility of relocation will be assessed once the outcome of the study, which is expected to be completed in May, is known.

#### CHILD CARE NUMBERS

**1275. Hon TOM STEPHENS to the Minister representing the Minister for Family and Children's Services:**

I refer to a survey conducted by the Opposition's spokeswoman for Family and Children's Services, Megan Anwyl, which indicated that child care fees have increased an average of \$14.50 per child per week. How many Western Australian children have recently left child care?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question. Children regularly leave child care for a variety of reasons, and there is no census or survey in place to record this.

#### NORTHBRIDGE TUNNEL

##### *Contaminated Soil*

**1276. Hon KEN TRAVERS to the Minister for Transport:**

I refer to the contaminated soil stockpiled on site at the Northbridge tunnel and ask -

- (1) Can the Minister confirm that it is a requirement of the management plans that -
  - (a) all the low contamination material is fenced off and hydromulched; and
  - (b) all medium contamination level material is stored on a limestone pad with a 300 mm bund and should not overflow the bund?
- (2) Are all the requirements set out in the management plans currently being followed?
- (3) If not, what action is the Minister taking to ensure they are?

**Hon E.J. CHARLTON replied:**

I thank the member for some notice of this question.

- (1)
  - (a) Yes, the contractor will hydromulch stockpiles where appropriate.
  - (b) Yes.
- (2) The Commissioner of Main Roads has advised that the contractor is closely following the requirements set out in the management plans.
- (3) Not applicable.

It is important also for the honourable member to be informed that, contrary to the concerns he expressed last week and at the weekend in media discussions and reports, tests were carried out on soil in the Hamilton interchange, and no soil has tested positive. The soil currently in that area is consistent with acceptable soil used in the whole Graham Farmer Freeway operation. That location is being used to deposit good soil and not contaminated soil.

#### NORTHBRIDGE TUNNEL

##### *Cartage of Soil to Flynn Drive Landfill Site*

**Hon E.J. CHARLTON:** I wish to correct an answer I gave to a question without notice asked by Hon Ken Travers on Thursday, 12 March. Further investigation has revealed that the information provided to Main Roads by the contractor, concerning the cartage of soil from the Northbridge tunnel to the Flynn Drive special landfill site, was incorrect.

To date the only material carted to the Flynn Drive special landfill site by the tunnel contractor, BCJV, has been vegetation from clearing operations and some building rubble. None of this material was contaminated.

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