WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
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LEGISLATIVE ASSEMBLY

Wednesday, 6 May 1998

Legislative Assembly

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THE SPEAKER (Mr Strickland) took the Chair at 11.00 am, and read prayers.

HMAS *WESTRALIA* PERSONNEL

Condolence Motion

MR COURT (Nedlands - Premier) [11.03 am]: I move -

> That this House record its sincere regret at the tragic loss of members of the crew of HMAS *Westralia*, and on behalf of all Western Australians, extend its deepest sympathies to the families, friends and shipmates of those who died or were injured.

Western Australians have developed a special empathy with naval families because so many are based at Stirling Naval Base and are living among us. This is the second tragedy that has struck at the heart of the defence force personnel based in Western Australia.

Yesterday four member of the Royal Australian Navy lost their lives when fire broke out on board HMAS *Westralia* which is homeported at Stirling Naval Base, south of Perth. Three marine technical sailors, Petty Officer Shaun Smith, Leading Seaman Bradley Meek and Able Seaman Phillip Carroll had been working on a fuel leak in the engine room when fire broke out. A fourth member of the ship's crew, Midshipman Megan Pelly, a junior supply officer, was being trained in the engine room at the same time and was also killed. In the attempt to quell the flames nine sailors were injured, one seriously, and today we wish each of these brave people a speedy recovery.

The death of any serviceman or woman is a tragedy, but during peace time it is more difficult to comprehend. The navy is well equipped to deal with this terrible accident, but should the State Government be able to provide any assistance it will be immediately forthcoming.

The Federal Defence Minister, Hon Ian McLachlan, advised that a full and thorough investigation will be undertaken into the accident. Only a short time ago the Australian defence force personnel based in Western Australia were dealt another severe blow. The Black Hawke accident in 1996 took the lives of members of the elite Special Air Services Regiment based at Swanbourne.

I am sure that the ongoing support of family and friends by the servicemen and women of the Australian defence forces throughout this country will be of great assistance to those families at this difficult time.

The *Westralia* has a proud tradition of service in the British and Australian Navies. The replenishment ship served in the Falklands war and since moving to the RAN, served in the Gulf war. More recently she played a key role in the rescue of loan yachtsmen Thierry Dubois and Tony Bullimore. The ship's proud tradition is upheld by those members of the Royal Australian Navy who serve on the *Westralia*.

This Parliament is currently well served by former members of the Royal Australian Navy and I am sure they will feel a loss of this type more than most. Today our thoughts and prayers are with the family and friends of those who were killed and injured.

DR GALLOP (Victoria Park - Leader of the Opposition) [11.06 am]: I join with the Premier in expressing our deepest sympathy and condolences to the families of the four Royal Australian Navy sailors who died tragically off the Western Australian coast yesterday morning.

This accident brings a special response from this side of the House given that HMAS *Stirling* is represented in the State and Federal Parliaments by the Australian Labor Party. My condolences go to the families of Petty Officer Shaun Damian Smith aged 29 years from Western Australia, Midshipman Megan Anne Pelly aged 22 years from Queensland, Leading Seaman Bradley John Meek aged 25 years from New South Wales and Able Seaman Phillip John Carroll aged 23 years from Victoria.

Our condolences go to the crew's members, families and friends. I hope that in all of the immense sadness and devastation these families must now be experiencing, some sense of comfort will be taken from the recognition of their loved one's service to our country and the deep sympathy expressed by all Australians.

Our thoughts must also be with the nine other sailors injured in the accident, particularly the five service personnel who were hospitalised for treatment. I understand that five of those crew members were Western Australians. Therefore, we in this Parliament have a special obligation to them. The naval ship involved, HMAS *Westralia*, was involved in last year's rescues of solo yachtsmen Thierry Dubois and Tony Bullimore. All Australians, and indeed the world, will be aware of the professionalism and heroic efforts the crew put into those rescue missions.

I wish all the injured a speedy and full recovery, and I am sure the close-knit ties of naval personnel will give strength, morale and emotional support to help those affected, both the families and service personnel, through this difficult and traumatic time.

This tragedy highlights the enormous risks and dangers with which our service men and women are confronted on a daily base. Perhaps our shock is even greater when we realise that this accident happened only hours after the ship left Australia and in peace time. Less than two weeks ago Australia was commemorating Anzac Day and the contribution Australian service men and women have made in wartime to defend Australia and the values Australia as a nation holds dear. Yesterday's tragic accident highlights to us all the importance of such an occasion and that our thoughts should not be with only those who gave their lives in war time but also for all Australians who have lost their lives in service for their country in peace time.

MR COWAN (Merredin - Deputy Premier) [11.09 am]: The National Party joins with the Premier and the Leader of the Opposition in this condolence motion. We have great expectations of young people in this country. Our expectations of young people who joined the armed forces are even greater. Always those young people perform incredibly well in not only defending this country but also representing Australia in all theatres whether they be peacekeeping or theatres of war. When a tragedy of this nature occurs, it demonstrates to us the vulnerability of those people. We in the National Party certainly join in the condolence motion and extend our greatest sympathy to the families of those who died and wish those who are injured a very speedy recovery indeed.

MR McGOWAN (Rockingham) [11.10 am]: Nothing is so sad as the death of a young person. Nothing can really compare with the deaths of four young people in such awful and tragic circumstances. As the member for Rockingham, I speak on behalf of my whole community in saying that we all feel a sense of personal loss at the deaths and injuries which occurred on board HMAS *Westralia* yesterday.

HMAS *Westralia* is a mainstay of HMAS *Stirling*. I remember when I was a permanent member of the Australian naval forces going on board HMAS *Westralia* on numerous occasions. I remember on a couple of occasions going into the engine spaces. HMAS *Westralia* has always been a very happy ship with a great deal of good morale. She is a ship with a very small crew of about 70 people; as such she is very comfortable to live on and to go to sea on. Being on a tanker, virtually every crew member on board HMAS *Westralia* has his or her own cabin. That makes for a much more happy ship than many other ships in the Navy. I suppose that what goes with that is that deep down in the mind of every crew member of that ship is the knowledge that they are vulnerable. Crew members of tankers have a certain amount of vulnerability because of the fuel that is carried on board. I suppose that in the back of everyone's mind is a sense of foreboding at what might take place.

HMAS *Westralia's* history is that she was constructed in the United Kingdom. She was first commissioned as the Royal Fleet Auxiliary *Appleleaf*. She participated in the Falklands war and first came to Australia in 1983, I understand, when she visited Albany. I remember when she transferred to our Navy in about 1989. Her crews have always been very proud of her because she is the largest ship of her type in the Navy and performs such a vital role for the remaining ships in the Navy. She always requires a great deal of work. The crew on board always take that seriously. Having such a small crew on such a big ship means that a great deal of work is required to keep her functioning.

It is difficult to find the words to convey how extremely sad it is that four young people should die in such circumstances. Of the young people who were working in the engine spaces of HMAS *Westralia*, I suspect that three were stokers and I understand that one was a supply midshipman. Stokers in the Navy are truly the hardest working people one could ever come across in any field of endeavour. I understand that the Supply Midshipman Megan Pelly was doing some training on board at the time and was in the engine spaces merely to find out what takes place there prior to going on her supply course. All of those young people were aged under 30 years. I am unsure whether I knew any of them, not because I did not recognise their names but because in the Navy one knows a great many people and has a great many friends and mates, but one often does not know their names. However, they would have been very strong, responsible and proud young people. Young people in the Navy almost invariably, due to the circumstances in which they live, have a very close-knit bond with one another. When one lives in close confines with other people on board such a ship, one develops a great sense of mateship and camaraderie. Those young people would have had a great deal of friendship with other members on board, so the remainder of the crew would be feeling their loss in such an incomprehensible way that we in this Parliament probably cannot understand it. Those young people would have been very proud that they were in the Navy and proud of what they were doing, but they would not have been so wrapped up in it that they did not have other interests, lives, loves and friendships.

A lot of people have said that the armed forces is a difficult occupation and one where we expect bad things to take place, but something is terribly unjust and not right about four young people dying in such terrible circumstances. When they left HMAS *Stirling* yesterday morning, I expect that they would have been very excited about being on deployment to Bali. What took place on board the ship would be something that they would never have envisaged

would happen to them. Like all young people, they would have had a sense of invincibility and would have felt that things like that would not happen. The tragedy would have come as a great shock to the crew members. What took place on board HMAS *Westralia* yesterday was unjust.

The young people who perished on board HMAS *Westralia* were Petty Officer Shaun Smith, Leading Seaman Brad Meek, Able Seaman Phillip Carroll and Midshipman Megan Pelly. They came from four States throughout Australia. Like a great many people at HMAS *Stirling* and the ships alongside, they came from all over the country. People come to HMAS *Stirling* because they wear a blue suit and do what the Navy requires of them. I came to HMAS *Stirling* in similar circumstances, so I know that naval personnel are required to perform above and beyond the call of duty of anyone else in our community. As the member for Rockingham, I can say that the entire Rockingham community is very shocked by what has taken place. The thoughts of the people in Rockingham go out to all of the families of those who lost their lives and to all of their friends and shipmates and to all of the people who were injured in the tragedy.

I acknowledge the efforts of the crew of HMAS *Westralia* in putting out the terrible fire that was raging on board and the efforts of the crews of the other ships which closed up on HMAS *Westralia* to assist. I also acknowledge the efforts of the people who medivac-ed the injured off HMAS *Westralia* in helicopters and the people at HMAS *Stirling* who reacted so quickly with critical incident stress management teams and chaplaincy services. I have spoken to a number of people at HMAS *Stirling* in the past day or so. They are in a great deal of shock and feeling a great sense of sadness at what has taken place. Finally, I reaffirm that we are all thinking of those who lost their lives and their families.

MR BOARD (Murdoch - Minister for Services) [11.20 am]: I would like to add my condolences to the family and friends of Shaun Smith, Megan Pelly, Bradley Meek and Phillip Carroll. It is a stark reminder that every day in our community there are people, whether they be service personnel or others pursuing occupations in the defence of our country, who put their lives in danger, be it during war or peacetime. This event is a dramatic reminder of the dangers incumbent in many of those professions. We should reflect on the efforts and energy that those people put into protecting our community.

My thoughts also go to the crew, who find themselves in difficult circumstances, and particularly to Commander Stuart Dietrich, who was placed in a very difficult position. He is a well trained naval officer who was required to make a difficult decision, which he did professionally. He will find it a difficult situation to deal with for the rest of his life. My thoughts go to the crew, the commander and particularly to the families and friends of those who have lost their lives. The Western Australian community and the Australian community as a whole are well served by those who support and defend our country and those who lost their lives will live in our memories.

MR MARLBOROUGH (Peel) [11.22 am]: The last 24 hours and the terrible events that occurred on board HMAS *Westralia* have resulted in a loss not only to this nation and State but particularly to my electorate of Rockingham-Kwinana. Anyone who knows the history of the Navy in the Rockingham-Kwinana area knows that the young officers and seamen and women who have been lost represent the very best of Navy tradition. Throughout the Rockingham-Kwinana community Navy personnel are on every school committee, leading every sporting body and at the forefront of what is happening in the community. Therefore, a great loss will be felt in Rockingham-Kwinana.

Of course, I send my commiserations to their families. It is not simply a loss of naval personnel carrying out their duties and faced with difficult and dangerous circumstances but also a loss of friends, and that is what the Navy has become to us in the local area. By the turn of this century, with the home basing of the nation's submarine fleet, some 10 000 naval personnel and families will live in the area. Inevitably that part of the State will have increasingly close links to the Navy. I can assure members that those links are something of which all of us who work in the area and who know it are extremely proud. These young people who have unfortunately died represent the best of the community and the best of the Navy.

As indicated previously, HMAS *Westralia* has a proud history in representing two nations in war. Of course, as we know from looking at the history of naval vessels - whether it be our own European or British naval history - that the personnel on board are the most important factor in establishing a vessel's reputation. When we think today of the proud history of the HMAS *Westralia*, we should think of the proud history of the Navy. These young dedicated and brave personnel represent everything that is good in the Navy and everything that is required in making the supreme sacrifice in representing one's nation. No-one expects to lose fathers, sons and daughters who are less than 30 years of age in peacetime. However, as indicated by my colleague the member for Rockingham, serving in the military entails those risks because the personnel are constantly in a state of training and readiness. In the past three months Australian troops once again have been called to serve in the Middle East. While we have conflicts like that around the world in which we feel it necessary to be involved, we will always be required to maintain young service people in a state of readiness and thus at risk.

Like my colleagues on both sides of the House, I send my condolences to the families of those lost and the naval personnel at HMAS *Stirling* and all those serving on HMAS *Westralia*, particularly the commander. I ask that he pass on our condolences to all staff at the base. As the member for Rockingham indicated, many people need to be thanked, including those on the other vessels involved, the medical personnel, those responsible for the medical evacuation and those in the backup services that are required in such a tragedy.

These young people are friends who will be greatly missed. They are the very life blood of the local community and we can ill-afford to lose them in any circumstances, least of all the circumstances of the past 24 hours.

MR BLOFFWITCH (Geraldton) [11.25 am]: As a former member of the Royal Australian Navy I feel that I must say a few words. The training undertaken by these people is probably best highlighted by this tragedy. They were absolutely professional and dedicated people, and despite the risk to life they stayed and did the job. That is a reflection on their character. It is a tragedy that people of this age have lost their lives, but I am sure in their own hearts and minds they knew that they were saving the ship. That is the type of people we are contemplating. I commiserate with their families and friends in the loss they are suffering.

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [11.26 am]: I rise not only as a member of Parliament but also as a mother of a son who spent over 16 and a half years in the Navy and a son currently serving in the Navy overseas. When we heard the news on the radio last night we were devastated, and I am still very upset. I convey my condolences to all Navy personnel. I know that it could have been my son or anyone else's son. These people have made the supreme sacrifice of their life for their country and there is nothing greater they could do. Service personnel are ready at any time to give up their lives for Australia. I am an extremely proud mother to have two sons who are or have been in that position. I empathise and send sincere sympathy to everyone involved in this tragedy and add my condolences to those expressed by others.

THE SPEAKER (Mr Strickland): I will convey the messages to the appropriate people on behalf of the Parliament. I invite members to support the motion by standing for a short silence.

Question passed, members standing.

WESTERN POWER AND ALINTAGAS - SELL OFF

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 300 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned citizens are opposed to the sell off of Western Power and AlintaGas.
>
> We believe they are people's assets and should continue to be publicly owned and put service to the communities of Western Australia before investors profits.
>
> And your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 196.]

BREAST SCREENING UNIT, CANNINGTON

Petition

Ms McHale presented the following petition bearing the signatures of 131 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We, the undersigned express dismay and grave concern at the Government's decision to close the Cannington Breast Cancer Screening Unit, leaving women in the southern suburbs without appropriate services. We call upon the Government to:
>
> 1. Commit to the women in the southern suburbs that they will have a permanent breast cancer screening unit.
>
> 2. As a matter of extreme urgency provide a temporary breast screening unit in Cannington.

Women's health is too important to be subject to economic rationalism, and commercial privatisation.

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

[See petition No 197.]

BREAST SCREENING UNIT, SOUTHERN SUBURBS

Petition

Mrs Holmes presented the following petition bearing the signatures of 268 persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned call for urgent interim arrangements to be made for a Breast Screening Unit to be provided in the Southern Suburbs until a permanent unit is re-established. Women of the Southern Suburbs should not be subjected to undue stress by having to travel long distances to access important health services.

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

[See petition No 198.]

CAR REGISTRATION FEES

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 203 persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned citizens are totally opposed to the State Government's decision to impose a new tax on WA motorists through massive increases in car registration fees.

Western Australian motorists already pay directly to the cost of roads through State and Federal fuel levies.

The revenue received by the State Government from the fuel levy and from the sale of the gas pipeline provides government with resources to develop our transport infrastructure. This new tax is unfair and has a disproportionate impact on middle and lower income earners.

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

[See petition No 199.]

TRAFFIC CONTROL SIGNALS - JOONDALUP

Petition

Mr Baker presented the following petition bearing the signatures of 230 persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, hereby request that traffic control signals be installed as a matter of urgency at the intersection of *Grant Boulevard and Boas Avenue* in Joondalup. This location is extremely hazardous due to the dual lane configuration of Grand Boulevard and the increased use of the intersection by motorists and pedestrians accessing the Central Business District, nearby Police Station, Law Courts, Lakeside Joondalup Shopping City, banks, retail outlets, professional suites and Government agencies.

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

[See petition No 200.]

PUBLIC TRANSPORT FARE CONCESSIONS

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 12 persons -

> To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petitioners call on the State Government to reverse their increases in public transport fares, in particular the changes to concession fares and time constraints on transfers in that they will impact more severely on pensioners, the unemployed and other low income earners.
>
> Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners as in duty bound, will ever pray.

[See petition No 201.]

CORRECTION TO TABLED PAPER

Statement by Speaker

THE SPEAKER (Mr Strickland): I have received a request from the Premier and Treasurer to insert a corrigendum to Budget Paper No 2, which was tabled in the House on 30 April 1998. The corrigendum is to correct printing errors contained on pages 21 to 30 and references to years ended 30 June 1999 and 30 June 1998 rather than to years ended 30 June 1998 and 30 June 1997. Other corrections are to subtotals for categories of revenue that have no material impact on the accuracy of the budget estimates. Accordingly, under the provisions of Standing Order No 233, I advise the House that I have authorised the necessary corrections to be made.

REPORT ON RESEARCH AND DEVELOPMENT IN WESTERN AUSTRALIA

Statement by Deputy Premier

MR COWAN (Merredin - Deputy Premier) [11.35 am]: Although $664.5m was spent on public and private sector research and development activities in Western Australia during 1994-95, until now there has been no single document describing these activities. To remedy this the Department of Commerce and Trade conducted a detailed analysis of research and development activities as part of the implementation of the state science and technology policy launched in April last year.

The outcome is "A Report on Research and Development in Western Australia". This overview of research and development provides a framework for examining trends in our science and technology activities and provides guidance for policy makers in academe, government and the business sector. The report is based on the latest available data from the Australian Bureau of Statistics and will be continually updated as new information becomes available.

In 1994-95 the total expenditure on research and development in all sectors in the State was $664.5m. This represents an average annual growth rate, in constant dollar terms, of about 11 per cent over the past decade. This growth is 4 per cent higher than the Australian average for the same period. The major area of growth has been private sector investment in mining and energy and minerals processing research.

In 1995 the business sector made up 52 per cent of total research expenditure in Western Australia. The higher education sector accounted for 25 per cent, State Government 14 per cent and the Commonwealth Government 7 per cent of this total. Private non-profit organisations contributed around 2 per cent.

The economic factors driving the State's economy are mining, energy and agriculture. These sectors dominate research activities.

Western Australian business expenditure on R & D over the past 10 years has experienced an average annual growth rate of 27 per cent, which is nearly double that of national business expenditure.

In 1994-95 total government expenditure on R & D in Western Australia was $142.6m, of which the commonwealth contribution was $47.6m.

The low level of commonwealth government spending on research is a concern, as Western Australia received only 4 per cent of Australia's total commonwealth government R & D expenditure. In 1994-95 this amounted to approximately $28 per capita and of all the States and Territories only the Northern Territory received a lower dollar value.

On the positive side, commonwealth contributions to Western Australia's research and development expenditure had an annual growth rate over the last 10 years of 6 per cent. This is contrary to the Australia-wide trend, where the average annual growth rate of commonwealth expenditure is only 1.2 per cent.

Although the Commonwealth Government's increase in R & D expenditure in Western Australia has come from a low base, it demonstrates the effectiveness of the State Government's programs to obtain leveraged support for the State's researchers.

The State Government contributes $95m, or 67 per cent of government research and development expenditure in Western Australia. The principal areas of this research expenditure are agriculture sciences, medical and health sciences, and information, computer and communication technologies.

The release of this report demonstrates this Government's commitment to the implementation of the state science and technology policy.

I table copies of the "Research and Development in Western Australia - Fact Sheet" and the "Report on Research and Development in Western Australia" and advise members that copies are available.

[See papers Nos 1381 and 1382.]

STANDING COMMITTEE ON UNIFORM LEGISLATION AND INTERGOVERNMENTAL AGREEMENTS

Leave to Sit

On motion by Mr Cowan (Deputy Premier), resolved -

> That this House grants leave for the Standing Committee on Uniform Legislation and Intergovernmental Agreements to meet when the House is sitting on 7 May.

Membership

On motion by Mr Cowan (Deputy Premier), resolved -

> That the member for Mitchell be discharged from the Standing Committee on Uniform Legislation and Intergovernmental Agreements and the member for Moore be appointed in his place.

STANDING ORDERS Nos 404, 405, 406, 408 AND JOINT STANDING ORDERS Nos 1 AND 2

Motion

MR COWAN (Merredin - Deputy Premier) [11.40 am]: I move -

> (1) That Legislative Assembly Standing Orders 404, 405 and 406 be deleted and the following Standing Order be adopted -
>
> > 404. (1) A Parliamentary Services Committee, to consist of the Speaker and five other members, shall be appointed at the commencement of each session with power to confer with any Council committee with similar functions.
> >
> > (2) The Parliamentary Services Committee shall advise the Speaker on matters dealing with Hansard, Library, Catering and Building Management in the Parliament.
>
> and the Legislative Council be acquainted accordingly.
>
> (2) That Legislative Assembly Standing Order 408 be deleted and the following substituted -
>
> > 408. A quorum of the Standing Orders and Procedure Committee and the Parliamentary Services Committee shall be three.
>
> (3) That Joint Standing Orders 1 and 2 be deleted and the concurrence of the Legislative Council be sought therein.

This motion is moved at the request of the Presiding Officers of the Parliament. The effect of the changes to the Standing Orders is to substitute a Parliamentary Services Committee for the three existing domestic committees: The House, Library and Printing Committees. As is now the case for the House Committee, the motion establishes a Parliamentary Services Committee in the Assembly and the Council is asked to establish a similar committee. In almost all cases, those two Parliamentary Services Committees will meet jointly in the same way as the existing

Assembly House Committee and Council House Committee meet as the Joint House Committee. This method of appointment enables the Assembly committee to meet separately, as is required from time to time.

Members will be aware that an administrative reorganisation has taken place in the Parliament under which the departments of Hansard, Library and Joint Services are being amalgamated into the Parliamentary Services Department. This change to the Standing Orders will enable the one committee to provide advice to the Presiding Officers in relation to each of those areas which come under that department. Even before the administrative reorganisation was proposed, this improvement was recommended to the House by the Standing Orders and Procedure Committee which reported on 27 June 1996. Membership will be established by motion in the House once the Council has agreed to the change.

I commend the motion to the House.

Question put and passed, and a message accordingly sent to the Council.

BETTING CONTROL AMENDMENT BILL

Second Reading

Resumed from 19 March.

MS WARNOCK (Perth) [11.43 am]: The Opposition supports the Betting Control Amendment Bill which, like the Bookmakers Betting Levy Amendment Bill, deals with sports betting - one of the newer and less well established types of betting in this State. The proposed technical changes are driven by the industry and a general desire to increase opportunities for sports betting and the success of this activity in Western Australia. It stipulates that the betting levy payable to Government - not a great deal to date - is distributed to various sporting organisations as directed by the Minister for Sport and Recreation.

Among the proposed changes in this Bill is the proposal to move responsibility for approving events on which sports betting can take place from the Minister to the Betting Control Board. The Opposition supports that change which seems sensible and less cumbersome. This Bill will give more potential for betting on sports other than footraces. There is no intention to open it up totally and the public interest in this matter will always be taken into consideration. Sports betting - which is not an enormous part of the betting that goes on in Western Australia - has grown into a profitable type of betting in the Northern Territory. The Northern Territory has set the pace and stimulated interest in it and Western Australia wants to explore the potential of this type of betting. The Bill also strengthens the powers of the Betting Control Board to conduct criminal record checks, which seems sensible and correct to the Opposition.

The Bill follows changes that began in a series of Bills in 1995 when the bookmakers' betting tax was reduced from 2.25 per cent to 2 per cent and the TAB turnover tax was reduced from 6 per cent to 5 per cent. I will remind the House - for those members who do not spend a lot of time reading about these matters - of a series of Bills which were amended at that time. Among those Bills was - and in this case it was part of a tax relief program for the racing business - the Acts Amendment (Racing and Betting Legislation) Bill, which complements the Acts Amendment (Betting Tax) Bill. The Minister's second reading speech states that -

> As part of the Government's tax relief program, the Acts Amendment (Betting Tax) Bill will reduce tax on TAB turnover from 6 per cent to 5 per cent and reduce bookmaker betting tax from 2.25 per cent to 2 per cent. The Acts Amendment (Racing and Betting Legislation) Bill will abolish oncourse totalisator duty through the repeal of the Totalisator Duty Act.

It amended the Totalisator Agency Board Betting Act, the Betting Control Act and the Bookmakers Betting Tax Act. There was a lot of action at that time in relation to racing and gaming and these Bills - with which we will deal in Parliament this year and one of which we are dealing with today - are related in various ways to that. The Betting Control Board, in existence since about 1954, became a statutory body under the Betting Control Act with full accountability to Parliament. The bookmakers' betting tax was converted to a levy which was paid to racing clubs at the reduced rate of 2 per cent. At that time, also, it was decided that the levy on sports betting was to be treated differently, with the prescribed amount to be set at 50 per cent in respect of sports betting conducted at horse and greyhound racetracks, and zero in respect of betting on professional footrace meetings. I quote from that debate in 1995 -

> In each case the balance of the levy not to be retained by a racing club shall be paid into the consolidated fund to benefit Western Australian sport generally. Bookmakers and race clubs will be required to submit regular returns to the Betting Control Board, rather than to the Commissioner for State Taxation.

Changes were set in place in regard to betting, racing and gaming here in Western Australia and a series of Bills will enter the Parliament this year which in effect follow on from these changes. The Betting Control Amendment Bill

is one of those and there is no reason why the Opposition should not support those Bills, and this Bill in particular; accordingly, it supports them.

MR MARSHALL (Dawesville - Parliamentary Secretary) [11.49 am]: I too support the changes in this Betting Control Amendment Bill, especially the distribution of levies, as well as all other innovations in the Bill. Previously, moneys went equally to the turf and trotting clubs and the Treasury. The changes to this Bill provide that 50 per cent of the levies collected will go to the turf and trotting clubs and 50 per cent will go to the Betting Control Board and this, because I am a sportsperson, is a very important innovation.

The Betting Control Board will now hold the money until the Minister for Sport and Recreation determines which sporting clubs need assistance. This is a forthright move in the Bill. Another excellent aspect of this Bill concerns sporting bookmakers fielding outside turf and trotting venues. A lot more betting is conducted on cycling and professional foot running than people realise. The turnover tax for this is rated at 2 per cent and all collected moneys go to the Betting Control Board to be administered by the Minister for Sport and Recreation. The changes to the administration of this activity will benefit sport.

I am pleased that this Bill contains provisions to recognise prior interstate betting offences. It is easy for people to enter the State for betting purposes without their records being checked. There is an aspect of vulnerability in dealing with such large amounts of cash in any gambling venture, particularly at the racing and trotting tracks. This Bill contains a provision to recognise prior interstate betting offences.

In addition the Bill establishes temporary licencing provisions for bookmakers. In today's era of betting it is surprising that bookmakers find it increasingly difficult to get silver clerks and pencillers. Some bookmakers hire young university graduates at the last minute to use their computer betting systems which supply a piece of paper instead of a bookmaker's ticket. Under the present Act if bookmakers are let down by staff at the last minute it has been very difficult for them to obtain temporary staff licences in time. This Bill accommodates that need.

The Bill simplifies the provisions relating to events such as the calling of the card. It also strengthens the board's power. There are some simple but very important changes in this Bill, which I commend to the House.

MR MARLBOROUGH (Peel) [11.51 am]: I support the thrust of the Bill. I seek clarification from the Minister representing the Minister for Racing and Gaming in respect of the second reading speech. My concern involves the 50 per cent of the betting turnover levy payable by sports bookmakers operating at horse and greyhound racecourses. That levy is presently paid into the consolidated fund where it disappears. It is intended in this Bill that under the Betting Control Board's direction this money will most likely be redirected into the sporting arena. As indicated by the shadow Minister, the member for Perth, the Opposition wholeheartedly supports the Betting Control Board. I say it is most likely the money will go back into the sporting arena because in the second reading speech the Minister stated -

> The Bill will allow the Betting Control Board to collect this portion of the levy for distribution to sporting or other organisations as directed by the Minister for Sport and Recreation.

I seek clarification of that. A lot of organisations would like to get their hands on that money. Rather than it go to the heritage group or the rare twittering hummingbird group of Widgiemooltha, the intent of the Bill, as I read it, is that it go to sporting organisations. I would appreciate some clarification of that when the Minister has an opportunity to reply.

This Bill intends to tidy up many of the aspects of the Act put in place during the Labor Party's time in government. One could argue then that people who were interested in betting had a slight interest in going to a racing event and in dealing with a bookmaker and betting on sporting events other than the race going on at that time. Evidence was starting to come through in the 1980s and the 1990s that other States and Territories, particularly the Northern Territory, were ahead of Western Australia in enabling punters to bet on numerous sporting events with the one bookmaker, regardless of where that bookmaker was located. In recognising that, the Labor Government - under the then Minister for Racing and Gaming, Pam Beggs, allowed such betting to take place if an event was approved by the Minister.

Time has moved on and it has been discovered that people who want to bet in that way in Western Australia require better access. Until recently it has been found that many of the big punters, especially in the racing area, simply use electronic assistance when they want to punt on other events interstate or, in many instances, overseas. This legislation will allow a bookmaker to run a book on the FA Cup final. Betting is not necessarily restricted to events in Australia or a test match being played in the West Indies or the United Kingdom. I think it is a step in the right direction. The Bill comes to grips with the needs of the community. People want to have a punt and in putting this in the hands of the board the Bill facilitates the method of approving certain events. I think that is important.

However, I ask the Minister representing the Minister for Sport and Recreation to clarify the part of the second reading speech that indicates the door may be opened to allow some of this money to go to areas other than the sporting arena. The wording is clear. Members will find that the Bill, in its present wording, allows an interpretation of possible recipients that is broader than sport and recreation.

I say to the Minister that if the thrust of the provision is to return the collected revenue to sport and recreation it needs clarification. I believe the revenue ought to go to sport and recreation. That clause may require some rewording. I would be satisfied with an answer from the Minister representing the Minister for Sport and Recreation indicating that all of the money collected will be directed to the sporting arena.

The Act seeks to resolve several other problems areas. Presently a difficulty exists for a bookmaker who attends a country race meeting and finds himself without an assistant who is licensed under the Act. The second reading speech makes clear the sort of circumstances that may prevail - on the day of the race somebody is unable to travel to Carnarvon or Broome perhaps because he is ill, the bookmaker arrives but is unable to get an appropriately licensed person under the present Act. It is appropriate that the stewards responsible for those events on the day be given to the power to appoint a person to fill that role. This simply overcomes a problem recognised by the industry for some time.

Another clause of the Bill allows for what is known as the calling of the card of events. For those who do not know, and I have just been initiated, in the calling of the card of an event such as the Kalgoorlie Cup a bookmaker can run a book as the horses are balloted in the box rather than on race day. Under the present Act, a bookmaker may seek permission of the Minister for Sport and Recreation to run a book on how well a horse will perform in a race that may be taking place in a week's time. That has been allowed for certain events and, once again, this Bill recognises that it is a growing trend and that it may be appropriate for other sporting events. Many come to mind; for example, on the day of the ballot for the Hopman Cup people may want to punt on who will be in the finals. The legislation recognises the gambling trends in many other States in Australia today, and that there is increasing demand for these facilities in Western Australia.

The importance of this Bill should not sneezed at. The racing industry is very important in my electorate. When people travel south to the Peel electorate, the first thing they see along the coast is the Kwinana industrial strip, with the tall stacks and buildings of multinational companies such as Alcoa of Australia Ltd, WMC Resources Ltd, Tiwest Pty Ltd, BP Oil, and Coogee Chemicals Pty Ltd. However, inland, to the east of that industrial strip, is a thriving racing industry in which close to 2 000 thoroughbred horses are in training. I am told by the experts that at least one stable hand is needed to look after three thoroughbreds in training. Approximately 700 people in my electorate are directly employed in the racing industry.

Mr Cowan: Is Lennie Pike still there?

Mr MARLBOROUGH: Yes, he is still going strong; he says he is 79 years of age, but I think he must be much older. If I live to be his age, I hope I will be half as fit as he is. I have never seen such a fit 79 year old. He is chiselled from teak.

Mr Cowan: It is all that clean living.

Mr MARLBOROUGH: It must be. Clean betting and honest toil. He is one of the great characters of racing, along with personalities such as Johnny Miller, Bob Maumill and Bob McPherson. There are some great Australian characters in that area as well as great racing identities. The industry employs many people. It provides jobs as stable hands for people who do not need a law degree or some other university degree. They must be willing to work hard, and get up at three o'clock in the morning to travel all over the State, knowing that their backsides will be kicked if their horse does not win its race. They are great Australians; they are the salt of the earth. It is a great industry and it is very important to this State.

Although the provisions of this Bill extend beyond the racing industry, the Bill is underpinned by the survival of the racing industry. If this Bill helps the racing industry to survive, the whole community will be better off. The trend evident at the Totalisator Agency Board indicates that things are improving, but many battling horse trainers in my electorate are extremely concerned about the lack of prize money. Often the trainers and their horses travel to Northam for less prize money than they received seven or eight years ago. Sections of the racing industry need massive improvement. I would like this additional money to be used to underpin a significant industry in this State. The Victorian racing body currently pays trainers approximately $360 to enter a horse in a race. In Western Australia it costs trainers that much just to get a horse into the race.

Mr Bloffwitch: They pay $43 a horse for each race.

Mr MARLBOROUGH: In Geraldton?

Mr Bloffwitch: No, throughout the State. That is the new system. For every horse that starts a payment of $43 is made.

Mr MARLBOROUGH: I am delighted to hear that. This industry employs between 10 000 and 15 000 people in this State alone, taking into account betting shops, those who provide horse cartage and feed, and veterinary surgeons. It is an important industry because it provides job opportunities for people who do not need many skills apart from the ability to work hard and love animals. The Government must recognise how important this industry is to the State in view of the revenue from betting taxes and the like. In recognition of the importance of the industry, I would like a significant proportion of the money generated from racing to go back to the board for distribution to the industry. I do not mean that the prize money for the Perth Cup should be increased from $250 000 to $500 000. I have never thought that in the long term such a move would be of overall benefit to the industry. With guidance from the appropriate Minister, the board should be able to give battling trainers $300 for each horse starting in a race. That is where the money would be of most benefit to the racing industry. It is hard to get people to invest in ownership of horses in the first place. It is equally hard to persuade people to stick around the industry long enough as owners of horse flesh, because they do not have a long term vision for the future of the racing industry. The big owners, such as Bob Peters, increasingly buy their horses and send them to the eastern States for training. That is done not only because the prize money is higher, but also because everything underpinning the racing industry is better in those States. Both the owners and trainers are given more assistance.

To the extent that the money raised as a result of this measure will go back into sport, I wholeheartedly support the Bill. The additional revenue should be distributed to other areas of sport, such as cricket so that not only will the Western Australian Cricket Association flourish, but also grade cricket teams and teams for the under-11s, under-14s and under-16s will have the resources to employ appropriately qualified people to train young players to a higher skill level. Within the next two years an opportunity will be presented to put this nation on a pedestal for its sporting expertise at the Olympic Games in Sydney. That makes it even more appropriate to put in place legislation that will allow money raised to go not into the consolidated revenue system, but to a gazetted sporting body comprising a chairman and other people representing different sports in this State. They should be able to get their hands on that revenue and use it in such a way that it underpins these important sporting bodies. It is a quantum leap. The change proposed in the Bill has been brought about not only because of the trend of betting on sporting events but, most importantly, because revenue will not go into the consolidated fund but will go back into sport.

I go to the Lark Hill race track at six o'clock every Saturday morning and mix with trainers, jockeys and stable hands. They like to have a bet, and a change in the current system could be an improvement. Lotteries run by the Lotteries Commission in this State are so successful because people know that if they lose their money, it will be spent in hospitals, charitable organisations, and all those bodies that they care about which make up the fibre of society to make it work better. If they knew, along with the member for Girrawheen, who does not mind having a punt, that when they lost money on the races it would go back into the racing industry, rather than go into consolidated revenue and disappear in all sorts of areas, there would be less angst about it.

Mr Johnson: He was quite lucky on the racecourse!

Mr MARLBOROUGH: He has the odd lucky occasion. I do not bet at all. When I was a little lad in England -

Mr Johnson: It was a long time ago!

Mr MARLBOROUGH: It was a long time ago. My grandad used to give me two and sixpence wrapped up in a bit of paper with the horses' names written on it. I went up the back lane and gave it to Mr Johnson, the local milkman. However, he was also the bookmaker. As a seven and eight year old I used to stand in the queue with the coalminers, holding my grandad's bag. After I had placed the bet, I had to go to the Maple Hotel at the top of Ford Street and ask for two bottles of Newcastle brown ale for Mr Armour. My grandad did not give me the money for the beer; he would pay it to me later when he won money on the races. If he did not win on the races, he would pay it the following week.

Punters love their sport, and will be delighted and heartened by this Bill. It will create a system whereby the money required for sport will now be distributed by a board that will decide to which sporting bodies the revenue will go. I am sure there will be arguments in the future between the sporting bodies as to which is more deserving or how the money should be spent. My preference would be for the money not necessarily to be spent in the horse racing industry to increase the prize money in key events such as the Perth Cup from - I do not know what its present worth is.

Mr Cunningham: A couple of million.

Mr MARLBOROUGH: No, nowhere near.

Mr Bloffwitch: Two hundred thousand dollars.

Mr MARLBOROUGH: My preference is not to see the prize money in those key races go to a million dollars. My preference is to see the money used where it underpins and best benefits the industry. If the money goes back into the racing industry, by whatever means of control the board has over the Western Australian Turf Club, money may be put into those lower value races where the bread and butter is made. Instead of offering prize money of $12 000, it may be possible to offer more than $15 000 or $20 000. That would start to look after the industry far better than a million dollars going into a one-off race such as the Perth Cup.

However, the same rationale equally applies to any other sport. There will be arguments in the next couple of years for some of the money to go to the elite end of the market; that is, for some of the money to go into the WA Institute of Sport. I would hate to see millions of dollars poured into WAIS, albeit it is a very important area of our sporting culture. It is very important that people who excel in their field represent this State and this nation. However, I would hate so see the money going into that area at the expense of junior sport and the little athletics level that is so important to the community. It may not bring this State Olympic champions, certainly not overnight, but those of us who have seen little athletics in our community know the sorts of people it attracts to the local oval on Saturday mornings. It attracts the whole family unit. Mums and dads are marking ovals at six o'clock in the morning, marking the hundred metre track or raking the long jump to make sure there is no broken glass or syringes in the sand so the kids can jump. All sorts of officials are involved, and, most importantly, these young people are participating in sport and keeping their minds and bodies active and healthy. Some parts of the metropolitan area are more affluent than Kwinana at that level of sporting activity, but in my area, the mums and dads cannot afford the running shoes or the vests and these things affect junior sports in many instances. In the past couple of years, sporting bodies, and particularly the key bodies representing the different sports, whether it is cricket, tennis or athletics, have said that if parents cannot afford to buy their kids this equipment and to get their children from Kwinana to the away games on Saturdays, they should not be involved in the sport. I have heard those comments made. It is wrong headed thinking.

Junior sport is part of an overall education process for kids. It just happens to be a physical educational process, but it is an educational process about mateship and community; it is not an educational process about winning gold medals, although some parents want to turn it into that. The most competitive parents at the little athletics meetings call kids, some of whom are less than nine years old, names. That is not where this society should be coming from. It is necessary to interweave into the fabric of society the sorts of values these youngsters need to carry through into their adulthood.

This Bill is a step in the right direction. It provides sport with a guaranteed stream of money. It is like turning the tap on and knowing the water will be there. The decisions on how that money is spent must be the correct decisions. Members of both sides will have different views because we are all politicians and that is the nature of the beast. The Government should not continue to fall for the old trick of continually putting in money at some elite level. There is value in putting some money there; I am not arguing with that. However, the bulk of it is needed elsewhere; for example, a local tennis club may want to put in a new hard court because the old one is blistered and has been down for 15 years, and it is looking for funding. The club will raise a third of the cost, the council will contribute a third, and the club will look somewhere else for the other third.

Those organisations usually approach members of Parliament and ask us to go to the multinationals to get the other one-third for them. We should consider allocating 70 per cent of the money to local sporting organisations and the other 30 per cent to the elite level of sports. It is a quantum change in the management of funding for sporting activities in this State, and should be applauded. Members on this side of the House applaud the change, although in the future we will probably have blues with the Government over the management of the funds and how they will be allocated.

The sporting bodies in my electorate are not backward in letting me know where the money should go. They do not want the funds to be allocated at the elite level. The local cricket associations see the funds being allocated to the Western Australian Cricket Association, but they cannot get the elite coaches employed by the WACA to coach the under-11s in Kwinana, Warnbro or Rockingham. Having got hold of this money we need to be smart about managing it. It needs to go back to sport at all levels, which has a great need. Sport is part of the fabric of this nation and the society in which we live; it is part of what makes our society a better place; it keeps us fit and active; and it is an extremely important part of our life. I commend the Government for this Bill.

MR BLOFFWITCH (Geraldton) [12.21 pm]: The main object of Bill is to provide more flexibility within the betting regime. It will allow sports betting on footraces to be granted more easily. At the moment licensed bookmakers must apply to the Minister for a variation on the betting venue. Under this Bill they will apply to the chairman of the board, who will be more accessible than the Minister. There will be a standard application form, and the Bill will make it possible for the public to enjoy far greater benefits.

The member for Peel referred to the Victorian racing scene. The horse racing industry does so well in Victoria because the Victorian equivalent of the Totalisator Agency Board has been privatised through a share float, 50 per cent of which was allocated to the racing codes, which share directly in the profits. The privatised agency manages not only the TAB but half the poker machines in Victoria, which involves a considerable amount of money. It is also interesting to note that in places like Hong Kong, $1 000 to $1 500 is paid to each horse in a race, resulting in a dynamic horse racing industry. That is also the reason the industry in that country is so heavily regulated.

Mr Cowan: It has nothing to do with the fact they are keen gamblers?

Mr BLOFFWITCH: People in Hong Kong are keen gamblers and they spend enormous amounts in their TAB.

I cannot see Western Australia being in the same situation as Victoria. Firstly, we will not have poker machines in the short term, and even if we did it would be hard to convince the people of Western Australia to direct the revenue from poker machines to the TAB just to improve the viability of the horse racing industry. It would be a brave person who would argue against the Lotteries Commission, in view of the benefits that accrue to the community, sporting bodies and civic groups from the Lotteries Commission. The TAB represents one form of gambling, and scratch and match tickets and lotto are a different regime. I ask that the Minister for Sport and Recreation in the other place keep a watch on the different schemes to ensure that betting stays with the TAB, and such things as scratch and match tickets, lotteries, lotto and keno remain with the Lotteries Commission. We should make this distinction. I do not know what will happen in future or how successful the bookmakers will be with these further wagers or what income they will generate. However, if we keep the revenue from the different gambling regimes separate the revenue from betting will be shared among the punters rather than being distributed among the general community. Although this Bill proposes to change the situation I ask that the Minister for Sport and Recreation ensure that, in future, revenue from any form of betting is under the control of the TAB and revenue from any form of lottery is under the control of the Lotteries Commission.

MR COWAN (Merredin - Deputy Premier) [12.27 pm]: I thank those members who have spoken in the second reading debate for their support of the Bill. The general consensus is that this Bill will lead to an improvement in Western Australia in relation to betting and other issues associated with gambling. Most members indicated their support for the Bill. Only the member for Peel and the member for Geraldton raised issues that require a specific response. Although I am not suggesting that we avoid the Committee stage I will endeavour to answer all the questions those members raised.

The member for Peel asked whether the funds raised by the levy on sports betting could be directed to other than a sporting body. Clause 10 amends section 6G, new subsection (1c) of which provides for that money to be delivered to bodies at the direction of the Minister for Sport and Recreation. The Acts which are administered by that Minister present severe limitations to the areas in which funds can be provided and I doubt that he would be entitled to provide moneys for a range of welfare projects. I suspect that the Minister is more likely to be confined to the operations of his Act, which would be restricted to sporting and recreational bodies, but because I have not looked at those Acts under which the Minister administers his portfolios, I am not in a position to speak directly. This Bill makes it clear that the moneys will be spent only at the direction of the Minister for Sport and Recreation, and there will be a further refinement where the Ministers for Sport and Recreation will be somewhat constricted in the way in which he can apply moneys under the Act which he administers.

Mr Marlborough: The Lotteries Commission is collecting moneys for charitable organisations and a number of other bodies, and that is where those moneys should stay. However, these moneys that are collected should be simply for sporting bodies.

Mr COWAN: That is the spirit and intention of this legislation, and I am sure some regulatory or legislative requirements also provide that that must be the case.

The member for Peel should disabuse himself of the view that this is a pot of gold.

Mr Marlborough: How much is it?

Mr COWAN: The Office of Racing, Gaming and Liquor's document entitled "Western Australia Racing Industry Status Report 1996-97", which is freely available, states at page 26 that the total sports betting turnover for 1996-97 was $3.23m. Even if the total amount were available to this fund for redistribution at the discretion of the Minister for Sport and Recreation, 2 per cent of that would be $64 000. While there may be an increase in the volume of sports betting, it will never be a huge sum of money.

I have noted the comments by the member for Geraldton about the differentiation between gambling and lotteries, and I will ensure that his comments in *Hansard* are drawn to the attention of my ministerial colleague in another place. I am sure he will take heed of those comments and will demonstrate that in the way in which he administers

his portfolio. I hope I have answered the questions raised by the member for Peel, and I thank the members for Peel and Perth, and the other members who have spoken, for their support for this legislation and commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and transmitted to the Council.

SCHOOL EDUCATION BILL

Committee

Resumed from 5 May. The Deputy Chairman of Committees (Mr Baker) in the Chair; Mr Tubby (Parliamentary Secretary) in charge of the Bill.

Progress was reported after clause 33 had been passed.

Clause 34: Certificate of appointment -

Mr RIPPER: I move -

> Page 26, lines 20 to 22 - To delete the lines and substitute the following -
>
> > (2) A school attendance officer must at any time identify themselves to any person in respect of whom such officer is about to exercise any power as a school attendance officer by producing the certificate.

This is a mirror amendment to the one that I moved with regard to authorised officers who check on children who are not enrolled at school, whereas attendance officers check on children who are enrolled but are not attending satisfactorily. It is a protection of people's rights that a person who is about to exercise fairly extraordinary powers be required to identify himself as a person who is authorised to exercise those powers, because without such identification, people may be misled into breaking the law because they are not aware that the person to whom they are talking has the authority to compel them to answer questions and to answer those questions truthfully.

In an ideal world, I would like school attendance officers and authorised officers to be compelled not only to identify themselves but also to explain the powers that they have before they exercise those powers. However, I have been convinced by the Minister's advisers that that may be impracticable given the sorts of conversations that may occur at the door between a school attendance officer or an authorised officer and a parent or guardian. Therefore, I have compromised by coming up with what I regard as a minimum requirement that school attendance officers able to exercise powers under clause 36 identify themselves and their status as school attendance officers by producing their certificate of appointment.

School attendance officers can exercise significant powers. They can enter any premise to which the public has access without paying a charge. They can question people who have been detained and require them to give their name and address, their age, and the school at which they are enrolled. A penalty can be imposed if people fail to comply with that requirement or give false or misleading information. These significant powers should not be exercised by a person just fronting up at the door or stopping someone on the street and asking questions without producing a certificate saying that he is a school attendance officer and he has the power under the Act to ask certain questions.

Mr TUBBY: We debated this matter last night on an earlier clause, and I will repeat the reasons that the Government will not accept this amendment, as it did not accept the previous amendment. Training will be associated with these positions, and the Government believes that what the member has suggested should be in the legislation will occur in effect in the community. I cannot see that it will occur in any other way, because when those officers accost a person, they will automatically identify themselves and their reason for accosting that person. It is also envisaged that those officers will wear some sort of identification on their persons.

This Government requires all its employees, including police officers, to wear their name badges on their persons so they are easily recognised. What the member is trying to put into legislation will already happen. I cannot understand the reason for putting it in black and white when it is covered already. If a person who is being questioned or accosted is not sure who the officer is, that person has every right under clause 34(2) to require that the officer produce the certificate of appointment to show who he or she is and the legal right under which the function is being carried. The Government will not accept this amendment. Another reason is that very heavy penalties apply for anybody impersonating a bona fide officer. It is covered. Through training, what is being suggested will happen as a matter of course.

Mr KOBELKE: We are dealing with a matter of balance. The Parliamentary Secretary does not have the balance right in speaking against this amendment. The amendment makes the whole situation more workable. In only a limited set of situations an attendance officer will seek to follow up on a child who is not attending school and speak to parents or others who may be involved with the child at a designated address. People must know how the law will apply when the attendance officer fronts some significant adult at that home. The Minister suggests that these people will be well trained, and we hope so. However, in a very small number of cases things may not go smoothly. In that event proceedings may end up in the courts. As it is now there is no requirement for the school attendance officer to provide identification unless asked. Some of the people in these unusual situations will not be well versed in asking the school attendance officer to produce the document.

Mr Tubby: I think you may not be correct in that assumption. They are fairly worldly-wise.

Mr KOBELKE: In some cases they will be. Many people in the category where children are not attending school are likely to be offside with the authorities in our community. They most probably will have had run-ins in the past with police or other officers, who are supposedly seen to be enforcing the law. To protect themselves, they may simply tell the attendance officer to get off their property. It is unlikely in many cases that people will say, "I hereby under section 34 subsection (2) require you to produce evidence that you are a school attendance officer." It is very unlikely that that response will come from a significant adult at one of these premises. If the adult feels somehow threatened by the officer coming onto the property, or has no confidence or trust in the officer, the means used to uphold that adult's rights perhaps will be to tell the officer to get lost, in an abusive way. An altercation could result. The provisions of this clause can inflict a significant penalty on a person who feels he is only trying to uphold his rights and perhaps those of the children of the household. The Government has the balance wrong.

The amendment moved by the member for Belmont simply says that school attendance officers must at any time identify themselves to any person in respect of whom such officers are about to exercise their power, by producing the certificate. That seems to be quite straightforward. The school attendance officers when approaching these people in the front yard or after knocking on the door will simply say, "I am a school attendance officer; here is my certificate. I would like your cooperation in helping me to find Johnny Bloggs or Susan Smith." The amendment is adequately covered. There is no difficulty. I cannot see an impediment.

Perhaps the Parliamentary Secretary was alluding to the fact that if a matter went to court later, there may be a problem in providing evidence that the school attendance officer fulfilled the requirement set out in the amendment. The word of the officer that he had approached the door, presented the card or certificate and stated the reasons for being there would be accepted by the court. There would have to be some evidence to the contrary to suggest the officer's word would not be accepted. It would be quite unreasonable in a case that ended up in court for the onus to be put on the adult to prove that he had demanded the production of the certificate.

Ms McHALE: I missed the debate last night because I was legitimately absent from the Chamber; therefore, I missed the Parliamentary Secretary's explanation. Having picked up on his logic, I will make a couple of comments. He fails to convince me that he cannot accede to the amendment. The Bill requires the school attendance officers to produce the certificate when asked. The amendment is saying that they must produce it at all times. Surely that will make it very clear to all parties concerned that that is required. If the Parliamentary Secretary is saying that in the training and the protocols, the persons will be required to do that anyway, why not go the next step and make it very clear within the legislation? If he is saying that the protocol is that these people must wear name badges or some identifying tag, I cannot see why the proposed amendment should not also be enshrined within the legislation.

I am not sure there is any justification for the fear that if these officers identify themselves at the outset, the door will be closed in their faces before they even get to stage two of trying to deal with the absenteeism. If that is not the reason, if it is purely for identification, why not make it compulsory for the certificate to be produced? We can argue about the sorts of people we are dealing with. In my electorate, many of the families who are somewhat dysfunctional may not think about asking for the production of the identification. It is in everybody's interest if production of the certificate is upfront at the outset. I ask the Parliamentary Secretary to explain again why he refuses to accept the amendment.

Mr TUBBY: The member for Nollamara focused on the reason fairly explicitly; that is, with regard to taking matters to court and having a legitimate case overturned on some technicality. I am led to believe this provision is a standard way of addressing this situation in legislation. Officers have the power to do what they need to do, and if somebody requires them to identify themselves, they do so. That is the way it operates. Frankly, I cannot see in practice that it will work as the Deputy Leader of the Opposition suggests. Parliament should not try to provide loopholes in the legislation possibly to be used by smart lawyers to allow people to keep their children out of educational programs.

We, as members, should be doing all we can, surely, to ensure that the compulsory aspects of this legislation are adhered to throughout the compulsory school years. Why on earth place a legal impediment to the process which

protects children's rights? I cannot understand the logic behind the amendment. The member already indicated that legal consequences could arise if something were not done according to the letter of the law.

Amendment put and negatived.

Clause put and passed.

Clause 35 put and passed.

Clause 36: Powers of school attendance officers to inquire -

Mr RIPPER: I move -

Page 28, line 6 - To delete the line and substitute the following -

(4) A person who fails to comply with subsection (3) shall be referred to a school attendance panel.

The intention is to delete the penalty of $200 for a person who fails to comply with the requirement to answer the questions of the school attendance officer, or who gives false or misleading information, and to replace that penalty with a requirement to refer the matter to a school attendance panel. I move this amendment following discussion with the Western Australian Council of State School Organisations. School attendance officers will deal almost entirely with children, so children will be subjected to this penalty. The school attendance officer under this clause can ask questions of those believed to be absentee students. Questions can be asked about their age, address, name and the school at which they are enrolled. Therefore, a child may be in breach of the requirement to comply with the school attendance officer.

It was argued to us by WACSSO that it is inappropriate to levy a fine of $200 against a child. It is not normally considered good practice in juvenile justice matters to fine children who, in most circumstances, do not have the capacity to pay. We need to deal with the social and educational circumstances which result in the child's unsatisfactory attendance at school. If the child neither attends school nor cooperates with the school attendance officer, the matter should be dealt with as a school discipline problem or a social and family problem, rather than a legal matter which could result in the imposition of a fine on the child. The matter should be dealt with by a school attendance panel.

This amendment is in line with the Labor Party's overall philosophy in dealing with truancy and attendance matters; that is, it attends to the circumstances at the school which led to the alienation of the student, and attends to the family's social and economic circumstances which disrupt the student's life and result in school non-attendance.

Mr TUBBY: A little confusion appears to have arisen about what this clause is trying to address. The amendment moved by the Deputy Leader of the Opposition suggests reference to an attendance panel when a person fails to comply with subclause (3). A person will be required to answer certain questions, as outlined in subclause (2), and must not, in purported compliance, give information which is false or misleading. Subclause (2) indicates that a school attendance officer can ask whether a person is an absentee student. That person could be aged 16 years and look 13 years of age. The officer has the right to ask that question, and the child may be required to give a school attendance officer his or her full name, address, age and the name of the school at which he or she is rolled if of compulsory school age. I put in that last part, as it is alluded to in that reference. The provision relates to students of compulsory school age. This is the information the school officer is trying to discover, and subclause (3) compels that person to respond. If he or she responds with false or misleading information, a penalty applies.

What on earth would be the advantage of this amendment when somebody does not comply with subclause (3)? They would be referred to the school attendance panel to find out their age, name, address and school. It is a nonsense. The school attendance officer's job is to find out whether the child not attending school on that day is of compulsory school age. Why on earth refer it to a school attendance panel to get the child to answer the questions? I cannot see that the amendment has any relevance.

Mr KOBELKE: The legislation must deal with a range of categories of people. The fact that the Bill contains a penalty for non-compliance means that most people will comply. Therefore, using an offence as a signpost can be effective and has a role to play in our school education Statute to ensure compulsory attendance at our schools. However, other groups of people will take no notice of the legislation whatever their circumstances. They will be the hard cases. The approach taken in this provision is in danger of being unworkable.

Mr Tubby: Your amendment makes the provision unworkable. If a person is not of compulsory school age and fails to comply with the provisions, the amendment compels that person to attend a school attendance panel.

Mr KOBELKE: I will come to that, but I am making a more general point. We are in real danger with these

provisions of creating something unworkable, not technically relating to the clause structures, but in the sense of dealing with people who are difficult to manage. I have a problem with the Bill's philosophical approach. Rather than well-trained officers of adequate number helping families, and encouraging and coercing them to be cooperative and involved, penalties will be used to ensure children attend school. This penalty of $200 will apply in many cases to young people who will not necessarily have the means to pay. That will result in a spiral into a totally unworkable situation.

It is more appropriate to apply a penalty in clause 37 than to apply one to young people in clause 36.

Progress reported.

Sitting suspended from 1.00 to 2.00 pm

[Questions without notice taken.]

POLICE SERVICE FUNDING

Matter of Public Interest

THE SPEAKER (Mr Strickland): Today I received a letter from the member for Midland seeking to debate as a matter of public interest the following matter -

> That this House condemn the Government for cutting recurrent spending in real terms in the police budget. In particular, the Government stands condemned for significant cuts to operational funding for the second year in a row. This House also notes that this is despite escalating crime rates in areas such as armed robbery and home burglary.

If sufficient members agree to this motion, I will allow it.

[At least five members rose in their places.]

The SPEAKER: The matter shall proceed on the usual basis, with half an hour allocated to members on my left, half an hour to members on my right, and five minutes to the Independent members, should they seek the call.

MRS ROBERTS (Midland) [2.38 pm]: I move the motion.

The Police budget this year is nothing short of a scandal. I suggest this House look at the facts. There has been a cut to recurrent funding to the Police budget in real terms by 0.7 per cent. That represents a cut of 2.3 per cent when it is converted to a per capita figure. Even more scandalous is the cut in the Police operational budget. Two years ago that budget was $40m; last year it was reduced by $6.25m. This year that same operational budget that took a $6.25m cut last year has been cut by a further $2.7m. Forward estimates indicate that this Government has plans to cut the operational budget by a further $2m next year. Members should not just take my word for it.

I turn now to comments by the new Deputy Commissioner Kingsley Porter when he was interviewed by Peter Kennedy at radio station 6WF. The transcript reads -

> KENNEDY
>
> But yes, I mean the operational budget is down.
>
> PORTER
>
> Well, the operational budget, like this year, was reduced for productivity initiatives by the amount of $6.25 million.
>
> KENNEDY
>
> What does that mean?
>
> PORTER
>
> That means $6.25million . . .

It continues -

> PORTER
>
> . . . Now the important factor is, this year we had a $6.25million contribution . . . This year there's a further reduction in allocation of $2.7million . . .

That is $9m that has been slashed out of the operational Police budget since this Government was re-elected. It was $40m. Another $9m has been lost and the police are projected to lose another $2m. This time next year, if this Government does not acknowledge the problem it has and the community expectations, it will be about an $11m cut, a cut of over 25 per cent of the police's operational budget. That is not what the people were led to believe the "social dividend" would mean for them, in terms of law and order, when they re-elected this Government in December 1996. No-one is interested in hearing any more claptrap from the Minister about the "whole record, what has happened since 1993". I concede that there was additional funding allocated and officers employed between February 1993 and December 1996. Since December 1996, and since the member for Darling Range became the Minister for Police, there have been substantial cuts to the operational budget of the Police Service.

The operational budget cut hits directly at the front line of the Police Service. Most people I speak to want to see the front line cops supported and fully equipped to go about their day to day policing. The argument from the public is loud and clear; it wants "back to basics" policing. The people want it done by police officers who are properly resourced to serve the public. Members opposite should listen, any day of the week, to talkback radio, take the phone calls at their electorate offices, read their own mail, and read the articles in the many community newspapers throughout the State. If they do so they will find that that call is deafening. The public wants those police officers at the front line properly resourced. Virtually no-one is critical of our police officers but people are critical of the Government. They know that if their calls to the police are not answered, or it takes 10 minutes or more to get through to police communications, or it takes an hour or more for the police to arrive, it is because the front line of the Police Service is understaffed and under-resourced. They do not blame the police officers; they put the blame, fairly and squarely, at the feet of the Government.

The Police Service's mission statement in the Government's budget papers this year is -

> In partnership with the community, create a safer and more secure Western Australia by providing quality police services.

If the operational budget of the Police Service is slashed and it affects the front line of policing, that quality police service cannot be provided. The suggestion that the service is in partnership with the community is an exercise in spreading the blame, just as the Government is trying to pass the responsibility for law and order and home burglaries in our suburbs to local governments, as it tries to privatise our Police Force and have more security guards take up the work that police officers should be doing in our suburbs. In terms of the service's operational budget, crisis point will be reached this year. Invited to a meeting on Friday, 3 April by the Cannington District Superintendent, Graham Lamp, were senior elected representatives of a number of local government shires in his region, including those of Serpentine-Jarrahdale, Armadale, South Perth, Victoria Park, Gosnells, Belmont and Canning. Those present at that meeting, only a month ago, were told that, because of the demands of more serious offences, the CIB was not able to provide forensic backup for home burglaries.

Put simply, the CIB is so under-resourced that it cannot provide that forensic backup for home burglaries anymore - the fingerprinting and other forensic work that the CIB would be expected to do when homes or businesses are broken into. According to District Superintendent Lamp, those services are now too difficult to provide due to the demands on the Police Service and to cuts in funding. At that same meeting, those elected representatives of the shires discovered that the Police Service was so underfunded that it had to ask local governments to fund premises to the tune of about $60 000 to house a local burglary unit set up by the district superintendent. If this does not signal a crisis in our Police Service, I do not know what does. How can this Minister and this Government say that they are properly resourcing our Police Service when we find out via meetings like this that the CIB cannot provide the forensic backup for home burglaries and is calling on local government to fund its promises to set up a home burglary unit? That also is referred to in this Budget.

Mr Bloffwitch: They did the same with the community police; it is a joint community effort.

Mrs ROBERTS: The police at the front line echo the sentiments of the community. I will highlight a few claims made by police officers in this State regarding their dire funding situation at the front line, caused directly by the cuts to the operating budget of the service. They mention the following -

> Lack of training and supervision for probationers.
>
> Shortage of overtime funds means some country stations do not have staff to monitor at all times prisoners in the lock up.
>
> Officers told they must come in up to an hour before the end of their shift to avoid incurring overtime.
>
> In some country areas, charges being withdrawn to avoid cost of bringing officers from other areas for court appearances.

> Some country highway patrols limited to 15 km each side of town to minimise spending on fuel. Others limited to 100 km per shift.
>
> Avoiding overtime payments by having officers on train patrols from 8am to 4pm Mondays to Fridays when the demand for their presence is 6.30 pm to 8pm and from 11.30 pm on any evening, with Fridays and Saturdays being the busiest.
>
> No money to replace worn tyres on some police vehicles.
>
> Highway patrols directed to stop at roadside to do RBT's or hand-held radar so less fuel is used.
>
> Police aides being used as permanent staff without adequate training.
>
> Central police station badly under-staffed.
>
> Western suburbs vans frequently required in the CBD to cover Central's lack of resources. This means western suburbs frequently have no police presence.
>
> East Perth lock-up should have 13 staff following the Black Deaths in Custody Report. However, this has slowly diminished to 9 and there has been a move by management to reduce this further to 7. On 2-3 December nightshift 8 were rostered for duty, one being seconded from City police station to make up the number.
>
> Prisoner escorts to RPH are often delayed for up to three hours due to lack of escort vehicles.
>
> City police station numbers are down. The number of officers on beat duties, especially night shift, are minimal and often nil. Whenever criticism is made in the media about lack of police in Northbridge, members from the District Support Group and the Independent Patrol Group are used for short periods to bolster numbers.

These are only a handful of the claims that are made not by the Opposition, but by those police officers at the front line, and not just low ranking officers. Last year I raised the case of that meeting of very senior police officers who discussed the funding crisis occurring then. That is when the first cut to the operational budget had occurred and it was down only $6.25m. This year it will be down another $2.7m. Last year there was that key group of 30 senior police, whose comments were reported in *The West Australian* on 13 November as follows -

> The WA police service is facing a financial crisis, according to senior operational police.
>
> A key group of about 30 senior police - the OICs or officers in charge of police stations and specialist squads throughout the State - has flooded the Police Union with a list of problems caused by the looming crisis.

In an article in *The West Australian* on 14 November Jennifer Grove reported that -

> Police Minister John Day has denied there is a funding crisis in the police service but admits there are difficulties involved in budget management.

These comments were made in light of the document about the concerns of the 30 senior officers. That is all the people get from this Minister and the Government! The Government continues to deny the problem. It was interesting to note that police officers in this State took special action last December in holding a mass meeting. At that meeting on 21 December 1997 the union moved a resolution stating -

> That the union be given full details of where the money is going to, and effectively open the books. It is clear to all members that it does not reach the floor where it is needed.

This motion received unanimous support from that public meeting of police officers. The meeting was exceptionally well attended. Sooner or later this Government must acknowledge the crisis. Since November-December last year the public has been told nothing to alleviate its concerns. With the level of problems experienced over the last financial year and the shortage of funds to the officers involved in front line policing I do not see how that situation could be improved in any way by a further cut of $2.7m to the Police budget.

Plainly, Mr Speaker, the Government cannot cover up these massive cuts. A total of $9m has been slashed from the $40m operating budget in two years. This comes at a time when the community is suffering escalating crime rates in areas such as armed robbery and home burglaries. The policing situation is nearing crisis point. The Government cannot respond in this way to the kinds of increases seen in breaking and entering offences, assaults, assaults against police, stealing with violence, armed robbery, and damage offences. All of these categories of crime are at totally unacceptable levels. Many of them are at the highest rate in the country per 100 000 persons. In these circumstances,

no comfort or benefit can come from slashing the operational budget of the Police Service. Police officers throughout the State from the most junior through to the most senior know that. I exclude the command group of the commissioner, his two deputies and six assistants from that because they toe the line. They take the official line.

Mr Day: Are you saying they are lackeys of the Government?

Mrs ROBERTS: I am saying that when the Opposition highlighted the $200 000 hole in Bunbury to the Government last year, District Superintendent John Watson first acknowledged the cut and detailed some difficulties arising from that. He was reined in and sent for a bit of re-education. Before long, a new statement came from Acting Assistant Commissioner Ibbotson saying that they would be able to manage and that John Watson had misunderstood things.

Mr Day: Do you think that I direct what the commissioner and senior officers say?

Mrs ROBERTS: I think the truth might be revealed if Mr Ibbotson were asked now. The Minister should look at the minutes of the meeting of the senior officers last November and realise that the Government has massive problems. These problems are being felt by the police officers and the community. It is an absolute disgrace that the Minister has stood by while this Government has slashed $9m from the police operational budget.

It is all very well to talk about buildings and equipment and what the Government did between 1993 and December 1996. The Government will be judged at the next election on the Minister's term of office and what he has done between 1996 and the election. People in the community will judge the Minister harshly. People are already judging the Minister harshly. Many people tell me in letters and phone calls that they voted for the conservative parties because they thought the coalition would do a better job on law and order. They realise now how wrong they were. Law and order in this State has never been in a worse position. Members need only look at the statistics to know that. The funding levels and the management provided to the Police Service have not resulted in any turn around of the crime statistics.

At the end of the day, the public will judge the Government on a few things in terms of policing. One of the chief criteria will be its ability to reduce crime in the community. Another is the clearance rate. At a recent crime prevention conference that I attended, it was suggested that the chief factor taken into consideration by juveniles and other potential offenders before committing a home burglary or another crime was the likelihood of being caught, and not how stiff the penalty was. Most juveniles did not take into account whether they would get a fine or go to prison for a short or long term. Their only consideration was whether they were likely get away with it. The shameful situation is that over 90 per cent of home burglaries are not solved. In 90 per cent of cases people get away with these crimes. They will continue to do so while the Government starves the front line troops of funds as it has done in this budget by slashing the police funding by a further $2.7m. The Police budget is nothing short of a scandal. The Minister can bluff and bluster all he likes about the additional officers put in place in the Government's first term of office, but he cannot get away from two things: First, what has happened to the operational budget since the re-election of this Government; and, second, the escalating crime rates and the fact that Western Australia leads the nation in crimes like car theft and home burglary.

MR McGOWAN (Rockingham) [2.58 pm]: Western Australia is in an unbelievable situation. This Government was elected on a promise of being tough on law and order. Before the last election, the Government proclaimed that it would be tough on law and order but that is not what it meant. The Government meant that it was going to be tough on the Police budget. The Government misled the public of Western Australia. It did not say that it was going to cut the Police budget. The Government said that it would be tough on law and order. Tough on law and order means tough on police in the Government's form of doublespeak. It meant tough on police and tough on police budgets.

Mr Speaker, the people have seen a decrease in the actual Police budget of 0.67 per cent taking into account inflation. That decrease does not take into account the natural population growth of Western Australia. In percentage terms, Western Australia is the second fastest growing State in the nation. The facts as elucidated by the Opposition have been backed up by people in the Police Service. The member for Midland referred to comments made on ABC radio the other day. Kingsley Porter is a senior officer in the Western Australia Police Service. He is a Deputy Commissioner, not Chilla Porter about whom the Minister was thinking. Kingsley Porter said -

> Well, the operational budget, like this year, was reduced for productivity initiatives by the amount of $6.25 million.

As with this year the operational budget was reduced by $6.25m. "Operational budget" means funding for the police officers out on the street attempting to maintain law and order in our community. A $6.25m reduction in the operational budget will equate to an overall reduction in the effectiveness of the Police Force, and a reduction in police resources in the streets. To his credit Peter Kennedy queried Mr Porter on what was a productivity initiative. Mr Porter answered that it was the Government's productivity initiative. Even the police do not know what it is. The

Government's productivity initiative is a means to reduce the Police budget at a time of unprecedented community concern about law and order issues in this State.

The reduction in the Police budget is manifested in a number of ways. Last week I referred to a number of matters that are occurring in the police station in my electorate of Rockingham.

Mr Day: Do you mean the brand new police station?

Mr McGOWAN: Was the Minister listening to me? I am talking about operational budgets. The Minister promised in the last election campaign to open a new police station-courthouse in 1997.

Mr Day: You've got a new one; what are you whingeing about?

Mr McGOWAN: The Minister made and broke that promise that the police complex would be completed in 1997. That promise was endorsed not only by the Liberal candidate who ran against me at the last election, but also by the Liberal member on the upper House ticket for South Metropolitan Region. The Minister has no credibility. The police station was not constructed within the time promised.

Let us get down to the facts about Rockingham, which are manifested in the whole State. I explained this last week; apparently the Minister was not listening. The City of Rockingham has a population of 70 000 people. A total of 33 police and nine members of the district support group are based in the Rockingham station. On an ordinary evening in the City of Rockingham, which stretches 30 kilometres north to south, there will be one or two officers in the station or patrolling in one police car. During the wharf dispute there were no police officers for that city of 70 000 people. We had the ludicrous situation in which the station was closed. There were no officers on the streets, and the senior sergeant in charge of the Rockingham station was transferred to the wharves in Fremantle. He was not in his area carrying out his duty of enforcing the law in the community.

Mr Day: The police had a responsibility to deal with the situation.

Mr McGOWAN: Were they transferred to the wharves from the Minister's electorate?

Mr Day: I do not know specifically from where individual police were moved.

Mr McGOWAN: No; they were not. The Minister would not have allowed that. The Minister has no credibility on this issue. It is evident from talking to people that when they need officers on the streets they are not there. Rockingham has 33 police for 70 000 people, and has only one or two police officers on duty at night. I have gone out on patrol with them at night-time. They are overwhelmed by the workload. That situation is repeated all over the State.

The Police Union has raised specific examples: No money was available to replace worn tyres on police vehicles, and officers were told they must come in an hour before the end of their shift to avoid incurring overtime. In some country areas charges are being withdrawn to avoid bringing officers from other areas for court appearances. Officers in the Rockingham CIB have been directed not to bring in offenders after two o'clock in the afternoon, because they might work beyond 4.00 pm and there might be overtime implications. We have also had a situation in which officers have been told to remove offenders from the station at 4.00 pm. Officers are not permitted to work beyond 4.00 pm in case they incur additional costs. How can the police enforce the law in this State in that situation? Rockingham has a population of 70 000 people and its police facility closes down after two o'clock. That is the sort of situation that the Minister is allowing to occur in Rockingham. Does the Minister have an answer?

The Government's hypocrisy was evident on 25 January this year. The Premier naturally put out a press release on Sunday morning in order to maximise media coverage. His press release was reported on the front page of the *Sunday Times*. The headline was "Safe Home Bid". I remember it well. I had a look at it and I wondered whether it would result in anything. The Premier made a big fellow of himself. His press release stated -

> We have to look seriously at private security which can guarantee people in the suburbs a 10-minute response time", Mr Court said.
>
> "It will be necessary for the Government to make a contribution," he said.
>
> ". . . We have to keep an open mind and look at any initiatives on personal safety. We are looking seriously at private security."

The Premier made the front page of the *Sunday Times* and a number of news bulletins that evening by making a big fellow of himself about private security. What is in the State Budget? The sum of $1m has been set aside for the whole year for 144 local government authorities across Western Australia. Each local government authority would receive $6 900 under the fantastic scheme out of which the Premier made such huge mileage! How long would a

security scheme operate on $6 900? For that amount security schemes would operate for two weeks in each local authority around the State, then they would close down. What is the alternative? That $1m could fund a private security scheme in two councils. Would the Government find two councils in marginal seats? The position of the member for Wanneroo will be fairly marginal at the next election - if it is not already. Will we see a scheme in Wanneroo? Which other electorate will the Government choose? Is that how the Government will operate this scheme, or will it allocate each council $6 900? It is a complete joke.

MR PENDAL (South Perth) [3.07 pm]: I support the motion moved by the member for Midland. I endorse the member's remarks that Western Australia has reached a crisis point. I refer particularly to that part of the motion in which the member refers to escalating crime rates in offences such as home burglaries.

In Western Australia 16 years ago, 22 per cent of all home burglaries were cleared. The current Western Australian clearance rate is 11 per cent and the latest figures indicate that in the electorate of South Perth the clearance rate for home burglaries has fallen to 4.1 per cent. I hope the Minister for Police does not suggest that that is acceptable.

I want to dwell briefly on the elements that need to be addressed by the Minister and the Government. This State is in a state of crisis because of the disposition of police personnel across the metropolitan area and because the infrastructure needs of the police are being ignored. There must be a reason for such an appalling clearance rate for home burglaries in a place like South Perth - that is, 4.1 per cent - when the state average is three times better. The police station out of which the local police operate was built in 1908, and it has not been improved since that time. A recent proposition was put to the Minister for Police that that station be relocated to the site currently occupied by the Manning library.

I have continued to try to determine what number of police personnel are on active patrol duty each night in the southern suburbs, but I have not received an answer. Five weeks ago, I asked question without notice 3499 -

(1) I refer to the fight against crime in the suburbs and ask, at any given time of the night, for example 8.30 p.m. each day, what number of -

(a) patrol cars;

(b) police personnel,

are on active duty in the southern suburbs from South Perth, to Cannington, to Fremantle?

(2) Of these numbers, how many patrol cars and personnel are on active duty in the suburbs of South Perth, Como, Kensington, Manning, Karawara and Waterford?

That is a simple question. It should not be difficult to answer. The people who work out the police rosters each night should be able to give us that information. We should not need to wait five weeks. That leads me to conclude that the reason I have not received an answer is that the answer will be embarrassing for both the Government and the Police Service.

Even the members of Neighbourhood Watch, who are as loyal to the Police Service as it is possible to be, are now beginning to wonder just what is the value of the work that they perform for local people. Recently, I attended a Neighbourhood Watch meeting of residents of Monk Street, South Perth, arranged by Mr Bill Good. That question was put to me by those active members of Neighbourhood Watch, and it prompted me to ask question without notice 3500 about whether the police, the Minister and the Government still regarded Neighbourhood Watch as an effective body in the fight against crime. Again, that question has not been answered.

The Government simply cannot escape being answerable to the Parliament. I do not take any great pleasure in having to stand in this place to complain that my constituency is the subject of an abysmally low 4.1 per cent clearance rate for home invasions. I would like to be the first to resume my seat and cease making the constant complaint that somewhere along the line, police practice and procedure, and perhaps government policy, have combined to produce a situation whereby the results are not getting through. The people of Western Australia are entitled to something better. Home burglary is, by far, the crime that affects most people, but that is the crime being most neglected by this Government.

MR DAY (Darling Range - Minister for Police) [3.13 pm]: This motion moved by the Opposition is very much another head in the sand motion, because it does not recognise the substantial additional resources the Government has given to the Police Service in the five years it has been in government. I have said on many occasions in the past, but it is still as true as ever, that those additional resources comprise additional officers, additional funding and additional physical resources. In 1992-93, under the last Budget of the Labor Government -

Mrs Roberts: Here we go again! History again!

Mr DAY: The Opposition does not want to hear this because it hurts. The budget for the Police Service at that time was about $240m. In the Budget that has been just introduced by this Government, the budget for the Police Service is $405m - a substantial increase.

Mr Bloffwitch: How can the funding be going backwards when it has been increased from $240m to $405m?

Mr DAY: Exactly. It is a substantial increase in any terms of about 70 per cent in five years.

I turn now to what the McCarrey Commission said about the resources that were available to the Police Service under the previous Government. The McCarrey report, which was produced in 1993, said a number of important things which have very much influenced the course of action of this Government over the past five years. It said that inspections of head office and a number of suburban police stations confirmed an inadequacy of accommodation and services. It said also that premises were substandard, and the equipment available to meet operational demands was inadequate.

Mrs Roberts: That is still the case in a lot of police stations.

Mr DAY: It is still the case in a few police stations, and in a moment I will tell the member what we are doing about it. The McCarrey Commission noted the examples of staff, including senior officers, operating with two or three people to a desk, former cells being used as changing and eating rooms, shortage of essential equipment such as facsimiles, terminals and video equipment, no proper holding rooms or interview rooms at many stations, and so on. The report gave the examples of station A, which was 40 years old and originally designed for three staff, but which currently had 25 staff operating three shifts over a 23 hour period, and station D, which was 30 years old and originally designed for five staff, but which currently had 28 staff operating three shifts over a 23 hour period. The report said also that the inadequacy of those premises was having a serious effect on morale and needed to be addressed by a scheduled works program that would offer some encouragement.

That is exactly what this Government has done. It has put in place a works program to deal with the gross inadequacies that were left by the Labor Government and the deplorable conditions under which police officers had to work. We have put in place over the past five years a substantial program to build new police stations, and in the past few years new police stations have been opened at Australind, Halls Creek, Kwinana, Meekatharra, Belmont, Forrestfield, Roebourne, Kununurra and Morley. New police stations are currently being constructed, or will soon be open, at Bayswater, Cannington, Carnarvon - which is a major upgrade - Dunsborough, Geraldton, Gosnells, Hillarys, Kununurra, Mirrabooka, Morley, Murdoch, Nullagine, Rockingham and Roebourne.

We announced in the Budget last week that we have also provided funding for the construction of a local police station and a district headquarters in Bunbury, at a total cost of $7.5m. That has been needed in the Bunbury community for many years. In addition, we have allocated funding for the construction of new local police stations in Busselton and the fast growing northern suburb of Clarkson. Funding has also been provided to replace the existing police station in Lockridge, which is very overcrowded; and I am sure that will be welcomed by the member for Bassendean. Funding has also been provided for the construction of a new police station in Wiluna to assist the officers in that remote community, who face some significant challenges. I am sure the Legislative Assembly member for Eyre, who represents that community, will welcome that allocation.

In addition to the new stations, which are being constructed and will cost about $100m in capital works over this term of government, we have allocated $35m for a new police academy which will provide for better training and resources for the Police Service. The final location of that academy has not been determined, but it will be in either Murdoch or Joondalup; or Joondalup or Murdoch, depending on how we want to look at it. In addition, planning has commenced for a major new operations support facility to be constructed in Midland. I welcome that as far as my electorate is concerned, and I am sure the member for Midland welcomes it as well.

Mrs Roberts: I welcome it. Is the money in the Budget this year?

Mr DAY: No. Specific capital works funding has not been provided for that, because a decision has not yet been made on whether the facility will be built by the private sector and leased, or built and owned by the Government. The planning for its construction has commenced, but decisions about whether it will be leased or funded through a capital works program are yet to be made.

Mrs Roberts: Is there money for planning?

Mr DAY: Funding has already been allocated to the Police Service for the initial planning works to be commenced, and the Government Property Office is also making money available for the planning activities, given that it has responsibility for the old railway workshops site formerly owned by Westrail.

A substantial capital works program is in place which very much contributes to the effectiveness of police in dealing

with local problems. It significantly increases the degree of comfort from which police can operate, and increases their morale and productivity. It is a very substantial program indeed.

Mr Pendal: Can you offer us any comfort at South Perth?

Mr DAY: The suggestion of moving the South Perth Police Station to the old Manning library is being considered. I cannot say whether it will be a viable proposition, but certainly the suggestion has not been ruled out.

Apart from the capital works program, 800 additional operational police officers have been employed in the service in the past three or four years. In addition, 500 new police officers have been recruited to add to their strength, and 300 police officers have been released from administrative duties to go into the field and operate on the streets, on the beat and so on. They have been replaced by 300 civilians. That has also added to the increased policing response that is now evident. When I go to various police stations, whether in the metropolitan area or in rural and regional locations, I find they have been allocated additional police officers to assist them in their work.

The productivity initiative has been factored into the budgets of all agencies. There is good reason for that productivity initiative, which was announced by the Government in 1996. It provides funding for new programs to be put in place by government. That includes funding for the law and order area, major capital works programs, and additional police officers allocated to the Police Service. It is also to assist with funding the immobiliser program, which is having a significant effect in reducing the number of car thefts in Western Australia. The productivity initiative applies across government, and certainly to law and order, and it has been of indirect benefit to the Police Service through the new programs.

Mr Riebeling: The immobilisers fitted in new cars have had a bigger effect.

Mr DAY: The member for Burrup makes a good point in drawing attention to the benefit from the immobilisers fitted in new cars. However, a significant number of cars on the roads in Western Australia do not have immobilisers fitted by the manufacturers. The Government is encouraging the owners of those cars to install immobilisers because if the immobilisers are fitted, the cars are not stolen.

Mr Riebeling: How many people with older style vehicles have accessed that program?

Mr DAY: Between 35 000 and 40 000 people have accessed the subsidy program since it was first put in place.

Mrs Roberts: Western Australia still has the highest rate of car theft.

Mr DAY: It is a relatively high rate and I will come to that. The important point is that it is coming down, and has been reduced by 17.5 per cent in 12 months.

Mrs Roberts: It is drastically higher than the rate in other States.

Mr DAY: The Government recognises that it is a problem and it does not shy away from that. It does not exhibit any degree of complacency about these issues. The Government is putting in place programs to deal with the problem, such as the immobiliser scheme, and the rate of car theft has reduced by 17.5 per cent in a 12 month period. That reduction is also the result of increased police activity, better targeting of police resources, and activities by the motor vehicle squad in particular.

Mrs Roberts: It is still more today than it was when you first came to government.

Mr DAY: I will look at the figures to make that direct comparison. Car theft is decreasing in Western Australia, and that is a very good trend.

The budget for the Police Service has been increased substantially by this Government. Last week the Treasurer announced a further increase of approximately $15.4m. That translates to a 2.1 per cent increase in the recurrent budget and a 26.8 per cent increase in the real capital budget. Overall it is an increase of 4 per cent in the budget of the Police Service, as announced by the Treasurer last week. That is welcomed. As far as the recurrent budget is concerned, like every other agency, the Police Service can find better ways to use the substantial funds with which it is provided. It can find more efficient ways of doing things, and can operate with better targeted patrols and with a more effective rostering practice.

Mr Marlborough: I have been to the Fremantle wharf and there are 102 police there today. Along the port road police officers have been pulling up every vehicle they can get their hands on that has an MUA sticker and has put yellow stickers on them. They have pulled up the drivers of vehicles which are blowing smoke from the exhaust. They nearly created an incident there an hour ago. One young police officer pulled up somebody because supposedly a passenger in the back seat was not wearing a seat belt.

Mr DAY: The member is saying that the police are doing their job.

Mr Marlborough: Union officials at a national level are trying to sort out this mess and this bloke is allowing his police officers to act in this way when they should be catching real criminals. When did they last catch a real criminal?

Mr DAY: Is the member suggesting that I should direct the police?

Mr Marlborough interjected.

The SPEAKER: Order! The member for Peel. I remind the Minister for Police that if he wants to accept the interjection I will allow it from the Chair, and that gives the member for Peel an opportunity to make a speech. I ask the Minister for Police to continue.

Mr DAY: I have been happy to take some of the interjections from the member for Peel, because he is creating a big problem for himself. He is implicitly suggesting that I should direct officers of the Police Service not to be involved at Fremantle and not to enforce law and order. The member for Peel is nodding. He is suggesting there should be government interference in police activities.

Mr Marlborough interjected.

The SPEAKER: Order! The member for Peel. The Minister is no longer taking the member's interjection.

Mr DAY: The member for Peel is hijacking the motion moved by the member for Midland, but I will briefly respond by saying that the Police Service has a responsibility to ensure that peace is maintained and that law and order is upheld on the Fremantle waterfront. It applies there as much as anywhere else. The member for Peel is saying that because some industrial matters need to be dealt with as a separate issue at Fremantle, the police should withdraw. That is nonsensical, and he is asking for a special preference to be shown by the Police Service to some members of the public.

The SPEAKER: Order! I am sure the Minister is about to get back to the motion.

Mr DAY: The member for Peel is asking for preference to be given to members of the public and members of trade unions who are blockading roads in Fremantle. It will not be tolerated by the Police Service, with the full support of the Government of Western Australia.

The Police Service, as much as any other agency, through the activities of its senior managers, can always find more effective and efficient ways of doing things. I have no doubt that the productivity initiative, which has been factored into the budgets of all agencies, will help bring that about. It is also important to recognise that the Government has made it clear to the Commissioner of Police and to the Police Service that if there is a major unplanned expense or a major problem with the Police budget, and if police officers are not able to do their job as effectively as they need to, requests for additional funding will be considered by the Government. I have no doubt that in the current financial year some additional funding will be provided to the Police Service to assist it to do its job. The commissioner knows he can approach this Government and that it will listen very seriously to any reasonable request to ensure the Police Service can do its job properly, cover major inquiries, such as the Macro investigation, cover the major effort that has been required at the Fremantle waterfront and so on. It must also be recognised that there has been an effective increase of 255 police officers in Western Australia, as a result of the 17 per cent salary increase provided to police officers, as part of the enterprise bargaining agreement in 1996, due to some trade-offs such as the abolition of accrued time off. That obviously led to greater productivity and responsiveness from the Police Service and to more effective policing overall. These things need to be taken into account when the Opposition makes the comments that it does.

Mrs Roberts: The fact is that there has been a reduction in operational budgets in other areas.

Mr DAY: Additional funding has been provided by the Government to cover those increased salaries. I have addressed the issue of productivity initiatives. The bottom line is that if there are major problems with funding for the Police Service, and officers are not able to do their jobs properly, the Government will seriously consider any reasonable request.

The member for Midland made some comments about the Cannington district and a purported request to local governments in the Cannington district to assist with funding for accommodation of a special burglary investigation team in that area. An offer was made by some of the local government authorities, in particular the City of Gosnells, to assist the Police Service by providing accommodation for that special purpose burglary investigation team. It was never sought by the Police Service, and the Police Service is well aware that providing accommodation for this sort of activity is one of its core responsibilities. Accommodation will be provided, and was always intended to be provided, in the new Cannington district headquarters, which are close to completion. It is a major building which I had a look at recently. It is a very large building which will provide substantial accommodation for the police

officers not only at the local Cannington Police Station, but in the Cannington district overall. The kind offer made by the City of Gosnells and others will not need to be taken up by the Police Service.

Mrs Roberts: Is it true that the CIB is not in a position to provide forensic backup on burglaries?

Mr DAY: That is not my understanding. A member of my staff, along with many others in the community, was subjected to a burglary at his home recently. He informed me that the officers from the forensic section would be attending the next morning. I have been told that is the experience in other cases. I am not aware of any decision that the forensic section will not be involved in home burglaries. The police will obviously need to make a judgment about whether they are likely to obtain any useful forensic evidence.

The Government has increased the recurrent resources available to the Police Service substantially, but it also recognises that substantially better equipment must be provided to enable the Police Service to conduct its communications and its information exchange much better. The Government has embarked on a major program, which will cost in the order of $140m in total, to ensure that the police have state of the art equipment to communicate with each other, over the air waves and in other manners, using a digital communication system. In that way members of the public cannot use scanners to listen into what the police are saying, and criminals cannot get information to which they should not have access. It also ensures that information management within the Police Service is effective, and police officers operating on the streets do not have to spend as much time doing paperwork as they do at the moment in order to provide an effective and productive policing response. This will be in the public interest.

I acknowledge there is a problem with home burglaries in South Perth, as there is in many other parts of Western Australia. However, the Police Service is certainly not resting on its laurels. It is doing whatever it can to better deal with that problem. Some major efforts have been made in the South Perth area. A problem with home burglary is the difficulty in obtaining evidence that can be used to apprehend criminals. If the Government could introduce more effective DNA legislation in this State and if there were a national DNA database - the Government is discussing this with other Governments at the moment - a substantial increase could be achieved in the burglary clearance rate.

Amendment to Motion

Mr DAY: The members for Geraldton and Mitchell want to make some comments about some very effective policing activities in their area. Therefore, I move -

To delete all words after "House" with a view to substituting the following -

> congratulates the State Government for substantially increasing the resources provided to the Western Australian Police Service since the 1993-94 Budget and condemns the Opposition for attempting continually to undermine the exceptional job done by officers of the WA Police Service.

MR BLOFFWITCH (Geraldton) [3.36 pm]: Geraldton has been portrayed, via national television and the airwaves of this State and Australia, as the crime capital of Australia.

Mr Marlborough interjected.

The ACTING SPEAKER (Mr Baker): Order!

Mr BLOFFWITCH: Nobody would be more aware than I am of the resources that the police have in the Geraldton area. When I first entered Parliament in 1991, I took a particular interest in the police stations in not only Geraldton but also places such as Mullewa and Mingenew because we had lots of trouble there. I visited those areas and looked at the police stations. I could not believe the way the stations operated. The Mullewa Police Station had manual typewriters. It did not even have a fax machine; I was asked if there was any chance of it getting a fax machine.

Ms Roberts interjected.

The ACTING SPEAKER: Order!

Mr BLOFFWITCH: I said I would get my Rotary Club to provide the station with a fax machine. Its equipment was absolutely scandalous.

Mr Marlborough interjected.

The ACTING SPEAKER: Order!

Mr BLOFFWITCH: There were no resources or equipment and the officers talked about cars running out of petrol and patrols being unable to operate. The only time I have ever heard such a statement was in those two years when

a standing order was made that no more money was available for petrol. This was back in 1991-92. I do not doubt that in some parts of the State under the new Delta program that situation will happen again. Under the Delta program everybody gets a budget to operate and work with.

Mr Marlborough interjected.

The ACTING SPEAKER: Order, member for Peel!

Mr BLOFFWITCH: The biggest bugbear of every police station is its overtime. If I were a police officer, I would like to get a share of that overtime and there is no doubt that all policemen want a share of it. It is up to the inspectors and the people in charge to operate within their budgetary constraints. Two years ago when the Delta program was implemented in our area there were some problems; however, we all have a better idea of how it works now. The only place my home has been burgled is in South Perth. My home in Geraldton has never been burgled because during the day up to eight officers patrol suburban streets.

Mr Graham: How did you fix that?

Mr BLOFFWITCH: I did not fix it; I talked to the local police officers. The police officers in the local Delta network fixed it. They pay more attention to burglaries and street crime than they do to random breath testing and speed checks. In doing that, they provide a far more effective service, and I congratulate them for their efforts.

MR BARRON-SULLIVAN (Mitchell) [3.43 pm]: Last Sunday I had the privilege of going to a Returned Services League function, the speaker at which was the superintendent of police in our region, John Watson. He gave an address on the no tolerance strategy to deal with the problems we have occasionally with bikies in the south west. This strategy has been designed to combat a problem that arises from time to time, which cannot be anticipated and for which the police must budget and provide resources without much notice. The fact is that the police are able to put together an effective strategy. From the raucous applause the people attending the function gave to the superintendent after his speech, it was obvious that the community as a whole is firmly behind the police. It demonstrates two things: First, that the resources are there when needed. If there were problems, why did the police cars not run out of fuel halfway to Dunsborough? They did not. The police resources are there, as and when needed. Secondly, when left to do the job, the police have the confidence of the community. The main point is this: What is worse than an under-resourced Police Force - this one is not - is a lack of confidence in our Police Service.

Today the Opposition members in their repeated, consistent, vindictive and deep attacks on our policing policies are undermining the confidence in the Police Service at the grassroots level. It is nothing new. I will give a local example of how the Opposition undermines confidence in our emergency services. St John Ambulance Australia is trying to set up an emergency service in our area. The Opposition spokesman is opposing that. That is the message that is going out at the grassroots level.

The member for Midland mentioned earlier that she attended a crime prevention seminar some weeks ago, which I also attended. I am able to speak about this in general terms, as she will know. She is quite aware that the fear of crime in society is as much a problem as the crime statistics. Today we again see the constant undermining of confidence in the Police Service and what it is attempting to do. The member has not pointed out the very positive things that are happening in the south west. That is what we should hear more of.

Amendment (words to be deleted) put and a division taken with the following result -

Ayes (31)

Mr Ainsworth	Mrs Edwardes	Mr Marshall	Mr Shave
Mr Baker	Dr Hames	Mr Masters	Mr Sweetman
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr McNee	Mr Tubby
Mr Board	Mrs Holmes	Mr Minson	Dr Turnbull
Mr Bradshaw	Mr House	Mr Nicholls	Mrs van de Klashorst
Mr Court	Mr Johnson	Mr Omodei	Mr Wiese
Mr Cowan	Mr Kierath	Mrs Parker	Mr Osborne *(Teller)*
Mr Day	Mr MacLean	Mr Prince	

Noes (21)

Ms Anwyl	Mr Graham	Mr McGinty	Mr Ripper
Mr Brown	Mr Grill	Mr McGowan	Mrs Roberts
Mr Carpenter	Mr Kobelke	Ms McHale	Mr Thomas
Dr Constable	Ms MacTiernan	Mr Pendal	Ms Warnock
Dr Edwards	Mr Marlborough	Mr Riebeling	Mr Cunningham *(Teller)*
Dr Gallop			

Amendment thus passed.

Amendment (words to be substituted) put and a division taken with the following result -

Ayes (31)

Mr Ainsworth	Mrs Edwardes	Mr Marshall	Mr Shave
Mr Baker	Dr Hames	Mr Masters	Mr Sweetman
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr McNee	Mr Tubby
Mr Board	Mrs Holmes	Mr Minson	Dr Turnbull
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Mr Carpenter	Mr Kobelke	Ms McHale	Mr Thomas
Dr Constable	Ms MacTiernan	Mr Pendal	Ms Warnock
Dr Edwards	Mr Marlborough	Mr Riebeling	Mr Cunningham *(Teller)*
Dr Gallop			

Question thus passed.

Motion, as Amended

Motion, as amended, put and passed.

ENVIRONMENTAL PROTECTION AMENDMENT BILL

Council's Amendments

Amendments made by the Council now considered.

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mrs Edwardes (Minister for the Environment) in charge of the Bill.

The amendments made by the Council were as follows -

No 1

Clause 18, page 37, line 15, column 4 - To delete "$50 000" and substitute "$100 000".

No 2

Clause 18, page 40, line 4, column 3 - To delete the word "individual" and substitute "body corporate".

No 3

Clause 18, page 41, line 22, column 2 - To delete "92(2)" and substitute "92(4)".

No 4

Clause 22, page 51, lines 10 to 30 and page 52, lines 1 to 10 - To delete the lines and substitute the following -

(1) Subject to subsection (4), Waste Management (WA) may carry on waste management operations at or in relation to the following sites:

(a) the intractable waste disposal facility operated at Mt Walton East, Shire of Coolgardie by or on behalf of the State immediately before the coming into operation of section 22 of the *Environmental Protection Act 1997*;

(b) the Metropolitan Septage Treatment Plant, Waterworks Road, Forrestdale operated by or on behalf of the State immediately before the coming into operation of section 22 of the *Environmental Protection Act 1997*;

(c) the Industrial Liquid Waste Treatment Plant, Waterworks Road, Forrestdale operated by or on behalf of the State immediately before the coming into operation of section 22 of the *Environmental Protection Act 1997*.

No 5

Clause 22, page 52, line 18 - To delete "Except as provided in subsection (1)(d),".

No 6

Clause 22, page 52, line 23 - To insert after "of this Act" the following -

, other than this Part,

No 7

Clause 22, page 52, line 28 - To delete "the Chief Executive Officer" and substitute "Waste Management (WA)".

No 8

Clause 22, page 53, line 6 - To delete "the conditions and procedures" and substitute "a condition or procedure".

No 9

Clause 22, page 53, line 14 - To delete the line and substitute the following -

Monitoring of waste management operations

No 10

Clause 22, page 53, lines 15 to 29 and page 54, lines 1 and 2 - To delete the lines.

No 11

Clause 22, page 54, lines 6 to 8 - To delete "subject to any conditions or procedures which are set out in the relevant statement served under section 45(5) for the purpose" and substitute the following -

subject to -

(a) any conditions or procedures which are set out in the relevant statement served under section 45(5); and

(b) any direction of the Minister under section 110N,

for the purpose

No 12

Clause 22, page 54, line 9 - To delete "or procedures" and substitute the following -

, procedures or directions

No 13

Clause 22, page 54, line 11 - To delete "or procedure" and substitute the following -

, procedure or direction

No 14

Clause 22, page 54, line 16 - To delete "or procedure" and substitute the following -

, procedure or direction

No 15

Clause 22, page 54, line 18 - To insert after "section 48(4)" the following -

as if that section applied to the carrying on of a waste management operation in accordance with section 110M(4)

No 16

Clause 22, page 54, line 19 - To insert after "by the Minister" the following "to Waste Management (WA)".

No 17

Clause 22, page 54, lines 24 to 30 and page 55, lines 1 to 29 - To delete the lines.

No 18

Clause 22, page 58, line 9 - To delete "to be".

No 19

Clause 22, page 58, line 12 - To delete "to be".

No 20

Clause 22, page 58, line 24 - To delete "approval or".

No 21

Clause 22, page 59, lines 4 to 6 - To delete the lines and substitute the following -

(a) any direction given to Waste Management (WA) by the Minister under this Part during the financial year to which the report relates; and

No 22

Clause 24, page 60, lines 9 to 30 - To delete the clause.

No 23

Clause 25, page 61, line 6 - To delete the line.

No 24

Page 61, lines 11 to 20 - To delete the lines.

Mrs EDWARDES: I move -

That the amendments made by the Council be agreed to.

The Council's amendments are of two types: First, some minor typographical errors were amended on the motion of the Minister for Finance; and second, amendments instituting changes relating to Waste Management (WA) were introduced by the Government following recommendations from the Standing Committee on Ecologically Sustainable Development. These changes will limit the operations of Waste Management (WA) to existing sites at Forrestdale and Mt Walton, and any move to extend the operations of Waste Management (WA) will require further amendment to come before Parliament. Such change is not anticipated by the Government and, as such, it was happy to move these amendments in the Legislative Council.

Dr EDWARDS: When the Environmental Protection Amendment Bill came before this House last year, the Opposition expressed its concern that Waste Management (WA) was to be constituted solely under the Chief Executive Officer of the Department of Environmental Protection. The Opposition foresaw a potential conflict of interest. That concern was raised with the Minister for the Environment, who considered the issue but could make no significant change. Therefore, the Bill went to the upper House effectively unamended by this place.

However, a motion was moved in the upper House to refer the Bill to the Standing Committee on Ecologically Sustainable Development, which considered the issue for over two weeks. It then produced a number of options to overcome this potential conflict of interest. It considered the Water and Rivers Commission or the Health Department assuming control of Waste Management (WA), but rejected both options as not being viable. The committee also looked at constituting a board to advise the CEO of the Department of Environmental Protection in his role as head of Waste Management (WA). The committee again decided that this was not a viable option.

The committee also considered establishing a separate authority which, idealistically, would be the best outcome. However, this option was rejected as a result of, first, the cost involved, and second, the fact that the upper House cannot make recommendations requiring appropriations, so such provisions would have been ruled out of order.

The committee accepted the situation before us today; namely, that the CEO of the Department of Environmental Protection be the managing authority of Waste Management (WA), but that his powers be limited to three sites.

Although the Opposition is not 100 per cent happy with the outcome, it supports the amendments. Also, we thank the Government for picking up the recommendations of the ESD Committee and bringing them to this House. The amendments send a strong signal that Parliament wants increased accountability when potential conflicts of interest arise. The Government must bring future changes to this arrangement to Parliament. I thank the Minister for her cooperation on this matter.

Question put and passed; the Council's amendments agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Council.

BUSINESS OF THE HOUSE AND ACTS AMENDMENT (ABORTION) BILL

Suspension of Standing Orders

MR COWAN (Merredin - Deputy Premier) [3.56 pm]: I move -

That so much of the standing orders be suspended as is necessary to enable -

(1) the Acts Amendment (Abortion) Bill to be dealt with when government business has precedence; and

(2) that Standing Order No 224 relating to grievances be suspended for today's sitting.

This motion is essentially in accordance with the practice followed in the past three or four sitting weeks in which the Government has sought to set aside time for government business to allow the Acts Amendment (Abortion) Bill to be debated. At the same time, the Government has an expectation that the Opposition will forgo some of its time for this purpose. In this case, we seek that private members on both sides of the House will make a small commitment to provide additional time to ensure progress on this Bill during the balance of today's sitting.

Question put and passed with an absolute majority.

ACTS AMENDMENT (ABORTION) BILL

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Ms Warnock in charge of the Bill.

Resumed from 29 April.

Progress was reported after new clause 7, as amended, had been passed.

Clause 5 put and passed.

Clause 6: *Evidence Act 1906* amended and saving -

Mr BAKER: I move -

Page 5, line 1 - To delete the passage "s.200 and".

This is a consequential amendment following the amendments passed last week to clause 4 of the Bill which was initially a general repeal clause. It seeks to tidy up clause 6(b) on page 5 to remove reference to section 200 thereby the proposed subclause will delete only section 201. We now have a new section 200.

Mr RIPPER: I understand from some discussion around the Chamber that at a later stage efforts might be made to recommit certain parts of the Bill for further consideration.

Mr Prince: Yes.

Mr RIPPER: What will be the impact of this amendment on recommittal?

Mr PRINCE: When we reach the end of Committee, I intend to recommit two clauses. As the Deputy Premier just reminded me, we might need to recommit slightly more than that depending on what comes of the debate.

Clause 4, which was passed, moves into the Criminal Code the offence of the doctor not performing the abortion according to law. Members might recall that was in the Health Act; it is exactly the same offence. Parliamentary counsel pointed out that I had erred in describing it as a crime when the only penalty was a fine. It should be described as a simple offence penalty fine. I intend to recommit to delete the word "crime" and insert "offence". In the scale of offences, it brings it down from criminal misdemeanour to simple offence.

The other clause I wish to recommit is the new clause covering new section 200 of the code which is the one dealing with gender related improper motives. I repeat the words of the member for Maylands, who succinctly said that everyone agrees with the sentiment but is uncomfortable with the wording. I was. Having discussed that in the intervening time with parliamentary counsel I have a new form of words but of the same concept, namely "an abortion should not occur on the basis simply of the sex of the baby that is otherwise a perfectly healthy child" or words to that effect. However, that should not in any way affect a woman's ability to have an abortion where a genetic deformity is gender related. Many of the genetic deformities follow either the male or the female bloodline. Winding up with a slight amendment using the word "solely" does not help; it makes it worse. That has been redrafted and I am grateful to parliamentary counsel for sitting at the Table to assist with that.

A further amendment for recommittal is a consequential amendment dealing with the tidying up of words. As the Deputy Premier reminded me, depending on what happens with that recommittal, that proposed gender related abortion section may be taken out. In recommittal we can consider the whole matter again. If the House moved to delete that in its entirety, we would no doubt have to recommit and deal with this clause because it might require amendment, deletion or addition.

Mr Ripper: What would happen if this amendment were not carried at this stage?

Mr PRINCE: We would wind up with a bit of nonsense in the law. We will have to come back at some time and fix up something which refers to a section which has been deleted and replaced.

Mr Kobelke: Can we have copies of that which the Minister intends to recommit?

Mr PRINCE: Of course; as soon as I can get them, they will be circulated.

Mr PENDAL: Presumably the Minister will recommit the two clauses. Does he see a difference between recommitting two clauses in order for those clauses to be put beyond dispute in the light of what they meant last week, and recommittal for the purpose of seeking to change the decision of the committee last week? We can recommit for two purposes. People should be aware at this stage that those options exist; no-one should be unaware of them. I received advice that at the end of the Bill we will revisit both clauses in order to deal with perceived inadequacies that have been outlined. If the Minister is telling me that the reason we are revisiting the clause is to deal with those two amendments alone, my suspicions would be allayed. The second part of my question would come into play, which is an assurance from him that we are not revisiting the clause for purposes other than to put beyond doubt the intentions behind both of those amendments.

Mr PRINCE: I intend to move to recommit in order to take out the word "crime and substitute the word "offence". If somebody decides to do something else with the clause while it is before the Chamber, I cannot stop them.

Mr Pendal: You cannot stop them, but you can influence the outcome.

Mr PRINCE: The member gives more credit to my eloquence than I would.

Mr Pendal: I was not talking about your eloquence but numbers.

Mr PRINCE: I have no numbers other than those around my waistline.

Dr Turnbull: That is very true, Minister!

Mr PRINCE: The member for Collie did not need to say that!

In dealing with gender related abortion, if I move to delete the clause and then to substitute a new clause which fixes up the inadequacies, the Chamber may delete it. If the Chamber by a majority then does not agree to substitute another clause, the clause has been deleted. I was not intending that to be the result. I can only put to the Chamber my proposal, which is to delete the clause because of the inadequacies of its wording and put in a better, more adequate form of words. What the Chamber determines to do is up to the Chamber.

Mr Pendal: Do you intend to vote for your amendment? That would put your motive clearly on the record.

Mr PRINCE: That is a fair question. The answer is that if I was not going to vote for the amendment, I would not put it. However, if others choose not to vote for it and it does not get up, it does not get up.

Mr Pendal: That is fair enough. Does that apply to both clauses?

Mr PRINCE: Yes. I take responsibility for having mucked up the first one. I should have twigged to the fact that crime and a fine do not go together and made it a simple offence. That is my problem because I did not do it. As regards the other clause, I had concerns at the time and have had concerns ever since. I am very much obliged for the expert advice I have received; hence I will put that in order to make it work as the Chamber wishes it to work;

namely, that there should be no abortion of a healthy child simply because of its sex, but that proposition should not affect abortions for other reasons where the sex of the child is a very relevant factor because of some form of inheritable disease, deformity, chromosomal defect or whatever the case may be.

Mr Pendal: Do you see separate votes on each?

Mr PRINCE: I am not sure of the procedure on a recommittal. I think there are separate votes.

Mr Pendal: We will go back into it with one vote for recommittal, but I presume there will be two votes and that the clauses will be dealt with separately?

Mr PRINCE: Yes, on the amendment dealing with section 200 there will be one vote to delete and one vote to substitute. I have checked that with the Clerk.

Ms WARNOCK: I intend to vote for the amendment to clause 6 on page 11 because, as the mover has outlined, it is a consequential amendment as a result of a clause which was passed the other night. Whatever one thinks about that clause or whatever one intends when the recommittal takes place later, this amendment is entirely consequential. Therefore it makes sense to vote for it.

Ms ANWYL: I oppose the amendment on the basis that section 200 as it stands should never have been voted into the Bill. It is totally unworkable and a form of legal fiction. I have said on many occasions that it is the duty of the members of this Chamber to make workable laws. I do not intend to support a further amendment which will try to make workable something which is totally unworkable. On that basis I will be opposing the amendment.

I understand that there will be many amendments before us today. I ask, Mr Chairman, that there be some ruling about those amendments being made available to members because we are now faced with extremely complex convolutions of legislation. I do not know that any real effort is being made by people who will be moving amendments to make them available. I have not been given any today.

The CHAIRMAN: They should be available from the staff in the Chamber.

Ms ANWYL: I do not have them. I do not know how many of my colleagues do not have them.

The CHAIRMAN: If you have any difficulty, let me know.

Ms ANWYL: I will also oppose any other amendments which give effect to unworkable pieces of legislation. I remind members that we have a duty to make workable legislation. If we think back to when this Bill was first debated on the day we resumed this year, there were forecasts of a public health crisis. We now have that public health crisis. I have been made aware of women in rural and remote areas who are not able to access terminations as a result of decisions made by medical practitioners and nurses over the weekend. I support to some extent the decision that has been made because those medical practitioners are simply upholding the law. We must remember that.

Mr McNee: They failed to do it for 25 years.

Ms ANWYL: Precisely, but they are now doing it. That is why this Chamber has an obligation to make workable laws today, not in two weeks', two months' or two years' time.

Notwithstanding the proposal to recommit, the amendment will not make the clause a workable law. I understand that some members intend to resubmit other clauses of the Foss Bill, which we dealt with originally and which now appears in a different form. The most confusing aspect is that we had paragraphs (a), (b), (c) and (d) and we now have paragraphs (d), (c), (b) and (a). The intention is to try to remove that clause on informed consent, which was paragraph (d) in the Foss Bill and (a) in the Davenport Bill. We will have many recommittals. This is a precursor for the procedure; hence, I suppose, the member for South Perth's question to the Minister. I ask members to consider our obligation to make workable legislation throughout the lengthy debate we are about to go through.

The CHAIRMAN: All the amendments that we have at the moment are on the Notice Paper. The amendments the Minister for Health just mentioned are being photocopied and will be distributed. All members will have a copy of what is being proposed.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 7: *Health Act 1911* amended -

Mr PRINCE: I move -

Page 6, lines 8 to 10 - To delete proposed subsection (1) of section 334 and substitute the following -

(1) A reference in this section to performing an abortion includes a reference to -

(a) attempting to perform an abortion; and

(b) doing any act with intent to procure an abortion,

whether or not the woman concerned is pregnant.

This is self-evident and follows from matters we dealt with last week. It simply better defines the act of performing an abortion to include an attempt to do so and doing it under the obvious mistaken belief that the woman concerned is pregnant whether or not she is pregnant.

Amendment put and passed.

Mr BAKER: I move -

Page 6, lines 8 to 21 - To delete the lines.

This clause was proposed to be included in the Health Act creating offences in respect of medical practitioners who unlawfully perform abortions. Given the amendment I moved to clause 4 last week, this clause was transferred into the Criminal Code and, as such, it is no longer applicable. If we leave it as it is, the same offence will be in the Criminal Code and the Health Act. This is therefore a consequential amendment.

The amendment moved by the Minister for Health to the definition or terms of reference relating to attempting to perform an abortion and doing any act with the intent to procure an abortion also appear in the new offence relating to the doctor in the Criminal Code. I supported the Minister's amendment, and now move to delete the clause because the Criminal Code now deals with an offence of this kind.

Mr McGINTY: I urge members to vote against this amendment simply because we have just unanimously passed an amendment moved by the Minister for Health to define the word "perform" and referring to attempts to perform abortions. The member now wants to remove that. It is still relevant, appropriate and proper that the word "perform" be defined for the purposes of what will remain of this clause. In the Bill before the House, is the extensive definition of "perform" relevant to clause 4? The answer is yes, because the clause seeks to remove any duty that might exist in law on any person to participate in the performance of an abortion. Without the extended definition moved by the Minister for Health with which we have agreed, we will have a very limited or improper definition of "perform" or "performance" in the Health Act. Surely it would be in the member for Joondalup's interests to have an expanded definition of the term along the lines moved by the Minister for Health. That definition is still relevant to what will remain of this clause.

Similarly, clause 5 refers to performance of an abortion and justifications. It is a question of whether we need the proper and expanded definition of "perform" as it relates to that clause. I suspect that this amendment, like many others moved by the member for Joondalup, has been inadequately and improperly thought through. It is clear that the amendment moved by the Minister for Health was moved for a good reason - not so that it could be deleted five seconds later. If members were to think through the ramifications of the success of the member's amendment, they would realise that it would delete the reference to "perform" or "performance" when it is still relevant to clauses 4 and 5. For that reason, it should be defeated.

The CHAIRMAN: We cannot delete lines 8 to 21.

Mr McGinty: Yes we can.

The CHAIRMAN: No, we cannot, because we have already moved to accept lines 8 to 10. The member for Joondalup can move an amendment only in relation to lines 11 to 21.

Mr McGinty: Mr Chairman, are you ruling the amendment out of order?

The CHAIRMAN: No, I am ruling that we have already dealt with lines 8 to 10.

Mr McGinty: With due respect, what you have just said has no standing; it is simply advice to the Committee. Either you rule it out of order or you allow the member to persist with his amendment. If members accept my point, they will vote against it. You must do one or the other; you cannot sit in the middle and make helpful suggestions.

The CHAIRMAN: I can ask the member to seek leave to withdraw that amendment and submit another.

Mr McGinty: If that were what he wanted to do, he would have done it.

The CHAIRMAN: When he lodged this amendment he was not aware of the previous amendment.

Mr McGinty: They have both been on the Notice Paper for some time.

Mr PRINCE: My understanding of the intention of the amendment moved by the member for Joondalup is that, having moved the provision covering this offence to the Criminal Code, it now must be deleted from the Health Act. If that is not done we will have the same offence in two pieces of legislation and that does not make sense. In so doing, the member has referred to line 8 when he should have referred to line 11, which is the logical consequence of the amendment I moved to the definition of "perform". As I understand it there is no more to it than that. If by the Committee's leave the member can amend the amendment, he will achieve his intention.

Mr BAKER: I accept the new clause to which the Minister for Health has referred. Of course, the word "perform" is used only in subclause (3) of proposed new section 334 and the word "performance" is used elsewhere. I seek leave to withdraw the amendment and I will -

Mr McGinty interjected.

Mr BAKER: For the sake of making the member for Fremantle happy I seek leave to withdraw. I will move an amendment to refer to lines 11 to 21 once leave has been granted.

The CHAIRMAN: Is leave granted to withdraw the amendment?

Mr McGinty: No, it is not.

The CHAIRMAN: It has been brought to my attention that the amendment is out of order and, as such, it cannot be dealt with. Any member has the opportunity to move an amendment relating to lines 11 to 21.

Mr KOBELKE: I move -

> Page 6, lines 11 to 21 - To delete the lines.

I would appreciate some advice from the lawyers among us, but it appears from what has happened so far, we will create further confusion and complication if the lines remain in section 333 of the Health Act, because there will be two penalties for the same offence. That is not the way to go. We must have simplicity. The offence was established last week by an amendment to the Criminal Code; that is, new section 199. I realise many people do not want such penalties or offences in the Criminal Code. That decision was clearly and properly made by this place. Therefore, we must consequentially address the issue that the intention of the Davenport Bill, when first introduced, was to have a similar if not the same penalty within section 333 of the Health Act. It is appropriate to remove that penalty. If any lawyer can advise that it makes sense to maintain both offences and that it will not create complications, I would like to hear that advice. It appears to be a duplication that could create problems rather than assist.

Ms WARNOCK: I would like to hear from those lawyers as well. I contemplate voting against the amendment. I should have done a law degree at university rather than an unuseful arts degree!

I understand very well that this is a consequential amendment and, as the member for Nollamara has just said, it makes sense to vote for it because although it was against very strong objections of many members in this Chamber, the offence of abortion was removed from the Health Act and put into the Criminal Code. I was one of the many people who voted against that, for very good reason, and I will support the recommittal at the end of this debate so that we might change that move.

The most appropriate place for this offence is in the Health Act. I have said that several times in this Chamber. The policy agreed to after debate in this place provides for adequate and appropriate counselling, which is obviously important. However, it is out of all proportion to make inadequate counselling a crime. That is why I shall be voting for a recommittal to change the decision we made last week. However, I leave it to my colleagues to decide whether to regard this as simply a consequential amendment or, as is my intention, to vote against it as a demonstration that the original decision was entirely wrong.

Mr CARPENTER: I oppose the amendment. I urge all members who believe that we made a mistake with the amendments passed last week to do likewise. Given the events in both places over the past six weeks, it is a hollow argument to say that because Parliament has already made a decision we should not go back over it but rather tidy up a few loose ends. This debate has not attempted to stop people re-working that decision; that is the process we are going through now. We should do everything we can to resist the amendment, because it has already been acknowledged by a large group of people that two key amendments - opposed by me and others - were passed mistakenly, will result in unworkable law, and ultimately should be deleted from the Bill. Recommittal is the correct process.

We should leave the provision in the Health Act, as was originally proposed. We should not support its removal, because if we do, at recommittal we will take the same position.

Dr HAMES: I support the amendment, but not because I agree that the offence should be in the Criminal Code. I voted against that. I still strongly believe that it should be in the Health Act. However, it is in the Criminal Code, and it is silly to have it in both. If we leave it there in the hope that a recommittal will result in its returning to the Health Act, that is an unlikely outcome. If that did happen, that would have to be also recommitted. For the time being, we must work with the issue before the Chamber. It is a nonsense for the provision to remain in both places. I support the amendment.

Mrs van de KLASHORST: This is madness. We are talking about a recommittal. We are talking about what we may or may not do. I do not think anyone really knows what we are doing. Can we not recommit this matter, see what is happening, and go through all these issues later? None of this makes sense to anyone with any brains. This is ridiculous. We are talking about whether to recommit the provision; and if we do, and we return to what we agreed weeks ago, this should be in; and if we do not, this should be out! We are putting the cart before the horse in making decisions. It is not good government or good legislation. It is not good anything.

The CHAIRMAN: On any Bill, after the Committee stage, and before proceeding to the third reading, members have an opportunity for recommittal. That is what we will do tonight, but we cannot do that until we have finished with all clauses in this Bill. That is the procedure we will follow.

Mr COWAN: I wish to clarify the situation for the member for Swan Hills. A decision was made last week to make it an offence under the Criminal Code for doctors to perform terminations outside the set guidelines and principles. The legislation, which came to us from the other place, set the offence in the Health Act.

Members will be removing from the Health Act those provisions which deal with penalties or offences under that Act because they are already in the Criminal Code and the recommittal will not change the decision that this Chamber made regarding their retention within the Criminal Code. The question of recommittal does not arise in this instance. It is a question of duplication and in this case there is duplication. I acknowledge that the biggest difference between the legislation that this Chamber has had to consider over the past few weeks is whether certain provisions are retained within or removed from the Criminal Code, irrespective of whether it is a crime or a simple offence. This Chamber, for better or for worse, made a decision last week to retain this matter within the Criminal Code. It is obvious that, unless there is a change of opinion, members now must deal with what was put into the Health Act and remove that. I do not find any great favour with that. I favour the concept of having consistency. While I am prepared to look at ways to ensure that members deliver that consistency, a decision has already been made about whether these matters should be retained within the Criminal Code. That decision was made last week and now members must ensure that we do not have duplication by repeating what will be in the Criminal Code and in the Health Act. That is why we have this amendment for deletion. I salute those people for wanting to stand on principle, but the Chamber made a decision last week.

Mrs van de KLASHORST: Members have waxed and waned, by making one decision, then another decision and now yet another decision. If members go back next time when the clauses are recommitted and put this matter back into the Health Act, can these clauses be recommitted and brought back under the Health Act?

Mr Cowan: Yes.

Mrs van de KLASHORST: We can do that?

Mr RIPPER: I might buy the Deputy Premier's argument about consistency if the rest of the Chamber would buy the same line on consistency. That will not happen because this Chamber voted for informed consent to be the only justification -

Mr Cowan: I will get to that. I will be asking for consistency there as well.

Mr RIPPER: - required for an abortion to be lawful. I am glad that the Deputy Premier will ask for consistency, but the answer will not be a uniform yes from the Chamber. Many members will want to overturn the justification of informed consent. If I could have an assurance from all quarters of the Chamber that it will follow the line of consistency when it comes to informed consent, I may be prepared to buy the Deputy Premier's argument that members should be consistent with last Wednesday's accidental decision to reinsert this offence into the Criminal Code. Members, let us remember that this Chamber voted for informed consent to be the only justification required to make abortion lawful.

If we adhere to that policy, the only way in which an abortion will be unlawful will be if something goes wrong with the informed consent arrangements, which rely on counselling. If the counselling is not "appropriate", in the words of the legislation, informed consent will not have been given and, therefore, the abortion may be unlawful. This

would mean that someone could be charged under the Criminal Code because of a flaw in the counselling process. That is not an appropriate use of the Criminal Code. It is not appropriate to charge someone with a crime because that person has an after-the-fact dispute about the way in which a counselling process was conducted. There are many opportunities for people to have different recollections of meetings. Just as many members have different recollections of decisions made in this Chamber, many people will have different recollections of what occurred during a counselling process. It is not appropriate to charge someone under the Criminal Code for a flaw in the counselling process.

I strongly believe that if this matter is to be an offence at all that it be an offence under the Health Act, not under the Criminal Code. That view is reinforced each time I speak to women who are concerned about the progress of this abortion debate. Whether the offence is in the Criminal Code or in the Health Act seems to be a matter of great symbolic importance to doctors and women. Doctors and women want the matter treated under the Health Act. If it is treated under the Criminal Code, doctors feel they run a great professional risk every time they are involved in providing termination of pregnancy services to women, and women also feel they run a risk every time they seek a termination of pregnancy. These women run a risk of being labelled criminals and dragged through the prosecution process. Even if they are found not guilty, it is still a traumatic experience to be charged with a crime, dragged before a court and made to defend themselves.

People must recognise what is happening in the community. For 25 years, for a quarter of a century, women have had de facto rights to abortion on request. If the rights that people have enjoyed for a great length of time are taken away, they will be angry. Those rights have been taken away by the charging of Dr Chan and his associate. The public then read in the newspaper that both Chambers of Parliament had given that right back - front page of the newspaper, members' voting record displayed - and had voted for informed consent to be the only justification required for an abortion to be lawful. This Chamber is now in the process of taking away those rights again.

Mr Prince: No, it is not.

Mr RIPPER: The Minister will discover that that is what is occurring. The outcome will be a tremendous backlash. Some members might think they are under a bit of pressure from pro-life supporters, but they will be under substantially more pressure when the women in this community realise that their rights were taken away once, given back and are now in the process of being taken away again. This backlash will not be a pretty sight and, Deputy Premier, it will come back on the Government because Governments carry a responsibility for what happens in Parliament.

Mr BAKER: I will comment on some of the points raised by the member for Belmont using the so-called consistency argument. He seems to forget that at the same time we last discussed informed consent - and I acknowledge that that provision in the Foss Bill was successful - the member, and others, voted to support the provisions in that Bill which once again left the offence in the Criminal Code and made women liable to imprisonment for seven years and doctors liable to imprisonment for 14 years. The member has not raised that point. The provision that was discussed last week, under proposed sections 199 and 200, does not provide for a situation where the woman will be charged. If members want to argue about consistency, let there be consistency. When the Foss Bill was discussed, the member, and others in the so-called pro-choice camp, voted in support of those provisions remaining in the Criminal Code.

Once again, that left an offence relating to women in section 200 of the Criminal Code, which carried a penalty of seven years' imprisonment. That was a crime. The member for Belmont also voted in support of the provisions relating to the doctor remaining in the Criminal Code by virtue of section 199. That provision was also a crime. It carried a penalty of up to 14 years' imprisonment. The member for Belmont is now saying that a mistake was made in debating the Foss Bill - he is very sorry, he has changed his mind and does not believe anyone should be in the Criminal Code. That is a hell of a turn around in the space of two weeks. I acknowledge what the member is saying about the need for some consistency. In terms of the informed consent -

Mr Ripper: The question did not even arise to delete those sections in the Foss Bill.

Mr BAKER: You could have moved an amendment to delete those clauses.

Mr Ripper: There was no question before the Chamber. The member for Joondalup is being misleading if he is saying that I voted for an amendment that was not before the Chamber. On which question is the member saying I voted?

Mr BAKER: Which standing order prevented the member for Belmont from moving an amendment to delete those provisions?

Mr Ripper: The member for Joondalup is saying I voted on a question which did not come before the Chamber.

Mr BAKER: Not at all. There was nothing in standing orders preventing the member for Belmont from moving an amendment to delete sections 199, 200 and 201 from the Criminal Code. There was nothing stopping him from doing that.

Mr Ripper: That is not what you said before. You have corrected yourself

Mr BAKER: The member for Belmont did not move an amendment and he endorsed the retention of those provisions in the amendment which carried terms of imprisonment. I acknowledge the need for consistency but it cuts both ways.

Mr PRINCE: I listened with interest to what the member for Belmont said. I admire his passion and rhetoric but he went a bit beyond what is factually correct. That people's impressions and understandings of things are incorrect is undoubtedly true. Members have before them in this Chamber a Bill which puts in the Criminal Code the offence provision relating to a doctor which was in the Health Act. It presently appears in two places. That is silly and the offence should be deleted from the Health Act. I appreciate that the member for Belmont thinks it should be in the Health Act and not in the Criminal Code and I disagree with him. It is the same offence. The member for Belmont's argument that there should be no offence at all was impassioned but I draw the following to his attention: He talked about informed consent. This is not just about informed consent. Treatment must be administered in good faith and with reasonable skill. What if the doctor does not do that and potentially causes significant harm to the woman?

Dr Edwards: You do the same thing you do at childbirth.

Mr PRINCE: I mean significant harm. These things happen. They are very rare, but they happen.

Mr Ripper: It happens with all sorts of operations.

Mr PRINCE: It does. We are talking about not minor things but concepts of negligence of such a serious nature as to be visited with an offence.

Dr Edwards: It is a minor surgical procedure. What you are talking about is rubbish. It is much more dangerous to have a cholecystectomy.

Mr PRINCE: Members have here a Bill from the other place that says it is an offence if a doctor in performing an abortion does not treat in good faith and with reasonable care and skill and if the performance of the abortion is not justified. Two things need to be complied with. One of them must be not complied with before there is an offence. It is as simple as that.

The member for Belmont's argument was to not have an offence at all. However, the Bill that arrived here contained this offence. We have moved it from one Act to another. We have done nothing more to it than that. I intend to recommit to remove the word "crime". That was my error and my mistake. Otherwise the offence is exactly the same as it was when it arrived; it has simply moved into a different piece of legislation that this Chamber has under its control. This is no more nor less than the movement of the offence from one place to another. The terms, criteria and penalty for the offence are exactly the same.

Mr Carpenter: What about the consequences of the offence?

Mr PRINCE: The consequences are exactly the same.

Mr Carpenter: If you are found guilty of a criminal offence, do you not have a criminal record?

Mr PRINCE: Someone found guilty of an offence, whether it is written in the Health Act or the Criminal Code, has a record in the court in which that person was convicted of the offence. Whether the offence is a crime, a misdemeanour or a simple offence depends on the category of offence. I made an error. The word "crime" should not have been there; it should simply be "offence" and I intend to correct that later if everybody agrees.

Dr Constable interjected.

Mr PRINCE: Whether it is a prosecution under the Health Act or the Criminal Code, there is still a record. The only way to do anything about that is to not have any offence at all.

Ms MacTiernan: That is a very good idea.

Mr PRINCE: That may be the preferred position of the member for Armadale but the Bill came here with an offence of a doctor who does not, to put in it simple parlance, do the job right. We moved that offence from the Health Act to the Criminal Code. It is now in two Acts. We should take it out of the Health Act. If we do not, we will have the same offence in two places with exactly the same writing and exactly the same penalty. My preferred position is for it to be in the Criminal Code and I have said so. That is where it is. Therefore, this one should come out. If members

want to revisit that issue then that can be done on the recommittal. For logical purposes, this should come out now - nothing more than that.

Mr CARPENTER: There are significant differences in the position that we arrived at last week and the position we are perhaps incrementally moving towards here. Through these amendments, we are creating various classes of activity under which abortions could be considered or deemed to be illegal, as we did last week with the unfortunate amendment about the sex of the unborn child, the foetus. The Foss Bill allowed a woman the choice of having an abortion with informed consent and it was virtually inconceivable under those circumstances that a crime could be committed. We have moved a long way from that position to one where, with this reference to counselling and the reference to the sex of the foetus, we are creating all sorts of circumstances under which the act could be considered an offence and we are putting it in the Criminal Code. That is the difference in the positions. With the Foss amendments we removed virtually any conceivable circumstance under which a crime could be committed and -

Dr Turnbull: We are going to do that in recommittal.

Mr CARPENTER: We are now inserting into this legislation all sorts of circumstances under which an offence could be deemed to be committed and we are placing that offence in the Criminal Code. This is a vastly different piece of legislation with vastly different consequences from that piece of legislation that we voted on several weeks ago. We should oppose this amendment and revisit the two mistakes that we made this week. I ask the people in this Chamber who are talking about supporting this amendment and the consequences of it whether they now concede that they made a mistake last week with the clause relating to the sex of the foetus. I think some of the people who have spoken in this debate have changed their minds. If they made a mistake with that then I say they are making the same mistake now. We should oppose this amendment and move later to remove abortion from the Criminal Code as good sense told us we should have done in the first place.

Mr BRIDGE: It is understandable. The member for Willagee is right when he says that there has been a change in direction since the introduction of this legislation. There were good reasons for that change. In the very early stages of this debate we talked about the Foss Bill and paragraphs (a), (b), (c) and (d). A number of aspects of those measures appeared to be compatible at that time. There was some acceptance and perhaps a broader degree of understanding that they could work. The debate enabled members to gain a greater knowledge of the nature of abortions and the way in which they are carried out. Members saw that aspects of the Foss Bill were inappropriate, because they countenanced the interests of the woman and the medical practitioner with little or no regard to the foetus.

The DEPUTY CHAIRMAN (Mr Sweetman): Order! The Chamber is far too noisy and far too mobile.

Mr BRIDGE: We have moved away from the fundamental aspect of this debate, which is abortion - the premature termination of the foetus which would otherwise have led eventually to the birth of a child. That foetus is a living being as are all members in this place. Leaving the penalty for an abortion in the Criminal Code will ensure we give proper regard to the fundamental process of an abortion. This is not about freedom and protective methodology to countenance the medical profession and/or the women who choose to have an abortion. In this context the rights of the unborn are best served if those penalties are found within the Criminal Code. That is not an unrealistic position.

Mr Riebeling: You can lock them up! You'll need 9 000 extra prison beds a year.

Mr BRIDGE: One hears that sort of talk when one speaks out against abortion and what it represents. It is sad.

Mrs van de Klashorst: It is true.

Mr BRIDGE: It might be, but it is sickening. That comment shows disrespect for the human race. If that is the attitude of the member for Swan Hills on abortion, good luck to her. However, she should not deny the right of those of us who show a caring attitude to speak against legislation that countenances that. If the medical profession and the woman who chooses an abortion do all the correct things nothing will trigger the penalty and it will sit on the books. However, it is a safety factor upon which our society can rely to ensure due respect and recognition of the importance of a living being, the unborn and the born child - the ultimate life on earth. We expect a fair deal; it is not unreasonable. Members should get on with the job of embracing this. If we did things sensibly we could pass this legislation before the dinner recess tonight. Let us face it, a million and one things have been said over the past few weeks and we are only regurgitating what we have said.

Amendment put and passed.

Mr PENDAL: This Chamber introduced the so-called conscientious objection clause to the Foss Bill that was equal to the task of ensuring that someone who works in a government hospital either as a doctor, nurse or health professional and who opposed abortion was not put in a position in which he or she could perhaps be sacked on the grounds that they had failed to carry out a lawful direction to take part in an abortion. There was unanimous

agreement to that clause in that debate. One of the strengths of a lengthy public debate, albeit one that may have been inconvenient to many of us, is that it has been drawn to our attention that that clause adequately covers the position of those personnel in government hospitals. However, the clause may not cover the position of Catholic hospitals and institutions and other services offered by that organisation. Therefore, I propose an amendment to add the words, "hospital, health institution, other institution or service". Members have indicated that there will be no objection to extending that conscientious objection clause to the Catholic hospital system per se. One imagines that might also apply to other non-Catholic organisations that similarly run hospitals, health institutions, other institutions or services. I understand there will be general agreement to that, so I have avoided giving the Committee a lengthy explanation to support that amendment. However, I can assure members that I would be capable of doing that if they were to depart from what I understand the situation to be.

For the purpose of the record I will read some of the concerns that have been raised by the Australian Catholic Health Care Association. Dr Warwick Neville, who acts on behalf of the Australian Catholic Bishops Conference, provided me with a number of facts. The Australian Catholic Health Care Association became a party to a High Court case - I am not sure that the case has been decided; other members may have that knowledge - that touched on a wrongful birth litigation that arose in the New South Wales courts and was ultimately destined for the High Court. Unless we were to include a provision of this kind in the legislation there would be implications for the Catholic hospital system. The notes provided by the Australian Catholic Bishops Conference state -

> As a result of the decision of the Court of Appeal, Australian law now recognises that damages are payable for what is called "wrongful birth." Similar claims have been recognised overseas. In other words, hospitals and doctors will become liable to pay damages where they fail negligently (a) to detect a pregnancy which, but for their failure, would have been terminated, or (b) to detect foetal abnormality which, but for their failure, would have resulted in the mother demanding a termination.
>
> The implications for the Catholic health care sector of the Court of Appeal's decision, if upheld by the High Court, are significant. For example, Catholic hospitals care for pregnant women regardless of religious affiliation; they diagnose pregnancy; they detect foetal abnormality. Catholic hospitals do not, however, counsel terminations of pregnancy, do not carry out abortions, nor do they refer women to institutions where abortions are performed. To do so would violate the most basic beliefs of Catholics about human life, human dignity and the equality of persons.
>
> If the law in Australia recognises the existence of a cause of action arising out of the lost opportunity to provide an abortion, the law will imply the existence of a positive duty to advise every pregnant woman about the possibility of an abortion. In these circumstances, Catholic hospitals may not be able to continue providing for the care of pregnant women.

We will then be faced with the absurdity of the Catholic health care system, which provides a huge number of maternity beds, being left out of the care of pregnant women. I do not need to tell members of this Chamber that the Catholic hospital system, no less than the Catholic education system, is open to all. The Catholic hospital system is, in practical terms, more open than is the Catholic education system because of the sheer lack of places in the education system. Therefore, many people in this Chamber and in the wider society, whether they be Catholics or people with no religious beliefs or spiritual views, have nonetheless taken advantage of the care that is provided by the Catholic hospital system.

This amendment is, therefore, very important; and although previously it was handled with considerable dispatch, the fact that the member for Willagee is prepared to hear more about it is, I hope, indicative of what most members of this Chamber believe. I commend the amendment to the Committee.

Ms WARNOCK: The member who moved this amendment knows that there is general agreement about it. In any event, medical practitioners and nurses are not obliged to carry out procedures to which they have a moral objection, because, apart from anything else, that would be counterproductive and deeply unpleasant for the patients, as some have found in the past, according to information that I have received from people who have called me. According to people who work at King Edward Memorial Hospital for Women, only people who have no moral objection are asked to work in this area. Therefore, it is not only perfectly proper for the medical practitioners and nurses but also extremely important for patient care that we support the principle of conscientious objection and have it recorded in legislation.

Ms MacTIERNAN: I supported the original provision because I believe that not only the women concerned but also the staff of a hospital or clinic must have the right to exercise their moral views on this matter. However, I do not have the same level of confidence about the proposed amendment to extend the right of conscientious objection to "hospital, health institution, other institution or service".

I make a distinction for three reasons. Firstly, I am concerned that in this age of privatising and contracting out the ownership and operation of our public health facilities, public hospitals that are operated by various church groups and that are subject to the moral views of those groups, which may not represent the views of the larger community, may provide a health service. This is not just a theoretical argument. For example, it was proposed that the public facility at the Bunbury health campus be run by the Catholic health system; and one of the selected tenderers for the ownership and operation of the new hospital in my electorate of Armadale was the Catholic health system. In order to win a tender, a tenderer might have to agree to provide the full range of health services that would normally be provided in a public hospital. However, notwithstanding the fact that the contract had been signed off and the successful tenderer had agreed to do that, this provision might provide the tenderer with an escape route. I want some assurance from those who support this provision that if the Catholic health system or any other health system was given a contract to run a public health facility, it would be obliged to provide the full range of health services that it agreed to provide as a condition of winning that contract.

My second concern is that many people may be unaware of the views of the hospital which they attend. For example, a Catholic hospital may offer an outpatient service and pregnancy clinic, but a woman who is being treated at that hospital may be quite unaware that she has put herself into a system that has a particular view about this matter. If a hospital wanted to opt out of any legal liability that it might have, it should at the earliest opportunity advise all its patients and clients that it had a certain view and would not as a matter of principle provide either that service or information with regard to that service. It is quite inappropriate for people who are treated in a hospital to find that a raft of legal protections that they have, including the duty of care, have suddenly disappeared because of this provision.

Mr PRINCE: I agree with the amendment moved by the member for South Perth. Its intention is quite clear. However, I am not altogether sure that it needs to be said, because the definition of "person" in the Interpretation Act is fairly wide and includes a public body, company, or association or body of persons, corporate or unincorporate, so that matter is probably covered anyway. Having said that, it is a worthwhile amendment.

With regard to the matter to which the member for Armadale referred, I have asked my legal advisers about the situation at the Bunbury health campus. The collocated government hospital and St John of God Hospital will share some facilities. I am assured there is no difficulty with that collocated facility, which is yet to open. However, if at some stage there were some form of management of a public hospital by a Catholic health care entity which had particular views about not providing any form of abortion -

Ms MacTiernan: Is Mercy not a tenderer for the Armadale hospital?

Mr PRINCE: I am not sure. Whoever gets the job, assuming it goes in that way, of build-own-operate must provide the full range of services prescribed for a public hospital.

Mr Wiese: Does this clause preclude that happening?

Mr PRINCE: No. Unless the people tendering are prepared to do that, they are a non-complying tenderer and it means the Catholic health care system could not tender.

Ms MacTiernan: They could enter into a contract saying they will provide the full range of services. If they subsequently did not do that and you sought to enforce the terms of the contract, they could raise this provision and say they are not under any obligation to do it.

Mr PRINCE: I have the wit to have worked this out, and many people brighter than me in the health system and in Crown Law have also worked it out. I cannot imagine a tender document being prepared for the management of a public hospital that could be defeated by such a simplistic device. Many people have identified the problem, and we all know it is possible. Therefore, when any tender goes out at any time for the management of a public hospital, it will require a full range of services to be provided. There can be no reliance upon this provision, if it becomes law, to preclude the delivery of that service.

Dr Gallop: There is a simple solution - do not privatise public hospitals.

Mr PRINCE: Let us not get into that. Does the member for Armadale understand?

Ms MacTiernan: I hear what you say but it does not make sense.

Mr PENDAL: I move -

Page 6, line 22 - To insert after "person" the following -

, hospital, health institution, other institution or service

Ms MacTIERNAN: I do not think the Minister has answered my query. He said that many people had thought of this problem and are aware of it and, as a consequence, it is not a problem. However, he did not explain why it will not be a problem. If a contract were entered into with a Catholic hospital for the provision of public health services, the hospital would be primarily bound by force of contract. If the hospital had undertaken to provide a full range of services, as required by the tender, and was successful in achieving the tender, and it then broke the terms of the contract, I cannot see why it could not rely on this statutory provision.

The provision is very clear. It states that no person - that includes a hospital - is under a duty, whether by contract, Statute or other legal requirement, to perform the service. No contractual obligation could be enforced, by virtue of this provision. The Minister's only response to my query was that it is not a problem because many people are aware of it. He has not suggested a way in which it could be dealt with.

Mr Prince: It could well be that no Catholic health care system would be able to tender under those circumstances because it could not comply.

Ms MacTIERNAN: That is quite possible. However, it is also possible that, for example, an organisation such as Health Solutions Australia could be involved. It could sign a contract and initially have no difficulty complying. The company may subsequently be bought out by another organisation and undergo a complete change of management. That management might espouse a particular set of religious views and might not want to be involved.

Mr Prince: In which case they would be invoking the law to frustrate a contract. There is a great deal of contractual law about that process and the result would be significant damages with an invitation to mutually determine the contract.

Ms MacTIERNAN: I do not accept that that is the case because of the way this provision is worded.

The third issue on which I seek clarification is that I understand abortion is acceptable in Catholic hospitals when the mother's life is in danger. Perhaps the member for South Perth will clarify that. If a doctor or hospital failed to act properly in order to protect the mother's life, and through sheer incompetence did not offer an abortion to a woman in that circumstance, even though it was within their moral percept, it seems to me that under this clause the family of that person would lose its right of litigation in negligence against the hospital.

Mr PENDAL: I am no theologian, but I think the member for Armadale is incorrect in saying that the Catholic Church approves abortions in cases where the mother's life is in peril.

Ms MacTiernan: I asked whether it is the case.

Mr PENDAL: My lifelong understanding is that it is not the case because then it would become a competition between the life of one or the other. I do not want to argue that point, no more than many other people do. The member for Armadale raised a fair question. The answer was provided in her own question and by the Minister's comments. The scenario is clear. For example, I was involved in the debate four years ago about the St John of God Hospital and the collocation principle involving a single campus in Bunbury. The problem is overcome by retaining two distinct entities in Bunbury running two hospitals, with the hospitals cooperating where they are physically and philosophically able to do so. Clearly, that does not mean cooperation with respect to abortions. That was central to the discussion four years ago.

Secondly, I think the members are saying the same thing. The Minister for Health has answered it clearly. The Catholic hospital system may apply to the State Government for the contract to operate the hospital at Armadale. The State Government would ask the Catholic health care system if it could provide the full range of health care facilities and procedures required. Presumably, knowing the question that would be asked, the Catholic hospital system would say that it could provide everything, except abortions.

The Government of the day will be in a position to either accept that, and the contract will be written accordingly, or, to tell the Catholic hospital system that it cannot be part of the privatised hospital service. I do not think that position would arise.

Ms MacTiernan: That relies on the organisation making the statement upfront - I am not saying the Catholic Church would not - that it will not provide those services. In that case it will not get the contract. I am saying there are other outfits that might not be totally honest, or alternatively, what is more likely, there will be groups that change their mind midstream in the contract and there would be no recourse.

Mr PENDAL: The same would apply to what the member for Armadale has just said. The member is right; it will not only require the Catholic hospital system to be upfront, as the member puts it, and say it will not perform abortions, but also it will put an obligation on the Government to have that point clarified. The Government will say, presumably through the Health Department, that it wants to make sure there has been no change in attitudes and will

ask whether the hospital will perform abortions. Presumably the Catholic hospital system will say it is sorry but it cannot do that. The problem then is solved. That is one fewer tenderer in the process. The position is abundantly clear from the comments of both the member for Armadale and the Minister for Health.

Mrs van de KLASHORST: The Bill states that no person is under a duty, whether by contract or by statutory or other legal requirement. That concerns me. Would it be possible to include a condition in the contract, which must be in writing and signed, that they will provide an abortion service. Abortion is not like all other medical procedures.

Ms MacTiernan: The contract cannot override the Statute.

Mrs van de KLASHORST: Then perhaps it should be written into the contract that the contract overrides the Statute.

Ms MacTiernan: You cannot.

Mrs van de KLASHORST: Then members should not pass this amendment because it is not good law.

Mr PRINCE: I will explain this one more time. One cannot by contract get out from under the law. The member for Armadale has spent 10 minutes explaining that. The problem will be overcome because the Government and organisations such as the Catholic health care system will know what the law is. All contracts written to date very clearly and carefully spell out that any change, whether it is a shareholding or management structure change, can be made only with the consent of the Government.

Ms MacTiernan: What if you have changes in the moral outlook?

Mr PRINCE: A contract cannot be let to company A which is then subsumed by some other organisation, without the consent of the Government. If the company decides it does not want to perform any services at all, it will be penalised under the contract.

Ms MacTiernan: How can they be penalised under the contract when you have this provision?

Mr PRINCE: If it suddenly decides that it does not want to obey the terms of the contract, a claim for damages will be made with an invitation to cease the contract. The member's reasoning is interesting but it does not hold water. The clause has been thought through.

Ms MacTIERNAN: I suspect it will not be an issue in relation to the Catholic hospitals because everyone knows what the Catholic Church's position is. It is unlikely that it will misrepresent its position in this regard. It is more of a risk in relation to other agencies whose views may not be so well known or might change halfway through the contract. There is also still the possibility of a group being taken over by a larger group, and no assignment being necessary. I am only using this an example, I am not suggesting this company was involved. A company such as Health Solutions Australia might be taken over and come within a larger group. There might be no assignment of the leasehold, and no change in immediate directors. However, this company might be taken over by a group which has strong views about these particular provisions. The Minister said there will be damages provisions, but those damages provisions will be based on breach of contract. Someone cannot be contractually bound under this provision to provide those services. I fail to see how it can be overcome. It is important to understand this because as this State goes down the route of privatisation, this issue must be remembered in the provision passed today.

Amendment put and passed.

Mr PENDAL: I move -

> Page 6, line 24 - To delete "participate in" and substitute the following -
>
> be involved in any way, prior to or during

The amendment has been on the Notice Paper for several weeks and if it is passed, the clause will read that -

> No person, hospital, health institution, other institution or service is under a duty, whether by contract or by statutory or other legal requirement, to be involved in any way, prior to or during the performance of any abortion.

This is no more than an extension of the two amendments made so far with respect to this clause. The scenario I seek to guard against is that which could arise as a result of the word "participate". The scenario may be a serious affront to the rights of a doctor or another person, whose views are the same as those who work in a government hospital, who oppose abortion and share the views of that broad range of institutions, such as, but not exclusively, the Catholic hospital system, with respect to abortions. Without further strengthening this already amended clause, a doctor, for example, could be left in a position in which he had to participate, albeit in the eyes of some, in a cursory or arms-length way.

To many of those doctors who share the view that abortion is wrong, who express the philosophical or spiritual view that they do not want to be involved in any way, the extension within this amendment offers them protection; for example, they would be under no obligation to refer a person to a doctor or another person whose advice would lead the woman to a person performing the abortion. We have heard an enormous amount of argument in recent months in Western Australia, both in and beyond this Chamber, about the rights of people to have a pro-choice position. To a large extent that has been the very genesis of the great divide.

One could logically extend that pro-choice argument to, in this case, the doctor, the family's general practitioner, whose views for whatever reason do not allow him or her to participate in anyway in the procurement of an abortion. That general practitioner surely has the right to express that pro-choice in his or her own way. The implications for the woman and, hopefully, the husband or partner with her are that they would be left knowing they cannot get advice there because that doctor did not believe he or she had the capacity to give proper advice; that is, to say,"Go and see Dr Smith down the road and I know he will refer the matter on." That is no different from the situation of patients leaving the surgery in the belief they will not be satisfied there for some other reason.

It may well be the belief that the patient's health care needs are not being looked after. The patient may say, "I am dissatisfied with you; can you recommend someone else?" One would hardly place the onus on the doctor to say, "Yes, here is someone I can refer you to." On human rights grounds alone - if necessary, I will extend that argument a little later - any doctor, no matter who or where, should have the right to say, "I do not want to be involved in any way prior to, or during, that abortion."

Ms WARNOCK: I oppose this amendment because it goes too far. I was able to support the previous amendment because I believe in conscientious objection. However, there is a clashing set of rights here which I must outline to the Committee. This is much too broad a definition of participation and could seriously affect the duty of care which health professionals have to their patients, as the doctors in this place know. It could be used to excuse doctors with particular religious beliefs from informing their patients about the availability of abortion in direct contradiction of the Australian Medical Association guidelines on reproductive health. I remind members that they state -

> When a personal moral judgement or religious belief prevents doctors from recommending some form of therapy, they should so inform their patients. They should also inform patients that such therapy may be available elsewhere.

Perhaps they could say, "Why don't you go to family planning and get some advice there?" The guidelines continue -

> Doctors with particular religious beliefs have been known to be responsible for delays in diagnosis of pregnancy if a woman is seeking an abortion. If this clause is passed they could do so without fear of any recrimination.
>
> If passed, this clause could also exempt nursing staff from caring for women who are in hospital for abortions.

I must say that I feel extremely strongly about this. Just about every woman I know has a horror story - admittedly, in my case it is mostly from the distant past - about a country or suburban doctor from some years back, who because of his or her religious beliefs, not those of the patient, was unkind, judgmental or simply unhelpful. This should not be allowed. There is an obligation under the AMA code. Doctors have responsibilities. If the doctors insist on having the right to object morally - I do not object to that; it is perfectly right - they must make sure the patient does not suffer as a result of that right. We should certainly oppose this amendment and leave the wording as it.

Mr PRINCE: I, too, oppose this amendment. I understand the reason the member for South Perth moved it. He has explained that carefully and quite well. I sympathise and agree with much of the reasoning. However, I am of the view that the words we already have before us - namely, that no person is under a duty to participate in the performance of an abortion - are sufficiently wide to give a degree of conscientious objection to an individual who is after all a health professional of some form or other, whether it be the doctor, the nurse, some other therapist, a laboratory assistant and so on.

The extension of the amendment with the words "be involved in" is a very wide-ranging concept and is imprecise. That, of itself, raises doubt, which is not what we seek to do. It could, for example, extend to a laboratory technician whose function is to culture a sample of fluid for the purpose of an amniocentesis test. Yet there is no necessity for that process to have led to an abortion, but the inclusion of the words "be involved in" could extend the provisions that far. I am not suggesting the laboratory technician would refuse to do cultures of amniotic fluid; that person probably would not.

Mr Pendal interjected.

Mr PRINCE: I do not want to be too cynical about this. As a practising lawyer, I can tell members that I have never

found any assistance at all in any debate in Parliament on how a law was passed, nor do I know of anybody who has, for that matter.

Mr Pendal: You raised this half an hour ago. Do you recall that?

Mr PRINCE: No, I did not. I have not raised the question of the interpretation by the court. I said that the Interpretation Act covers what the member was trying with the last amendment. Consequently, there is no problem. The words "be involved in" of necessity are broad and can encompass things which are difficult even to speculate on. Consequently, a potential doubt is raised. I do not agree that is a good thing for us to do.

I agree there should be the right to conscientious objection for people who would otherwise, by reason of, say, their employment in a hospital or in operating theatre, be able to be directed to be involved. They should have the right to say, "No, thank you; I choose not to be involved in this process", and absent themselves without any adverse consequences. By including the words "be involved in" we could catch the ward clerk who books people in, and all sorts of others within what is basically the network that is the hospital, however big or small it may be. I am sure the member does not necessarily mean it to be extended that far, but perhaps he does. I, for one, do not agree with an extension of that nature. It is far too broad. It is more than adequate and entirely right that no-one should be commanded by statutory or contractual obligation to help in the performance of an abortion. Consequently, I resist what the member is trying to do here and will vote against it.

Mr BAKER: This question relates to that point in time at which the performance of an abortion ceases to be in place; for example, what is the situation for a hospital orderly who has been told to take the foetus that has been extracted from the woman to the appropriate disposal facility? Would it be said that such a person is actually participating in the performance of the abortion? Could it be said that the person was not participating because the performance ceased upon the removal of the foetus from the women concerned?

Mr PRINCE: I would have thought that the answer to that question was that the orderly who disposes of whatever remains are in the theatre after a day's work, following operations of different types, could not use this provision as presently written to refuse to do his or her job. However, nothing would command the orderly to be in the theatre when the work is being done - nor should it. If it were changed to read "to be involved in", the orderly could say no to the disposal.

Mr McNee: Why does he have to clean it up if it is known that he finds it objectionable to do so?

Mr PRINCE: Any human services manager who is silly enough to require someone whose views of objection are well known will have a very stroppy work force on his or her hands. Bluntly, it would be silly for anyone to allow that to happen.

Mr McNee interjected.

Mr PRINCE: I understand what the member for Moore is saying, but, as I said in the second reading debate, and in a number of other speeches, the objection to abortion is the destruction of potential human life. I find the act of destruction objectionable. That which may precede and come after the termination by way of therapy and assistance to the woman, and by way of the provision of sterile surrounding and so forth, are not objectionable. It is the destruction.

Members need to be aware of that. To use the words "to be involved in" extends the application of the provision from the front door of the hospital to the back, and to everybody involved. It is untenable from a practical point of view and raises too much doubt. Although I understand what the member for South Perth is saying, and believe he gave good examples, his examples involved people who reasonably can say that they choose not to be involved in the process. A general practitioner can say that he or she will not be involved. If someone wants to talk to the practitioner about an abortion, he or she can say, "Speak to someone else."

Mr Pendal: Are you saying that that is there already?

Mr PRINCE: Any professional or doctor can do that. No law requires a professional to provide advice or assistance. It is a contract of service with the client patient by whatever name. I understand that to be law. The member need not propose this amendment as he will create unnecessary doubts by bringing in the concept of "be involved in".

Mr Pendal: We all thought that, too, in the case of the wrongful advice litigation. We never thought we would see a situation in which the Court of Appeal in New South Wales would do what it did. That brought on the position with which we dealt in the earlier amendment. One cannot place caps on the capacity of people outside this Chamber, let alone inside it, about what might eventuate. That is why I cannot accept what the Minister is providing as an assurance.

Mr PRINCE: Surely one can only legislate with what is reasonably likely to occur in the future in mind. Something will come along of which one never thought, and legislation will be required again. Most legislation, consequently, is retrospective.

Ms MacTIERNAN: I strongly oppose this provision. I now give a real life example of the type of problems I can see arising with this provision. When I was pregnant with my first child, I was a public patient on a ward in a Catholic maternity hospital with some 12 other young women. One day a specialist came in, with the bedside manner for which so many Melbourne University specialists are famous, and yelled across the room to this four-month pregnant woman aged around 23 years, "We're going to terminate the baby. You'll die if we don't as your kidney won't hold up. I've booked you into the Austin Hospital because this mob won't do it." That was how the woman heard she was to lose her baby.

We have heard from the member for South Perth, as he understands Catholic theology, that abortion is not justifiable even in circumstances in which the mother's life may be in peril. Under such circumstance, if we support the amendment proposed here, the doctor in my example would have had no obligation to tell the woman that her life was in danger if she did not have an abortion. Arguably, such an obligation would have compelled the doctor in some way "to be involved in" the process.

Mr Pendal: That is why the case has gone to the High Court.

Ms MacTIERNAN: We would face the situation in which that young woman, aged 23 years, as a patient in a Catholic hospital, would have no right to know that her life was at risk and no right to know that she could take certain measures to ensure that she survived. That is absolutely indefensible.

Mr Pendal: What you have said is inaccurate.

Ms MacTIERNAN: How? Tell us how it is inaccurate.

Mr Pendal: We know from what the New South Wales Court of Appeal did; that is, it upheld the woman's right, after having gone to the clinic, to be properly diagnosed. That would not have been a problem.

Ms MacTIERNAN: The member just told us that it is as a result of that finding that we have this amendment before us. It is now suggested that women who might die if they do not terminate their pregnancy have no right to be told the situation, or to be given information on where they might go.

Mr Pendal: That is the opposite of what I am saying.

Ms MacTIERNAN: I now sit down so the member for South Perth can explain to me why it will not happen. This amendment is an outrageous proposition.

Dr EDWARDS: Many years ago as a young doctor I was working in an isolated part of Australia when I received a call late on a Friday afternoon, as often happens, from a woman who was very sick. It was clear that she had had a termination of pregnancy, but now had a bleeding ectopic. I ordered the Flying Doctor and hoped that she would survive - she did. Subsequently she arrived. I could keep her alive, but I could not perform the operation to save her life. Therefore, I went to the local surgeon and told him what had happened and I expected him to join me in the operating theatre to save her life. I had to argue with him for some time. As she had had a termination, he let his moral views flow through. We finally went to theatre where he removed not only the ectopic pregnancy, but also her other tube rendering her sterile. He did not have consent to do so. I pointed that out to him - I jumped up and down and let him know loudly and clearly. He would not tell the women what he had done and it was left to me to tell her what had happened. I know that this is not the same situation. However, in certain cases, especially in rural areas, people could run into the same kind of doctor; namely, one who lets his moral judgment get the better of sound medical practice. I supported the previous amendment, but I am worried that we are opening up a Pandora's box with this amendment. It is not appropriate. The people who will suffer are women.

I am sad about the way the debate is going in general, and with this amendment in particular. A month ago, all members of Parliament acted on their consciences, but party politics intervened after about three weeks. It is now party politics which is both dragging down our reputations and interfering with the quality of women's health. I urge all members to get back on track, and to listen to, and properly vote according to, their consciences and to oppose this amendment.

Mr KOBELKE: Both the preceding speakers raised important issues. However, their comments had no relevance to the amendment. I accept the good standing and experience of the member for Maylands, but she gave an example in which an abortion was performed. That is currently addressed in the Bill as it refers to the participation in the performance of any abortion. Her example did not address the amendment in any way.

My friend the member for Armadale suggested that somehow a woman whose life was threatened could not receive advice because of the amendment.

Ms MacTiernan: She may not have to be given advice. Doctors would be entitled to withhold that advice from her.

Mr KOBELKE: I thank the member for the clarification, but I do not see that in the wording. The fact is that a doctor has a primary obligation to the woman's health. This amendment provides that a doctor cannot be involved in any way "prior to or during" the procedure. Involvement in the "performance of an abortion" in no way relates to giving a full account of the medical condition of the woman. There is no connection. He must point out the condition of the woman, the base cause of the condition and what procedures or medication may be available to her. At that stage, if the amendment were put in place, he may have to say, "A termination is an option and I do not wish to discuss it any further." That is as far as he would go.

Dr Hames: Irrespective of whether he supports abortion, there is a medical requirement for the doctor to provide a full detail of the medical history of the mother. He is required to give her that information for medical legal reasons. There is nothing in this amendment to prevent that happening.

Sitting suspended from 6.00 to 7.30 pm

Mr KOBELKE: It is a very good amendment, but it is not a huge issue. Our society is becoming more and more litigious and there is a difference between having exemption from legal responsibility with respect to not participating in the performance of an abortion and having exemption from legal obligation for not being involved in any way up to the performance of the abortion. Because of the litigious nature of our society someone could take action against a doctor. Recently a doctor in Australia was taken to court for unlawful birthing, which seems to be an extreme length to which to go. However, there is the potential for someone to say to a doctor, "You spoke to me honestly and truthfully and gave me the full details on my medical condition and my pregnancy, but you did not assist me to get an abortion by referral." That could be a basis for legal action against a doctor who did everything ethically and medically that was expected except to state that he would not assist in the procurement of an abortion.

People who spoke against the amendment raised a number of valid issues. However, I contend strongly that those issues do not relate to the substance of the amendment. There are cases in which women have not been given adequate or proper advice, but that is not caught up with this amendment. It relates to medical practice and the need to ensure we have proper ethical standards, fair trading and protection of consumer interests for women who seek assistance from a doctor. Those issues clearly go beyond the scope of this amendment. It was suggested that in the past many women have not been given advice on abortion and therefore have not been able to make a choice. We know that in Western Australia 10 000 abortions a year are carried out compared with 26 000 live births. Very few women in our community would not realise abortion was available to them. This amendment is to protect doctors and other medical professionals from legal action which is seen to be outside the normal trend.

This Bill will make abortion widely available on a legal basis in whichever form this Bill goes through the Parliament. That being the case, there will be a clear public expectation that a woman should be able to get an abortion if she wants it. That may lead to a change in the legal expectations and the ability to take action against a doctor, which is not intended. That will be shut off by this amendment.

Ms MacTIERNAN: The member for Yokine said that the scenarios I and the member for Maylands raised would not be affected by this provision because the Medical Act provides an overarching obligation for doctors to properly advise their patients of their medical condition and treatment options. Although I defer to the medical knowledge of the member for Yokine I do not defer to his reading of the law. Two principles of statutory interpretation are relevant. One relates to a later Statute overriding an earlier Statute and another to a more specific provision in legislation overriding a Statute of a more general nature. If there is a provision - I believe there are provisions - within legislation that oblige doctors to properly advise their patients of their condition and treatment options, it is strongly arguable that this provision, being a later provision and more specific, may override that.

I will move an amendment to the amendment of the member for South Perth that might curtail that to ensure that that reading by the member for Yokine is made law. The proposed amendment reads -

> Nothing in this provision absolves a medical practitioner, a hospital, health institution or service from fully advising a woman as to her medical condition and her treatment options.

Although a doctor may not therefore have to advise of another doctor who would provide advice on abortion, at the very least the doctor concerned would be obliged to advise the woman of the circumstances and the ramifications of her condition and of the full range of treatment options available to her. If, as has been put to us by members who support this amendment, it is not their intention that women not be fully advised of their condition or treatment option, I imagine they will have no difficulty whatsoever with my proposed amendment.

Ms WARNOCK: I would like to see a copy of the amendment and take advice. I am sure other members will agree that one of the problems during this immensely protracted, seemingly thousand year long, debate is that amendments are constantly being moved on complicated issues. It is very difficult for those of us who are not lawyers and do not have PhDs to understand what it is about. I would like to understand what this is about. If I can be sure it is not offensive to the health of women I will support it. I will have no hesitation in reeling off another several horror stories like the ones I mentioned before the dinner break if this amendment is not satisfactory to women. Many women of my age, and perhaps even younger, will remember when, far from doctors requiring a conscientious objection clause, the patients themselves were given treatment that one would not wish on one's worst enemy.

If I can be assured that this will not be the case with this amendment moved by my colleague the member for Armadale, I might be prepared to support it. However, I need to be absolutely sure that that will not be the case and that it is not offensive in any way. I am here as a woman and as the shadow Minister for Women's Interests to protect the interests of women. If I feel that they are not being entirely protected, I will oppose this. However, if I feel that women's interests are protected in this matter, I certainly will have no problem with this amendment.

Mr MARLBOROUGH: I do not have a law degree but I cannot read the amendment from the member for South Perth in any way other than as an attempt to get certain fully qualified medical practitioners out of a set of circumstances in which, for reasons best known to them, they do not want to be; that is, being involved in the termination of a pregnancy. The tragedy of this is that the time when they want to depart from providing the services which they are accredited to provide is when people most need their help, when they have gone to the doctors for assistance. How many of us when we go to see a medical practitioner see a sign on the medical practitioner's door showing what religion he or she is; how many of us know what matters will concern a doctor about our medical conditions?

Not that many years ago in our parliamentary lifetime, people with medical certificates told the world that they would not touch patients who had HIV. Out of the blue all those highly qualified people told us that although the taxpayer had paid for their medical degrees, they would choose on whom they would perform and to whom they would give advice. People with titles such as professors of medicine told us that they would not provide services to people with HIV. I will tell you what the answer is, Mr Chairman: It is not to have for doctors who think like that a clause which is triggered into action when the patient is on their doorstep. We should go back to the universities. When doctors come out of medical school, we should ask them to tell us about the areas in which they are worried about providing health care to the population. On the basis of that, we should get a pair of scissors and cut the medical certificate to suit; that is, if they are willing to provide all services, we would give them a full medical certificate and if they are willing to provide only half a medical service, we would cut the certificate in half. We should tell them to put that on the wall, so that when the patient walks in the door he or she can see immediately if the practitioner is only half a doctor willing to provide only limited health services. We should tell such doctors that when they see sense and come around to thinking that it may not be such a bad thing to provide a full health service, they can have a full certificate. What is the service they are being asked to provide? The service is for somebody who fronts as a patient seeking medical advice. That is the key element. Nobody is being asked to put on a mask, take up a scalpel or open up the operating theatre; they are being asked for advice. The member for South Perth talks about people who may be involved in an operation after the event and whether they put a foetus in a particular place. That can be sorted out in some other way. This protection is for a medical practitioner who, for reasons about which he never told anybody when going through university, is no longer willing to meet his Hippocratic oath or in this instance to give appropriate advice.

Several members interjected.

Mr MARLBOROUGH: Some members may jeer at me, but they understand what I am talking about. The only reason they jeer at me is that it hurts. This is a commonsense reason that this amendment should not be in the Bill. Why would we put in place a protective mechanism for a doctor at a time -

Mr Cowan: We will not be doing that.

Mr MARLBOROUGH: Let us hope we will not.

Mr Pendal interjected.

Mr MARLBOROUGH: Yes, it is. Why would we put in place a protective mechanism when all a patient is doing in many instances is simply seeking advice from that doctor and we are asking the doctor to advise the patient to go onto the next professional who is willing to assist? The doctor cannot say, "I do not believe in abortion and therefore I will not tell you the location of the best doctor from whom to seek the appropriate advice. I do not want to be put in a position of giving you that because of my own belief and prejudice." That is an absolute nonsense. If doctors wants to make that stand, they should go back to university and change their medical degree.

The CHAIRMAN: Before any member asks for the call, let me explain where we are. We will have to deal with the member for South Perth's amendment before we move on to the member for Armadale's amendment. All this debate will be on the member for South Perth's amendment to the Bill.

Dr TURNBULL: I will take only one minute to reply to the member who has just spoken. The Hippocratic oath says that we will not give a potion or procure an abortion and that we will do no harm. I put on the record that that is definitely part of what this debate is about. The previous member is absolutely wrong.

Mr PENDAL: There is a word for this situation, which I cannot put my finger on at the moment, but it refers to the situation in life in which one throws a ball in one direction and the consequences come from an entirely different direction. The last two or three speakers have been speaking on, I imagine, a different clause and amendment. With the greatest respect, what they have said has nothing to do with the amendment that was moved.

The member for Armadale's suggested amendment that would follow, were my amendment to succeed, goes to the kernel of the matter except for the last few words. With those I suggest that she would be undoing the value of what she has suggested earlier. She is quite right in saying that nothing in the provisions that we have moved absolves a medical practitioner, a hospital or a health institution or service from fully advising a woman of her medical condition. That is precisely the obligation of a medical practitioner in the first place. Of course the member complicates it by adding the words "and her treatment options" because we then get to the position, if a doctor believes that abortion is wrong, of canvassing that as one of the options. At least the member for Armadale has kept her eye on the ball in respect of the central matter that nothing we are doing is designed to impede or excuse the doctor from telling the woman of her medical condition - in this case, "You are pregnant."

Ms MacTiernan: It may be, "Your life is in danger if you proceed with this pregnancy." That is fully advising a person of her medical condition; not, "You are pregnant", but, "Your kidneys might fail and the pregnancy will kill you."

Mr PENDAL: That is the medical condition. Let me go back. Where did the amendment start? The member for Nollamara was quite right; our amendment system does not hang on this. No sooner had the member for Nollamara made that clear, than an insertion followed, which almost gets the spirit of our amendment right, but that has been followed by comments from a number of members who have completely misunderstood the point.

I will return to the essential points that were at stake before the dinner break. A doctor - it does not need to be a Catholic doctor because there are plenty of others who take the same view on abortion - wants to exercise his or her pro-choice rights. That is, he has told the patient that she is pregnant, but he will not discuss abortion.

Mr Marlborough interjected.

Mr PENDAL: Why should the doctor not have some rights? This reminds me of what I have said previously in this Chamber. We are talking about human rights. Every time we have discussed human rights in this Chamber, the Labor Party has shown itself to be abysmally ignorant of the issue. That is why -

Several members interjected.

The CHAIRMAN: The member for Peel will come to order! The member for South Perth will not respond to the interjector if he wishes to maintain the attention of the Chair.

Mr PENDAL: I will do that, Mr Chairman, as long as you protect me from this dreadful interjector.

The CHAIRMAN: I am trying to.

Mr PENDAL: The principal reason for the amendment is to give the doctor the right and choice to say that he cannot help the patient because he now knows that she is seeking an abortion.

Ms WARNOCK: I reiterate the point I made previously: I oppose this amendment for the very strong reason that I believe doctors have an obligation when a personal, moral or religious belief prevents them recommending some form of therapy to inform their patients of that position and tell them that such treatment may be available elsewhere. It is not good enough to tell patients that that is the situation and give them no further advice. I do not believe such doctors would be doing their duty if they did not pass on information about where else a patient might go.

I remind members of the situation a long time ago in this town, when there were very few 24-hour chemists. One chemist was notorious for his strong religious views and did not stock contraceptives. If one wanted them in the middle of the night, it was bad luck. I am happy to say that that is no longer the case, but that illustrates the point I am seeking to make:

People are entitled to their moral views, but they are not entitled to force them on someone else. A doctor has an

obligation under the Australian Medical Association code to fulfill those obligations to a patient. I do not want to force any doctor to carry out any procedure that he or she finds offensive, but I find it offensive that that doctor will not help a patient.

Amendment put and negatived.

The CHAIRMAN: We are now dealing with the member for Armadale's amendment.

Ms MacTIERNAN: My amendment was consequential on the other amendment's being passed. It was merely an attempt to mitigate the impact of that amendment should it be passed. Fortunately it has not passed, so I have no need to proceed.

Mr KOBELKE: I move -

Page 7, lines 5 and 6 - To delete the lines.

This Bill has generally been referred to as the Davenport Bill. While many of its elements are similar to those in what was referred to as the Foss Bill, it is clearly a different Bill - the order has been changed and we have amended it. It is therefore appropriate that the Committee look carefully at these parts of proposed section 334(5); they must be treated as paragraphs of a new Bill.

When the Foss Bill was passed, a number of members suggested they would like to consider these issues again, and I hope that they will do so seriously in respect of the requirements in subsection (5). We are not revisiting them; we are debating them and voting on them for the first time in respect of the Bill now before the Committee.

I will outline the general scheme into which they fit. This Bill inserts a new section 199 in the Criminal Code making abortion an offence. However, it is not an offence if the abortion is justified, and that justification is found in proposed new section 334 of the Health Act, which is, in part, what we are now debating.

An abortion can be justified on one of four grounds, and the paragraph I am seeking to delete is one of those grounds; that is, that the woman concerned has given "informed consent". Informed consent is defined later, and we will deal with that appropriately after we have considered subsection (5).

Lines 5 and 6, which form paragraph (a) - that is, the justification that the woman concerned has given informed consent - represent abortion on demand. I am not sure that the majority of members agree with that concept. A very large number of members do support the view that there should be no fetter whatsoever on abortion. One should not be required to justify it because the unborn child has no value but, once the child is born, that is different. They do not believe that the unborn child should have any standing in law prior to birth. Many other members do not agree with that approach and have a range of views as to when one should show some respect and the degree of respect that should be shown at various stages of gestation. However, a large number of members, if not a majority, believe that life prior to birth is important, it should be protected by law, and therefore it is not appropriate to allow abortion on demand. They believe that the process must be more than a woman simply deciding that she wants an abortion and going through meagre counselling in order to say she is making an informed choice. That being the case, we should support the amendment.

We will still have paragraphs (b), (c) and (d) as justification for abortion. If members consider the situation, they will find that there is still a very wide ambit to claim justification. Clearly, a woman who carries a child will suffer serious personal, family and social consequences, and that is the justification provided in paragraph (b). Paragraphs (c) and (d) provide justifications relating to physical and mental health.

I am asking members to support the view that it should not be open slather; it should not be informed consent and nothing more. If we allow that, it will create a totally different social expectation in our society. People will simply be required to undertake some form of meagre counselling, and on the basis of that they will be able to give informed consent and justify having a legal abortion. Members will concede that making a decision on any issue as important as abortion is not easy. The informed consent provisions are very important. If I have the opportunity, I would like to say a few things about that.

Dr Hames: Mr Chairman, I notice that the member for Nollamara has three consecutive amendments on the Notice Paper -

The CHAIRMAN: One of the amendments belongs to the Minister for Labour Relations. I want to make a statement in that regard.

The amendments on the Notice Paper from the member for Nollamara relating to page 7, lines 5 and 6; and from the Minister for Labour Relations relating to page 7, line 6, are in conflict. With the preserved right of both members to move their amendments, at the end of debate I will put a test vote to the Committee on part of the amendment

proposed by the member for Nollamara up to the point at which the Minister's amendment starts. If the Committee votes in favour of that part of the amendment, I will put the remainder of the amendment proposed by the member for Nollamara. If the Committee votes against the first part of the amendment by the member for Nollamara, the Minister for Labour Relations will be free to move his amendment.

Ms WARNOCK: I have a serious objection to this and subsequent amendments because they seek to delete the justification of informed consent which this Parliament has already clearly supported. I am very disappointed that not only do the opponents of choice continually delay votes by a large and constantly changing series of amendments, but also seek by these amendments to turn around the intention of the Bill. This amendment seeks to delete informed consent; others seek to delete the justification of informed consent due to personal, family or social consequences. These are very serious matters indeed and they go to the heart of the Foss Bill in which all four justifications were passed in this place only three weeks ago in a very full debate of the issues.

If we agree to this amendment and subsequent amendments, we would be left only with the clauses relating to serious physical danger to health. I agree with doctors that it is completely unworkable and would seriously disadvantage women's health and lives. It would completely go against the practice of the last 25 years. After all these weeks of debate we would be back at the beginning, with severe restrictions on the access of women to abortion and doctors being at risk of prosecution. That is not what the community wants or expects. Every poll taken lately and every vote in this Chamber on these major issues has shown that the community's desire is that women should have the right to make a choice. I repeat that the will of the pro-choice majority in our community - those thousands of men and women, whatever their religious views - is that abortion should always finally be a matter between a woman and her doctor, a woman and her conscience. People want us to show some leadership and to make a decision.

Some members need a reality check, as one of my colleagues said last week. Although we exercise our own conscience, women in the community are not being given an opportunity to exercise their conscience. Faced with an unwanted pregnancy which they feel they cannot in all conscience sustain, they are forced to travel interstate if they can afford it, or confront the possibility of a risky, unsafe procedure if they cannot.

We must face up to the fact - some members seem to have forgotten it - that whatever we decide here, women will continue to seek abortions, safe or unsafe. We have a responsibility in this Parliament. Some members have been shirking it, and some have been seeking to send women back to their grandmother's day. I do not want to go into the details that I relayed to others in the second reading debate. My mother remembers it, as do many other grandmothers. We could return to those days easily if we do not take up our responsibility and do what the community wants - that is, trust women to make decisions about their lives. We do not have the right to introduce ever more intrusive and oppressive legislation.

Dr HAMES: I understand the member for Nollamara wishing to retest the vote on something that has been put before. We are going through this whole debate again. The issue is before the Chamber again. On a matter so important to those who oppose it, he would want to retest the water, and somehow influence the numbers in order to change a previous decision; that is, abortion with informed consent would be the right of a woman. Nevertheless, it is not something on which we should have a prolonged debate since we have done that on so many occasions on this specific issue.

The member for Perth has presented one side of the argument and perhaps it is reasonable for the members for Nollamara and South Perth to present the other side. Then we could decide once again whether the numbers support either argument.

Mr KOBELKE: The amendment for which I seek support will not remove the wide ranging rights that a woman would have to abortion, because legal abortion would be justified. If members agree with the amendment and remove paragraph (a), abortion will still be justified on the basis that the woman concerned would suffer serious personal, family or social consequences if the abortion is not performed.

As the member for Roleystone so eloquently put it some time ago, I do not think any of us who have children have a single child who did not cause serious personal, family or social consequences. Paragraph (b) provides a very wide ranging ability to justify abortion. Further, paragraphs (c) and (d) provide that any serious danger to physical or mental health can be a basis for justifying an abortion. There is clearly a wide ranging ability for justifying abortion under subclause (5) if members agree with the amendment. In the cases of serious personal consequences and so on, informed consent is required as well.

I seek to strike out informed consent being the only justification which amounts to abortion on demand. I do not see how we would water down the Bill by doing that. However, we are signalling clearly that there needs to be some basis other than the desire of the pregnant woman before an abortion can be regarded as legal. I urge members to think seriously about and support the amendment.

Mrs van de KLASHORST: I notice that on page 12 of the Notice Paper the intention is to delete paragraph (b) as well. The member has said that if (a) is deleted, (b), (c) and (d) will remain. However, he intends to seek to delete (b). If members support the first deletion, that will be an indication of their support for the deletion of paragraph (b) as well, because that is the member's intention.

I refer to my original speech during the second reading debate. My intention is to ensure that women have a choice. They do not have to have an abortion if they do not want one and they can have one if they so desire. This Chamber spent many hours debating the matter of informed consent. I moved those amendments. If we remove the informed consent wording - it is not in paragraphs (c) or (d) - we also remove the provision relating to counselling. My amendment to provide for counselling was to ensure that a woman would be counselled if she wished to continue with the pregnancy. The member for Nollamara is seeking to take that out as well.

Mr Kobelke: No, I am not.

Mrs van de KLASHORST: In this section the member is seeking to remove the words "informed consent". Paragraphs (c) and (d) do not refer to "informed consent".

Mr Kobelke: Proposed subsection (6) applies informed consent to paragraphs (b), (c) and (d).

Mrs van de KLASHORST: One cannot have "informed consent" by itself.

Mr Kobelke: We are not taking it out.

Mrs van de KLASHORST: The member for Nollamara is removing the opportunity for counselling. The provision relating to counselling imposes safeguards on paragraphs (a) and (b). It was included in the first place so that women can have both sides of the argument presented to them and can then make an informed decision. Women cannot make an informed decision without knowing both sides of the argument. That is why I moved to include that provision. If the member removes this, he removes it all.

Mr Kobelke: Not for (b), (c) and (d).

Mrs van de KLASHORST: The way I read it, that will be the effect of the member's amendment.

Mr Kobelke: No, all the current amendment does is remove paragraph (a). That is all we are voting on.

Mrs van de KLASHORST: I know we are voting on that, but members of Parliament need to know that the member for Nollamara is intending to remove paragraph (b) as well, if it gets passed. Members need to take that into consideration when they vote. I oppose this amendment on the grounds that, once again, it implies that women have nothing between their ears, and that they cannot make their own decision once they have been counselled and know the ramifications of either keeping the child or terminating the pregnancy. Women are grown-up people who do know what they are doing in life and do not need to be told by other people what they must do with their bodies. I refuse to tell another woman what to do with her body on such an important issue. I am not telling her, "You must have an abortion"; it should be the choice of the woman concerned, not our choice. I oppose the amendment.

Ms ANWYL: I, too, oppose the amendment. I remind the Chamber that we voted on this matter on 1 April. That vote was close - 28 to 26. Dynamics have changed and some members have voted differently on other issues during the debate. Certain members of this Parliament are paired or are absent from Parliament because they have other commitments. Those members should not be criticised for that, but we all know that this will be an extremely close vote. It must be made clear what is to be achieved and, although we are voting on whether we should remove the provision relating to informed consent, the member for Swan Hills is dead right: If we remove that provision there is no trigger to bring in the definition of informed consent that then arises from proposed section 334(7). It is incorrect to say that informed consent will remain, because it will be deleted. During the debate on 1 April, members spent hours discussing the nature of a woman's need to have some form of counselling or independent advice, which was one of the catchcries of the anti-choice lobby. We spent many hours discussing the extent to which a woman should have restrictions imposed upon her before making a decision about having a safe, legal termination of pregnancy. Regulations in the Health Act should prescribe the nature of that counselling and independent medical advice, if it existed, but in the end we had a discussion of the definition of informed consent which relates to this very proposed subsection which the member for Nollamara is now seeking to delete.

The first point I make is that members have already voted on this and if they follow the logic that has been propounded by the anti-choice lobby, they should abide by that vote. The second point is that the Western Australian public believes that members have already made a decision that informed consent will be an adequate trigger to allow a woman to have a safe and legal termination of pregnancy. The third point is that we know from the medical profession in this State that if we remove paragraphs (a) and (b), about 95 per cent of women who currently access safe, legal terminations of pregnancy will not be able to do so. We know that if paragraphs (c) and (d) remain - or

(a) and (b) as they were in the Foss Bill - we will severely curtail the number of women who are able to access safe, legal terminations of pregnancy. Members must think carefully about whether that is what they want. Western Australia now has a public health crisis as a result of the health profession's decision to uphold the current law in this State, notwithstanding that for 25 years we have had a de facto situation where women could access safe terminations of pregnancy. Members must decide whether to return to a situation where only a few Western Australian women could access safe, legal terminations, or to abide by the decision made in this place on 1 April when they endorsed paragraphs (a) and (b) as they now appear in this legislation. I urge members to oppose the amendment.

Mr CARPENTER: I also urge members to oppose this amendment. This relates to the debate that occurred in this Chamber many weeks ago - a lengthy, passionate debate about whether a woman should be able to access abortion if she has given her informed consent. The Chamber made a clear cut decision to allow that circumstance to occur without penalty. This matter of informed consent is the very nub of the entire issue of abortion. If we deny a woman the opportunity for legal access to abortion on the basis that she has given her informed consent, we are saying to her, "You cannot have an abortion even though you know what you are doing, you know why you are doing it and you are exercising your own free will to have an abortion." We would be suppressing the rights of that woman in a way that has not been countenanced in this State for 30 years. We would be turning the clock back 30 years and reworking a decision made in this Parliament after the pain, agony, and heat that occurred a month ago. It is unconscionable for a Parliament, in this day and age, to say to the women they represent in the community, "You cannot make a decision about your own body when you become pregnant". What we would be saying - we have been over this ground before - is, "If it is so deemed, you must act as an incubator for a child whom you do not want." We are referring to the free will of an individual, not abortion on demand and it is not open slather. During the debate tonight, we have addressed the possibilities that arise when a doctor or a health institution do not want to provide abortions, and we have said to those people, "If your moral position, religion or conscience demands that you refuse to perform an abortion, the law of the State will not make you." A woman could not walk into St John of God Hospital and receive an abortion on demand. Under the provisions of this Bill there is no such thing as abortion on demand. What we are providing allows access to abortion if a person so chooses. That is all we are doing. We are not forcing people to perform abortions if they do not wish to do so.

This is probably the last time I will speak in this debate. Once this vote is over everybody, will know what is happening. I would like the opponents of abortion to address the remarks made by the member for Ningaloo. He is a person of strong religious beliefs. He believes abortion is wrong. He made that statement as the anti-choice, anti-abortion people have done. He then said two things come into play in discussing an issue like this. The first is the need to deal with the reality. The reality is that people in the community have had access to abortion for 30 years. Thousands of them have taken advantage of this access. That reality cannot be denied. The second point the member for Ningaloo made was that despite having a very strong religious belief it is not his position to make that decision for others. He quoted references to the Bible, the words God is alleged to have passed down to Moses, I believe, on the case of divorce. He made the point that people who make decisions about issues like abortion and divorce make them in the knowledge that they may be working against the will of God. Even if they have religious beliefs they can still make that decision and they will live with it or suffer the consequences. In other words, a person with strong religious beliefs does not have the right to impose those beliefs upon another person in the law. That is what the member for Ningaloo said. People who oppose abortion should limit themselves to that position. Informed consent is the fundamental core of this issue and we cannot see it wound back.

Mr McGINTY: My contribution will be very brief. I want to ask members to be consistent in this debate. I want them to do no more than that. Less than a month ago we had this debate. Both Houses of this Parliament voted for four justifications for the performance of a termination. This amendment is the first step in winding back what both Houses of Parliament approved less than a month ago. If members want to engage in a rearguard action that attempts to wind back what the Parliament has decided then they should vote for this amendment. That approach has been criticised broadly in the media and the community. This policy has already been decided by both Houses. If members want to deny that then they should vote for the amendment. I urge them not to. This is the first in a series of amendments designed to undo what the Parliament has voted for and what the community expects this law to be at the end of the day. For that reason I ask members to be consistent. Vote against this amendment and the next three amendments. We would be a laughing stock if we turned around now and undid what was done less than a month ago.

Mr MARSHALL: The words "laughing stock of the community of Western Australia" are ringing in my ear. I will enlarge fractionally on this view because over the last few amendments the debate in this House has become a debate of lawyers. I am fully aware that every consideration should be made in legislation. However, as a practical person I feel that some commonsense must come into this Chamber. Apart from the lawyers, I again remind everyone in this Chamber that in a large majority of all the polls that have been taken, the young women of Western Australia have said they want the freedom of choice and the ability to choose their own doctor. They want to make their own

decisions without some of the hurdles that are being introduced at the moment being put in their way. If members were to adopt these special recommendations after weeks of debate we would be back at the beginning again with severe restrictions on women's access to abortion and doctors being at risk of prosecution. This is not what the community wants or expects and for that reason I oppose these amendments.

Ms McHALE: I wish to address two points raised by the member for Nollamara that I disagree with. He indicated that this Bill is very different from the Foss Bill. It is not at all different from the Foss Bill either in terms or intent. We have spent hours debating the essence of this issue which is the justifications upon which a woman can legitimise an abortion. We are now subject to revisiting those justifications. In open debate and free discussion we considered the pros and cons and supported the four justifications upon which this legislation would lie. Do not be convinced by the argument that we can start the debate de novo. This is not a new issue. We are going over old ground.

The second issue that I wish to address is the insistence of some that we are still talking about abortion on demand. I thought we had dropped that misconception and myth of abortion. This is not about abortion on demand. If members look at the Bill in its entirety and look at the restrictions then they cannot in all honesty accept that it is abortion on demand. No woman can walk into a clinic at 27 or 32 weeks or any week above 20 weeks of pregnancy and seek an abortion on demand. In this legislation we are introducing conditions which we know the community wants for safe, legal abortion. It is not by any means abortion on demand.

I accept that this is the first time that the Western Australian Parliament has had to shape such significant legislation. I understand that certain people are concerned about it. However, they can be assured that the majority of the community supports what this Parliament is trying to do. We know from the lobbying that has occurred and the arguments that have been put forward that the whole of the community does not support it; however, the majority of the community supports what we are trying to do.

The other point I make is that for some reason people are still unsure of what informed consent means and what woman go through when they make an informed consent. It is not a decision that is made lightly. It is not a decision made in isolation from the woman's personal, social or ethical circumstances. No woman who has had an abortion has made this decision lightly. Informed consent means much more than making a decision on any other matter. The woman considers it very seriously. The woman will consider the conditions and the environment in which she will bring up the child if she goes to full term. What is paramount to a woman is the quality of the life of the child after birth and the quality of her own life as a mother. Members should not get bemused or caught up in the argument that it is still abortion on demand. Informed consent is just that. It is about providing an environment in which a woman can consider all the options freely, unfettered by the possibility that she may be committing an offence, in open consultation with her doctor, her family, her partner, her children and her conscience.

Mr BARNETT: I apologise for not being present for the debate earlier today. However, I have been kept informed of its progress. I do not want to delay the Chamber, except to state what I have stated here previously. This is a debate that none of us wanted to have. It was brought upon the Parliament by a most unusual, if not bizarre, set of circumstances which forced this Parliament into a position where it had to act and to make a decision. I do not necessarily like the structure and the theme of the so-called Davenport Bill. However, this is the point at which we have arrived. This is the critical vote. People have strong views on either side of this debate - personal, religious and moral views - and those views should be respected.

This clause is the hub of the issue; that is, the right of a woman with due counselling and the professional advice of a medical practitioner to make a choice. I strongly support that right and hope that a majority of members of Parliament will too. It is a critical issue and if we fail to do that we will fail not only women but also the community.

We all want to see a dramatic reduction in the number of abortions performed in this State. We want more effective counselling and for it to be handled in a better way than it has been. It has been a shock to this Parliament to learn that 8 000 abortions are carried out in Western Australia each year, but we cannot walk away from this issue. If we pass this amendment and take away the right of a woman to have informed consent, the Parliament will have put its head in the sand and turned its back not only on women but also on a significant issue in our community. I urge members to distance themselves to some extent from their personal, religious and moral views and to think about their responsibility as parliamentarians when they vote.

Mr McNEE: I cannot believe the nonsense that I have heard. We are told we must deal with the reality. The reality is that we are dealing with the life of an unborn child and this clause, which provides for informed consent as justification for an abortion, is an attempt to ease our consciences.

The other day a spokesman for the Family Planning Association was interviewed on the radio. I have never hard so much emotional garbage in all my life. I hope that association does not receive too much government money, because

what it does is a disgrace. When I checked, I discovered from people who have been there and from those people's daughters what sort of counselling it offers. The extent of the counselling is, "You'd better have an abortion."

Ms MacTiernan: What a lot of rubbish.

Mr McNEE: I am making this speech; the member for Armadale can make one in a few minutes. That is exactly what happens. The member might not like it, but it is the truth.

The CHAIRMAN: The member for Moore will address his remarks to the Chair and not to the person who is interjecting.

Mr McNEE: I am sorry, Mr Chairman. I get carried away sometimes.

This clause is about abortion on demand. For the past 25 years the convention has amounted to abortion on demand. I would like to know how anyone can justify 10 000 abortions a year in Western Australia. I have asked that question time and again in this Chamber and nobody has come up with the answer.

We are debating this issue because a couple of butchers made a mistake. They gave a woman a baby to take home. I have no doubt she was behaving under extreme stress. I do not give a damn whether those doctors rot in hell.

Several members interjected.

Mr McNEE: I have just been reminded that I am a Christian. Yes, I am and that is why I hold that view. Perhaps that is wrong, but that is why we are here. It has been argued that there is no clarity in the law. That is rubbish! The law is clear; it is just that it has never been enforced.

Will this Parliament now go soft on home invasion? We have already sanitised the offence of breaking and entering by calling it home invasion. Will we now make it legal because it is common? How many people will be affected by home invasion this evening?

Abortion is not about choice. Those people who talk about choice are treating the women of Western Australia in the most unjust way: They are making women the chattel of men under the guise of helping them.

Several members interjected.

Mr McNEE: Those people are a disgrace if they think they are helping women in that way, because they are not.

Several members interjected.

Mr McNEE: The member for Armadale pontificates about women but she thinks they are nothing but chattels.

Several member interjected.

Mr McNEE: The member for Armadale does not represent the view of the women or doctors who have written to me. This clause will allow abortion on demand; it will allow the slaughter of babies. There are probably wheelie bins full of them somewhere, because no-one will tell me where they put the medical waste, as they call these babies. Do these babies finish up in a wheelie bin?

Mr RIEBELING: I made a contribution in the second reading debate and decided it was not in the best interest of the debate to continually repeat my viewpoint in Committee. Members would be wise to remember why this legislation was brought before this Chamber; that is, two doctors who perform abortions were charged. That sent shock waves through the medical fraternity and the women's movement in Western Australia. Sensibly, on 1 April this Chamber voted to put into legislation the practice of the past 25 years. Since then all members have been lobbied, and there has been some movement in viewpoints. I urge those members who are considering changing their vote to think again. I am sure that those members who change their vote will have their vote publicised in *The West Australian* as was their previous vote.

Mr Kierath: Is that a threat?

Mr RIEBELING: It is a reality. The majority of women in Western Australia expect members in this place to put in place laws which reflect the practice of the past 25 years. I am concerned at the views expressed by the members for Moore and Kimberley in this debate. The member for Kimberley is a former Minister; he was one of the 14 most powerful men in this State. He presided over the system that he now says murders 9 000 unborn babies a year, yet he did not say a word. We, the pro-choice people, want to put in place legislation that supports the stance adopted by the member for Kimberley during his time in the Ministry. It disappoints me greatly that the member for Kimberley is now disagreeing with the stance that he took during that time. I am at a loss to understand why he and others have changed their view after 25 years of silence on this matter and why, all of a sudden, it is an issue on which

they must go to the wall and on which they must accuse people in this place of being pro-murder. That is not the case. We just want to have a sensible resolution of this matter. The way to do that is to allow women to give informed consent. I urge members to take this matter seriously and vote as they know the majority of Western Australian women wish them to vote.

Mr GRILL: Whatever we may think about the morality of abortion, for some very practical reasons we need to bring down a workable termination of pregnancy Bill. The major practical reason is that whatever views we hold and whatever we decide to do, women will have abortions, in circumstances where a clear majority of Western Australian people support them. We need to bring down legislation which is reasonable and which allows people to operate in an accountable fashion.

I originally had considerable doubts about the openness of the Davenport legislation, but that legislation has since been amended in the upper House and further amended in this place. Although I did not want to make an issue of it earlier, I was outraged at the action of the upper House in rejecting a piece of legislation - the Foss Bill - that this place had debated for some two weeks at least. If we do not bring down legislation which is accountable, we will not have shouldered our responsibility and we will not have done our job.

We made a decision about this matter some two or three weeks ago. We need to be consistent about that decision, because it has created expectations in the mind of the public, and those expectations should not be betrayed. If we turn the clock back now, we will betray those expectations and create in Western Australia a situation of chaos that the public will not accept, and a situation that a lot of women will not accept, and they will go ahead and do their own thing in circumstances where we do not have control. If we accept the situation as outlined in the Foss Bill, we will put in place legislation which is responsible and accountable. If we move away from that, we will embrace a situation of chaos and great disaffection within the community, and I counsel strongly against doing that.

Mr BRIDGE: The comments of the member for Burrup illustrate the reason that individuals in this Parliament such as I have developed an attitude to this issue and have not been prepared to depart from it. It is a disgrace that the member for Burrup implied in this Parliament that I was aware when I was a Minister that 9 000 abortions were occurring when I had no idea at all and the issue was not before the Parliament. However, that typifies the individuals who are in charge of this important issue. People in the medical profession and in other forms of activity will need to interrelate with this issue somewhere along the line. Therefore, over the past few weeks I have formed the view that we should put into this process the safest of safeguards, and I have stood fast on that principle.

I do not like the way in which individuals have come out of the closet over the past month or so. Some horrible things have been said by people in the community, and some pretty horrible things have been said in this place. I take exception to the bleeding hearts who say that we should go along with them because a certain decision has been made. I do not give a damn whether a decision was made one month ago, one week ago or one hour ago. If it is not right in my judgment, I will not subscribe to it.

Had the member for Burrup been in politics for 18 years as have I, and had he sustained the consistency that I have sustained in this Parliament over those 18 years, he would have a bit of credit on his side and could go out with some pride. Those members who have been in this place during that time will know that on all the issues to do with the human race, on all the social issues and on all the fundamental matters that have come before this Parliament, I have never relented from my position, whether it be on the homosexual Bill, on marijuana -

Mr Bradshaw: You did not vote on the homosexual Bill.

Mr BRIDGE: I did not support it.

Mr Bradshaw: You did not vote against it either.

Mr Cowan: You sat outside and would not vote.

Mr BRIDGE: I will tell the Deputy Premier what I did.

Mr Cowan: Get back to the clause and stop pontificating about how good you are.

The CHAIRMAN: I ask the member to get back to the debate, please.

Mr BRIDGE: I will not be told by this Parliament that I should be inconsistent. That is the point I was trying to get across, until the Deputy Premier stuck his nose in, as he often does.

Mr Kierath: You have a right to your view.

Mr BRIDGE: Yes, and I will have it; and any time the Deputy Premier would like to share an exchange with me, I have an offer for him.

The CHAIRMAN: Order!

Mr BRIDGE: I am merely saying that the way we should deal with this issue tonight is not necessarily to get all hot headed about it. If people want to talk about hot air, we should step out in the bush where we can have a bit of hot air, but in this place -

The CHAIRMAN: The member knows that he is not allowed to intimidate any member of Parliament!

Mr BRIDGE: I am not intimidating. Things are calm in the bush. The easy answer to this matter is to vote on it, because it is obvious that people's minds are fairly clear, rather than continue with the condemnation of each other that is occurring when in fact we are entitled to hold the positions that we have adopted over the past month or so.

Mr COWAN: In case members have forgotten after listening to the debate that has taken place in the past 15 minutes, this clause deals with the issue of informed consent. I hope I do not need to remind members that this question has already been determined by this Chamber, albeit by a very narrow majority. It is exactly the same question -

Mr Kobelke: It is a different Bill.

Mr COWAN: Of course, but it is the same question within that different Bill. I also remind members that they need to think seriously about the consequences of striking down the issue of informed consent, as this proposal seeks to do. I say that particularly to those members who sit on this side of the Chamber and claim to be members of the Government. I can assure members that this issue will not go away. If after the second attempt some common ground cannot be found between the Council and the Assembly, which allows the legislation to be passed and find its way to the Statute book, as the members for Eyre and Burrup have said, along with other members, the Government must still deal with this issue. Members cannot run from that. A decision must be made. I ask members to consider the matter very carefully. This decision has already been made in this place and in another place. Both the Council and the Assembly voted in favour of informed consent. If this Committee decides not to include a provision for informed consent, when the legislation is sent to the other place for its concurrence, it will not be forthcoming. A conference of managers will be set up and this legislation will fail. When it fails members will be asked to deal with the matter again and again until such time as a result is achieved.

As a decision on informed consent has already been made, I urge members to stay with that decision. They should ensure that informed consent is included in the Bill, to give some chance of workable legislation being produced that provides certainty and will settle for a long time any question of this matter coming before the Parliament yet again.

Mr COURT: When this matter was raised in debate on the previous Bill, I was in Japan. At the time I had to make a difficult decision on whether to meet my commitments in Japan or stay in Western Australia. My public position on this provision and on the following paragraph is and always has been that I do not support the proposal. My view has not changed. However, I accept that a vote has been taken and this matter has been decided.

Paragraphs (c) and (d) set out the conditions under which I accept that abortions may be necessary. When the next paragraph is debated, I will comment further. I do not want to delay debate. My position has been public for some time and it has not changed. I will vote accordingly.

Mr KIERATH: Some of the comments I have heard in the past few minutes - I exclude the comments by the Premier - go far beyond the truth. I accept that a vote has been taken on this matter and that a further vote will be taken. I also accept that if members do not get this right, the matter will be voted on a third time, as pointed out by the Deputy Premier. Members will vote on this issue as many times as is necessary to get it right. Just because this matter has been considered before, it does not mean it should not be considered again. Members should not hide behind that argument. If members are confident of their arguments and rationale, the vote this time will be the same as the previous vote. I voted against the provision last time, but I will accept the result. If members vote exactly as they voted on the previous occasion, I will accept the decision. It is not a valid argument that members should not change their minds because they have already voted on this issue. I am sure that no members in this House can say they have never changed their minds. I would not believe anyone who said differently.

The furphy being spread around is that if this Committee votes against the paragraph it means informed consent will not be accepted as a ground for abortion. The person who said that has not read the Bill. Paragraphs (b), (c) and (d) of proposed subsection (5) will not apply unless a woman has given informed consent. I had not intended to speak in this debate but members who suggested that a vote against the paragraph would remove informed consent do not know what they are talking about. If members have other good reasons for this paragraph, they should put them forward. If these two lines are removed from the Bill, it will not remove the provision of informed consent, because that is further dealt with in proposed subsections (6) and (7).

I will put my interpretation on this matter. I disagree with some other members in this place. After this vote was taken previously, some members who voted for informed consent in the Foss Bill had second thoughts. I remember

attempts in this place to put controls in the Criminal Code that should be contained in the Health Act. Some members who voted for these provisions had a change of heart. Whatever side members are on, they have another opportunity to vote on these issues. It should be borne in mind that this will be a more informed vote. I do not care whether it is consistent with the previous vote. Given the extensive debate that has taken place, members are now more and better informed.

Ms McHALE: I wish to correct the comments of the member for Riverton. I did not expect to have to spell this out, but I have heard the most disingenuous argument from the member for Riverton. Informed consent is a prerequisite to all paragraphs, but paragraphs (b), (c) and (d) are conjunctive. Informed consent does not stand on its own. That is the significant difference between paragraph (a) and paragraphs (b), (c) and (d). The amendment is misleading and does not provide what the community wants. I will read an extract from a letter I received from a woman in my electorate. I have received many letters. This woman fell pregnant at an early age and was not able to make the decision we are trying to provide for in this legislation, because her parents would not allow her to have an abortion. She wrote -

> I married the man who made me pregnant which I guess was the way in those days and lost all hope of finishing any education or career options that may have been available at that time in my life . . .
>
> If I had made a decision then to terminate I would not have been in such a violent relationship where I was repeatedly beaten and my child as well until I took my life in my hands and managed to escape.
>
> My youngest daughter at the age of fourteen became pregnant recently and has had an abortion. We sat and had very lengthy discussions about this and it was agreed it was the only way out for her.
>
> She has so far not suffered any ill effects. In fact, the opposite from being suicidal and aggressive before she became pregnant she is now a happy normal girl enjoying school again.
>
> The clinic at which she had the termination was very helpful and considerate offering counselling at the last moment in case she changed her mind. I was very grateful that they were so good to us because it was still not an easy decision for us to make.

This letter encapsulates many of the issues that have been raised. It is not an easy decision and it must be made after counselling, with the freedom to make the decision without restraint, constraint, or a repressive environment. She and her daughter did not suffer any ill effects.

If this paragraph providing for informed consent is removed, such women will no longer be able to deal with the medical and health situation in which they find themselves. I urge members to acknowledge that the community wants a provision for informed consent, with conditions. It is not enshrined in paragraphs (b), (c) and (d) without attachment to the other requirements in those paragraphs. I ask members to please leave the provision for informed consent in the Bill. This decision has been made previously in this Parliament and in the community.

Mr PRINCE: This amendment presents a difficulty for me. I do not agree with it as being a sole justification for the termination of a potential human life. I said that before when the Chamber debated the same subject on the Foss Bill, and in other parts of this debate. I also have a difficult conundrum to resolve. I want this debate to progress so that something of value can be passed in this and the other place so that society has a law that has some certainty and will guide the practice in the future. The maintenance of informed consent is essential for all the other reasons for an abortion. I have in mind abortions that are post 20 weeks' gestation; they are difficult, but a few of them occur. We have already debated and decided this matter.

I am obliged to some of the members who have spoken thus far who have effectively told me that I should vote as I have in the past for consistency. I intend to do that because that is what I think I should do as a matter of principle. However, both Chambers of this Parliament have made decisions on this subject with which I do not agree. It would be a farce if members decide otherwise tonight. I therefore urge members to remember how they voted last time, and stay with the way they voted last time, rather than see a change. In that way I, for one, will be able to say I have done what I should do and the result is consistent with that result which members voted on four weeks ago.

Mr BOARD: I have agonised over this debate and vote. I find it extremely difficult to deal with this issue, because, as a Catholic, I was brought up with certain standards and expectations for the sanctity of human life. I am also on record as having voted pro-choice and for informed choice in the Foss Bill. I was concerned about that vote. However, I am also on the record as saying that I would not support the Davenport Bill, because at that time it was to take the whole issue outside of the Criminal Code, and that was something with which I could not live. Nobody supports abortion. My heart goes out to all those people in the gallery whom I admire greatly and who are doing everything they can to prevent abortion; I commend them for their stand and efforts. In searching my soul on this issue, which I have done, I am yet to find a way in which the State will force a woman to carry a child against her

will. While the Government, by every conceivable means, must educate women to prevent abortions, stop people from being coerced, and prevent abortions that should not happen, the State should not penalise women who make that very difficult decision. It is an agonising situation, and I have fallen on the balance of supporting pro-choice and encouraging people to make an extremely well informed choice. Through the process that we have gone through in the Davenport legislation, we will reach a point at which that informed decision will be made. It will be incumbent on the Government, and on the people of this State, to make sure that every woman who finds herself in that position is well informed of the decision that confronts her. No stone should be left unturned and resources should be allocated to ensure that people are extremely well informed, both before and after they find themselves in that situation. This is not a happy position for me to be in, but I find myself deliberately being consistent, and deliberately coming down in a way that encourages the Government to bring some certainty to law in Western Australia.

Ms MacTIERNAN: The member for Nollamara, in seeking to delete informed consent as a basis for a decision to be made on a termination, said that those of us who support informed consent as a sufficient basis for a decision on termination place no value on human life and on the life of an unborn child. That is untrue. I recognise that pregnancy and the birth of a child have a profound and lifelong effect on a woman. Only the woman who finds herself in that situation is able to judge whether the birth of a child is something with which she can live. Only the woman can understand the myriad consequences it will have for herself, her family, her social group, and any other friends or family who may be affected by it. It is not something that anyone else in the community can judge. I plead for an appreciation by members in this Chamber who will never be in a situation in which they will have to make that decision, and have to face the choice faced by women with an unwanted pregnancy. I often hear from female members in this place who find themselves presented by their male colleagues with statements such as, "What would you know about this? You have never worked on a farm, you have never driven a truck, you never done this or that", as a basis for arguing against the position that women might be advancing on any matter. I find it extraordinary that those same men who have the propensity to seek to silence women in this place, and argue on a wide range of issues, are prepared to take absolutely no notice of the majority of women in this community. I agree that there are some women - there is a minority of women in this Chamber - who believe that women should not be given the choice. There is a minority of women in this place who do not trust the judgment of women, but the majority of women in this place, as the majority of women in the community, believe that only the woman who is faced with a pregnancy can determine the consequences of that pregnancy for her life and family. It is only that woman who can make that decision. I urge members to reject this amendment, not simply on the basis of consistency, although good arguments have been raised about that, but because at the end of the day it is right. Members cannot presume to understand every circumstance in which every woman faced with a pregnancy finds herself, and we must have confidence in the women in our community to be able to make a decent choice for themselves.

Mr KOBELKE: I will briefly make a couple of points. We must return to what the amendment does. If passed, it will remove informed consent as the sole justification for a legal abortion. Informed consent will have to sit alongside a further justification for the abortion to be legal. The other justifications are quite wide-ranging. In making her case, the member for Armadale used examples which are covered by paragraph (b). We are not shutting off access to abortion if we vote for this amendment. We are simply saying that the life of the unborn child should be tested against criteria greater than just informed consent.

Ms MacTiernan: Who will test it?

Mr KOBELKE: Those tests lie in paragraphs (b), (c) and (d). We are voting only on paragraph (a). I urge members seriously to consider that. Although consistency may be seen to be of some merit in this case, it is important that all members be true to themselves, to their own consciences and what they believe is the fundamental issue here. If all members do that, hopefully we will end up with good laws, rather than laws that are arrived at simply because people are driven by what the opinion polls may dictate on one day or another.

The CHAIRMAN: I remind members that we are dealing with the first paragraph. If that is agreed to, we will go on with the amendment to the second. If it is not, we can then go to the Minister's amendment that is on the Notice Paper.

Amendment put and a division taken with the following result -

Ayes (25)

Mr Ainsworth	Mrs Holmes	Mr McNee	Mr Prince
Mr Baker	Mr Johnson	Mr Minson	Mrs Roberts
Mr Barron-Sullivan	Mr Kierath	Mr Nicholls	Mr Shave
Mr Bridge	Mr Kobelke	Mr Omodei	Mr Tubby
Mr Court	Mr MacLean	Mrs Parker	Dr Turnbull
Mrs Edwardes	Mr Masters	Mr Pendal	Mr Cunningham *(Teller)*
Mrs Hodson-Thomas			

Noes (30)

Ms Anwyl	Mr Day	Mr Marlborough	Mr Strickland
Mr Barnett	Dr Edwards	Mr McGinty	Mr Sweetman
Mr Board	Dr Gallop	Mr McGowan	Mr Thomas
Mr Bradshaw	Mr Graham	Ms McHale	Mrs van de Klashorst
Mr Brown	Mr Grill	Mr Marshall	Ms Warnock
Mr Carpenter	Dr Hames	Mr Riebeling	Mr Wiese
Dr Constable	Mr House	Mr Ripper	Mr Osborne *(Teller)*
Mr Cowan	Ms MacTiernan		

Amendment thus negatived.

Mr KIERATH: I will not proceed with my amendment. The vote had been very clear. I have said this before, and I will say it again now: Forgive them Father, for they know not what they do.

Mr KOBELKE: I move

Page 7, lines 7 to 9 - To delete the lines.

We need not spend a lot of time on this amendment, but I wish to make the case for it. The commitment of many of those who won the last vote is built around a view that gives very little concern or respect for the life of the unborn child. My concern with paragraph (b) is that this is an advertising sign, suggesting that abortion is something people should seek. It says that women concerned will suffer serious personal, family or social consequences if an abortion is not performed. I find the wording of that paragraph a travesty. The intent may be that when we look at the circumstances of some women, we can have great sympathy for them and say that, because of the serious personal consequences, the serious family consequences, we want to provide some means for such women to have legal access to an abortion. However, the clause does not say that; it says that if there are any serious social, personal or family consequences, abortion is justified. We all know for every family every single child is a serious personal, family and social consequence for the mother and the rest of the family. To base that as a justification for abortion, I find a total travesty. For that reason I will vote for the amendment.

Mr COURT: Like the member who has just spoken, I accept the last vote. This is another area on which I did not have the opportunity previously to make some comments, and one, I guess, where I have the most personal involvement in this legislation. I want to share a personal experience, which is always difficult to do in the Parliament. The words covered by the amendment should not have been in the legislation. My reason for saying that comes more from personal experience than otherwise. It is to do with the fact that one of my children is a child of a lady whom I admire greatly, whom I did not meet until of couple of years ago and whom at a very young age could not have been in a worse social circumstance.

She is an Aboriginal person. The condition in which she was living at a very young age was explained to me. She was pregnant, yet she made a choice to have that child and to have it adopted. She made a choice at a young age to have two children adopted. I did not meet her until less than two years ago, and I now have a good relationship with her and keep in regular contact. When this debate started, she contacted me and said, "Richard, I understand the emotions on this issue, but I am so grateful that I did not have an abortion with those two children." She has found only one of the children - my daughter - and is still looking for the second child. I said that this is an emotional matter to discuss, but I cannot imagine a person in a worse set of circumstances than that lady who made that choice to have her children.

At the other end of the scale, I have mixed with people who would be put at the top end of the economic and social bracket who have openly discussed with me that they have had abortions for the purposes of contraception. I do not accept that. I do not find that to be an acceptable practice.

For those reasons, it is unnecessary to have this provision in the legislation. I accept in practical terms that this provision would probably not make much difference to the working of the legislation. On one hand I have always said that I accept proposed subsection (5)(c) and (d) in this legislation as reflecting what in practice has been accepted around the country. I have always seen those provisions as sufficient to include in law. On the other hand, I have not supported proposed section (5)(a) and (b), and particularly the amendment moved by the member for Nollamara, because I guess I would not have a lovely daughter today if the other decision had been made.

Ms WARNOCK: That is a certainly a very touching story, and I can understand how strongly the Premier feels about that matter. I can also say that many thousands in the community have made a different decision, which they have not necessarily regretted, for reasons of serious personal, family and social consequences. I think about the person who was pictured on the front page of the newspaper recently who suffered terrible persecution for making such a

serious personal decision. Of course, it was also a health decision as she had had several miscarriages and was in terrible personal circumstances - she was ill. She made the decision for serious personal and social reasons. It was a family decision - as such decisions often are - yet she suffered terrible persecution by people who disagreed with her decision.

I remind members of that case because the core of this Bill always has been, and always will be, the matter of the woman's choice. I applaud people who make the choice one way or the other unfettered by anyone else's advice, persecution, coercion or force. This must always be the woman's choice. If a women is aged 15 years and feels, for whatever personal reasons, that she cannot sustain a pregnancy responsibly, or if a women is aged 50 years and feels she cannot sustain a pregnancy responsibly, and makes the decision to terminate after giving informed consent for personal, family or social reasons, we should respect those decisions.

People in the community have made the decision to which the Premier has referred. Also, I know that many thousands of others have made another decision. I simply would be unable to make that decision for another woman. In fact, I am outraged that anybody feels he or she can make that decision for another woman. For that reason, I support this amendment.

Dr TURNBULL: The fact that proposed subsection (5)(a) has been passed gives even more reason for not passing paragraph (b). We should not pass paragraph (b) because once a law is changed, all sorts of other things flow from it.

I made a few speeches on the Foss Bill, but I have not spoken at length on this Bill as it is unnecessary to reiterate the points. However, importantly, within 10 to 15 years' time we will see in our country eugenics practised on the basis not only of genetic conditions, as we currently see, but also for social reasons. People will say that the balance of our population is marked too far towards people who cannot afford to raise their children. The next reason will be that families are into their third generation in which members have not had work, and our society will be unbalanced if that trend continues. Therefore, pressure will be applied to people, particularly those who are not well off financially, not to have children.

Every day one hears throwaway words about our society becoming less tolerant of people who do not fit in. We might say we are more tolerant and have the laws to back it up, but -

Mr Marlborough: You did not want Homeswest houses in Collie!

Several members interjected.

The CHAIRMAN: Order!

Dr TURNBULL: A few members in this place are not taking this debate seriously.

Mr Marlborough interjected.

The CHAIRMAN: Order! The member for Peel will come to order.

Dr TURNBULL: Laws that we make now will be used by people in five to 10 years' time in different ways from how we envisage their usage now. I have practised medicine for 30 years. Although it has been said in this place that de facto abortion by consent has existed for 25 years, it is not true. It is only in the past 10 to 15 years that the general population accepted that situation.

What will happen to the laws we make now? They will be used in five to 10 years' time quite differently from how we envisage them now. Proposed subsection (5)(a) covers everything to which the member for Perth referred. Paragraphs (c) and (d) cover cases like that of the person who was on the front page of *The West Australian.* All factors are covered.

I feel strongly that no-one should say that a justification for an abortion is social consequence. Personal and family reasons relate to mental and physical health reasons and informed consent, and social consequences also relate to informed consent. In fact, if we accept paragraph (c), why would we need the informed consent reference? That was a reason for my vote against the earlier provision. Informed consent will be applied as justification for people who simply do not want babies, or because it spoils their phase in life as a model or for some other reason. Paragraph (a) covers everything. Paragraph (b), with reference to social consequence, will be greatly altered in its usage over the next 10 years.

Dr EDWARDS: I oppose this amendment to delete reference to "serious personal, family or social consequences". Over the years I have counselled many women who have had pregnancy terminations. Those are the issues that weigh upon their minds, not for any selfish reason, but because they are concerned about the quality of parenting they would be able to provide emotionally, socially or at some sort of family level if the pregnancy proceeded to childbirth.

In my experience women take this issue extremely seriously. Some of the people who spoke this evening do not realise the extent to which an unwanted pregnancy can be a crisis for a woman. I have a different view about "informed consent". It places a responsibility on the woman to examine the issue carefully and have counselling if she wants it.

Unlike the member for Collie I do not see that it would open the floodgates. Therefore, it is important to keep paragraph (b) in the Bill because it reflects what will happen in the community. If we delete it we will be dishonest and unfair to the women who are troubled about having a termination of pregnancy.

Mr PENDAL: The debate for several hours has centred on the words "informed consent", "consent" and "choice" for distressed women. I will read an interview I had yesterday in Kelmscott with a woman I will call "Mary", who is married to a man called "Roger". Only the names in the interview differ from reality. Other than that the story is hers. It should bring home to members the lack of choice that exists. It is the only occasion on which I have ever agreed with Germane Greer, who talks in the most disparaging terms about the way in which choice is utterly lacking to most women. This is "Mary's" statement taken yesterday -

> It was June, 1997, when out of the blue, I discovered I was pregnant. This came after we had discontinued fertility programs which we had been on for five years. We had decided we must "move on". The news of the pregnancy therefore put us in panic. We went into shock. We thought we were, by now, too old.
>
> We rushed in -

She admits that.

> - and the system let us rush in. Our GP gave us an immediate referral for an abortion. She gave us no counselling, but she was hesitant about what she was doing. I got an appointment with Dr Chan the next day. We were given the option of counselling which we decided to take. My husband accompanied me.
>
> The counsellor was a young woman in her early thirties. I do not know her qualifications. She then counselled us to have the abortion. There were no pros and cons. She said we would have no regrets.

This is the great Dr Chan. This is how much protection he gives to women.

> This all took about 10 minutes. For most of this time I had been vomiting into an ice-cream container. I agree I was not in a fit state to be undergoing counselling.
>
> Then we saw a doctor, who took my blood pressure. At this point my husband got uneasy because he heard the sound of someone in the clinic whistling. He later said that at that point he should have taken me home. How could someone be whistling in a place like this?
>
> The doctor led me through to where the procedure was performed. I was asleep throughout. I think I had an injection. I woke up and they said that was it.
>
> On the way to the clinic I talked with Roger as to whether we should stop the car. Yes, there was doubt.
>
> It's the aftermath. An innocent baby was killed.

Those are her words.

> The law needs to protect the woman and the child.
>
> Less than 24 hours after the procedure I was losing my mind. There was regret and grief. It was like I had lost one of my existing children. The emotional aftermath has been intense. I wanted to go to that place (the clinic) and burn it down. I couldn't believe in hindsight how easy it had been to kill a baby. You have to wait a month to get married. Why not a cooling-off period for this?
>
> There should be a cooling-off period, and counselling for both sides (husband and wife).

She added -

> It cost me $200. They told me I had to bring cash.

That is her statement. There is a lot of consent and an awful lot of choice on the part of that woman! It is an abomination on the part of everyone. Anyone who doubts the need for this Parliament to bring in some decent laws to protect women like that could not doubt it after hearing something like that.

Mr THOMAS: I had not intended speaking in this stage of the debate; however, I decided to do so after hearing what the Premier said. I too am an adoptive parent of a child as a result of a situation which would have qualified for an

abortion under either paragraph (c) or (d) of this Bill. My experience leads me to support the position which is precisely opposite to that which the Premier advocated. Probably more circumstances exist than are availed of where adoption is a realistic and viable alternative to abortion and one that should be considered. However, it must be freely exercised by the mother, not enforced by the law.

In my case the birth mother has been able to maintain continuous contact with her son. He knows who is his mother and she knows who is her son. She is able to have as little or as much involvement in his upbringing as she wishes. That has been a very happy circumstance for her, my wife, me and our son, who I hope will come to lead a fulfilling life. I hope that option will be followed more often than it is. The provision of "informed consent" will allow people to be informed of the options. Certain organisations might promote in-family adoptions whereby the relinquishing - for want of a better term; my circumstances did not involve true relinquishment - mother can maintain continuing contact with the child rather than undergo the trauma of relinquishment, which we have debated in this House on other occasions.

However, the position I put to the Premier, as we have somewhat similar experiences on this matter, is to commend the position of Mario Cuomo. I recently reread Mario Cuomo's address to the University of Notre Dame in the United States. He spoke as a Catholic Governor of New York, a diverse state in ethnic and religious terms and in every other way. His response to his deeply held religious views was to persuade people to come to that point of view so they could make a choice. He was not prepared to take that extra step and use the force of law, the weapon of the State, to impose his view on people.

I agree with the Premier that adoption is a very realistic alternative to abortion and one that I hope would be exercised more often than it is. It should be promoted. We should explore more often the options of in-family adoption and other circumstances of adoption where there is a guaranteed continuing contact between the relinquishing mother - and father, I guess - and the child in the new circumstances. I hope that people will more often freely exercise the option to have the child and let someone else contribute to his or her upbringing, if they feel they were unable to do so in all of the circumstances. We cannot realistically enforce that situation on people. We have had other debates in this Chamber and debates shortly before I came into this place in which the trauma of relinquishment for the mothers in particular has been enumerated. That trauma can be profound and should not be forced on people. I agree that adoption should be advocated and encouraged as an option.

Mr McGINTY: I ask members to go back to what precipitated this debate in each of the Chambers of this Parliament. It was because two doctors were charged with performing an abortion in defiance of the law but in accordance with over 25 years of practice in which all of the relevant authorities had at least acquiesced, if not connived. It is important in this debate that we look back at why that practice had developed in Australia. It developed because of two judgments in the Supreme Courts of New South Wales and Victoria. The first was in Victoria in 1969 in what is known as the Davidson case. In that case the court said that an abortion is justified when, to put it in terms of the legislation today, paragraphs (c) and (d) are satisfied; in other words, where there is serious danger to the physical or mental health of the woman concerned, caused by the pregnancy, the birth or its aftermath. That judgment of Mr Justice Menhennitt is also the reason that the Bill is structured in the way it is, because paragraphs (c) and (d) are derived substantially from the words used in that case. Members in this Chamber who say that they want to go back to the practice that existed prior to the charging of the doctors in February of this year must support paragraphs (b), (c) and (d). Some people have it wrong when they say that the Davidson case, talking as it does of a serious danger to the physical and mental health of the woman, is the basis of the practice which emerged. It is more than that.

In the 1971 decision of the New South Wales Supreme Court in the case of Wald, the contribution of Justice Levine spelt out that in addition to the danger to the physical and mental health of the woman, one should also take into account the personal, social and economic circumstances confronting the woman. The general thrust of paragraph (b), which is what we are debating here, although not transposed word for word, has its origin in the judgment of Justice Levine in the Wald case. Members need to look at both the Davidson and the Wald cases to ascertain the legal foundation for the practice that has emerged since 1971 in Australia.

To turn around and now do what the member for Nollamara has urged us to do, which is to ignore the decision of Justice Levine in the New South Wales Supreme Court case of Wald, is to deny an essential part of the whole rationale of what is before us. Those members who want to go back to the situation prior to the charging of Dr Chan in February this year must support paragraphs (b), (c) and (d), because that is what those paragraphs will achieve. Those paragraphs have their origins in those decisions of the courts. For those members who do not want to go any further, I can understand them voting against paragraph (a). However, all those people, from the Premier down, who said that we should go back to the practice that existed should support paragraphs (b), (c) and (d). The first reason that I urge members to vote against the amendment is this: It denies the history and the argument that has been put in support of abortion law reform. We would not be here debating this issue, as we have over the past several months since February and the charging of Dr Chan, if people did not want to revert to the practice which, perhaps uneasily,

had been allowed to develop in this State. If members knock out paragraph (b), they will be denying that part of the judgment. It is certainly true that paragraph (a) is all that is necessary. If the amendment were to delete paragraphs (b), (c) and (d), one could perhaps go along with that because they are all encapsulated in (a). However, we should not go down that path given the nature of the debate in the two Chambers.

The second reason I urge members to vote against this and the reason I do not believe this warrants an extensive debate tonight is that we have already had this debate. We have already determined the issue. Let us not go back and revisit it at any great length tonight. We should defeat this amendment and let stand that which we have already voted on.

Mr KOBELKE: I want to take issue with the member for Fremantle. Whether paragraphs (b), (c) and (d) amount to practice based on previous judgments - for the purposes of the debate I will accept that - what relevance is it now that we have agreed to paragraph (a)?

Mr McGinty: I have made that point.

Mr KOBELKE: I do not see how that argument can amount to much in terms of whether we should retain paragraph (b). I have suggested that paragraph (b) as it stands is a travesty because it means nothing. If we extract a meaning from it, it suggests that ordinary women and ordinary families having children somehow can expect that there will be no consequences from the birth of a child. I find that totally unacceptable. The Government has run a campaign of advertising saying that parenting is forever to try to convince people that when they become parents they accept responsibility of some consequence for the care and upbringing of a child. We are saying in this Bill that that responsibility of some consequence is the reason that people should be justified in having a legal abortion. It makes a mockery of the Government's program to try to promote parenting. For that reason this paragraph should not be in the Bill. It is irrelevant for the justification of a legal abortion because paragraph (a) gives every possible justification people want. We do not need paragraph (b) and it should be taken out by supporting this amendment.

Ms WARNOCK: I disagree most intensely with the previous speaker. It is because people take parenthood very seriously indeed that they may consider that they cannot deal with another child and with another opportunity to be a parent and that their family circumstances simply do not allow them to be the good family people that they want to be for their existing family. The member for Maylands was talking about those kinds of circumstances. Members may remember that she has counselled many women about circumstances exactly like those. Those are serious family circumstances in which people feel they cannot responsibly sustain another opportunity to be a parent or a mother. It is for those reasons that this paragraph needs to be in the Bill, not because people do not take parenting seriously, or regard it as trivial or do not regard it as a serious social consequence, to quote the member. It is frequently to make a better life for the children they already have that they must make this decision. I am thinking of some friends of mine who felt that they could sustain a family with only two children because of their income and their circumstances. The man had a vasectomy because of that. The vasectomy failed. They were both Catholics. They felt obliged to have a termination as a result of another pregnancy because they had made that serious personal decision that they could sustain a family of only two children. Against their religious beliefs but because they believed it was the responsible thing for them to do, they decided to go ahead with the termination. That is the kind of circumstance to which we are referring in this amendment and that is exactly why I believe we should vote against the amendment.

Mr KIERATH: I want to point out the absurdity of the way in which these paragraphs are drafted. Against my better judgment, we have passed paragraph (a). That means that paragraphs (b), (c) and (d) are superfluous, but they do set some benchmarks. Members who support paragraph (a) should not object to the deletion of paragraphs (b), (c) and (d). There was some justification for their deletion in respect of the previous Bill before the Chamber, because they were in reverse order and decreasing in their breadth of coverage.

Mrs ROBERTS: I take issue with the argument put by the member for Perth. She suggested that abortion was the responsible option. The responsible option is contraception, not abortion. It is not responsible to terminate the life of a child one has conceived: It is a selfish action; it puts a couple's rights ahead of the rights of the unborn child.

[Interruption from the gallery.]

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): I realise that members of the gallery have very strong feelings either way in relation to this debate. However, it is very important for this Chamber that the debate proceed uninterrupted. There have been a couple of small outbursts and I ask members of the public to maintain silence.

Mr McNEE: I strongly support the excellent comments of the member for Midland - no-one could put it better. I totally reject the member for Perth's assertion that abortion is the responsible reaction; it is the most irresponsible reaction I can contemplate. I remind the member for Perth that this State is very young. It was not long ago that my grandmother was a young woman rearing children, and she, along with many other rural Western Australian women,

raised children in the bush in nothing better than bag humpies. What is the problem with today's young people? The problem is that we accept all the soft options. Does it strike members as strange that in a country like America, where the soft options have been accepted, youngsters are now so violent that at 11 years of age they lay in wait to ambush their friends? I suggest that violence begets violence. Members should not complain to me when young people break windows if they consistently lower the standards. In this great nation and this great State, there are no economic reasons to do this. Would the social reason be that a person could not play tennis on Sunday? What a load of rubbish. I strongly support the member for Midland's excellent remarks and I totally reject the member for Perth's remarks.

Mr CARPENTER: Given what we have just heard, I want to put on the record my congratulations to the member for Perth for the courage she has shown through the course of this debate in the face of some very unfortunate pressure, remarks, abuse and attacks. It is obvious when one watches the member for Perth that she has been deeply affected by this debate. This will go down as a great achievement on her part and something about which she can be very proud in her political and parliamentary career. She has stood up for the rights of the women of Western Australia in the face of a mountain of abuse, threats and intimidation. I congratulate her for the way in which she has conducted herself in this debate. I believe I speak on behalf of the majority of people in Western Australia - a far greater majority than is reflected on the floor this Chamber - when I say that the member for Perth deserves our thanks.

[Interruption from the gallery.]

The DEPUTY CHAIRMAN: The comments I made earlier also refer to individuals. I ask each individual in the gallery to remain silent. This debate must go ahead unimpeded.

Mr CARPENTER: I agree with the member for Riverton: Once we have made the decision that a woman may have access to abortion based on her informed consent, everything else is superfluous. However, we are debating the Bill and the amendments and we must deal with them. I congratulate the members who voted for the pro-choice side in respect of the key amendment - that dealing with informed consent - and I ask them to stick with it and maintain the line that we have established here tonight. It is important at this stage, because everyone is getting tired, that we do not regress to the mood and attitude that has prevailed in the past. Today we can all be proud of ourselves for the way in which the debate has been conducted - without much rancour and abuse. Once again I congratulate the member for Perth.

Mr BRIDGE: To square the ledger, I congratulate the member for Midland. She spoke in a very articulate, calm and cool manner. She said that her opinion differed from that of the member for Perth, and made it clear why. For the purpose of the record and the 80 per cent who support the pro-life side of the argument - although the member said 50 per cent -

Several members interjected.

Mr BRIDGE: He has 30 per cent of the audience and we have 70 per cent. The member for Midland should be thanked for the noble and proper way in which she has stood her ground on matters of high principle.

Amendment put and a division taken with the following result -

Ayes (23)

Mr Ainsworth	Mrs Holmes	Mr Minson	Mrs Roberts
Mr Baker	Mr Johnson	Mr Nicholls	Mr Shave
Mr Bridge	Mr Kierath	Mr Omodei	Mr Tubby
Mr Court	Mr Kobelke	Mrs Parker	Dr Turnbull
Mrs Edwardes	Mr MacLean	Mr Pendal	Mr Cunningham *(Teller)*
Mrs Hodson-Thomas	Mr McNee	Mr Prince	

Noes (32)

Ms Anwyl	Mr Cowan	Ms MacTiernan	Mr Ripper
Mr Barnett	Mr Day	Mr Marlborough	Mr Strickland
Mr Bloffwitch	Dr Edwards	Mr Marshall	Mr Sweetman
Mr Board	Dr Gallop	Mr Masters	Mr Thomas
Mr Bradshaw	Mr Graham	Mr McGinty	Mrs van de Klashorst
Mr Brown	Mr Grill	Mr McGowan	Ms Warnock
Mr Carpenter	Dr Hames	Ms McHale	Mr Wiese
Dr Constable	Mr House	Mr Riebeling	Mr Osborne *(Teller)*

Amendment thus negatived.

Mr KOBELKE: I move -

> Page 7, lines 18 and 19 - To delete "or in the case of paragraphs (c) and (d) is impracticable for her to do so".

There has been much talk of choice and informed consent. Informed consent is the basis for justification for legal abortion, as the Bill now stands. However, under paragraphs (b), (c) and (d) there are other criteria to be met in addition to informed consent. However, there is a let-out, which I seek to delete from the Bill. This has the effect of saying that the woman does not have to give informed consent with respect to (c) and (d) if it is impracticable for her to do so.

Members must keep in mind that paragraphs (c) and (d) deal with the criteria for justification of abortion which are serious danger to the physical or mental health of the woman concerned if the abortion is not performed; and the pregnancy of the woman concerned is causing serious danger to her physical or mental health. This must be compared to section 259 of the Criminal Code which reads -

> A person is not criminally responsible for performing in good faith and with reasonable care and skill, a surgical operation upon any person for his benefit or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable, having regard to the patient's state at the time and to all the circumstances of the case.

The key point is that it is permissible to perform an abortion if it is required for the preservation of the mother's life. That lesser criteria should apply where it is simply a serious danger, not to the life but simply to the physical and mental health of the woman. She may have a blood pressure problem which could be treated chemically without any difficulty. That would mean that she could carry the child to full term, if she desires, taking into account that other options are available should that pose a serious danger to the physical health of the woman.

Paragraphs (c) and (d) are deliberately very loosely worded so that they mean something quite different from what might appear on first reading. They do not mean that if no action is taken the woman will die or be affected permanently. They simply mean that there is a serious danger to her physical health, and that could be a minor ailment in some respects but serious for her at a particular time. It may cause some facial disfigurement for some time; and that would be a serious danger to her physical and mental health.

The loosely worded paragraphs leave open many issues which can, quite rightly, be justification for a legal abortion. However, a requirement is that the woman give informed consent except in cases where it is impractical for her to do so. We should not leave that provision in the legislation because if the situation is serious - the woman is in a coma and cannot make a decision - under section 259 of the Criminal Code the doctor would face no difficulty in inducing a termination on the basis that it was required on reasonable grounds for the health of the mother. However, this will leave it open for doctors or third parties to decide that a woman's indisposition at the time or because it is judged that her mental capabilities mean that she cannot make an informed decision, or it is not possible to give counselling to her, will make it impractical.

Mr PRINCE: I am advised that this is almost never likely to occur, according to the doctors who have treated women who have been in a condition that does not allow them to consent. In rare cases, a pregnant woman can suffer some form of traumatic injury in which she is unconscious, and an abortion must be performed in order to save her life. As the member for Nollamara pointed out, such a circumstance is covered by section 259 of the Criminal Code which states that a person is not criminally responsible for performing in good faith and with reasonable care and skill a surgical operation on a person for his benefit or upon the unborn child for the preservation of the mother's life. That has been in the code for over 100 years and in the law for longer than that. The few words "impracticable for a person to do so" cover the rare but conceivable circumstance in which the woman effectively would be comatose - it may be by reason of disease, and although an abortion is not necessary to preserve her life, for other reasons it is desirable. It is a narrow window and none of the people to whom I have spoken has been able to remember a case that would fit into it. However, it is conceivable that it could arise. One would not want that to arise and, for want of a few words on paper, not be able to proceed as is medically indicated.

I understand the member's reasoning but it must be the case that informed consent is present; that means the giving of information as defined. Conceptually, there will be a few cases in which that cannot be done, because the woman is comatose and her physical state is not such as to require an abortion to save her life but it may be medically desirable for there to be an abortion for her betterment. I do not know whether I can make it any clearer than that because it is a narrow area. Although I respect the member's reasons for moving the amendment, it could result in a mistake where presently we have covered the potentiality that we hope will never arise.

Ms WARNOCK: I support the Minister for Health. I have spoken to doctors about this issue. This clause was inserted to allow for the rare situation in which there was severe danger to physical or mental health but the woman

was not able to give consent; for example, if she happened to be in a coma. I understand from what the other two members have said that this would be a rare situation. However, in the opinion of the doctors I consulted about this - doctors who have spent their lives in this field of medicine - the need for this provision still exists, so they ask us to leave it in the Act and to oppose this amendment.

Ms MacTIERNAN: I share some of the concerns of the member for Nollamara. This clause is broader than the Minister for Health has suggested. Situations have arisen, for example, in the case of a person with a severe intellectual disability in which the parents or the carers of a woman believe that she will have great difficulty coping mentally with the fact of pregnancy because she does not understand what is happening to her and she may likewise have grave difficulty going through the process of birth - again because of her incapacity to understand the momentous changes that are going on within her. I am not arguing that in those situations abortion would be wrong. However, the difficulty with this clause is that we do not specify any protections or say who will make the determination that it is impracticable to do so.

As with the case of the sterilisation of a person who is intellectually disabled, there should be an order of the court to include some safeguards in a parallel situation. The determination cannot simply be made by a single doctor, a next of kin or a parent that in his or her view the intellectual disability is such that the pregnancy constitutes a real danger to the mental health of the person. It is not simply physical health that triggers this provision, but it is also mental health. The decision might be the right one, but we need a proper mechanism to determine who makes that decision and it should not be left in the hands of a doctor, any more than we are prepared to leave in the hands of a doctor or parent the right to make a decision on whether an intellectually disabled person should be sterilised.

Mr KOBELKE: The Minister believes that the interpretation of the meaning is narrow. I will take up the point of the member for Armadale that it will not necessarily be interpreted in such a narrow sense. However, in that narrow sense, if the life of the woman is clearly at risk, this clause will not be applicable because of section 259 of the code. It would be difficult to deal with those situations in which a woman has some other condition - the Minister suggests it would be a rare case where a woman is pregnant and in a coma from an accident or maybe, as a woman I know, an aneurism in the brain causes a coma lasting nearly 12 months before regaining consciousness - and pregnancy will compound such a difficult situation. This clause will allow the decision to be made by others. It may be an extremely rare situation and the decision was made because a woman was comatose. However, she may come out of the coma after a short period to find the decision made and it was not the decision that she would have made. We are setting up a situation in the law in which the rights of that woman - although in extremely rare circumstances - will have been of no account. Her child will have been aborted without her consent.

Mr Prince: The justification for abortion must be options (c) or (d) - serious danger to physical or mental health, but not so as to endanger life.

Mr KOBELKE: In light of the view put by a professor of law from Oxford that the courts will interpret both paragraphs (c) and (d) extremely broadly, it could be that a medical condition which is normally gauged to be passing and not life threatening is judged to be a serious danger to the physical and mental health of a woman at that point. Although it is not a risk to her life, it is just a serious medical condition. It could be a common contagious disease. We are not dealing with conditions that need to be life threatening. We are now saying that in circumstances where it is not practicable, the woman does not need to give consent.

I ask the Minister and members to consider it another way. If on one hand this amendment were carried and we did not have that provision, who would be adversely affected? If the Minister's definition is correct, this provision could not be used to justify an abortion in only a small number of cases that were difficult for a range of reasons in addition to the pregnancy, and recourse would need to be taken to some other aspect of the law, which I imagine the medical fraternity would be able to do. We do not need this provision.

If, on the other hand, we left in this provision and the courts gave it a broad interpretation, a woman who found it impracticable to give consent - perhaps she was caught up with the requirements of the consent procedure, and it had nothing to do with her physical and mental condition - could be given an abortion without fulfilling the requirement to give informed consent. This legislation would be better if this provision was removed. For that reason, I hope the amendment is carried.

Dr EDWARDS: When I was a resident medical officer, I worked in a neurosurgical ward and dealt with many patients who were unconscious. I am not sure whether I remember this type of situation, but I do remember a situation where a woman who was unconscious was found to be pregnant, and that pregnancy proceeded.

Mr Prince: It would be in the extraordinary circumstance where a woman who was comatose was pregnant and the pregnancy was causing serious danger but was not life threatening. That is the window that this proposed subsection covers. As far as I can see, it covers nothing else.

Dr EDWARDS: I agree.

Mr Kobelke: It also covers paragraph (b). A judgment could be made that because the woman was comatose, for her to deal with the child would be a serious personal and family consequence; on that basis, other people could decide that she should have an abortion.

Dr EDWARDS: This proposed subsection covers only paragraphs (c) and (d). Paragraph (b) is excluded from these words.

I assure the member for Armadale that doctors take this issue extremely seriously. Although what I saw in the neurosurgical ward had nothing to do with termination of pregnancy, when on occasions an emergency patient was not able to give consent and no-one knew who was that person's next of kin, the doctors would go to a lot of trouble to ensure that any consent that they obtained was obtained properly from a legal and ethical point of view and was extremely accountable. I believe that with all the inquiries into the rights of people with disabilities, particularly intellectual disabilities, doctors are very sensitive to this issue. If doctors thought that the parents of a woman with an intellectual disability were trying to force her to have a termination that she did not want or that was not justified, they would not proceed and would seek the expert advice that is now available from places like the guardianship office. This provision would hardly ever be used. I would be very surprised if it were used even once in a decade. Nevertheless, it would cover the unlikely situation of a woman who was in a coma and who would suffer serious danger to her physical or mental health, and we need to protect that woman's rights.

Mr PRINCE: The ability to dispense with informed consent will apply only to an abortion that is justified under paragraphs (c) or (d) - that is, where the pregnancy will cause serious danger to the woman's physical or mental health - the Davidson principle - and where the woman is unable to give consent because she is comatose.

Ms MacTiernan: It is not simply a woman who is comatose. She may have a psychiatric disorder.

Mr PRINCE: It will apply if, for whatever reason, the woman is unable to give consent, yet she also suffers from a serious danger to her health that is not quite preservation of the mother's life as found in section 259 of the Criminal Code.

Mr Kobelke: You are interpreting that far too narrowly. A woman who was seriously over-indulging in alcohol would be causing serious danger to her physical health. She could overcome that if she stopped drinking, but that would be caught under this clause.

Mr PRINCE: No, because the justification for the abortion must be that serious danger to the health of the woman will result if an abortion is not performed. In the case outlined by the member for Nollamara, the serious danger to the woman's health is her alcoholism, which is quite different; and if she were comatose, she would not be drinking, so her health would be improving and hopefully she would come out of the coma.

Mr Kobelke: I am not talking about a woman who is comatose. The interpretation that you are putting on paragraphs (c) and (d) is much stricter than the interpretation that the courts are likely to put.

Mr PRINCE: If the Supreme Court of Western Australia was looking at this clause in the totality in which I expect it would become law, it would read these paragraphs very strictly, because paragraph (a) is, much to my regret, abortion on request, and it would need to read paragraphs (c) and (d) strictly, because there is no other way to read them.

Mr Kobelke: I do not know if you are right.

Mr McGinty: The type of situation that this provision would cover would be in a country area where there was a serious accident that affected a pregnant woman and two doctors were not available - one to counsel and one to procure the abortion.

Mr PRINCE: But only if it was necessary to abort to avoid serious danger to the woman's physical or mental health; and as soon as we got into that area, we would go back to section 25 of the Criminal Code - the extraordinary emergencies section.

Mr McGinty: It would be an extraordinary emergency.

Mr PRINCE: Yes. We would then be saying that the nature of the injury to the woman was such that serious danger to her health would result if an abortion was not carried out, and she was comatose and could not consent.

Mr McGinty: What if no doctor was available to counsel her? It is only informed consent if an independent doctor conducts the counselling. That is my interpretation.

Mr PRINCE: An abortion is an assault on the person in any event, so if there is not some form of justification under

this section, it would be a serious assault. All sorts of ramifications come into this. This is such a narrow window that I would not want to see it closed, should that case arise, for want of a few words on a piece of paper to cover that situation. The member for Maylands says that she cannot recall a case like it, and many doctors to whom I have spoken cannot remember a case that is on the point, but it is conceivable that it will arise.

Ms MacTIERNAN: I am a bit disappointed that the debate has focused almost exclusively on the impracticality being caused by a physical condition; that is, it is impracticable for the woman to give consent because she is in a coma. I have attempted to outline scenarios in which the impracticality of giving consent is related to a psychiatric disorder or an intellectual impairment. The harm sought to be avoided may not be a direct physical threat to life but a threat to mental health. I have described circumstances in which a woman might be mentally disabled and find herself pregnant. Members know that is not a rare situation because often the intellectual disability removes many of the inhibitions that constrain sexual activity, and there is often a great deal of promiscuity among intellectually disabled women. This is not pejorative but is recognition of a fact. Quite often those women become pregnant. Unfortunately, they are often exploited by people who are aware of that disability for those reasons. It is a very practical situation. It arises far more often than a pregnant woman being found in a coma. The parents or carers may believe it would be an unwarranted burden on the woman concerned and that she would not be able to cope with the pregnancy. They may also have an eye to their own position in that they could have primary responsibility for caring for a grandchild. They may not want that responsibility.

In responding to the member for Nollamara, the Minister has not focused on the issue relating to people who have a psychiatric disorder or intellectual disability, which is the basis for the impracticality of the consent, that the harm sought to be avoided may not be immediate physical danger but long term mental health. I am sorry that amendments are made on the run, but issues arise during the course of the debate and an attempt is made to respond to them. I do not support the amendment because there should be some capacity to deal with a coma situation. I agree that the Criminal Code provides protections for this situation. However, I will propose an amendment to be inserted after the existing provision to allow that where it is impractical to obtain consent because of a psychiatric or intellectual disability of the woman, a court order must be obtained before an abortion is performed unless the woman's life would be threatened by delaying the procedure until such time. This added level of protection is necessary in those classic situations where carers or families determine that a person, because of her psychiatric or intellectual disability, is not able to give informed consent, and that the threat sought to be avoided is not an immediate physical danger but a danger to mental health.

Amendment put and a division taken with the following result -

Ayes (16)

Mr Bridge	Mr Kierath	Mr Nicholls	Mrs Roberts
Mrs Edwardes	Mr Kobelke	Mr Omodei	Mr Tubby
Mr Grill	Mr MacLean	Mrs Parker	Mr Cunningham *(Teller)*
Mrs Hodson-Thomas	Mr McNee	Mr Pendal	
Mrs Holmes			

Noes (38)

Mr Ainsworth	Mr Court	Mr Marlborough	Mr Ripper
Ms Anwyl	Mr Cowan	Mr Marshall	Mr Shave
Mr Baker	Mr Day	Mr Masters	Mr Strickland
Mr Barron-Sullivan	Dr Edwards	Mr McGinty	Mr Thomas
Mr Bloffwitch	Dr Gallop	Mr McGowan	Dr Turnbull
Mr Board	Mr Graham	Ms McHale	Mrs van de Klashorst
Mr Bradshaw	Dr Hames	Mr Minson	Ms Warnock
Mr Brown	Mr House	Mr Prince	Mr Wiese
Mr Carpenter	Mr Johnson	Mr Riebeling	Mr Osborne *(Teller)*
Dr Constable	Ms MacTiernan		

Amendment thus negatived.

Ms MacTIERNAN: This amendment will follow on in the clause as it stands. I move -

> Page 7, after line 19 - To insert the following -
>
> (7) Where it is impracticable to obtain consent because of the psychiatric or intellectual disability of the woman, then an order from the Guardianship Administration Board must be obtained before an abortion is performed unless the woman's life would be threatened by delaying the procedure.

This has nothing to do with the coma situation. The situation where a woman's physical circumstances prevent her

from making informed consent are already appropriately dealt with in the clause as it stands when read together with the provisions of the Criminal Code. I am concerned with the situation not where the woman is in a coma, but where she has an intellectual impairment or her psychiatric condition is perceived to be such that she is unable to make an informed consent. I am concerned that it may well be that women under these circumstances want to have a child. It may be deemed by others that she does not have the psychiatric or intellectual soundness of mind to make the decision and that proceeding with the pregnancy would harm her mental health. That is quite a frightening scenario and needs some independent vetting. I use as the parallel the current situation with sterilisation for people with an intellectual impairment. Under those circumstances we require some independent vetting of the circumstances. It does not mean it cannot be done, but it is taking it outside the responsibility of the guardian or the parent who may have a conflict of interest in this regard and may not be seeing things as clearly and objectively as they can be seen. I do not think a single argument has been mounted tonight that addresses the points and concerns I have raised.

Mr RIPPER: This seems to be the worst sort of law making on the run. We have had this clause before us for weeks and weeks. I, for one, am very uncomfortable with the idea of making a snap decision on an amendment produced immediately after a division. Before I vote on something like this, I want to know what are the general provisions of laws governing guardianship and intellectual disability as they affect the ability of people to give consent for medical procedures or to make other decisions in their lives. It is extremely bad practice for the Chamber to be asked to make a decision like this in the absence of legal advice on the interaction of this law and other laws. It might have been able to be considered had it been put forward at any stage in the past six weeks, since we have been considering this legislation. I, for one, would like to have a lot more legal advice available to the Chamber before I vote for it.

Mr PRINCE: I am not in a position to help with advice on this from a legal point of view. I have just been discussing it with the Minister for the Environment. Marion's case comes to mind. I think it was a case in the High Court of Australia between five years and seven years ago. Although I cannot recall its exact provisions, generally it deals with the ability of a parent to give consent for various things to be done with respect to a child who has an intellectual disability.

Ms MacTiernan: It is not just a child.

Mr PRINCE: I appreciate that. I understand why the member has moved this amendment. I agree with the member for Belmont that it must be looked at. I wonder whether the member for Armadale will accept my undertaking that I will have it looked at by the people who know this area of the law to see whether her concerns should be addressed by some form of words. If that is the case, at some stage I will bring back here a small amending Bill to do that. I am concerned about doing this on the run and winding up with something that is not correct.

Ms MacTiernan: I will not withdraw it, but I accept your undertaking. It can be approved.

Mr PRINCE: On that basis, I will urge members to vote against the amendment, because I am unsure that this will be right. I know what the member wants to achieve; however, we have too many problems with making amendments on the floor as we go, without adequate ability to look at them. I have given the member an undertaking, and I will stand by it.

Mr NICHOLLS: The member for Armadale is trying to do something that is valid. However, I understand that New South Wales and South Australian legislation contain provisions for people with disabilities in respect to terminations, and I believe there was a High Court case in relation to sterilisation. We should look at the general principle in this area as such a provision should apply to not only abortion, but also other such serious medical procedures.

Mr Prince: You have raised that issue with me a number of times, and certainly something might need to be done. I reiterate the undertaking I gave to the member for Armadale: I will look at it in the light of information and come back with something that should work if it should be applied.

Mr NICHOLLS: That would be a positive move for this debate and a number of other situations.

Ms MacTIERNAN: I respond to some of the criticisms levelled at me by my colleagues about developing an amendment on the run. I listen to debate and when an issue is raised by a person from the other side of the debate which I think is valid, I will not reject if out of hand simply because I disagreed with that member on other amendments he or she moved. Frankly, no grounds exist for criticising someone for taking the trouble to listen to debate and to respond to legitimate concerns raised. I outlined some of these issues during discussion on the Foss Bill. I was concerned about the position of people with intellectual and psychiatric disabilities and the possibility that their rights might be overridden unfairly. I do not accept the criticisms. I am pleased that the Minister for Health and a number of other members are willing to recognise that an issue needs to be resolved. I look forward to receiving further advice from the Minister for Health.

Mr GRILL: I support the member for Armadale as she has put her finger on a deficiency in this part of the Bill. She wishes to protect intellectually and psychiatrically impaired individuals in a certain set of circumstances. The amendment is competent. So far, I have not heard anybody say that the motive behind, or the words used in, the amendment are in any way defective. Therefore, we should accept the amendment. If it needs to be tidied up in another place, let that happen. Nothing would be gained by not accepting the amendment now. Nobody has questioned the motives of this amendment.

Mr Prince: No, we haven't.

Mr GRILL: Nobody so far has questioned the wording of the amendment or the motives behind it. In those circumstances, why not accept it?

If the amendment needs to be cleaned up at a later date, we can do so in the upper House. The only circumstances in which the amendment will not come back here is if the words are correct. If we can avert the necessity for the Bill to be returned, we should take that chance. The course recommended by the Minister ensures that the amendment will come back to this Chamber, and the course proposed by the member for Armadale means that that may not necessarily be the case. No-one so far questions the wording of the amendment, which is worded very well. We should accept the amendment in those circumstances. We will lose nothing by accepting this amendment as it stands.

Mr RIPPER: This amendment presupposes that there is no legal framework into which our law on abortion will fit. Laws already govern guardianship and administration and the ways in which the consent of people with intellectual and psychiatric disabilities are handled when the necessity for medical treatment becomes apparent. We need not act to cover every possible eventuality which might arise with the termination of pregnancies. This Bill will fit into a pre-existing legal framework. The difficulty with accepting this amendment is that no-one has had a chance to study the pre-existing legal framework, to take legal advice or to consider its implications. That is law making at its worst and the type of action which brings Parliament into disrepute.

Also, it will be another way that this Bill differs from the position adopted by the upper House, and another issue which will need to be resolved through a change of mind in the upper House or a conference of managers being formed. It is not responsible to endorse this amendment. I hope that we can get away from the situation where members develop bright ideas at the last minute and seek to add a word or two to the Bill. It is not being done in a comprehensive way covering every eventuality as suggestions have occurred to some members at the last minute. This is not a considered way to consider law, and is not likely to lead to good legislation. The amendment is not necessary because of the pre-existing legal framework into which this Bill will fit. I am sorry, member for Eyre, that I am not in a position to quote the sections and Acts which make this amendment unnecessary, but the lack of notice makes it difficult for the rest of us to debate those aspects. We have a good Bill. We should not muck about it with it any longer. Let us resolve the issues we need to address.

Ms ANWYL: I oppose the amendment on the basis that the Family Court of Western Australia already makes decision in cases of sterilisation involving young women under the age of 18 years. I do not question the member for Armadale's motives at all, but I do not know the full impact of this amendment on the existing legislative framework.

We have a number of cases in the Family Court which deal with the sterilisation of minors. The Guardianship and Administration Board can have some jurisdiction in cases of intellectual disability or psychiatric illness in adults. I understand that the member for Armadale wishes to include "psychiatric disability" in this amendment. Disability implies something of a permanent nature, but psychiatric illness is often something of an extremely transient nature. I know from experience as a legal practitioner that a great deal of difficulty can arise in determining whether a psychiatric illness is of a permanent or transient nature. Paragraphs (c) and (d) as they stand will cover a case involving psychiatric illness. I cannot believe that the psychiatric profession would agree to a termination without the woman's best interests being considered. I am confident that as psychiatric illness can be transient, the medical profession will do everything possibly to cover itself from a professional negligence action down the track; therefore, doctors will be very clear about whether a termination will be in the best interests of the woman concerned. For those reasons, I cannot support the amendment.

Amendment put and negatived.

Mr PENDAL: I move -

> Page 7, lines 23 and 29 and page 8, line 3 - To insert after "medical practitioner" wherever occurring in the definition the words "independent of the medical practitioner who performs the abortion".

An amendment to my amendment is being circulated in the name of the Minister for Health. This has been referred to as the two-doctor clause; that is, in that part of the definition of "informed consent" we were seeking to ensure that

a medical practitioner offering appropriate and adequate counselling be separate from the medical practitioner who will carry out the abortion.

In the meantime the Minister for Health and, I understand, the Minister for Housing, have suggested a set of words that they believe are more appropriate and which will achieve the end we seek.

The CHAIRMAN: Both members have moved an amendment to the same clause.

Mr PENDAL: I seek leave to withdrew my amendment on the two medical practitioners provision on the understanding it will be better expressed in an amendment to be moved by the Minister for Health.

Amendment, by leave, withdrawn.

Mr PRINCE: I move -

> Page 7, lines 23 and 29 and page 8, line 3 - To delete "a medical practitioner" wherever occurring in the definition and substitute "an independent medical practitioner".
>
> Page 8, after line 8 - To insert the following -
>
> (8) Neither -
>
> (a) the medical practitioner who performs the abortion; nor
>
> (b) any medical practitioner who assists in the performance of the abortion,
>
> is an **"independent medical practitioner"** for the purposes of subsection (7).

This amendment seeks to provide that the medical practitioner who is involved in the counselling of the woman is not the person who performs the abortion nor the person who assists, but is a medical practitioner who has nothing to do with that. The ideal circumstance, which I hope will occur most times, will be that the general practitioner who knows the woman well will do the counselling, which is the prerequisite to the abortion, and the woman will go elsewhere for the procedure so that there is no connection between the doctor giving the counselling and the one who performs the procedure.

The difficulty with the word "independent" in the amendment moved by the member for South Perth is that it could mean many things and could be such that two doctors who are members of the Australian Medical Association might be considered to be not independent of each other. Other connections could make doctors not independent of one another.

Clearly what is sought is that neither the person performing the abortion nor anyone assisting shall be the person who gives the counselling. It shall be another medical practitioner entirely.

The word "independent" is added to proposed subsection (7)(a) and is defined in the second amendment. The intent is that it shall be another doctor.

Ms Anwyl: What about the doctor who refers the person for the abortion? Is that person not independent?

Mr PRINCE: It could be inferred that the GP referring is not independent of the people doing the procedure.

Ms Anwyl: Would that make it three doctors?

Mr PRINCE: We are trying to arrive at a practical situation where a doctor who is not performing abortions provides the counselling. This form of words was worked through by not only me but also parliamentary counsel and a number of other members of this Chamber over some time to provide for the effect I have described.

Ms Anwyl: Not tonight?

Mr PRINCE: No, it was prepared today, albeit in a hurry, but not in a mad rush.

Dr HAMES: The acceptance by me and some others of this amendment comes from a position of weeks ago on the Foss Bill to which fairly strong opposition was expressed by some of us, including me. It is part of the process of compromise, and this was accepted as a reasonable compromise. The difficulty was that the member moved that it be an "independent medical practitioner". That raised the question of what was independent. If both doctors were members of the Australian Medical Association, would they be independent? In certain other circumstances a court may decide that they were not independent. Therefore, rather than insert the word "independent" it should be "other than the doctor who performs the procedure". We are accepting as a compromise position that the doctor who does the termination should not be the one who provides the counselling. We accepted that compromise but wish to have "other".

It was pointed out by the member for South Perth that "other" would then allow two doctors - for example, one who gave the anaesthetic and one who did the procedure, particularly in country areas where those two positions alternate - to reach an agreement in which one would do the counselling for the other and give the anaesthetic for the same patient and vice versa. That often happens in small country towns.

Mr Carpenter: What is wrong with that?

Dr HAMES: Something is wrong with it to the extent that it means a person who is involved in the procedure which results in a payment has a personal interest and may not give the counselling. I point out once again that I have not started from this position. I have argued against this position in the past. Even the doctor doing the termination would be reasonable, but I felt that this was a reasonable compromise. Instead of the word "other", "independent" needs a better definition. On page 8, after line 8, at paragraphs (a) and (b) it should not be the doctor who is to perform the termination who should give the counselling. That position was accepted. In order to not catch a whole range of other doctors we considered the words "any medical practitioner who assists in the performance of the abortion". That means either one or two other doctors; either the doctor who administers the anaesthetic or the assistant of the doctor performing the procedure. Invariably doctors do not have an assistant, so we are really talking about those two doctors not being allowed to give counselling. That is a reasonable compromise in the whole scheme of the debate. The member for South Perth made the point many times that although he cannot have a loaf of bread, at least he would like a couple of slices. That reasonable slice of bread can be offered and is not an unreasonable position. Although we may have arguments against the doctor performing the procedure, in practical terms it will not cause any problem. It will certainly not cause any problems for the King Edward Memorial Hospital doctors. Those doctors who perform the terminations do not provide counselling. It will not cause any problem for country regions either. If we take a typical country town like Wagin, where my father used to practice, most women would almost inevitably not have their terminations there because the word from the nurses in the hospital got around in 30 seconds flat and everyone in the town knew. They would travel to either Perth or a neighbouring town and have the termination in Narrogin.

Mr Carpenter: You used Wagin for exactly the contrary argument last time you spoke on the subject.

Dr HAMES: That is true but the point I am making is that this is a compromise position. This can be got around and it is a reasonable position for the Chamber to adopt.

Mr GRILL: Proposed subsection (7)(a) reads "a medical practitioner". I suggest that we add the words "other than the medical practitioner performing the procedure". In respect of the Minister's amendment to page 8, line 8 I would put "neither the medical practitioner who performs the abortion nor any medical practitioner who assists in the performance of the abortion can be the medical practitioner for the purposes of subsection (7)". I am suggesting that we do not use the words "independent practitioner" because the Minister's definition is not a definition of independent practitioner. The Minister indicates two instances of what an independent practitioner shall not be. We are still left with the problem of defining an independent practitioner. As the Minister has already said, an independent practitioner can be a whole multiplicity of persons. The Minister wanted to avoid that multiplicity of persons by putting in the definition. Unfortunately his definition is not exclusive. If the Minister uses my words he will get around that problem and it will avert the necessity to fully define independent practitioner.

Mr RIPPER: In view of the stage that discussions have reached, a short recess for five to 10 minutes would be a way to sort out the amendment.

Mr PRINCE: The member for Eyre has a point. I would like to be able to sort out his foreshadowed amendment. Perhaps we could stop for 10 minutes.

Mr CARPENTER: The last time we stopped for a short 10 minute break it lasted about two hours. This situation is ridiculous. We are sitting round having bright ideas and trying to adjust legislation as we go along. It is hopeless. The whole amendment is totally unnecessary. The Minister for Housing has done the most incredible act of gymnastics I have seen probably in the whole debate. I sat and nodded my head in agreement with him a couple of weeks ago when he used Wagin as an example of why this should not happen. Tonight he has used Wagin as an example of why this should happen.

If my wife, my sister or any one of my daughters goes to her doctor and is diagnosed as pregnant and wants to be counselled about abortion and to have that person perform the abortion, it is none of the Minister's business and he should stay out of it; it is nobody else's business either. It is the woman's decision. She should not have to go tramping around looking for another doctor. If she is in Wagin she should not have to jump in a car and drive to Narrogin. For God's sake, this is absolutely ridiculous. The Minister says that we are trading something off for a compromise, but what have we got in return? We have nothing; there are no compromises in this. This is stupidity. A woman can decide if she wants to have an abortion performed by her doctor. It is the business of nobody here who

must or must not perform it and who should or should not counsel her. For us to be sitting down with little light bulbs bursting over our heads with the latest brilliant idea of how we must try to amend this legislation is farcical. Let us forget this stupid amendment and put this to a vote. We have made the major decisions, so let us get on with it.

Dr TURNBULL: The issue of a person who is independent from the abortionist being the person who provides the counselling is an extremely important, absolutely basic principle. The member for Willagee, who has just finished speaking, has not taken any account at all of the fact that abortion in Western Australia is an industry which is worth to those who perform the abortions somewhere between $2.5m and $3m a year. When a very large monetary incentive is involved in something which will be legal after this Bill is passed, the person who is doing the counselling must be separate from the person who will receive the remuneration for doing the procedure. We have spoken a number of times. People in the pro-life section and the pro-abortion section are saying that unfortunately in this world a lot of women really do not have much choice about this.

When one takes into account family and social pressures and so on, it is very easy for a woman to get talked into something, even if she is having counselling. The case presented by the member for South Perth is just one example of the sort of thing that goes on. In fact, we need a cooling off period. The abortion rate dropped in South Australia when that State had a cooling off period. We tried to discuss a cooling off period during the debate on the Foss Bill, but it became so difficult to resolve the issue that we had to abandon that idea.

We are discussing an independent person's providing the counselling. If anyone, particularly the member for Willagee, does not think that earning money at something that will be legal will not be an opportunity for someone, even a doctor, to undertake a counselling session that has a slight bias in a particular direction, he or she does not understand human nature. Given the position the member has held in this place for so long, he appears to believe that he does understand human nature.

Having an independent counsellor is one of the most important principles in the Bill. The Minister for Housing has had a long, serious look at how this Bill will operate, just as I have, since the completion of the debate on the Foss Bill, and he believes this is a very important principle. We have considered all sorts of methods of dealing with it. The member for Swan Hills put forward a very good method, but the Davenport Bill would not accommodate it.

Mr Carpenter: It is no-one else's business.

Dr TURNBULL: It is when one remembers that financial incentives can distort, even if only in a small way, the outcome of people's decisions. Independent counselling has been referred to by the pro-life and the pro-choice sides as an important factor. We passed the member for Swan Hills' amendment in relation to the Foss Bill and most members are trying to get back to something that is as close to that Bill as possible. I hope that members will support this amendment.

Mr PENDAL: I thank the Minister for Health, the Minister for Housing and the member for Eyre, because each is effectively saying that which we set out to achieve, albeit now by a different route. The discussion a few minutes ago ran into choppy water because the member for Kalgoorlie understood that three doctors would be involved in the process. For my part, that was never intended and nor will it be reflected in the amendment that I understand has been sent from the member for Eyre to the Minister for Health.

We set out to legislate that a doctor, other than the person who will ultimately carry out the abortion, will be involved in the process of informed consent; that is, someone independent of the person who carries out the abortion. No third party is involved.

I say in all seriousness that I do not understand why the member for Willagee is here. He says that we have no part in doing this and that. However, the Legislature exists as best it can to draw up the rules by which society operates.

Mr Carpenter interjected.

Mr PENDAL: Reputedly the most advanced abortion laws in Australia are those of South Australia. Section 82A of that State's legislation provides for precisely that which we are seeking to achieve now.

Mr Carpenter: Go and live in South Australia.

Mr PENDAL: You are sounding more intelligent every day. I had some considerable regard for the member when he was at the ABC as an anchor man, but perhaps he should have stayed there. Those remarks belittle him because he is better than that.

The CHAIRMAN: The member should direct his remarks to the Chair.

Mr PENDAL: I will because I do not want to attract the Chairman's wrath. The member can do better than that. This place constantly works according to precedence and to what happens in other jurisdictions. I am not the one holding

up the South Australian legislation as the model - it is as bad as the legislation we will pass in this State. However, we are not breaking down any radical barriers by suggesting that two doctors be involved.

I return to my suggestion of two months ago. What a radical thought it is that we want one or two people to be involved in one of the most important procedures that it is possible to undergo prior to the abortionist in establishing what is informed consent. I spoke with a number of specialists today and discovered that we go out of our way as a community to establish informed consent for procedures far less important than the termination of a human life. This is hardly revolutionary or radical; it conforms with what should be medical practice in other procedures as well.

The amendment stood in my name and I agreed to withdraw it because I had faith in the Minister for Health that he had produced a sound amendment. That was done in good faith and it was supported in good faith by the Minister for Housing and, in turn, by the member for Eyre. If out of all of this we produce an amendment that the Minister assures me is superior to that which he first proposed and that which I first proposed, we are happy for it to go to a vote. That is not asking very much, especially when it is standard procedure not only in South Australia but also in the United Kingdom and in other Acts of Parliament in Western Australia.

Amendment, by leave, withdrawn.

Mr PRINCE: I move -

Page 8, after line 8 - To insert the following -

(8) A reference in subsection (7) to a medical practitioner does not include a reference to -

(a) the medical practitioner who performs the abortion; nor

(b) any medical practitioner who assists in the performance of the abortion.

That is, proposed subsection (7), as it stands, means that informed consent means consent freely given by the woman where a medical practitioner has properly provided her with counselling and so on. However, the effect of this amendment is that the medical practitioner who provides the counselling cannot be either the medical practitioner who performs the abortion or any other doctor who would assist him in doing so. It obviously does not exclude the general practitioner to whom the woman has gone in the first instance, or any other doctor for that matter. It simply excludes the person performing the abortion and, for example, an anaesthetist assisting, from being the people who can give the counselling. It enables any other doctor to be the person who can give the counselling.

Mr RIEBELING: I do not support the amendment. I urge the Minister for Housing and the Minister for Health to interject and correct me when I am mistaken.

The CHAIRMAN: Order! I ask them not to. The member should direct his remarks to the Chair.

Mr RIEBELING: It may speed up the process if an interjection can explain how women will be catered for in Tom Price and Paraburdoo where there are only two doctors. If an abortion is to be performed, both doctors may be involved in the procedure. Where do the doctors stand? I can understand that a person may drive the short distance from Wagin to Narrogin, but a woman in Tom Price must drive to Perth, a thousand miles away, to get an abortion. If the member can convince me that this amendment does not adversely affect women in Tom Price, Paraburdoo, and Pannawonica where there are no doctors, he should speak up, and perhaps I will support the amendment.

Women in those towns will not have the same access to abortions as women in the metropolitan area. Most members in this place represent people in the metropolitan area. However, women in isolated communities in which three towns have only two doctors deserve the same access to this procedure as any other woman in Western Australia. If two doctors are required it means that women in such towns will not have access to an abortion. Most people in this State expect that all women should have the same access, if that is possible, throughout Western Australia. I will gladly take an interjection from the Minister for Health or the Minister for Housing, who might be able to dissuade me.

Mr PRINCE: No doubt the women, men and children who live in the towns named do not have the same access to many forms of medical services that are obtainable by people who live in the city. That applies throughout the whole State, whether in Albany where there are 37 doctors or in Pannawonica or Tom Price.

Mr Riebeling: Out of 37 doctors you would think you might be able to get two. I am talking about a situation where there are two doctors.

Mr PRINCE: I hear the member. Most abortions that occur out of Albany are performed in Perth.

Mr Riebeling: It is not easy to get a doctor though.

Mr PRINCE: It is. Much of the medical services provided in those communities comes in the form of visiting specialists, and the member knows that. The doctors who visit from time to time are specialists and do particular things. That is a way in which the service is available. If that is not adequate, Port Hedland is close by, as is Karratha. The distances are much greater; I appreciate that. My point is that the member for South Perth and others raised a legitimate concern when they said that counselling should be by a doctor. Both Chambers agreed to that. The doctor who does the counselling should not be the person who performs the abortion. I think generally we all agree with that. My amendment will achieve that end. If the consequence is that in some communities where there are very few doctors people must travel, which they mostly do anyway because they do not want it known in their very small community that they are having an abortion -

Ms Anwyl: They do not have the money to travel.

Mr PRINCE: I accept that is the case. We cannot cover everything. We are trying to ensure that if a woman decides to reject motherhood, she does that with knowledge. That knowledge is to be given to her by the best qualified person - but not the doctor who will perform the procedure. Those are the principles that have been debated for some time. This amendment will not achieve that end. It will not work as well for the woman who lives in Pannawonica as it will for the woman who lives in South Perth or in Balga because 75 per cent of the people in this State are silly enough to live in the city, which is where most of the services are available. Twenty-five per cent of people are sensible enough not to live in the city; but the services are much more scattered and infrequent.

Ms ANWYL: I do not have any difficulty with some form of mandatory provision that a woman be offered counselling prior to a termination of pregnancy. Subsection (7) includes three steps that must be taken before a woman can be deemed to have given informed consent. I remind members of that before I deal with the Minister for Health's amendment. Firstly, a medical practitioner must properly, appropriately and adequately provide the woman with counselling about the medical risk of termination of pregnancy and of carrying a pregnancy to term. Secondly, that same medical practitioner must have offered the woman the opportunity of being referred for appropriate and adequate counselling about matters relating to termination of pregnancy and carrying a pregnancy to term. Consequently, the first part is medical; the second part relates to the broader issue. It is not anticipated in this clause that the doctor will provide that in any event. Subsection 7(b) provides that a medical practitioner will offer the woman the opportunity of referral to appropriate counselling. That implies that a third party will be involved.

Mr Prince: Could be.

Ms ANWYL: Would be - if the woman wishes to avail herself of that opportunity, an independent person will be involved in any event.

Mr Prince: No, it could be. Medical practitioners offer the opportunity of referral to appropriate counselling.

Ms ANWYL: It is a referral to himself or herself?

Mr Prince: Exactly.

Ms ANWYL: Therefore, a medical practitioner will say that he must offer the woman the opportunity of referring her to himself for him to impart some knowledge to her.

Mr Prince: I expect the doctor would say that the woman must have counselling and that he could do it if she wished or he could refer her to someone else.

Ms ANWYL: It does not say she must have counselling. It states "offered the opportunity of".

Dr Turnbull: When talking about an independent medical practitioner, we are not talking about counselling in paragraph (b).

Ms ANWYL: There will be a different definition for (a) and (b) -

Dr Turnbull: We are not defining (b).

Ms ANWYL: Nevertheless, it is necessary to consider the whole section. From the debate so far, no-one could assume that the medical risk of termination of pregnancy is the provision in which the member seeks the involvement of an independent doctor. The member readily concedes that it is also anticipated that a medical practitioner must offer the opportunity of some other kind of counselling. Under paragraph (c) the medical practitioner must also inform the woman that some further counselling will be available should she need it upon termination or should she take the foetus to full term.

Dr Turnbull: That is right.

Ms ANWYL: We are regularly completely scathing of the medical profession in the arguments that are put forward

in this place. We should give the medical profession slightly more credence for their view of their legal obligations. We all know that we have a litigious society. Medical practitioners are required to give objective advice about informed consent at all times for all operations. To suggest that one doctor cannot do that is incredible. I am interested that the Minister for Women's Interests finds this amusing. Many women who live in country areas do not have money to travel to Perth or to travel for two separate days. Women often arrange for a termination of pregnancy by telephone. That option will not be open to them should this amendment be passed. That is not desirable for country women, and those who live in rural and remote areas, particularly those who do not have money to travel. What steps will be taken to ensure that the travel costs of those women will be reimbursed?

Mr RIEBELING: Will women in my electorate who must travel 1 000 to 1 600 km have access to the patient assisted travel scheme to allow them the same access to an abortion as women in the metropolitan area?

Mr Prince: They do not have to come to Perth; they can go to Port Hedland or Karratha.

Mr RIEBELING: Did the Minister not say that most women travelled to Perth?

Mr Prince: I said they travelled to Perth from Albany.

Mr RIEBELING: Will those women have access to PATS?

Mr Prince: I cannot honestly answer the question.

Mr RIEBELING: Did the Minister not say that women in country towns, as in the situation to which I referred, must accept that they do not have the same access to services within their towns and they will need to travel? Is not that what PATS is all about?

Mr Prince: Where the service is not available PATS supplies it. If an abortion service is not available, for example, in Paraburdoo and the woman has to travel, PATS will apply.

Mr RIEBELING: Will PATS apply to abortions from now on?

Mr Prince: I expect so, and I will get that answer in writing for the member.

Mr RIEBELING: Is it not important for people in the country to find out?

Mr Prince: Yes, and I am one of them.

Mr RIEBELING: Yes; however, the Minister administers the scheme. Is it yes or no? PATS is a travel scheme that allows access to a service that is not provided in a town.

Mr Prince: Therefore I thought it would apply. However, I am not sure and I will provide an answer.

Mr RIEBELING: Do specialists normally provide the service?

Mr Prince: It varies.

Mr RIEBELING: Therein lies the problem with PATS. The Minister's approval is required for women to access PATS for a service by a non-specialist. PATS is available only for specialist services.

Mr Prince: If a service is not available and it is needed, a person can travel by PATS. I will get a specific answer in writing. I want to know the answer just as much as the member for Burrup does.

Mr RIEBELING: In my experience the Minister has knocked back every application for PATS which involves a service that can be provided by a non-specialist.

Mr Prince: I can remember a few cases that the member has raised with me where a service has been available but it is not the one the person wants to choose. There is a difference.

Mr RIEBELING: The problem is that the service must be provided by a specialist and in most cases abortions are not performed by a specialist.

Mr Prince: Many are; however, the clinics in Perth are not operated by specialists.

Mr RIEBELING: That reinforces my concern for country women. It is all well and good for the Minister to say they can travel if the service is not available in country towns. However, it is not acceptable to say that the PAT scheme might not apply, when it does not normally apply to non-specialist services. The Minister has not looked after people in relation to non-specialist services before.

Mr Prince: I have not said that.

Mr RIEBELING: I do not understand what the Minister is saying in relation to women who live in isolated communities.

Dr TURNBULL: The pro-life and pro-choice sides have said that they do not want an increase in the number of abortions in Western Australia. Women are having abortions and they are making these arrangements for themselves, and few abortions take place outside of regional hospitals or clinics in Perth, although a few occur at King Edward Memorial Hospital for Women. The bulk of the procedures occur in two clinics in Perth. That includes those for people from Kalgoorlie, Paraburdoo and Wagin. The reason is that most women do not want the procedure done in their home town. Even if a woman's general practitioner has operating rights at the local hospital, neither the woman nor the general practitioner want to partake of those. The member for Kalgoorlie said that women arrange this procedure over the telephone.

Ms Anwyl: From as far as far away as 1 000 kilometres.

Dr TURNBULL: That is right. The member for Roe and I were talking about this situation. If a doctor is conducting consultations via telephone for which he charges a fee which would most likely attract a Medicare rebate, I do not see that this amendment would remove that general practitioner from being the number one doctor involved in this informed consent. General practitioners do provide consultation by telephone. In future general practitioners will provide consultation by teleconference, the Internet and audiovisual facilities. I do not see that this amendment will exclude a doctor who would be involved in this informed consent part. The medical practitioner is included in this amendment because almost every member here would expect either that the medical practitioner will be the general practitioner whom the woman trusts or, as I have already said previously, the woman will choose a person who is not her general practitioner because she does not want to admit to that situation. I have often been the doctor who was consulted because I was not the woman's usual general practitioner. In 99.9 per cent of cases in Western Australia, the first point of contact is not the person who will perform the abortion. In fact, I suggest that occurs in 100 per cent of cases. Therefore, that doctor will qualify as the person with whom the woman can discuss all the things that are necessary for informed consent.

Mr Riebeling: Why do we need this provision if it happens in 100 per cent of cases?

Dr TURNBULL: Because after this became legal, there would be a huge temptation for people to set themselves up to provide abortions, and they might be looking at these other items.

Amendment put and a division taken with the following result -

Ayes (40)

Mr Ainsworth	Mrs Edwardes	Mr Marshall	Mrs Roberts
Mr Baker	Mr Grill	Mr Masters	Mr Shave
Mr Barnett	Dr Hames	Mr McNee	Mr Strickland
Mr Barron-Sullivan	Mrs Hodson-Thomas	Mr Minson	Mr Sweetman
Mr Board	Mrs Holmes	Mr Nicholls	Mr Tubby
Mr Bridge	Mr Johnson	Mr Omodei	Dr Turnbull
Mr Brown	Mr Kierath	Mr Osborne	Mrs van de Klashorst
Dr Constable	Mr Kobelke	Mrs Parker	Mr Wiese
Mr Court	Mr MacLean	Mr Pendal	Mr Cunningham *(Teller)*
Mr Cowan	Ms MacTiernan	Mr Prince	
Mr Day			

Noes (13)

Ms Anwyl	Mr Graham	Ms McHale	Ms Warnock
Mr Carpenter	Mr Marlborough	Mr Riebeling	Mr Thomas *(Teller)*
Dr Edwards	Mr McGinty	Mr Ripper	
Dr Gallop	Mr McGowan		

Amendment thus passed

Dr TURNBULL: I move -

Page 8, line 9 - To delete "20" and substitute "16".

As a medical practitioner, I am extremely concerned about all abortions, but in particular abortions that take place when the foetus is aged between 14 and 16 weeks. That is because a different type of procedure is required to procure such an abortion, and that procedure poses greater danger to the mother. In Western Australia, virtually no

abortions on a foetus over the age of 14 weeks are performed outside of King Edward Memorial Hospital for Women, or at least another major hospital with excellent facilities.

I introduced this amendment into the Foss Bill to try to restrict markedly the number of terminations that occur over the age of 20 weeks, and to restrict them to being performed at a facility that was approved by the Minister for Health, in order that no entrepreneurial abortionist could set up to offer this service once it became legal in Western Australia. However, since the Foss Bill passed through this place a number of weeks ago, a number of people have spoken to me about this issue, and the doctors at King Edward Memorial Hospital and the other general practitioners in the community to whom I have spoken have agreed that we should try to maintain the current situation. Most people in this debate, whether they are pro-life or pro-choice, have said that they do not want the current situation to change. If that is the case, I want to ensure that any terminations that are performed over the age of 16 weeks are performed at King Edward Memorial Hospital, because that is a tertiary hospital and has the expertise to perform those terminations. Paragraphs (a), (b) and (c) cover all the conditions that would occur at 16 weeks of pregnancy. I will leave my explanation at this stage. There should be a 16 week limitation on this.

Dr HAMES: Originally I supported the change in this limit to 16 weeks. The whole issue of 16 weeks versus 20 weeks is very difficult. I would prefer the limit to be set at 16 weeks for specific reasons. The member for Collie has highlighted some of those reasons. The Queensland doctor, who does a fairly revolting procedure in advanced stages of pregnancy, may want to come to Western Australia. Although the legislation would prevent that from occurring in pregnancies of less than 20 weeks, he may still wish to do that in pregnancies of 18 or 19 weeks. I certainly do not want to allow that, or to allow any doctor, other than those at King Edward Memorial Hospital, to carry out this sort of procedure on that 17 or 18 week pregnancy group.

The problem I have faced since then, following discussions with many specialists and the counsellor at King Edward Memorial Hospital who deals with women whose babies have congenital abnormalities, is that it is very difficult to put what I want in legislation. I do not want women in the unfortunate situation of carrying a child who has congenital abnormalities, but whose condition is not diagnosed until the eighteenth or nineteenth week of pregnancy, to be put through further hurdles. It is a very difficult choice for them to make and they go through a fair amount of counselling before making that decision. I do not want it to be any more difficult. I am not suggesting they should all have terminations. The member for Moore spoke about the child in his electorate who has Down syndrome, and the pleasure he has given his parents. I recently represented the Minister for Disability Services at a presentation to children with Down syndrome and spina bifida. The children with those conditions can have wonderful lives, but at the end of the day it must be the mother's choice.

Members have voted three or four times that it should be the mother's choice, provided that adequate counselling is available. Intensive counselling is certainly provided at King Edward Memorial Hospital before that difficult decision is made by parents. It should be the parents' choice and not anyone else's choice. Even if it were left as it is under paragraphs (c) and (d), given all the debate that has occurred, I cannot be certain what the courts would decide in relation to the severe psychological disability specified, and whether it would be adequate for women in that situation to proceed to termination. In the interests of not making things more difficult for them, and bearing in mind that the number of pregnancies involved is very small - 96 per cent of terminations are carried out before 12 weeks - I will support the limit at 20 weeks. I ask all members to do the same. The member for Collie may be giving some consideration to withdrawing that amendment because she has been given the same advice, has gone through the same discussions with the specialists, and recognises the problems that exist. In theory, I would love to do it. Even though in my heart I would like to have the time set at 16 weeks, my head tells me to stick with 20 weeks, and I ask other members to do the same.

Dr EDWARDS: I agree with the member for Yokine that this is an extremely difficult issue. Nonetheless after a lot of thought and consultation I will vote to stick with what is in the Bill; that is, a cut-off time of 20 weeks. It has some logic about it. If a foetus is delivered after that stage, it is registered as a birth or a stillbirth. Viability is also around 24 weeks, although it is moving down towards 22 weeks. I am opposed to the 16 week cut-off for many of the reasons outlined by the member for Yokine. In this State most terminations carried out after 16 weeks are for congenital abnormalities. Unfortunately, we just do not have the technology to diagnose these abnormalities earlier than at that stage; for example, if women have chorionic villus sampling, which is done at between nine and 11 weeks of pregnancy, those results are not received for about two weeks. Not a lot of doctors want to do it because of a 4 per cent risk of inducing a miscarriage. Women who opt for amniocentesis at 16 weeks must wait until they are 18 weeks' pregnant to get the result.

For all those reasons King Edward Memorial Hospital has set up a genetic service which means that women are counselled before they have the amniocentesis, and then afterwards. If a woman gets back an amniocentesis result or an ultrasound result at 18 weeks of pregnancy telling her that her baby has a congenital abnormality, she will be extremely distressed. First of all, this person wanted to be pregnant and is very aware she is pregnant, because she

has progressed quite a long way through the pregnancy. She will then be placed under a lot of stress and strain when she gets the result which, usually, despite all the counselling, is somewhat unexpected. It is unreasonable to subject a woman who is between 16 weeks' and 20 weeks' pregnant to have her case reviewed by two more doctors. As I have said, with all the genetic services set up, she will have already had a lot of counselling and support, and we should not be adding this stress.

I also make some points about the procedure. It is extremely unpleasant. It is also dangerous. Doctors do not like doing it, and very few do. Nurses hate having to manage the women who are having it done. Nobody likes having it done, and nobody goes into it lightly. No doctor undertakes it lightly. On top of that, with this Bill we will have a measure of scrutiny we did not have before, because it will become a notifiable procedure. That is a big advance.

Another small group comprises women who present at about 16 weeks of pregnancy wanting a termination and who, often, have a whole lot of other problems. They tend to be very young and have been denying the pregnancy for all sorts of social reasons, perhaps violence, or they are older women of a menopausal age who have not realised they were pregnant. They perhaps thought their lack of periods and funny symptoms were part of menopause and did not realise those symptoms were part of pregnancy. These women must be treated with a lot of consideration and they need a lot of counselling. To make them face two further doctors to justify their position presents a significant barrier to what they want. For those reasons, but more particularly because of the availability of the genetic services, I will be opposing this amendment and urging members to stay with the 20 week cut-off.

Mr PRINCE: My understanding is similar, having spoken at some length with the people who are involved. I will just make a point with regard to a woman who has carried a pregnancy to 16 weeks. Women who chose not to be mothers usually have an abortion by the time they get to 12 weeks' or earlier gestation. A woman who has got to between 16 weeks' and 18 weeks' pregnant has decided that she wants to continue with the pregnancy and to have the child. We are talking about a very small number where, as a result of tests, some form of severe genetic abnormality is discovered, which, after a lot of debate, causes a decision to be made that the abortion should take place. A huge differences exists between an abortion performed at this stage and one performed much earlier regarding the mentality and intent of the mother concerned. The information that I have received is the same as that my colleagues have received from medical practitioners; namely, that it would be far safer to leave the restriction in the provision at 20 weeks' gestation.

The South Australian legislation, which was passed about 20 years ago, refers to 28 weeks plus. Medical technology, expertise and science has improved the ability to care for a baby outside the womb earlier in the pregnancy, and to produce a child with no abnormality and which is otherwise completely viable and healthy. Today a baby born when over 400 grams and at 24 weeks' gestation is not only likely to survive, but also has a high probability that it will have no abnormalities. Undoubtedly, at some stage in the future, when other tests not yet available are devised and technology has improved, we will be able to talk about some lesser period than 20 weeks' gestation for the restriction. I look forward to that day as it will limit increasingly the activity under consideration. With the state of science at the moment, the limit is best left at 20 weeks.

Dr TURNBULL: As a result of debate in which I have engaged in the last few weeks following the Foss amendments, and following the remarks of the previous three speakers, it has become apparent that it is very difficult to apply the conditions in proposed subsection(8) to a pregnancy of only 16 weeks' gestation.

Paragraph (c) is also a problem. It describes a facility approved under regulations. We could try to have the Minister limit the performance of the procedure to King Edward Memorial Hospital for Women, but someone who tried to set up a facility outside King Edward may challenge that situation. I do not see that as a problem; it is the very reason for this provision. However, I see a problem for people who may want or need a procedure to be carried out at a regional hospital. Country members of the pro-choice group, who were vocal against me over the previous clause, would - if they were present - support my comments; namely, that a termination over 16 weeks' gestation may be performed at Kalgoorlie, Port Hedland, Geraldton or Albany hospitals. I do not want to have to force this situation, and we are not talking about a large number of procedures.

I have thought carefully about this clause, because many people previously said they would support the reduction of the restriction from 20 weeks' to 16 weeks' gestation. Discussions indicated that we would have won this vote on the 16 weeks restriction up until about 10 days ago. However, as time has progressed and the practicalities of the situation have been further considered, along with the threat of someone setting up an independent clinic outside King Edward to offer these services, I have changed my mind a little.

I have changed my mind because a person such as an abortionist in Queensland who performed late term abortions may not see any advantage in setting up a clinic in Western Australia if proposed subsection 8 is included in the legislation. It will make it illegal to perform a termination after 20 weeks outside the facility the Minister has approved. The Minister has indicated that approval would be given to the tertiary hospital in Western Australia,

which is King Edward Memorial Hospital. That somewhat reduces my concern. Of the relatively small number of terminations that occur in Western Australia after 16 weeks, almost all of them occur in King Edward Memorial Hospital anyway. I will therefore withdraw my amendment and ask everyone to support my next amendment regarding the review.

Amendment, by leave, withdrawn.

Ms WARNOCK: I move -

Page 8, lines 11 to 23 - To delete the lines and substitute the following -

the performance of the abortion is not justified unless -

(a) 2 medical practitioners who are members of a panel of at least 6 medical practitioners appointed by the Minister for the purposes of this section have agreed that the mother, or the unborn child, has a severe medical condition that, in the clinical judgement of those 2 medical practitioners, justifies the procedure; and

(b) the abortion is performed in a facility approved by the Minister for the purposes of this section.

This amendment is moved as a result of legal advice. The amendment will not change the sense of the material in the subsection; it will bring it in line with the Foss Bill.

Mr PRINCE: It has been raised as a result of the wisdom and fine eye of parliamentary counsel who pointed out that the wording in the Davenport Bill probably would not work; that is, at line 16, for a post 20-week abortion to take place the conditions that apply to the mother must be those under proposed subsection (5)(c) or (d). There is an "or" there. In the opinion of parliamentary counsel it will not work, basically because of the way it has been written and structured. It is simply too convoluted and complex and difficult to work out properly. That which is now before the Chamber by way of an amendment - I must make the point that it is not framed on the run but is a direct lift from the Foss Bill - is better drafted and provides that a post-20 week abortion cannot be justified unless two other medical practitioners, members of a panel to be appointed, have agreed that the mother or the child has a severe medical condition that, in the clinical judgment of those two doctors, justifies the procedure and the abortion is performed in an approved facility.

Members might recall that when we debated this in the Foss Bill, we had concerns that the abortionist, I think from Queensland, who I gather is now set up in Victoria, should not be able to come to Western Australia to perform what he does without our having control over him. We adopted the very strong view that post-20 week abortions should happen in only extraordinary circumstances; indeed, my information is that they number about five or maybe 10 a year. They are extraordinary and very, very few. What we came up with about three or four weeks ago by way of procedures and the rules to govern them is well drafted and is good law. The similar intent in the Davenport Bill is not as well drafted in the opinion of parliamentary counsel. I therefore urge members to agree effectively to the substitution of the words out of the Foss Bill into the Davenport Bill in this area.

The DEPUTY CHAIRMAN (Mr Sweetman): Before we proceed any further, for the clarification of the Chamber I will state the following: This will be a test vote. The amendment on the Notice Paper from the member for South Perth at page 8, line 19, and the new amendment from the member for Perth at page 8, lines 11 to 23, are in conflict. To preserve the right of both members to move their amendments, I will use a test vote. As a test vote, I will put to the Committee that part of the amendment proposed by the member for Perth up to the place where the member for South Perth's amendment starts. If the Committee votes in favour of that part of the amendment, I will put the remainder of the amendment proposed by the member for Perth. If the Committee votes against the first part of the member for Perth's amendment, then the member for South Perth is free to move his amendment.

Mr PENDAL: Depending on what information is produced here, it may be that I will not seek to move my amendment. I would like to ask the member for Perth and also the Minister for Health about the following proposition which is expressed in my amendment, which I will move if we are not able get adequate information or reassurances. Our concern is that at page 8, lines 18 and 19, what we refer to as King Edward Memorial Hospital abortions will be able to go ahead - that is, whether we look at the Foss or the Davenport version - if the unborn child has a severe medical condition. From our point of view that has been complicated because the mother is mentioned in what is now being moved by the member for Perth. What is a severe medical condition? Screening and diagnostic techniques are now becoming so refined that a lot of things can be picked up that previously were not detectable in an unborn child. For example, is myopia a severe medical condition?

Dr Edwards: How do you pick it up in uteri?

Mr PENDAL: I will come to that. The capacity to pick up Down syndrome is becoming increasingly more refined. Does that mean that Down syndrome is a severe medical condition?

Dr Turnbull: No.

Mr PENDAL: I am interested in what the member for Collie says as a doctor. My foreshadowed amendment provides that that severe medical condition be a condition incompatible with life - not Down syndrome or something that is able to be picked up in the next three or four years with advances in technology. I have heard the Minister for Housing speak on many occasions about Down syndrome children. I do not know about other members, but I would never regard a Down syndrome child as someone who is not worthy or capable of having a happy and useful life.

Dr Hames: Nor would I.

Mr PENDAL: I am using the Minister's argument. My concern is that the amendment now moved cuts the original amendment in two so that the first part of the member for Perth's amendment can be dealt with before that which I was intending to move. If I still intend to move it, we will have to reshape that amendment as a consequence of what the member for Perth has done.

I come back to the beginning: Can the Minister or the member give me any assurances in respect of that which is in the current printed Bill that abortions would not be carried out in the case of an unborn child who has a severe medical condition that is not "incompatible with life"? If that were to be the case and were we to run that risk, in the absence of any assurances I would have no option but to move my amendment. That will take some time to redraft, given that we received the member for Perth's amendment only a couple of minutes ago. I seek some information from both members.

Mr PRINCE: I shall answer the question as best I can. We are talking about five or seven abortions of this nature each year. They are where a woman has gone past the point of saying she does not want to be a mother. The woman who does not want to be a mother and who avails herself of an abortion on request is usually having that abortion between six and eight weeks of the pregnancy. I am told that after 20 weeks it is a difficult and dangerous procedure, and it is very rare. I can recall the example given by the Minister for Housing of a woman with a particularly virulent form of breast cancer. The treatment required to preserve her life would have resulted in either a deformity or a spontaneous abortion, so the foetus had to be aborted. That is an extreme and unusual case. The other example is the anencephaly; that is, a foetus which is developing without a brain and will die when born. As I understand it, we are dealing with cases of that sort of severity.

There are two ways of dealing with this: Either we list the conditions, in which case we will not have a proper and exhaustive list, or we legislate as we did with the Foss Bill. In that case we determined that when we get to this stage we must accept that we have a parent or parents who want to have a child but some factor has intervened of a severe medical nature that has led them to consider abortion. However, because it is post-20 weeks, at least two other doctors from a panel of specialists must review the situation, and must agree that an abortion should be performed. I appreciate that some people do not necessarily like that, but we made that decision in this place some weeks ago after long debate. I do not recall the detail. A number of examples of the matters we are debating now were cited. I thought the two examples I have provided would be enough to persuade people that the form of words contained in the Foss Bill were preferred. In many respects it is more strict than the form of words in the Davenport Bill. Therefore, we should amend them.

Mrs ROBERTS: Unfortunately, the Minister for Health has not clarified whether Down syndrome would be regarded as a severe medical condition, and whether post-20 weeks - because Down syndrome is considered a severe medical condition - abortions would be permitted. I have a copy of a paper entitled "The Impact of Antenatal Screening for Down Syndrome in Western Australia: 1980-1994" written by several doctors, and involving the University Department of Obstetrics and Gynaecology, Clinical Biochemistry, Birth Defects Registry, Cytogenetics and Genetic Services of Western Australia, King Edward Memorial Hospital, Subiaco, Western Australia. The paper refers to maternal serum screening, as a result of which women could be determined to be more likely to be at risk of having a Down syndrome child, and could have the amniocentesis test. The paper states -

> In this study, the impact of antenatal screening programmes on the prevalence of Down syndrome births since 1980 in Western Australia was investigated. Several important conclusions emerge from these data. Since the implementation of a screening programme in 1981 based on maternal age, the birth prevalence of Down syndrome remained relatively steady each year prior to 1994. As MSS became generally available in Western Australia in 1994, the birth prevalence of Down syndrome decreased. This change was coincident with an increase in the number of Down syndrome fetuses identified through the screening programmes. These data demonstrate that MSS has brought about a substantial increase in the detection of Down syndrome fetuses and contributed to the reduction in birth prevalence of Down syndrome.

That is because terminations have taken place. The paper contains a table which lists the terminations of pregnancy relating to Down syndrome for the years between 1980 and 1994. In 1990, for example, there were eight terminations; in 1991, 11; in 1992, 14; in 1993, 14; and in 1994, 21. Further on the paper contains the list of information and the number of terminations which occurred post-20 weeks in Western Australia which related to Down syndrome. In 1990 there were two terminations; in 1991, one; in 1992, two; in 1993, nil; and in 1994, four. That represents at least a doubling in the number of Down syndrome children aborted post-20 weeks in 1994, the year MSS was introduced.

Based on other details in the paper, which I do not have the time to address, it is suggested that the trend beyond 1994 demonstrates the same level of increase. In Western Australia terminations of pregnancies are occurring for the reason of Down syndrome, and post-20 weeks. That should not be permitted. Children of 20 weeks' gestation should not be terminated because someone does not want a child with Down syndrome. I understand the impact that such a child would have on someone's life. However, people have happily adopted children with Down syndrome, and surely a woman would live better without the abortion post-20 weeks of a child with Down syndrome on her conscience.

Dr HAMES: The member for South Perth has proposed an amendment, about which I have sought advice. In the past five years only one abortion post-20 weeks of a Down syndrome foetus has occurred. The member's figures are not current. The numbers have dropped since those figures were recorded. That is a good thing. I do not want to see Down syndrome as a condition. However, the remaining conditions are almost invariably incompatible with life.

I talked today to a geneticist at King Edward Memorial Hospital for Women who feels uncomfortable with that term. His point is that even though it is true, how does one define "compatible with life", and how long must life continue before it ends. He suggested that even babies with anencephaly - that is, no brain - may live for half an hour after delivery before they inevitably pass away, and babies with some other severe conditions might live for a week before they pass away. However, the 10 or so abortions that are carried out each year post-20 weeks' gestation relate to severe medical conditions that almost inevitably are incompatible with life. The geneticist to whom I spoke feels that that option should still remain for that rare occasion. Even where the responsibility for the decision up to 20 weeks is the woman's, occasionally cases arise where the condition is not diagnosed until 18 or 19 weeks. Someone may overlook that one week and allow that woman to have the option of an abortion. I know that is a grey area. However, we have just raised the hurdles.

At the moment the Medical Board sets a policy to guide KEMH when it carries out the procedure. We are now proposing a new procedure for a pregnancy of over 20 weeks, in which two doctors on a panel of six doctors will consider the circumstances in every case and decide what is a severe medical condition based on the legislation. Given the small number that has occurred and the responsibility that has been shown to date by the medical profession, particularly in recent years, it is reasonable to leave that decision in the hands of those doctors who are currently making the decision. We have made it more difficult for those doctors, who are already in a difficult position. That will adequately cover the problems that might be encountered.

Ms WARNOCK: I agree substantially with what the Minister for Housing has said. We are talking about a very small number of terminations and about a group of people who are keen to become parents but who are concerned either because of the age of the mother, or because the family has a history of a certain genetic abnormality and an amniocentesis has disclosed a severe medical condition. The potential parents have discussed this matter with the medical practitioners from the panel and the clinical geneticists. We are not talking about a group of people who will rush into anything with enthusiasm.

Before we began this debate some two months ago, I spoke to a number of people who had made the serious and difficult decision to have a termination at this late stage, in one case because of a hereditary condition, and in another case because of the age of the mother, and they acquainted me with the difficulty and sensitivity of this matter. It is not appropriate to define in legislation the abnormalities that we are talking about. This is such a sensitive subject that it should be up to the parents to talk with the expert clinicians who can give them advice in this field, and to make this extraordinarily difficult decision.

Dr EDWARDS: I remind members about the behind the Chair discussion that a number of us had that led to the formation of these words. A number of weeks ago, the Minister for Health convened a meeting that was attended by the Minister for Housing, the member for Collie, a number of other people and me, and we had what I thought was a very open and constructive discussion. At that discussion, the idea of having a panel of six expert doctors who practice in this area was raised, and we decided that in each case, two doctors from that panel of at least six doctors would provide a measure of peer review and scrutiny of the decision making. We also decided that it would not be a good idea to list the diseases that could or could not get in the gate. I was very happy when at the end of the day we arrived at that amendment. We should not turn back the wheel and talk about particular diseases but should rely

on the expertise of those six doctors. We need to remember that we are talking about an extremely low number of cases, and that they are after 20 weeks.

Mr PENDAL: I was encouraged by what was said by the two Ministers, but I was not encouraged by what was said by the members for Perth and Maylands almost as a throwaway line; namely, that we are dealing with only a small number of cases. That is tantamount to saying that if we had one hanging a year in Western Australia, that would be enough to cause 10 000 or 15 000 people to gather outside of wherever we would do that sort of thing these days. The numbers do not matter.

I had intended to move an amendment that has been prepared for me, but I will not do that if the member for Perth, as the sponsor of this Bill, can assure me of her intention, because while what was said by the Minister for Health and the Minister for Housing was reassuring and I am almost inclined to accept their word, they are not the sponsors of the Bill. If I were to receive some assurance from the member for Perth, with any information or notes that she had, I would be prepared not to move my amendment.

Ms Warnock: What is the problem? I do not understand the difference between what the member for Maylands and I have said, and what the Ministers have said.

Mr PENDAL: For example, there is no definition of a severe medical condition. That bothers me. The member for Moore by interjection said that a child could have a club foot. Some severe medical conditions are currently capable of being picked up using modern scanning methods, and some are not far from being picked up, although technology has not yet reached that stage. Therefore, it relates to all kinds of conditions, but it seems most people can visualise the Down syndrome child. Everything the Minister for Health and Minister for Housing said reassured me that this provision will not give anyone the capacity to declare open season on unborn children with Down syndrome. If I received that same assurance from the sponsor of the Bill, it would have some effect ultimately under the Interpretation Act. Without that, I will proceed with my amendment, which has been on the Notice Paper for several weeks.

Ms WARNOCK: I have the same view as both the Ministers. Like the member for Maylands, I feel that it is inappropriate to list those conditions in a Bill. I have received that advice from a number of medical practitioners who work in this area. I am not a medical practitioner or a lawyer, and on the basis of the advice I received it was agreed that the conditions should not be listed in the Bill. I do not want to declare open season on anyone or anything. However, I believe the clinical judgment of the doctors, who are experienced and work in this sensitive area all the time, should be discussed with the parents. Parents do not rush in to make this decision or behave irresponsibly. They want the pregnancy to proceed and then they find that something has gone terribly wrong. That is the situation being discussed. It is not open season on any condition. I cannot define the conditions. I am not a doctor; I have explained my qualifications today, and the member knows them back to front. It is inappropriate for somebody like me, or anyone in this place, to outline those conditions in the legislation. I have spoken to enough people who have been counselled in this way to know that they believe it is their personal business.

As all members know from reading the newspaper, recently one married couple in Perth decided to go ahead with the birth of a child who they knew would die within 24 hours of birth. It was their choice. It was an appropriate choice for them to make. Other people have said, in response to that story in the newspaper, that they could not have dealt with that situation. One said she was in a similar situation and had a stillbirth, and it would have been impossible for her to do that had she known about it. I think it is inappropriate for me or the member for South Perth to make decisions for parents in that situation. It is a serious matter, which will be discussed between clinicians and the parents involved.

Mr PENDAL: I am even a little encouraged by the member's comments, albeit not much. I will relate the position that I placed before the Minister for Health on Monday of this week with respect to a sex selection abortion carried out in Western Australia. I will not discuss sex selection abortions because that is for a later period, but the example fits in this part of the debate. It revolves around the extent to which people are prepared to have faith and confidence in some of the doctors at King Edward Memorial Hospital. Based on the evidence put before me, with respect to a sex selection abortion carried out 18 months ago on a patient of Dr George O'Neil, I do not have any confidence in the people involved in that at King Edward. I am saying that a patient of Dr O'Neil - that is contained in the complaint I have given to the Minister - had an ultrasound at, of all places, St John of God Hospital. In the course of having the ultrasound, the operator let it be know to the woman that she was having a boy. She was horrified.

Mr Marlborough: Will you table it?

Mr PENDAL: Yes, I will table the document. As a result of learning the gender of the child, the woman became distressed and did not want to continue with the pregnancy. The letter which the member is keen to have tabled, in part, states -

> She later attended K.E.M.H. where she was given counselling. As a result of the woman being upset, the counsellor contacted Dr Brian Roberman. Subsequently when Dr O'Neil learned the woman was being lined up for an abortion, he telephoned Dr Roberman at his home stating that the latter "couldn't do it" -- meaning, an abortion could and should not be carried out on these grounds, that is, on the grounds of sex selection.

Dr Roberman then allegedly said to Dr O'Neil, "No; the abortion was not carried out on those grounds; it was because the woman was depressed." I do not know whether the abortion was carried out at King Edward Memorial Hospital or somewhere else. In the final analysis, it does not matter - the child was aborted. To this day Dr O'Neil demands answers from the Minister for Health and King Edward Memorial Hospital, including the medical superintendent and Dr Roberman, about why that occurred.

I will relate that to what we are talking about here. We are being asked to accept the assurances by the member for Perth - she may give them in good faith - that the clinicians and others at King Edward Memorial Hospital will do the right thing. The letter I have submitted and the complaint indicates to me that when push comes to shove, some very highly placed people in the public health system do not do the right thing. I am not saying that; it is Dr O'Neil, one of the leading gynaecologists and obstetricians in this city.

I think it is necessary for us to have some sort of assurance on the record that says, yes, the limits of this will be in the words that the Minister for Housing and the Minister for Health gave us. However, if we cannot get that on the record, I will move my amendment.

Mr BAKER: I have a couple of questions relating to the concerns of the members for South Perth and Midland. Can the member confirm that in the second last line in paragraph (a), between the word "the" and the word "clinical" it is implied that the word "reasonable" would be a suitable condition; and in the same line, before the word "justifies" that the word "reasonably" would also be included? The issue is whether the test to which the member has referred is purely a subjective test based on opinion or whether the opinion must also be reasonably sound. Is it an objective test or purely a subjective test?

Ms WARNOCK: Exactly the same words are used in both Bills. It is very mystifying why the member wants to add complications at this stage. In all the discussions over the past two months we have used these words in the "clinical judgment" and so on, and reference to a "severe medical condition". I cannot give an assurance. I am neither a medical practitioner nor a lawyer. The discussions I have had with several other members, and with doctors at the hospital as the only people I know of in the State who are experts in the area, and with a number of people who have been counselled at that hospital and made a decision to have, or not to have, a late termination, give me no reason to believe that the clinical judgment of these people is faulty in any way.

If I found myself in this extraordinary situation, I would be at that hospital and I would make the decision based on the advice of those people. However, my conscience would make the final decision, and that is the appropriate place to leave it. The clinicians at the hospital are the only people who are expert in this area in this State, and they can make the judgment and give the advice. They are to be chosen from a special panel by the Minister for Health for this purpose, and they will give advice to the patient to help her make a decision based on that advice. I can think of no way to improve this arrangement, and I see no reason to change the provision at this late stage.

Mr BAKER: I am not seeking to move an amendment, but to clarify the issue raised by the member for South Perth. The question is whether the test is a subjective test, full stop, or, as is usually the case, a subjective objective test. It is something about which the member might speak to parliamentary counsel.

Ms WARNOCK: I am sorry but I am terribly confused by that lawyer's phrase. I cannot understand. The person gets medical advice when in this terrible situation and takes that advice, or not, based on her view or morality. I can see no other way to describe it.

Dr EDWARDS: As a registered medical practitioner - I am certainly not a lawyer, and I may not understand some legal overtones - if I knew I was assessing someone with a severe medical condition which in the judgment of the two practitioners justified the procedure, I would be pretty scared. I would make sure my medical defence fund was totally topped up. Severe medical condition means severe medical condition. I have a genetic abnormality of my foot, a condition shared by my son, but it is not a severe medical condition. Clinical judgment means something particular to doctors. It considers history, examinations and other information, and is something very significant. I cannot from a legal point of view answer the member's question, but as a medical practitioner I would be petrified to be one of the members of the panel.

Mr BAKER: I accept that. As a hypothetical situation, if a doctor is sued for malpractice, the test is not whether he thought he was doing the right thing, but rather that a reasonable medical practitioner at that time, bearing in mind the circumstances, would have acted in the same way. It is the reasonable doctor test.

Dr Edwards: We are saying that six experts will be on the panel, of whom two must agree.

Mr BAKER: The two must act reasonably, as must a single doctor in forming opinions and views. That is the issue. I seek clarification on whether that is the intent?

Ms WARNOCK: I think the intent is very obvious. I am sorry that I cannot enlighten the member further.

Dr HAMES: We have spent more time debating the proposed amendment than if the member for South Perth had moved it. Frankly, I do not think the member for Perth is able to give the assurance desired. Ultimately, it is the decision which the doctors make based on their clinical judgment. They will decide what is a severe medical condition. I can assure members that no doctor will decide that myopia or any similar minor medical condition is classed as severe. Nevertheless, this amendment seeks to provide that one must rely on that judgment. If the member for South Perth wishes that "it be incompatible with life" be included I suggest he move that and we vote on it.

Mr PENDAL: I accept the suggestion of the Minister.

Dr HAMES: I think you decided, Deputy Chairman, that you would hold a test vote on the proposed section where that would be inserted first and then provide the opportunity for the member to move the amendment.

The DEPUTY CHAIRMAN: That is correct.

Mr KOBELKE: The amendment of the member for South Perth in the Notice Paper applied to line 19. The member for Perth's amendment referred to lines 11 to 23; therefore the test vote was to be brought in at line 19. Because of the nature of the member for Perth's amendment the member for South Perth is now suggesting an amendment which is no longer at line 19. Does the test vote still apply in the same way? How can we give effect to the amendment proposed by the member for South Perth if it is not formally moved, which is to place those words after the word "condition" in the amendment now before us moved by the member for Perth?

The DEPUTY CHAIRMAN: The amendment on the amendment moved by the member for South Perth can be accepted by the Chamber.

Mr MARLBOROUGH: What is the procedure for tabling the document relevant to the complaint of the member for South Perth? He indicated he was happy to table it.

The DEPUTY CHAIRMAN: He cannot table it in Committee but I am sure the member for Peel and the member for South Perth will be creative enough to circulate that document from which the member for South Perth quoted.

Mr Pendal: I read it under parliamentary protection for a purpose.

Mr MARLBOROUGH: I am glad the member for South Perth said that. That is the issue I want to raise. Tonight we have seen in this Chamber two very low points in this debate, one of which has just seen from the member for South Perth. We have seen a personal attack take place on people who are either facing an inquiry by the Health Department -

Mr Pendal interjected.

Mr MARLBOROUGH: In a discussion I have just had with the Minister for Health he told me that he had received a letter from the member for South Perth today in regard to this complaint. He will be acting on that tomorrow. We have seen an article from the member for South Perth in *The West Australian* indicating that he had this evidence before him. We have seen him today use the privileges of Parliament to name the doctor involved, obviously with the clear intent of making sure that, before an inquiry is held by the Health Department which the member wishes to initiate, the doctor is known in the public arena.

Mr Pendal: It has been there for 18 months and nothing has happened.

Mr MARLBOROUGH: I have not seen either one of those names in the public arena. A name did not appear in the member's article in *The West Australian*. He is an ex newspaperman. I presume he did not give the names to *The West Australian* for reasons best known to himself. He knows how newspapers work. However, today he has chosen in this debate to name the doctors involved.

Mr Pendal: Given your background that is a bit rich!

Mr MARLBOROUGH: Given my background it might be a bit rich, but the reality is that the member has done it for a particular purpose.

Several members interjected.

The DEPUTY CHAIRMAN: Order!

Mr MARLBOROUGH: The member for South Perth at this stage of the debate is no longer interested in justice. He proposes to set in place an inquiry through the Minister for Health but, having sent a letter to the Minister for Health today, he uses the Parliament to name the doctor into whom the inquiry is to be held. That doctor has had no opportunity to show a defence to anybody publicly. He has had no opportunity to make a statement.

Mr Pendal: They have sat on it for 18 months.

Mr MARLBOROUGH: It does not matter what "they" have sat on. Is the member suggesting that this doctor has sat on it? Of course he has not. I do not even know who "they" are, but I do know that tonight the member for South Perth has named this doctor before an inquiry is set up which the member has initiated. It is fairly obvious to everybody why the member did it, whether they vote his way in this debate or not. The member could not await the outcome of an inquiry. He was concerned that this debate might be finalised this evening. He wanted to name the doctor so that he was on the public record. The member has told us that the only evidence he has is that some other doctor has asked why an abortion or a medical activity was carried out.

Mr Wiese: He very clearly indicated that he would table the letter.

Mr MARLBOROUGH: That is right. Earlier this evening we had the other line of attack on the other doctor from the clinic. They are being labelled as butchers and the trials have not even been held.

Mr COWAN: I am very pleased, Mr Deputy Chairman, that you put the question to the Chamber, which is that the lines to be deleted be deleted. I have listened to at least three speeches, none of which has related to the question before the Chair. This is a time when we have the capacity to note, from my previous experience, that people have a tendency to veer away from issues. I ask members to go back to the question before the Chair, which is that we delete lines with a view to inserting other words.

Mr PENDAL: I agree with the Deputy Premier. The complaint was not made on Monday of this week; it was resubmitted by me on Monday of this week but lodged 18 months ago with the appropriate authorities and has never been dealt with. Therefore, when an eminent gynaecologist comes to me and his complaint is that the information submitted by him - not yesterday, not last week, not Saturday fortnight ago, but 18 months ago - was never responded to, this is the place to raise it.

I cannot believe that the member for Peel has responded in this manner. During the first two years that I sat in this House, under parliamentary privilege he produced information about so-called "Wanneroo Inc." that made him and his colleagues look ridiculous. I am pleased to see that in the past year or two he has turned over a new leaf, because he wants to pass on that information to members who have been here for less time.

I agree with the Deputy Premier. I took my opportunity to move an amendment to that of the member for Perth. This amendment will put beyond any doubt that any abortion carried out because of a severe medical condition that is incompatible with life will be lawful. In accordance with what the Deputy Premier has said, I am happy for that to go to the vote.

Mr MARLBOROUGH: All I can say about my role in Wanneroo is that I was delighted to be encouraged often in my contributions by the member for South Perth.

Mr Cowan: Mr Deputy Chairman, that has nothing to do with the question before the Chair, and I ask you to rule accordingly.

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): The question is that the line to be deleted be deleted.

Mr MARLBOROUGH: I intend to speak to the question before the Chair. The amendment seeks to delete words and make provision for the establishment of a panel of doctors to make medical decisions. It is within that context that the member for South Perth raised an inquiry that has recently come to his attention. Before that inquiry can be carried out to establish whether a doctor has done anything legally or medically incorrect, he has named him. He is very keen to besmirch that doctor's reputation. I had never heard of that doctor before this evening.

If the Deputy Premier wants that put in the context of the debate, one does not need much intelligence to do so. Why would any medical practitioner want to be a member of such a panel when their reputation could be thrown about in this Chamber as the member for South Perth has done? They would not. There is nothing to be gained by the member for South Perth's naming those doctors this evening. He has already generated an inquiry and he should have let that inquiry run its course. He is not suggesting in his rhetoric that either of the doctors is to blame for any hold up in some inquiry supposedly begun 18 months ago. In any event, at the end of the process the doctors may not be guilty of anything. However, tonight he has named them in such a way that guilt will attach. It is a totally inappropriate way to debate this Bill. Earlier this evening the member for Moore on at least two occasions referred to Dr Chan as a butcher. There has not even been a proper inquiry into those events.

Dr Hames: Dr Brian Roberman, who has been named, is one of the most highly regarded and eminent doctors at King Edward Memorial Hospital. I feel certain that he would never have deliberately terminated a child on the basis of its sex. I prefer that he had not been named. He should be innocent until he is proven guilty.

Mr MARLBOROUGH: That is the point I want to make with both of these doctors because at the end of the day when this Bill is passed and we allow that rhetoric to remain unchallenged, we will frighten away anybody with a medical degree whom we may want to use to make this Bill workable. Why would they want to get involved?

I have heard from somebody who knows the doctor at KEMH. He said that the man is one of the most eminent doctors in this State and his reputation has been put on hold - many people would say destroyed - and for what? What did naming those doctors have to with this debate? The member for South Perth has reached the lowest common denominator. He cannot win the debate so he attempts to assassinate the people who are involved in the implementation of a procedure. The member for Moore did that tonight when he named Dr Chan, and he wants to do it with another group of doctors, and so it will go on. The matter should be put to rest.

I disagree with the Deputy Premier that my comments should not be part of this debate. I did not raise the issue. I am more than happy to finish it. It is absolutely outrageous that it has been allowed to be said, and it will not assist any inquiry that may be held by the Minister for Health.

Amendment (deletion of lines) put and passed.

The DEPUTY CHAIRMAN (Mr Sweetman): The question is that the words to be substituted be substituted.

Mr PENDAL: I move -

> That the words proposed to be inserted at page 8, line 11 by the member for Perth be amended by inserting after the word "condition" the following -
>
> and, in the case of the unborn child, is incompatible with life

Ms WARNOCK: The member for South Perth has had some time this evening to explain why he decided to move this amendment. I implied earlier that I would not support this amendment. It is inappropriate to try to define in detail which abnormalities are appropriate for abortion. It should be a matter of the parents' choice on the serious considered advice of expert clinicians at King Edward Memorial Hospital.

This is an extremely painful and divisive issue. I can imagine how those people who rang me about these various matters would feel reading about them in the morning newspaper. It is impossible to list in a Bill of this kind the severe conditions that we are talking about. It is quite inappropriate. We have discussed this matter before. The member for Maylands explained that she went to a round table discussion with medical experts and other members of this Chamber to talk about the way this should be handled. It is appropriately handled as it is in the Bill at the moment in the amendment that I have moved. We should not go any further than that. I simply think that it is inappropriate to insert the words "incompatible with life".

Mr PENDAL: I agree with the member for Perth on at least one point: The issue has been well canvassed. I will pick up on the central point that has been misunderstood by the member for Perth. The amendment is not seeking to define those conditions. It is seeking to say that if the severe medical condition is incompatible with life an abortion under this proposed subsection would be lawful. The obverse is that if it is not a severe medical condition that is incompatible with life and it is a child with Down syndrome or other similar affliction an abortion would clearly be prevented because those conditions are compatible with life. I therefore ask the Committee to support the amendment.

Mr MARSHALL: I wholeheartedly disagree with the amendment. The thrust of this debate is to allow the woman the right to choose. Politicians do not have the right to take the high moral ground and determine what is incompatible with life, when we cannot understand the circumstances that might exist. I cannot believe that some people think that they can put their opinions above those of the medical professionals who will make this assessment and the human feelings of the woman who is suffering anxiety over whether her child will have a problem. A point that has been missed in this debate is that these cases are in the minority. Those women who are concerned will be in the 36 to 40 year old age bracket. I am told that one in 200 of those women is likely to have a foetus with a genetic abnormality. The ultrasound at 16 weeks is clear, but they experience tremendous anxiety up to the 20 week period before they know whether the foetus will survive. If a decision must be made it should not be a politician who makes that decision.

Some people say that there are two kinds of people who cannot listen to reason and they are politicians and school teachers. The teachers are used to teaching children who are not allowed to answer back, while politicians make the law and can become over zealous. It would seem that the 57 people in here forget about what is happening to the

youg women in our community. I find this debate distasteful. I am stunned that a group of people in this place believe they can determine for the medical profession what is right and wrong. They are only politicians! I oppose this amendment.

Amendment on the amendment put and negatived.

Amendment (lines to be substituted) put and passed.

Clause, as amended, put and passed.

Mr PRINCE: Mr Deputy Chairman, before the member for Collie moves her amendment on page 13 of the Notice Paper, I seek clarification. The member for Joondalup was to move to delete proposed subsection (13) at page 9. I understand from an interjection that the Clerks have advised that is not necessary because it refers to proposed subsection (3), which has now been moved to the Criminal Code. Am I correct?

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): If the Minister is referring to the amendments in the name of the member for Joondalup at the bottom of page 12 of the Notice Paper, the Chair gave ample time, before calling the question on clause 7 as amended, for any member to move amendments as listed. We have discussed this matter. That clause as amended has been put and passed, and we are now moving to new clause 8.

New clause 8 -

Dr TURNBULL: I move -

Page 10, after line 24 - To insert the following new clause -

Review of provisions relating to abortion

(8). (1) The Minister administering the *Health Act 1911* is to carry out a review of the operation and effectiveness of the provisions of the *Health Act 1911* and the *Criminal Code* related to abortion as soon as is practicable after the expiration of 3 years from the commencement of this Act.

(2) The Minister is to prepare a report based on the review made under subsection (1) and cause the report to be laid before each House of Parliament within 4 years after the commencement of this Act.

I will indicate the reasons I propose this new section. The pro-choice and pro-life groups have said that they hope these new laws will not result in any increase in the number of abortions performed in Western Australia. They also hope they may result in a reduction. That may be the case. Because of the awareness raised in debate on this Bill that contraception is not as successful and effective as many people think, in future perhaps people will be more careful with regard to contraception. I also hope that the Health Department and the Minister for Health will regard education on contraception and its effectiveness as part of the implementation of this new law. Many members have said they are not sure how some aspects of this law will operate and what the effects will be. This includes such things as counselling and time frames. I have talked with many members and asked how they perceive the review issue. Many members say they do not want to go through this whole procedure again. Despite this they are prepared to support a review.

I have chosen a period of three years for two reasons. First, that is the usual time specified in review clauses and, second, the review will not be carried out until after the next election. The member for Stirling may no longer be a member at that time, and may not have to face this again if he does not want to deal with it. Another point is that this debate has been conducted in very unusual circumstances; that is, no preliminary work was carried out by a committee, department or group of people to consider all the various computations and permutations of this issue prior to commencement of debate. That discussion has been held in this Parliament, and that is one of the reasons members have fallen into the trap of producing amendments on the run, some of which were not legally sustainable. When a review is conducted, it will be done over a 12 month period and will take into account factors such as the operation and effectiveness of the legislation. That review will address the issue I had hoped to cover; reducing to 16 weeks the term of the pregnancy at which procedures must be carried out at King Edward Memorial Hospital. I will be particularly interested to see whether the new legislation results in any change in the number of terminations carried out after 16 weeks of pregnancy. I hope those who have indicated they will support this proposed new section, will do so.

Mr PRINCE: No data has been collected with respect to abortions in this State. Some survey work was done in the mid-1980s, and that is valuable. It is certainly desirable that reports be made of abortions and the ages of the women concerned, so that a profile can be built up. In that way the Government will be better informed about the education

and information required to persuade people into safe sex practices so that they do not have unwanted pregnancies, and the number of abortions will diminish significantly. The only concern I have with this review provision moved by the member for Collie is that three years is too short a period when starting from a zero base. Surely five years is a far better period.

Mr House: How about 30 years.

Mr PRINCE: The Minister will not be all that old then. I think five years is a better time in which to be able to collect data, to make reasoned decisions and to report thereon. I agree with the principle, but I respectfully suggest to the member for Collie that three years is too short. Is she prepared to entertain an amendment to change the times from three years to five years, and four years to six years?

Dr HAMES: I want to encourage the member to retain her stance on three years. I understand the Minister's concern that five years is a short time. In discussing with the member for Collie a three year period we shared the concerns about the doctor from Queensland and what he may, or may not, do. Although we agreed as part of that discussion that we would remove the 16 week cut-off and go back to 20 weeks, we wanted some opportunity in the not too distant future - I think five years is too distant - to look at that issue, at least, and make sure that that opening is not being abused by anybody.

Once this Bill is passed one of major tasks of the departments of the Minister for Health and the Minister for Family and Children's Services will be to do something about the massive number of terminations being done in this State. Irrespective of the side members are on, we all agree it is far too many. Something must be done to resolve that problem. A lot of work must be done on family planning issues to reduce the fact that probably half of the pregnancies in this State every year are accidental; women who do not want to be pregnant and fall pregnant through an accident, mostly through failure of the contraception being used. We must do a lot of work on that.

Now that we have the opportunity to collect statistics, the Australian Medical Association has a lot of work to do in providing better guidance, developing proposals and guidelines for doctors so they provide far better counselling than they ever have in the past and realise the responsibility they have to reduce the number of terminations. Three years is a reasonable time within which to collect that data, to study the situation, and to make sure that action is being taken to reduce the number of terminations being done in this State. I encourage the member to keep the time at three years.

New clause put and passed.

Clause 8 put and passed.

Title put and passed.

Bill reported, with amendments.

Recommittal

On motion by Mr Prince (Minister for Health), resolved -

> That the Bill be recommitted for the purpose only of considering amendments to clauses 4, 6 and 7 and the insertion of a new clause.

Committee

The Deputy Chairman of Committees (Mr Barron-Sullivan) in the Chair; Ms Warnock in charge of the Bill.

Clause 4: Sections 199, 200 and 201 repealed -

Mr PRINCE: I move -

> Page 3, line 22 - To delete "a crime" and substitute "an offence".

Ms MacTIERNAN: Will any consequence flow from this in terms of whether the matter would be tried by a judge, magistrate or jury? If people were to be dragged before the courts in relation to this there might be arguments in favour of it being a jury rather than a single magistrate where the accused might be the subject of the personal moral position of a judge.

Mr PRINCE: A simple offence is not triable on indictment. We cannot have a trial before a judge and jury other than on indictment; it will be tried only before a magistrate in the Court of Petty Sessions. That is one of the results of it no longer being a crime, but being a simple offence.

Ms MacTIERNAN: Is it the Minister's argument that there cannot be a simple monetary penalty where there is a

crime, or is it that there is no other place which imposes a straight monetary penalty for a crime? What is the advantage of this provision? It seems to me there is a disadvantage in having this matter tried by a magistrate alone.

Mr PRINCE: I disagree about there being a disadvantage. Throughout the whole of the Criminal Code there are offences categorised "crime", "misdemeanour" and "simple offence". Crimes in the Criminal Code are nearly always visited with punishment of imprisonment in line with the Sentencing Act and whatever else.

A simple offence does not necessarily have to have imprisonment attached to it. Some do; some do not. All have a form of monetary penalty. This Chamber and the other place decided that for this offence the penalty would be monetary and not imprisonment. It follows therefore from the point of view of excellent good practice in our criminal law that it should not be categorised as a crime punishable by a pecuniary penalty. It should be a simple offence with a monetary penalty.

Ms MacTIERNAN: Given that it is to be in the Criminal Code I agree that the penalty should be limited to one that is pecuniary in nature. However, I place on the record my concern that a person accused under this provision will be subject to going before a magistrate alone. My concern arises because we know there is broad acceptance of abortion in the community. Therefore a jury is far more likely to reflect community standards than a single magistrate. A magistrate, because of his religious views, might be inclined to a particular persuasion. I express my concern on those grounds. This could be a matter better placed before a jury for the protection of the accused.

Mr PRINCE: I cannot let that calculated insult to the judiciary of this State pass without telling the member just how wrong she is. Magistrates do not make capricious decisions on personal bases; they apply the law to the facts as they find them, and juries are directed to do the selfsame thing.

Clause, as further amended, put and passed.

Amendment put and passed.

New clause 5 -

Mr PRINCE: I move -

Page 4, after line 2 - To delete the clause and substitute the following clause -

Section 200 inserted

5. After section 199 of the Code the following section is inserted -

" Further offence relating to abortion

200. (1) Subject to subsection (3), if a medical practitioner performs an abortion knowing that the woman concerned has consented to the performance of the abortion because she believes that the unborn child is of a particular sex, that medical practitioner is guilty of an offence.

Penalty: $50 000.

(2) Subject to subsection (3), subsection (1) applies even if the woman concerned also has another reason or other reasons for consenting to the performance of the abortion.

(3) Subsection (1) does not apply if -

(a) the abortion is justified under section 334(5)(c) or (d) of the *Health Act 1911*; or

(b) the woman concerned consents to the performance of the abortion because of evidence or the likelihood of sex chromosome linked genetic disorder in the unborn child.

(4) In this section -

"medical practitioner" and **"perform"** have the same meanings as they have in section 199. ".

The intention behind removing one clause and inserting another is to overcome the problem which was identified in this Chamber last Wednesday and sought to be addressed by an amendment moved by the member for Eyre which brought in the word "solely", which upon reflection did not achieve what he was trying to achieve and what, I am sure, all the members of the Chamber were trying to achieve. It was this - I paraphrase again the words of the

member for Maylands: Everyone agrees that there should not be an abortion of a healthy child on the basis of the sex of that child. However, the words that were brought forward to achieve that end by a penalty could also quite reasonably have prevented an abortion for what would otherwise be a justified reason, as we have provided in other parts of this legislation. In that sense this clause has been reworked by parliamentary counsel and others to reflect what I take to be the intent of the Chamber, namely that an abortion simply on a sex related basis is to be an offence, punishable accordingly, but an abortion because of a genetic malformation of some form, which of itself may be sex related in the sense that quite a number of these things tend to flow down either the male line or the female line, so part of the reason for the abortion is that it is a baby of a particular sex, abortion should be capable of being justified under the law we are making and not become non-justified because the sex of the child is a factor. Proposed subsection (3) contains the object of the exercise. That is where we have endeavoured to rewrite what the member for Eyre sought to do, after some contemplation over seven days, thinking through it and bouncing it around a number of brains, as it were, and coming up with that form of words.

Mr COURT: I listened to the explanation by the Minister for Health in relation to this matter. When the clause we have just deleted was moved last week, I supported it. I believe that no member supports abortion for these purposes. Similarly, I do not think any member supports abortion for contraceptive purposes and a number of other reasons.

I have received advice during the week from crown counsel, parliamentary counsel and the Director of Public Prosecutions. The amendment moved by the Minister for Health addresses the concerns raised by crown counsel and parliamentary counsel but not those raised by the DPP. With any legislation we must try to provide certainty and to make it workable. The advice from the DPP is that to convict a doctor under the proposed provision it would be necessary to prove beyond reasonable doubt that the doctor had knowledge of a woman's reason for seeking an abortion. The DPP has advised that knowledge is notoriously difficult to prove and would be even more difficult in the case of abortion. If a doctor fails to inquire the reason for an abortion or if the patient lies to the doctor, no offence will be committed. If a woman tells a doctor that she wants an abortion on the grounds of the sex of the child and he tells her that he would commit a crime by performing an abortion in those circumstances, she could simply go to another doctor and not tell him why she is seeking an abortion. The DPP is trying to explain that in practice it would be difficult to enforce. As I mentioned, I think we all support the statement of this principle and many other related principles. However, the difficulty is that we also have a responsibility to put something in the legislation that will be workable.

I have also received advice from the director of Genetic Services of WA at King Edward Memorial Hospital. He contacted my office this week and told me that this is not a standard practice - it is not happening in the teaching hospitals or in the state genetic service and he is not aware of any Western Australian doctors who would perform an abortion for these purposes.

I am sure all members accept the principle. However, given that the DPP advises it would not be possible to implement this provision, I do not see the need for it to be included as is proposed. Last week when we discussed this we did a bit of drafting on the run while the clause was being debated. The amendment addresses the concerns outlined by crown counsel and parliamentary counsel but they do not address the concerns expressed by the Director of Public Prosecutions who must make decisions in these matters.

Ms MacTIERNAN: The contribution by the Premier has been a very important and sensible one. Firstly, we do not deal with this problem as some cultures do where the preference is for one sex over another, by establishing punitive laws and thought police who interpret the way people react. The way in which we ensure that there is no bias towards one sex in the desire to terminate a birth - usually of female children - is by respecting women in the community. Women are acknowledged as the equal of males, and that permeates down through the culture. It is not something that can be imposed with a punitive provision such as this.

The proposed section we are being asked to consider is much more onerous in many ways than the one passed on the last occasion we addressed this issue. Subclause (2) provides that subject to subsection (3), subsection (1) applies even if the woman concerned also has another reason or other reasons for consenting to the performance of the abortion. By contrast, the provision that we passed last time applied only where the sex of the child was the sole determining factor. That is a very important distinction, because if a woman has a raft of other social or personal reasons for wanting to have an abortion but she confides only one reason - that she is considering the sex of the child - under the other formulation the doctor would not have found himself or herself in the position of criminal sanction. Under this provision he or she does. This provision means that a woman can have quite legitimate reasons for wanting an abortion but if a woman has also given some consideration to the question of the gender of the child, that consideration obviates the validity of any other reason. In many ways what is presented here might be an improvement. Although it might address the requirement of a genetic defect, it is far more generous than the general range of conduct that it captures. I would like these reasons to be considered, but the Premier has presented some powerful arguments. This is bad law because it simply cannot work and it is unenforceable.

Ms WARNOCK: I find myself in rare agreement with the Premier and the Director of Public Prosecutions. I was very concerned about the matter when we discussed it last week, and I voted against it for two reasons: There would be tremendous intrusiveness into people's privacy. I do not want to see mind police wandering around Western Australia. I was also deeply concerned about genetic abnormalities based on gender, and it would be simply impossible for doctors who work in that area and for parents who wished to pursue that, to have any satisfaction. I know that an attempt has been made in this redrafting to deal with the matter that concerned many of us last week, but I agree with the Premier and the Director of Public Prosecutions that it would be unworkable. It is far too intrusive into people's privacy and it is not the sort of legislation we want in Western Australia.

Mr PENDAL: Given the number of complaints made over recent weeks about people rehashing the arguments that have previously been disposed of, let me gently express a complaint in the direction of at least two of the speakers so far - the Premier and the member for Armadale. It was openly stated in the debates last week that sex selection abortion would be difficult to prove. However, it was not unlike a lot of legislation that is passed in this Parliament and other Parliaments; it is a signpost, an indicator, a line drawn in the sand, particularly for those people to whom the member for Armadale has referred - that is, people who come from other cultures and who have been inculcated with the notion that sex selection abortions are acceptable. Notwithstanding how difficult that would be to prove it was acknowledged last week that it would be worthwhile pursuing for that reason alone - that is, it may ensure that the practice does not develop here.

It is interesting that the model Criminal Code that has been recently moved by the Federal Parliament contains a recommendation in respect of genital mutilation. Who would have thought that an Australian Parliament would need to deal with that issue when 15 or 20 years ago it was unheard of? That cultural practice has been imported into Australia. It has been sufficient for the Standing Committee of Attorneys General to produce a draft model code so that when all jurisdictions enact that model code genital mutilation shall be outlawed. That is a signpost. The Committee has every reason to support what it did last week. The information given to the Premier by King Edward Memorial Hospital for Women was that it was not a standard practice. That indicates that the complaint made by Dr O'Neil 18 months ago may have considerable substance. I have always thought that anyway, because he is a person of considerable substance. It is not that it has never occurred. However, on many occasions this place has legislated against the possibility of something occurring even by the factor of one in 100.

The member for Armadale is correct in that the matter has been recommitted into the Chamber as a result of what the Deputy Premier has suggested and it is in an improved format. Interestingly, when the amendment was moved last week, a number of people indicated their agreement with the sentiment but the words were wrong. At the time we suggested that we take 10 minutes off so someone could look at it seriously and we could proceed to vote on something that was widely accepted. The Committee was not prepared to do that and there was a bit of bloody mindedness involved there. In the meantime it has been taken away and that is now what we are presented with. On the face of it, it is something that the group with which I have been associated can support. That is notwithstanding what King Edward Memorial Hospital has said. I wish I could be one of those people who can have unlimited faith in what the hospital has done - like the member for Dawesville. I do not have that blind faith in them or in a lot of areas of modern medicine and research. Including something of this kind will be a signpost, particularly to those cultures that might otherwise want to import into this country practices, that we think the practice is abhorrent. I support proposed new section 200.

Mr RIPPER: It is surely bad law to punish one person for another person's offence. This clause goes even further, because it seeks to punish one person for another person's motivation. It is no wonder the Director of Public Prosecutions thinks this will be a difficult offence to prove. When the Director of Public Prosecutions made that judgment, he was not aware of the amendments with regard to informed consent which this Chamber has added this evening. As a result of those amendments, the medical practitioner who will perform the abortion will not be the medical practitioner who conducted the counselling of the woman and who will have all the information about the woman's motivation, yet the medical practitioner who will perform the abortion will be liable to a penalty of $50 000. This legislation will deprive that medical practitioner of the information about the woman's motivation. This will not be an easy offence to prove, and it will not be fair to subject a person to a penalty of up to $50 000 not for one of his acts, and not even for an act that is done by another person, but for another person's motivation.

I am concerned also about proposed subsection (2), which states that proposed subsection (1) applies even if the woman concerned also has another reason or other reasons for consenting to the performance of the abortion. A woman may have a complex of reasons for consenting to an abortion. The sex of the child may constitute only 5 per cent of her motivation, and 95 per cent of her motivation may be constituted by other reasons, yet we are saying that because she is aware of the sex of the child and has a small preference one way or the other, that 5 per cent will be added to her motivation and the medical practitioner who performs the abortion will be guilty of an offence. That proposed subsection is capable of producing great unfairness and an effect which this Chamber does not intend.

Earlier this evening, we voted that informed consent will be sufficient justification for a woman to have an abortion and for that abortion to be lawful. We should not now say that informed consent is okay, but not in the case of the sex of the child. If we want to say that with regard to this matter, why not come up with a whole set of improper motives which may be used to limit the justification of informed consent? We have a choice: We can either seek to make moral decisions for women who want to terminate their pregnancies, or we can establish a framework in which women will make their own moral decisions. This Chamber has basically decided to establish a framework in which women will make their own moral decisions on this matter, and for good reason, because that is the best framework for dealing with this matter in our society. Once we get into the morass of investigating people's motivations, we go back to all of the reasons that caused people to be dissatisfied with the law as it has stood, at least formally, until now.

Mr KOBELKE: I agree with that part of the Premier's contribution in which he indicated that a clear majority of members believe that sex selection is not an appropriate basis at law for an abortion. In the community at large people will not accept that women may have abortions on the basis of the sex of the child they are carrying. The member for South Perth has ably put the arguments, and I will not repeat them. I believe there is a need for a signpost, and they are included in all sorts of legislation. The Government clearly declares that something is not acceptable and is a crime or offence. It need not necessarily result in prosecution. The Criminal Code contains a number of offences for which no convictions have been recorded.

I refer briefly to the matter raised by the Premier on the advice of the Director of Public Prosecutions; that is, it would be difficult to convict a person for the offence. I accept that it would be difficult to prove that a doctor knew a woman had sought an abortion simply on the basis of the sex of the child. However, doctors will be aware of the legislation. The only way they are likely to be convicted is if the woman upon whom the abortion was performed decides to become a crown witness and can verify that she had told the doctor that sex selection was the reason for her abortion. Doctors will have that provision in the backs of their minds, and their insurers will make sure they are aware that if they perform an abortion because of the sex of the child, they are liable to have a conviction recorded against them. This proposed section would be a clear signpost to doctors that if a woman wanted an abortion because she did not want a child of the sex she was carrying, the doctor could not proceed with an abortion.

I ask members to consider the situation that will prevail when this Bill becomes law. Doctors could tout for business implicitly in certain sections of the community on the basis that he would provide abortions if a woman was carrying a girl but wanted a boy, and vice versa. This legislation will allow that to occur. The birth of a girl child might have severe social consequences for a woman in certain sections of the community and, therefore, under this legislation an abortion could be justified. If there is no signpost in the legislation indicating that that is not acceptable, there will be nothing to stop doctors promoting selection of the sex of a child and the use of abortion for that purpose. Although it will not be easy to uphold a prosecution for an offence under proposed new section 200, at least it makes a clear statement from this Parliament that sex selection cannot be a basis for abortion because the unborn child also has rights. Although those rights may have been whittled down to almost nothing, sex selection cannot be the basis for aborting a child which should be born and given the right to live.

Mr GRILL: I will put the argument slightly differently: If we do not pass a provision along these lines, we will indicate to the public that we support a situation where a healthy foetus up to 20 weeks can be aborted simply on the basis of its sex. As I understand it, most members believe that is abhorrent. We should not be doing that; it is wrong. We should not be aborting healthy foetuses only on the basis of sex. That is what we will be allowing if we do not pass a provision along these lines.

Last week we endeavoured to put in place a situation to indicate to the public that we do not go along with those sorts of concepts where the motivation of the mother was strictly to abort the foetus on the basis of its sex; however, we have had some advice since then from the Director of Public Prosecutions. He says that it is unlikely under these circumstances that a conviction could be obtained. We knew that last week. The member for Cockburn pointed that out at some length. All members understood that. There is nothing new about the advice we have received tonight; we knew that a week ago. However, we were indicating to the public that we did not want to endorse what most people thought was an abhorrent practice. So that we can get some convictions, the Minister for Health has put in proposed new subsection (2), which allows a conviction to be obtained where only part of the motivation for the abortion of a foetus is its sex. The member for Belmont was absolutely right when he summarised the proposal; it might be only 5 per cent of the reason. That is not what we tried to do last week; it is completely the opposite. We should not be passing proposed subsection (2) because it completely reverses what we tried to do last week. Last week we knew it would be difficult to obtain convictions. At the same time we did not put up a sign telling members of the public that they may abort a healthy foetus up to 20 weeks simply on the basis of its sex. If we take out this proposed new subsection, most of us will probably endorse the proposed new section. If it remains, I doubt very much whether anyone will endorse it. Therefore, I move -

That the new clause be amended by deleting proposed subsection (2).

At least in that way we endeavour to achieve the result we all tried to bring about last week, maybe a little clumsily; nonetheless, the motivation was right. At least we have something we can live with and have some respect for. This proposed new subsection is purely for the purpose of trying to get convictions. They are not important. What we are indicating to the public is important. We are trying to impart a message about the preciousness of life, rather than an endeavour to get convictions. Of course convictions are unlikely. It is hard to prove motivation on a whole range of offences, I might add. If motivation cannot be proved, the conviction does not stand. We accept that in the criminal law every day of the week. Of course, the DPP is right, but he accepts that in a whole range of other offences every day of the week, including conspiracy, and the Minister for Health will agree with me. We should delete this proposed new subsection. It will make the proposed new section respectable, and we could then debate the rest of it.

Mrs PARKER: I support the proposal of the member for Eyre not only to delete proposed subsection (2), but also to recommit the Bill and modify this provision to reflect the agreement reached last week. I take members back to the original discussion. The Deputy Premier said today that the recommittal was for the purpose not of deletion, but of tidying up the proposed section. The member for South Perth mentioned in debate on this clause the usage of the word "solely" and other words, and it was known last week that the wording was not correct. The offer was made on two occasions to suspend debate to seek parliamentary counsel's advice. However, the Committee did not want to suspend and members supported the principle outlined in the proposed section.

The understanding was that today's recommittal was for the purpose not of deletion, but of being consistent with the spirit of the agreement reached last week. We will not be consistent with last week's agreement if we do not support this proposed section. Members need to be reminded that consistency must be maintained. I support the deletion of proposed subsection (2), and I support the recommittal and passage of the proposed section in its new form.

It is abhorrent that we would permit in spirit and law the abortion of an otherwise healthy unborn child. That would say much about the way this community values its children. Our children cannot be worth so little that we would allow such a message to be delivered to the community. It is said that the law is a public educator. We must value our children much more highly than allowing gender-based terminations. I exhort the Chamber to remember what was agreed to in principle last week. The spirit of this process was to recommit and pass a tidied up version of the provision agreed to previously.

Mr COWAN: I have no difficulty supporting the motion of the member for Eyre for the deletion of proposed subsection (2) as I will oppose the proposed section in its entirety. I suggest that members who support the rejection of the proposed new clause support the amendment moved by the member for Eyre, and oppose the proposed section when the final question is put.

Plenty of discussion has ensued on this issue, and I certainly do not seek to revisit that debate. We have heard a very adequate explanation of why this provision has been moved by the Minister for Health - the original is unworkable. That conclusion has been reached by three eminent lawyers; namely, parliamentary counsel, the Crown Solicitor, and now the Director of Public Prosecutions. I suggest that these people know what they are talking about, and I will certainly take their advice. If the member for Eyre wants us to delete this proposed section in stages, we will do so. My recommendation to the Committee is that we accept the deletion of proposed subsection (2), but reject the amended proposed section in its entirety when the question is put.

Mr PENDAL: The members of this Committee voted less than a week ago overwhelmingly, in the order I think of 32 to 24 or 25.

Mr Wiese: It was 28 to 26.

Mr PENDAL: If the member for Wagin were elected on 28 votes to his opponent's 26 votes he would claim it as a comprehensive victory.

Nothing has changed in that week. The member for Eyre repeated tonight what all of us were told last week; that is, it would be difficult to prove such a case. As the member for Nollamara said, the clause is to be included in the Bill as a signpost. The arguments are still the same. It is not pivotal to the work done by many people who share my view, although other things are. Nonetheless, it would be absurd to reject six days after members had accepted it a clause which is intended to be a clear indication - I repeat the words of the member for Eyre - that abortions shall not be carried out on the ground of sex selection.

The Director of Public Prosecutions in his memorandum to the Premier did not say it does not happen but, as the Premier confirmed by way of interjection, the words used were something like, "It is not standard practice."

I repeat that as late as Monday I referred on behalf of Dr O'Neil a complaint that had lain dormant for 18 months.

No wonder complaints are not recorded as such if they are never investigated. Therefore, I urge the Committee to stick with what it did. Notwithstanding it is not pivotal to the work that many people have done here in the past six to eight weeks, it is well worth supporting for the signpost reasons.

Mrs ROBERTS: No-one is disputing the advice of the DPP. We all understand that a chance of prosecution under this clause is remote, if not impossible. That is not what this is about. As the member for Eyre so eloquently said, it gives a clear indication that members of this Chamber do not support abortion on the basis of the gender of the child a woman is carrying.

The clause does no harm and if, like me, members believe an abortion should not be undertaken on the basis of the sex of the child, they will be doing nothing more than putting up a signpost and letting the community know that it is something that members of the Legislative Assembly in the Parliament of Western Australia find abhorrent.

Mr MARLBOROUGH: Unfortunately this is more than just a signpost for what we in this Parliament think about abortion on the basis of the sex of a child. I am more than happy to be quoted in *Hansard,* a public document, that I am opposed to abortion on the basis of the sex of a child. We have seen the best example of how it becomes more than a signpost by the actions of the member for South Perth this evening in an earlier debate on this Bill. In the minds of many it becomes a rallying call for people to lay a complaint about something they think may have been untoward. We have discovered from the member for South Perth that if that complaint gets into his hands, before an inquiry were held he would come into the Parliament and let the world know that such a complaint had been laid.

Mr Pendal: It lay there for 18 months.

Mr MARLBOROUGH: On the basis of the information before him, the member for South Perth seems to be having an argument with the Department of Health.

The member for South Perth ignored that and came into the Chamber and named the doctor, as if somehow or other the doctor had played a role in holding up an inquiry for 18 months. We have no better example than what we have seen here tonight. The member for South Perth once again made reference to that case in the debate on this amendment. I support the Deputy Premier when he says that it may well be that my colleague the member for Eyre has a form of words that are better than and improve on the original wording but the original provision should be deleted, because it is not simply a signal to the community about how strongly we feel. In the confines of this Chamber we might like to believe that it is simply that, but members should look no further than what the member for South Perth has done this evening in this debate. He has used information in a different way. He has had information brought to him by one medical practitioner. I have not seen the information but from what I have read in the newspaper and from what the member for South Perth has said, that medical practitioner supposedly wants an inquiry into the actions of another medical practitioner.

Mr Pendal: He does not supposedly want an inquiry; he wants an inquiry. He wants to know why for 18 months he has not been answered.

Mr MARLBOROUGH: One presumes that he wants to know that because either he has evidence of a complaint or somebody has come to him with evidence of a complaint. If we were to pass this amendment, it could give rise to another issue of serious complaint, where an inquiry could be held which one presumes would become public knowledge. Certainly if it falls into the hands of member for South Perth it is likely to become public knowledge. Regardless of the finding of such an inquiry, the damage will already have been done. I do not know of many medical practitioners today who are clamouring to get into the area of gynaecology. All the young medical practitioners to whom I speak, and I happen to have a couple who are in-laws in my broader family, are all running away from it. They cannot stand the thought of litigation or being accused of some wrongdoing when all they are trying to do to the best of their ability is carry out the six to eight years of training that they have had so that they can give the finest medical service to their patients and therefore the community. What members are attempting to do by so-called flagging these areas is once again frighten off any young medical student at university from considering this field of medicine. Those members are making it as tough for people to be in medicine by flagging those matters as people do for union members. That is their intent. Whether they like it or not, they want to frighten people away from this field of medicine. This is a signpost for small thinking and it is not appropriate for 1998.

Mr RIPPER: Either the supporters of this amendment are dinkum and want it to have an effect or they are sending a signal. If they are dinkum and they want it to have an effect, then the member for Peel has dealt with that issue. However, if they are arguing that we do not really need to worry about it, that it will not have an effect, that no-one will be convicted and that it is just a signal, that takes us back to exactly the situation we have had over the past 25 years, which is that the letter of the law is ignored and we deal with abortion by the exercise of official hypocrisy. I thought we were trying to get away from hypocrisy with this abortion legislation. I thought we were trying to reach a situation where the letter of the law reflected the practice in the community. Some members seem to want to be

hypocritical and put things into the law which we know will have no effect. There will a mixture - some hypocrisy and some of the dangers that the member for Peel has referred to will be realised.

The argument put by the member for Eyre is that if we do not pass this amendment we are saying that we support gender linked abortions. That is not true. We might believe that gender linked abortions are wrong but also that it is not appropriate to have a clause such as this in the legislation. Quite a number of members have voted for a legal framework to apply to this issue that does not precisely reflect their moral views. However, they are voting on the most appropriate framework to apply to the community as a whole. In other words, we do not always try to incorporate our own moral views into the law; it is not always advisable or appropriate. I reject the member for Eyre's assertion, which I regard as excessively manipulative, that if we do not vote for this we are somehow saying that we support gender linked abortion. We can reject this without sending that message to the community or endorsing that view.

Amendment on the amendment put and passed.

New clause, as amended, put and a division taken with the following result -

Ayes (25)

Mr Ainsworth	Mrs Holmes	Mr Nicholls	Mr Shave
Mr Baker	Mr Johnson	Mr Omodei	Mr Sweetman
Mr Barron-Sullivan	Mr Kierath	Mrs Parker	Mr Tubby
Mr Board	Mr Kobelke	Mr Pendal	Dr Turnbull
Mrs Edwardes	Mr MacLean	Mr Prince	Mr Cunningham *(Teller)*
Mr Grill	Mr McNee	Mrs Roberts	
Mrs Hodson-Thomas	Mr Masters		

Noes (28)

Ms Anwyl	Mr Cowan	Ms MacTiernan	Mr Ripper
Mr Barnett	Mr Day	Mr Marlborough	Mr Strickland
Mr Bradshaw	Dr Edwards	Mr Marshall	Mr Thomas
Mr Brown	Dr Gallop	Mr McGinty	Mrs van de Klashorst
Mr Carpenter	Mr Graham	Mr McGowan	Ms Warnock
Dr Constable	Dr Hames	Ms McHale	Mr Wiese
Mr Court	Mr House	Mr Riebeling	Mr Osborne *(Teller)*

New clause thus negatived.

Clause 6: *Evidence Act 1906* amended and saving -

Mr PRINCE: I move -

Page 5, lines 1 and 2 - To delete the lines and substitute the following -

(b) by deleting the items commencing "s.200" and "s.201".

This is a consequential amendment.

Amendment put and passed.

Clause, as further amended, put and passed.

Clause 7: *Health Act 1911* amended -

Mr PRINCE: I move -

Page 9, line 26, to page 10, line 3 - To delete the lines.

Subsection (13) of the Davenport Bill began with the words "Proceedings for an offence against subsection (3)". Subsection (3) does not exist anymore because it has gone into the Criminal Code. This is a consequential requirement, otherwise the provision would have no effect. Subsection (13)(a) states that proceedings are not to be commenced without the written consent of the Minister, which I find objectionable. The Minister should not have any say in whether proceedings happen or do not happen. I seek the agreement of the Chamber to delete proposed subsection (13) because it relates to the offence under the Health Act of the doctor not performing an abortion properly. That offence has now been moved to the Criminal Code, so this subsection is not required.

Amendment put and passed.

Clause, as further amended, put and passed.

Report

Bill again reported, with further amendments, and the report adopted.

ADJOURNMENT OF THE HOUSE

MR COWAN (Merredin - Deputy Premier) [2.52 am]: I move -

That the House at its rising adjourn until 11.00 am today.

My purpose is to give everyone an hour off. I am sure all members deserve it.

I also commend and thank parliamentary counsel for the hours that he has spent in providing services for all members of this House.

[Applause.]

Question put and passed.

House adjourned at 2.53 am (Thursday)

QUESTIONS ON NOTICE

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

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND APPLICATIONS

3182. Mr GRAHAM to the Minister for Lands; Fair Trading; Parliamentary and Electoral Affairs:

(1) Has any organisation within the Minister's portfolio area made application to the Federal Government for grant funds made available under the Commonwealth Regional Telecommunications Infrastructure Fund?

(2) If yes to (1) above -

(a) for what purpose was the application made;
(b) which organisation made the application;
(c) how many applications were made;
(d) how much funding is each application seeking;
(e) what amount of state funding is committed to each application;
(f) which other State bodies are joint applicants;
(g) which other State bodies have an interest in each application;
(h) on what date was each application submitted;
(i) has the Minister sought discussion with the Federal Minister to support each application;
(j) which Federal Members of Parliament have supported each application;
(k) will the Minister make a copy of each application available?

(3) If no to (1) above, why was no application made?

Mr SHAVE replied:

DEPARTMENT OF LAND ADMINISTRATION

(1) No.

(2) Not applicable.

(3) The Department of Land Administration has advised that proposals for additional facilities to allow electronic access to DOLA's services by the regional, rural and remote community of Western Australia are being formulated. The Commonwealth Regional Telecommunications Infrastructure Fund is one of a number of potential funding sources. DOLA's immediate telecommunications requirements are met from within existing budget appropriations.

MINISTRY OF FAIR TRADING

(1) No.

(2) Not applicable.

(3) The ministry has advised that it was not previously aware of its eligibility to pursue grant funds from the program. The ministry's immediate telecommunications requirements are met from within existing budget appropriations. The ministry is currently developing initiatives, consistent with it's new strategic plan, which may benefit from the program. The ministry will examine, in detail, the suitability of those initiatives for grants from the program.

LANDCORP

(1) No.

(2) Not applicable.

(3) LandCorp has advised that the purposes of the funding fall outside the scope of its activities.

WESTERN AUSTRALIAN ELECTORAL COMMISSION

(1) No.

(2) Not applicable.

(3) The Commission has advised that it does not have any regional operations.

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND APPLICATIONS

3186. Mr GRAHAM to the Minister representing the Minister for Finance:

(1) Has any organisation within the Minister's portfolio area made application to the Federal Government for grant funds made available under the Commonwealth Regional Telecommunications Infrastructure Fund?

(2) If yes to (1) above -

(a) for what purpose was the application made;
(b) which organisation made the application;
(c) how many applications were made;
(d) how much funding is each application seeking;
(e) what amount of state funding is committed to each application;
(f) which other State bodies are joint applicants;
(g) which other State bodies have an interest in each application;
(h) on what date was each application submitted;
(i) has the Minister sought discussion with the Federal Minister to support each application;
(j) which Federal Members of Parliament have supported each application;
(k) will the Minister make a copy of each application available?

(3) If no to (1) above, why was no application made?

Mr COURT replied:

The Minister for Finance has provided the following response:

(1) Nil.

(2) Not applicable.

(3) No organisation within the portfolio of the Minister for Finance could identify any relevant projects for funding.

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND APPLICATIONS

3188. Mr GRAHAM to the Minister representing the Minister for Racing and Gaming:

(1) Has any organisation within the Minister's portfolio area made application to the Federal Government for grant funds made available under the Commonwealth Regional Telecommunications Infrastructure Fund?

(2) If yes to (1) above -

(a) for what purpose was the application made;
(b) which organisation made the application;
(c) how many applications were made;
(d) how much funding is each application seeking;
(e) what amount of state funding is committed to each application;
(f) which other State bodies are joint applicants;
(g) which other State bodies have an interest in each application;
(h) on what date was each application submitted;
(i) has the Minister sought discussion with the Federal Minister to support each application;
(j) which Federal Members of Parliament have supported each application;
(k) will the Minister make a copy of each application available?

(3) If no to (1) above, why was no application made?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response:

Lotteries Commission

(1) Nil.

(2) Not applicable.

(3) The Lotteries Commission could not identify any relevant projects for funding.

Office of Racing, Gaming and Liquor

(1) No. The Office of Racing, Gaming and Liquor, Burswood Park Board, Western Australian Greyhound Racing Association and Totalisator Agency Board have not applied for grants funds made available under the Commonwealth Regional Telecommunications Infrastructure fund.

(2) Not applicable.

(3) The Office of Racing, Gaming and Liquor, Burswood Park Board, Western Australian Greyhound Racing Association and Totalisator Agency Board could not identify any relevant projects for funding.

HOMESWEST KWINANA REDEVELOPMENT

McCusker and Harmer Conveyancing Work

3515. Ms MacTIERNAN to the Minister for Housing:

Will the Minister table all documentation relating to the allocation of Homeswest conveyancing work to McCusker and Harmer in respect to the Kwinana redevelopment?

Dr HAMES replied:

The requested documentation is tabled. [See paper No 1383.] Confidential content has been removed.

PARKERVILLE AMPHITHEATRE CAR PARK

3594. Mr BROWN to the Minister for Lands:

(1) Further to question on notice 2739 of 1998, does the Minister maintain that negotiations between the Shire of Mundaring and Mr John Joseph Jones broke down as a result of Mr Jones refusing to allow public access way?

(2) Is the Minister aware that on 20 December 1988 the Shire of Mundaring recorded in its minutes a decision to accept Engineer Mr John Stevenson's Work's Committee recommendation for a pedestrian walk trial to be constructed on a two metre wide strip of the existing Special Lease 3116/10644 offered as a gift to the Council from Mr John Joseph Jones which is adjacent to Victoria Road?

(3) Is the Minister also aware the Shire Engineer said in his report "The route will avoid possible boundary disputes or later problems of public liability arising out of a route adjacent to the parking area. It is suggested that the route shown on Drawing C675 is the best which can be achieved and should therefore be proceeded with"?

(4) Is the Minister aware if Mr John Joseph Jones agreed with and permitted the Shire of Mundaring access to the land proposed and permitted the Shire to construct a walk trail prior to the new lease document being issued?

(5) Can the Minister advise if the Department of Land Administration (DOLA) endorsed the plan and executed a demisal of the land offered by Mr Jones for the walk trail?

(6) Did DOLA offer Mr Jones a new ten year lease with a separate Reserve created for the walk trail under Shire of Mundaring's complete control?

(7) If so, can the Minister explain why the carefully drawn up and recommended plan of the Shire's professional engineer was rejected after such a long and thoughtful negotiation with the former lessee?

Mr SHAVE replied:

(1) No. Mr Jones was unable to reach an agreement with the Shire of Mundaring on matters relating to public liability insurance.

(2) The Department of Land Administration (DOLA) is aware of this information. The land could not be offered as a gift by Mr Jones being Crown land, however Mr Jones agreed to surrender his lease to allow for this excision.

(3) DOLA does not have a copy of the Shire Engineer’s full report but was aware of the proposal and has a copy of Drawing C675.

(4) No.

(5) Yes. Mr Jones surrendered his lease and he was issued with a new lease, excluding the portion of land required to enable the continuation of this walk trail, in line with Drawing C675.

(6) Yes, however the portion of land required for the walk trail was amalgamated with "Parklands" reserve 32484 vested in the control of the Shire of Mundaring.

(7) The plan was implemented by DOLA. However, in August 1992 the Shire advised that as a result of a recent upgrading of Victoria Road this walk trail was considered dangerous because of its close proximity to the gravel carriageway. Local residents had also voiced their objections to the unsatisfactory nature of the trail as it was unable to be negotiated by all users and it was dangerous.

CHILD AND ADOLESCENT MENTAL HEALTH SERVICES

3600. Mr McGINTY to the Minister for Health:

(1) Further to question on notice 3310 of 1998 will the Minister outline the days and working hours of mental health workers to be employed by the South-East Corridor Child and Adolescent Mental Health Service?

(2) Will they work after-hours and on weekends?

(3) Will they all be trained in the specialist area of child and adolescent mental health?

(4) Will the Minister explain the nature, extent and hours of work undertaken by the telephone triage at Princess Margaret Hospital?

(5) Will the Minister explain which agency provides to young mental health sufferers' urgent domiciliary assessment seven days a week and what this service involves?

(6) Will the Minister explain the nature, extent and hours of work undertaken by the emergency services provided by Princess Margaret Hospital and Psychiatric Emergency Services (PET)?

(7) Does Princess Margaret Hospital have a community mental health nurse and does he/she work after-hours and on weekends?

(8) Does the PET team attend crises involving young people aged under 16?

Mr PRINCE replied:

(1) Mental Health workers will provide inpatient services 24 hours per day seven days a week, supported by a Community Child & Adolescent Mental Health Service that may be able to provide services outside normal office hours. This is still under negotiation.

(2) It is expected they will work after hours and possibly at weekends. Until the team is appointed, this is still under negotiation.

(3) Yes.

(4) There is no telephone triage conducted at Princess Margaret Hospital (PMH). Telephone inquiries are received, complaint listened to and caller advised if concerned to bring the child to PMH for assessment. On occasions calls may be put through to the ward 4H where, depending on the experience of the staff member receiving the call, advice maybe provided. This is an ad hoc service.

(5) All Health Department agencies provide ‘urgent domiciliary assessment’ to young people 5 days per week with the exception of Psychiatric Emergency Team (PET) who are on call 24 hours a day seven days per week. The services from each agency generally involve a visit by a Psychiatrist and Nurse to the individual’s home in order to provide an accurate assessment determining if that person is a danger to themselves and/or others.

(6) The nature of work undertaken by emergency services at PMH is assessment and appropriate management. The service is available 24 hours a day, seven days a week. The PET provides a 24 hour service. It is staffed by Community Mental Health Nurses and psychiatrists to help people in the community who are suffering from a mental illness requiring urgent professional assessment and treatment. It provides the following services on a 24 hour basis:

Initial advice and assessment over the phone

Emergency counselling and support to clients family and care givers, and emergency community based assessment within some of the Perth metropolitan area.

Information on all aspects of mental health

Referral to community resources

A consultancy service to other professional groups and agencies throughout WA

(7) PMH does have a community mental health nurse who works Monday to Friday with no after hours or weekend work.

(8) Yes, the PET attends crisis of young people who have evidence of mental illness or significant self harm requiring immediate attention.

DENTAL TREATMENT WAITING LISTS

3610. Mr McGINTY to the Minister for Health:

What are the latest waiting figures for people waiting for dental work at each of the Perth Dental Hospitals and other government dental clinics in terms of waiting time, and the total number of people waiting for treatment?

Mr PRINCE replied:

The total number of patients waiting for general dental care at public clinics in March 1998 was 11,075. A further 2,200 were waiting care through the Country Patients' Dental Subsidy Scheme. The average waiting period is approximately 10 months. The following lists the numbers on the waiting list and approximate waiting times:-

	Number of Patients	**Waiting Times**
Perth Dental Hospital	3428	9 Months
Fremantle Dental Clinic	2115	12 Months
Rockingham Dental Clinic	1586	6 Months
Bunbury Dental Clinic	305	4 Months
Vasse Dental Clinic	154	4 Months
Liddell (Victoria Park) Dental Clinic	1081	8 Months
Swan Dental Clinic	522	6 Months
Goldfields Dental Clinic	14	2 Weeks
Mt Henry	130	6 Months
Shalom Coleman (North Perth) Dental Clinic	704	8 Months
Sir Charles Gairdner Dental Clinic	226	6 Months
Warwick Dental Clinic	696	8 Months
Geraldton Dental Clinic	114	2 Months

GAMBLING EXPENDITURE

3640. Dr CONSTABLE to the Minister representing the Minister for Racing and Gaming:

What amount was spent in the last five years, and in the current year, on the major forms of gambling available in Western Australia, including -

(a) Lotto;

(b) Scratch 'n' Win;

(c) Soccer Pools;

(d) the various Casino games; and

(e) the various racing codes?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response:

In order to appropriately inform the member in relation to this question, the Minister for Racing and Gaming has written to the member enclosing extracts from the Australian Gambling Statistics 1972-73 to 1996-97, which sets out information on the amount spent on the major forms of gambling available in Western Australia, together with a table prepared by the Lotteries Commission showing sales for Lotto, Scratch 'n' Win, and Soccer Pools. The Minister for Racing and Gaming decided to write to the member with the required information because of the considerable amount of data involved.

QUESTIONS WITHOUT NOTICE

TAXES AND CHARGES INCREASES

1126. Dr GALLOP to the Premier:

I refer to the Premier's media statement of 2 May 1996 which, under the headline "Good News for WA households", states that total charges for a typical household in the metropolitan area were expected to fall by more than $37 or 1.9 per cent in 1996-97. Why did the Premier issue a media statement two years ago claiming lower taxes and charges will save a typical household $37 a year, when he cannot tell this Parliament how much increased taxes and charges in next year's Budget will cost a typical household? Did he not mislead Parliament yesterday when he claimed it was very difficult to provide that information or is he simply too embarrassed to tell the truth about his Government's tax take?

Mr COURT replied:

I said yesterday that if the Opposition wanted that information, the Government will provide it. However, at the same time we will provide the basis on which the projection is made. Similarly the Opposition might want to make available the basis on which it makes those calculations.

FAMILY CENTRE, COODANUP

1127. Mr MARSHALL to the Minister for Family and Children's Services:

The recent budget allocation of $350 000 for a family centre in Coodanup was welcomed by the community. What extra services will this new project provide?

Mrs PARKER replied:

I thank the member for Dawesville for the question. The aim of the proposed Coodanup community house will be to provide a range of family support services for the people from that area. The services will be provided on an outreach basis by staff of Family and Children's Services and other government and non-government agencies.

A range of projects and services on a preliminary list are planned. That involves programs such as the parent link home visiting service, a parent information centre, workshops and neighbourhood and support work meetings, best start activities for Aboriginal children from 0 to 6 years of age, tenancy support programs and play groups. Some clinical services will also be provided there; for example, family therapy. That facility, as do those in other locations, will provide a great meeting place at which these programs can occur. It will strengthen the community for the years ahead. I anticipate more of the good support of the member for Dawesville for all those programs and the people accessing them.

HEALTH FUNDING

1128. Mr McGINTY to the Premier:

I refer to the Premier's answer yesterday that it is not government policy to use asset sales for recurrent expenditure and ask -

(1) Why did he use $11m from the sale of Healthcare Linen in 1996-97 for recurrent hospital spending?

(2) Why did he use revenue from the sale of land at Mt Henry for recurrent spending in 1997-98?

(3) Why is the Health Minister again planning to use asset sales in next year's budget to prop up our ailing health system?

(4) How can the Premier say it is not government policy when he consistently uses asset sales to bail out our hospitals?

Mr COURT replied:

(1)-(4) I am sorry that the member has it wrong. Treasury's policy is that the funds from asset sales must go back into capital works. That does not always occur immediately. Like any organisation, the Government has a cash flow, which is now clearly spelt out in the budget papers. The proceeds from an asset sale are not necessarily spent the year the asset is sold. However, when replacement assets must be funded, those proceeds must be used to pay for them. It is a matter of following the cash flows, which members opposite can do as a result of the way the accounts have been presented.

HEALTH FUNDING

1129. Mr McGINTY to the Premier:

Given the Premier's answer; how does he explain the briefing note provided to the Opposition by Treasury which says that the 1996-97 figures reflect higher than initially budgeted state outlays on hospitals, which were funded from capital revenues?

Mr COURT replied:

As I explained, if the member followed the cash flows, he would see that the proceeds from asset sales must be used in capital works programs. That does not always occur immediately. The beauty of our accounts presentation is that members opposite can follow all the cash flows of the different agencies.

Several members interjected.

Mr COURT: If an agency is running a surplus or a deficit it can be explained how the deficit or surplus is funded. For the first time, members opposite can follow the cash flows.

ANGLO-INDIAN CULTURAL CENTRE

1130. Mr JOHNSON to the Minister for Multicultural and Ethnic Affairs:

Last weekend the Minister attended the opening of the Anglo-Indian cultural centre in my electorate. What is the purpose of the centre and what services will it provide to the community?

Mr BOARD replied:

I thank the member for the question and I congratulate the member for Hillarys on the work he has done in helping to bring together that centre. That $500 000 project is typical of the activities of more than 300 ethnic organisations in Western Australia. With support from the Lotteries Commission, and much fundraising efforts through their own members and the wider community, it has raised funds to build a cultural centre. It will service not only that ethnic community but also the wider community by bringing services to young people, the elderly and people less fortunate in the community.

There are more than 300 ethnic organisations in Western Australia to which tens of thousands of volunteers belong. They do incredible work in the community.

Dr Gallop: What is your view on the Queensland Liberal Party -

Several members interjected.

The SPEAKER: Order! The Minister was allowing the Leader of the Opposition to make the interjection; I think he understands it.

Mr BOARD: I am sure the Leader of the Opposition supports the fact that a large number of people in Western Australia add value to our cultural diversity and support the wider community. It is incumbent on all of us to acknowledge the work they are doing and the way they are putting something into not only their community but also the wider community.

ALLEN, MR RUSSELL

1131. Mr KOBELKE to the Minister representing the Minister for Transport:

The Minister would be aware that Mr Russell Allen is a member of the board of the Fremantle Port Authority. He would also be aware that Mr Allen is a partner of Freehill Hollingdale and Page - Patrick Stevedores' lawyers - and that he is the national manager and chairman of that firm's employee relations practice group.

(1) Has Mr Allen withdrawn from all Fremantle Port Authority deliberations concerning any of the matters affecting Patrick's interests on the Fremantle waterfront to ensure he did not exercise any influence over other commissioners in regard to such matters?

(2) If so, from which meetings of the Fremantle Port Authority did he withdraw?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

(1) Yes.

(2) From relevant parts of the meeting of 16 April 1998. At other recent meetings he has declared an interest whenever an issue involving Patrick has arisen and has not voted.

PATRICK STEVEDORING GROUP

Assignment of Berth Leases

1132. Ms MacTIERNAN to the Minister representing the Minister for Transport:

(1) Has there been an assignment of any of the berth leases held by the Patrick stevedoring group in the last 12 months?

(2) If yes -

(a) who were the assignee and the assignor corporations respectively;

(b) when did the assignment take place;

(c) what justification was given for the assignment; and

(d) was the assignment discussed by Fremantle Port Authority officials with the Minister for Transport or his staff?

Mr OMODEI replied:

The Minister for Transport has provided the following response -

(1) Yes.

(2) (a) The assignor was Patrick Stevedores No 1 Pty Ltd and the assignee Patrick Stevedores Operations No 2 Pty Ltd.

(b) The date of the assignment was 1 October 1997.

(c) Corporate restructure.

(d) No.

Several members interjected.

The SPEAKER: Order!

Dr Gallop interjected.

The SPEAKER: Order! I formally call to order the Leader of the Opposition for the first time. I have given the call and I am trying to give the call to the member for Southern River who has not said anything yet.

Mrs Holmes: I did not really have a chance to say anything.

BREAST CANCER AWARENESS

1133. Mrs HOLMES to the Minister for Health:

(1) Is the Minister aware of "Home and Away " television star, Belinda Emmett, being diagnosed with breast cancer?

(2) If so, does the State have any plans to increase awareness of breast cancer for women?

Mr PRINCE replied:

I thank the member for the question and raising the issue.

(1)-(2) I should express some gratitude to Belinda Emmett for making public the fact that she has breast cancer. Not many women would wish to make it public. She is a young woman of 24 years. It is rare and unusual for somebody of that age to have cancer. For that young woman, who enjoys a good deal of popularity in society, to come out and say, "I have breast cancer; I have a lump in my breast; it has been detected and it will be operated on" is a very good example to many other young women. The screening processes we have in place, and the technology and expertise that exist make it very difficult to detect breast cancer in a woman that young. The process is aimed mostly at the target group of 50 to 69 years, which has always been the target group for screening. I thank the member also for her activities in recent weeks. She has tabled in this House petitions which contain a total of over 1 400 signatures from people in her electorate seeking some resolution to what will happen in Cannington. Members know that the service there is being closed because the lease has run out.

Mr McGinty: You shut it down.

Mr PRINCE: The lease on the premises has run out. The Health Department runs screening programs throughout the whole of the metropolitan area and the State, and they are very effective. It is a first class exercise to raise breast cancer awareness in women, particularly in the target group, and I encourage everybody to do that. Indeed, I have suggested in the past that members can take it up through their electorate officers. The Fremantle division of general practice has recently taken the initiative of encouraging general practitioners to raise the matter with their patients, even when they present for some other purpose. In other words, there are many ways of raising awareness and of encouraging women to be screened, particularly women in the target group.

Mr McGinty: They cannot go to Cannington because it is closed.

Mr PRINCE: A service that will provide the same very high quality screening for all women who want and need it will come from the Cannington area. The process has been quite open. As members know, the process has been announced and is out to tender. The result will provide the best possible screening service at the best return for the dollar for all the people of this State.

CRISIS SUPPORT FUNDING

1134. Ms ANWYL to the Minister for Family and Children's Services:

Will the Minister explain why she has cut funding for crisis support in next year's Family and Children's Services budget by $126 000 when non-government organisations are reporting a more than 50 per cent increase in demand for their emergency relief services?

Mrs PARKER replied:

There has been quite a significant increase across the State of crisis support services, particularly for domestic violence. This year a range of new refuges are being established, particularly in regional areas, with an increase in funding to those services. The question needs to be considered in the light of which part of the budget document we are looking at.

Ms Anwyl: Accommodation.

Mrs PARKER: Some of the accommodation services are funded jointly with the commonwealth supported accommodation assistance program.

Ms Anwyl: Emergency relief and crisis support funds have been cut.

The SPEAKER: Order!

Mrs PARKER: Domestic violence services have increased across the State. It would be interesting to compare the increases in emergency accommodation for women and children fleeing domestic violence.

GOVERNMENT EMPLOYEES' HOUSING, HALLS CREEK

1135. Mr SWEETMAN to the Minister for Housing:

What action will be taken with respect to the security of the housing of government employees in Halls Creek as a result of the riots that occurred in that town in January 1998?

Dr HAMES replied:

I thank the member for some notice of this question. Yes, there were riots in Halls Creek in January of this year and concern has been raised about the security of government employees, particularly police officers and their wives living in the town.

With respect to the security of the housing for the government employees, an officer of the Government Employees Housing Authority visited Halls Creek and inspected the town's 38 GEHA houses. Improvements to the security of 26 of those houses are required and will be carried out by June 1998 at a cost of $74 500. Those security improvements will include deadlocks, window and/or patio locks, security screen doors and sensor lights. GEHA has had some problems, which all members would recognise, in the standards and quality of the provision of housing to government employees. We are working very hard to try to resolve those problems. I will be bringing to members' attention a new program that we are putting in place to improve significantly the standard of their housing. As part of that program, we have decided that eight very old houses in Halls Creek are in need of replacement. Through our three years capital works program initiative those eight houses will be replaced. We are aware of the problem in Halls Creek, which is being addressed.

POLICE SERVICE RECURRENT FUNDING

1136. Mrs ROBERTS to the Minister for Police:

Will the Minister explain why the Western Australia Police Service's recurrent funding allocation for the next year has been cut by 2.3 per cent in real per capita terms, when between 1993 and 1997 breaking and entering offences increased by 7 per cent, assaults increased by 50 per cent, assaults against police increased by 46 per cent, stealing with violence, including armed robbery, increased by 115 per cent, damage offences increased by 37 per cent and the total number of offences reported to police increased by 19 per cent?

The SPEAKER: Before I give the Minister the call, I remind members that this opportunity is given to members to ask a question, not make a speech.

Mr DAY replied:

The information with which I have been provided by the Police Service indicates a 2.1 per cent increase in current funding for the Police Service and a very substantial increase in capital funding of 26.8 per cent.

We must recognise that over the five years that this Government has been in office there has been an enormous increase in funding for the Police Service, from about $240m in the last year of the Labor Government -

Mrs Roberts: All this Government has done is cut the funding.

Mr DAY: An increase from $240m, as it was in the last year of the Labor Government, to $405m, as it is now in comparable terms, could not be classified as a cut. If the member for Midland can describe that as a cut, she is ingenious in her mathematics.

This Government has given a great deal of priority and additional resources to the Police Service in a whole range of areas. An extra 800 police officers are on the streets and substantial capital funding has been provided for many new stations. The Hillarys station will be opened next week and in a few weeks the Murdoch station will be opened. I have just opened the Morley station, Bunbury will get a major new regional complex and stations at Roebourne, Halls Creek and Kununurra have just been opened, and I could mention many more. The member for Midland might ask the member sitting on her right whether he believes that Lockridge should get a new station as is planned under

this year's Budget. This Government is giving a great deal of attention to dealing with law and order. It has increased penalties for crimes and resources for the Police Service and is providing the legislative backup for it to do its job effectively.

COALITION LABOUR RELATIONS POLICIES

1137. Mr BARRON-SULLIVAN to the Minister for Labour Relations:

Some notice of this question has been given. The Opposition and some trade union identities have consistently claimed that coalition labour relations policies will result in damaging outcomes for Western Australia. Does the Minister have any information to disprove those predictions?

Mr KIERATH replied:

I thank the member for some notice of this question. I would like to show members of the House a graph illustrating Western Australia's unemployment levels versus the national average. Members will note that this State always had a higher unemployment rate until the change in government in 1993, and since then it has been consistently lower than the Australian average.

Some members opposite and their backward looking colleagues in the union movement predicted that under the coalition Government workers' wages would be slashed to a mere pittance and they would be thrown on the unemployment scrapheap. In other words, they were prophets of gloom and doom. Unfortunately for them, the good news just keeps on rolling in. Again last month, Western Australia had the lowest overall unemployment and youth unemployment rates of any State. We could do even better if it were not for the native title mess the Labor Party left behind.

I am sure members opposite will argue that these good figures have come at the cost of lower wages. That is not true: Western Australia has the second highest wage level in the country and is rapidly approaching the highest level. Perhaps their argument might be that it is compared to a very low base; that is, that the levels in the other States are very low. I am pleased to announce that rather than presiding over a fall in wages, the federal coalition Government has presided over a large increase. An article published in *The Sydney Morning Herald* , ironically on 1 May, states -

> The strong rise in real wages during the Coalition's two years in office has outstripped growth during the entire 13 years of the former Labor government.

Over two years of a federal coalition Government, we have seen greater wage increases than the Labor Government provided in 13 years. While the Labor Government was in office it presided over high inflation, but under this Federal Government inflation has been almost nonexistent.

In summary, Western Australia has the lowest unemployment rate of any State and our wage increases have been better than the federal Labor Government provided over 13 years in office, and inflation is not a factor. This is proof that the real workers of this State are better off under coalition Governments than they have been under Labor Governments; in fact, they are worse off when Labor Governments are in office.

BUDGET PERFORMANCE MEASURES

1138. Mr KOBELKE to the Minister for Labour Relations:

My question relates to the production of objective performance indicators in the Budget. In the 1998-99 budget papers, it is stated that performance measures for the Department of Productivity and Labour Relations in respect of public sector relations reform policies is "the Minister's perception of the extent to which DOPLAR has improved labour productivity in the public sector".

(1) How did the Minister measure his perception?

(2) Can he explain his perception that public sector labour productivity has improved by 90 per cent?

(3) Given this dramatic increase in productivity, will he support a pay rise for public servants to reflect this increase?

Mr KIERATH replied:

(1)-(3) I must take the House back five and a bit years to when members opposite were last in power. They did not have any programs of substance or performance indicators of significance. Instead they did surveys and ran polls. In fact, one of their Ministers ran a telephone line to find out about the latest rumours. I think it was Hon David Smith, the former member for Mitchell.

Mr Kobelke: Did you ring it yourself?

Mr KIERATH: No. The Labor Government started the practice of asking Ministers for their perception of performance and productivity. I must confess that I have been asked by my department for my performance perceptions and I have filled out the relevant surveys. Obviously, departmental staff have lifted their performance and I am extremely pleased with it. I have supported their pay increases, and I will continue to support all pay increases for public servants if they come within the Government's wages policy guidelines.

Let us review the last three years during which members opposite were in government. What wage increases did public servants in this State get? From November 1991 they got absolutely zero. Under this Government's policy, they are guaranteed at least 7 per cent over two years. We are proud of our wages record -

Mr Kobelke: That is your perception.

Mr KIERATH: No, I attended the Labour Minister's conference in New Zealand and discovered that every other State would love to have the wages policy we have, because we are giving people wage increases but in conjunction with productivity increases, whereas other States have had to give them without such productivity increases. I am very proud of this Government's wages policy. If public servants ask for wage increases within those guidelines, I will support them 100 per cent.

CANNABIS EXPIATION NOTICE SYSTEM

1139. Mr BAKER to the Minister for Family and Children's Services:

The Minister is responsible for implementing the Western Australian drug abuse strategy. I refer to the recent report to the Ministerial Council on Drug Strategy concerning the effect of the cannabis expiation notice system in South Australia, which appears to have resulted in a 250 per cent increase in cannabis possession offences in that State in recent years. In view of these startling figures, will the Minister confirm that the Western Australian Government has no intention of introducing a cannabis expiation notice system in this State based on the South Australian model?

Mrs PARKER replied:

The State Government certainly believes that cannabis is a harmful drug. It is now known to be quite an addictive drug. The report to which the member for Joondalup referred was tabled at the Ministerial Council on Drug Strategy in Melbourne. It was inconclusive on the reported social and economic benefits of the expiation notice scheme. It is interesting to note that by a majority vote the council deleted the recommendation to note that significant benefit. If there is to be any change in drug law enforcement we must consider what has happened with other experiments and programs.

Dr Gallop: Have you spoken to the Police Department about its policies?

Mrs PARKER: I have certainly spoken to the police here and I also had discussions with very senior police from South Australia last December. I was advised that the expiation notice scheme had two aims: Firstly, to reduce the number of people who were going through the courts on cannabis related charges and, secondly, to break the link between cannabis and organised crime. Police officers advised me in December that neither goal was achieved.

The member for Joondalup has advised that over recent years there has been an increase of 250 per cent in the number of offences under the expiation notice scheme. It is interesting to note that only 45 per cent of people who are given an expiation notice are actually paying it. Fifty-five per cent of the increased number end up in court anyway. The scheme has failed; it has not reduced the number of people who go to court.

The second goal of breaking the link with organised crime has also been a great disappointment to the police in South Australia, because they have found that the allowance to possess 10 plants or fewer for personal use has seen the syndication of cannabis growing in backyards. With cloning and hydroponics, cannabis is no longer the type of plant to be hidden between tomato bushes. The syndicated growth has increased significantly the link between cannabis growing and organised crime in South Australia. There is evidence of a supply out of that homegrown market in South Australia to Melbourne and Sydney.

Several members interjected.

Mr Carpenter: You are an embarrassment. There are people here watching you!

The SPEAKER: Order! People are watching the member for Willagee!

Mrs PARKER: It is interesting that the member for Fremantle would say that he is embarrassed to hear this -

Mr McGinty: I said that you are embarrassing yourself. Clean the wax out of your ears.

Mrs PARKER: The member for Fremantle is embarrassed because he has been a great proponent of the expiation scheme. If he is proposing that Western Australia should take that path, the results in South Australia should be a very solemn warning to him. We are considering proposals and alternatives. The Government will not go down the expiation notice scheme path, as South Australia has, and it will not be going soft on cannabis.

WOMEN'S POLICY DEVELOPMENT OFFICE

1140. Ms WARNOCK to the Minister for Women's Interests:

Page 1319 of the budget papers states that the effectiveness of the leadership role of the Women's Policy Development Office is to be measured by the Minister and that the quality is to be measured by the satisfaction of stakeholders.

(1) Who are the stakeholders?

(2) What criteria did the Minister use in measuring the effectiveness of the office?

(3) Will the Minister explain why she continues to be "very satisfied" with the office's leadership when only 65 per cent of stakeholders are satisfied?

Mrs PARKER replied:

(1)-(3) It is interesting that the member asked the second question about stakeholders and then reported that a response was received from stakeholders -

Dr Gallop: Do you know who they are?

The SPEAKER: Order!

Mrs PARKER: The role of the Women's Policy Development Office is important in the context of both government and non-government agencies and their responses to women. I thought the member for Perth would be very supportive of that type of project and activity -

Ms Warnock: I wonder if you are very satisfied if the stakeholders, whoever they are, are not.

Mrs PARKER: We have launched an audit of the last two year plan for women and an invitation for people -

Dr Gallop: Who are the stakeholders?

Mrs PARKER: Including stakeholders both government and non-government agencies -

Several members interjected.

The SPEAKER: Order! Members, in this place we do not refer to members by their personal names. I note that a couple of members have managed to get that in but it is a practice that should cease. Perhaps we should give the Minister a chance to get the answer out and perhaps she should do so reasonably quickly.

Mrs PARKER: The member was not present at that launch. The stakeholders in the Women's Policy Development Office and the Government's two year plan for women are government agencies and for domestic violence and other plans that includes non-government agencies. The stakeholders in the action plan include, for example, Homeswest and the Fire Brigade, which has a policy of increasing the number of women involved in that agency. In domestic violence services a range of organisations provide support services, not only to women and children affected by domestic violence, but also to the perpetrators. The stakeholders range from small community groups through to the Ministry of Justice and the Health Department. That is a wide range. I am pleased with the work being done on the difficult task of coordination throughout government to achieve a plan for women.
