



WESTERN AUSTRALIA

# **Parliamentary Debates**

**(HANSARD)**

THIRTY-FIFTH PARLIAMENT  
FIRST SESSION  
1998

LEGISLATIVE ASSEMBLY

Tuesday, 17 March 1998

# Legislative Assembly

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**THE SPEAKER** (Mr Strickland) took the Chair at 2.00 pm, and read prayers.

## DEPUTY CHAIRMEN OF COMMITTEES

*Statement by the Speaker*

**THE SPEAKER** (Mr Strickland): In accordance with Standing Order No 22, I nominate as Deputy Chairman of Committees the member for Mitchell, and release from nomination the member for Roe.

## MEDIA ACCESS TO ABORTION DEBATE

*Statement by the Speaker*

**THE SPEAKER** (Mr Strickland): I have had a request to allow media access to all sound and vision of the debates of this House on the Criminal Code Amendment Bill 1998.

In the past I have allowed either the second reading speech only or the principal speaker for the Government and the principal speaker for the Opposition to be televised. As on this Bill there is no lead speaker for or against I have decided, for this Bill only, to allow access to the full second reading debate. This will not extend to the Committee stage, nor to the third reading. I do not anticipate that this access will apply to any other Bill at this time. Should the Criminal Code Amendment (Abortion) Bill 1998 arrive in this House from the Council, it is unlikely that I would approve anything much more than the televising of the second reading speech, and would allow that only if it were apparent to me that there was a real additional value in doing so. As I am conscious that generally speaking this is a matter on which both Houses should move in concert, I will look upon this as an experiment which the Presiding Officers Televising Advisory Group will take into account in the future.

Members should also be aware that I have approved the taking of still photographs from both side doors of the Chamber for the first half hour of the debate on the Criminal Code Amendment Bill.

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

*Petition*

Ms Warnock presented the following petition bearing the signatures of 853 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 for the repeal of Sections 199, 200 and 201 of the W.A. Criminal Code. We urge you to amend the law to reflect the view that the decision to terminate a pregnancy is one for the woman in consultation with her doctor.

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

A similar petition was presented by Ms Anwyl (209 signatures).

[See petitions Nos 143 and 146.]

## NORTHBRIDGE PROSTITUTION

*Petition*

Ms Warnock presented the following petition bearing the signatures of 284 persons in the Northbridge area -

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

Our security and enjoyment of life is threatened by street soliciting and the undesirable element that is attracted to our residential area by prostitution.

Syringes, swabs and condoms are discarded in the streets and litter the street verges and laneways.

The police indicate that they have little recourse under the existing legislation. The incidence of street soliciting and associated traffic and offensive behaviour is increasing as a consequence of this activity.

Street soliciting is unlawful and incompatible with the residential status of our locality. We are requesting your urgent assistance to restore the peace, safety and harmony of our neighbourhood.

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

[See petition No 144.]

## **BROTHELS**

### *Petition*

Mr Minson presented the following petition, sponsored by the Catholic Women's League of Geraldton, bearing the signatures of 171 persons -

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

We, the undersigned oppose the legalization or regulation of brothels as it fails to serve the good order of society and is destructive to communities and families.

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 145.]

## **NURSING HOME BEDS**

### *Petition*

Mr Kobelke presented the following petition bearing the signatures of 19 persons -

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

We, the undersigned believe that nursing home care should be equally available to all Australians on the basis of clinical need, irrespective of a person's capacity to pay for that care. Accordingly we call on the Federal Government to abolish the entry fee and the extra daily fees for those needing a nursing home bed.

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 147.]

## **PUBLIC HOSPITAL WAITING LISTS**

### *Petition*

Mr Brown presented the following petition bearing the signatures of 21 persons -

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

We, the undersigned request that waiting lists in public hospitals are reduced and the process of priority assessment is made transparent.

Thus at least the following areas need investigation.

- (1) Doctors using public facilities for private practice should be required to assist in clearing the current backlog of patients who have a right to access public hospital treatment.
- (2) Future private use of public facilities by doctors to be constantly reviewed to ensure that public patients are provided timely access to publicly funded facilities.
- (3) All prioritising of patients to be done under published guidelines made freely available to patients - and patients to receive written notification of their priority ranking.

- (4) Provision of a review panel including non-medical community members to assess contentious cases.

This list is not exclusive.

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 148.]

### **CHILDREN'S PLAY AREAS**

#### *Petition*

Mr Brown presented the following petition bearing the signatures of 62 persons -

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

We, the undersigned people of Western Australia call on the State Government to introduce a law that requires local authorities and government Departments and agencies to ensure children's play areas are constructed in such a way that children are not exposed to direct sunlight.

We believe steps need to be taken to prevent young children and their parents from contracting skin cancer as a result of being exposed to the sun for extended periods. Such a law should be introduced and implemented at the earliest opportunity but no later than November 30 1998.

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 149.]

### **BREAST CANCER RESEARCH**

#### *Petition*

Mr McGinty presented the following petition bearing the signatures of 16 persons -

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

The following signatures call upon the Western Australian State Government to increase its contribution to Breast Cancer Research from \$0 to \$2 million per year for ten years to the fight against this disease. There are so many families already suffering from the effects of breast cancer, it is imperative that the issue of research into the causes be addressed with urgency.

Breast cancer: An Australian epidemic

Women in Western Australia have a 1 in 13 chance of developing breast cancer

Breast cancer is the most serious malignancy affecting women. It is one of the most commonly diagnosed cancers in Australian women today.

Breast cancer is one of the leading causes of death of women ages 35 to 60.

There is an average of 683 new cases of breast cancer annually in Western Australia and 196 deaths. One in four women with breast cancer dies within the first 5 years: 40% die within 10 years of contracting the disease.

The incidence of breast cancer among Australian women is rising each year at the rate of 3.3%. In 1960, 1 woman in 20 could expect to be diagnosed with breast cancer in a lifetime; today 1 in 13 faces that threat.

We do not know what causes breast cancer, how to cure it or what to do to prevent it. For two decades, under funded research has focused on detection and treatment, rather than cause and prevention; and current methods of detection, physical examination and mammography, are imperfect at best. Funds for research are of an urgent need.

Depending on the quality, mammography fails to detect as much as 20% of all breast cancers, and recent studies show that it may fail to detect as much as 40% of breast cancers in women under the age of fifty.

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 150.]

### **WESTERN AUSTRALIAN POLICE ACADEMY**

#### *Petition*

Mr Baker presented the following petition bearing the signatures of 365 persons -

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

We, the undersigned residents and taxpayers of the Joondalup region, demand that the WA police service has the best police academy in Australia and that the new police academy be:

Co-located with two of WA's best tertiary education institutions,

Located in close proximity to WA's most modern and best equipped Public & Private Hospital,

Located in a thriving regional City centre,

Located in Australia's fastest growing region,

Located in an area having excellent bus, rail and vehicular transport systems,

Located in an area having world class civic, cultural and recreational facilities,

And therefore be located in Joondalup and not in Midland or Murdoch.

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 151.]

### **TRAFFIC CONTROL SIGNALS, GRAND BOULEVARD AND BOAS AVENUE, JOONDALUP**

#### *Petition*

Mr Baker presented the following petition bearing the signatures of 270 persons -

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

We, the undersigned, hereby request that traffic control signals be installed as a matter of urgency at the intersection of Grand Boulevard and Boas Avenue in Joondalup. This location is extremely hazardous due to the dual lane configuration of Grand Boulevard and 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 152.]

### **ACTS AMENDMENT (SEXUALITY DISCRIMINATION) BILL**

#### *Petition*

Mr Baker presented the following petition bearing the signatures of 50 persons -

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

We, the undersigned, beseech the Parliament of Western Australia to reject the Acts Amendment (Sexuality Discrimination) Bill 1997 and any other legislation which will have the effect of:

- (1) Condoning or permitting the unnatural act of sodomy to be perpetrated upon 16 year old boys;
- (2) directly or indirectly, legalising paedophilia under the guise of Anti-discrimination Legislation; or
- (3) directly or indirectly facilitating the promotion of homosexuality in schools;

and we endorse the stance in response to this Bill taken by the Most Reverend B.J. Hickey, Catholic Archbishop of Perth.

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 153.]

## **ABORTION**

### *Petition*

Mr Masters presented the following petition bearing the signatures of 11 persons -

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

We, the undersigned believe that the legalised right to safe and medically administered abortion represents the right of a woman to choose when she will accept motherhood, its many responsibilities and the life-long commitment that must be made to the child that would otherwise be born if abortion was not reasonably available.

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 154.]

## **ANIMAL WELFARE ACT**

### *Petition*

Mr Osborne presented the following petition bearing the signatures of 48 persons -

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

We, the undersigned petition the House to urgently proceed with the drafting and tabling of the New Animal Welfare Act so that the new legislation may be implemented for the greater protection for all animals in Western Australia. Many animals are suffering needlessly due to the restrictive provisions of the Prevention of Cruelty to Animals Act 1920-1976 and desperately need the increased protection which will be afforded by contemporary legislation.

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 155.]

## **BUSINESS OF THE HOUSE**

### *Notice of Motion*

**MR BARNETT** (Cottesloe - Leader of the House) [2.19 pm]: I give notice that at the next sitting of the House I shall move -

That up to and including Thursday, 19 March, 1998, unless otherwise ordered on motion without notice -

- (a) Private Members' Business shall not take precedence of other business, and
- (b) so much of the Standing Orders be suspended as is necessary to enable the Speaker to call for Grievances on any day and only if so requested by the Leader of the House.

The purpose of this motion is to allow the debate on the abortion issue to continue over the next two days.

Mr Pandal: Is that a notice of motion?

The SPEAKER: It is the giving of a notice of motion which will go on the Notice Paper for tomorrow.

Mr Pandal: Mr Speaker, I seek your guidance. If that will be on tomorrow's Notice Paper and the abortion Bill proceeds today, what implications has that for someone who wants to make points about the conduct of the debate?

The SPEAKER: All I can say is that you can make those comments when the notice comes into the House on Wednesday morning.

**TOUGH ON DRUGS CAMPAIGN**

*Statement by Minister for Family and Children's Services*

**MRS PARKER** (Ballajura - Minister for Family and Children's Services) [2.20 pm]: The State Government welcomes the announcement by the Prime Minister yesterday of the Commonwealth Government's additional contribution of \$100m over the next four years to the fight against drug abuse in our country. It has always been this Government's view that all levels of government, as well as all levels of the community, need to join together in their efforts against drug abuse.

The State Government has consistently called upon the Federal Government to take up its responsibility to prevent drugs coming into the country through better resourcing of its federal law enforcement agencies, specifically in surveillance and intelligence work. Therefore, it is pleasing to note that since November the Federal Government has increased the operational strength of the Australian Federal Police to fight drug importing through 86 additional investigative staff.

In November last year, although welcoming the additional funding, the Government was concerned that none of the additional law enforcement resource was coming to Western Australia. Yesterday, at the program's launch in Brisbane, the Prime Minister confirmed the necessary establishment of a strike team in Perth. We are therefore pleased that the concerns expressed by Western Australia have been addressed. It is the State Government's view that to have any chance of success a strategy against drug abuse needs to be comprehensive and multifaceted; no single strategy is enough.

Western Australia is currently implementing the Together Against Drugs action plan which responds through not only law enforcement but also public education, health services, community support and community action.

I welcome the Prime Minister's commitment yesterday to complement the State's efforts in public education and treatment services with additional funding in those areas. However, it is the State Government's view that this additional funding will need to be effectively integrated into the present state framework. We must make the most effective and efficient use of these additional resources to tackle the dreadful problem of drug abuse.

I am sure that the newly established Australian Council on Drugs will play an important role to achieve that. In that context we welcome the appointment of Mr Arthur Toon, Director of Cyrenian House and immediate past Chairman of the WA Network of Alcohol and Drug Agencies, as the Western Australian representative on that council.

The Prime Minister said yesterday that he is determined to confront the social and economic problem of drug abuse. The State Government shares that determination and, in partnership with the Federal Government and the Western Australian community, will continue to implement its Together Against Drugs strategy to that end.

**JOY 98**

*Statement by Minister for Youth*

**MR BOARD** (Murdoch - Minister for Youth) [2.23 pm]: I wish to inform the House of a major youth initiative being undertaken by the State Government. Many months of detailed planning and preparation will culminate this Thursday, with the launch of JOY 98 - one of the biggest youth festivals ever held in Australia. JOY 98 was born out of a determination to promote a positive image of youth - and, like youth, is innovative and exciting.

All too often, public attention is focused on negative aspects relating to our young people. The State Government has taken a lead role in developing a national campaign to promote the achievements and images of youth and to encourage an understanding of the importance of education and training opportunities for young people. The Government is committed to valuing young people and recognising their achievements and contributions, and to assisting them to realise their potential.

More than 350 000 young Western Australians aged 12 to 25 years, representing nearly one-quarter of the State's population, already make a vital contribution to our community in many fields. They have the capacity and vitality to make an even greater contribution if they are provided with appropriate support and encouragement. JOY 98 is just one way in which we can promote a positive image of our young people and provide them with an event which is informative, entertaining and fun.

The four-day program of displays, exhibits and demonstrations has been developed to cover a wide range of areas such as arts and entertainment, trade skills and career options, film/TV/multimedia, environment, health, science and technology, and sports. "Evolution" - a battle of the bands event - will see youth bands from all over the State competing during the four days, and will end in a free concert on Sunday afternoon. Other activities will include dance and school performances, workshops, fashion parades and sporting activities and will involve many of the

State's leading sports identities, an interactive science road show, cultural displays, trade skill demonstrators and much more.

JOY 98 will also be a forum for state, commonwealth and local government agencies, and the private sector to promote their products and services to young people, parents, teachers, youth workers and others in the community. There is truly something for everyone at JOY 98.

The event is so significant that a national meeting of all federal, state and territory youth Ministers has been scheduled to be held in Perth to coincide with JOY 98. This demonstrates a commitment by Governments right across Australia to promote the achievements and images of youth. The four day festival will focus direct attention on young people by increasing community awareness and providing a showcase for youth achievements and contributions to the community.

I congratulate the Office of Youth Affairs and the many sponsors and exhibitors who have demonstrated their commitment to young people in Western Australia by their involvement in JOY 98. Our young people present us with much to praise, encourage and develop. Let us celebrate our youth. With our youth, I encourage all members in this House to show their support for our young people by attending JOY 98 during the next four days.

**[Questions without notice taken.]**

**REPEAL OF SECTIONS 199, 200 AND 201 OF THE WA CRIMINAL CODE**

*Petition - Statement by Speaker*

**THE SPEAKER** (Mr Strickland): I advise members that three pages contained in a petition presented today by the member for Perth are facsimile pages and are therefore out of order. I have directed that the pages be removed from the petition and, accordingly, the number of signatures has been adjusted.

**CHARITABLE TRUSTS AMENDMENT BILL**

*Second Reading*

**MR PRINCE** (Albany - Minister for Health) [3.02 pm]: I move -

That the Bill be now read a second time.

Charitable trusts differ from other trusts in a number of respects. The principal difference is that a charitable trust is a trust for the benefit of purposes - not individuals. Those purposes must be charitable purposes and must also be for the benefit of the public.

The meaning of charity in its legal sense is derived from the preamble to the Statute of Charitable Uses 160, also referred to as the Statute of Elizabeth. The law recognises four principal categories of charity: The relief of poverty; the advancement of education; the advancement of religion; and other purposes beneficial to the community. If a trust is for any of those purposes and if it is directed to the public benefit, it is a charitable trust. Because charitable trusts have a public character it is the traditional function of the Attorney General to supervise and enforce charitable trusts.

Another unique aspect of charitable trusts is that, unlike private trusts, they may be created so as to endure in perpetuity. Because of that characteristic there is a tendency for charitable trusts to become outdated and out of step with current attitudes and needs of society. An example of this is trusts for the maintenance of orphanages. Another problem that can arise is that over time the sum of money or other trust property may become inadequate to carry out the charitable purpose. Charitable institutions are often appointed as trustees for a number of trusts and can find themselves facing problems of this nature in relation to more than one trust.

The Supreme Court has always had power to vary the terms of charitable trusts to overcome problems of this nature pursuant to the doctrine known as the *cy près* doctrine. In addition the Charitable Trusts Act was enacted in 1962 to provide a process for trustees to seek the court's approval for variation of the terms of or mode of administration of charitable trusts.

With small trust funds the legal costs involved in obtaining Supreme Court approval of a scheme for variation can be disproportionate to the value of the trust property or the income of the trust. The principal purpose of the Charitable Trusts Amendment Bill is to provide a quicker, simpler and less costly procedure for approval of schemes in the case of small trust funds.

The Bill amends the Charitable Trusts Act 1962 in respect of four specific areas dealing with alternative approval procedure for schemes, termination of small trusts, combining schemes, and joint applications for approval of schemes. I will now comment in relation to each of these matters.



Alternative procedure for approval of schemes: If the trustee of a charitable trust wishes to vary the terms of the trust in order to alter the charitable purposes or the mode of administration of the trust, the trustee is required to obtain Supreme Court approval of the scheme for variation. The trust fund usually bears the costs involved in this process.

Charitable trusts range in size from trusts in the order of millions of dollars to those with as little as several hundred dollars or less. With small trust funds the costs involved in obtaining the court's approval for a scheme may be quite disproportionate to the value of the fund.

The Charitable Trusts Amendment Bill provides that where the value of the trust property is less than \$50 000 or a prescribed amount, whichever is the greater, or the annual income is less than \$10 000 or a prescribed amount, whichever is the greater, the Attorney General may approve the scheme. Should the Attorney General refuse to approve the scheme the trustee may apply to the Supreme Court in the ordinary way for approval. The trustee is also able to make an application directly to the Supreme Court in the ordinary way for approval rather than seek the Attorney General's approval should this course be preferred for any reason.

In New South Wales, Victoria and Tasmania, the Attorney General is given similar powers to sanction schemes for the variation of charitable trusts with small funds. The Attorney General in his discretion may require the trustee to give public notice of the proposed scheme and the Attorney General must have regard to any representations made to him by interested persons. In addition, the Attorney General may charge the trustee reasonable fees for the legal costs and expenses incurred in considering the scheme.

For the purpose of those provisions the value of the property in the trust fund would include all property held in the fund, including current and accumulated income as well as capital. The ceiling levels of \$50 000 and \$100 000 are intended to be increased from time to time by regulation.

Termination of small trusts: Where the property or income of a charitable trust is "inadequate to carry out" the charitable purpose, pursuant to existing provisions the trustee may apply for approval of a scheme whereby the property/income "shall be disposed of for some other charitable purpose, or a combination of such purposes". However, where the value of the trust property or the income is very small it may be more expedient for the remaining capital to be expended and the trust terminated, rather than prepare a scheme to enable the property or income to be applied for some other charitable purpose.

The Bill provides that where the value of the trust property is less than \$15 000 or a prescribed amount, whichever is the greater, the trustee may, if the value of the trust property is too small in relation to the charitable purposes for any useful purpose to be achieved by the expenditure of only the income derived from the property, seek approval for a scheme to dispose of the trust property for the charitable purposes.

The scheme may be approved by the Attorney General or, should the Attorney General refuse to approve the scheme, the trustee may apply to the Supreme Court in the ordinary way for approval. The trustee is also able to make an application directly to the court for approval of such a scheme rather than seek the Attorney General's approval should this course be preferred for any reason.

As with the proposed new approval process for schemes for variation of small trusts, the Attorney General in his discretion may require the trustee to give public notice of the scheme and the Attorney General must have regard to any representations made to him by interested persons. Likewise, the Attorney General may charge the trustee reasonable fees for the legal costs and expenses incurred in considering the scheme. The ceiling level of \$15 000 is intended to be increased from time to time by regulation.

Combined schemes: Currently the Charitable Trusts Act 1962 makes no provision for two or more trustees to combine their respective trust funds where the trusts have similar purposes and the property and income of the trusts could be used more effectively in conjunction. The Bill is intended to permit a variation of the terms of a trust where the trust property could be used more effectively if pooled with other property applicable for similar purposes and administered jointly.

The proposed amendment relating to combined schemes is intended to apply to all charitable trusts and is not limited to charitable trusts with small trust funds. Accordingly, whether a combined scheme would require approval by the court or whether it could be approved by the Attorney General would depend upon the ceiling level of the property or the annual income of the trusts involved.

Joint applications: Additionally, the Charitable Trusts Act 1962 makes no provision for the trustees of a number of trusts with a common element to make a single application for approval of their respective schemes. The Bill permits trustees to submit a single application for approval to the Supreme Court or the Attorney General as the case may be, where the schemes involve substantially similar issues. As with the proposed amendments relating to combined schemes, the amendments in relation to joint applications would apply generally and would not be limited to small

trust funds and the application for approval would be made to either the court or the Attorney General depending upon the ceiling level of the trusts involved.

The Charitable Trusts Amendment Bill seeks to introduce a range of practical, commonsense measures into the Charitable Trusts Act 1962. Simply stated, the Bill is concerned with providing trustees with a number of mechanisms to assist them in achieving more effective management of charitable trusts. I commend the Bill to the House.

Debate adjourned, on motion by Mr McGinty.

## **GUARDIANSHIP AND ADMINISTRATION AMENDMENT BILL**

### *Second Reading*

**MR PRINCE** (Albany - Minister for Health) [3.10 pm]: I move -

That the Bill be now read a second time.

The Guardianship and Administration Act 1990 in part provides for the guardianship of adults who need assistance in their personal affairs and for the administration of the estates of persons who need assistance in their financial affairs, and establishes a board with jurisdiction in respect of guardianship and administration matters.

Section 6 of the Guardianship and Administration Act 1990 provides for the appointment of the President and Deputy President of the Guardianship and Administration Board. Section 6(2) allows for either judges, masters or registrars of the Supreme Court or judges of the District Court or Family Court, to be appointed as president. The original intention of the legislation was that a judge, master or registrar would be eligible for appointment as president while continuing to hold his or her substantive appointment. This has been the case to date with judges appointed to the board.

It is intended that one of the current registrars of the Supreme Court be appointed as president. However, it is open to interpretation whether section 6 of the Guardianship and Administration Act 1990 would allow for a registrar, so appointed, to continue to hold office as a registrar.

In order to overcome this potential problem the Guardianship and Administration Amendment Bill 1997 will enable a registrar of the Supreme Court to have concurrent appointment as both a registrar, and president of the Guardianship and Administration Board in the same manner as a judge. I commend the Bill to the House.

Debate adjourned, on motion by Mr McGowan.

## **CRIMINAL CODE AMENDMENT BILL**

### *Suspension of Standing Orders*

**MR BARNETT** (Cottesloe - Leader of the House) [3.12 pm]: I move -

1. That so much of Standing Orders be suspended as is necessary to enable a separate question be put in Committee of the Whole on -

paragraph (1),  
paragraph (2),  
each of the sub-paragraphs of paragraph (3),  
paragraph (4), and  
paragraph (5)

of the proposed section 201A contained in clause 3 of the Criminal Code Amendment Bill 1998;  
and

2. The Chairman of the Committee is required to put such separate questions accordingly.

This motion is to provide the opportunity for members to cast a separate vote on each of the four provisions contained in proposed section 201A under clause 3 of the Criminal Code Amendment Bill relating to the issue of abortions. The Clerk has prepared copies of the Bill in a format which shows how each proposed section will be dealt with in Committee by bracketing the relevant proposed sections on which votes will be taken. Those Bills are available to members and I suggest members look at their structure.

As debate on this Bill progresses it may be necessary for other procedural motions to be moved to facilitate amendments as they arise from members in this House. The Government will make every endeavour to facilitate an open and full debate on this issue.

It is the Government's intention to provide an equivalent opportunity for debate should the Criminal Code Amendment (Abortion) Bill, to be debated this week in the upper House, be passed by that House. Members will be exercising a free or conscience vote on this issue. It is, of course, up to each member to determine how he or she will vote. I imagine that in the first instance most members will examine their views and conscience on the issue of abortion. Their views and their vote may be modified from that position by their interpretation of views within their constituency.

It is an emotional and difficult issue. Widely divergent and strongly held views are held within the community. I am confident that under your leadership in this Chamber, Mr Speaker, we will have an orderly and structured debate and that all members will extend the courtesy of listening to each other's views and making an informed decision.

This is a potentially difficult debate, but I am sure with your strong leadership in the Chair, Mr Speaker, and with goodwill among members we can tackle a potentially divisive, but nonetheless emotional and personal issue, for many people.

**MR PENDAL** (South Perth) [3.14 pm]: I support the motion for the suspension of standing orders moved by the Leader of the House. It is an important motion, for the reasons he outlined. If the Government had not moved it, other members would have, otherwise a mockery would have been made of the Committee stage in splitting proposed paragraphs (a), (b), (c) and (d) which are the principal options contained in the so-called Foss Bill.

I have given notice to the Clerks - I discussed this yesterday with the Premier and the Minister for Health - that at the appropriate time, which I understand will be at the end of the second reading debate after the vote is taken and prior to going into Committee, I will move for a similar suspension of standing orders sufficient to allow an instruction to be given to the Committee which will ensure that the scope of the Bill is widened from the Criminal Code Amendment Bill and allow discussion on amendments to the Health Act. I understand that is a perfectly normal procedure.

Without the provision to do that I would probably vote against the second reading of the Bill. However, I use this occasion in supporting the Government to congratulate it on ensuring that paragraphs (a), (b), (c) and (d) are split and that a separate move will be made at the appropriate time to allow amendments to the Health Act to be dealt with in Committee.

Question put and passed with an absolute majority.

### *Second Reading*

Resumed from 10 March.

**MS WARNOCK** (Perth) [3.17 pm]: I have been pro-choice on the issue of abortion since 1969 when, as a young journalist, I attended the first public meeting of the Abortion Law Repeal Association as it was then called. I heard there as I had already heard from my mother, who worked in Melbourne hospitals in the 1930s, the horror stories that 80 year old Joan Williams told at the pro-choice rally last week.

When safe, medically assisted abortion is not available, as it has been in Perth for about the past 25 years despite a restrictive law, desperate women will simply do whatever must be done, even at the risk of their own lives, to end an unwanted pregnancy. If the medical profession cannot help her, a woman will simply go elsewhere and that will usually be at great risk to her life, her comfort and certainly her mental wellbeing. The forces that oppose choice forget that making abortion illegal has never stopped it. It simply makes it unsafe for women.

Most people I know support the pro-choice position on abortion, although most of them would rather nobody ever needed one. However, anyone who lives in the real world will know that contraceptives frequently fail, women are raped, incest occurs, genetic defects are carried within families, relationships end and women who love children sometimes feel that they cannot cope with one more pregnancy.

In common with more than 80 per cent of the Australian community of every religious affiliation, I believe that safe, legal abortion is essential. The existing situation in this State - I refer to the abortion charges laid recently - has become untenable. I most firmly believe that the moral decision to be made in the case of an unwanted pregnancy must be made by the woman. She is the one who will have to carry an unwanted pregnancy and bear the moral responsibility for that life for the rest of her life. In speaking today I represent the hundreds of women and men who have contacted me to support my public stand on the issue. I also stand on the shoulders of many other people who have spoken out for women's choice. I refer particularly to the late Irene Greenwood, the late Megan Sassi, the late Lesley Anderson, Roy Claughton, Denise White, Hennie Neumeyer, Barbara Buick, Joan Williams, Ruth Greble, Margot Boetcher, Thea Mendelsohn, Gwen Leavesley, Dorothy Anderson and scores of others who believe that women should make this decision, if it must be made, and that neither the church nor the State should play any part in it. We are talking about the civil law of a democracy. In common with a large majority of Australians, I believe

that abortion does not belong in the Criminal Code but should be regulated like any other medical procedure. It is certainly a public health issue. Where there is a moral choice to be made - and I do not minimise the difficulty of it - I believe that the woman concerned must make that moral choice. That choice should not be made on her behalf by parliamentarians, police officers or the church. We must trust women and not patronise them.

I will speak briefly about the law, because many people are familiar with the law regarding abortion in Australia. Abortions are carried out in every State in Australia, as they have been in every known human society. In most cases today they are medically safe rather than what is generally referred to as a backyard abortion. However, the law is different in each State. The basis of abortion law in Australia generally speaking is the British Offences Against The Person Act 1861. Since then there have been a great many liberalising moves in Australia. In some cases it has been Statute law, as in South Australia in 1970 and the Northern Territory in 1974. In Victoria and New South Wales it has been the result of judicial decisions of 1969 and 1972 respectively which are frequently referred to. Several attempts were subsequently made to restrict the law. I refer to the Lusher Bill, the Harold Bill and various others. None of those succeeded, despite constant pressure from groups opposed to a woman's choice on abortion. The requirements for legal abortion in New South Wales come from statements made by Mr Justice Levine in a 1972 case. The legal situation in Victoria is similar to that in New South Wales. It is based on a judicial ruling by Mr Justice Menhennitt in the Davidson case of 1969. Those rulings in turn drew on the 1939 English case of *Regina v Bourne*. That case is referred to in a paper by Helen Pringle. In that case an eminent surgeon was prosecuted for performing an abortion on a young girl who had been brutally raped. Mr Justice MacNaghten gave a direction to a jury that if the probable consequences of the continuance of the pregnancy were to make the woman a physical or mental wreck, the jury was quite entitled to take the view that the doctor who operates under those circumstances in that honest belief is operating for the purposes of preserving the life of the mother. That is similar to many other subsequent rulings. In both civil and criminal cases concerning abortion in this country, courts have approved the rulings in Davidson and Wald. The law in this State is very similar to that in Queensland. In sections 199, 200 and 201 of the Criminal Code, abortion is proscribed with penalties of 14 years' imprisonment for the doctor and seven for the woman. Although this is the case, it is very well known thanks to the debate during recent weeks that for the past 25 years or so there have been no prosecutions and abortions have been carried out at two clinics and in a government hospital. Notwithstanding the fact that there appears no will to prosecute and therefore abortion has had an almost de facto legality, I believe that it should be removed from the Criminal Code. In the absence of the Parliament agreeing to that, I propose to support all clauses of the amendment Bill to assist women in this State and their doctors out of this present, difficult impasse.

I turn to abortion as a public health issue. Members will have received a great deal of material from public health professionals, private doctors, hospital nurses and others. I refer particularly to those who work with women and who are concerned about safe medical procedures in this State and about women's health. They have made it very clear that they regard abortion as a public health issue, and one which should be dealt with by removing the present provisions from the Criminal Code and regulating this procedure in the same way as any other procedure. This approach is also adopted by the Chief Justice's Taskforce on Gender Bias. Its recommendation on abortion is that sections 199, 200 and 201 of the Criminal Code be repealed. It refers to the number of abortions performed in Western Australia and Australia each year. It comments that for most women the control of their fertility is fundamental to their ability to develop other aspects of their lives and enjoy the children they choose to have. All the health reports that I have seen make it absolutely clear that, regardless of the law, women in this State will continue to seek abortions. The priority of those in our health system will remain access to high quality and safe health services for their patients. Some have said plainly that if we do not clarify the law on this issue, we will leave health professionals without indemnity and we may preclude the continuation of all medical abortion services in Western Australia. As anybody knows about the real world, this would take us back to the 1960s or even further when maternal deaths as the result of unsafe terminations were many times what they are now. The Maternal Mortality Committee was established by the Commonwealth to investigate deaths related to pregnancy. In 1964-1966 the committee reported 45 deaths related to abortion. There was a dramatic reduction after 1972, when it is generally accepted that legal abortion of various kinds became available in Australia. The figures went from 45 in those few years to almost zero in 1972, which was certainly a dramatic reduction.

Although I take the view that abortion should be treated as a medical matter and regulated by legislation that governs any other medical procedure, I am aware of anti-choice publicity suggesting that abortions usually take place late in pregnancy. They do not. In America 91 per cent of all abortions occur in the first trimester, and 50 per cent of those in the first eight weeks. Only a tiny fraction are performed in the third trimester, and then only for medical reasons. Virtually the same situation applies in Western Australia; most abortions are carried out in the first eight weeks. Late abortions are carried out in Western Australia but strictly for medical reasons. Those are among the reasons many doctors have come to see us in Parliament of late to convey their views about the necessity for abortion to continue to be available as a medical procedure in Western Australia. They are simply concerned about the health of women.

I spoke at the weekend to a couple who have two children but who have made the very difficult moral and personal decision to terminate a pregnancy because of a genetic abnormality. They spoke of the wonderful and caring service that they had received from the hospital and its counselling team and of the tremendous complexity of the moral experience in which they found themselves involved. Like many others they believed that the choice for women and their families must be legally available, however difficult that choice may be. When they spoke to me they were deeply offended by the story on the cover of *The West Australian* of the woman who made a similar moral choice to the one they had to make and who as a result was hounded by unfeeling people.

They insist that it is not a black and white issue and is an extraordinarily difficult decision for anyone to make, and that it is a decision for the people involved in these terrible moral dilemmas and not for outsiders. If people decide that they can go ahead with what is likely to be a difficult pregnancy and childhood, and, indeed, a difficult lifetime for the child, by all means they must do that, because that is their parental choice and responsibility. However, if they decide, as did the couple to whom I have just referred, that they cannot go ahead with it, that is a choice that they should have the right to make.

A Public Health Association of Australia Inc document entitled "The Regulation of Abortion in Australia: Public Health Perspectives" outlines some of the results of surveys that have been conducted overseas. It states that in the past few years -

Countries have increasingly turned away from a concentration upon the construction of criminality in relation to abortion, towards a concern for women's health and family well being.

It states also -

Abortion rates in developed countries have remained stable, or in some cases declined, as better contraceptive use is observed, especially in women aged 35 or older.

It states also -

The World Bank estimates that globally, in the presence of legal abortions, 30% of all pregnancies end in abortion. Demographers calculate that between one-third and one-half of all women undergo at least one induced abortion during their lifetime. . . . However, almost one-third of these are performed in an adverse social and legal environment.

It states also -

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

That conclusion is drawn from a 1994 report. As I said earlier, the availability of legal abortion in most parts of Australia has changed that situation dramatically.

I turn now to the public attitude to abortion in Australia, and I will refer also to an interesting document about the Catholic attitude to abortion. There is no doubt that the great majority of Australians are in favour of a woman's right to choose abortion. This opinion has been dominant since polling on this subject began about 30 years ago. A *Herald* survey conducted by Irving Saulwick and Associates in 1980 reported that more than eight out of every 10 Australians believed that legal abortion should be allowed in defined circumstances, and only 10 per cent believed that legal abortion should not be allowed in any circumstances. In that same year, the *Australian Women's Weekly* conducted a survey that achieved similar results. It found that even among Catholic women, only 15 per cent of women were completely opposed to abortion. A 1987 survey for *The Age* found that only 14 per cent of people surveyed did not approve of abortion in any circumstances.

It appears to me from the many documents that I have read from political scientists who have studied this issue that there is no doubt that the majority, or average, view in Australia is that abortion is a personal matter between a woman and her doctor, and no-one else should attempt to interfere. One of those social researchers states -

There appears to be no doubt that there is majority support for abortion laws far more liberal than the official position of the Catholic Church and the Right to Life Association. A position making abortion either totally unlawful or only partly lawful . . . would seem from what is known of public attitudes on this issue, unacceptable to a clear majority of Australians.

I turn now to a survey that was done in Sydney in 1978 for the Catholic Family Life Programme. The Catholic Church in Sydney was puzzled by reports from clinics in New South Wales that Catholic women were having abortions in numbers proportionate to their component in the general population, and the church wanted to find out how the women had reached that decision, what alternatives they had considered before making that choice, and to what extent they were influenced by the church.

The survey covered 15 324 cases of abortion in two Sydney clinics in 1975 and 1976 and found that 3 896 of those women claimed to be Catholic. The researchers state -

For the sample under analysis we may say that:

Catholic women seeking abortion appear to do so at a rate or frequency which is not markedly less than the rates for most non-Catholic women.

It follows that Catholic affiliation does not appear to be a significant impediment to Catholic women seeking an abortion in the Australian context.

Catholic woman seeking abortion appear to be evenly or consistently distributed through all age groups. There appears to be no marked concentration of Catholic clients within a particular age group, and accordingly we cannot sustain notions of differential age demand.

They concluded by saying that between 10 000 and 15 000 Catholic women have sought and obtained an abortion in Australia every year post-1973. This survey was done in 1978. The researchers said also, with regard to the reasons that women sought an abortion, that time and time again in the interviews the women said that the church was out of step with society and did not understand the need for reliable family planning. The researchers concluded that Catholic women in Australia sought abortion in proportion to their number in the community and that most women surveyed no longer regarded adoption as a viable option. The researchers also commented about the countries which have restricted access to abortion and state -

What must also be recognised is that in almost every nation which has in recent years sought to restrict access to safe legal therapeutic abortion there has been three repercussions. Firstly, where this has been possible an exodus of those with means to other places offering such services. Secondly a decrease in therapeutic abortion rates but a corresponding increase in (illegal) non therapeutic abortion rates. Thirdly, and as a consequence of this, there has come a sharp increase in maternal mortality rates.

I have quoted from that survey because I believe that a majority of people in this country have the view that whatever one's religious beliefs and background, a woman who is facing the terribly difficult moral decision about whether to end an unwanted pregnancy should have the right to make that choice.

I have been trying to make the point that *The West Australian* made in an editorial on 11 February, which states -

Our laws should reflect the will of the people. The big number of abortions carried out each year in WA provide evidence that a significant section of the community believes the law is wrong. Strict interpretation of the law would make illegal the termination of pregnancies resulting from rape and sexual abuse of children, although there would be wide community support for abortions in these and other circumstances.

I believe, like distinguished feminist lawyer Jocelyne Scutt and young Australian bioethicist and writer Leslie Cannold, that women should be trusted by society to make a moral choice in this issue. It is, with the greatest respect, not a matter in which people who have no direct connection with the woman should have any say.

An article in *The Bulletin* this week about Leslie Cannold's recent book states -

In the real world, women faced with the consequence of an unplanned pregnancy (and two out of three pregnancies in Australia fall into this category) don't focus on rights - either the rights of the foetus or their own rights to control their bodies. They think about what it means to be a mother, and it is their awareness of the overwhelming responsibility of motherhood that counts for most as they decide whether to continue or terminate their pregnancies.

Jocelyne Scutt, a writer and lawyer who spoke outside Parliament last week, said this on women and their right to choose -

As a humanbeing of reason she has a right to follow her own conscience, not to have the consciences of others callously imposed upon her. As humanbeings of reason we have a right to follow, each one of us, our own conscience, and not to have the consciences of others righteously - or self-righteously set against us.

I have spoken to a number of friends about this matter. Among them are Catholics, Protestants, Jews and a Muslim. Without exception, they told me that this is a private matter for women, and although they might not approve of abortion or choose it in circumstances of their facing an unwanted pregnancy, they believe that abortion should be safe and legal in Western Australia. This is because, wherever they were born, whatever their age or religion, they are Australians, and a large and clear majority of people in this country believe that abortion should be legally available.

I have made it clear that, like the medical profession, health workers, and the majority of ordinary Australians, I believe that abortion should be taken out of the Criminal Code, but I am supporting this Bill today because I believe we owe the women of Western Australia our support. We must have the courage to actively provide a public health solution to this dilemma. We cannot leave matters the way they are. The community is crying out for reform; people are not crying out for more restrictions. I support the Bill.

[Interruption from the gallery.]

The ACTING SPEAKER (Ms McHale): Order! I remind members of the public that they are very welcome in the gallery, but it is their responsibility not to impede the deliberations of the Assembly. Therefore, regardless of their views, I ask people in the gallery please to accept that responsibility.

**MR OMODEI** (Warren-Blackwood - Minister for Local Government) [3.43 pm]: The laws we pass in this Parliament fall broadly into two categories - those which are essentially administrative, and those which relate to the fundamental rights and fundamental relationships of human nature. Administrative laws take up most of our time and cover wide ranging matters such as taxation, public health, housing, and traffic control - the whole gamut of public administration. Such laws are essentially subjective because the most appropriate law at any time is influenced by circumstances and by the capacity and willingness of people to live under the law. We strive for fairness and justice, but when it comes to the crunch it is a subjective judgment whether a rate of tax or a rate of speed is the most appropriate at any time.

Laws relating to fundamental rights and relationships take less of our time, not because they are less important but because once they are established they remain true and are held to be true. We might alter the penalties or redefine the categories of murder, but murder remains murder and we do not doubt its wrongness. We might alter the penalties or redefine certain activities associated with rape, but rape remains rape and nobody doubts its wrongness. We might change the penalties or redefine some of the circumstances associated with dishonesty, but dishonesty remains dishonesty and nobody doubts its wrongness.

It is rare that we are called upon to re-examine the underlying nature of one of the laws relating to fundamental rights and relationships in the way we are being asked to do with abortion. In such circumstances we cannot pass a law merely because we think we want it, or even because we think others want it. We must pass laws which are as close to the truth of human nature as we are able to determine. It is the responsibility of each member to satisfy himself or herself that he or she knows clearly, rationally and firmly why we believe the law should be the way we vote for it to be. In cases like this, it is not enough for us to say that people seem to want it this way or that way. It is not enough for us to be taken in by media campaigns, one way or the other; and it is not enough for us to be persuaded by displays of anger or emotion on either side.

In our life outside this Chamber we might prefer not to have to arrive at a definitive answer on such questions, but while we are in this Chamber, representing our community, we must accept the responsibility - not merely to say that this is the law but also to say that this is why it is the law. We must be able to explain to this generation, and to the one now growing up, the reasons behind the law. In short, we must not only pass a law but also teach a law.

The most frequently claimed basis for changing the law on abortion is the assertion that it is a woman's right to decide whether she will have a child. The claim is expressed in various forms, but always it means that it is the sole prerogative of a woman to determine whether she will have a child. On the face of it, it seems a reasonable generalisation, but if it is to be accepted as the kind of right on which law is based, or the kind of right on which law should not intrude, it needs to stand up to more rigorous examination than mere conversational generality.

This assertion is important because it is widely accepted by young people who have not yet been trained to think more accurately, and because - if it were accepted as a principle of law and government - it would be the first basic right which is assigned to women but not men. However, the claim does not bear examination. The claimed right simply cannot be exercised. No woman can decide to have a child and proceed to do so. The only decision she can make is to enter a relationship with someone in order to attempt to have a child. This is not simply a matter of semantics. The distinction is important. As soon as its truth is realised, the question of law moves away from the area of individual rights into the realm of relationships.

This is true regardless of the kind of relationship entered. Obviously, the best relationship is marriage in which a man and a woman pledge lifelong support to one another and undertake to provide mutually for the care of any offspring. It is worth observing that the attitudes which are now demanding unfettered access to abortion come from the same sources as the attitudes which have been trying to convince Australia that lifelong commitment to marriage is not a realistic proposition and not worth the trouble.

After 30 years of this extraordinarily costly social experiment, we now have overwhelming evidence of how disastrous it has been for children, adults and society. Anyone who is not sure about this should re-examine the

findings of the WA Institute for Child Health Research on the positive effect on the mental health of teenagers of having two natural parents. Those of a more mercenary bent might like to wonder why couples who stay together are currently subsidising by \$4b a year couples who do not stay together. I mention the point to emphasise that we are talking about relationships, not individual rights - and society as a whole is involved in those relationships. However, even if a woman were to choose a far less valuable relationship in order to have a child - in an extreme case, let us imagine someone advertising for a partner for procreation - we are talking about relationships, and the law is the law governing relationships.

If members are not sure what I mean, they should imagine what would happen if the chosen partner knew himself to be utterly incapable of fathering a child. The woman would be able to sue him, not because she had any right to a child or to his child, but because he had obtained consent to sexual intercourse under false pretences; that is, the law, not of rights, but of honesty in relationships. On the other hand, if the man was capable of fathering a child but did not, the woman would have no possibility of suing him because nobody alone - man or woman - has a right to decide when to have a child.

When we enter a relationship with another person for the purpose of procreation, we also enter a relationship with life - a relationship in which we are seeking something which we have a right to seek but not a right to demand. This distinction, too, is important when framing laws, because if our laws are to make sense they must acknowledge our relationship with life itself, because that is part of our nature. Should the relationship prove fruitful and a child be conceived, we immediately have many other relationships, but two of them are fundamental and must be acknowledged. One is the relationship between the child and the mother, and the other is the relationship between the child and the father.

In the case of the temporary partnership to which I refer, some people might like to imagine that the relationship with the father is entirely transient and irrelevant. There are many reasons in law why this is not so. If unsure about this, members need only imagine what would happen if a girl from such a union found out much later in her life that the man she wanted to marry was her half brother or, indeed, even her father.

These illustrations should be enough to indicate to any member of Parliament that this debate is about our responsibilities within relationships, not merely about individual rights in isolation. All of us have responsibilities in relation to others, whether we choose them or not, merely as members of society and members of the human race. None of us can, in conscience or in law, step over a baby left on a doorstep. We are bound to provide assistance no matter what difficulties that might create for us at the time.

All of us also have responsibilities to babies in their mothers' wombs, even when there is no direct relationship between us and the babies or the mothers. Refusal to render assistance to a woman in pain would be seriously compounded in conscience and in law if the woman were pregnant and the pain were labour. Many other precedents in law can be found regarding the protection of a baby in a mother's womb. I am certain that even the advocates of abortion on demand would be incensed beyond description if Parliament were to take away this protection.

Where does this leave us? It leaves us with a strange demand that women must be able to kill their babies before birth. If we listen to the pro-abortion lobby, we are to believe that women, who are forbidden by law to abuse or neglect their children after they are born, are able to kill them before birth. The bizarre nature of this demand is perhaps highlighted - if such a thing can be highlighted - by asking the following question: If women have a choice about when they can kill their babies, will men be given a choice about killing their babies? I think not.

I have examined the claims that abortion is a right and have shown it to be an utterly spurious attempt to avoid the unavoidable responsibilities of relationships. In case anyone who has not thought about this issue in these terms is not persuaded by my argument, I present a concept in relation to the three most commonly argued extremes; namely, conception through rape, known disabilities and a pregnancy which threatens the life of the mother.

The position of those advocating that the pregnant victim of rape should have an abortion is rationally untenable. On the one hand, they condemn the rapist as he has attacked the woman. They and society rightly do their utmost to bring the rapist to justice. They counsel the woman saying that her suffering and ongoing trauma are the consequence of a brutal attack. However, they then tell her that the way out of her difficulty is to attack her baby even more brutally and kill it. The counsellors' intentions may be good, but neither their hearts nor their heads are in the right place. With the emotional turmoil of first the rape and then the abortion, no human being can bring her difficulties into resolution while living with the utterly contradictory belief that the man's attack on her was evil and the attack on her baby was good.

On the question of known disability, I simply ask one question: Of the people members know with disabilities, which one would they say should be killed?

The third case concerns a pregnancy which is thought to put a mother's life at risk. This is a medical rarity these days,



but the principles should be the same no matter the frequency of the problem. The best principle to guide human behaviour in such cases is the one summed up in the words "Greater love hath no man than he who lays down his life for his friend." This is not a principle limited to pregnancy. In a variety of circumstances mothers willingly risk, and even lay down, their lives for their children, and men are always expected to risk their lives to protect women and children. The saying "women and children first" is not a cliché invented by Hollywood for movies like *Titanic*; it is a principle of behaviour which has long been with us and we hope will never be abandoned.

The law as it stands allows abortion in cases of a mother's life being at risk, and I can accept such a law. I do so not because I believe it is the right course of action, but I accept that society is not really in a position to prosecute someone who has failed to live up to that principle.

In summary, there is no rational basis for a law which allows the killing of an infant baby in the womb. If ever we have such a law, it will be because we have defied reason and love in order to wilfully demand the right to do what is seriously, fundamentally and irrevocably wrong. If we as a Parliament surrender to such a demand, we will have surrendered our authority to make any law - I will never participate in such a surrender.

Having dealt with the principles of law, I move now to the involvement of some of our public institutions in this matter. I refer to public hospitals, particularly King Edward Memorial Hospital for Women, which is the major facility dedicated to the care of mothers and babies. In one ward at King Edward doctors compete with one another to develop their skills in the challenge to keep alive even more premature babies, yet virtually in an adjoining room, doctors are killing babies in their mothers' wombs.

The Health Department has a clear responsibility to tell the community the truth about abortion. In its public health role, the department spends large amounts of public money telling people about a number of health dangers, including large sums spent over many years trying to persuade young people that the only thing they need to worry about in personal relationships is whether they are wearing condoms. There has been a deafening silence on the long term effects of abortion on physical and mental health. A large body of information is available world wide on these effects, yet the Health Department makes not a murmur against the constant repetition of the lie that abortion is a harmless operation for mothers, although obviously fatal for the baby. An effect of that silence is that the Education Department presents this blatant untruth to schoolgirls and schoolboys, many of whom are consequently educated to regard abortion as natural.

Another effect is that legislation is presented to Parliament for our approval which pretends that it is more dangerous to a woman's mental health to have a baby than it is to kill a baby. Any doctor who issued such advice should be disbarred for incompetence. This unacceptable law would have us declare to our community that it is justifiable to kill a baby provided the woman has received counselling about the consequences of such a gruesome act.

What standards will we set for that counselling? What consequences will be revealed? The utter silence of the Health Department on this subject has led to the sorry state that a large number of women and girls genuinely believe that there are no consequences at all. The refusal to tell the truth must stop.

[Interruption from the gallery.]

The ACTING SPEAKER (Ms McHale): Order! I remind the ladies and gentlemen in the Public Gallery that they are present by invitation of the Parliament, and they must not impede the deliberations of this Chamber in any way. Responding to speeches by way of clapping or verbal and other non-verbal interruption is not acceptable. For the second time, I remind the Public Gallery that such behaviour is unacceptable. If I must give a third or subsequent warning, I will have to take further action. We invite you to be here, but advise that breaches of protocol will not be accepted.

**DR GALLOP** (Victoria Park - Leader of the Opposition) [3.58 pm]: The abortion debate is full of passion and emotion, and the points of view involved appear to be mutually exclusive. The claims and counterclaims can be pointed and at times telling in their directness. Indeed, it is one of the issues for which some claim divine revelation for what they say and do. There are few uncertainties and plenty of doctrinal certainties at play. Efforts to find a point of agreement - a moral consensus - between the contending forces seems inevitably to come to nothing. It would appear to be a classic case of moral pluralism, where interests, theory and philosophy all clash in a fundamental way.

This is not surprising given that birth and death remain the biggest mysteries of our human condition. Still, we cannot run and hide. We must vote for or against particular propositions. I remind my fellow members of Parliament that the laws we pass will have not only ramifications for our individual version of what is right and wrong, but possibly also real life implications for those who do not share our view of right or wrong. Indeed, given the moral pluralism involved, they will almost certainly have implications for people who disagree with us. I urge all members to think clearly about the conclusions of our deliberations in terms of what they will mean for the way our community

functions. I say this because an expectation is evident in the community that abortion services will be provided. There is also a belief that they have been provided legally. This belief is based on what the courts have been saying about this matter for over 25 years. It is very important to note the current status of the law with respect to abortion in Australia today. As the member for Perth indicated, only South Australia and Tasmania have specific laws that spell out the circumstances in which abortions can be obtained. In the other States and Territories interpretation of the existing law is regarded as providing the basis for "lawful" termination.

Two cases in particular have been cited - *R v Davidson* in 1969 and *R v Wald* in 1971. In the first Judge Menhennitt concluded that lawfulness allowed doctors to perform abortions if they "believed on reasonable grounds that the operation was necessary to preserve the woman from a serious danger to her life or health which the continuance of the pregnancy would entail". Both physical and mental health factors were allowable for consideration. In the second, Judge Levine directed members of the jury that it was for them to decide "whether there existed in the case . . . any economic, social or medical ground or reason which in their view could constitute reasonable grounds upon which an accused could honestly and reasonably believe that there would result a serious danger to her physical or mental health". In other words, Judge Levine added economic and social considerations to the equation.

These cases have been widely cited in criminal and civil courts as being the basis for interpretation of the law. According to a scholar from the University of New South Wales, Helen Pringle, these judgments govern the legal position in New South Wales, Victoria and Queensland and would almost certainly be persuasive if tested in Tasmania and Western Australia.

A Queensland case in which a man sought an injunction to prevent a woman from having an abortion consequent to their casual affair was appealed through the High Court of Australia. Chief Justice Gibbs concluded, "There are limits to the extent to which the law should intrude upon personal liberty and personal privacy in the pursuit of moral and religious aims. Those limits would be overstepped if an injunction were to be granted in the present case."

In a recent case in New South Wales, *CES v Superclinics Australia*, the matter was further amplified when a decision of Justice Newman was successfully appealed. The case involved a woman who sued doctors for damages for failing to diagnose her pregnancy and then not communicating to her the correct result of pregnancy tests. The woman claimed she would have had an abortion had she known she was pregnant.

The details of the case are not my concern, but what the courts said about lawfulness in relation to abortion is. In the *CES* appeal Justice Kirby - now in the High Court - emphasised that the test of lawfulness was not whether a serious danger was posed to the woman's health, but rather whether there was honest and reasonable belief on the part of the doctor as to the woman's physical and mental health.

Following comments made in another Queensland case - *Veivers v Connolly* 1995 - Justice Kirby concluded that a doctor's belief as to the danger posed by the pregnancy included an evaluation of the effects of bringing up the child as well as of the pregnancy itself. "It is illogical", said Justice Kirby, "to exclude from consideration, as a relevant factor, the possibility that the patient's psychological state might be threatened after the birth of the child; for example, due to the very economic and social circumstances in which she will then probably find herself."

I also add here that in all the cases mentioned there is a reinforcement of the requirement that for abortions to be legally performed, they must be done by qualified medical practitioner.

This is the law as it currently stands. We should be cognisant of the fact that if we pass a law which is different from the law which is currently understood, we may be taking away from people rights as they understand exist and rights as have been confirmed in the courts. The law currently gives doctors the role of gatekeepers and provides the basis upon which abortion services have been provided in both public and private facilities.

In talking about the law, generally or specifically, it is important to note there is evidence that it does not alter the incidence of abortion. A World Health Organisation study by Royston and Armstrong in 1989 estimated that between 40 million and 60 million women each year worldwide seek abortions, and that above half of these are illegal. Although restrictive abortion laws do not significantly reduce the number of abortions, they do alter the circumstances in which they occur. No better evidence of this is provided than when we look at what happened in Romania after 1966 when strict prohibition was introduced. There was an initial, but unsustainable, increase in the birth rate followed by a fivefold increase in the abortion mortality rate, so that abortion deaths constituted over 80 per cent of all maternal deaths. This happened as illegal abortion providers replaced regular medical services. Indeed the World Health Organisation estimates that between 100 000 and 200 000 women die each year as a result of illegal abortion. Prior to 1971 an average of 25 per cent of maternal deaths in Australia were due to abortion.

Turning to Australian experience, we know white Australian women have used abortion as a means of birth control throughout the history of European settlement. Concern about the incidence of abortion led to a royal commission in New South Wales in 1903 and a National Health and Medical Research Council inquiry in 1937. In evidence to

that inquiry it was estimated that abortion as a proportion of the total of births and abortions was one in three, a rate higher than the current proportion of approximately one in four. Before South Australia introduced abortion law in 1969 a select committee of the Parliament concluded that in 1968 the number of abortions was about 4 000. Today the figure is 5 000 - directly comparable on a per capita basis.

If we are to restrict access to abortion services, we must be aware of two things: First, it will have little impact on the demand for such services; and, second, it will pose a maternal health problem as women go outside the mainstream medical profession. These are facts that cannot be ignored in any discussion of the morality or otherwise of abortion itself and of the legal or other regulations imposed on it.

In respect of the morality or otherwise of abortion two sets of questions must be answered: Is it wrong; or to put it differently, is it wrong in all circumstances? Even if it is thought to be wrong in all or some circumstances, should this provide the basis for its inclusion in our Criminal Code? In other words, if it is sinful, is it sinful enough to count as a crime? I find the debate about the morality or otherwise of abortion complex and difficult. Those who oppose abortion say that from the moment of conception the pre-embryo is a human being and, therefore, as much entitled to protection and care as is any adult person. It follows, they say, that it is the mother's duty to allow the pregnancy to take its full course.

Throughout history women have resisted this injunction, not it would seem because they do not see the moral importance of decisions relating to abortion, but because they wish to exercise some control over their lives. A recent study by Leslie Cannold entitled "The Abortion Myth: Feminism, Morality and the Hard Choices Women Make" has taken this argument further and said that it is all about motherhood. She put it this way -

It is because our babies are so important - and in order that they remain so - that women must be given the legal right and be trusted with the moral responsibility to say becoming a mother "yes", "not now", "not ever" or "not again".

Given the pressure women have faced over the years, it is not surprising that since the 1950s there has been a global trend towards the liberalisation of abortion laws, with more than 40 per cent of the world's population living in countries where abortion is available on request. At the same time family planning services and various forms of contraception are now an accepted part of our way of life.

Women have fought for and won a range of rights that allow them to participate equally with men in our society, in our politics and in our economy. To back up those rights it has been established that access to reliable contraception and reproductive health education, family planning services generally and safe and legal abortions is necessary. We must recognise as members of Parliament that the circumstances in which women become pregnant are many and varied. Their past and their futures, their fragilities and sensibilities and their ages and incomes vary. Their family circumstances and the circumstances of each of their pregnancies vary. They are real people. They are not factories. They have fears and uncertainties, doubts and dilemmas. They have their consciences and their beliefs. To say that as a matter of morality and of law every one of those women should go through with each and every pregnancy imposes a rigid and inflexible form of moral reasoning.

I ask a simple question of every member of this Parliament: Even if they would not make such a decision would they wish to impose their views on another in every circumstance? Some people answer that question with a positive yes because they genuinely and passionately feel that their belief in God requires it. Significant elements of the Christian Church have campaigned vigorously for the rights of the unborn. I say "significant elements" because not all Christians hold the view that abortion is sinful and should be outlawed.

For many centuries, Christian theologians made a distinction between a formed and an unformed foetus or an animate and an inanimate foetus. This provided an intellectual basis for distinguishing between early and late abortions, which was finally rejected by the Catholic Church as late as 1867. Others working within the Christian tradition refused to acknowledge that abortion could be a good in itself. However, because choices between evils sometimes must be made occasions may arise when abortion is the morally preferable course.

Others, again of a Christian persuasion, make a distinction between private and public morality. One individual is the former Governor of the State of New York and practising Catholic, Mario Cuomo. In a paper delivered to the Department of Theology at the University of Notre Dame in 1984 Mario Cuomo argued strongly for the American belief in the separation of church and state. He said -

The American people need no course in philosophy or political science or church history to know that God should not be made into a celestial party chairman.

He argues that the question of whether to engage the political system, to have it adopt certain articles of faith, is a matter of prudential, political judgment. He said -

that legal interdicting of abortion by either the federal government or the individual states is not a plausible possibility and even if it could be obtained, it wouldn't work. Given present attitudes, it would be Prohibition revisited, legislation that couldn't be enforced and in the process creating a disrespect for the law in general.

He urged those people who were opposed to abortion to recognise that legal prohibition would simply return abortion to the back rooms. He says to his fellow Catholics that it was better to fight the issue "with the weapons of the word and of love".

We should not use the criminal law. Whatever members' views on the morality or otherwise of abortion I believe the views of Mario Cuomo deserve very serious consideration. To impose legislation which ignores the interests of women and their rights to equal participation in our society is bound to be controversial and counterproductive. Unless the feelings, interests and rights of women are part of our equation here today we will not have law that is supported and sustainable.

The fact is that focusing on legal restrictions, on the law and the way it should ban or restrict the availability of abortion services creates merely an illusion that we have a strategy to reduce the number of unwanted pregnancies and abortions in our community.

A recent global estimate placed the number of unplanned pregnancies at about 50 per cent with a quarter unwanted. A 1975 study in Australia estimated that two out of three pregnancies were unplanned and one in two were unwanted. In 1990 approximately 23 per cent of known pregnancies ended in termination. However, we know that changing the law and making abortion more restrictive will not change those figures. We know that the rates of abortion vary from country to country. Countries such as The Netherlands and Great Britain, which have devoted significant resources to family planning services, have lower rates of abortion. In its submission to Parliament on the regulation of abortion in Australia the Public Health Association concluded -

low cost, high quality clinics for contraceptive and reproductive health services are essential if the numbers of abortions are to be reduced.

Such a conclusion needs active support, not the reduction in funding for family planning associations that occurred in the 1996-97 federal Budget.

Where do we progress this issue? Given all the considerations how do we best take this issue forward? First, we must recognise that the conflict at work between the contending positions is not just an uncomplicated clash of values. It is a clash between a view of morality and the irrepressible desire on the part of women to exercise control over their lives. Any study of history will confirm that my use of the word "irrepressible" is solidly based. Whichever law we pass, we must recognise that women will not meekly retire from the debate or from the scene or stop requesting services once we have pronounced the law as a Parliament. They will not go away; they will not give up their request for these services. They will not give up their view that they have rights. Those who advocate tough restrictions via criminal law must come to terms with this fact.

Ideally, abortion is best dealt with through the legal, professional and administrative regulation of the health system and medical practice. The National Health and Medical Research Council concluded -

. . . the regulation and monitoring of medical termination of pregnancy as currently practised in Australia within accepted international guidelines can be achieved without the criminal law, and it is desirable for both practitioners and women that this be done.

We should be clear about what that means: Abortion would be regulated, controlled or monitored under the Health and Medical Acts but it would not be regulated or controlled by policemen and prosecutors. That is the key difference between having the issue placed in our Health and Medical Acts and having it placed under criminal law. However, the legislation before us today is not based on such a proposition, although of course such legislation is being debated in the other place. This Bill deals with abortion within the Criminal Code, but allows exceptions. It seeks to distinguish between legal and illegal abortions. The very heading of the clause to be inserted says simply and clearly: "No offence if procuring abortion justified".

We must assess this proposed section in terms of our existing law and what it has meant for women and their medical practitioners. This takes me back to where I began my comments today: It is most important that we have a clear statement about this legislation and how it lines up with the law as it is understood by the courts throughout Australia. I must make clear what those courts say because members must be very clear about this. If they accept legislation that provides restrictions that do not exist in our law we will have taken a backward step in Western Australia.

Let us look at how the law has been interpreted. Three things stand out. The first requirement is that if abortion is

to be legal, it must be done by a qualified medical practitioner. The second requirement is the clear view that the test of lawfulness lies with a doctor's honest and reasonable belief about the dangers posed to a woman rather than factual evidence per se. That is a very important point delivered in the courts. The third requirement is a broad interpretation of dangers to physical and mental health as involving economic, social, family or medical factors.

We need to understand that if we pass a law which delivers anything less than those requirements, we will have turned the clock back in Western Australia. What women and their medical practitioners understood to be lawful may no longer be lawful. I ask all members to reflect on what that will mean for the way our society functions, for the expectations of people in our community, for consensus within our community, and for the ability of our community to function without enormous division.

This Bill needs to pass beyond its second reading to the Committee stage. I will be seeking assurances from the Government that proposed section 201A(3) paragraphs (a), (b) and (c) will amount to the placing in our Statute of the situation that had emerged from the various court decisions mentioned in my speech. That is a very important requirement in terms of the way we assess this legislation. We need a guarantee that if it goes through this Parliament, it will at least return us to the same situation that existed before charges were laid a few months ago and uncertainties emerged. That is an important consideration.

I conclude by asking all members of Parliament to take into account the realities of the situation and take into account what actually happens in our community as well as their own individual, passionately, genuinely held view about the differences between right and wrong. That is something we have to do in relation to all legislation and something that the Minister for Police has indicated that he will do in relation to legislation on prostitution. That is something we have to do as legislators. We are not priests; we are legislators. We can have a clear view about what is right and what is wrong but we must make sure that that view does not prevent others in our society with a different view from going about their lawful activities.

I conclude by returning to my reference to the mystery of life. This is a most puzzling question for which there have been many answers in human history - answers in philosophy, answers in myth, answers in religion, and answers by the most profound thinkers in human history. This was a question that the United States Supreme Court tried to address in its famous decision of 1973, *Roe v Wade*. Justice Harry Blackman of the US Supreme Court, one of the twentieth century's most eminent judges, carried out an intensive study into the mystery of life. When he delivered his final judgment on that most important case in the United States of America, which still provides the basis for that country's law today, he concluded that when those trained in the respective disciplines of medicine, philosophy and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer. I believe this to be telling evidence in favour of a compassionate, pro-choice approach to this question.

**DR EDWARDS** (Maylands) [4.24 pm]: I am very pleased that this issue is finally being debated in Parliament. For nearly 20 years I have believed in repeal. Therefore, I welcome the opportunity to speak on this Bill but I would have preferred a repeal Bill.

Although I am speaking today as a parliamentarian, I also speak as a health professional, and to a lesser extent, a mother. Because of my life experiences and my background, I will be exercising my conscience vote in that context. Like others in this Parliament, I had a strong Catholic upbringing. In my early years, indeed up until my teenage years, I believed abortion was wrong. I say that because I understand the people in my family and others hold a view different from mine. Nevertheless, my view has changed.

I have vivid memories of stories told to me by my mother when I was a young girl. My mother was a nurse at Royal Perth Hospital in the early 1950s. She was a good young Catholic woman and she related stories to me when I was a very young child about people who died as a result of backyard abortions. She related them in a context of her wanting her daughters to always come to the family for help. She also related them in the context that abortion was wrong. Ultimately, the message I got was that there has to be a better system of justice for women. I think that is part of the reason that my differing views have emerged from those of my family.

My views were also influenced by my days as a medical student at King Edward Memorial Hospital. Which day a woman had an appointment in the gynaecology clinic determined the outcome of her request for termination for pregnancy. One woman could put forward a case for a termination, but if she got a Monday appointment for example instead of a Wednesday appointment, her plea would be rejected. One of the doctors knew of my disquiet. He took me aside and told me, "Don't worry; no woman has ever committed suicide over the refusal of a request to have a termination". Intuitively I knew that was wrong.

As a child I knew of a family in the region who had inadvertently caused the death of the daughter while trying to cause her abortion. Therefore, I knew these doctors were wrong. In 1977, colleagues and I would dash out to the

car park of King Edward Memorial Hospital and tell the women who left the hospital upset about the phone numbers to ring to seek help.

From 1979 until the mid-1980s, I was involved with a group called the Abortion Information Service. It was named that because that is what it was; it was in the phone book under that heading. It was a group of women who were happy to provide information by telephone and give counselling in our homes to assist women who needed our help. Many members of the group met country women at the railway station and at the bus station and put them up for a couple of nights. They went with them to the clinics and gave them a lot of support. That group provided an extremely valuable service for those women at that time. By the mid-1980s, the group was still unfunded and was losing members. That was a good thing because more doctors were happy to refer women for terminations. Two freestanding clinics were operating by then with counsellors and there were more women doctors who were able to meet this need. To its credit, the Family Planning Association took over many of the functions of the Abortion Information Service.

Throughout my medical life, I have worked in general practice. However, I have also done stints as a medical officer of the Family Planning Association, at the Aboriginal Medical Service, and with the Sexual Assault Referral Centre. In all of those roles, but particularly in general practice and at the Family Planning Association, I have counselled many women with unplanned and unwanted pregnancies and I have referred many of the same women to the abortion clinics. In virtually all of those cases, they were in the early weeks of pregnancy. What can I say from this experience? The first thing I can say is that a woman does not make the decision to terminate a pregnancy lightly. Most of the women I came into contact with knew very early that they were pregnant. They described days of fear and dread waiting until they actually had it confirmed.

Equally, most of them, having spent this time assuming that they were pregnant, were fairly clear about what they would do. As a doctor, when a woman said, "I think I am pregnant", I would generally know from the tone of her voice how she was feeling about it. As other members have said, there is no stereotype of a woman wanting a termination. These women can be young or old; rich or of poor socioeconomic situation; from the city or the country; and of any religious or ethnic background. It is no surprise that requests for terminations of pregnancy mirror sexual activity by women in the community. For many women unwanted pregnancy brings a sort of "what if" crisis. They say: I wish contraception had not failed; I wish my circumstances were different; I wish I had a better relationship; I wish I could do otherwise. As in all things in life, with these wishes, mostly, there are no simple answers. However, having made the decision, most women whom I have seen who have had terminations of pregnancy feel relieved afterwards. I believe that the single most common emotional response afterwards is relief.

Although early terminations of pregnancy are, in reality, simple surgical procedures the issue remains a genuine problem for both individuals and society. However, it is one which up to one-third and maybe even one-half of women will face in their reproductive years. It is an issue where women do make decisions - difficult, private, personal, moral decisions - on what they believe is best for them in their circumstances.

I will move now to why I believe abortion is a public health issue. Termination of unwanted pregnancy has been practised throughout recorded history. Experience shows that women will seek terminations in the face of religious and legal sanctions and at the risk of pain, expense and danger. This fact is reflected in maternal mortality figures. As other speakers have pointed out, until the early 1970s maternal mortality from backyard and botched abortions was very high. Since then it has been incredibly low. In this debate - however we vote - we need to ensure that we do not move toward a system that takes us back to the dreadful past.

We also need to remember that a woman's health and that of her children is affected by family planning issues. The age at which a woman has her first child, the number of children she has, the intervals between them and the age at which she has her last child and also her socioeconomic circumstances all contribute to family health. These are health issues and the decision by a woman to terminate an unplanned and unwanted pregnancy is a difficult decision but one which should be made by her in a health context.

Contraceptive use in the community is high and I totally reject the notion that women are using abortion as a means of contraception. Anyone who says that does not know a lot about abortion or women. That notion needs to be thrown out. I also believe that contraception is a more complex issue than it appears on the surface. The safest method of contraception is the barrier method - the diaphragm or condom. Each of those has a failure rate of between 10 and 20 per cent. It also must be remembered that even for the person who uses the method 100 per cent effectively, the barrier is not 100 per cent effective. Although people rely on contraception, particularly the safest method - the barrier method - it is not all that effective. For example, if a 35 year old woman used a barrier method of contraception for the remainder of her reproductive years she would have two unplanned pregnancies from a statistical point of view.

If barriers fail people should have access to the morning after pill - postcoital contraception. However, the morning

after pill is not marketed as such. It is only available from doctors who know its composition and how to prescribe it. It can be extremely difficult for women, even if they know about it, to get it in time. It is a method of contraception that needs to be made more widely available to women.

The other difficulty is the pill. Early on when it was invented the hormone dose was high and women had many side effects. There were also concerns about the long term effects. These days contraceptive pills are low dose but with them comes problems. For instance, if a woman is taking the pill and has a high temperature or gastroenteritis, or is more than a few hours later than her regular time in taking the pill, it can be ineffective and she may become pregnant. Similarly, contraceptives that were once in vogue such as the intrauterine device and injectable hormones are now, for good reasons, out of fashion. Women's choices of contraception are becoming more limited as time goes by. For instance, although the IUD is a very effective method of contraception many doctors are reluctant to insert it because of the risk of litigation if a woman who has not had children subsequently has an infection and is found to be infertile. All of this makes it difficult for women. I say to members: Roll on the day of the male pill and perhaps even the IPD - I will leave that to members' imagination!

In an ideal world from a contraceptive point of view sexual activity would be premeditated and would be 100 per cent effective. However, we do not live in an ideal world - we never have and never will. We must make the best of the imperfect world that we have at the moment. It is my fundamental belief that women have the right to determine their destinies. This includes the right to be sexually active and to control their fertility. Control over their lives and more opportunity to have the number of children they want at times in their lives when they are ready is something we are probably all aiming at but we are approaching it from different points of view. I believe the best way this can come about is by repealing the laws and regulating them under health legislation.

I turn briefly to the need for repeal. Every year in Western Australia about 9 000 pregnancies are terminated. Most of these are performed in the first eight weeks of pregnancy and in the free standing clinics. There is very little morbidity and to my knowledge no known mortality associated with the procedures. About 100 abortions a year are carried out because of foetal abnormalities. These are more complicated procedures. They involve a woman who desired the child, was aware she was pregnant, but was faced with a severe foetal abnormality. This is a very difficult circumstance. I know when I was pregnant with my child, because I was over 35 years of age, I had an amniocentesis. I was advised not to have what I would call early genetic testing because that is associated with an increased risk of miscarriage. At around 18 weeks of my pregnancy when I had not received the result of my amniocentesis I became increasingly anxious. I do not know what I would have done had I received a negative result. That would have been a dilemma I would have had to face - a moral choice I would have made. Although I have those views I would never seek to impose my views on anyone else. Some women in this situation - for example, if a woman knows that the child she is carrying does not have a brain - will choose a termination of the pregnancy, and I support them.

Although abortion is an offence in the Criminal Code people believed that the law would be administered with discretion and in line with community attitudes. With no prosecutions for a couple of decades and with over 80 per cent of the population supporting a woman's right to choose this seemed a reasonable assumption. On 10 February this all changed when two doctors were charged. Doctors, quite rightly, are now fearful of performing abortions. Nurses too have some reluctance about being involved. We have a responsibility as members of Parliament to clarify the law. In doing so we must ensure that we move forward, we reflect community attitudes and we do not go backwards.

We need to manage termination of pregnancy as a health issue. We need to make sure that women have access to safe abortion services, regardless of where they live, and that it can be done in a timely manner. Better information and more counselling are also needed. This counselling should be independent of clinics and should be available prior to the women having the procedure carried out. Having spoken strongly about counselling, I add that I do not believe it should be prescribed. Many women, once they know they are pregnant, are quite clear about what they want. They need advice and support, but they do not necessarily need psychological counselling. There must also be follow up from the determination, and contraceptive use is most important here. That is the best time to intervene to clarify what went wrong with contraception last time and what is needed to give better contraceptive cover for the future. We all need to work more strongly on that issue.

In addition, education programs and increased funding for family planning services should be provided. With some regret I note that both state Labor and Liberal Governments and federal Liberal Governments have cut back funding to family planning services. There must also be regulation of the procedure, training of the health professionals involved and better collection of the data. None of those things will happen while the offence remains in the Criminal Code. There must be better technologies so that diagnosis of foetal abnormalities can be done at an earlier stage in pregnancy, and there will be a lower number of mid-trimester abortions.

I have not discussed the moral issues, partly because time is short and other members will raise these issues.

However, it is important to recognise that ultimately the decision to terminate a pregnancy is a decision for the woman herself to make. It is for her moral judgment, and it is a private and personal decision to be made between her and her doctor.

The number of women who request abortion is not influenced by whether abortion is legal or illegal. That is a very important point. When abortion is legalised the numbers do not jump suddenly, and there is some evidence that when abortion is legal, with good contraceptive advice and availability and good educational programs, the numbers decrease slightly. Regardless of our views, everyone wants a lower number of terminations. Nobody likes abortion, but it is a fact of life. The termination of pregnancy is an issue for both individuals and society. I welcome this debate but I hope that as a result of it we can develop a meaningful abortion ethic that is relevant to the pluralistic society today. In my view this can be achieved only through repeal of abortion laws from the Criminal Code and regulation of the procedure through the Health and Medical Acts.

**MR CUNNINGHAM** (Girrawheen) [4.43 pm]: Since my election to this Parliament in March 1988, there has never been, and never will be, a debate of such moral and social importance as this Criminal Code Amendment Bill. As legislators, we should be calling for a compassionate and responsible parliamentary action to stop the slaughter of almost 10 000 unborn children in the so-called State of excitement of Western Australia. As legislators, we can no longer keep that silence. It is the most guilty and shameful silence that haunts and shrouds each and every one of us. My earnest wish is that we endorse a vision of committed, caring and compassionate legislation in opposing draconian pro-abortion legislation.

It is an extremely sad truism in human relations that all that is necessary for evil to triumph is for good men and women to do nothing. There are many good men and women in this Assembly on both sides of politics. A much sadder truth is that evil may continue to succeed if good men and women from both sides of politics are divided in their actions on how to succeed. I place on record my appreciation of the many wonderful people associated with Life Ministries in Nollamara. They have been of great assistance to me on this issue. In particular, I pay compliments to Director Pastor Dwight Randall, a very caring and compassionate pastor and member of the Church of Christ at Scarborough.

This debate brings, and will always bring, with it a great deal of emotion and indeed it should. After all, we are discussing the culture of life and the culture of death. I would like to share with you, Mr Speaker, and with members of this Assembly some passages of a speech delivered by a very dear friend of mine of some 40 years. This friend and I go a long way back to our ALP youth council days in New South Wales during the late 1950s. He is the past President of the New South Wales Legislative Council - Johnno Johnson. Hon Johnno Johnson has been a very well respected and long serving member of the Legislative Council since 1976. He spoke on the issue of abortion to the New South Wales Legislative Council in 1988. He was the first President in 73 years to take to the floor of the House to address assembled members, and that showed how deeply he felt on the matter before the House. He said that with abortion the baby always dies. It is quite simply a matter of life and death. No gynaecologist anywhere in this world will tell a woman "Madam, for the first few months of your pregnancy you are having a fish". Naturally, it is always a baby in the womb. It is beyond any doubt that what has been destroyed is nothing more or less than a child. Every person in this world was once a foetus. Some may say that these are extremely harsh words. They are totally wrong; they are very true words.

He said that he wanted to make it abundantly clear that he would lay down his political career if he thought any action of his could stop the destruction of unborn Australians. Johnno Johnson and his dear wife Pauline adopted four children and he said in this wonderful address to the Legislative Council that each and every one of these children could have been aborted if it were not for the great respect for life held by their mothers. He said what a void that would have been in his and his wife's lives. He thanked God for those wonderful women, and said there is nothing more important than life and there is nothing more infamous than the killing of future generations. He said there was something wrong and evil with a society that contains the only species that destroys its young before birth.

Those doctors in our society engaged in abortion, who are in the minority, are nothing more or less than modern day Herods. Johnno Johnson said his view was that doctors in our nation should be the ones who are confronted. They started the widespread practice of abortion and they must be the ones to finish it. Johnno Johnson is a remarkable true believer of the Australian Labor Party, and is respected by people across the political spectrum throughout Australia. Like my dear friend, I am totally opposed to abortion. Abortion causes physical, mental and psychological harm to all women. Some women are damaged greatly by abortion. However, because the unborn child is often overlooked in discussions about abortion, I believe we should consider the developing human child just for a moment. I will refer briefly to a number of indisputable facts. Human life begins at conception. The foetus is not, as pro-choice people claim, merely a mass of tissue. What is killed by abortion is nothing less than or more than a human being in the early stages of development. From conception, the unborn child is an extraordinary, complex, rapidly growing individual. The heart begins to form at about 17 days after conception and starts to beat at about 24 days. Abortion always stops



a beating heart. Eyes begin to form at about 20 days, and by the end of the first month of life - earlier than most abortions are performed - this little individual has undergone its greatest development. These are the changes of a lifetime. She is already 10 000 times larger than the fertilised egg. At seven weeks - the time most abortions are performed - the unborn baby has been described as a one inch or 2.5 centimetre miniature doll with a large head but gracefully formed arms and legs. One cannot mistake the human face. By 10 weeks, if the baby's forehead is touched, she may turn her head and frown. She can now kick her feet, curl her toes, make a fist, bend her elbows and open her mouth. By 13 weeks - the end of the first trimester - the unborn child is fully formed. She is a miniature baby, nestled in her mother's womb. She can shift position, feel pain, hear noise and see light. From this point on, she will develop only in size and strength.

In light of these scientific facts, I urge members to ask themselves: If abortion is simply a compassionate solution to an unwanted pregnancy, when a pregnant woman presents herself at a clinic, is it right to kill her child in order to satisfy her needs? Does a compassionate society have to resort to killing to solve its social difficulties? Can we not be more creative in this world?

In the two Houses of Parliament we find ourselves faced with two equally pro-abortion Bills. Although one is unapologetically pro-abortion, the other purports to offer a spectrum of choices, but it is basically the same thing. I want members to consider briefly the two issues before the Parliament. The first is the Davenport Bill, known as the Criminal Code Amendment (Abortion) Bill, which will be debated today in another place. My comments relate to the mechanics of that Bill. One proposed method of dealing with the issues is to repeal sections 199, 200 and 201 and section 259 of the code, which is to be amended by deleting the phrase "for the preservation of the mother's life". That means unborn children will be stripped of all legal protection and will be able to be killed at the whim of their mothers. We must ask ourselves whether unborn children should be afforded no legal right to life. This approach does not restrict any abortion procedures, because abortion would be removed from the code. Unborn babies could be killed by any means at any stage of their development. This Bill would grant the mother the sole right of life and death over that child, a power not given to others in our society. Unborn babies would be open to indiscriminate killing. Abortionists would no longer face imprisonment but would enjoy legal protection to kill babies at will. In short, what is now illegal will be done legally. Is this correct? Is this right? Is this just or compassionate? Or is it the demand of an extremely troubled, guilty group of people who crave their own rights and are filled with total remorse as a result of a previous tragic experience? Naturally, we must always respect those people who feel that guilt and who are still mourning drastic actions taken many years ago. I cannot support the brutal, oppressive and unregulated proposal of abortion on demand. We should not kid ourselves: We are talking about abortion on demand.

The second option being presented to members is the Government's Criminal Code Amendment Bill. Hon Peter Foss is acknowledged by colleagues on both sides of the House as extremely sympathetic to the pro-abortion cause. He is the instigator and architect of the Bill. He has publicly stated on numerous occasions that the Bill offers a smorgasbord of options. The Attorney General may have misled the public, but he should not try to fool his parliamentary colleagues. If members vote for the Davenport and Foss proposals, they will be voting for nothing less than abortion on demand. It is nothing more nor less than legalised killing.

The first proposal for consideration - the amendment of section 201A(3)(a) - will lead to the legalisation of abortion if the pregnancy is causing serious danger to the mother's physical or mental health. This clause, written in the present tense, allows for a termination on the ground of mental health. Whenever mental health has been incorporated in the law, as in *R v Davidson*, it has become the basis of abortion on demand - nothing more and nothing less. Doctors can argue that any abortion is justified on that basis for any pregnant woman; in fact, they have been doing so for the past four to five decades.

This proposal, like the subsequent proposals, is couched in the vaguest terms. How do we define the word "serious" or certify what it means? Does it mean irreparable harm? Who will certify that the woman is in serious physical or mental danger? Will it be a specialist psychiatrist, a heart specialist, a gynaecologist, or a general practitioner? An abortionist doctor, before he takes the blood money, will be the person making that decision.

People to whom I speak believe that the Foss and Davenport proposals lack detail and precision. Is this Government hiding behind generalities to secure its objective - abortion on demand? Members should not be deceived. We would be naive to think that these proposals are anything other than tokenism. Any exceptions contained in the code must be precise. The test of any legislation is that it be in plain, understandable language. These pieces of legislation fail that test miserably. The phrase "serious danger to physical or mental health" is a far cry from the wording in the present code, which refers to the preservation of the mother's life. The old code stands like a sentinel - at attention, protecting women and unborn children from abortion. This new proposal looks like a willow blowing this way and that way in the breeze.

I wanted to talk about the second, third and fourth proposals but time is of the essence.

The ACTING SPEAKER (Mr Baker): The member can seek an extension.

Mr CUNNINGHAM: I realise that, but I still feel that I may have to leave the second, third and fourth proposals.

I sense that the Foss-Davenport proposals have been poorly and hastily constructed because of a sense of urgency that has been generated by the pro-abortion lobby and its sympathisers. The Bill that is being discussed in the other place seeks to grant pregnant women the legal right to kill their unborn children at any stage of pregnancy for any or no reason at all. It shows great contempt for our civilised society. Some of the pro-choice and pro-abortion people - and they have the right - have expressed a sense of outrage that the present Criminal Code does not allow women to end their pregnancies for any reason. I express my total outrage and indignation that such an odious Bill could be put through the Parliament of Western Australia. Let us not kid ourselves about it; the Bill will allow unborn children to be killed for any reason. I stand opposed to the Bill not only because I believe that unborn children should be protected from indiscriminate killing allowed by law but also because abortion does women great and lasting harm.

The Foss-Davenport legislation is totally lacking in precision and thus amounts to nothing short of legislation by stealth. It is a sign of a desperate Government. This Government cannot be trusted if its legislation is compiled at the hands of a pro-abortion Attorney General. There is no secret about it. He has vehemently argued that the word "life" really encompasses health in section 259 of the Criminal Code, yet he now feels compelled to change the law. If he has told the public the truth over the past four years, why does he have to produce this Bill at all? The answer seems to be that he and others in the Government are now having to face up to their own untruths. They have been misleading the public for years and years on the true intent of the code. This is evidenced by the desperation to alter the law to include what they have always argued it already contained.

Prior to becoming the Premier, Richard Court wrote this to the pro-life community -

The creation of new life is one of the most precious gifts given to us and the abuse of abortion in our society warrants a massive campaign against it.

Why does this Premier no longer view the creation of new life as one of the most precious gifts given to us? Why, instead of waging a massive campaign against the abuse of abortion, is the Premier now leading a campaign to legalise that abuse? I firmly believe that the Premier has lost control to the pro-abortion lobby in the coalition. The answer is that far from offering a wide spectrum of options, the Bill is offering abortion on demand, abortion on demand, abortion on demand, and abortion on demand. The Foss-Davenport Bills do not place any restrictions on method or time. However, unlike the Davenport Bill, the Foss Bill pretends to be something that it is not. If Hon Peter Foss had half the courage of Hon Cheryl Davenport, I would not need to point out to this House that the four Foss options are in reality abortion on demand, abortion on demand, abortion on demand, and abortion on demand. The Davenport and Foss Bills are equally outrageous.

This is the first time in the history of Western Australia that a sitting Government has prepared legislation to legalise the killing of its unborn children. Can there be any greater abuse of power than that which will happen over the next two or three days? How will this Government be remembered if abortion is legalised? It will be remembered in the broad sweep of history as the Government that legalised the killing of unborn children. Richard Court, the Premier of the State, will be remembered as the Premier who, in spite of having a sizable majority and claiming to be pro-family, legalised the killing of unborn children. This Premier rightly or wrongly will be remembered by the Western Australian public as a dishonourable man. I would like to place on record that, although other people may believe the Premier is a dishonourable man, I do not; rather, he is either naive or a prisoner of the Foss pro-abortion lobby; or, most likely, he has been totally conned by the Attorney General.

Members should never conclude that if abortion is legalised in Western Australia the issue will simply go away - it will not. If this Parliament deprives unborn children of the legal right to life and they are legally killed by the thousands, the cry of ordinary, decent Western Australians will continue to rise in their defence. Let us make no mistake about that. I implore members to support the sanctity of life by opposing these draconian pieces of legislation. Have no doubt whatsoever that this matter is the dividing line for civilisation as we know it.

In conclusion, I must put on record that I have devoted this speech to the wonderful couple, Drs Sarah and Steven Oh, who are featured on the front page of this morning's *The West Australian*.

**MR PENDAL** (South Perth) [5.09 pm]: I want to begin my remarks by explaining where I come from in the abortion debate and to canvass with members those things which I comprehend in the matter and those things which frankly I do not comprehend. Once I have outlined that I will place on record what we should be doing with the legislation before us.

From the outset I make it clear that I am a believer of the notion that half a loaf is better than no loaf at all. Although

I strenuously oppose abortion and believe that it is inherently bad for society, I am aware the view is not shared by everyone. In the light of that, I will outline later in my speech an alternative to defeating this Bill in its entirety. I say that particularly to people who share my view that to defeat a proposal that could be said to represent half a loaf in favour of contemplating the open slather approach of the Davenport Bill makes no sense to me politically, morally or ethically. For the moment, however, I will outline my views on the broad subject.

I can understand the attitude of people who say that they believe abortion is justified in the case of incest, albeit that, as I will explain later, I cannot accept it. I can also understand the attitude of people who say that they believe abortion is justified in the case of rape, albeit that I cannot condone it. I can similarly understand the attitude of people who say that abortion is justified in the case of severe deformity, albeit that I cannot condone that sentiment. However, to understand or to have empathy for certain conduct is not the same as saying that the conduct is right or acceptable. One of the reasons that I cannot bring myself to cross that threshold is that we are being asked to formally institutionalise the killing of one's own flesh and blood. To that I make the observation: What progress!

We are confronting here, and, indeed, we are confronted by, the most fundamental human rights issue that the Parliament has debated since the Medical Care of the Dying Bill in 1995 and the abolition of capital punishment in this State in 1984. I will dwell on that, because it is relevant to my remarks. I happen to be one of the members who was involved in all of those debates. The fundamental question that they have in common is the value that we place on human life. In the case of capital punishment, to this day I remain pleased that in crossing the floor in the other place I was one of the three members who brought about the abolition of the death penalty. Eleven years later when Ian Taylor's Bill on the medical care of the dying came into the Parliament, I supported it because it clearly rejected the notion of euthanasia. Therefore, again it was a Bill which placed the highest premium on the value of human life.

This Bill challenges us all to answer the same question: What value do we place on human life? I believe that once we remove that special regard and esteem for human life, we are capable of removing anything. That view about the sacredness of life is not mine alone or that of some members of this Chamber. We are in esteemed global company when we make that statement.

I want members to listen closely to the wording of what is known as the Declaration of Geneva. That declaration was adopted by the general assembly of the World Medical Association in Geneva in 1948 and was reaffirmed by the same body in Sydney in 1968. That declaration is otherwise known as the physicians' oath, or as what was once called the Hippocratic oath. It contains seven propositions to which young physicians commit themselves in their profession. The sixth proposition states -

I will maintain the utmost respect for human life from the time of conception.

That is not a declaration made in the middle ages by some ill-educated, unsophisticated surgeon-butcher, nor is it a declaration made by some so-called hardline Catholic doctor. Rather, it is a declaration by the pre-eminent world medical body in our lifetime. I ask members to contrast that stance with that of the combined medical lobby in Western Australia, which on 20 February this year, under the signature of Professor D'Arcy Holman, and countersigned by 22 others, issued a public statement on the letterhead of the University of Western Australia. The arguments of Professor Holman and his colleagues were confined to four brief paragraphs which I believe will stand as a permanent memorial to their intellectual and moral vacuum. I say that because the opening paragraph of their statement is that women will seek abortions whether that is right or wrong, so let us ensure that the abortions are safe. In their own words, the abortion-termination of pregnancy policy issue that we face is whether the procedure will be done safely or in a dangerous way.

I am appalled at that stance, not because these doctors are not entitled to that view, because they are clearly entitled to it, but because they seek to justify abortion as a public health issue, entirely devoid of the Geneva declaration that they will maintain the utmost respect for human life from the time of conception. I find the statement of those doctors all the more appalling because those 23 individuals label themselves as representing, in their words, the health industry. That is their statement's most damning condemnation. They actually present themselves as the world weary members of a profession whose views they no longer profess - members of a health industry - as though they have no greater obligation to society than has a motor mechanic or a bus driver.

Thankfully, these are not the only representations that I have received. I, like other members, have heard from people all over the State, many of whom express views that are clearly genuinely held, albeit that I do not agree with them. I have been invited by constituents and people from all over the State and across Australia, like others, to accept a number of arguments which at best are curious. For example, I am frequently told, and we have been told in the short time that this debate has been under way, that a woman has dominion over her own body. That is not correct in the realm of either moral or civil law. Under Western Australian criminal law, neither a male nor a female has dominion over his or her body. Section 288 of the Criminal Code states that any person who procures another to kill himself, or aids another in killing himself, is guilty of a crime and is liable to imprisonment for life.

Therefore, no person has the right to assist another person to kill himself. It follows that the law itself dismisses the oft repeated argument that a person - in this case a woman - has some sort of exclusive right or dominion over her body. With the utmost respect, the concept is in the realm of myth. That people have been able to invoke it is a sign of the intellectual vacuity that has come to pass for debate.

In this context it is worth asking why we persist in ignoring the hard data, the real evidence about the effects of abortion on women. Why do the women's movement and the pro-abortion lobby, for example, fail to address that? The best evidence we have is a report completed in the United Kingdom in 1994 which tells us that 87 per cent of women surveyed, in a community not unlike ours, experienced long term emotional consequences as a result of abortion. Is that not something about which people should be protesting in the streets on behalf of women?

I have been asked to consider the argument that it is women's right to choose. I wish to demonstrate how that is an inherently antifeminist stance. It is perpetuated by some women, chanted by many, but a peril to all women. The argument is used by both males and females. When asked, men will generally and gladly say of a woman's so-called right to abortion that it is the woman's decision; it is for her to decide. We have encouraged that view among males. I put to members that that is a cop out by males, which in any other circumstances, feminists would angrily reject.

In all other respects, over the past 30 years, women and the feminist movement have fought a desperate battle to insist on equality. In this instance, it has become convenient to claim that a pregnancy is for the woman and the woman alone to deal with, and that the male is free to go about his business. One can only smile at the irony of that: Women search for and assert their right to equality with men and then absolve men of their responsibility - a responsibility which women alone must bear.

Another argument has been put to me by those supporting what I call the "free-for-all" abortion on demand. I quote a constituent who knows my views on the subject -

If you cannot bring yourself to vote for the legislation, please at least respect the wishes of those in your electorate who feel as I do, and abstain from voting.

That is an untenable position, not only for me but also for any member. The member for Perth, a good friend of mine, is on the record as being a strong supporter of pro-choice. She would be the first to concede that some people in her electorate oppose her views on abortion. In these circumstances, and following that logic, she could be asked to accede to the wishes of those constituents by abstaining. I hope that she would find that request as unacceptable and as repugnant as I find it. Abstention would make life easier for many of us, but it is the coward's way out. We are sent to this Parliament to vote, not to abstain - and certainly not to abstain on the specious grounds that one's views are already known. That is no reason to withhold a parliamentary vote.

I have also had raised with me the so-called "will of the people" argument. What is the will of the people? One is entitled to look at that against the background of the most reputable public opinion polls. It may surprise members to hear that the latest Roy Morgan poll found in February this year that there was no overwhelming support for all our liberalised abortion laws. Forty-seven per cent of the people polled said that abortion should be easier to obtain. On the other hand, 48 per cent disagreed. That is, 38 per cent said that the law should remain as it is, and 10 per cent said that abortion should be harder to obtain.

The pro-abortion members of this Chamber might well study the analysis by age of that poll. It is a most instructive statistic. Among young people there is quite overwhelming opposition for easier abortions. In the 14 to 24 age group only 33 per cent think that abortion should be easier, and 51 per cent say the law should remain as it is. This means that by a factor of about 14 per cent, young people in that age bracket take a more restrictive view than that of their elders. That begs the question: I wonder what it is these young people are telling their parents.

I also want to deal with what has been a practical lack of equity in Western Australia between the two forces - the pro-abortion lobby and the pro-life movement. Thankfully the problem has now been corrected, but it previously manifested itself in funding mechanisms within the state government service. There was an unmistakable bias in the funding given to one side but denied the other. Last year a group sought from the Treasurer answers on funding for the Family Planning Association, which is pro-abortion, and an organisation called Women Hurt by Abortion Inc. In the current financial year, the Family Planning Association received \$108 000 from the State. On the opposite side of the equation, Women Hurt by Abortion received precisely nothing. I must admit that recently as a result of representation we persuaded the Government to change its mind.

I return now to an earlier point: I cannot understand in all of this, how or why the single, central, underlying issue is neatly shunted to one side: We are talking here not about small puppies in a pet shop or vegetables pulled out of the garden. We are talking about human life. This forum, this Parliament, is laced with instances where we invoke the principle of human rights. We hear it from members all the time. What more fundamental human right is there than the right to live? No serious debate or doubt exists today that life begins at conception. The World Medical

Association oath is clear on that, and so too are modern geneticists. In that context I ask: Do children in the womb not have human rights? Do our physicians not have sacred oaths? Do we, as individuals, engaged in sexual activity, not have serious obligations? Does anyone seriously suggest that we abort 10 000 unborn children each year in Western Australia because they are the result of rape, incest or serious deformity? The overwhelming number of those children are aborted for convenience. In that case, why do we not address that issue?

If a human life is conceived because of carelessness, because a person forgot to take the pill, it is frightening that such carelessness should be met with a consequence for the child and not the parents. To put it another way, why punish the innocent party - in this case, the victim? Why not set ourselves the task of imbuing a greater sense of care and responsibility on the part of adults involved in sexual activity? If, on the other hand, human life is conceived as the result of ignorance, because a 15 year old did not know the consequences of the act of intercourse - and it is hard to understand there is anyone like that today - let us not punish the innocent. Is it not more logical to change the culture of Western Australia by properly educating those ignorant of their actions? On this point, I applaud the actions of the Anglican Bishop who spoke very eloquently on that subject on Sunday night.

We have never been short of reason to conduct public education programs in this State in order to change people's pattern of behaviour. If people smoke or abuse alcohol, we tell them of the consequences involved. If they are into drugs, or thinking about experimenting, we tell them of the consequences. We are content to say that if the advice is ignored, consequences will follow. Should we not then stress the same in the case of unprotected sex - that there not only may, but will, be consequences, one of which might be a pregnancy, and one not to be abandoned, but one to be accepted because it is a consequence?

I am sometimes accused, I think unfairly, of holding my views just because I am a Catholic, and I am told that not all people share those strict views. I am sometimes told that I must accept that Australia is a different place from that of a generation ago, that values have changed and that we now live in a multicultural society. I remind the House that according to the 1996 census, 16 per cent of people say that they have no religion and 3 per cent are Buddhists or Hindus, or of the Islamic or Jewish faith. No less than 71 per cent of Australians still describe themselves as adhering to one denomination or another in the Christian community. A simple message emerges in those statistics: One thing which links all the 71 per cent who responded in that way on their census form, doctrinally, among other things, is the Ten Commandments. One does not need me to remind people that one of the commandments is that thou shalt not kill.

Let us take it from one who has been there and done that: I refer to Dr Bernard Nathanson, who was at the forefront of the pro-abortion lobby in the United States and who, by his own admission, performed 60 000 abortions. Today, he hangs his head in shame. Today, he likens the abortion industry to the "allied plagues of child abuse, pornography, violence against women and genocide". This man owns up to helping to usher in "this barbaric age" to make abortion legal, affordable and available on demand. I invite members, no matter what their views, to read his book and consider his experiences.

Notwithstanding all this, I note that the abolition of the right of abortion is simply not a viable option. Similarly, I have the deepest concern regarding the implications of the passage of the Davenport Bill. As a result - and only because of that - I am reluctantly amenable to the passage of the second reading and to amending the Foss Bill in Committee; in other words, to make the best of a bad thing. I favour the deletion of options (c) and (d) along the lines I will later outline as the only way I know of reducing the number of abortions carried out. If not in the name of the moral dimension of the debate, for goodness sake at least let it be in the name of human rights.

We begin to address this horrendous tragedy of perhaps 9 500 abortions, most of which are abortions of convenience, by reducing their number by eliminating ignorance and carelessness. Without such change, we in this society are on a hiding to nothing. When human life is no longer valued, very little is left for us to value.

My bottom line is this: I want to win some of the battle, not lose the entire war. It is the doctrine of the least damage. Colloquially, it is the principle that half a loaf is better than no bread at all. I say in passing to those people who find themselves in my position - I know that there are many people - that the Catholic Bishops, and no less than the Pope himself, made their position clear on abortion. The present Pontiff made it clear that he supported the concept of half a loaf being better than no bread, albeit that Pope John Paul II expressed it more eloquently than I. He wrote an encyclical letter entitled "Evangelicum Vitae" about legislators who oppose abortion. His remarks incidentally were not addressed to Catholics but, to use the words of his preamble, to "all people of goodwill on the value and inviolability of human life". He wrote -

A particular problem of conscience can arise in cases where a legislative vote would be decisive for the passage of a more restrictive law, aimed at limiting the number of authorised abortions, in place of a more permissive law already passed or ready to be voted on.

That is precisely the situation with which we are confronted here today. He added these words -

... When it is not possible to overturn or completely abrogate a pro-abortion law, an elected official, whose absolute personal opposition to procured abortion was well known, could licitly support proposals aimed at limiting the harm done by such a law and at lessening its negative consequences. ... This does not in fact represent an illicit cooperation with an unjust law, but rather a legitimate and proper attempt to limit it ...

I finish on that note. I will support the second reading vote with the aim of defeating paragraphs (c) and (d) of the Bill, and to oppose or support anyone else who proposes amendment to paragraphs (a) and (b). Those amendments would relate to the Health Act. If those amendments fail, it is my intention to vote against the Bill at the third reading stage.

**MR BRIDGE** (Kimberley) [5.38 pm]: My prepared notes before me for this afternoon's debate start by listing "our obligation and duty, and our responsibility to work within that boundary". As I have sat here over the past couple of hours listening to debate, the requirement on us as legislators to act within the confines of obligation and duty has become abundantly clear. Undoubtedly, if we were suddenly to interrupt our proceedings at this moment and take a vote on this Bill, we would be absolutely divided, and that division would do nothing for the very significant and crucial issue before Parliament. Therefore, it is absolutely necessary, whether it is a small slice of the loaf to which the member for South Perth referred, or some other reference to the issue, that we address this issue in the context of the degree of obligation and duty in our responsibilities.

This issue is not about the condemnation of other people's points of view. People have adopted tremendously wide-ranging positions on this issue. We should all recognise each other's views. All members have the right to believe in a certain position and espouse what they think is the correct interpretation of this issue. This is not a place of condemnation; it is one in which we recognise that that right exists. However, in my time as a member of Parliament, I have detected a clear movement for our tending to go outside our responsibility, obligation and duty, as part of our commitment to society.

In the political arena, we often go about that commitment by not informing members of the public of major matters of concern, of decisions being contemplated or of those that are about to be announced. We do that in the belief that we, not members of the public, have power of attorney over these issues and, therefore, they should be not be privy to that information. For the moment, it is none their business. They have elected us as members of Parliament and, as a result, we take upon ourselves power of attorney to govern the State. That is no way to be sincere and truthful with society. However, we do it and, I imagine, we will continue to do it within this institution.

Some individuals - ordinary human beings - within the church movement believe this power of attorney is also vested in them. I submit that that is false. In my limited teachings of Christianity, I have been told that there is only one God, and that man should not speak as God - there is but one. How then can we have a situation, such as that in Melbourne recently, in which a man had to seek legal intervention because his dying wife's church had rejected a blood transfusion? That situation came about as a result of the belief that the power of attorney was vested in certain individuals within a church movement, and they could refuse a blood transfusion being given. I submit to the members in this Chamber, in that church movement and to the rest of the world that they do not have that right - only God has it.

We have much the same set of circumstances in this issue. When considering this issue we must take all of these factors into account. As individuals, we do not have an automatic power of attorney over other people; however, we can make a judgment, whether we are politicians or members of the medical profession or the church. Someone beyond us has a greater capacity, a greater skill, a greater knowledge and a far superior ability to make some determinations than we do. Therefore, we should contain ourselves to working within our specific areas of duty, obligation and responsibility.

Most members were not responsible for bringing this issue to Parliament. In fact, it erupted quite speedily after certain events became known to the public. I do not think any of us saw it coming. As members of Parliament, we were not aware that circumstances would confront us, such that we are forced to deal with this matter with the greatest degree of compassion. We are listening to a moving debate. We have received hundreds of letters containing well drafted arguments. Many people have presented us with views that they have thought through very carefully and which they hold profoundly.

Members of the medical profession have taken a very strong stand on this issue. Like the previous speaker in this debate, the member for South Perth, I think those in the medical profession have gone too far. We could almost say that if their position is adopted, it will give them an unbridled capacity to perform abortions without having to conform to the provisions of any legislation. Nowhere in society should any individual or any group of people be placed in a position in which the checks and balances are not in place. Checks and balances must always apply in

our system. The demands of the medical profession must not be agreed to in totality in this legislation, although some are covered. We cannot allow this group to have unbridled freedom without any checks and balances being put in place.

The Government's legislation forms the basis upon which we can make a decision that will go a long way towards achieving a workable outcome. As I said a while ago, if we were to take a vote on the question now, we would not have a workable outcome; we would be divided. Yet tomorrow afternoon, I expect we will not be divided, because some consensus will be arrived at. In that context, I think the Government's legislation provides a means by which we can accommodate this issue. There appears to be a good deal of merit in some clauses of the legislation. I will put forward a hypothetical situation to give an example of how the legislation is drafted, which will enable us to reach a resolution of this issue. Proposed subsection (3)(b) reads -

serious danger to her physical or mental health will result if the miscarriage is not procured.

If someone traumatised as a result of those circumstances, not as a result of any intent on the part of that person, approached any of us as politicians we could only respond with as much compassion and understanding as possible. As far as we were able we would give guidance and advice that people with greater knowledge and ability than we as politicians should be approached. The person facing that difficult circumstance could seek the professional people in Family Planning and the medical profession who have the appropriate information and knowledge of matters that should be canvassed. Ultimately a determination would be reached by that person and the professional people providing the counselling. Other extreme and often seemingly hopeless situations are faced by young ladies in some of the remote areas of this country. It is pointless saying to them that they are not in a vulnerable position once confronted with that circumstance. Again, this legislation provides a means by which the appropriate advice by professional family planners and medical people can be sought. Abortion should not in any way be likely to result in prosecution.

It is not necessary to remove the reference to abortion from the Criminal Code. The ability of the victim or the person wishing to go through that process seems to be picked up in the proposed sections of this amending legislation. In going a little further and talking about professional and financial considerations and other matters I refer to another hypothetical case. A young, outstandingly bright person is suddenly offered a magnificent career opportunity, but finds herself subject to the difficulties which are the basis of this issue. That young person would need professional support and it would be available through these proposed sections.

If we are to set ourselves the task of arriving at a workable solution to this issue we must confine ourselves to working within the obligations and duties conferred on us as parliamentarians. It is not for us to act as medical practitioners or suddenly become part of the Church process. That should be left to the clergymen. Medical services should be left to the medical practitioners and family counselling should be left to the professionals. We should at least give those people and the person affected by the dilemma the protected opportunity of being able to engage those processes in the final analysis and final judgment. That is our role and duty in this Parliament. It is not incumbent on us to go beyond that.

I know that will be difficult because we all feel strongly about abortion, as do the multitude of people in the community. However, despite the strong views of the broader community, people would not expect us to debate this issue in Parliament without resolving anything, therefore the obligation placed on us in this Chamber can be accommodated through the proposed sections of this Bill. They provide a procedure by which the people associated with this issue can seek out the necessary outcomes under protection.

If I can adjudicate in such a manner that I can deliver to the community a workable format, albeit with some dispensation and adjustments - as the previous speaker so eloquently said, "taking half a loaf of bread" - so be it. People's ideas about this issue are personal and are entitled to be preserved. Notwithstanding that opinion we have an obligation to solve this dilemma and this process is the correct path by which to do that.

**MR MacLEAN** (Wanneroo) [5.58 pm]: This is probably the most difficult decision I will ever make. I make no bones about the fact that I am a Catholic and that I find abortion to be morally unjust. However, I appreciate that it may be justified in some cases. Unfortunately, the process of abortion is quite distressing. It is very difficult to explain one's feelings and emotions when one has been brought up in a certain way.

One of the events that formulated my strong opposition to abortion occurred during my service days. In the 1970s when I was in the armed forces I met a chap I knew when I was growing up. He was in the army and had been to Vietnam. As we were both Western Australian "refugees" in Sydney we had a couple of quiet drinks to reminisce about the fact that we were outside the best State in Australia. We had been to an official function so we were both in uniform.

*Sitting suspended from 6.00 to 7.30 pm*

Mr MacLEAN: While we were sitting there annoying no-one, a woman came up to us and abused my friend. She called him a baby killer, a low life and a number of other derogatory terms because he was wearing Vietnam War campaign ribbons. It distressed me and him a great deal. We did not continue drinking for very long at that hotel. We wandered away because that person had ruined our evening.

I have wondered in the past few weeks as this debate has come more to the fore in the media and through correspondence to my office how that woman would vote today on abortion. Would she still maintain that baby killers were the lowest life on earth or would she be pro-choice? I will never know because she did not give us her name and, to be perfectly honest, I was not that interested. However, it is an interesting paradox.

Effectively, this Bill will allow the termination of a life. As a Catholic, I believe that life starts at conception. Some people who oppose the killing of animals support abortion and some people oppose war because innocent people get killed. I do not disagree with people who oppose war; I think war is abhorrent. Yet those people support abortion on demand because they believe it is a right. I cannot understand their reasoning when they say that a person, who is an innocent victim, should have the right to escape, and yet not class an unborn child who is a prisoner in a womb as an innocent victim. Their arguments can also be used to support the pro-life stance because I do not believe innocent people should have to endure the pain and suffering that war brings about. I also do not believe that an innocent unborn child who happens to be in a mother's womb should have to endure pain and suffering, and ultimately death.

Until the people who claim to represent the downtrodden can explain to me why it is proper to support an innocent person who is able to run away, and yet not support someone who is not able to do that, I will not support pro-choice. I do not think that will ever happen.

Today we are discussing a range of options because there is general feeling in the community that there is a need for some form of regulated access to abortion. I tend to agree; there are reasons for women to terminate a pregnancy. As a man, I cannot relate those reasons to the House because they are personal. I do not believe that a woman has the right to terminate a pregnancy, other than for medical reasons. I do not believe that a woman has the right to terminate a pregnancy because the pregnancy is not convenient. The only person who is able to make a choice about whether to terminate a pregnancy is the person who can make that choice. The unborn child is an innocent bystander in all this; it did not ask to be there.

We will have to make a choice that will not suit everyone. Supporting abortion under certain circumstances will not rest very easily on my conscience, although, as I said, there are times when there is a need for abortion.

There is another problem: Post-abortion stress has now become a recognised depressive state. It affects over 30 per cent of mothers who abort their children. Perhaps if those mothers had the opportunity to think before they acted, they would have changed their minds because once the act is done, there is no turning back. I have been told that in the first trimester of a child's life, the act of termination, as the doctors so clinically call it, takes about five minutes. That five minutes can change a woman's outlook for the rest of her life. That five minutes could mean that she will suffer mental distress every time she sees a baby in a baby carriage. It could mean that that woman will never again become pregnant. I strongly believe that, before a mother reaches that state, she should receive counselling about the whole procedure, because if she has an abortion without knowing the full details, it may jeopardise her health and that of her future family.

Of course, some people in the community regard a pregnancy as an imposition. They have very little feeling for human life. They think that they are the centre of the universe, and will abort a baby just because it is convenient, or because summer is approaching and they want to wear a bikini. These people have no understanding. I cannot support this "abortion on demand" proposal just because a pregnancy is an inconvenience to some people.

[Interruption from the gallery.]

The SPEAKER: Order! I want to make some comments to the people in the gallery. Some people may not have been to Parliament before. We welcome people to Parliament to observe proceedings. However, the condition on that is that people must not interfere in the debate. It is my responsibility to ensure that debate continues uninterrupted and without interference. I want people to visit this place to hear the debate. However, I do not want to be forced into taking any action which will preclude either individuals or groups from this place.

Mr MacLEAN: I could never support abortion on demand for people who think that a pregnancy is an inconvenience. A pregnancy represents life. During this term of Parliament we will make changes to the way in which abortion is viewed by the public. The past practice has been to allow abortion. Clinics have been established with the sole aim of making it as convenient as possible for women to abort children. Perhaps in the long term we will return to that situation, but I hope not. I hope that as civilised people we can recognise when a pregnancy must be terminated and when it must be maintained.



Additional support to a mother and her family to help maintain a pregnancy will be a matter for future consideration. I cannot support the Bill because it is the biggest load of frog dung I have ever read. Obviously, I recognise the need for change, and grudgingly I will accept that change when it happens. I cannot even recommend the Bill to the House, because it is rubbish. Therefore, I will sit down and allow other members to speak.

**MS McHALE** (Thornlie) [7.43 pm]: This is a very difficult debate. It is perhaps made more difficult by language such as "frog dung" being used when dealing with something as fundamentally important as the termination of pregnancy. We are dealing with a very moral, ethical, social, medical and personal issue. It is interesting to see how people try to put across what they think are the facts, when in fact they are nothing more than personal beliefs dressed up as facts. We must recognise at the outset that the very difficult issues involved here cannot be reduced to a yes/no answer, even though people may like to portray scientific and moral issues in such a way.

We have all been lobbied very hard on this matter. We have received many letters and phone calls, and some of us have received threats. Certainly there is doubt about the way people will vote. I respect the views of the people who have lobbied me to do nothing about abortion. As a member of Parliament, I must weigh up the views of people from all sides of the debate. I will put on the record remarks by those people who have written to me opposing abortion from a religious point of view. I will also place on the record the views of many people who have lobbied me because they believe it is time that we did something about this issue. They want me to record that it is time that we had a safe, legal environment in which to deal with this terribly difficult issue. Again, for the record - although to some extent I think it is irrelevant - I was brought up a Catholic. There are those who say "once a Catholic, always a Catholic" but, notwithstanding that, I have firm views about what we should do in this regard. My position is that repeal of the legislation would be the preferable outcome. As an Assembly we do not have that issue before us at the moment.

This Bill tries to do several things. It tries to appease the variety of views that exist - other than perhaps the view that no abortion, in any circumstances, should take place. A Bill that tries to do everything for all groups is a Bill that will not please anybody. I will be supporting this Bill in its entirety because, in the absence of repeal, it is the closest thing that we can achieve - although the Bill has deficiencies; and unless we vote for it in its entirety it will have dire consequences. As parliamentarians, we have a responsibility to do something. We cannot leave the legislation as it stands. It is pretty clear that the legislation which people have accepted over the past 20 years has not been practised, but has managed to produce a situation in which women can access safe abortions, for many reasons. That legislation has now been challenged. There are charges before the court. Clearly, as parliamentarians, it is not sufficient for us to think that we can return to the earlier situation and that everything will be okay, because it cannot be okay any more.

To some extent we have a "containment" policy, but that has now been challenged and, as parliamentarians, we now have a chance to do something which will be for the betterment of society and for women's health issues. Over the past 20-odd years, society has come to terms with abortion, as difficult as it is - more so than in the decades prior to that. Really, it has been the case since the 1970s.

I must emphasise that prevention of abortion is a primary health goal. As the member for Maylands indicated earlier tonight, improvements in contraception are essential to reduce the number of women who must face the very difficult decision of what they will do with their pregnancies. Education and counselling are also essential, yet unfortunately these services are still insufficient.

Members may be interested to know that the proportion of terminations has declined from the 1930s, when it was about one-third of all pregnancies, to about one-quarter in the 1990s. A reduction has occurred. Since the 1930s, when the social framework was liberalised a little, no increase has occurred in the number of abortions; in fact, relative to all pregnancies, the number of terminations has dropped.

Safe legal abortion, reliable contraception and reproductive health education is a necessary package for effective family planning and fertility control. Termination has been practised throughout recorded history, so it is not a phenomenon with which we have had to deal solely in the twentieth century. At stages abortion has not been illegal. Women will still seek termination whether it is legal or not.

I object strongly - I will deal with this matter in a few minutes - to the misinformation and the fallacy that abortion is used as an alternative birth control method or a convenience. For many women, abortion is very much a moral dilemma. It is a very difficult decision. They weigh up the facts and still choose to terminate.

The Bill falls short of community requirement to some extent. It retains abortion in the Criminal Code. Depending on the outcome of our deliberations, the measure may restrict termination more than the pre-Chan charges provisions. The community wants safer lawful abortion and wants it to be a health issue - it is regarded that way. People want equitable access so that rural women have access equal to that of metropolitan women and do not have difficulties

in dealing with a termination. They need proper timing of access to abortion and counselling, and they want proper training and pre and post-abortion counselling.

I now comment a little on some earlier speeches. Some members referred glibly to abortion as birth control, which is a view perpetrated by anti-abortionists. They claim that as many as 90 per cent of abortions are a substitute for birth control. This implies that women who have taken recourse to abortion are irresponsible, somehow immoral and, at best, careless and impulsive and use abortion as a convenience. It is certainly not a convenience when a woman assesses the pros and cons, and considers the family and other circumstances before turning up to a clinic picketed by anti-abortionists. That is no convenience for a woman's health and state of mind.

Those comments also imply that women choose abortion without regard for the implications of the action for themselves, their families and their lives. In fact, over 50 per cent of women who have sought termination were taking some form of contraception. To see it as an alternative to birth control is erroneous, mischievous at best and wrong.

Mr Thomas: It is ignorant.

Ms McHALE: Indeed; I thank the member.

For some women, effective contraception is difficult or denied on religious grounds. Effective and universal contraception should be available. However, the reality is that for some women contraception fails. I received anecdotal evidence in a letter from a woman who was tricked by a man who said that he had had a vasectomy, which he had not. That is not an isolated case. What protection must we give women? Do we need a "V" implanted on men if they have had a vasectomy to make sure they are telling the truth?

Many statements were made this afternoon about the notion of abortion on demand. That is a term I do not use. Most women in 1998 will not use that term. It is value laden and has often been misused. It may have been a term from the 1970s and 1960s when women came out of the repressive post-war years and the 1950s, a time when attitudes on sex and sexuality were very different from now. Perhaps the term was a symbol in the 1970s. However, abortion on demand implies that women can walk into a clinic and demand a termination up to the time of birth.

Another form of language to which I object is the "killing of unborn children" and "innocent human beings". That is not what we are talking about. We are talking about having access to early termination. Nobody suggests that we will be terminating pregnancy at 30 or 37 weeks. Anti-abortionists are painting a picture which is totally untrue. Even the classic American case of *Roe v Wade* did not authorise abortion on demand. Let us get that point clear. That case discussed and recognised the point of foetal viability. Again, we can argue over that point, and I do not intend to do so now. However, *Roe v Wade* recognised that the State's interest in protecting the infant life becomes compelling when one reaches the point of foetal viability.

Let us look at the facts and not trade in misinformation and emotion. About 1 per cent of abortions in Western Australia are carried out at over 16 weeks' gestation. About one or two terminations per annum are carried out over the 20 week stage, but in most cases, if not all, those involve a congenital abnormality which was picked up at about the 15 or 16 week stage through amniocentesis and other diagnostic procedures. The other case in which an abortion may occur late in the pregnancy is when the woman's physical health is in danger. Nobody seems to be debating that point, even those arguing against abortion on religious grounds.

Let us dismiss the notion that the unborn baby is being aborted. That conjures up an image which not borne out by the facts.

I now refer to the anti-abortion material regarding the practice used in termination of pregnancies. In Western Australia, the practice used by reputable medical practitioners in the cases of late termination is to induce premature labour, by which the woman goes through a labour and birth. Some members may believe the material put out by the right to lifers showing gruesome practices of foetal bone structure being broken. I do not want to sensationalise the debate, but it is important to understand the technique involved. A termination performed at a tertiary teaching hospital is nothing like what members are led to believe in videos provided. The practice is to induce premature labour. Having said that, very few cases are terminated at that late stage of pregnancy.

More than 50 per cent of terminations occur in the first eight weeks of pregnancy - in the embryonic stage. The embryo has perhaps not even developed to the stage of being a foetus. It is highly questionable that we are talking about a human body when referring to a pregnancy of five to seven weeks. The language of the anti-abortionists is extraordinary. It consistently refers to the foetus as an unborn child, a baby or a cute baby. These words manipulate the public to perceive the foetus as the baby. Potential life is being equated with actual life.

I will digress a little to talk about the language and how it has been hijacked. I am pro-life. There is nothing more valuable than life of a human being, but I can still stand here knowing that I am not questioning my morality, which

is couched in the Catholic Church, and recognise that we need safe legal abortions. Equating potential life with a human being muddies the argument and makes it difficult for us to see through the moral dilemma. It does not assist this debate. Since neither science nor the scriptures can say with certainty when or whether a foetus is fully human, we should not use language that assumes it is and refer to the foetus as a baby or to terminations as murder. If we do, and we pass this legislation, we are saying to the women we know who have had an abortion - friends of wives and daughters and other female relatives - that we reinforce their status as a murderer. That is outrageous. I repeat that more than half of the terminations are done before the embryo is eight weeks; 90 per cent before 12 weeks; and very few, 1 or 2, after 20 weeks.

I turn to some of the anti-abortion propaganda. The member for Wanneroo referred to a number of these issues in his speech. We have heard anti-abortion activists claim that having an abortion increases the risk of developing breast cancer and endangers future childbearing. A number of women have told me they had abortions and were unable to get pregnant, or it took them years. It is difficult to equate the fact that they had an abortion with subsequent medical difficulties. It is a line they might draw because they are suffering grief or loss because of the abortion. Alternatively, the abortion might not have been totally effective medically. The anti-abortionists claim that women who have abortions without complications will still have difficulty conceiving, or will develop ectopic pregnancies, become sterile or have stillborn babies. None of these claims, including the one about breast cancer which has been in the newspapers recently, is supported by medical research or established medical organisations.

In relation to the psychological wellbeing of women who have had abortions, women have a whole range of reactions. Some may suffer grief and loss for many years; some may suffer for a short time; some may not suffer at all. That does not point to the need to outlaw abortions. It points to the need for effective post-abortion counselling. A study was done in the United States in 1990 as a result of anti-abortion activists claiming that post-traumatic stress disorder occurred following abortion. Women may have normal psychological reactions similar to those of women who have postnatal depression after a few weeks because of hormonal changes. The body goes through a reaction, there is no denying that. However, the American Psychological Association convened a panel to examine a number of studies on the psychological impact of abortion. It concluded that although there may be sensations of regret, sadness or guilt, the weight of the evidence indicated legal abortion in the first trimester did not pose a psychological hazard for most women. It said severe negative reactions were rare and could best be understood in a framework of coping with a normal life stress.

I am not playing down in any way the understandable and natural reaction that a few, some, many women may have as a result of terminating a pregnancy. But how can we say that loss, grief or stress is any greater for the woman than carrying an unwanted pregnancy to full term and then dealing with the consequences after birth? We do not know that.

I want to say something about my stand. I am pro-choice, but that does not mean that I can therefore be labelled pro-abortion. My personal stand must be irrelevant, or at least secondary, to what a woman is saying about her body and her set of circumstances. I am pro-choice; I will always be so because a woman ultimately must have control over her fertility. Bearing in mind the antecedents in abortion - failed contraception, lack of contraception, deception by men - safe legal abortion should be available.

Women choose abortion after having looked at a range of options, including parenting the child. It may also include adopting out the child, but for many women that is not a viable option. Abortion therefore must remain a legal choice.

If we voted this Bill down, members would be saying to the women in their family that if they were faced with a termination and went ahead with it, they would condone their imprisonment and labelling them as a criminal. Let us not divorce our personal relationship with women from our lawmaking responsibilities. We cannot do that because the issue is close to each and every one of us. Those who oppose abortion on religious grounds have a right not to be forced into having an abortion. No woman should be. I have had women write to me who have had abortions because their husbands or boyfriends forced them to do so. No wonder they are grieving or suffering trauma in those circumstances. They did not choose; they had no rights in the matter. They were forced into it. Again, this is anecdotal, but a woman who is now in her seventies had an abortion because her husband told her to. Then he nicked off six months later and left her without the baby that she might have wanted. In those circumstances, it is incumbent upon us to look at our conscience and our imperfect society and make a decision once and for all that will facilitate this matter as a public health issue.

I refer to the advice of the Anglican bishops. I do not wish to denigrate their arguments or position, but it is interesting to read it very carefully. I am being accused of ignoring the rights of an unborn child. Given that, I feel I have the right to comment on the reasons I am being so accused. The bishops justify abortion in a number of circumstances: If the mother's life is at risk; if the psychological conditions indicate a likelihood of self-harm or suicide; if congenital deformity indicates that the child would have no chance of being sustained to the point of

spontaneous life; and if rape has occurred. There they make a distinction between fertilisation and the process of conception of a human individual. Somehow they justify termination in a rape situation by reference to the dilatation and curettage procedure; that is not seen as termination of pregnancy. They then go on to say that abortion appears to be driven by social and personal convenience. To hear such an august body of male leaders in our society make such a statement is staggering. It suggests they do not understand the issue of abortion. If so, or if they can justify abortion in a range of circumstances, their argument is inherently inconsistent.

The good thing in the Anglican letter is the call on the Government for adequate resources for education and advertising campaigns. I have no argument with that; I will support that wholeheartedly. We wish to reduce the number of terminations, and I do not think anyone would argue against that. However, we do not believe that it is in the interests of women or the broader society to restrict access to abortion.

Whatever happens in this debate, the moral and ethical issues will probably never go away. We might well see this issue raised again at the next election. I heard the pro-lifers talking about lobbying today, and that is their right. We cannot come to an agreement on when life starts, what is a human being, what is a person, or what is something other than that. No-one, not even the erudite panels that have been set up to argue the point, has been able to come up with a consistent answer.

Termination is a difficult issue. I defy people to argue that it is used as an alternative to birth control or as a convenience. Parliamentarians must act not only according to their personal, religious and ethical beliefs but also with the broader interests of society in mind. Let us regulate the issue now so that we can deal with training and counselling. No-one's theological viewpoint has such validity that it must be imposed on those who cannot agree with it.

**MR MARSHALL** (Dawesville - Parliamentary Secretary) [8.14 pm]: In this so-called modern age I have trouble coming to terms with de facto relationships - living with a partner on trial - promoting safe sex and condom machines in schools. It is with the acceptance of this new concept of life in the community today that I have no trouble accepting abortion. However, since this issue has been raised, I have had a dilemma in deciding whose point of view should be put forward - should I promote my point of view or that of my electors?

It has surprised me that since the issue has been raised, although it is impolite to talk about politics and religion, it is easy to ask people their opinion on abortion, and they have given it openly. In fact, at a function on the weekend I asked a wonderful, highly educated, 27 year old secretary in my electorate what was her opinion. She commented that 12 of the 14 classmates who were her friends and with whom she grew up had had abortions. That casual, matter of fact response stunned me; it put me in turmoil for the rest of the weekend.

Yesterday while in my electorate office I told my secretary that we must undertake a survey. My office is in a small shopping centre at Miami. There is a dentist next door, who employs two people; a deli with two employees; a baker with six employees; a real estate agent with six employees; a hardware store with two to three employees; a pharmacy with four to six employees; a doctor's surgery with four employees; a newsagency with six employees; a butcher with two employees; and a Supa Valu store with 16 employees. There are about 50 to 55 personnel in total. That is a good cross-section of the local work force, admittedly in a small section of a country electorate. However, we put together a small survey and my secretary handed out 50 copies. Again, to my amazement, in half an hour 37 people had responded. Of that number, five were male and 32 were female. The questionnaire asked whether they felt that abortion should be a health matter or a criminal matter. All 37 said it should be a health matter. They were asked: "Are you against abortion under any circumstances?" There was no reply. The questionnaire went on to ask whether they were in favour of abortion under very strict circumstances - two females responded - or in favour of abortion as desired by the woman involved, which was the option chosen by 30 females and five males. The participants were then asked how strongly they felt about this issue - strongly, very interested, not very interested, or do not really care. The "do not really care" option was not chosen. Two males chose the "not very interested" option. The "very interested" option was chosen by 10 females and one male. The "strongly interested" option was chosen by 22 females and two males, a total of 24.

In returning the questionnaires to my office, four people said they felt so strongly about the issue that they would like me to relate their comments to Parliament. The first respondent stated -

Speaking as a female and a mother, I strongly support the right of a woman to be able to decide on whether or not an abortion should be performed on her own body. It is a decision that can only be made by the woman herself with support from her doctor or other individuals, the woman may wish to consult. I personally think that abortions should not be used as a form of birth control.

Incidentally, the employees in the shopping centre range across the age and occupation spectrum. Another respondent stated -

If men had to become pregnant, experience nine months' pregnancy, go through childbirth, and then be forced to rear and look after the unwanted children they sire, the whole abortion issue would probably vanish overnight.

The third respondent stated -

By far the majority of abortions take place within eight weeks of conception - to call them murder is emotional nonsense.

The anguish suffered by women forced to bear unwanted children far outweighs the problems associated with terminating a pregnancy.

The fourth respondent stated -

There are many circumstances, different in almost every situation, where abortion is not only desired, but very necessary.

With advice from her doctor, the woman should be allowed to make **her own decision**.

Abortion should be a conscience issue between the woman and her doctor. If it is deemed best for the woman to have an abortion, then it should be available, without any repercussions from the law.

The response to yesterday's survey caught me completely by surprise. At this second reading stage I am pleased to be able to convey a representative view from part of my electorate. I look forward to participating again at the Committee stage.

**MR THOMAS** (Cockburn) [8.20 pm]: I am in a somewhat paradoxical position because I suspect that when it comes to a vote at the third reading after the Committee stage I will probably support the Bill even though I would prefer not to do so. The reason I would prefer not to is that the other legislation in another place is probably a better approach to the issue. I say that because essentially I am coming to a position where I believe that abortion should in essence be freely available in the community and it should not be part of the Criminal Code. Although proposed section 201A(1)(d) would have the effect of making abortion freely available, it sits uncomfortably in the Criminal Code. It would be dealt with more appropriately by being removed from it. Such legislation as is necessary to regulate the practice should come under health legislation.

At the Committee stage we will debate the proposed sections in the Bill in some detail. However, some comment should be made about them now. Paragraphs (a) and (b) are fairly well synonymous in that they say in practical terms that abortion should be available if the pregnancy is causing serious danger to the physical or mental health of the woman or that not having the abortion would result in a similar danger. If those criteria are to be applied literally, they will relate to only a very small proportion of the terminations of pregnancy that occur at present. In most cases it is not able to be said that the pregnancy would be causing serious danger to the woman's mental health, as defined in the mental health legislation which we debated a year or two ago, or her physical health. Many times it is fudged and a sympathetic doctor in appropriate jurisdictions will sign a certificate to that effect. If we are serious in trying to make laws which will be applied and to set down criteria which will be observed, it would have to be said that if paragraphs (a) and (b) were the only criteria to be applied, there would be a very serious restriction on the circumstances under which termination of a pregnancy would be available.

We then come to what I find almost offensive in the terms of paragraph (c); that is, that termination of pregnancy should be available if the woman would suffer serious personal, family, social or economic consequences if the miscarriage was not procured. Tonight we are debating what constitutes human life and the circumstances under which a pregnancy may be terminated.

This provision would sit within the Criminal Code, which is a rather large Act of this Parliament. The provision which is sought to be amended is not in the homicide section, as it were, but in the offences against morality section, which deals with the offences of prostitution and other forms of immorality. Nevertheless, the legislation, as amended, would say by implication that this is an offence against morality which is able to be committed if the woman would suffer personal, family, social or economic consequences. When we are talking about matters of life and death, if economic consequences are to be the criteria we really have cheapened life. I am not suggesting we should do so, but if economic consequences are to be the criteria by which such decisions are made, then surely a better resolution of those consequences would be to give money to provide support to overcome the economic consequences. The truth of the matter is that not only in this jurisdiction but also in other areas where this issue has been debated, "economic consequences" is a euphemism. Every pregnancy will have serious economic consequences. We, as parents, know that children cost money.

Paragraph (d) will have the effect of making abortion available if the woman has given informed consent. Later in

the Bill that is subject to a definition of "informed consent", which would in practical terms make abortion freely available in the community. We should recognise the consequences of what we are doing if we pass this legislation. With all of that hierarchy of criteria approved, by the time we get to paragraph (d), paragraphs (a) to (c) will be irrelevant.

The basis of this issue and what causes people to feel most strongly about it is that we are debating what constitutes human life and humanity, and the stage at which human life begins. My submission is that that is a matter of judgment; not so much a value judgment in the sense that phrase is used, because we would all have the same values which are that human life is sacred and should not be taken under any but the most extreme circumstances. The question arises as to how to apply those values. What constitutes human life and when does it begin? Some would argue that it begins at conception and others would argue that it begins at some later stage.

We have all had representations made to us. People have described the foetus at different stages of development. They have said that because a foetus has particular anatomical qualities at a particular phase of its development, this must constitute life. That is not an appropriate way to look at it. That is my judgment, and I suggest that my judgment is as good as anyone else's. This is ultimately a matter for individual judgment. That is really the key to how we as a Parliament must legislate on this issue. People in the community have always had different judgments and will continue to do so. My position on what constitutes humanity is that it is a case of the whole being greater than the sum of the parts. It is not simply the fact that a foetus at a particular stage in life has certain anatomical qualities, which it would of course continue to have in later life if the pregnancy were to go the full term. Some other quality constitutes humanity. That is a question of judgment.

People have made representations to us on a religious basis. They have come to us from a number of sources. I have had representations from members of the Catholic faith. I am not a Catholic but I have fairly close relations in a number of respects with members of the Catholic Church. I respect their views on these matters. I hope that in circumstances where I may be called upon to make a decision, I might have the strength to observe those views. However, it is different again to say that view should be imposed on all members of the community. However, it must also be noted that the Catholics and some other Christian denominations hold a view that a human being differs from other organisms in that it possesses a soul which makes a human being sacred and which means that a foetus should not have its development as a human being terminated.

The point is that not all members of the Christian faith and not all denominations that claim to be equally Christian and derive their judgment in this matter from the same scriptures agree. It is a fact also that religions other than the Christian religion have a different view on this matter. I put this proposition to Christians and others who argue, however they express it, that humanity begins at conception and is sacred and should not be interfered with: Other people who have as profound a view of the world based on holy scriptures of one form or another reach a different conclusion, I suggest in equally good faith, and their judgment is to be respected equally to that of people who believe that termination of pregnancy is wrong on the ground that it represents the taking of a human life and, therefore, abortion should not occur.

Apart from the fact that there is no universally accepted definition of what constitutes the commencement of human life, it should be acknowledged that it is a very profound physical and emotional imposition to require a woman to carry a pregnancy to full term when that is not her desire. Those of us in this House who are men can never really understand the extent to which an unwanted pregnancy can be an imposition on a woman. In those circumstances, to require a woman to carry a pregnancy to full term when that is not her desire can be seen as a form of assault by people who have a certain legal framework and seek to impose their judgment about when human life begins.

We should acknowledge that we live in a plural society that tolerates different views and welcomes diversity. On a number of occasions, and in much less significant ways than this, we have celebrated the fact that in our society people who hold different views can co-exist peacefully and tolerantly. I suggest that this is a circumstance where we must exercise tolerance. I suggest that we must accept in this plural society that people have the right to make decisions in good faith that may be very different from the decisions that are made by others who have different views.

In the debate earlier today, the member for Wanneroo sought to trivialise and, I suggest, denigrate those people who have a different opinion and decide to have a pregnancy terminated. He suggested, for example, that a woman might want to have a pregnancy terminated because summer was coming on and she wanted to be able to wear a bikini. I do not know in what social circles the member for Wanneroo moves, nor the range of people whom he has known, but I suggest that if he has ever known a woman who has gone through the trauma of deciding whether to have her pregnancy terminated, he would not trivialise or cheapen that decision in that way.

Most of us have known people over the years who have had to make that decision, and I think we would all agree that it is a difficult decision and one that is rarely made without some degree of trauma, stress and reflection about

the world, life and the various issues that people think about when they consider such an important matter. To characterise those people as making a decision based on such trivial grounds is to cheapen this debate.

So far, we can welcome the fact that the debate has been carried out in a way where we have respected each other's views, and where those members who have expressed views that are strongly pro-life have had their views respected by those members who are strongly pro-choice, which is the phrase that is used to characterise the other position, and vice versa. I hope that practice of characterising other people's positions in a way that cheapens, denigrates and misrepresents them will not be continued and that we will continue the debate in the appropriate way, given that we are discussing a matter of such moment.

Finally, I wish to cite Mario Cuomo. A number of people have mentioned him in the debate today, and I do not intend to repeat that famous quote. I recall from the documentation that I read from Mario Cuomo over 10 years ago when he was the Mayor of New York that he is a practising Catholic, and in his address to the University of Notre Dame stated that he shared the views of the Catholic faith, but that in those circumstances the answer for Catholics was to proselytise their position; that is, try to persuade people that their point of view about the issues of life, death and morality is the correct one. I commend that position to all of us who have a strongly held view on one of these issues. We should be free to express our point of view and to try to persuade others in the community when questions arise to adopt that point of view. However, we should not go that extra step and try to impose that point of view by legislation, because apart from the fact that we should want on principle to live in a plural and democratic society, history has shown that it does not work.

I was a student in 1970 and lived in a house in which a young woman died from an illegal abortion. That was a traumatic experience for everyone in the house, particularly her partner, and it was an awful, wasteful procedure. I hope that we will not have to see those circumstances again. I do not think it is necessary to see them again. History has shown that people will not observe what is imposed upon them legally in these issues and for that reason we should not seek to impose upon them. On the principle of seeking a liberal, tolerant, plural society we should allow people to observe their own moral views in this circumstance.

**MR KOBELKE** (Nollamara) [8.40 pm]: I speak in opposition to this Bill because it ignores the rights of the unborn child. This is government legislation and, given the Bill that is coming from the other place, I fear that there will be a change which will make it easier for people to have access to abortions. Therefore, I will vote for this Bill at the second reading in the hope it can be amended and we can salvage something of what I believe should be the law in Western Australia.

Abortion is a difficult issue; an emotional issue; a life and death issue. The foetus is a part of the mother's body and therefore the mother's health, disposition and attitude to the child is intricately caught up in the matter. It is difficult, as the member Cockburn said - although I disagree with much of what he said - to dictate what is to happen to the child within a woman's body. However, we cannot overlook the fact that the child is a new life, a new human being, a unique individual, not simply just a part of his or her mother's body.

My political commitment arose from time around the kitchen table where I grew to some appreciation of how our society works and the importance of giving individuals a fair go. In coming to this place, like most other members, I thought I could contribute to building a better society. However, a better society and democracy is founded on values. My values are based on respect for the rights of individuals in our community and upholding the individual rights of all people. We cannot start to categorise people relating to basic issues. That is undemocratic. In the really important issues we cannot treat city people differently from country people. We cannot have one law for the rich and one for the poor. We must seek to give both those with assets and those without assets access to full membership of our society and equal rights. Similarly, we cannot have laws that treat black and white differently and which are racial in their basis. We cannot have laws that treat able bodied people differently from those who are disabled. We cannot treat the sick differently from the well when it comes to the fundamental laws of this Parliament and of this State. Similarly, male and female cannot be treated differently on the basis of gender. That is anathema. We cannot treat an unborn human differently from a born human - a baby who has been born.

We know that medical procedures can induce a birth for good medical reasons such as the health of the mother. Are we expected to believe that a child who is due to be born next week can be killed in the womb, but if the birth is brought on and the child is born this week it has full civil rights as a person? I cannot understand the logic in that. That child is a child before it is born and similarly it is a child after it is born. We cannot start to create this idea of nonpersons. It has been used in many societies to attack sections of the community. Hitler used it against the Jews. They were nonpersons, so they could be liquidated. I could cite many examples. We cannot start treating certain human beings as nonpersons, particularly when they are the weak and the vulnerable who need the protection of our laws.

As a proud member of the Australian Labor Party I have always seen - I believe it continues - that the ALP in

Australian society has had a special role in standing up for the rights of the weak and the vulnerable. In this case most of my party members have a different view. That is a fundamental issue in my speaking against this legislation.

Members who have been pro-choice or pro-abortion - whatever tag they want to put on themselves - raise real issues about the effect of an unwanted pregnancy on women. It is a huge pressure. They need the ability to cope in difficult circumstances. I accept the total genuineness of the other members in this House who adopt a very different point of view from mine largely driven by a genuine and real concern for the welfare of women who are carrying children whom they do not wish to bear. Many women find that to be an impossible situation - as we see with about 10 000 abortions compared roughly with 25 000 live births each year. We need to be concerned for those women who are pregnant and unsupported by a partner or family; who are pregnant with a disabled or deformed child; or who carry a child who is a product of rape.

For each of these women their circumstances will be different and individual. I do not know how I would cope in a range of those circumstances. Answers must be found to help those mothers who are with child. I cannot see how the taking of a human life, the unborn child, can be considered an answer. For me that is simply not an answer because I must accept that the unborn child is a human life. As the member for Cockburn said, if one redefines that one opens up a number of other options. The member for Cockburn was one of the few who countenanced the issue of the unborn life in the mother's womb. For those women there are a range of areas where we must genuinely seek to provide answers. I am not so idealistic as to think they will be full answers. However, help can be provided in many areas. Individuals can assist women who have an unwanted pregnancy. Non-government and government agencies can provide a range of programs extending to education to ensure that we minimise the number of cases of people who use abortion as a means of fertility control.

I wish to comment on the role of law in this State. I am not convinced, although many people keep stating it, that the Criminal Code is not an appropriate place for legislation governing this matter. If there is a better place I would like to hear of it. There is an argument against its being in the Criminal Code without going into why it should be somewhere else. The laws of the State cannot dictate or require people to love a child, to care for it, to nurture it, and to see to the best interests of that child. That is something one expects of families and other parts of our community. We need laws to draw a line in the sand to try to tell people that certain things are simply beyond what is acceptable. We put a prohibition on things which we cannot accept because they are destructive of the fabric of our community and will cause an injury to individuals who are members of our society. I do not believe that one can argue for individual choice with respect to abortion unless one refuses to consider the question of where life begins and whether the unborn child is a human being. My position on that is clear: Human life exists from conception. Only the member for Cockburn started to enter into that debate. I disagree with him, but he argued a position. I do not think he is right, but I do not have time to go into that now.

That is my position. What is the position of this legislation? This Bill takes no account at all of the human life that is unborn. It allows abortion up to full term. I am not saying that many pregnancies in that category would be aborted, but the legislation would allow it. It will be interesting to know the legal situation. The Minister for Health is a lawyer and he may say that hard cases do not make good law. However, we know of hard cases in which the law has recognised the individual rights of the unborn. What would be the case if a pregnancy were taken to full term and in the process of an abortion the child was born breathing? Would the child be killed and would the case be covered by this proposed law? It is a fine point that may be debated in the courts. That is why I cannot accept the legislation.

Mr Prince: If the child is born alive from the mother, it would be murder to take the child's life. That has been the law since Roman times.

Mr KOBELKE: I would think so. But that would involve the intricacies of the case, the proceedings and that sort of thing. The baby clearly undergoes some changes during its birthing, but those changes are not enough to suggest it is human after birth but not before. This Bill provides for abortion until the time of birth. To allow abortion on demand lessens the respect we, as individuals and as a whole community, hold for human life. For example, the people in my electorate are multicultural and many constituents come from backgrounds that have a preference for children of one sex rather than the other. Under this legislation a mother carrying a girl child might find a willing doctor to abort the child so that she could try to have a boy child who would be more highly regarded in her community. That could become standard practice under this legislation. Parents will be able to make a choice on the sex of their child and ask for an abortion because the child is not of the gender they prefer.

The whole area of children with disabilities is often difficult and I know from examples in my electorate of the tremendous burden individuals have carried over many years caring for children with special needs. Some of these children are demanding to the point at which either one or both parents suffer a breakdown because of the stress created. If our community does not consider children with deformities or disabilities as human, it devalues human life. I now quote from a letter I received that had been addressed to all members of Parliament - I assume all



members have received a copy of this letter - from Mr Erik Leipoldt who has been a quadriplegic for the past 20 years. He writes -

This debate is not about 'choice' versus patriarchal religious fundamentalists or the rights of women versus busybodies. Ultimately, it is about what kind of society we want for ourselves and our children. One which 'solves' problems by discarding people or one which has people reaching out and supporting one another in this difficult and imperfect world - a compassionate society.

What we are dealing with in this Bill goes to the nature of our individualistic society which, along with its freedom for the individual, creates a range of problems, such as a high suicide rate. We must be careful in debating this Bill to consider the society we are trying to build. Mr Leipoldt makes specific comments about people with disability, and I take him to be far more qualified than I to speak on this issue -

Babies with disabilities, including with Down Syndrome and Spina bifida (certainly not only those with 'gross malformations') are often aborted in WA on the advice of doctors and others who may have no idea of the realities of living with a disability and who assume it is a life not worth living. It is also often assumed that the lives of the parents of such children will be so adversely affected, in effort, cost and grief that this justifies abortion. I disagree.

My own disability is severe with paralysis in limbs and body. Yet I enjoy life, difficult as it is, with the support and help from others. I know many people, including with congenital and more severe disabilities than mine, who are happy to be alive. Some 'do better' than others but they live to their potential. This has to a great extent been enabled through better support services for, and attitudes towards, people with disabilities, funded by the same government which may now legalise their removal before birth. I know people with Down Syndrome and spina bifida who are very productive citizens and are a joy to be with. If we do not value the life of the unborn baby with disability, the danger is that we may one day, perhaps under the guise of 'prevention of disability', value the lives of people with disabilities of any age so little that we will reduce funding of their support services, assign them low priority for medical assistance or perhaps even directly kill them. Sadly, some of this is already happening. After all, if abortion can be justified on the basis of resulting hardships and loss of enjoyment of life of the mother, one can justify killing of people with disabilities at any stage of their lives. Their carers often are women; mothers, spouses, sisters who do experience hardship and loss of enjoyment of life as a result, even if they consider it a price well worth paying.

Again, do we want to shape a society based on personal comfort, convenience and physical beauty where people can be commodities in a 'disability industry' to be used or discarded or do we want, for us and our children, a civil society where people share burdens and hardships as part of life?

I certainly could not have put those words as well as he. I find them very meaningful.

I now wish to comment on my view of democracy and the importance of adopting moral positions within a democracy. Democracy is clearly the rule of the majority but it cannot work unless it is based on certain values. Not many will disagree that our democracy accepts the dignity of every human person. It requires respect for inviolable and inalienable human rights and for minorities. Those are fundamental values of our democracy, and it is not a matter of a simple majority vote. We must also take into account the values we hold in a majority, because a majority vote cannot decide what is or is not human life. Human life is human life. We may form different views, but there is no logical validity in suggesting that a democracy can decide what is human life. If a Government or leader perpetrated some crime against humanity, the fact that the leader or the Government had been democratically elected would not change the fact that it was a crime against humanity.

For these reasons I oppose the Bill before the House. However, as I indicated, I will vote to allow the Bill to proceed to Committee because the pressure for change appears unstoppable. The Bill in the other place will clearly allow open slather for abortion. The Bill before this House has the potential to be amended, and I hope it will be amended sufficiently to allow me to vote for it in the final stage.

I will now comment on the real and serious issues surrounding unwanted pregnancies. Other people have already raised the fact that it is very difficult for me, as a male, to make decisions which will affect women, and I accept that criticism. Nonetheless, I am an equal member of this society and have my rights in this place. The rights of the unborn child cannot be put aside to resolve those other very difficult and important issues confronting many women in our community. Our laws must protect life. To allow open slather abortion is to devalue human life.

This can never just be a matter of a mother and her child. The mother's wishes and views are integral to the whole situation, but those views cannot be taken without also taking account of the rights of the unborn child. The killing of any child has repercussions for all members in our community. We may not know about it and we may not want

to hear about it, but it is a lessening of our society. We have only to remember the anger, the angst and the hurt felt by the community about the boy who was killed in Rockingham some time ago - an innocent boy, taken by someone whose motives we just cannot understand. That one event had palpable repercussions throughout the community.

Although we may not wish to face up to the death of an unborn child, it cannot be divorced from the general good of our community. We must accept some responsibility for every life in our community. For some, that responsibility is extremely tenuous. We, as members of Parliament, are given the opportunity to assume a greater responsibility than many for all the unborn children who are not given the opportunity to live and to become fuller members of our community.

In closing, I refer to the works of a well known poet from the sixteenth century, John Donne. He wrote a piece describing how he could hear some bells tolling in the village. He penned some thoughts about what that bell was tolling for - perhaps someone was ill; someone had died and it was calling people to a funeral; or it may just have been calling people to prayer. He wrote -

No man is an island, entire of itself; every man is a piece of the continent, a part of the main. If a clod be washed away by the sea, Europe is the less, as well as if promontory were . . . Any man's death diminishes me, because I am involved in mankind; and therefore never send to know for whom the bell tolls; it tolls for thee.

**MS MacTIERNAN** (Armadale) [9.02 pm]: I agree with the member for Nollamara in that it is important that we set a proper ethical framework in which this debate will be conducted and that we have a proper ethical framework for our laws relating to abortion. I recognise the need to take a great deal of stock of the points of view of both sides. My colleagues have set out many of the health arguments and the practical arguments in favour of permitting safe and legal abortions. I will deal with the more fundamental question of the ethical framework that can be constructed to provide at the same time the protection of this notion of the sanctity of life and access to abortion.

I have read very closely every letter that has been sent to me by those who argue against abortion. Most of the arguments have been well summarised by the member for Nollamara. I can understand these views. As a 16 year old school girl I shared those views. I accepted the fairly simplistic formula that life begins at conception; therefore, abortion is murder. However, it did not take me long out of the cloistered environment of the convent to see that the reality was somewhat more complex and that women quite often found themselves with a pregnancy that filled them with dread, and that potentially had horrific consequences, not just for them but very often for their families.

Some of the more dramatic instances of these cases involve rape and incest, the incidence of which has been treated lightly by some in this debate. However, I put it to this House that the incidence of rape and incest leading to pregnancy is far higher than that which is generally reported. Most people who have dealt in this area are aware of the massive underreporting of rape in our community. I presume men can understand the profound sense of violation that most - not all - victims of rape and incest feel in bearing the child of their abuser. I presume the very appreciation of this fact formed the basis for the systematic raping and insemination of Bangladeshi women by Pakistani soldiers in 1970 and of Islamic women by Serbian soldiers more recently. It was understood that perhaps this would be the most horrific thing that could be inflicted upon a woman, even more horrific than death in many circumstances.

I hope no member in this House - not even the member for Wanneroo - will say that a woman who finds herself in such a circumstance, a victim of rape or incest, will see her pregnancy as a mere inconvenience. As the member for Cockburn has said, it is a profound imposition upon the pregnant woman and in many instances much greater than that. I acknowledge, as has been said, that most of the 9 000 abortions performed in Western Australia each year are not the consequences of rape or incest.

I ask members to think very carefully about the circumstances that unwanted pregnancies put women in, or those that lead women to find themselves in these very difficult situations. Many young girls of 14, 15 or 16 years are ignorant of contraception, and emotionally not equipped for pregnancy and certainly not for childbirth or child rearing. Mothers may find themselves pregnant very shortly after having borne a child and believe they just cannot cope with another pregnancy, physically, emotionally or financially. Although many members may perhaps never have found themselves in this situation, we also know that many women become pregnant to men who are in another relationship. The women are well aware that taking this birth to term would have dramatic consequences, not just for one family, but possibly for two. Indeed, we can see that two families will be destroyed by the decision to take that pregnancy to term. Many believe a woman should have thought of that before she engaged in sexual relations of that nature. That is very easy to say. That is a highly moralistic position to adopt, and one that I do not think can form the basis of a rational approach to the issue.

We also note that some women carry babies with congenital deformation. Many such women decide that they do not

want to bring such a child into the world where it would have an extraordinarily difficult and painful life. They believe it would be unfair not only to that child but also to the other children in the family whose lives would often be diminished by the sheer amount of attention and effort required to deal with the disabilities of another child. That is not to acknowledge that many families believe they can cope. Families have been given great strength and closeness by the experience of a handicapped child. The reality is that not everyone has that strength and not everyone believes they can endure it. As we know, many children with disabilities are not cared for at home but in institutions because of the sheer difficulties their disability causes families.

It became evident to me that real difficulties existed for women who found themselves with an unwanted pregnancy in a range of circumstances. It also became evident that many of those who argued most strongly for the sanctity of life were ready to put caveats on that in other circumstances. I am puzzled by the conduct of many Christian leaders who have written to me saying that there must be no compromise on the sanctity of life. However, some of the most prominent of these groups have Army Chaplains. They bless men and women who go to war and give tacit and even overt support to defence activities that will inevitably see innocent babies, children and adults slaughtered.

Although some church leaders have expressed concern about the recent plans to bomb Iraq, comment from those who are leading the anti-abortion campaign seem to be conspicuously absent. That is not to argue that it is necessarily wrong to engage in military action, nor that it is wrong to bomb Baghdad, Dresden or Hanoi. However, it is to say that we put caveats on the notion of the sanctity of life; that is, we as a society, including the mainstream churches, in certain circumstances, condone killing.

Famously, the Catholic Church in this country supported the prosecution of the Vietnam War. It believed it was important to stop the spread of a political system. I note in passing that one of the few groups that can claim any consistency in this area are the Jehovah's Witnesses who not only do not support any abortion on any grounds but also do not support war under any circumstances.

I do not claim to be a pacifist and I realise that we can compromise and that as a society we must compromise in order to engage in military activity so that we can defend our national security as we see it. However, if we can make a compromise in that area we can make a compromise to spare women the horrific burden of carrying to term a child they do not want whose birth could have a major impact on their lives and families.

The same pragmatism that allows us to simultaneously wage war and argue for the sanctity of life can ask us to question whether as a society we need to say that life begins at conception. We know that consciousness does not begin at conception. Even the material of Dr Bernard Nathanson, sent to us by the anti-abortion groups, makes it very clear that the argument is not that consciousness begins at conception. There are a number of other stages at which society may say that life begins. We may argue that birth is the beginning of life. I note that some Christian groups believe that view is also justified by the scriptures; that is, the beginning of breathing is the beginning of life.

Other arguments suggest that perhaps the point at which we say life begins should be when a child becomes viable, independent of its mother. That, of course, would preclude some of the consequences to which the member for Nollamara was attempting to allude. Many of us who support access to abortion and believe there should be an availability of safe and legal abortions for women in society would be prepared to believe that that right should be fettered so that late term abortions were not made generally available. We believe that the mischief we are trying to remedy can be remedied without our producing the results that have been so infamously set before us in the arguments of the member for Nollamara.

Other arguments have said that life should begin at the point of consciousness. It is difficult to determine when that point is. The evidence indicates that at some stage between 20 and 24 weeks consciousness evolves or can be detected within the foetus.

I acknowledge it is important for us not to make a decision purely on the basis of the view of the majority. When we are dealing with an issue of fundamental morality, that in itself is not the way in which we should approach a matter. Most of us on this side of the House would take that view if we were considering the death penalty. The mere fact that the majority of people supported the death penalty would not lead the members on this side of the House to support it.

Mr House: I do not think the majority does.

Ms MacTIERNAN: It has often been argued in polls that the majority of people do support it. The Opposition would not support a referendum on this issue because, based on a question of fundamental morality, the State should not take lives. Having accepted that, it is not simply a question of the numbers on each side but it is important for society to have a sound ethic that promotes the sanctity of life and we need to engage in a debate about at which point we in society will recognise the commencement of human life.

Simultaneously, we must recognise that it is unacceptable to require women to carry children to term under the circumstances that I have set out. We should adopt the same pragmatic response that we have adopted in justification of war which we believe sits quite properly with protestations of the sanctity of life. On the one hand we have commitment to the sanctity of life. Within that commitment, if we adopt a set of ethical principles that allow us to wage war and bomb cities that sees innocent people killed, we can likewise adopt an ethical framework that will bring us to a pragmatic solution where we say that the point at which we as a society recognise human life is not the point of conception. I suppose it is my Catholic heritage that leads me to believe that it is important to develop that ethical framework and it is not simply a matter of pragmatics in that women will have abortions regardless of how we legislate here today.

I urge members who are in an ethical dilemma to cast their minds to their attitudes towards war. If they do not adopt a strict pacifist's point of view, then I do not think they can come before this House and pontificate that abortions equal murder.

**MR MINSON** (Greenough) [9.21 pm]: It is a pleasure to take part in this debate. I am in my tenth year in this place and not often have we been able to have a debate with very few interjections and with members putting so much effort into preparing their speeches. Perhaps we should approach more debates in this way. Seldom in the time that I have been here have we had to consider such grave legislation. We have not considered anything that has been more controversial or about which there has been a greater diversity of opinion or reasons for that diversity of opinion.

To me - I stress "to me", because there are 57 people in this Chamber and therefore probably 57 points of view - when life begins is very important. If those who like to do their research go back to the debate on the reproductive technology legislation they will see that I said something about life beginning at the point of conception. Nothing I have heard or seen in the past five or six years has made me change my mind. I have heard various definitions for the beginning of life. It is interesting that in the same debate on the human reproductive technology legislation we talked about an ovum in the process of fertilisation; it was not yet an embryo but was actually in the process of going from being an egg to being an embryo and for a few hours, before there is a full mixing of genetic material, the fertilised egg is regarded under that Act as not quite an ovum, but not yet quite an embryo.

I have heard many people say that the moment of birth is the beginning of life. Those members who had time to read the letters to the editor in *The West Australian* this morning would have seen an interesting letter which said that God breathed life into man, and therefore, until a human being breathes, it is not alive. That is an interesting point of view that I had not thought about. For me, life begins at the point of conception and life is a continuum. It does not stop from the point of conception through to death. Indeed, the opposite is the case. It is very much an active process. Admittedly for one who has just passed 50 years of age, my processes have definitely slowed down! The fact is that things change continually. We go from conception to an embryo, to a foetus through to birth, growth, development, maturity, ageing, senescence and ultimately death. I have referred to half a dozen different points through life. However, there are an infinite number of points between the beginning of life and death.

Under no circumstances can I support abortion on demand. Abortion on demand is a form of contraception. That would mean that the life that is within is irrelevant, and I cannot support that point of view. However, after a lot of thought, I have decided that there are some circumstances under which abortion can be contemplated. I listened with interest to the previous speaker, the member for Armadale, referring to people who support war and conscription and people being compulsorily sent to places where they will almost certainly die and yet have an opposite point of view on abortion under certain circumstances. It is true that in history we have as a society sacrificed many people and I expect that will continue. The question to be asked is to what purpose is one sacrificed and who makes the decision.

A case for an abortion could be put by women who have been raped with the decision being made by the victim of the rape. However please remember, if this Parliament allows abortion under certain circumstances, it will not be compulsory abortion; it will mean that a choice can be made under certain circumstances.

An argument for an abortion could be mounted if the parents have prior knowledge of a gross physical or mental abnormality in the unborn child and the birth of that child would affect people's lives. If the life of the mother is in genuine and real danger, then an argument for an abortion could be mounted with a considerable amount of sincerity. I am sure that one could create a list of valid reasons for an abortion. I cannot agree with proposed section 201A(3)(c) of the Criminal Code, which is set out in clause 3 of the Criminal Code Amendment Bill. It is not acceptable to terminate a pregnancy for economic reasons and for convenience. If this Parliament decides to allow abortion under certain circumstances but not under others, we must put in place support mechanisms for those people who will be denied an abortion. For instance, if a woman decides to have an abortion because she cannot afford the child, then we have to make sure that she can afford it and cannot use poverty as an excuse. All support mechanisms must be put in place to assist people who want an abortion because they cannot afford the child, because if we do not do that, we will become part of the problem and not part of the solution.

Abortion is not appropriate when for family, social or economic reasons, it is not convenient for a woman to carry a child to full term. The fact is that there are tens of thousands of couples in Western Australia who would be more than happy to give a child that is not wanted, particularly new born babies, a home. They would foster them. It is perhaps ironic that I am presently chairing a select committee which is reviewing the Human Reproductive Technology Act. That committee has spoken to and received input from many people who want to have access to that technology so that they can have children. Admittedly, people want their own children, but these people are prepared to accept donated genetic material so that they can have children. The woman would love to carry the child herself to full term so that she can feel much more part of the process. Often the women understand that they are using donated genetic material, either in whole or in part; yet they proceed. Many people would love to adopt children that someone else does not want. With appropriate support, many people who opt for an abortion would be able to carry a pregnancy to full term.

I digress a little now: When I was the Minister responsible for prisons, a number of suicides occurred in our prisons. Whenever a suicide occurred, it was written up as a tragedy, and indeed it was. However, it became evident to me that, if a person has purposed in his heart to do something, we can do very little ultimately to prevent that person from doing what he wants to do. In the prison system, we went to extraordinary lengths to prevent people from committing suicide. I remember on one occasion I was rung up at 2.00 am to be informed that a prisoner had committed suicide. The officers were aware that the person was suicidal; so they removed everything from the cell. A rough mattress was placed on the floor, but the prisoner did not have a towel or any other object that could be used in an attempt to commit suicide. The prisoners are checked every few minutes. The prison officer dropped his guard for a moment, and the prisoner climbed onto the toilet bowl, jumped as high as he could, dived onto the concrete and broke his neck when he hit the floor. It occurred to me at that stage that if someone wants to commit suicide he eventually will.

I digressed with that story to make the point that, if people have purposed in their hearts to abort a foetus, they will go to extraordinary lengths to do so. With that in mind, and with a lot of thought and prayer, I will support abortion, under some circumstances. For us to turn the clock back to the 1950s and 1960s would be a retrograde step. Earlier today a member pointed out that prohibiting abortion has little effect on the number of abortions being carried out. Abortions will be undertaken in one form or another.

When I was about 14 years of age, a friend's father owned a car yard a couple of kilometres up the road in Hay Street. A quiet, mild mannered mechanic worked out the back. One day he was not there. I read about the case in the newspaper. This man would go home at night, presumably wash his hands, and carry out abortions in a room at the back of his house. He went to gaol, because a person on whom he had performed an abortion developed septicaemia and died. This man had attempted to procure an abortion using a set of knitting needles. The date of that event and the identity of the man do not matter. It happened 35-odd years ago. However, it demonstrates that a person will go to extraordinary lengths to procure an abortion if she has the purpose in her heart.

I believe there are circumstances in which this society must say that it does not like abortion and does not want this practice to be used as a form of contraception; perhaps people do not want such a service to be made available without thought. We must make counselling compulsory - and I note that this Bill contains a definition of informed consent, which means that the person has given that consent after counselling. I must stress that counselling must not be of a perfunctory nature but of a detailed nature, over two or three sessions, with a qualified counsellor who can point out all the ramifications. After that process, if a woman still has purpose in her heart to procure an abortion, it is far preferable that she be allowed to undergo that procedure, carried out by properly qualified staff who agree to do so, in an appropriate place, under appropriate sterile conditions.

Having said that, if one of my daughters were to come home and tell me that she was pregnant, I would not be overjoyed. However, I have had to search my heart recently and ask myself what I would prefer her to do. Would I help and support her with my last penny, or would I prefer her to have an abortion? I must say that I would prefer to support my daughter and urge her strongly not to have an abortion. However, my daughter would be in a loving environment, in which we would give her support; she would not have any financial difficulty. I hope that my daughters do not read this speech and take it the wrong way! I have searched my heart and that is the way I would approach such a circumstance. I am not in any way advocating abortion. I am simply saying that, under certain circumstances, this Parliament must give permission for people to have access to such a procedure if, after appropriate counselling, they have that purpose in their hearts.

A number of theological considerations concern me. One of the scriptures often quoted is where the Lord said "Before you were, I knew you", indicating that each person has a preordained life, and it is not up to man to intervene and take that life, certainly before a child is born. Instructions are given not to kill. At the same time I would argue in this place for capital punishment. It is ironic sometimes to listen to people who are perhaps pro-abortion, and are happy to take a life that is innocent, but who will stand here and avidly defend their point of view that we cannot contemplate taking the life of a person who has committed a heinous crime. There is an inconsistency there. I am

aware that the scriptures talk of not killing, but they also give lawfully constituted Governments the power of the sword. That reference is Romans 13. I will not read it. If people are interested they can read it for themselves.

The role of society and of this Parliament - if it approves limited access to abortion - is that of the watchman. The reference here is Ezekiel 3 and 33. It is the watchman's responsibility to warn the population of the sword bearer. If the watchman remains silent, watching the sword bearer coming over the hill, the blood of the sleeping people who are killed will be on his hands. However, if the watchman gives a warning and tells people to get out of bed because the sword bearer is coming, and they do not rise to defend themselves, the blood will be on their own hands.

I can give some reasons for very limited abortion access, but only after very thorough counselling. I would prefer that the counselling be provided over two or three sessions so people have time to reflect upon and understand the support they will be given and the gravity of their decision.

I conclude where I started: One cannot deny abortion and not give support. We must provide that support. We cannot say to someone who is economically and spiritually destitute and emotionally upset that she cannot have an abortion unless we accept the responsibility and step in and provide all the support needed. Therefore, no citizen can say that she needs an abortion for economic and emotional reasons; such cases arise from time to time. It is in the power of Governments to provide the necessary support. The network already exists and only needs to be activated.

This is a good debate and I look forward to its outcome. I will be here for the Committee stage. I congratulate members who have spoken so far for their thoughtful contributions. Generally, I am opposed to abortion, but I do not want to go back to the 1960s when many women and unborn children died in the backyard due to non-antiseptic and amateur practices.

**MR RIEBELING** (Burrup) [9.42 pm]: I have been impressed by the way the debate has progressed so far, although I am somewhat confused by people who support the pro-life stance. It was my understanding that this debate had been brought on by the recent prosecution of two doctors following 25 years without confusion about abortion provided virtually on demand. After the doctors were charged, doctors who were sympathetic and undertook abortions became concerned about their legal rights in relation to abortion. Therefore, the debate heated up.

I do not mind admitting that I thought this problem did not exist. I thought the debate probably occurred 25 or 30 years ago which fixed the difficulties and that supporters of women's rights had won the battle back then. The problem had not raised its head for 25 years, and I was probably among the majority of community members who thought the problem no longer existed. It seemed that commonsense prevailed some years ago.

Some people do not support the removal of these provisions from the Criminal Code. I support the Bill being debated in the other House to remove the provision from the Criminal Code, and to make abortion a health issue. People who do not agree with that view have attended Parliament and I am convinced of their genuine views. They say that if society is fair dinkum about stopping abortion for economic reasons, the Government will put in place economic support for these children. However, what happened for the past 25 years? About 9 000 abortions are performed per annum and if these people are serious in their support, where have they been for the past 25 years?

Many people did not realise the true situation as a blurred legal position had been adopted relating to the undertaking of abortions. Some zealot or person unbeknown to me in the prosecution section has decided that it is time to press the laws and cause a bit of strife.

Mr Prince: With respect, I must correct you. It was a matter of considerable debate, by not only the police but also the Director of Public Prosecutions' office. It was not some "zealot". It involved a number of people before the prosecutions were commenced.

Mr RIEBELING: It has been 25 years without a problem.

Mr Prince: I make the point that you should not stray into criticism of the officers of the police and the Director of Public Prosecutions who brought the prosecution. It demeans you.

Mr RIEBELING: My view of the matter remains. It appears to me, and to the public of Western Australia -

Ms MacTiernan: Somewhere in the order of 200 000 abortions were performed during that time.

Mr RIEBELING: If 9 000 a year were performed over 25 years, it is almost a quarter of a million abortions. The Minister may consider it to be a debate between 30 people, which all of a sudden came to a head and people said, "Let's charge the doctors." Suddenly we have this debate. I do not know how many members opposite knew of this problem before the doctors were charged. I know now.

When this Bill is being debated, and the Bill from the other House is debated in this House, I will support Hon Cheryl Davenport's position. To not do so would turn the clock back 20-odd years.

Some debate has ensued about when a baby becomes a life. I look at this issue by posing the question: When is the abortion of a child justified? I look at the impact on the woman concerned, and I look for an answer in nature. I think nature and the medical profession have provided us with an answer to the question of when an abortion should occur. I understand that it is dangerous for the mother's wellbeing for an abortion to occur after 22 weeks' gestation. Nature has said, through the body, that an act of abortion is relatively simple for the woman to cope with at that stage. After that point, termination is difficult. We should look to that aspect, not whether a life exists 10 minutes after the action. If we look at the impact upon the mother in this case, we will be on pretty good grounds for suggesting that around the 20-week stage is the optimum period for termination.

I have never seen so much correspondence as has been received concerning this debate. The pro-life people have probably won the letter posting competition by about 10 to one. They appear to be very well organised. However, that does not necessarily mean that they are right. Much of the correspondence was genuinely felt by the authors and was deliberately designed to be controversial, stirring up feelings without necessarily containing truth. For example, an emotive letter I received was headed "World Federation of Doctors Who Respect Human Life". I do not know who the other doctors are who do not respect human life! About 99 per cent of doctors are genuinely concerned about the wellbeing of the people they serve. If a pregnant woman genuinely wishes to have a birth terminated, I am positive that doctors would be concerned about the welfare of the mother before the welfare of the child.

It is disappointing that the member for South Perth said that people such as I are pro-abortion. That is not the case. I am pro-choice, not pro-abortion. I wish no-one had to be put in the position of having to choose an abortion. I also do not wish to force any woman who objects to abortion to even consider an abortion. I just want them to have a choice about whether to have a child. To make them go through massive counselling, as is proposed in this legislation, is wrong. I will vote for a position that will be close to that in proposed section 201A(3)(d) to allow a woman informed consent. Whether a woman should then undergo massive amounts of counselling is debatable. The member for Greenough indicated that a woman should have to undergo several hours of counselling. I do not know whether members opposite have looked at the budget problems in the Health Department, but if they reckon several hours of counselling multiplied by 9 000 can be absorbed in the health system, there is something in the system they have not told us about. If they are suggesting the mothers to be should pay for the counselling, we will probably find those who can afford it will use it and those who cannot afford it will have to go through the pregnancy or have illegal backyard abortions.

I am positive the vast majority of members here do not wish to turn back the clock, but one would not know that from their speeches. We appear to be having a debate that occurred 25 years ago. We are not talking about a scenario in which we will change the law to allow abortion to occur. That has been the situation for the last 25 years. We are debating changing the law to stop women from having abortions. If we as a House impose restrictions as set out in proposed subsection (3)(a) and (b) in the Bill, we will put the cause of women back 25 years. We will do that well knowing it to be the case.

Many members who hold strong right to life views may have thought that the situation was being ignored by the authorities and that one day what has happened would occur and 9 000 people each year would be charged with procuring an illegal abortion. I ask members to consider the 9 000 women who had an abortion last year. Are we to think those women have murdered their children? Are they to be considered in that light from now on? What about next year's crop of, say, 9 000? The support for unwanted children which members have talked about does not appear to have been put in place. Quite the reverse. In fact, there is little support for supporting mothers and it is being reduced. We have seen the child care changes, especially in country areas, have a devastating impact on a woman's ability to bring up a child by herself. People say we must support them, but in the last 15 years we have seen the exact reverse. The support bases which were built up over the last 15 years have recently been undermined. If we truly want to give women a viable choice, the economic situation must be improved so they can make choices which are not based on economic considerations.

Let us not make changes to the legislation based on an attempt to find out when life begins. That appears to be the hub of the problem for many people, especially those who come to this place holding religious views. We should be looking at the impact on the woman and not at when a life begins. If we look at nature, we see that it gives us the answer in relation to the woman. It is when the mother's life is not at risk. When can we take the child from her if she wishes it to happen? I am told - I am no great expert - that it is about 20 weeks. That is the latest time at which a pregnancy can be safely terminated.

In the correspondence I received from all sections of the community a couple of letters brought the issues back into focus. As I said, some people appear to have forgotten where this legislation emanated from. It resulted from the confusion that arose in relation to the law after two doctors were charged. I have a letter from the Australian Sexual Health Nurses Association which calls upon the Western Australian Parliament to reform the laws to decriminalise abortion when performed with appropriate medical safeguards by a registered medical practitioner. That is what the

public thinks we are here to debate. Whether the public is correct in thinking that or whether we should be deciding when life is created is a matter of debate. That may be the view of people who have a fundamentalist view as to whether abortion is ethically right or wrong. In my view that is a question we should not be asking or answering.

I hope that in time the Bill which proposes to take abortion out of the Criminal Code will be supported by a majority of members in this House. I hope we will be able to restore a situation in Western Australia so that women will have some confidence in their ability to control their lives.

**MR HOUSE** (Stirling - Minister for Primary Industry) [9.57 pm]: I join with other members who have expressed the view that there are other subjects we would rather be debating. This issue has caused a great deal of discussion and thought, and in some cases some angst among members as we not only work through in our own minds how we are going to deal with it, but also discuss it with our constituents and families and others to whom we would turn for advice, support and encouragement, or indeed those people who might normally never come to see us but seek our views by telephone and in writing. Like many other members I have received a great many letters and telephone calls. The best I can say about them is that they are at both ends of the spectrum. It would not matter what decision was made by an individual member of Parliament. At the end of the day some people we represent would not agree with the position we adopted.

We are elected to this place to make decisions on behalf of the people of Western Australia. We do that without fear or favour and we have some full and frank debates about the issues in front of us. This is very much a moral and an individual issue. It is a moral issue about which the individual must make a decision. While Parliament cannot abdicate its responsibility with regard to assisting in this decision, what the member for Burrup said is absolutely correct. We have not debated this issue for 25 years and neither has society at large to any great extent.

While some people might have put forward their point of view, it has become an issue because two doctors have been charged, quite correctly, with breaching the Criminal Code. So, we must make a decision about whether we will support what has happened for 25 years or turn back the clock and say that that was not right and make a determination about what will happen in the future.

Illegal procedures cannot be condoned. If we adopt that point of view, we must make a law we believe is satisfactory for the times. If we do not make a law that is inclusive of the wider view of the society, illegal abortions will be carried out. Because of human nature, people will seek out those who perform abortions and as a consequence many women will suffer even more than they would otherwise.

I do not think for one minute that a woman would not have a great deal of trouble making a decision about this issue or that she would make such decision without going through a great deal of trauma. For that reason I believe it is not an issue for this Parliament but for the individual to decide. As much as possible, the Parliament should not be involved in determining moral issues. If we were to make a determination about all the moral issues that face society today, we would be here a great many more hours than we are now. For example, recently some publicity was given to a family who, because of their religious beliefs, decided that one member of the family would not have a blood transfusion. There is no legislation in this Parliament or any other Parliament in Australia that determines whether one should or should not have a blood transfusion. However, the decision can equally affect the life of an individual and those people around them as can the decision by a woman to seek an abortion. If people are to make that decision for themselves, it must be done in the best possible circumstances and in an understanding and caring way, if that is possible.

I do not support abortion on demand; I do not believe that that is something we should condone. I cannot bring myself to support it as a member of Parliament given that, as I have just said, it should be the choice of the individual. Given the Bill before us, we can as individuals and with a clear conscience support proposed subsection (3)(a) and (b), and leave the decision to the woman, her family and those involved around her. I do not believe that as individual members of Parliament we should be interfering in the lives of those people to the extent that we would seek to stop someone doing something of that nature.

**MR CARPENTER** (Willagee) [10.07 pm]: I find something surreal about this debate - the fact that we are having it at this time, the manner in which we are having it and the legislation before us.

As other speakers, notably the previous speaker, have pointed out, abortion has been a fact of life in Western Australia for the best part of two decades or more. Many thousands of abortions have been carried out in this State in the past 20 to 25 years in a perfectly acceptable manner to those involved in the process without interference from third parties. All of a sudden we have had an aberration to that reality. That has forced us to confront words on a piece of paper which are the Statutes of the State and which are no longer relevant to the reality facing people in Western Australia. Reality has gone past this issue already. That is why the gallery is not packed to the rafters and there are not tens of thousands of people marching in the streets about this issue. The public debate has come and



gone. In large part the public accepts the reality that abortion is available to women who need it or want it. It is over. We must face that reality as parliamentarians and try not to construct some artifice that will distort the reality for thousands of women in this State. The situation facing us is most unfortunate, but it provides us with an opportunity to update the Statutes and bring them into line with the social reality in Western Australia in 1998.

It is more than obvious that I believe there is no reason whatsoever for the Criminal Code of this State to intrude into a termination of a pregnancy or for it to have any place in the deliberations the woman might have with her doctor, members of her family or her partner. It is a matter for the woman and her conscience, given the advice she might receive from people who freely give it. It is a matter between a woman and her doctor, and that is where it should be left. There is no place for police activity in this process. It is totally unacceptable to the majority of people in this day and age that police could intervene in this very traumatic and private process. There is no reason to prosecute people who freely make the decision to terminate a pregnancy or a doctor who abides by his patient's wishes and performs that termination. Those days are over and they should never again be seen in this State.

The majority of us thought that that was all part of history. Where were those who are outraged or profess outrage that abortion goes on in Western Australia and believe that it should be stamped out in a legal format before the doctors were charged? Why were they not protesting when thousands of women were undergoing the process then? They were minding their own business, just as they should have been. There was no moral outrage from large numbers of people then.

It is unfortunate that there has been an expression of some outrage from a small minority of well intentioned people at this time because it is causing a great deal of distress, trauma and uncertainty for women who might be considering a termination and those in the medical profession who are expected to perform them. We have seen enough evidence of that in the media and in various quarters in the past few weeks to know exactly the difficulties that the medical profession is facing now on this issue.

Those difficulties must be eliminated. If any good comes out of the circumstances we are faced with it will be if we can eliminate those difficulties and uncertainties once and for all instead of relying on the general practice rather than the letter of the law to be acceptable. I have said that I believe there is no place for third parties intervening in the process of a woman deciding whether she should seek to terminate a pregnancy. In particular, there should be no capacity for people to have a view forced upon them in any way, and certainly not with the force of the Criminal Code, as they go about making a decision on whether they should terminate a pregnancy. There is no justification for taking away a woman's right to make her own decision about these matters. It is difficult enough for a woman to make a decision on these matters without the potential of criminal action hanging over her head and the heads of the doctors and medical staff to whom she might turn for help in what will always be very difficult circumstances.

I want to remind the Parliament, as other speakers have done, of what the reality was when it was considered to be correct that abortion should be illegal. Women who sought to terminate a pregnancy in those times died, often in the most horrible and unfortunate circumstances. We have heard from various speakers on both sides of the debate about situations about which they are aware where women who were subjected to illegal abortions died as a result. When we talk about the right to life we should take into consideration the element that attends to women when faced with the prospect of dying because they might seek an abortion. A woman has the right to life and to make her own decision. She has a right to life if she decides to terminate a pregnancy. We have no right to put in place circumstances which would place the woman in jeopardy. There is the potential and it was once a reality. That reality disappeared because of the commonly accepted practice in this State for the past 20 or 25 years. We run the risk of reviving that reality and the times when women who undertook terminations of pregnancies were killed as a result. If any such development were to take place, it would be on the heads of the people responsible for the Statutes that would make abortion illegal under the circumstances I have outlined. We have heard about the rights of unborn children but we have not heard a lot about women making decisions about their own rights. We have instances of people dying and we must not under any circumstances allow that reality to return to Western Australia.

I want to explore the possibilities that arise when we deny a woman the possibility of having a pregnancy terminated for whatever reason. We are in effect telling pregnant women that they must go the full term whether they want to or not. I am not of the belief that any civilisation at the end of the twentieth century can impose upon a woman a situation which forces her to carry a baby the full length of pregnancy. We would be expecting the woman, if she did not want the child, to effectively act as an incubator so that the child could be born and we could give the child to a parent or parents who might be seeking an adoption. How can that possibility be contemplated? No matter how loving those potential parents might be, that situation is simply not acceptable.

Another reality which would eventuate if we made abortion incredibly difficult, if not impossible, to access in this State is that those who can afford to travel to other jurisdictions where abortions are available, will go. Abortion is available in other States of Australia. If we make it impossible for women to access abortion in Western Australia,

those who can afford to travel to other jurisdictions will go and those who cannot will suffer the consequences of illegal abortions, whatever they might be, and suffer physically and mentally as a result of the alternatives of an unwanted pregnancy. Although we in this debate argue about the trauma women who undergo an early termination of pregnancy suffer, we have not heard anything about the trauma of women who undergo unwanted pregnancies. Not that long ago in Western Australia, many unwanted pregnancies went the full term. Numerous women in this State are still carrying the trauma of having to relinquish their child. They must live with that all their lives. Trauma will be attached to this debate no matter what the outcome. There is also trauma for men. Some women suffer more greatly than others. Some find it more difficult to get over and some might get on with their lives and be grateful that they have had the chance to abort an unwanted pregnancy. If women were forced to carry on with unwanted pregnancies there would be a great trauma and social stigma and shame attached to them. Only 25 or 30 years ago, it was a great shame for girls to fall pregnant, and it frequently occurred, particularly in small country towns. They did not have a chance of having an abortion. They had the indignity of having the unwanted pregnancy and then in many cases relinquishing the child. We do not want to go back to those times. The reason the reality has changed is that the majority of people in those times found that morality to be unacceptable. That is why the new reality came about and women were given free access to abortion. That is why we should not allow it to recur. We have the potential to inflict great harm in the community. This has arisen because somebody decided to prosecute after 20 to 25 years of no prosecution. Moral outrage was not being expressed in the community but all of a sudden somebody decided to prosecute. As a result of that decision we are facing the possibility of inflicting great harm on the community of Western Australia. I do not want to see that happen. I am sure the majority of other members do not want to see that happen either. Later in this speech I will go briefly to the clauses of this Bill which open up the possibility of great harm being inflicted upon the people of this State.

I want to address the religious aspects of this debate. People are quite free to have their religious beliefs. No-one should try to impose upon another person his religious beliefs, or pour scorn on a person for his religious beliefs. People on the pro-choice side of the debate should not seek to belittle people on the pro-life side of the debate because they have strong religious beliefs.

One element that comes into this is the notion of the sanctity of life. Some people on the pro-life side of the debate will concede that there are circumstances so shocking that a woman should be allowed to abort, and we have heard that from some of the speakers tonight: Where a pregnancy has arisen as a result of incest or rape; or where the pregnancy carries the danger of severe health risk to the mother or of a severely malformed foetus and baby. Once the concession that abortion is acceptable under those circumstances is made, the notion that abortion is not acceptable because it violates the sanctity of life no longer stacks up and is dismissed. The sanctity of life cannot be other than absolute. Therefore, if we allow the possibility that abortion should be acceptable under certain circumstances, the sanctity of life argument disappears.

Another point about the religious argument that has been made by Mario Cuomo and has been repeated by other speakers is that not every person shares a religious belief. I am not a religious person. I do not believe there is a God, therefore I cannot accept arguments which are presented to me as being the word of God or the will of God. I am not alone; millions of people in this community share that view. I cannot accept that any argument that is based on a religious foundation should be imposed upon me, any more than that I should impose upon anyone else my lack of a belief in God. What people on the pro-life side of this argument seek to do is impose a belief that is rooted in religion, but which has a criminal sanction: If people violate a law that is rooted in this belief, they will face a criminal sanction.

That is wrong in the community that we have developed in Australia today and should not be acceptable. What is acceptable is that people who have a profound religious belief and who want to promote that religious belief in the community should go out into the community and propagate that view as much as they can through their church, through doorknocking and through letters, but they should not seek to impose it in a forced way via the Criminal Code in this State. That is not fair to me as a person who does not share that religious belief, and it is not fair to all those women who will potentially suffer the consequences, whether or not they have a religious belief, of a violation of that Statute.

This Bill is fundamentally flawed. I would like to see proposed section 201A(3)(a), (b) and (c) deleted so that subsection (3) reads only that an abortion is acceptable if the woman has given informed consent. More than that, I would like to see the Criminal Code totally silent on this matter. It is not the place for the subject of this debate. I will support the repeal legislation being promoted by Hon Cheryl Davenport when it comes into this Chamber.

**MRS van de KLASHORST** (Swan Hills - Parliamentary Secretary) [10.27 pm]: I am a mother, a mother-in-law, a grandmother and an aunt, and I was a daughter. I believe in Christian family values, and I am not pro-abortion, but I am pro-choice. Today, I do not stand here in any of those roles. I stand here in my role as a legislator for Western Australia. The people of Swan Hills elected me to look after their needs and to represent them in this place; and with

that comes an acceptance of the responsibilities that role gives me. That means that I must not be subjective and let my personal views, regulations and thoughts impinge upon what must be done to assist in solving this massive community problem which we as legislators must address and try to solve today. We cannot shirk our duty. We must have the moral fibre to address that issue and find a solution.

Let us look objectively at the situation. Each year, 10 000 women present to Western Australian doctors asking for a termination of their pregnancy, and 100 000 women present each year to Australian doctors asking for a termination of their pregnancy. This is a major social issue and massive community problem that must be addressed.

How are we as legislators to address that problem? What I think we must do, and this is different from what many other people have said today - although I was at a funeral and not here earlier, so I did not hear all of the debate - is ask, firstly, why are the majority of these women not using safe and effective methods of birth control; and, if they are using those methods, why is their birth control failing? Secondly, we must ask why 10 000 women would put themselves through the agony of having to make the decision to terminate a pregnancy and then carry out that decision. Thirdly, we must ask why these 10 000 women believed they could not continue with their pregnancy until full term and why, if a safe medical abortion were not available, they would risk their lives by going to a backyard abortionist rather than continue with their pregnancy.

Those three questions concern me and are a major part of this debate. I have asked the Minister and doctors many questions to try to find out why such a large number of women are having their pregnancies terminated, and no-one has been able to tell me. It is tragic that in this society 10 000 abortions are performed each year but no-one knows why. Western Australian women know that termination of pregnancy is a criminal offence which can lead to a prison sentence, yet 10 000 women each year are prepared to risk the taint of criminality by terminating their pregnancy.

We as legislators need to find the answers to some of these questions. Until we take the termination of pregnancy out of the Criminal Code and put it into the health legislation, we will never find out the answers; therefore, we will never be able to work out how to reduce and help people to cope with the 10 000 terminations of pregnancy each year. We as legislators must realise that the current laws are not producing the results that we need. They are not reducing the number of people who front for terminations of pregnancy each year. They are not assisting women to not become pregnant in the first place. They are not assisting women who find themselves in the dilemma of having to make a decision about whether to seek medical or other assistance rather than terminate their pregnancy. Current laws are not preventing abortions from occurring. What we are doing now is obviously not working, therefore we must change our thinking on this issue in order to find solutions to this major problem.

We must face the facts: We must change our laws. That will enable us to quantify the reasons so many abortions are occurring in this State. We need to find ways to assist women to access safe contraception and to counsel women on how to prevent pregnancy in the first place. If we can do this we will go a long way towards stemming the flow of terminations. To ascertain that information we must move termination of pregnancy into the medical area. I firmly believe this will be the first step towards and the beginning of the solution to the dilemma of the yearly 10 000 terminations. By changing our approach to the whole issue and moving it from the criminal to the medical sphere we will allow for the overt collection by our doctors of the facts and figures we need to solve this dilemma. We must make our doctors accountable for keeping records. We must ascertain from the target groups the circumstances of their pregnancies; why their contraceptive did not work; whether they used a contraceptive and, if not, why not; and what were the circumstances that led to their becoming pregnant. All this will assist to diminish the numbers of terminations in the future.

We must provide sex education, contraceptive advice and information programs based on hard and factual data and information. We can now only surmise. When this issue is dealt with under the Criminal Code we have no way of collecting records. Are the majority of terminations requested by teenagers? Are menopausal women requesting terminations? What age groups present? We need hard facts to solve this issue and we must set up programs to educate women in birth control methods. We need to know what programs to run. Do we need to target these programs in our schools, in health centres, in community centres, or in multi-access centres that teenagers visit? Unless we know why each year 10 000 abortions are performed in Western Australia, or 100 000 in Australia, we cannot start to solve the problem.

We must look at the male's involvement in pregnancy. We must give males more responsibility for their part in the pregnancy. Whom do we target? Whom do we educate? What sorts of programs do we need to set up? Who needs to be given more specific and individual information on the results of intercourse? Obviously there are 10 000 males each year who need major educational programs. We must put in place as soon as possible strategies to give both men and women the knowledge of how to prevent pregnancy. This needs to be in the forefront of the Government's initiatives as we move on with this debate. Funds must be allocated and we must move immediately to look at this major problem. We all know that knowledge is power.

Two other important aspects of this have been canvassed in this Parliament. The most controversial is the right of a woman to terminate her pregnancy and the second is access to a safe medical procedure in order, perhaps, to protect her life. All members would have received hundreds of letters, telephone calls, faxes and presentations giving viewpoints on why termination should or should not be allowed. I have heard hundreds of personal stories. Like other members I have had people call at my office, telephone, or fax to support the right of women to make a choice. I have read hundreds of stories for and against abortion, because of the correspondence that came to my office.

I must refer to my role as a legislator today and the problem the community faces. It is a fact that 10 000 women present to doctors each year for the termination of their pregnancies. It is a fact that if women were not able to receive a safe medical termination they would turn to life threatening methods of either trying to terminate the pregnancy themselves or attending a backyard abortionist. That is despite the criminal consequences in our law. It has ever been thus. These unsafe procedures result mostly in serious threat to the health of the women and sometimes even death.

As a legislator I cannot know what brings a woman to make such a decision. I do not know her individual circumstances. I do not know why she would contemplate such an action. However, what I do know is that it must be tremendously traumatic facing the burden of what would be one of the major decisions of her life. I ask all members present whether we have the right as legislators to add to her and her family's burden over a decision which they would not be making lightly by adding criminality to it - by making her a criminal.

Although I believe that terminations must not be encouraged and I recognise the strongly held views on both sides of the argument, and in an ideal world we would not be here debating this issue, we live in a world where we must look at all aspects of the issue and have compassion and understanding of the needs of others. I know that the women concerned must make their own decision and we must allow them to make that choice. As a legislator in this State I cannot make that choice for them. I firmly believe I must give women the opportunity to make that choice for themselves.

I am not here to debate the rights or the wrongs of the issue, nor to canvass my own opinion. In my role as legislator I must allow those people who do not believe in a termination the freedom not to have a termination. However, I must also allow those people who want a termination to have the right so to do. It is my overwhelming belief from the evidence and some of the surveys that I have conducted that the majority of men and women in Western Australia support that stand.

We are debating an amendment to the Criminal Code. I reiterate what I have already said: The whole issue of termination of pregnancy must be taken out of the Criminal Code and moved into the area of public health. There are too many anomalies. Why leave it in the Criminal Code when we are not doing anything about it? We are not going to call women in and put them in gaol. We have not done it for years. I will support the Bill before the House simply as a precaution in case the Bill in the other place is not passed. From the outset my sole aim has been to take the termination of pregnancy issue out of the Criminal Code and put it where it belongs - in the health arena. I have remained focused on this objective. I believe that this place has a historical, once in a lifetime opportunity and duty to ensure that is the very minimum we achieve. I implore all members to vote wisely, to allow certainty, safeguards and supports in the Health Act to bring about a decrease of terminations while still protecting those placed in the untenable position now of seeking a termination. I have not given any examples one way or the other - members will have heard of them and read about them; members know them all. There are rights and wrongs on both sides of the argument.

The decision with which I have had to come to terms today is whether I have the right as a politician and representative of this State not to give choice and to make a life decision on behalf of other women. I cannot do that.

**MR NICHOLLS** (Mandurah) [10.39 pm]: The Bill covers an issue that cannot be considered lightly. Previous speakers have put forward views which reflect the divisions and different perspectives in the wider community. High levels of emotion within our community cause people sometimes to entrench their own view and make it difficult to understand or weigh up the views put by others.

I commend all the people who have portrayed or voiced their strong views in the debate and all the people involved in the public debate, particularly those who have felt strongly enough to present their views either in a group or in some formal way publicly. In some other parts of the world this issue causes people to become so entrenched and emotionally charged that violence sometimes occurs. I am not aware of anyone in Western Australia having been harmed because of their view on abortion. I also take the opportunity to thank the people who have taken the time and trouble to inform me of their views. Obviously those points of view are often diametrically opposed, but it is important in our democracy to allow people to put their views forward. As a member of Parliament, I believe that is very important.

I do not support the concept of refusing women access to abortion. Like many other speakers in the debate today, I believe it is important that women who believe that an abortion is the right option for them should have access to professional care to ensure their lives and health are not at risk simply because they do not have access to abortion. However, I wish to raise some concerns in this debate.

The first concern is the need for pregnant women to be well informed prior to any move to abort their child. That is easy to say, and I am not sure how easy it is to put into practice. The Bill provides a definition for informed consent. I hope that through informed consent pregnant women will understand completely what the options are before a decision is made. I hope they will understand completely the risks involved before a decision is made. I hope that when they make a decision they will not be under duress. The hard and sometimes unachievable goal will be for people to provide information from an unbiased point of view. In such an emotionally charged issue, that may be difficult but we should aspire to that objective.

My second concern is that minors may be encouraged to have abortions without their parents' knowledge. This issue is associated with the concept of medical treatment of minors, which is part of common law handed down from English law. I believe it has serious consequences, although I am not sure what are the real options. I understand minors as young as 12 years of age can agree to medical procedures without the knowledge, influence or approval of their parents or guardians, as long as the doctor feels that the minor is mature enough to understand the ramifications of the treatment. I am not aware of any case in which a doctor has claimed that the concept of medical treatment of minors should be used in the case of abortion. However, I have been told - no doubt other members have also been told - that girls as young as 12 or 13 years of age have had abortions and returned to school or to some other place in the community without their parents' knowledge and without any support from their parents. It is always dangerous to generalise to the point at which everyone is treated the same. However, my concern is that if minors are able to access or procure abortions, it is very important that we, as a Parliament, keep in mind the need for these young people to have support mechanisms not only while making the decision, but also after the procedure. Careful consideration must be given to the situation in which girls as young as 12 years up to 16 years can make these decisions. At 18 years of age they are adults and can make the decisions for themselves. The parents, or at least a guardian, should be aware if any such procedure is to be carried out so that they can provide support or input.

One of the dilemmas is that some people hold strong religious or ideological views that may present a major problem and put the minor under severe duress if the parents become aware of their situation. However, that is no reason to exclude parents from the decision making process or to preclude them from being informed. This Parliament has a duty to consider how the law should apply and how parents can be actively involved in such an important decision that affects a minor. I do not have the solution but I raise the issue in this debate because I would not like this legislation to proceed without any reference to a situation in which a young girl might have an abortion simply because she felt her parents might not approve of her pregnancy or might not support her. The Bill should contain a provision that young girls considering abortion must inform their parents - with the assistance of counselling, support or mediation - so that the parents can participate in the decision, albeit perhaps not the final decision.

It will be in the best interests of both the pregnant woman and the child if consideration is given to more than the one decision. Recognition must be given to the ramifications that sometimes flow from someone having an abortion. As I said earlier, informed consent and access to counselling are part of the provisions of the Bill. It is necessary to ensure the counselling is professional, as unbiased as possible and accountable. No mechanisms are included in the Bill, and I suggest this area would be properly handled by regulation. However, I express concern that if counselling is to be in place, it should not be just assumed that it will be professional, unbiased and accountable. The Government must make sure that when regulations are drawn up serious consideration is given to ensuring that unbiased and professional counselling is continued.

The final concern I raise was mentioned by a number of other speakers, and it relates to the stage of pregnancy to which it is considered safe or proper for an abortion to occur. I am neither a medical practitioner nor an expert in this area. However, I have received a number of letters and comments that reflect the concern about the length of pregnancy and the stage at which the foetus has formed. There is a need for us, as a Parliament, to consider also whether the procurement of an abortion is acceptable right up until the birth of the child or whether there is a point at which abortion should not be carried out, unless there are extenuating circumstances that are quite obvious, to the point where the mother's life is at risk or another equally serious situation.

I do not know at what week of pregnancy abortions should be procured legally. Some people have suggested the tenth week and some have suggested the twentieth week. As previous speakers have said, we must consider the latest stage of pregnancy within which an abortion can be carried out, which is safe for the mother, proper to the unborn foetus and in many respects fits in with what we as a community consider to be fair and reasonable. Other speakers have provided examples of extreme cases where a child is about to be born. I suggest no-one in our community will say that an abortion should be performed when a child is within a few days of being born naturally.

I support this Bill. I have difficulty in supporting abortion on demand. I do not believe it is proper for our community. However, I do not support the stance to restrict abortion to the point where people cannot access it unless they fit into a narrow set of guidelines. Counselling and proper informed consent are vital. I do not support the notion that the legislation should be repealed - that there be no legislation at all - nor the suggestion that it simply fall under the medical code or within the field of medicine. Allowing the law to dictate is not a realistic option. Safeguards must be put in place to protect mothers, the medical practitioners and the wider community.

Although this debate has caused many members discomfort, it has promoted open community debate on a serious subject, one on which people have very strong feelings. Although it has been uncomfortable in some cases, the debate about abortion should allow many people in our community to become more aware of the facts. It will cause people to weigh up their views and consciously consider the issue of abortion, prior to being in a situation where they are faced with a decision. Hopefully, through this debate in the wider community, we will have a greater awareness of the issues involved in abortion and of the available options. This will lead to a better community and fewer abortions.

Ultimately it is a decision for the mother, one that she must weigh up in her own conscience. I hope support will be in place to provide options and information so that the decision will be as informed as possible, without the odium of duress and the situation of ignorance. This, in itself, is important and hopefully, as a Parliament, we will reach a position that will not only help people in our State to make better decisions about this issue, but also remove a lot of the doubt about legislation covering access to abortion and the available options, should people choose not to abort.

Debate adjourned, on motion by Mr Trenorden.

*House adjourned at 10.54 pm*

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**QUESTIONS ON NOTICE**

Answers to questions are as supplied by the relevant Minister's office.
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**HERITAGE PLACES AND OBJECTS - IDENTIFICATION AND CONSERVATION**

2249. Ms McHALE to the Minister for the Water Resources:

- (1) What are the policies, programs or procedures associated with cultural and natural heritage places and objects under the Minister's control?
- (2) What financial commitments have been made by the Water Corporation to identify, assess and conserve heritage places and objects?
- (3) If no such policy, program or procedures exist, when can they be expected?

Dr HAMES replied:

- (1) The Water Corporation complies with the legislative requirements of the following Acts:  
Native Title Act  
Aboriginal Heritage Act  
Aboriginal and Torres Strait Islander Heritage Protection Act 1984  
Environment Protection Act
- (2) The Water Corporation incurs a cost in reviewing, and amending where necessary, project specifications that impact on places and objects of cultural and natural heritage, on a project by project basis.
- (3) Not applicable.

**POWER LINES - MAINTENANCE**

2895. Mr PENDAL to the Minister for Energy:

- (1) Who is responsible for metropolitan power line maintenance currently?
- (2) Is it possible that severe and frequent household television static may result from dust accumulation on power lines?
- (3) If yes to (2) above, how often is dust removed from power lines?
- (4) What options for rectification are open to a householder experiencing severe and frequent television static on several receivers when their sets have been confirmed by technicians as in good working order?

Mr BARNETT replied:

- (1) Western Power.
- (2) Yes, particularly in fringe reception areas.
- (3) Western Power carries out a line washing program from December through to March targeted at high pollution areas. The frequency of washing is every 2 - 8 weeks depending on the location. Spot washing is also carried out when problem areas are identified.
- (4) Power line interference affects low band VHF television reception particularly during summer at times of high humidity. A permanent solution is available. It requires the adoption of digital television or the transfer of television services to UHF or cable. This is a policy issue for the Australian Communications Authority.

**UNION DUES - PAYROLL DEDUCTIONS**

2896. Mr PENDAL to the Minister for Labour Relations:

- (1) Is it correct that the Government has ceased arranging for union fees to be paid directly from its employees' salaries?
- (2) What was the rationale for this change?

- (3) Is it correct that primary school principals may still have contributions to their association paid from their salary payments?
- (4) If so, what is the justification for allowing one group to contribute directly from salaries while the vast majority of Government employees now have this facility abolished?

Mr KIERATH replied:

- (1) Yes.
- (2) The State Government's policy is clearly reflected in amendments to the *Industrial Relations Act 1979* which ensures that:  
  
the issue of union dues is no longer an 'industrial matter'; and  
  
individual employees are free to decide whether or not to join or be associated with a trade union.  
  
The collection of union dues is the responsibility of unions and a matter between individual members and their unions.
- (3)-(4) This question should be referred to the Minister for Education.

#### HOME CARE SERVICES FOR POST-HOSPITALISED PATIENTS

2899. Mr PENDAL to the Minister for Health:

- (1) What types of services are provided under the transitional care packages offered, for example, by the Bentley Health Services to hospital patients returning to their homes at the completion of their treatment?
- (2) How are these care packages currently funded?
- (3) Is it correct that funding for these services packages will either cease or be reduced during 1998?
- (4) If yes to (3) above, what are the details of the funding changes?
- (5) If funding is to be abolished or reduced, what home care services will be available to post-hospitalised patients, especially given that long waiting lists exist for "Silver Chain Association" care?

Mr PRINCE replied:

- (1) The Transitional Care Programme provides in home services to clients for up to 8 weeks following discharge. The most frequently purchased services include:
  - (i) Care-aid services which can include personal care assistance
  - (ii) Home help services
  - (iii) Equipment unavailable through other agencies
- (2) The Transitional Care Programme is a pilot project funded by the Commonwealth Department of Health and Family Services.
- (3)-(4) This pilot project was initially funded for three years and then extended for another 2 years. It is anticipated the project will cease at the end of June 1998 however, there has been no formal notification.
- (5) Those patients previously assisted by the Transition Care project will be required to access pre-existing Home and Community Care services. The Health Department of Western Australia has also initiated a new programme that gives access to brokerage funds to Aged Care Assessment Teams. This programme targets patients on Silver Chain waiting lists who require extensive in-home services.

#### GRADUATES - NUMBER AND EMPLOYMENT PROSPECTS

2905. Dr CONSTABLE to the Minister for Education:

- (1) How many students graduated in 1997 from education courses at tertiary institutions in Western Australia?
- (2) How many new graduates will be employed by the Education Department in 1998?
- (3) What prospects of employment do any surplus graduates have in 1998?

Mr BARNETT replied:

- (1) The Department of Education Services has advised that these numbers are unavailable until June 1998. However, to date the Education Department of Western Australia has received a total of 905 applications



from 1997 education graduates. Of these, 74 applications are incomplete and a further 182 graduates have deferred their applications.

- (2) To date 275 of the available 1997 graduates have been employed with the Education Department. A further 99 graduates from 1996 and 1995 have also been appointed. It is expected that between 350 and 400 of the 1997 graduates will be appointed this year based on recent graduate employment trends.
- (3) Graduates who do not obtain employment with the Education Department may find teaching positions in the non-government sector, or, obviously, employment in other occupations. A number of graduates return to studies to upgrade their qualifications. Teacher employment opportunities remain high for graduates who are available to teach in country locations. It should be noted that every graduate who has statewide availability this year has been offered employment with the Education Department.

#### MOTOR VEHICLE INSURANCE - \$10 000 THRESHOLD

2916. Dr CONSTABLE to the Premier representing the Minister for Finance:

- (1) With reference to the *Motor Vehicle (Third Party Insurance) Amendment Act 1994*, what were the estimated savings related to the \$10 000 threshold at the time of introducing the legislation?
- (2) With reference to the Minister's answer to part (a) of Question on Notice 2276 of 1997 -
  - (i) what is the reason for the decline in claims arising from motor vehicle accidents since 1 July, 1993;
  - (ii) what are the estimated savings each year since the abovementioned Act was introduced; and
  - (iii) what is the reason for not keeping records relating to the separate categories?

Mr COURT replied:

The Minister for Finance has provided the following response:

- (1) On the matter of the \$10,000 threshold, statistical information relating to savings on claims as a result of the 1993 threshold legislation is not maintained by the Insurance Commission of Western Australia. For this type of information to be collated, a manual and subjective calculation of non-pecuniary loss on all 35,812 claims finalised since 1 July 1993 and the current 10,192 outstanding claims to 28 February 1998 (excluding unreported claims to date) would be required. It would be a major and time-consuming exercise which is not cost effective, particularly as it is not a factor that needs to be calculated for the determination of premium rates under Section 3T of the Motor Vehicle (Third Party Insurance) Act 1943. Accordingly, the figure cannot be provided.
- (2)
  - (i) Claims have declined as a result of the combination of the introduction of the threshold legislation and the increased and concerted commitment to road safety by all relevant parties in WA.
  - (ii) No records relating to the separate categories are kept by the Insurance Commission of WA.
  - (iii) Refer to response given for part (1) of this question.

#### TEACHER AIDES

2919. Dr CONSTABLE to the Minister for Education:

How many teacher aides are employed by the Education Department?

Mr BARNETT replied:

There are 4,159 teacher aides employed by the Education Department.

#### MENTAL HEALTH NURSES - VACANT POSITIONS

2920. Dr CONSTABLE to the Minister for Health:

With respect to mental health nursing vacancies in Western Australia -

- (a) how many vacancies exist currently;
- (b) what are the positions;
- (c) where are the positions located;
- (d) how long has each position been vacant;
- (e) what is the current shortage of mental health nurses?

Mr PRINCE replied:

The information required to answer each of these questions is not readily available. The Health Department of WA is not the employer of the vast majority of health service provision staff, and management of staffing levels is the responsibility of Health Service Management. Where summary information exists, disaggregation to identify either the area of work (such as Mental Health) or the type of personnel is not possible. Aggregated data for the Annual Reports of the Health Department indicate that the following full time equivalents were engaged in the Mental Health Program in the years shown:

92/93	1824.68
93/94	1877.50
94/95	1847.62
95/96	2115.83

This data includes non-nursing staff.

#### PERTH DENTAL HOSPITAL - FREE OR SUBSIDISED SERVICES

2923. Dr CONSTABLE to the Minister for Health:

In each of the last five years at the Perth Dental Hospital -

- (a) what free or subsidised services have been offered;
- (b) who qualified for free or subsidised services, and what were the qualification criteria;
- (c) what funding was provided for free or subsidised services, and what was the source of the funding?

Mr PRINCE replied:

- (a) The following services have been provided in each of the last five years:-

1	Emergency dental care
2	General Dental Care
3	Specialist orthodontic treatment
4	Specialist periodontic treatment
5	Specialist oral surgery
6	Specialist paedodontic treatment

For the four years up until 1996, limited specialist prosthodontic and endodontic treatment was provided.

- (b) For the State Dental Program, receipt of a full or near full pension or benefit from the Department of Social Security or in receipt of Independent Austudy is the basis of eligibility. For the period 1 July 1994 to 31 December 1996, the Commonwealth Dental Health Program provided access to emergency and basic general dental care on the basis of a Health Card, Pensioner Concession Card or Commonwealth Seniors Card.
- (c) The State funding for Dental Care at the Perth Dental Hospital in each of the last five years was:-

1992/93	\$13.9m
1993/94	\$13.7m
1994/95	\$13.3m
1995/96	\$12.9m
1996/97	\$13.9m

The Commonwealth Dental Health funding excluding capital was:-

1992/93	Nil
1993/94	\$1.6m
1994/95	\$5.5m
1995/96	\$8.5m
1996/97	\$3.5m

#### CHILD HEALTH CENTRES - CLOSURES

2930. Dr CONSTABLE to the Minister for Health:

- (1) In the last five years, how many Child Health Centres have -

- (a) closed; or
- (b) had their hours reduced?

- (2) What savings have been achieved by the closures?
- (3) Is the Minister or the Department of Health considering the closure of further Child Health Centres, and if so, which ones?

Mr PRINCE replied:

- (1) Local Governments have been gradually replacing the older style Child Health Centres as the location of many of the old buildings has become less relevant to community users.
  - (a) Reduction in hours of nurse contact times in the clinics is based on the target population being served, the existence of alternative providers and the pattern of utilisation.
  - (b) As Child Health Centres are provided by Local Government and are operated in conjunction with local community health service providers as part of fully integrated services, I am unable to specify the numbers of closures or service reductions.
- (2) There have been no closures of Child Health Centres, or reductions in service provision specifically to effect savings. Community Health Services are operated as fully integrated services and each health service develops operational strategies for high priority target groups according to local need.
- (3) Not applicable.

#### ABORTIONS - REPORTS

2933. Dr CONSTABLE to the Minister for Health:

- (1) In each of the last five years, how many reports of abortions have been furnished by -
  - (a) midwives pursuant to subsections 335 (1) and (2) of the Health Act 1911; and
  - (b) medical practitioners pursuant to subsection 335 (5) of the Health Act 1911?
- (2) Have any midwives or medical practitioners ever refused to provide reports pursuant to the above provisions on the grounds of self-incrimination?

Mr PRINCE replied:

- (1) There have been no written reports of abortions furnished by midwives or medical practitioners during the specified period.
- (2) Not applicable.

#### ROYAL PERTH REHABILITATION HOSPITAL SPINAL UNIT

2946. Mr McGOWAN to the Minister for Health:

- (1) What is the current waiting time for access to the Royal Perth Rehabilitation Hospital Spinal Unit (Ward 11)?
- (2) Why is this period of time required?
- (3) What is the age of this unit?
- (4) Has there been an expansion of this unit since it was constructed?
- (5) When is an expansion of the capacity of this unit proposed?
- (6) If no expansion is proposed, why not?
- (7) What actions will the Government be taking to improve this situation?

Mr PRINCE replied:

- (1)-(2) Unlike elective surgery, there is no average waiting time for admission to the Spinal Unit. The time period is affected by the occupancy of the ward, which has a total capacity of 40 beds, and the urgency of the patients' condition. New spinal injuries are given priority for admission and it would be unusual for these to be waiting more than 24 hours prior to admission to the Spinal Unit. These cases would normally be accommodated, prior to admission in the Spinal Unit at Royal Perth Hospital's Wellington St Campus or

at another teaching hospital. For patients with recurrent problems associated with established paraplegic or quadriplegic conditions are assessed according to their clinical urgency. If the Unit has no beds available, these patients may have their admission delayed or be admitted to beds at the Shenton Park Campus outside the Spinal Unit. As with any other condition, patients are admitted according to clinical urgency as determined by the clinical consultants.

- (3) 36 years (1962).
- (4) No.
- (5) No current proposal to expand.
- (6) The capacity of 40 beds is considered appropriate. Since the Unit was established 36 years ago, the improvements in clinical treatment has enabled the increased demand to be accommodated within the existing 40-bed capacity.
- (7) No action necessary to increase capacity.

#### JOB CREATION - FORWARD ESTIMATES

2985. Mr BROWN to the Minister for Employment and Training:

- (1) Has the Government made any forward estimates on the number of jobs that are likely to be created in Western Australia over the next one to five years?
- (2) If so, how many additional jobs does the Government anticipate will be created in Western Australia in -
  - (a) 1997-98 financial year;
  - (b) 1998-99 financial year;
  - (c) 1999-2000 financial year;
  - (d) 2000-2001 financial year;
  - (e) 2001-2002 financial year?
- (3) Did *The Australian* newspaper of 18 November 1997 accurately report "the State Government expects about 100,000 new jobs by 2002 to about 950,000 places"?

Mrs EDWARDES replied:

- (1) The Department of Training has updated its forecasts on the number of jobs that are likely to be created in Western Australia over the next five years. These forecasts are in line with State Treasury projections.
- (2) According to these projections, Western Australia is expected to create the following number of additional jobs:
  - (a) 24 000 extra jobs during 1997-98 financial year.
  - (b) 24 000 extra jobs during 1998-99 financial year.
  - (c) 21 000 extra jobs during 1999-00 financial year.
  - (d) 15 000 extra jobs during 2000-01 financial year.
  - (e) 19 000 extra jobs during 2001-02 financial year.
- (3) Estimates reported in *The Australian* newspaper of 18 November 1997 were reported accurately, taking into account a degree of mathematical rounding. The exact statement would read: "Between 1996-97 and 2001-02 the State Government expects 103 000 new jobs created and employment to reach the 952 000 level."

#### POVERTY - EFFECT OF WORKPLACE AGREEMENTS

3002. Mr BROWN to the Minister for Labour Relations:

- (1) Is the Minister aware of an article that appeared in *The West Australian* on 16 December 1997 under the heading of US Boom Goes Bust for Poor?

- (2) Is the Minister aware the article reported that poverty in the United States is growing, despite a booming economy and low unemployment?
- (3) Is it true that over 85 per cent of workers in the United States are not covered by a collective agreement nor enjoy any form of union protection or coverage?
- (4) Is it true that in the United States over 85 per cent of workers bargain individually with their employers on wages and conditions?
- (5) Given that there is a substantial increase in the number of employees in the United States who are unable to bargain a wage above the poverty line, what factor or factors will prevent an increasing number of Western Australian employees who bargain individually suffering the same fate as United States employees?

Mr KIERATH replied:

- (1)-(2) Yes.
- (3)-(4) I cannot verify the content of this question.
- (5) Western Australian employees are protected by the provisions of the Minimum Conditions of Employment act 1993.

#### ASIAN CURRENCY CRISIS - EFFECT ON INDUSTRY

3008. Mr BROWN to the Minister for Commerce and Trade:

- (1) Has the Minister and/or any of his departments and agencies assessed the degree to which industry will be affected by the Asian currency crisis?
- (2) If so, what is the result of that assessment?
- (3) If not, why not?

Mr COWAN replied:

- (1) Yes. The Asian economic currency crisis is constantly being monitored for its effects on the Western Australian economy. Two publications setting out the background to the crisis have been widely distributed and an online market alert process has been established. [See papers Nos 1249 and 1250.]
- (2) Western Australian exporters may find short term difficulties in some Asian markets, but the long term outlook for the Asian economy as a whole remains positive. While there may be some negative impacts that flow from the currency crisis, the strength of the domestic Australian economy should cushion some of the negative impacts associated with weaknesses in external markets.
- (3) Not applicable.

#### DOCTORS - WORKPLACE AGREEMENTS

3013. Mr BROWN to the Minister for Labour Relations:

- (1) Is the Minister aware of an article that appeared in *The West Australian* on 3 January 1998 concerning junior doctors being required to sign workplace agreements?
- (2) Is it true the Government required junior doctors to sign workplace agreements if they wished to obtain employment?
- (3) If so, why did the Government refuse to give junior doctors the choice of being employed under a workplace agreement or an enterprise agreement?

Mr KIERATH replied:

- (1)-(2) Yes.
- (3) The Government is legally entitled to offer potential employees employment on workplace agreements. The Government's policy of choice is that whilst existing employees can choose to remain on the award, employers can offer potential employees jobs on workplace agreements, just as employers have, for over ninety years, offered potential employees jobs on award conditions only.

AUSTRALASIAN GOLD MINES STAFF

3014. Mr BROWN to the Minister for Labour Relations:

- (1) Is the Minister aware of an article that appeared in *The West Australian* on 3 January 1998 concerning Australasian Gold Mines staff not being paid their entitlements when its Norseman operation closed?
- (2) Is the Minister aware a maintenance fitter, Martin Smith, was reported as saying that he had approached a number of Government agencies for help without any success?
- (3) Did any of the Minister's departments or agencies receive an approach from Martin Smith?
- (4) If so, what assistance did the department or agencies offer?
- (5) Did any of the Minister's departments or agencies contact or endeavour to contact Mr Smith after the article appeared in *The West Australian* to offer assistance?
- (6) If not, why not?
- (7) If so -
  - (a) on what date;
  - (b) what was the nature of the assistance offered?

Mr KIERATH replied:

- (1)-(3) Yes.
- (4) On 2 January 1998 the Department of Productivity and Labour Relations investigated the matter and found that Australasian Gold Mines had been suspended on the Stock Exchange and declared in liquidation. Mr Smith was advised that because he was on Workers' Compensation payments he would continue to be paid until the legislative limit was reached. Mr Smith was advised that Western QBE Insurance was dealing with his claim and arranging his payments. Mr Smith was advised that he could also seek emergency assistance from the Department of Family and Children's Services and the Department of Social Security.
- (5) No.
- (6) All the advice relating to Mr Smith had been provided on 2 January 1998.
- (7) Not applicable.

"INVESTING FOR GROWTH" STATEMENT - CLARIFICATION

3042. Mr BROWN to the Minister for Commerce and Trade:

- (1) Has the Minister made comment on the Federal Government's *Investing For Growth* statement?
- (2) Has the Minister said the fine details of the statement need to be clarified?
- (3) If not, has the Minister made a like statement?
- (4) What statement was made by the Minister?
- (5) What fine details need to be clarified by the Federal Government?

Mr COWAN replied:

- (1)-(2) Yes.
- (3) Not applicable.
- (4) A press release was issued on 12 December 1997. I have also written to the Federal Minister for Industry, Science and Tourism on several occasions to comment on the Federal Government policy.
- (5) There are a number of areas that are in need of some clarification. The principal areas are -  
How the industry-specific 'Action Agendas' are developed.  
The precise role of Invest Australia.  
Its relationship to State based economic development agencies.

The amount, direction and allocation of funding directed to industry development and investment attraction.

The lack of attention to regional industry development.

The need for equitable access to the Innovation Investment Fund by WA small businesses.

#### SMALL BUSINESS - SUPERANNUATION MEMBER CONTRIBUTION STATEMENTS

3043. Mr BROWN to the Minister for Commerce and Trade:

- (1) Is the Minister aware of an article in the 8 to 21 January 1998 edition of *Business News* concerning small business owners being expected to face administrative chaos because of the Federal Government's changes to regulations regarding the completion of superannuation member contribution statements?
- (2) Has the Small Business Development Corporation made any representations to the Federal Government in this regard?
- (3) If so, what representations have been made?
- (4) If not, why not?

Mr COWAN replied:

- (1) Yes.
- (2) No.
- (3) Not applicable.
- (4) The requirement to lodge superannuation member contribution statements applies to all superannuation funds, not just the self managed schemes and smaller funds common to small business operators. The Federal Government originally stipulated a return date of August for contribution statements, but responded to representations from the industry in 1997 and put the date back to December. The proposed 1998 deadline of October has been set by the Federal Government and is two months later than the originally proposed August compliance date. Many small business operators use professional service providers such as their accountants to complete and lodge the statements. This does relieve the burden on small business to a degree.

#### ORGAN DONATIONS

3053. Ms WARNOCK to the Minister for Health:

What has the Government done to improve the rate of organ donation in this State (now one of the worst in the Western World)?

Mr PRINCE replied:

The Government has initiated a number of strategies to address the WA organ donation rate, including:

- endorsing the establishment of Australians Donate;
- liaising with the South Australian Organ Donation Agency personnel;
- developing a discussion paper on WA organ donation issues;
- facilitating the attendance of 2 Western Australians to attend the inaugural International Transplant Coordinators Course in SA;
- assisting the February 1998 visit of Professor Geoffrey Dahlenburg and Dr Al Vedig (from the SAODA);
- facilitating a WA seminar on organ donation for health professionals; and
- supporting clinicians to improve WA organ donation rates.

#### LUNG TRANSPLANT PROGRAM

3060. Ms McHALE to the Minister for Health:

- (1) How many patients in Western Australia are awaiting lung transplants?

- (2) Did the funding arrangements for the lung transplant program change on 1 November 1997?
- (3) If so, what are the current funding arrangements?
- (4) Why do Western Australian patients have to travel interstate for lung transplants?
- (5) Are there any plans to create a lung transplant facility in Western Australia?

Mr PRINCE replied:

- (1) Twelve.
- (2) Yes.
- (3) Western Australia now funds this type of activity on a 'as required basis'.
- (4) In accordance with the Commonwealth Nationally Funded Centres policy, patients requiring lung transplants are sent to either of two specialist hospitals. These are the St Vincent's Hospital program in Sydney and the Alfred Hospital program in Melbourne.
- (5) No, not at this stage.

## WORKERS' COMPENSATION

### *Claim Payments*

3066. Mr KOBELKE to the Minister for Labour Relations:

- (1) What are the claim payments, in actual dollars, for workers' compensation and rehabilitation for each of the years from 1986-87 through to and including 1996-97 in each of these categories:
  - (a) fatal;
  - (b) redemptions;
  - (c) 2nd Schedule;
  - (d) vocational rehabilitation;
  - (e) other treatments;
  - (f) hospital;
  - (g) legal;
  - (h) doctor;
  - (i) common law;
  - (j) weekly;
  - (k) others;
  - (l) total of all payments?
- (2) Can these claim payments be given as for (1) above, but in real 1996-97 dollar figures for each category for each year?

Mr KIERATH replied:

The information requested is not readily available and will require considerable research by the Actuary of the Premium Rates Committee, to extract and compile. I am therefore not prepared to commit such resources for this purpose. However, if the member has a specific inquiry, I will endeavour to provide the information.

## REVIEWS, INQUIRIES AND WORKING PARTIES

3071. Mr KOBELKE to the Minister for Labour Relations:

- (1) How many reviews, inquiries or working parties were established under your portfolio for Labour Relations or the agencies or departments responsible to you under that portfolio from the start of 1993 to the end of 1997?
- (2) For each review, inquiry or working party -
  - (a) what was its title or name;
  - (b) when was its formation first announced;
  - (c) was there any call for public submissions;
  - (d) what was the date of its report or findings;
  - (e) has the report been made public in full;
  - (f) if yes to (e) above, then as of what date was it fully released?



Mr KIERATH replied:

The information requested is not readily available and will require considerable research to extract and compile. I am therefore not prepared to commit valuable departmental resources for this purpose. However, if the member has a specific inquiry, I will endeavour to provide the information.

## DOCTORS

### *Workplace Agreements*

3073. Mr KOBELKE to the Minister for Health:

- (1) Is it true that if certain Perth hospitals had carried out the threat to not employ interns who refused to sign a workplace agreement then those doctors who refused to sign the Government workplace agreement could not have completed their compulsory internship here in Western Australia and would have had to go interstate to complete their internship in order to attain full registration as medical practitioners?
- (2) Prior to December 1997, did the Commissioner for Health or any other representative of the Government or major hospitals obtain legal advice as to whether it was legal to employ 1998 interns on an individual workplace agreement?
- (3) If yes to 2, then on what date was this advice requested and when was that advice required?
- (4) Was any further legal advice sought in December 1997 and January 1998 as to whether it was legal to employ interns on a workplace agreement?
- (5) If so, on what date was the legal advice requested and when was the advice received?
- (6) Is the Minister concerned about the negative impression created among junior and senior medical practitioners and other health professionals by the threats to and intimidation of young doctors taking up their first job as interns in the public system over the last Christmas, New Year period?
- (7) What is the Minister doing to try and counter such negative impressions which are a disincentive for health professionals to stay in the public health system?
- (8) Who is the officer (or officers) responsible for the strategy and implementation of forcing workplace agreements on 1998 interns in our major public hospitals?

Mr PRINCE replied:

- (1) Yes but they had a choice not to sign the workplace agreement.
- (2) Yes.
- (3) At various times.
- (4) Yes.
- (5) At various times.
- (6) Yes, however there were not threats or intimidations. The Industry had been open and honest to the doctors and their union the AMA. The Industry made it very clear that if the AMA failed to reach agreement with the Industry, the health service would offer its own agreement to ensure that interns could be employed on new and improved terms in the future.
- (7) I am happy to say that an agreement for Junior Doctors has been reached with the AMA and awaits imminent consideration by Cabinet Standing Committee on Industrial Relations. Constructive negotiations are ongoing with the AMA for other salaried doctors. There are also constructive negotiations occurring with the nurses union and a range of initiatives designed to address issues raised by nursing staff.
- (8) Workplace agreements have not been forced on the 1998 interns and as I indicated earlier, the Government is about to consider proposed enterprise and workplace agreements between the industry and the AMA.

## DOCTORS

### *Recruitment and Retention*

3074. Mr KOBELKE to the Minister for Health:

- (1) Is it true that some doctors in Perth public hospitals are working sixteen hours or more per shift?

- (2) What is the Court Government's position on such practices?
- (3) Are Perth's public hospitals experiencing difficulties in recruiting and retaining doctors?
- (4) Are Perth's public hospitals experiencing difficulties in recruiting and retaining nurses?
- (5) Which Perth public hospitals are experiencing difficulties recruiting and retaining doctors?
- (6) Which Perth public hospitals are experiencing difficulties recruiting and retaining nurses?

Mr PRINCE replied:

- (1) Yes.
- (2) The Government Health industry continues to work closely with staff, the AMA and the relevant medical colleges to ensure that rosters and hours of work are safe and effective.
- (3) Yes, particularly Australian doctors. Overseas doctors eg: UK are used to complement the local supply of doctors.
- (4) Yes. However the situation has improved since the shortage experienced in the latter part of 1997. Most Perth public hospitals are now recruiting for normal turnover requirements.
- (5) Royal Perth, Fremantle, Princess Margaret, Sir Charles Gairdner and Joondalup.
- (6) Royal Perth Hospital and Princess Margaret Hospital are experiencing some difficulties in recruiting nurses.

## DOCTORS

### *Workplace Agreements*

3075. Mr KOBELKE to the Minister for Labour Relations:

- (1) Is it true that the Government promoted the Workplace Agreements Act 1993 on the basis that it would give employees more choice, including the choice between being employed under the award system or individual workplace agreements?
- (2) Is it now Government policy to only make available the choice between an award (taken to include enterprise agreements) or workplace agreement to existing employees and that new employees can only be employed on a workplace agreement?
- (3) Why did the Government not give the 1998 interns in Perth public hospitals the choice of either working under a workplace agreement or an enterprise bargaining agreement?
- (4) Does the Government consider threatening interns with the sack if they did not sign individual workplace agreements as a way of providing choice for government employees?

Mr KIERATH replied:

- (1) Yes. However, the policy of choice was also promoted on the basis that whilst existing employees could choose to remain on the award, employers could offer potential employees jobs on workplace agreements, just as employers have, for over ninety years, offered potential employees jobs on award conditions only.
- (2) The Government has decided that potential employees should only be offered employment in the public sector on workplace agreements. The Government and its agencies are legally entitled to do this.
- (3) The Government is legally entitled to offer potential employees employment on workplace agreements, just as employers have, for over ninety years, been legally entitled to offer potential employees jobs on award conditions only.
- (4) No.

## HOSPITALS

### *Colonoscopy Waiting Times*

3077. Mr McGINTY to the Minister for Health:

- (1) What is the approximate waiting time for a routine colonoscopy at each of the Fremantle Hospital, Royal Perth Hospital and Sir Charles Gairdner Hospitals?

- (2) Why is the waiting time at Fremantle Hospital longer than elsewhere?
- (3) What action does the Minister intend to take to reduce waiting times for people concerned about colon cancer?

Mr PRINCE replied:

Routine colonoscopy at Fremantle Hospital is 11 months. Routine colonoscopy at Sir Charles Gairdner Hospital approximately 3 months. Routine colonoscopy at Royal Perth Hospital is currently between five and six weeks. Fremantle Hospital has one room for throughput of patients having colonoscopy compared to SCGH and RPH where there are at least 2 rooms operating concurrently. Fremantle Hospital also has less medical and nursing staff and the referral rate exceeds the procedure rate. Fremantle Hospital is having discussions with Rockingham and Armadale Hospitals regarding transferring endoscopy work to those sites. Fremantle also is engaged in ongoing discussions with the Health Department concerning a range of initiatives related to reducing the waiting list. In the interim, Fremantle Hospital will advise referring practitioners as to the current wait time and alternative investigations available for their patients with symptoms suggestive of bowel cancer, outside of Fremantle Hospital.

The Royal Perth Hospital waiting list used to be up to eight months, however a trial initiated by Royal Perth Hospital performing routine upper gastrointestinal endoscopies and colonoscopies at Osborne Park Hospital, Swan Health Service and Armadale/Kelmscott Health Service has enabled this waiting list to be reduced. Additionally, this pilot has enabled these patients of Royal Perth Hospital to be treated at their own local hospital by specialist staff accredited to Royal Perth Hospital. The Gastroenterology Registrar at Sir Charles Gairdner Hospital reviews requests for colonoscopy to ensure the request is appropriately wait listed.

#### WA HOSPICE PALLIATIVE CARE ASSOCIATION INC

3078. Mr McGINTY to the Minister for Health:

What does the Minister intend to do with the submission from the Western Australian Hospice Palliative Care Association Inc. in which they sought funding assistance for their Administrator Co-Ordinator and Association office to enable them to continue their good work in the community?

Mr PRINCE replied:

The Health Department are occasionally approached to provide operating funds for such organisations and the policy in responding is to advise that the program funds for services such as palliative care are committed to direct service delivery. The Palliative Care Association is an invaluable network for service providers. However, the Health Department would be unable to provide the funds they request for administration.

#### EXMOUTH RESORT AND CANAL DEVELOPMENT - 1995 MEETING

3084. Mr BROWN to the Minister for Commerce and Trade:

- (1) In 1995 did Doug Bathgate, Gascoyne Development Commission, attend a meeting with representatives of the Trade Centre Pty Ltd and other government officers to discuss a proposal to develop a resort on the west coast of Cape Range?
- (2) How many meetings did this officer attend?
- (3) What was the date(s) of the meeting?
- (4) Who participated in the meeting?
- (5) Did the officers prepare a report of the meeting or any memorandum or note following the meeting to either the Minister or senior ranking officers in the department?
- (6) What was the nature of that minute or communication?
- (7) Who was the minute or communication with?
- (8) Were any meetings held within the department to assess the proposal following that meeting?
- (9) What meetings were held and when?
- (10) Who attended the meetings?
- (11) What recommendations emanated out of each meeting?

Mr COWAN replied:

- (1) Yes.
- (2) One.
- (3) 1 March 1995.
- (4) Mr Alan Ingham.  
Mr Colin Ingham - Department of Conservation & Land Management  
Mr Jim Williamson - Department of Conservation & Land Management  
Mr John Reidy-Crofts  
Mr Keith Malcolm  
Mr John Willis - Department of Land Administration  
Mr Dave Richardson - Shire of Exmouth  
Mr Max Poole - Ministry for Planning  
Mr Doug Bathgate - Gascoyne Development Commission  
Mr Bob Johnson - Western Australian Tourist Commission
- (5) No.
- (6)-(7) The only report was a record of the 1 March 1995 meeting. This record was circulated to all parties in attendance at that meeting.
- (8) No meetings were held within the Department of Commerce and Trade or the Gascoyne Development Commission.
- (9)-(11) Not applicable.

POLICE AND CITIZENS YOUTH CLUBS - LOTTERIES COMMISSION GRANTS

3091. Mr BROWN to the Minister representing the Minister for Racing and Gaming:

- (1) Did the Lotteries Commission make a \$110,000 grant to several Police and Citizens Youth Clubs last year?
- (2) Did the Commission receive -
  - (a) a number of applications from different Police and Citizens Youth Clubs;
  - (b) one application from the Police and Citizens Youth Club;
  - (c) other (please specify)?
- (3) Did the Commission make a formal decision approving the grant?
- (4) On what date was that formal decision made?
- (5) Did the Commission receive any representations from Ministers or members of Parliament about making these funds available?
- (6) If so, what were the nature of the representations?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response -

- (1) Yes.
- (2) (a)-(b) Yes, however the 'block grant' of \$110,000 was made in response to a single application from the Federation of Police and Citizens Youth Clubs Inc on behalf of member clubs.  
(c) Seven applications including the block grant.
- (3) Yes.
- (4) 26/6/97 (Board)  
27/6/97 (Minister)
- (5) No.
- (6) Not applicable.

## LIQUOR - SPECIAL FACILITY LICENCES

3109. Ms WARNOCK to the Minister representing the Minister for Racing and Gaming:

- (1) What is the purpose of "special facility licences"?
- (2) Is the Minister aware of the greatly increased number of applications for "special facility licences" which are being made at present?
- (3) Will the Minister detail the number of applications for such licences made in -
  - (a) 1996;
  - (b) 1997;
  - (c) 1998?
- (4) How many applications for new liquor licences were granted in -
  - (a) 1996;
  - (b) 1997?

Mr COWAN replied:

The Minister for Racing and Gaming has provided the following response:

- (1) A special facility licence is appropriate when no other single licence is reasonably adequate. This licence category includes liquor licences for theatres, ballrooms, works canteens, reception lodges, historic inns, boats and aircraft, and for major sporting venues which are the headquarters of sport in the State. Special facility licences are also able to be sought for developments which enhance tourism or are themselves a tourist attraction, where no other licence is reasonably adequate. Developers, in these cases, do not need to modify their proposals to fit the licensing laws. Instead, an application can be made for a licence to be moulded to the specific needs of the project. Applicants for a special facility licence still have to demonstrate that the reasonable requirements of the public warrant the granting of the licence.
- (2) No. Present application figures do not suggest a greatly increased number of applications for "special facility licences".
- (3)
  - (a) 34.
  - (b) 46.
  - (c) 9.
- (4)
  - (a) 177.
  - (b) 197.

## CHALLENGE BANK - WORKPLACE AGREEMENTS

3112. Mr BROWN to the Minister for Labour Relations:

- (1) Is the Minister aware that the Challenge Bank received the Community Services Industry Premier's award for adopting family-friendly work practices?
- (2) Is it true that no or very few Challenge Bank employees have entered into a workplace agreement under the State Workplace Agreements Act 1997?

Mr KIERATH replied:

- (1) Yes.
- (2) In accordance with section 39 of the State Workplace Agreements Act 1993, workplace agreements in the private sector are confidential to the parties to them. I am therefore unable to comment on the number of employees at Challenge Bank who have entered into a workplace agreement.

## FREMANTLE ROCKINGHAM INDUSTRIAL AREA REGIONAL STRATEGY - WATTLEUP AND HOPE VALLEY

3128. Mr THOMAS to the Minister for Planning:

- (1) Is the Minister aware of the Fremantle Rockingham Industrial Area Regional Strategy (FRIARS) discussion paper which was commissioned by the Ministry of Planning, and published in March 1997 with a closing date for submissions of 31 May 1997?

- (2) Is the Minister aware that this paper included a strategic concept plan that denoted the suburbs of Wattleup and Hope Valley as "existing residential community - future to be determined"?
- (3) Is the Minister aware that this uncertainty is causing concern in Wattleup and Hope Valley where people are alarmed that their houses and investments have a future that is "to be determined"?
- (4) When will you wind up the FRIARS exercise so Wattleup and Hope Valley people can know their future and get on with their lives?

Mr KIERATH replied:

- (1)-(3) Yes.
- (4) The FRIARS Study is still under preparation. This will address options and issues for land development in Wattleup and Hope Valley. The interests of the residents of these communities is a critical issue to be resolved in this Study. The recommendations of the Study will be announced later this year.

#### WORKPLACE AGREEMENTS - BENEFITS

3140. Mr BROWN to the Minister for Labour Relations:

- (1) Did the Minister issue a media statement on 5 July 1996 saying that 83 per cent of workers who shifted to workplace agreements had a higher pay rise than workers in the award system and the other 17 per cent found other benefits that outweighed a pay rise?
- (2) If so, does every employee covered by a workplace agreement receive -
  - (a) a wage rate higher than the wage prescribed in the relevant award;
  - (b) employment conditions equal to or better than those contained in the relevant award?
- (3) Is every person employed under a workplace agreement better off than they would be if employed under the relevant award or enterprise agreement?

Mr KIERATH replied:

- (1) Yes.
- (2)-(3) I am not aware of the details of all workplace agreements registered. However, because they are entered into by employees who genuinely want them, these employees achieve outcomes for their employment which are to their advantage compared to outcomes under awards, and which suit their personal choice.

#### GOVERNMENT DEPARTMENTS AND AGENCIES - NATIONAL POLICY BODIES

3148. Mr BROWN to the Minister for Labour Relations; Planning; Heritage:

- (1) How many national policy bodies does the Minister and each of the departments and agencies under the Minister's control participate on?
- (2) What is the name of each policy body?
- (3) Does each policy body meet on one or more occasions during the calendar year?
- (4) Has the Premier and/or any of the departments or agencies under the Minister's control made representations to that policy body and/or the Commonwealth or other State governments for the policy body to be abolished or changed in any way?
- (5) If so -
  - (a) what was the nature of the submission made;
  - (b) when was the submission made?

Mr KIERATH replied:

I am not prepared to devote the considerable resources which would be required to provide the information sought. However, if the member has a specific question about a national policy body, I will endeavour to provide the information.

## SCHOOL CHAPLAINCY PROGRAM

3230. Ms McHALE to the Minister for Youth:

- (1) Is the Minister aware of the work of school chaplains in State schools for the youth of our community?
- (2) Does the Minister currently provide any funds to the Churches Commission for the chaplaincy program?
- (3) If yes, how much?
- (4) If no, would the Minister consider providing funds for the Youth Affairs budget?

Mr BOARD replied:

- (1) Yes.
- (2)-(3) The Office of Youth Affairs does not provide any direct funding to the Churches Commission for its chaplaincy program in State schools. However, one Youth Grants WA application has been approved for a project submitted by a School Chaplain.
- (4) All chaplains are welcome to apply for funding to the Youth Grants WA Scheme.

## MILITARY TATTOO - FUNDING

3232. Ms McHALE to the Minister for Youth:

- (1) What Government funding was provided to stage the 1997 Military Tattoo from the budget of the Office of Youth Affairs?
- (2) Did the Office of Youth Affairs recommend that funding be provided?
- (3) If so, on what grounds?
- (4) On what date was it decided to provide funding?
- (5) On whose authority was funding provided?

Mr BOARD replied:

- (1) The organisers of the 1997 Perth International Tattoo applied for a grant of \$16,000 under the Youth Grants WA program. This program is administered by the Office of Youth Affairs.
- (2) Yes.
- (3) All Youth Grants WA applications are assessed by an Assessment Committee against established criteria which are contained in the information kit previously forwarded to all members. I would welcome the support of the member in encouraging further applications to this important new grants scheme.
- (4) November 1997.
- (5) Minister for Youth.

## GUILDERTON STRUCTURE PLAN - FUNDING

3247. Dr EDWARDS to the Minister for Planning:

- (1) What allocation has been set aside in the Western Australian Planning Commission budget for development of a structure plan for north and south Guilderton?
- (2) When will work commence on this plan?

Mr KIERATH replied:

- (1) Funds have been allocated for planning the on-going implementation of the Central Coast Regional Strategy, which includes land north and south of Guilderton.
- (2) Not applicable.

**QUESTIONS WITHOUT NOTICE**

**MINISTRY OF JUSTICE**

*Resignation of Mr Gary Byron*

**931. Dr GALLOP to the Premier:**

I refer to the events that led to the resignation of Mr Gary Byron and ask whether the Premier had concerns about Mr Kevin Payne's performance as Executive Director of Offender Management in the Ministry of Justice? If so, what were those concerns?

**Mr COURT replied:**

I have answered that question. I said that the operation of prisons was discussed on a regular basis during budget discussions that were held over a considerable time. I said that matters involving Mr Payne were raised in the week prior to the month of Mr Byron's resignation.

Mr Ripper: Did you have concerns?

Mr COURT: I said that when the matter was raised with me I arranged to meet Hon Peter Foss to discuss it. We met on Monday, 19 January. At that meeting we agreed to arrange a meeting with Mr Byron. That meeting did not take place because of Mr Byron's resignation.

**MINISTRY OF JUSTICE**

*Resignation of Mr Gary Byron*

**932. Dr GALLOP to the Premier:**

Is the Premier saying that he had no specific concerns about Mr Payne's performance?

**Mr COURT replied:**

It would be irresponsible of me to say that about any public servant. I am sure all of us - including the Leader of the Opposition - could do better at times.

**WHITBY FALLS HOSTEL**

*Insider Trading Allegation*

**933. Mr MASTERS to the Minister for Health:**

On radio on Thursday last week the member for Fremantle said in relation to Whitby Falls that a mining lease licence was taken out over a hospital and questioned why a mining licence would be taken out over land on which a functioning hospital was built. In the same interview, the member for Fremantle also claimed that insider trading may have taken place in this instance. As the former exploration manager of Westralian Sands Ltd, the public company that applied for the mining lease over the Whitby Falls property, I ask the Minister to inform the House whether these serious accusations are correct in any way.

**Mr PRINCE replied:**

I thank the member for his question, and for some notice of it. Unfortunately, the member for Fremantle, who never lets the facts get in the way of the story, has again miscast and misquoted the situation to present to the public, this House and the media a total falsehood. It is a fact, which the member would have discovered had he bothered to investigate the matter, that in 1988, the then Minister for Minerals and Energy, David Parker -

Mr Trenorden: Was he a Liberal?

Mr PRINCE: He was Labor. He granted mining exploration licences under the Mining Act - as he should have done - to Westralian Sands Ltd over a considerable part of country, including Whitby Falls. Those exploration licences obviously gave Westralian Sands power to enter onto property. Again, with the agreement of the Labor Minister of the day, the company gained access to the Whitby Falls site to carry out some exploration work. That was prior to the change of Government five years ago.

On 12 February this year, Westralian Sands applied for a mining lease over part of the land the subject of the exploration licences. The Department of Minerals and Energy advises that it will take some nine to 10 years before



the mining licences are granted, if at all. The process takes a long time with considerations such as application periods within which objections can be lodged and hearings before the Warden's Court.

Contrary to the implications the member for Fremantle sought to make last week, it is not the case that the application for the mining lease is over the hostel housing people with mental illness. The application applies over other parts of the land, and not over the hostel. If the member for Fremantle had bothered to do his homework, he would have found that out. The member sought to draw some scurrilous connection between the decision of the mental health experts to close Whitby Falls as a mental health hostel and the granting of an application for a grant for a mining lease to Westralian Sands. The member cannot help himself: As soon as the name Court is mentioned, the member for Fremantle heads off into fiction and tries to run a story that is not only scurrilous, but also plain wrong. As one media commentator had the wit to say, the member for Fremantle kicked an own goal, as he does on every such occasion.

#### WHITBY FALLS HOSTEL

##### *Capital Works Expenditure*

#### **934. Mr McGINTY to the Minister for Health:**

- (1) Was any money spent on capital works to refurbish or upgrade the Whitby Falls Hostel in the past two financial years?
- (2) If yes, what was the nature of those works, when were they undertaken, and what was the cost?

#### **Mr PRINCE replied:**

- (1)-(2) I thank the member for the question, and for some notice of it. The following items were for recurrent maintenance: In 1995-96, under a scheme to replace pipes on the property, some \$103 121 was spent. In 1996-97, \$2 930 was spent on a smoke alarm; some \$9 800 was allocated for a new boiler; further replacement of the pipes was allocated \$56 396; \$1 045 was spent on a shed; and \$942 was allocated for shelving in the cool room.

By way of capital works, \$33 858 was spent on upgrading the patients' accommodation. All of this expenditure was spent on or around the hostel and not on any part of the land subject to the application for a mining lease.

Several members interjected.

Mr PRINCE: The management is excellent because it is looking after 35 men with mental illness who currently live at the hostel, and who will be well looked after until the hostel closes. They will then be better looked after in the community.

#### CRAB FISHING TRIAL, MANDURAH

#### **935. Mr MARSHALL to the Minister for Fisheries:**

A management program by 10 Mandurah estuary professional fishermen using pots, not nets, to catch crabs has been trialled for two years. Can the Minister report on the program and the trial?

#### **Mr HOUSE replied:**

As always, the member for Dawesville has taken a keen interest in issues relating to crabbing and fishing in his electorate. For some time the method of taking crabs in that estuary has been by gill or tangle net, which has met some public resistance; indeed, professional fishermen have expressed concern about what has been happening with that method of taking crabs.

In 1996, we implemented a trial program with the taking of the crabs by pots in that water. The purpose of the program was twofold: First, to establish the method and ratio of distribution of pots to net and, second, to establish whether the taking of crabs by pot in that water would yield the same result as taking by net. Those trials involved five fishermen, and it has been extended to 10 fishermen. It has been largely successful, and will extend to this year. It will progress the fishing industry to a more acceptable way of taking the product. It has been a good trial, the results of which will be accepted by the professional fishermen; I am sure the member for Dawesville has spoken to the fishermen involved in the trial and would agree that they have some sympathy for this changeover.

Mandurah is a prime tourist location in Western Australia, and crabs have always been a part of that industry. We are trying to find a balance between the professional and recreational industries.

GLOBAL DANCE FOUNDATION

*Under Treasurer's Advice*

**936. Mr GRAHAM to the Premier:**

During debate in this place last week the Premier said he received advice from the Under Treasurer on the funding of the Global Dance Foundation. On Thursday I asked the following four questions -

- (1) Which Under Treasurer does the Premier claim to have spoken to?
- (2) When did the Premier speak to the Under Treasurer in relation to this matter?
- (3) What advice did he receive from the Under Treasurer?
- (4) Was that advice given in writing?

Given that five days have elapsed since I asked the questions, when will the Premier provide answers to this place?

**Mr COURT replied:**

I was going to give the member that answer in writing, but I will provide it now. I hesitated on the matter of who was the Under Treasurer at that time because an acting Under Treasurer was operating over some of the period of the approvals process. The Under Treasurer at the time was Ray Hughes; he held that position from December 1993 to June 1995; and John Langoulant became Under Treasurer in June 1995. Advice was given regarding supplementary funding at the meeting of 22 December, but that was subject to its going through the required approvals processes with the Tourism Commission and the like. On 1 June 1995, the acting Under Treasurer, in a formal way, provided a recommendation that supplementary funding be approved. It was received in my office on 8 June. I will need to check when it was signed, but it would have been in June 1995.

GLOBAL DANCE FOUNDATION

*Under Treasurer's Advice*

**937. Mr GRAHAM to the Premier:**

As a supplementary question, did Mr Hughes recommend to the Premier that he fund the Global Dance Foundation?

**Mr COURT replied:**

I have just answered the question.

Mr Graham: No, you have not.

Mr COURT: I said to the member that at the meeting of 22 December, Mr Hughes provided advice on how the proposal could be funded. The member who asked me the question has spent many hours asking me about what happened at that meeting. I have given the dates when the formal approval was provided.

CATHOLIC PRIMARY SCHOOLS

*Financial Assistance*

**938. Mr BAKER to the Minister for Education:**

I had the pleasure last year of attending functions at the Currumbine Catholic Primary School and the St Simon Peter Catholic Primary School in Ocean Reef to officially launch extensions to the two schools. Will the Minister advise the nature and extent of any financial assistance provided by the State Government to either of the schools to assist in meeting the cost of the extensions?

**Mr BARNETT replied:**

I thank the member for some notice of this question. Like many members, the member for Joondalup shows a great deal of interest in schools in his electorate. Currumbine Catholic Primary School received a low interest loan to the value of \$461 000 for extensions. The interest rate for the loan is 1.5 per cent, which is a substantial assistance to the school. This follows previous loans to the school of \$1 530 000.

With regard to St Simon Peter Catholic Primary School, it did not receive a loan for that project although it has previously received loans to the value of \$1.247m, and in the current round it has made an application for a loan of

\$118 000 for the construction of kindergarten facilities. This scheme was instituted at the time of the previous Government. It has been extended by this Government, and it has provided worthwhile assistance to non-government schools in this State.

#### GLOBAL DANCE FOUNDATION

##### *Tabling of Advice*

#### **939. Mr GRAHAM to the Premier:**

Given that the Premier has repeatedly said, including just a couple of minutes ago, that he has acted only on the appropriate advice when funding the Global Dance Foundation, will he now table all the advice he was given prior to his committing the funds to the event on 22 December 1994?

#### **Mr COURT replied:**

I will check what has been provided to the committee, but I would have thought it already had most of the information. I said in answer to the previous question that a recommendation came from the Treasury - the acting Under Treasurer - that approval be given for the supplementary funding. I said that came on 1 June. As I said, it came to my office on 8 June.

Dr Gallop: You will not get away with this.

Mr COURT: This is very interesting. I am asked the questions, I give the answers and then I am told there is more to it. Members opposite should keep asking the questions. They say that I am covering up but I have appeared before the committee. I give full points to the member for Pilbara. He cross-examined me in the committee and now he is using his opportunity to do it in the Parliament. All the information has been provided and yet members are still moving in and out.

Mr Ripper: That is what you are doing.

Mr COURT: No I am not. The problem for members opposite is that, unlike them, I appear before the committee and answer the questions.

Mr Ripper: No you do not.

Mr COURT: Now members say that I do not. It is getting to the stage at which members opposite are asking supplementary questions before I have finished answering the other question.

#### GLOBAL DANCE FOUNDATION

##### *Tabling of Advice*

#### **940. Mr GRAHAM to the Premier:**

I would be happy to sit down if the Premier would answer the question. The papers the Premier has provided to the Public Accounts and Expenditure Review Committee are its business. I am asking the Premier to table in this Parliament the papers that gave him the advice to fund the event before he made the decision on 22 December.

#### **Mr COURT replied:**

I have just said to the member that the issue -

Mr McGinty: What is wrong with a yes or no answer?

Mr COURT: I advise the member for Fremantle that I will deal with the facts and he can make things up. That is the difference between us. In relation to the formal processes for the supplementary funding, if the member does not already have that information I will give it to him.

#### TAXATION REFORM

#### **941. Mr MacLEAN to the Premier:**

Is the Premier aware of an article in this morning's edition of *The Australian* written by Alan Wood titled "Reform Taxes or States Perish", and will he comment on the need for national taxation reform for Western Australia?

#### **Mr COURT replied:**

I am aware of the article by Mr Wood and I am also aware of the lengthy debate held during the weekend at the Liberal Party national conference. This whole question of taxation reform and commonwealth-state financial

arrangements is such that after almost a hundred years of federation major changes are needed. Following the High Court decision last year in relation to section 90 taxes, more than 80 per cent of the taxation revenue in this country is collected by the Federal Government. This State collects only half of the revenue it needs to carry out the services for which it has constitutional responsibility. With that imbalance, there is a need for change.

In the article Mr Wood said it was important that the States have not only a share of income taxing revenues, but also income taxing powers; that is, they should be able to raise the taxes themselves. That will be one of the important issues. If the States have an income tax component, it is important that the Commonwealth Government withdraw from that area so that there are no taxes on top of taxes. I have no difficulty with state income tax varying between States because it is a natural progression of competition within our system.

I find interesting in the article a quote from a statement made by Alfred Deakin in 1901. It is an important quote because what he predicted then has now happened.

Mr McGowan: Did you find the quote or did someone else?

Mr COURT: It is in Mr Wood's article and it is as follows -

As the power of the purse in Great Britain established by degrees the authority of the Commons, it will ultimately establish in Australia the authority of the Commonwealth. The rights of self-government of the States have been supposed to be safeguarded by the Constitution. It left them legally free, but financially bound to the chariot wheels of the central government.

Their need will be its opportunity. The less populous will first succumb; those smitten by drought or similar misfortunes will follow; and, finally, even the greatest and most prosperous will, however reluctantly, be brought to heel. Our Constitution may remain unaltered, but a vital change will have taken place in the relations between the States and the Commonwealth. The Commonwealth will have acquired a general control over the States, while every extension of political power will be made by its means and go to increase its relative superiority.

Unfortunately, that prediction has come true. The financial powers have been centralised in a central Government and the States' position has been weakened. It is critical to try to get back to a situation in which the States have revenue autonomy; that is, they are able to raise the funds they need to deliver the services they provide.

The coalition Government is prepared to engage in this difficult debate. Members of the Labor Party have locked themselves out of the most important financial debate in this country, as this country approaches 100 years of federation. As was outlined at the conference during the weekend, the policy position of the Labor Party on all these difficult issues, including native title, is that if it is returned to government after the next election it will have a meeting to discuss the matter.

BRADMAN MAY

*Cancellation of Surgery*

**942. Mr McGINTY to the Minister for Health:**

- (1) Is the Minister aware that Fremantle Hospital this month cancelled an exploratory procedure on a four month old baby, Bradman May, who was born with only one kidney?
- (2) Is the Minister aware that further surgery to correct this serious birth defect now cannot proceed?
- (3) Are procedures of this nature being routinely cancelled at Princess Margaret Hospital for Children?
- (4) Why was this surgery cancelled and what has the Minister done to ensure that Bradman is operated on without further delay?

**Mr PRINCE replied:**

I thank the member for some notice of this question.

- (1) I was not aware of this matter until I was informed by the Chief Medical Officer to the Health Department, Associate Professor Dr Bryant Stokes, late yesterday as a result of the member for Fremantle contacting Dr Stokes.
- (2) I am informed by Dr Stokes, who has consulted with the surgeon who has care of this baby, that the child was born with only one operable kidney and that the other kidney is not formed at all. There is evidently some form of defect to the child's operable kidney but the exact nature of it cannot be determined without

investigative procedures, as opposed to surgical procedures. The child was to undergo some procedures in the X-ray theatre, under anaesthesia, that would have involved X-rays and dyes being injected. That procedure was cancelled and it was not a remedial procedure. The surgeon does not know what is the problem without carrying out an exploratory X-ray under anaesthetic.

- (3) No, procedures of this nature are not being routinely cancelled at Princess Margaret Hospital for Children, nor at Swan District Hospital.
- (4) The surgery was cancelled because, unfortunately, the nurses at Fremantle hospital are adamant that the rules they put in place which apply to adult patients will also apply to children; namely, if it is not urgent surgery, the bed will not be made available. This information has come to me from the doctors who have the care of this child. As a result of this issue being raised by the member for Fremantle, and I thank him for doing so, the doctor concerned has rescheduled surgery for this baby - the child's mother was in the Speaker's Gallery a moment ago, and I have seen the child - for Thursday of this week. Although the doctors are prepared to do it and everything is in place, it will depend on the nurses agreeing that this is the sort of procedure that should be done, and done now, and is not of a nature that can be put off. Alternatively the surgeon has looked at the possibility of admitting the child to Princess Margaret Hospital. It seems to me to indicate that the surgery is more than urgent enough for it to be done now, and it should not have been cancelled in the first place.

## URBAN VILLAGES

### *Statement by Leader of the Opposition*

#### **943. Mr BAKER to the Minister for Planning:**

Is the Minister aware of a statement by the Leader of the Opposition regarding urban villages and any similar suggestions by the State Government?

#### **Mr KIERATH replied:**

I thank the member for some notice of this question.

I was pleased to read that the Leader of the Opposition called for planners in Western Australia to consider an urban village concept. That is an excellent idea, and I would pay tribute to him for that, especially if he came up with it himself. There is one little snag in all of this: His idea was published on 28 February in *The West Australian*. The sad thing is that it was released by the Government in December last year. I table the media statement dated 11 December 1997.

The member for Maylands has been briefed on the urban village concept which we call livable neighbourhoods. A Labor member attended the launch of this concept in December, yet the Leader of the Opposition is now claiming the idea as his own. He tries to portray himself as a visionary. In this case it has gone horribly wrong - he is guilty either of taking our policy and claiming it as his work or of being woefully ignorant of what is happening in his own city. Just to make sure, I wandered past his office and found that one of the pamphlets displayed outside his office is all about livable neighbourhoods community design - bearing the date of December 1997. I also table that document. The Leader of the Opposition is either politically light-fingered or light-headed.

[See papers Nos 1251 and 1252.]

## CHILD SEXUAL ABUSE

### *Counselling Services*

#### **944. Ms ANWYL to the Minister for Family and Children's Services:**

I refer to the south west town where a paedophile abused up to 47 young boys, many of whom still live in the town, and some of whose parents do not know of that abuse, and I ask -

- (1) Why will the Minister not direct that counselling services be made available to the young men of that town on a confidential and urgent basis?
- (2) Why will the Minister or the department not apologise to the parents of one of the boys, who were not told about the allegations until several months after the Department of Family and Children's Services was made aware of them?

**Mrs PARKER replied:**

I thank the member for this question.

(1)-(2) I will take the second part first. In the case that has been referred to, the police were responsible for the criminal investigation.

Ms Anwyl: The boy was under the care of the department at the time.

Mrs PARKER: The protocol was that the police would investigate and lay charges. The names of the boys who admitted they had been involved in the abuse were referred to Family and Children's Services and follow-up counselling was provided. At a later stage when another lad gave information that he had been involved in that rather sordid situation - what a tragedy it was for the young men - follow-up counselling was offered to the family. Family and Children's Services provided counselling not just for members of the community who sought it in this instance, but in a number of instances - whether it be the Gracetown situation, the Wundowie fires, and a whole range of issues -

Ms Anwyl: Stick to this town. What is happening in this town? It's a disgrace.

Mrs PARKER: The media carried a report about the lack of facilities available for victims of child abuse. I provided information to *The West Australian* yesterday.

Ms Anwyl: What are you doing about this south west town? Don't worry about other information.

Mrs PARKER: As I was saying, I provided information yesterday to *The West Australian* about the sorts of services that are available. In this State a number of agencies provide services to those who have suffered past abuse: The Health Department funds the Sexual Assault Referral Centre; Family and Children's Services funds the Incest Survivors Association (Inc); and both departments and the Ministry of Justice provide direct services. Whether the department provides counselling for a range of trauma -

Several members interjected.

The SPEAKER: Order! I allow a lot of interjection, particularly from someone who has asked a question, because it may add to the inquiry that member has made. However, it is unacceptable for too many members to be interjecting.

Mrs PARKER: A range of services is available and has been offered. It is important to have a good range of services in place for what is a very sad and traumatic circumstance in the lives of families and in some cases in the life of the community. We have an unequivocal commitment to provide those services. Child abuse is the violation of a childhood and the end of the child's innocence. This Government is unequivocally committed to helping the survivors of that trauma and their families and, if need be, their community in dealing with that trauma.

#### SEAT BELTS

##### *Westar Rules-Road Safety Council Campaign*

**945. Mr OSBORNE to the Minister representing the Minister for Transport:**

I ask the Minister to inform the House of the benefits of the Westar Rules and Road Safety Council partnership launched at the Perth Concert Hall last night.

**Mr OMODEI replied:**

I thank the member for some notice of this question. I attended the launch last night, along with the Minister for Transport and the Minister for Sport and Recreation. More than 1 800 people were at the event, most of them footballers as well as administrators. It received unprecedented support from the media and media personalities. Everyone at the event was inspired and deeply moved by the personal message given by the Teal Cup footballer, Shane McGowan, who was involved in a serious road accident in 1993 that resulted in quadriplegia. This brave and charismatic young man who relates very well to young people, particularly young footballers, emphasised the vital need for all drivers and passengers to wear their seat belts. The Minister for Transport made an equally compelling speech at the event. As a result I have no doubt that each of the people who are running the "Belt Up" campaign will petition 50 people to wear a seat belt at all times. In my capacity as the Minister for Disability Services, I am only too aware of the enormous tragic personal cost of road crashes, and their high economic cost to the community. The 17 to 24 year olds, particularly males, are overrepresented in crash statistics. This launch was a great event. The \$400 000 being spent in the community education and sponsorship partnership, which was presented in 1998-99 between Westar and the Road Safety Council, will result in a win, win, win situation - a win for football, a win for road safety, and a win for the community of Western Australia.

## INDUSTRIAL AND COMMERCIAL EMPLOYEES HOUSING AUTHORITY

*Sale of Government Housing***946. Ms MacTIERNAN to the Minister for Housing:**

Given that the Minister for Housing has now conceded that opposition concerns about the conduct of the Industrial and Commercial Employees Housing Authority in the selling of government housing warrants a full investigation by the Anti-Corruption Commission, will the Minister now explain -

- (1) What civil action has been taken to recover the \$128 000 improperly paid in real estate commission fees?
- (2) Whether he or his ministry has yet filed a complaint against Charles Patrick O'Leary and/or Residential Equities regarding allegations that they acted as real estate agents without licences and charged commissions without written authority? If not, why has such action not been taken?
- (3) When was it first discovered that ministry files relating to these transactions had gone missing?

**Dr HAMES replied:**

- (1)-(3) I thank the member for some notice of this question. Unfortunately, while I would like to go into some detail in responding, I am not at liberty to do so.

Ms MacTiernan: Have you taken action?

Dr HAMES: Yes; I have referred it to the Ministry of Fair Trading. Under the regulations, I am not at liberty to speak about referrals to the ACC. However, the report in the *Sunday Times* stating that I said that I was about to take certain actions was correct.

## INDUSTRIAL AND COMMERCIAL EMPLOYEES HOUSING AUTHORITY

*Sale of Government Housing***947. Ms MacTIERNAN to the Minister for Housing:**

Will the Minister describe what civil action he has taken given that this matter has now been under investigation for two and a half years?

**Dr HAMES replied:**

The action to be or not to be taken will be determined by the bodies to whom I have referred the matter. Initially, crown law advice was sought and it suggested that the Government do certain things, and those things have been done. In the fullness of time, members will find out what they are.

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