



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE ASSEMBLY

Wednesday, 1 April 1998

Legislative Assembly

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

REGIONAL PARK, GUILDERTON

Petition

Dr Gallop (Leader of the Opposition) presented the following petition bearing the signatures of 30 persons -

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

We the undersigned respectfully request that the Government establish a regional park immediately to the south of Guilderton in order to protect the mouth and lower reaches of the Moore River and the significant dunes and coastal heathland south of the mouth of the Moore River.

We request that the Government take urgent action to acquire this land before it is further rezoned or redeveloped,

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

[See petition No 167.]

ABORTION LAW

Petition

Mr Omodei (Minister for Local Government) presented the following petition bearing the signatures of 74 persons -

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

We, the undersigned -

are dismayed that some members of the Parliament of this State are contemplating further liberalisation of abortion laws in Western Australia;

are vigorously opposed to abortion;

affirm the paramount right of the conceived, yet-to-be-born human being to be born and thereafter enjoy the love and nurture of parents/family/friends and an eternal life with God;

believe the morality of a society can be measured by the degree it protects the rights of those that do not have the ability to protect their own rights such as the unborn and some of the aged and handicapped. Abortion totally ignores and overrides the rights of the unborn;

acknowledge that an unplanned pregnancy does often occasion deep personal distress/trauma and financial difficulty for the family members involved, particularly the mother and/or father of the unborn child;

commit ourselves to assisting the Roman Catholic Church to fulfil its sacred obligation to provide assistance and support to the unborn and any person experiencing distress on account of an unplanned pregnancy.

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 173.]

ABORTION LAW

Petition

Mr MacLean presented the following petition from members of the Anglican parish of Yanchep, bearing the signatures of 12 persons -

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

We, the undersigned:

Ask that laws pertaining to the procurement of abortions be maintained and actively enforced, and that further laws or changes to the present laws should be aimed only at clarifying the circumstances in which an abortion might be justified, such as when there is serious danger to the physical and mental health of the woman or when the foetus has an abnormality that would prevent live birth from occurring or would, if live birth occurred, lead to perinatal death, and that no further laws or changes to the present laws should be countenanced which have the consequences of making it easier to procure an abortion.

Furthermore, your petitioners further ask that sufficient government resources be allocated for an effective educational and advertising programme to alert both men and women to the need to exercise responsibility in sexual relationships so as to avoid unwanted pregnancies and reduce the unnecessarily high occurrence of women seeking abortions in our State.

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 174.]

PRIMARY SCHOOL, WAIKIKI GARDENS

Petition

Mr McGowan presented the following petition bearing the signatures of 15 persons -

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

We the undersigned, wish to register our support for a new primary school in the Waikiki Gardens area. The three surrounding schools have very large student populations and we believe that this is not good for the students' education or the physical facilities of the school. We strongly urge you to examine the need for a new Waikiki Primary School and to build one without delay.

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 175.]

WAITING LISTS, PUBLIC HOSPITALS

Petition

Mr Carpenter presented the following petition bearing the signatures of 24 persons -

To the Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia 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 ever give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

[See petition No 176.]

WA POLICE ACADEMY

Petition

Mr McGowan presented the following petition bearing the signatures of 63 persons -

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

We, the undersigned do hereby urge the Government and the Minister for Police to locate the proposed new Police Academy in the south west metropolitan region of Perth at Murdoch University.

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 177.]

ROYAL COMMISSION INTO THE CITY OF WANNEROO

Statement by Minister for Local Government

MR OMODEI (Warren-Blackwood - Minister for Local Government) [11.10 am]: I make a brief ministerial statement on the implementation of the recommendations of the Royal Commission into the City of Wanneroo. The commissioner raised a number of matters which required close and detailed analysis. In order to undertake this task the Executive Director of the Department of Local Government, Mr John Lynch, chaired a working party with representation from the department, the Western Australian Municipal Association and the Institute of Municipal Management.

The report of the working party is thorough and incisive in its analysis of 22 recommendations and observations of the royal commission. Of these the working party wholly or generally supported 18 and outlined practical or philosophical difficulties with the other four. The working party did not support Hansard-style reporting of council meetings, recording of every member's vote on every council decision, legislating in relation to conflicts of interest or mandatory training for councillors.

A number of recommendations supported by the working party require legislative amendments. Such recommendations will obviously need to be considered closely through Cabinet and party room processes. Among the recommendations supported by the working party is the development of electoral donations disclosure regulations. Late last year I announced that such provisions would be in place for the May 1999 elections.

The working party also supported wider disclosure provisions in relation to gifts to councillors and staff and better note and record keeping by staff. Specific concerns in relation to financial management will be considered by a specialist local government finance body to determine whether amendments to regulations are required and warranted.

I support the working party's view that in the training of elected members, emphasis should be given to discouraging factions in councils, councillor-only meetings and elected members becoming too involved in negotiations with developers and objectors when their role as councillor is not clear.

The report will be sent to all councils for their consideration and I invite members to peruse it. The working party has done an excellent job and I commend its members. I table the report.

[See paper No 1290.]

ELECTRONIC TRADING

Statement by Minister for Works

MR BOARD (Murdoch - Minister for Works) [11.18 am]: Electronic trading is the way of the future and if all Governments in Australia do not grasp the opportunity and accelerate online procurement, many small to medium size businesses will be disadvantaged by international competition.

Industry experts predict that the number of people with access to the Internet will rise from 55 million this year to 550 million three years from now. It is obvious that the ultimate free trade environment has arrived and is here to

stay. With this in mind, I inform the House of an important milestone which has been reached in Australia to create greater electronic trading opportunities for suppliers to access national markets. At a meeting in Canberra last Thursday of federal, state and territory Ministers responsible for procurement in Australia and New Zealand, a major step was taken towards achieving a national approach to government policy on electronic procurement.

The resolutions agreed to by the ministerial council are aimed at opening up trading opportunities for suppliers right across Australia, particularly for small-to-medium enterprises. All Ministers have agreed to work together, to share information between States and Territories in Australia and with New Zealand, so we can make electronic trading far easier for small business. I applaud that commitment.

At the meeting, it was agreed to adopt a single authentication process across all Australian and New Zealand Governments, to create a single point of entry and registration requirements for all suppliers, including those from New Zealand, and to develop a national framework for tender management systems. The meeting also resolved to request Attorneys General across Australia to develop unified guidelines and regulations for electronic trading across the nation. Further, it was agreed to ensure that suppliers, especially small to medium enterprises were informed and educated about the opportunities of e-business.

Already, the Australian Procurement and Construction Council has extended its web site to include a new hot link entitled "Selling to Government". This web site address links to all of the members' procurement home pages and so far, anecdotal evidence from prospective tenderers suggests that the page is being well utilised. E-business is certainly the way of the future.

It is important that Governments across Australia grasp the way the online revolution and electronic commerce are transforming the global economy and that they be in a position to easily interact with the technology driven business community.

The Western Australia Government is working hard in this area and has already established the Office of Information and Communications to coordinate and develop communications and information policy. It will also help to implement policy and strategies across Government. This office in conjunction with the Department of Contract and Management Services, will play a vital role in making sure WA shares in the many benefits of new, advanced technology into the twenty-first century.

BILLS (3) - INTRODUCTION AND FIRST READING

1. Bookmakers Betting Levy Amendment Bill

Bill introduced, on motion by Mr Cowan (Deputy Premier), and read a first time.

2. Botanic Gardens and Parks Authority Bill

Bill introduced, on motion by Mrs Edwardes (Minister for the Environment), and read a first time.

3. Planning Legislation Amendment Bill

Bill introduced, on motion by Mr Kierath (Minister for Planning), and read a first time.

RAIL SAFETY BILL

Second Reading

MR OMODEI (Warren-Blackwood - Minister for Local Government) [11.20 am]: I move -

That the Bill be now read a second time.

This Bill demonstrates this Government's commitment to the development in Western Australia of a safe and efficient rail system, which strives for best practice as a means of ensuring that the needs and expectations of all West Australians are met. For some time the States have been working with the Commonwealth to develop a common national framework for the regulation of rail safety. That framework is based on the establishment of a cost-effective, consistent approach to rail safety which incorporates nationally agreed standards for the building, maintenance and operation of railways while eliminating barriers to third party entry into the rail industry. This Bill establishes this framework within Western Australia.

While the Bill covers all railways within Western Australia, the Minister will exercise his discretion under clause 4 of the Bill to exempt single user mine railways servicing the north west ports. These railways will continue to be audited by the Department of Minerals and Energy to ensure they achieve safety standards equivalent to those to be achieved under this legislation.

For the first time it will clearly set out common rail safety standards and criteria that all persons wishing to own or operate a railway will need to meet in order to be accredited owners or operators. The standards to be applied will be national, based on industry best practice and subject to ongoing development through the work of the Standards Association of Australia. It features mutual recognition of railway accreditation granted in other Australian jurisdictions and incorporates a process of conciliation and mediation as a means of resolving disputes.

Its objectives are purely safety related. It contains no non-safety related barriers to entry or operation and consistent with its objective of promoting ongoing improvements in safety. The purpose of any inquiries or investigations conducted under this Act will be to determine the cause and means of avoiding further occurrences of serious incidents or accidents and not the determination of liability or apportionment of blame.

Accreditation of owners and operators will be the basis of rail industry participation. Accreditation will be determined by -

- the capacity of the applicant to demonstrate the competency and capacity to meet the requirements of the Australian Rail Safety Standard (AS 4292) and any other applicable standards;
- the possession of an appropriate safety management plan that identifies the potential risks associated with their railway operation and the systems and resources to be employed to address those risks;
- the applicant's possession of the financial capacity or public risk insurance to meet reasonable accident liabilities; and
- for new entrants, the applicant having made any necessary access arrangements for infrastructure or rolling stock.

Accreditation will not be general but specific to the nature of the business being conducted. For example, safety risks involved in operations dedicated to the movement of freight or hazardous cargoes differ in many respects from passenger railways, thus applicants for accreditation will be assessed accordingly. This will ensure that the nature of the risk assessments and safety management plans required of individual businesses are appropriate to their operations and that safety is maintained without imposing onerous or unnecessary burdens on operators.

The Bill also provides the mechanisms for varying a person's accreditation and for dealing with disputes arising from decisions of the Director General of Transport. In the first instance, parties will be entitled and encouraged to seek resolution through conciliation or arbitration rather than through the courts. Having achieved accreditation appropriate to their needs and the need to ensure the safety of the public, operators will have to meet a number of ongoing requirements.

As part of a national database operators will be required to -

- furnish returns on incidents or accidents consistent with the Australian Rail Safety Standard;
- take all reasonable steps to ensure that their employees have the skills, capacity and training to adequately perform rail safety work, are of sufficiently good health and fitness to do so, and are not under the influence of drugs or alcohol while carrying out safety work;
- review and revise their safety management plan annually;
- be subject to independent inspections at least once per year to ensure compliance with their safety management plan and safety standards; and
- when required, furnish a written report on any incident or other matter that may affect or be otherwise relevant to the safe construction, maintenance or operation of the railway.

In keeping with its overall purpose of promoting ongoing improvements in rail safety, the Bill provides that in the event of accident or incident resulting in death, serious personal injury or major property damage, an independent inquirer can be appointed to investigate and report on the matter.

As part of the national approach to rail safety, a register of qualified persons experienced in railway investigations has already been established with nominations from each participating jurisdiction. These individuals are highly qualified and independent and are familiar with current industry practices. There is no requirement to use a person from the register to conduct an inquiry, but its availability means that people with significant expertise are readily available to undertake the task if required. The advantage is that safety inquiries can be conducted by industry practitioners who are independent of any of the parties involved in the incident but who are intimately familiar with industry best practice.

The purpose of these inquiries is, again, the pursuit of improvements in standards or practices in order to prevent any

recurrence of the accident or incident. Inquirers will act quickly and with as little formality as possible to determine the cause of serious incidents or accidents and are not to apportion blame or determine liability.

While the Australian Rail Safety Standard on rail safety has been developed in consultation with industry and is being widely implemented, it is acknowledged that a transitional period is required for existing operators during which time internal or informal working documents may be converted to formal plans. The Bill provides that persons owning or operating a railway immediately prior to commencement will be taken to hold accreditation appropriate to their circumstances for a prescribed period.

One of the benefits of our participation in a national approach to rail safety and the establishment of a system of accreditation based on common criteria is that we will be able to obtain some economies of scale through the ability to access officers from other jurisdictions to periodically undertake functions on our behalf, thereby achieving the goal of maintaining and promoting rail safety without imposing significant additional costs on Western Australian industry.

The Government fully supports the new arrangement proposed in this legislation. I commend the Bill to the House.

Debate adjourned, on motion by Mr Cunningham.

CRIMINAL CODE AMENDMENT BILL

Committee

Resumed from 31 March. The Deputy Chairman of Committees (Mrs Holmes) in the Chair; Mr Prince (Minister for Health) in charge of the Bill.

Clause 3: Section 201A inserted -

Progress was reported after the clause had been amended.

New clause 4 -

Dr TURNBULL: I move -

Page 2, before line 4 - To insert the following -

4. Before Part XII of the *Health Act 1911* the following section is inserted -

" **Exclusion of late abortions**

316B. (1) Section 201A of *The Criminal Code* does not apply in respect of any act done to procure the miscarriage of an unborn child capable of being born alive unless -

- (a) the unborn child is diagnosed with a condition specified in the regulations; and
- (b) the miscarriage is procured by a procedure specified in the regulations.

(2) For the purposes of subsection (1), evidence that a woman had at any time been pregnant for a period of twenty weeks or more shall be prima facie proof that she was at that time bearing an unborn child capable of being born alive. "

I regard this as an extremely important issue. I hope the amplification in the Chamber is sufficient so that members can hear me, given that my voice is not very good today. I seek to have this clause included because it is quite evident to all members that we will have amendments to the Criminal Code or the Health Act which will allow abortions under a number of conditions; that is, those set out in paragraphs (a), (b), (c) and (d) of the Foss Bill, or those in the Davenport Bill but perhaps modified by the amendments by Hon Norman Moore. Everybody must understand that both the Foss Bill and the Davenport Bill, even with the amendments by Hon Norman Moore, will allow termination of healthy babies, who are capable of being born alive, right up to term. We must make a statement whether that is either acceptable or not acceptable.

As far as I have been able to ascertain from everybody I have talked to both in this Parliament and outside, nobody in Western Australia is expecting us, as parliamentarians, to allow healthy babies who are capable of being born alive to be terminated. As far as I can also ascertain, in Western Australia at the moment no babies over the age of about 20 to 22 weeks are terminated, except maybe for five or six a year at King Edward Memorial Hospital, which terminations are carried out on foetuses with very gross abnormalities. I ask those members who support the Bill because they say it will formalise what is happening in Western Australia at the moment to consider this clause extremely carefully.

We will not formalising what is happening in this State at the moment. I want all members, both in the other place and in here, to recognise that if we pass the Bill without a limitation of abortion of a baby, who if born naturally is capable of living, we will be extending enormously the time within which abortion can take place in Western Australia. I can find nowhere else in Australia where that is condoned under law. An abortionist in Queensland performs third trimester terminations. He performs abortions on healthy babies who are capable of being born alive. I was in Queensland last weekend. It was explained to me that he has already said that there is a very good possibility of his extending his services by locating in Western Australia, especially if the climate is more conducive to the sorts of things he does.

I honestly feel that no members want a situation which extends the time within which, currently, abortions can be performed. I have talked with people whose life work has been committed to abortion on demand. Even those people honestly and truthfully do not seek to have abortions available for healthy babies who are capable of being born alive. Most of them say that they see it as being applicable only to babies over 20 weeks with very gross abnormalities.

I ask all members to consider supporting this clause, despite the way they have voted previously and despite the fact that they may want to see this Bill defeated so that the Davenport Bill can take precedence. By voting for the inclusion of this new clause, we will be sending this clear message to the abortionists in the eastern States who think they can make money from aborting healthy babies that are capable of living: Western Australia is not the place for them to set up their services.

A little later I will explain the significance of paragraphs (a) and (b) in the amendment, which cover the few exceptions, and what I mean by regulation. Last night many members were not voting for amendments which were proposed to be placed into regulations because they said that they did not know what was being envisaged in those regulations.

Dr HAMES: This issue has been discussed with me, the member for Collie and others who have tended to be part of the group opposing the amendments. There is broad agreement for the concept the member for Collie is trying to put through. There is an abhorrence of terminations of healthy babies after 20 weeks of pregnancy. That is shared by most, if not all, members in this Chamber. I guess the question is how do we reach that point. I expressed concern to the member about the wording in the regulations and my preference for the amendments to the Davenport Bill being proposed by Hon Norman Moore; although having gone into it in some detail, even that arrangement is not totally adequate. I will read into the record one of the amendments of Hon Norman Moore so members know exactly what it says. It states that if at least 20 weeks of the woman's pregnancy have been completed when the abortion is performed, the performance of the abortion is not justified unless two medical practitioners have agreed - this needs some repair - that either serious danger to the physical or mental health of the woman will result if the abortion is not performed or the pregnancy of the woman is causing serious danger to her physical or mental health.

Mr Pandal interjected.

Dr HAMES: I do not think that contribution is particularly valuable when we are trying to come to an agreement on a process that we can put in place.

Several members interjected.

The DEPUTY CHAIRMAN: Order!

Dr HAMES: The problem for the member for Collie is that the amendment does not stop the Queensland doctor from being able to visit, get two doctors to agree that there is a serious risk to physical or mental health and still be able to carry out a termination on a normal foetus after 20 weeks, which we definitely do not want. The Moore amendments contain a way to fix that. Instead of saying that the abortion can be performed in a facility approved under regulations which is the next step, when again we do not know what the regulations will lay down, we need to say that the abortion can be performed only in a facility approved by the Minister for Health. That gives the Minister for Health the opportunity to say that those procedures can be carried out only at King Edward Memorial Hospital, for example, or in special circumstances he may nominate one other hospital in a specific case. It would certainly give the Minister the opportunity to make sure that even if the Queensland doctor were given a licence to perform here, which I hope he would not, that a mechanism would be in place whereby he could be prevented from carrying out that procedure.

Mr Prince: It cannot be done because of competition and mutual recognition policies.

Dr HAMES: If it cannot be done, that is a problem. The problem I have with the member's suggestion is that it does not cover all the options. Part of the problem for all of us is that we are operating a bit on the run when trying to work out these things. I suggest we do what the member for South Perth did last night when members were trying to find an alternative, which is to take a break from proceedings, sit down and see if we can come up with a compromise

amendment to which everyone can agree. If we cannot do that, then everyone may agree to what the member is putting forward as the best option. At present there is support for the principle but concern about the wording. At this stage we prefer the wording in the Moore amendments. We would like the member to withdraw the amendment and to substitute the other amendments, provided that we can make sure we do not allow the Queensland experience to be repeated in Western Australia. I will be interested to hear from the Minister for Health on how we can do that. I hope that we can perhaps take a short break and sit down and work out something which the Minister says will cover this situation.

Mr BRIDGE: I take up the last point made by the Minister when he suggested that perhaps a way to deal with this is immediately to take a short break to see whether this matter can be resolved. That is wise counselling of the Chamber. It is not an option to have any kind of legislation leave this Chamber without a time frame enshrined in it. If we were to do that, we would be giving full credence to the convenience of conducting abortions. We would be making it easy, there would be open slather and no regard whatsoever would be given to the unborn. We will have lost that significant part of the debate if we are not prepared to enshrine a time frame in the legislation. It is an absolute requirement; there are no ifs or buts. If we are to keep this debate reasonably balanced and take into account the essential elements - the concern for the unborn, the woman, the medical profession and society - in no way can we even minutely consider letting this legislation pass without a time frame. Therefore, the sooner the better we say to ourselves, "Let us put an end to this debate and not get into detailed analysis of the aspects for and against the issue, but rather come up with a time frame, put it through the Chamber and dispense with it."

Before we get to what should be the time frame, we should recognise that it should not be 20 or 24 weeks. We should bring it down to 10 or 12 weeks. I will tell members why I chose 10 or 12 weeks. I am not a woman, so I am not as equipped as a woman to make the judgment. However, I thought of a simplistic way of coming up with 10 or 12 weeks. Ordinarily two periods would occur, one in the four or five weeks after conception and then another when the foetus evolves. Twelve weeks is the absolute maximum. If a lady does not know then what is going on, she never will. We do not have to worry about 20 or 24 weeks. Let us get real. The lady would have a clear understanding of her intention within 10 or 12 weeks. We must cater for the intention, whether medically inspired or as a result of other factors, and not the convenience. We must reduce the time frame a little. The member for Collie is overly generous when talking about 20 weeks. If we were nearer the half way mark and went for 12 weeks, that would be a pretty good time frame. This is not a negotiable issue. We need to adjourn, come up with a figure, agree on it, vote and dispense with this part of the legislation.

Mr PRINCE: I support the amendment. I am informed by professors of obstetrics and gynaecology, the chief medical officer of the Health Department and others that, in their considered views, as a general rule abortion should not occur after 20 weeks. Very, very few abortions take place after 20 weeks' gestation - probably no more than half a dozen.

Dr Edwards: Fifteen.

Mr PRINCE: Very few occur and always in exceptional cases. They are always most peculiar, in the broadest sense of the term. They are handled with great sensitivity and are often very complex medically.

Mr Kobelke: Are most of those covered by section 259?

Mr PRINCE: Yes, as I understand it. They are extraordinary cases. The experts tell me that abortion is increasingly more dangerous as the gestation goes on. We routinely keep babies alive who are born at 24 or 25 weeks. The neonatal unit at King Edward Memorial Hospital is the biggest in the southern hemisphere and one of the best in the world. We routinely keep alive babies who are born at around 400 to 420 grams. In China if they are under a kilogram they are left to die. We should be extremely grateful for the skills of the people involved and the technology - hard won over a long period - in this State that enables us to do this.

Professor Con Michael has told me that it is quite likely that in the near future at around 20 weeks, not only will we be able to keep the baby alive but, also it will grow into a perfectly viable human being with no adverse effects as a result of the premature birth. Twenty weeks should be the limit. The current law also prescribes that a child born at 20 weeks, or later, shall be registered as a stillbirth. The doctors acknowledge and are very mindful of those legal requirements.

With regard to reducing the time to 10 or 12 weeks, as the member for Kimberley said, he obviously missed what I said some time ago in this debate. A biopsy is available at around 10 or 12 weeks which can be used, in part, to detect chromosomal abnormalities. Amniocentesis, which is usually performed at around 16 to 18 weeks, is also a much more accurate and broader test. Both of those tests cannot be carried out at under 12 weeks with sufficient accuracy to give a result which may lead to a proper decision to terminate in the event of abnormality. Therefore, those terminations are usually carried out at under 20 weeks. Only in rare cases are terminations carried out at later

than 20 weeks. I am told it is six cases per year; the member for Maylands says it is around 15; either way, we are talking about very few cases. I do not favour having these rules anywhere other than in the Health Act. The regulation making power is appropriately in the Health Act, which is why this amendment is the way to go.

With regard to the comments made by the Minister for Housing, it would be difficult to keep any doctor out of this State. The mutual recognition laws and the national competition policy, which is now part of the Trade Practices Act, provide that a doctor who is otherwise qualified in another State is entitled to be registered in this State, and the Medical Board would have great difficulty refusing that doctor registration. In like fashion, a doctor who wanted to work in a hospital could not be refused by the medical committee on arbitrary grounds; those grounds would need to be very solid. Those are matters where other laws have caused changes in practice. Therefore, this State could not keep out the individual in Queensland about whom I am sure most of us have read if he chose to come to this State.

I would prefer to have regulations that would enable me or the Minister of the day to diagnose the condition and the procedure and not leave it, as the Minister for Housing wants to do, to the judgment of two doctors, which would enable doctors whom we might not want to see in this State to come to this State. Regulations prescribing the condition and the procedure would achieve the end that this Chamber would like to see; namely, very few, if any, abortions performed beyond 20 weeks, and those abortions performed only in exceptional circumstances. Consequently, I support the amendment.

Dr EDWARDS: I agree with many of the sentiments that have been expressed, but the amendment needs some finetuning. We must remember that the group with which we are dealing is small: Only 1.4 per cent of abortions are carried out after 16 weeks, and about 100 abortions are carried out for foetal abnormalities. The figures that I have received indicate that in 1997, 15 terminations were carried out after 20 weeks' gestation, all at 20 or 21 weeks.

Having said that, I want to outline some of the timing issues. Women can have chorionic villus sampling at around 10 weeks of pregnancy, but often they are advised not to because there is a greater risk of miscarriage with that procedure than with amniocentesis. We are talking about women who have been trying to get pregnant and may have had difficulty getting pregnant, who want to be pregnant, and who know that they are pregnant. If those women have amniocentesis at around 16 weeks - perhaps 16 weeks and four days -

Mr Prince: It takes a week to culture.

Dr EDWARDS: Yes. In my experience, it can take up to three weeks.

Mr Prince: I am told it is 10 days.

Dr EDWARDS: I would be surprised if it were that quick, because some of the tests need time for cultures to grow. A woman who had amniocentesis at 16 weeks would have an ultrasound at 18 weeks and would then be running awfully close to the 20-week cut off. That woman and her family would need a bit of time if they received a result that was devastating to them; and if they chose to have a mid-trimester abortion, it would be because the result was devastating. We need to be careful about the 20-week cut off.

Mr Prince: If we defined the condition and the procedure to be used, as this amendment does, we would cover that situation.

Dr EDWARDS: It is not clear from what the Minister is saying that it would be covered.

Another difficulty I have is that the obstetricians to whom I have spoken have told me that some of the terminations performed at or slightly after 20 weeks do not have a defence under section 259 and that some conditions, such as anencephaly, might not be picked up until late in the pregnancy. A young woman might not have had any of those tests because she was not perceived as being at risk, but she might develop a medical condition such as polyhydramnios, which is too much water in the womb. That condition probably would not kill her, but it would affect the pregnancy, and the outcome for the child would be dreadful because it would be anencephalytic.

Mr Prince: Have no brain?

Dr EDWARDS: That is right. Given that we have had a lot of debate on this issue and that we are trying to get it right and to give certainty to all people, and remembering that we are dealing with a particular group of people, this amendment needs some finetuning so that we cover those cases at the margin.

Mr Prince: Under the regulations, anencephaly can be specified as a condition.

Dr EDWARDS: We do not have the list of conditions but are doing it on faith. The better amendment is the Moore amendment.

Mr Prince: I give an unequivocal undertaking that I will bring to the Chamber the details that will go into the regulations before I bring in those regulations, and I give an unequivocal undertaking to consult.

Dr EDWARDS: I am pleased with those undertakings, but I am concerned that what the Minister said in good faith about the advice from the chief medical officer and obstetricians is different from the advice that I have received from obstetricians who are performing this procedure.

Mr Prince: That is why I said that matter must be sorted out by people outside this place who know what they are talking about in this technical area, because we do not.

Dr EDWARDS: The difficulty is that if we were to accept this amendment, we would be locked in at 20 weeks, and some women would not be able to make the decision or would not know about the situation at 20 weeks. The obstetrician to whom I have spoken told me of the case of a woman who was diagnosed with cancer at just after 20 weeks of pregnancy. She wanted to have treatment for that cancer, but it would kill her baby. She was faced with a dreadful dilemma. She did not want to rush into making a decision in two days, but equally she needed to take action. I want to ensure that that type of situation is covered, and I am not confident that the 20-week cut off as proposed in this amendment will cover that situation. I am not saying that I support late terminations, because I do not; I have seen them, and I think they are dreadful. I would hate to be a situation where I had to make that decision. I certainly do not believe that the doctor from Queensland should come into this State. I am talking about the small number of people who are at the margin - who are up to 20 weeks - and who will present us with particular problems.

Mr PRINCE: I repeat that I unequivocally commit to consult about what conditions will be specified in any regulations, and I expect that will be a highly technical matter involving medical professionals. I give the same commitment with regard to the procedure that shall be used for the miscarriage, as foreshadowed in this amendment. I also undertake to bring that information to this Chamber before tabling the regulations, rather than have the regulations tabled and some sort of form of disallowance moved, which may not be the appropriate way to go. I will seek to obtain agreement about the conditions and procedure before tabling the regulations. One of the conditions specified in paragraph (a) may be treatment for a disease which the woman is diagnosed as having when she is more than 20 weeks pregnant and which may kill her baby. That will cover the situation about which the member is talking.

Dr Edwards: I am not a lawyer, and I accept in good faith what the Minister is saying, but will the fact that 20 weeks is mentioned mean that there is no power -

Mr PRINCE: No. It provides that if a woman is 20 weeks' pregnant, there shall be no abortion except when the condition is one of those specified and the procedure to be used is one of those specified. It provides that there shall be no abortion of a healthy child beyond 20 weeks, but a woman may still have an abortion in very strictly defined circumstances with regard to the condition of the unborn child and the procedure to be used.

Dr Edwards: What happens if the condition of the mother, and then the treatment of the mother, will affect the unborn child? Will that still be covered?

Mr PRINCE: I understand that position. I think it will be, but if there is any doubt that it cannot be covered, I will advise the Minister. If this passes and goes to the other place, I will ensure that that information and a suitable form of minor amendment is brought forward to cover that. I assume the view of the Chamber is that we do not want abortions after 20 weeks other than in exceptional circumstances. The Minister is asking how we write it so that that is the effect achieved by the words that we enact into law. I give an undertaking that if an anomaly arises out of this amendment, I will see that it is corrected, assuming it passes to the other place. I also reiterate the undertakings I gave in regard to regulations.

Ms ANWYL: I will be voting to oppose this amendment. Although I agree with the sentiment that we need some form of legislative prescription to prevent unwarranted terminations of fetuses of more than 20 weeks - I do not think anyone in this Parliament objects to that proposition - the question is, how do we best achieve that? Because we have still not reached the substantive Bill that will come into this place known as the Foss Bill in this debate, it appears that we are light-years away from reaching the so-called Moore amendments to the Davenport Bill, which will be brought into the other place today. There are so many layers of legislative options before us that it is difficult for us to follow where we are up to. I recall the request that we have a short adjournment so that there might be some opportunity, such as the suspension last night for some one and a half hours, for the parties to sit down and work out a way for the legislative intent to be achieved, which is to prevent totally unscrupulous practitioners such as the one we have heard of in Queensland performing abortions when they should not be performed. We all want to achieve that objective. The medical practitioners tell me this amendment will not necessarily achieve that. We are relying on regulations that are yet to be drafted when it would be preferable for this Parliament to have a short suspension so that we can sit down and determine whether a consensus can be reached.

Mr PRINCE: I do not favour another suspension; I think it would be wasting time. When members have spoken, I would seek that progress be reported, and the House can move on to some other business and those who have a particular interest in this can sit down somewhere and sort it out.

Ms ANWYL: I would be happy with that course of action because it would enable specifically those members who are medical practitioners to cobble something together which will reflect what is the general intention.

Several members interjected.

Ms ANWYL: If there are five interjections at once I cannot take them. The proposal I am suggesting is that before we put this to the vote, we must take that opportunity. I am not sure where the Chamber stands on that. I refer back to the Speaker's direction given at the very outset of this debate that if further amendments were to be foreshadowed every member must have an opportunity to see them in writing in a considered fashion. What we will do now, if we do not have that opportunity to meet in a joint fashion, is have a shambles at least on this clause, which is ironic because it is the one clause on which we have a general consensus about what we are trying to achieve. It is just a question of the wording. Certainly the member for Kimberley's interjection that there needs to be medical practitioners' input into -

Mr Bridge: No, you assume incorrectly. I indicated that very practical human beings, if there are any in this place, should be engaged in a debate. We do not want professionals doing that.

Ms ANWYL: Let us be clear about this. I did not suggest there would be medical practitioners alone. The member for Collie who has moved this amendment, the Minister for Aboriginal Affairs, and the member for Maylands, should all meet in conjunction with all the particular factions which have so recently formed in this place, which could include the member for Kimberley. I hope the Minister can indicate whether that proposal will be taken up because it has been echoed and I would like an indication before we proceed with this debate.

Dr TURNBULL: As I proposed the amendment, I am prepared to accept the suspension idea as long as the Minister is prepared to do that now. He said he did not prefer to do that, but he might have reconsidered. Before going to a suspension, I would like to explain that the regulations would be very similar to the ones that are mentioned in the Moore proposal; that is, they relate to an unborn child diagnosed with a condition specified in the regulations, and those regulations could state that the diagnosis must be confirmed by two specialists from the tertiary hospital, King Edward Memorial Hospital, and that the diagnosis encompassed foetal abnormalities such as trisomy 18, three chambers in the heart, anencephaly and perhaps extremely bad tubal deformities where there is no closure at all. As far as I am able to understand from the King Edward hospital, although there are 15 terminations a year over 20 weeks, about only five or six them are related to the baby. The others are related to the mother's health, so we are talking about only five or six conditions.

Proposed section 316B(1)(a), which states, "the miscarriage is procured by a procedure specified in the regulations", again would go along with the Moore amendments in that the regulation would stipulate that the procedure had to be performed at the King Edward hospital and that it be performed by the induction of labour, because the answer I get is that these babies with these extreme deformities very rarely survive labour. It has been suggested to me that we could amend paragraph (a) slightly by including the mother along with the unborn child. I do not have the mother in this amendment because section 259 of the Criminal Code already provides an out for saving a mother's life if she has a condition which is threatening her life.

The other thing about this clause is that it refers to an unborn child capable of being born alive. I am quite open to the suggestion that we might put the words "the mother" in proposed section 316B(1)(a). I would like to discuss that.

The other point I want to discuss is the reference to the Criminal Code. Reference must be made to section 201A of the Criminal Code because that is where the Foss pick-a-box paragraphs are. It cannot be related to the health regulations because the Bill in this Chamber contains no reference to them. If the amendments proposed by Hon Norman Moore in another place are passed, the provisions will be in the health regulations and the Legislative Council can make a statement on that. However, in this Chamber we are debating a certain item, about which a statement must be made. Regardless of whether the provisions in paragraphs (a), (b), (c) or (d) are agreed to, no abortions should be performed after 20 weeks of pregnancy unless the life of the mother or foetus is in danger. That is why the Criminal Code must be included. Some members are upset by the inclusion of the Criminal Code but, logically, it must be included in this Bill.

Mr McNEE: I have never heard so much doublespeak, political talk, backing off and ducking around as I have heard today. I remind members that we are discussing the most important legislation this Parliament will deal with in a long time. I strongly support the comments of the member for Kimberley. If I want to get five different answers to the same question, I will speak to three economists. Having spent a lifetime in the business world, I have sought advice from many areas. My experience has taught me that I should be very careful about that advice because the chances

of its being wrong are high. I do not say that in a careless way, to send a message of disrespect to the people who are competent to offer me professional advice. I stand firmly with the member for Kimberley on this matter. In my view human life begins at conception, but I will go along with the comment of the member for Kimberley about 10 weeks because he offered something that is achievable and should be included.

I have never seen legislation handled in such a cavalier fashion. Last night members were trying to reach some agreement on the run, and now they want to do the same again. They will all wear this legislation for as long as they carry on in this way. If they do not know it is wrong, they are hardly fit to be members in this place. I refer members to an article in *The West Australian* this morning, referring to a report due to go to the Victorian Government on the ethics of aborting foetuses after 20 weeks. It states that the report -

was prompted by the establishment of a Melbourne abortion clinic in January by controversial Queensland doctor David Grundmann.

Dr Grundmann has been widely criticised for performing late-term abortions, past 20 weeks, solely for the reason of a mother's mental well-being.

Members should make no mistake about that. It continues -

He has applied to practise in WA.

Someone said that he cannot be stopped. Members should be careful because he is on the way with his filthy, illegal trade, to join the rest of the butcher brigade. They should make no mistake about it.

The decisions made in this Chamber will determine the moral attitudes of Western Australians forever and irrevocably. That is why I urge members to go ahead very cautiously. It is a cavalier Government that handles human life in this way. I could have read about such things in history books, but I am witnessing it here today. It makes me sick in the guts to be doing this. I would not put my sheep through the process through which some members want to put the women of Western Australia, under the guise of offering them support. They are offered no support whatsoever. If members were genuine, they would pass this amendment. They have no interest in it and they are treating this as though it were another political issue. I have said time and again that members will learn and live with their decisions. They should make no mistake about that.

Mr GRILL: During the second reading debate I said that if this situation were considered seriously, members' minds would inevitably be drawn to the question of when life commences. I do not have that expertise, but at one end of the spectrum it is when conception has just taken place and at the other end of the spectrum it is one minute prior to the birth of a normal, healthy child. The Foss Bill as it stands would allow abortion to take place, without impediment, one minute prior to the birth of the child. I am sure not many people in this Chamber would countenance that situation, and that view has been expressed today. Nonetheless, we are lumbered with that, and it is incumbent on members in this Chamber to make it clear that they do not agree with that situation and that they want to make some distinctions in legislation shaped by this Chamber. That legislation may ultimately prevail, or the legislation may be an amalgam of Bills agreed to in a conference between the Houses. I quite frankly think that ultimately this legislation must be considered by a conference between the Houses.

I have been a member of this Parliament for many years, and I have never seen a situation like this before; that is, where legislation at one end of the Parliament and similar legislation at the other end are programmed so that they collide somewhere in the middle. As far as I am aware, it has never happened before. Are we discussing something on which members have a great deal of expertise? Are we learned people in medicine? No, we certainly are not. How can members sit here, codify the law and draw up regulations? Yet some people last night and today are expecting that to happen. I do not have that expertise and those who think they have that expertise are arrogant. The regulations must be drawn up when people have the time and expertise to ensure they are proper regulations.

The Minister has indicated that not only will he ensure those regulations are drawn up, but also he will bring them to this Chamber prior to any question of their being allowed or disallowed, so that members can consider the regulations at their leisure. It is an impossible task for members at this stage and in these circumstances to endeavour to codify the law. Members have the option of endeavouring to codify the law at some adjournment and presenting some form of codification or regulation, or of taking the Minister on trust, putting general guidelines in the legislation, and allowing the Minister to sit down with people with the appropriate expertise to draw up regulations.

There are a couple of medical practitioners in the Chamber today but they are not in full agreement about what should go into the regulations. They do not even agree about the general guidelines. Therefore, those guidelines should be as non-specific and non-prescriptive as possible in their general thrust in this legislation. That should allow those people with the expertise - medical practitioners who practise and are specialists in this field - to sit down with government people and others, and I do not exclude people from this Chamber, and draw up proper regulations in

the right circumstances. To ask us to perform that assessment in this Chamber is simply folly. People who have started to nitpick regarding the form of legislation and regulation are endeavouring to frustrate the legislation's passage, yet those same people accused other members last week and this week of endeavouring to do the same thing. Let us not all become involved in that process.

I said last night that we must rely on regulations and take people on trust, which is the dilemma we face with either the Foss or Davenport legislation, as the critical detail will need to be set out in regulation. Let us accept that situation, pass this amendment and then properly consider what might be incorporated in the regulations.

Ms MacTIERNAN: The member for Moore is being most unfair to members of this place. If the member for Moore visited Parliament a little more often, he would know that members -

Mr McNee: I am here as often as you are, and at least I am awake when I am here!

Ms MacTIERNAN: I thought the member for Moore had retired and I was surprised when he spoke in this debate.

Mr McNee: If you're going to trade insults, I can do better than you, so don't risk going any further!

Ms MacTIERNAN: I am trying to defend members of this place.

Mr McNee: Get on with your speech - don't worry about me.

Ms MacTIERNAN: People on both sides of this issue have taken this debate extremely seriously, which is marked by the fact that more members have participated in, and been present during, this debate than with consideration of any other matter during my time in Parliament. It is unfair for the member for Moore to state that members of this House do not take this debate seriously. We take it very seriously.

I direct a question to the Minister for Health. I do not understand why we are debating this legislation in the Chamber today. My understanding was that the game plan was for us to consider this Bill in this place and inform the upper House of the direction we intended to take. Consequently, upper House members would forge their Bill in accordance with that direction. I understand that once again we will debate two separate pieces of legislation simultaneously.

Aspects of Hon Norman Moore's amendments need to be toughened up, and I am sure many members would agree with that view. However, we will have that debate here twice. What is the purpose of forging a direction here when the issue will be debated simultaneously in the upper House and decided there without regard to what we do here?

In relation to the comments of the member for Eyre, everyone accepts that a great deal of reliance will be placed on regulations. Most of us - we are not nitpicking - accept that termination after 20 weeks should be made under only very special circumstances; however, we do not believe that the prescriptive regime drawn up by the member for Collie will provide the proper framework for the regulations we would like to see implemented.

Mr PRINCE: What the other House does it up to it, and what we do is entirely within our control. We have the Bill and amendments before the Chamber, and we have debated the Bill for a week, a day and a bit. As far as I am concerned, we will continue with the Bill until it is finished; it is the intention of the Assembly to sit until we finish. That will be the best way to indicate the majority view of this place. The other place will take whatever cognisance it wishes of that view; likewise, we shall determine what we will do when and if the Davenport Bill comes before us from the Council. We may end up with some form of conference, but that will be further down the track.

I can understand that people want to discuss matters of detail, but I have expressed the view that we should deal with those matters on the floor of the Chamber. Such consideration is not nitpicking; it is information which people seek regarding the wording of the provisions. To suspend the Chamber would be to waste its time which could be spent on other matters which are important, although not issues of such overwhelming public importance. Consequently, I will move progress and seek leave to sit again so the House can then deal with some less contentious matters. We will return to this debate later.

Progress reported.

[Continued on page 1299.]

BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION AMENDMENT BILL

Council's Amendment

Message from the Council notifying that it did not insist on its amendments, but proposing a substitution for amendment No 8 to which the Assembly had disagreed, now considered.

Committee

The Deputy Chairman of Committees (Mr Barron-Sullivan) in the Chair; Mrs Edwardes (Minister for Employment and Training) in charge of the Bill.

The further amendment made by the Council was as follows -

Clause 15

Page 13, lines 3, 7 and 8 - To delete the figure "2000" in each place where it occurs and substitute in each place "2002".

Mrs EDWARDES: I move -

That the further amendment made by the Council be agreed to.

I indicate support for the extension of time for the application of the legislation. The opportunity exists to utilise these funds wisely for the benefit of the community and the respective stakeholders who have a strong commitment to training in the construction industry. A large number of people do not currently participate in such training, and this fund will allow such participation.

It has been well recognised by Parliament that those funds could be spent in a much more productive way. I look forward, once the legislation is passed - which the Government proposes to do quickly - to order the Building and Construction Industry Training Council to put these amendments into practice to provide more effective training within the construction industry for the benefit of the State.

Mr KOBELKE: The Opposition supports these amendments. It is fully supportive of the establishment and efficient working of the building and construction industry training levy. The Bill provides changes which are needed largely for the efficient functioning of the building and construction industry training fund. However, feedback indicates that many of the reforms are already in place; therefore, the legislation will sanction those reforms.

However, changes to the board's structure and the interaction between the fund and the Building and Construction Industry and Training Council go too far. They are contrary to the amendment because we are not insisting on amendments Nos 1 to 5. Amendment No 2 seeks to establish a principle by which annual planning for expenditure of the money would be done in consultation with the Building and Construction Industry and Training Council. The Minister has missed an opportunity because, although she moved correctly to distance the board of the fund from the industry training council in the light of existing problems, the total separation is unnecessary and will lead to inefficiencies.

The board of the fund will have some \$5m to \$6m available for expenditure for which it must set out an annual plan. It could do that without being required under the Act to take account of the training plan laid down by the industry training council. I hope the Minister will ensure it establishes a cooperative relationship involving consultation. That should be included in the Bill but this amendment does not provide that.

Further, the Minister has addressed the very real problems resulting from the previous form of sectoral representation on the board. Again, in overcoming that, the Minister has gone too far by not ensuring that a real and effective form of sectoral representation is in the Bill. As the Minister is not willing to accept that, we must give ground on the issue.

Lastly, the Minister has agreed to the change to clause 15; that is, the Act will expire in 2002, rather than 2000. I have considerable difficulty with the way the Bill makes a number of reforms but at the same time cuts the head off the organisation. Given that the Minister has moved back the date of expiration, her rhetoric that the Government wants to see the fund perform has some substance. I join the Minister in saying that it is up to the training fund and its board to ensure that money is put to the best possible use in delivering training efficiently and in producing appropriate and effective training. I have confidence that the Minister will establish the board promptly, that the board will meet that challenge and that within 12 to 18 months the results will be obvious.

The change in expiration to 2002 will allow adequate time to make a fair assessment of the board's work and the need to maintain the fund. It also places the date of expiration beyond the next election. I will meet all interested bodies in the run up to the next election and point out to them that the Australian Labor Party has a very strong commitment to ensuring the continuation of the fund. The fund should not be hanging on the sunset clause and likely to disappear because of a government whim or because a report finds some fault in the way the board works. It is incumbent on the Government to ensure the board operates properly and reaps good value from the fund. The fund is very important in developing skills in the building and construction industry.

Mr BLOFFWITCH: I am opposed to this fund; it is a tax on people who instigate the construction of commercial

buildings. Until these changes the training fund was used to subsidise apprenticeships. The board comprised both union and employer representatives and unless they were in agreement the money could not be spent. One can imagine the cozy little deals arrived at to enable spending of the money.

I object to two aspects: Governments have no right to penalise commercial properties for the sake of training. The federal training levy was thrown out for the rort it was and this should be thrown out for the rort it is. Why must commercial and residential builders in my area pay a levy on commercial properties when they have never received any benefit whatsoever from the fund? What is exceptional about commercial enterprise in that industry which causes this Government to want to charge a levy which the builder pays and then imposes on the customer?

Where do we start and where do we stop? Nothing in the legislation says the money must be used for training. It could be used for anything. This is madness. The expiry date should not be 2002. The fund should have been phased out when we reviewed the legislation. I stand by that. The builders in my area who receive no benefit from it have asked me to urge its removal. They believe it is scandalous because it is a charge on them that they must pass on to customers. I am very disappointed that we are continuing with it.

Mr RIEBELING: The building and construction industry training fund has been a huge success in promoting training. It is apparent that the skills being picked up in the Western Australian work force are in the building industry. Despite this Government, a degree of training is occurring at least in the building industry. It is shortsighted for the member for Geraldton to say that the builders in his area receive no benefit. He fails to understand the meaning of training within industry.

Everyone within an industry benefits when skills are developed. If the member for Geraldton wishes to go back to the previous situation we will see the standard of housing construction and safety drop because some sections of the industry fail to see the advantage of up-skilling the work force of Western Australia.

The member for Geraldton wants to adopt the lowest common denominator and make sure our workers get less money. It is time this place took seriously its responsibility for training Western Australian workers. This is one industry which does that well.

Mr KOBELKE: I suggest the member for Geraldton read the Bill. The Bill and the Act do not allow for the money to be spent on just anything. It clearly specifies how it should be spent for training purposes.

Mr Bloffwitch: Are you saying that before the changes, if both parties agreed, they could not spend it on anything they liked? They could spend it on whatever both parties agreed to.

Mr KOBELKE: I am happy to take interjections, but I do not think that we should delay the passage of this legislation. The statement by the member for Geraldton indicates that he does not understand the Bill or the Act which is to be amended. He referred to a problem with sectorial representation. I alluded to those problems also, and I accept that there was some basis for criticism. That situation has been changed by the amendments that we are dealing with. Further, with such issues, we often hear reports about certain interests not getting a fair share of the money. Perhaps a builder or a group of builders feel they should receive a better share of funds. The Minister will need to grapple with those issues - as any Minister may need to do.

I was in Geraldton last year talking to people involved in training in the building and construction industry. They told me about the wonderful things that have been done to train people in the construction industry in Geraldton. Geraldton has companies with fine records. I will not name them, because I may miss some. They have built well beyond Geraldton, and have established excellent reputations not only for their ability to construct but also for the training they have undertaken to ensure that young people can find work. If we accept the position of the member for Geraldton and we do not provide some requirement for companies to contribute to training, the very publicly minded individuals who run building and construction companies will still make a commitment to training.

Only last night I was with the Minister at a function at which the Italian-Australian Business Association was promoting apprenticeships for a group of people of Italian background. It is an excellent initiative by a group of individuals who accept the importance of training, and have committed their resources, energy and effort to promoting training and making sure that we give it the prominence it requires. Similarly, many excellent builders, through a sense of public spirit, will make a contribution to training. However, they will be at a competitive disadvantage over other builders who do not put money into training because they look only at the bottom line.

It is appropriate to have legislation that ensures all contribute equally so that we have a reasonable level of training for the building and construction industry. If we adopt the position of the member for Geraldton, we will not give jobs to Western Australians, but will simply import skilled workers. That is the end product of his suggestion, because if we do not have a requirement for training, we will end up with the lowest common denominator in a highly competitive area, in which a large amount of subcontracting goes on, which mitigates against taking on apprenticeship

training. That has been addressed to some extent through group training but that is only part of the answer. If we do not have a mandatory method which involves all those in the industry in training, we will have a lower level of training. As a result, instead of Western Australians taking up jobs, we will import skilled labour either from other States or overseas. I would abhor that situation, because I want Western Australians to receive training and to win jobs, and thereby help to build this State. The training fund is a very important element in ensuring that that happens.

Mr MARLBOROUGH: It is obvious that the member for Geraldton represents a group of builders who are not up to date with the needs of the industry.

Mr Bloffwitch: They are not getting their share of the revenue!

Mr MARLBOROUGH: They are getting a share, and I will explain why. They will never understand that they are getting a share if they do not understand the industry.

The fund was established because it was recognised that the construction industry is completely different from most other industries. When large projects arise, overnight it has the ability to require a dramatic increase in its workforce. Equally, when the large projects end, the workforce does not necessarily flow on to more work, and many skilled people are thus pushed out of the workforce. Historically, many of the skilled people who are put out of the workforce do not, of necessity, return to the industry. It is unlike a manufacturing industry. For example, the Ford Motor Company, which has a set workforce, knows how many cars it will sell and service each month. Over the past two years the Geraldton Building Company may have built on average 40 houses each year in Geraldton, but this year it may be successful in winning a major BHP contract to build a furnace at Port Hedland. Overnight it would require a significant increase in its workforce. Overnight of necessity, it would need highly skilled people to do the work. It would not matter whether it was a concerned industrial group and had been putting money into a training facility, or training its workforce. Because the work had diminished, the number of workers had diminished, but overnight the company won a major contract. This is how the industry evolves and operates. It must be flexible enough to bring in skilled people as quickly as possible.

Funding for this training will create that opportunity. It will create a pool of highly skilled people who can be accessed by Australian companies which have been successful and have grown rather rapidly. In addition, the recognition of the need for a training scheme within the building industry, is recognition also that the building industry is unique. It does not matter how many high-rise buildings are erected in St Georges Terrace, there will always be start and finish dates. We can never guarantee a flow-on opportunity for workers beyond the life of a project. Therefore, we continue to lose highly skilled people from the workforce. This fund is just one way that progressive management in the construction industry, along with progressive Governments and trade unions, has determined it is in the industry's best interests to have a constant pool of highly qualified people.

When an upsurge in demand occurs, the highly qualified teachers or administrators of the scheme can rapidly put in place training programs that will turn out qualified riggers, dogmen, crane drivers and so on. It is a highly successful scheme, and it is particularly successful in Western Australia. I would be amazed if any of the building companies in Geraldton were not aware of it or did not benefit from it. I suggest that all benefit from the scheme.

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

Report

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

SMALL BUSINESS DEVELOPMENT CORPORATION AMENDMENT BILL

Council's Amendment

Message from the Council notifying that it did not insist on its amendments, but proposing a substitution for its amendments to section 11B, to which the Assembly had disagreed, now considered.

Committee

The Deputy Chairman of Committees (Mr Barron-Sullivan) in the Chair; Mr Cowan (Deputy Premier) in charge of the Bill.

The further amendment made by the Council was as follows -

Clause 6

11B. (1) The Minister may give directions in writing to the Corporation with respect to the performance of its functions, either generally or in relation to a particular matter, and the Corporation is to give effect to any such direction.

(2) The text of a direction given under subsection (1) is to be -

- (a) laid before each House of Parliament within 14 sitting days of that House after the direction is given; and
- (b) included in the annual report submitted by the accountable authority of the Corporation under section 66 of the *Financial Administration and Audit Act 1985*.

Mr COWAN: I move -

That the further amendment made by the Council be agreed to.

A raft of amendments were put forward by the other place that were unacceptable to this Chamber. The other place was informed that there was no support for its proposed amendments. A message was received from the other place indicating that it did not insist on its amendments, and requesting that we give consideration to a substitute for proposed section 11B. The only variation from the original clause is a requirement on the responsible Minister who gives a direction to a corporation to submit or table any written direction before each House of the Parliament. Originally the new section required any written directions given by the Minister to be included in the annual report. This proposal requires that any written directions shall be not only included in the annual report but also tabled in each House of Parliament within 14 sitting days. The Government readily accepts that proposal and I recommend to all members of this Chamber that we accept it.

Mr BROWN: The Opposition supports the substituted amendment. The Committee debate on this matter took place without the benefit of report No 36 of the Public Accounts and Expenditure Review Committee titled "Report on the Western Australian Tourism Commission Sponsorship Agreement with Global Dance Foundation Inc." Recommendation 1 states -

Where a Minister requests a statutory authority to carry out certain actions, such a request shall be confirmed in writing by the Minister.

Where a statutory authority believes a Minister has made a request of it the authority has an obligation to seek written confirmation from the Minister.

These principles should be incorporated in all legislation governing statutory authorities.

In some areas, though not in this area, because legislation is clear that authorities must carry out written directions, we have seen what might be determined as heavy requests from Ministers to authorities. Public servants or officers of statutory authorities have been given Hobson's choice and agree with the so-called request of the Minister rather than make a decision in their own right. The PAERC report recommended a standard legislative provision that not only directions but also requests by Ministers be included in the annual reports of departments, agencies and authorities. That will create greater accountability and transparency and will avoid the situation where a Minister can claim in this place that X decision was made by the authority when in fact the authority might not have been too keen on that decision but eventually agreed to it and sanctioned it on the basis that the Minister made a fairly strong request to that authority to agree with his approach.

That is not a matter for today. However, I take this opportunity to flag that when the Government responds to the PAERC recommendations the Opposition will expect an indication that a standard provision will be included in all legislation. A number of standard clauses are included in Bills. They need to be properly drafted by parliamentary counsel. The Opposition expects that in this session of Parliament the Government will indicate its support for the PAERC report and come forward with a standard clause that will be included not only in this Bill but also other Bills. The Opposition also places on notice that if that is not the case, it will propose amendments to every Bill to include this clause and we will have the debate over and again. The Opposition supports the amendment.

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

Report

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

Sitting suspended from 1.00 to 2.00 pm

PARLIAMENT HOUSE

Visitors and Guests

THE SPEAKER (Mr Strickland): I acknowledge the presence in the Speaker's Gallery of visiting parliamentary colleagues on a study tour under the auspices of the Commonwealth Parliamentary Association. They are

Mr Amwano and Mr Jeremiah from Nauru; Mr Reipa and Mr Yumbui from Papua New Guinea; and Mr Lesa and Tuuaga from Samoa.

[Applause.]

[Questions without notice taken.]

BILLS (2) - APPROPRIATIONS

Messages from the Governor received and read recommending appropriations for the purposes of the following Bills -

1. Rail Safety Bill.
2. Botanic Gardens and Parks Authority Bill.

PRIVATE MEMBERS' BUSINESS

Suspension of Standing Orders

MR BARNETT (Cottesloe - Leader of the House) [2.43 pm]: I move -

That so much of the standing and sessional orders be suspended as is necessary to enable private members' business to take precedence from 4.30 pm to 8.00 pm, and government business to take precedence at other times, on Wednesday, 1 April 1998.

The understanding across the Chamber is that one grievance will be delivered from each side of the House, followed by a curtailed period of private members' business so debate can resume on the abortion Bill if required.

Question put and passed with an absolute majority.

COUNTRY HOUSING BILL

Council's Amendments

Amendments made by the Council now considered.

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Dr Hames (Minister for Housing) in charge of the Bill.

The amendments made by the Council were as follows -

No 1

Clause 3, page 2, line 10 - To insert after "5 (1) (a)" the following "or (b)".

No 2

Clause 5, page 5, line 15 - To delete "4" and substitute "3".

No 3

Clause 5, page 5, line 20 - To insert the following new paragraph -

- (b) a person appointed by the Minister from a list of 3 nominees submitted by the Western Australian Municipal Association referred to in section 9.58 of the *Local Government Act 1995* ("WAMA");

No 4

Clause 5, page 5, after line 28 - To insert the following subsections -

(2) When the submission of a list of nominees is required for the purposes of subsection (1)(b), that submission is to be made to the Minister in writing within such reasonable time after the receipt by WAMA of a notice from the Minister stating that the submission is required as is specified in that notice.

(3) If a submission is not made under subsection (2) within the time specified in the notice the Minister may appoint such person as the Minister thinks fit to be a member of the Authority in place of the person referred to in subsection (1)(b).

No 5

Clause 42, page 26, after line 20 - To insert the following subsection -

(3) Where the Minister has granted approval under subsection (1) the text of that approval is to be laid before each House of Parliament within 14 sitting days of that House after the approval is granted.

No 6

Schedule 1, page 29, line 35 to page 30, line 2 - To delete the words after "appoint" up to and including "5 (1) (a)" and substitute the following -

- (a) in the case of a member appointed under section 5 (1) (a), another person who has, in the opinion of the Minister, knowledge of and experience in any of the fields referred to in that paragraph; or
- (b) in the case of a member appointed under section 5 (1) (b), another person whom the Minister considers to be suitable to represent the interests of local governments,

No 7

Schedule 1, page 30, line 5 - To delete "5 (1) (b) or (c)" and substitute the following -

5 (1) (c) or (d).

Dr HAMES: I move -

That the amendments made by the Council be agreed to.

These amendments which were agreed to by the Government for introduction into the other place relate to two areas: First, the appointment by the Minister of a representative from local government, which is outlined in Council amendments Nos 3 and 4. The Minister will submit to the Western Australian Municipal Association a request for a list of names, and WAMA will provide a panel of three nominees from which the Minister will choose one person for appointment to the authority. Second, the approval of grants is to be notified.

Mr Marlborough: When you're giving money away.

Dr HAMES: Yes, this relates to where money is given away, but in varying and appropriate circumstances.

Mr Marlborough: It will be at lower rates than those offered by the banks.

Dr HAMES: The provision of non-commercial interest loans at lower than the market housing rates needs to be transparent.

Mr Riebeling: Pork-barrelling!

Dr HAMES: That is the member's term; the Government prefers more responsible terms. The grant is to be provided in a range of circumstances, all of which are fully justified. It is reasonable that we ensure that we avoid pork-barrelling by ensuring that the process is transparent.

This accountability can be achieved in two ways: First, to notify the provision of the grant in the *Government Gazette*, but the Government contends that hardly anybody reads that publication. Second, and more appropriately, notification can be made through tabling in this House, so it will be available for everybody to see. The amendment proposes that the option of tabling in the House be adopted.

Mr MARLBOROUGH: I congratulate the Minister for accepting the key elements of change the Opposition recommended in debate in this Chamber. The Minister indicated during that debate that he would give serious consideration to our suggestions. He said he needed to consider the words to be used so they were appropriate and met our requirements. I thank the Minister for that cooperation.

We have seen the requirement for the inclusion of a local government representative on the authority. The Bill as it stands did not give the Western Australian Municipal Association a position on that body, but the Minister has acceded to that request for representation.

As the Minister outlined, it was necessary for the process to be transparent. Clause 42 will enable the Minister to approve non-commercial assistance by giving him power to loan moneys to certain bodies or persons at an interest rate not necessarily reflecting the current commercial rate of interest. We sought transparency so that we can see whether pork-barrelling is taking place, as suggested by the member for Burrup, when approvals are given. The loans

system should be aboveboard. I congratulate the Minister on agreeing to bring those suggestions into the Chamber in this form.

Finally, I support the Minister's move to accommodate local government in relation to qualification with the appointment of substitute members. I do not want to go into detail as the Minister has dealt with the matter in an appropriate way. He has encouraged the Opposition's acceptance of the Bill by agreeing to the three major points raised during earlier debate. Therefore, the Opposition is comfortable with the Bill.

Mr RIEBELING: I welcome the Minister's response to our queries. It is pleasing to see that he was successful in following up the problems we raised. It is good that the Western Australian Municipal Association now has a real voice on the appointments to the board and that approvals for financial assistance are to be laid on the Table of this Chamber.

I am sure the Minister is aware of the major problems that occurred, particularly in my area, with winding up the Industrial and Commercial Employees Housing Authority especially as the private sector was authorised to value those state-owned assets.

In Karratha large numbers of properties were undervalued, sold on a commercial basis and on-sold quickly for massive profits. Shortly after that, more through lack of supervision than anything else, those ICEA homes were rented in the commercial market for approximately \$1 000 a week profit. ICEA's employees were given a small subsidy. I understand that those unscrupulous employers benefited for about five years. When the Government relinquishes proper supervision of its assets real problems occur.

In Karratha the State does not have sufficient housing to respond to any real increase in demand. As the Minister will be aware the private sector is limited in its ability to respond to any increased demand due to the instruction to the Department of Land Administration not to negotiate any land title settlements.

The Government is suggesting that the private sector will be able to respond to the community's demands because it has sold a large portion of its stock to the private sector. If a major demand is made on housing, the Government will not be in a position to respond adequately through Homeswest, the Government Employees Housing Authority, ICEA or the Country Housing Authority. The Government was elected on the promise of better management. We have listened with monotonous regularity to Ministers' announcing major projects in my area involving thousands of construction and other full-time workers. However, no planning has been done for the future development of Karratha, the hub of the major developments.

If anyone in this room thinks that is proper management, I beg to differ. It is not management if we cannot control a simple thing such as the orderly development of a town when developments are supposed to be occurring according to a timetable. Although that does not fall directly within this legislation, the management of housing falls into the Minister's capable hands. I am sure this Minister is capable of properly managing the housing needs of the area given the proper resources. I urge him to take a realistic view of what is required in the area. The State's housing stocks are grossly inadequate for any reasonable increase in demand which is about to occur in the Karratha area if we believe a quarter of the Government's rhetoric.

Dr HAMES: I thank the member for his comments in support of these amendments. I cannot comment on the specific issues regarding ICEA land and home sales in Karratha. As the member for Burrup knows from answers to questions in this House, the matter has been referred to the Ministry of Fair Trading and another body which I am not at liberty to mention for investigation.

I had a meeting with various representatives from Homeswest and Department of Land Administration about housing stocks in Karratha. Work is being done. Homeswest owns very little land in Karratha. It is negotiating with WMC Resources Ltd, which is willing to sell approximately 40 houses that it owns. Homeswest might purchase those properties or come to an arrangement about their use, such as using them as replacement ICEA homes so that businesses wanting to house employees could have access to them.

As the member knows, land availability is severely constrained by native title issues. Within the townsite a fair amount of work has been done by DOLA and local government to free up existing lots. I think about 130 lots - the member for Burrup will know the number better than I - will be freed up within the townsite.

Furthermore, DOLA is continuously negotiating with Aboriginal interest groups on the expansion of the townsite and the freeing up of large areas of land in the future. It appeared that the council felt it was appropriate for those 100 odd blocks in the city to cater for the need within the next two to three years after which time we would need to have further development proposals in place. We are working as hard as we can. We offered the support of the Aboriginal Affairs Department and local regional offices in negotiations with Aboriginal communities to reach a resolution so that we can get that land developed.

However, that does not relate to the Bill. I thank the shadow Minister for Housing for his comments. As we said at the time, we should all support this Bill. ICEA issues are important but different. This will provide tremendous opportunities for small country towns to access better standards of housing.

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

Report

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

CRIMINAL CODE AMENDMENT BILL

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Mr Sweetman) in the Chair; Mr Prince (Minister for Health) in charge of the Bill.

Clause 3: Section 201A inserted -

Page 2, lines 5 to 8 -

Progress was reported after the member for Collie had moved to insert new clause 4.

Mr PRINCE: Some agreement has been reached since debate was adjourned. A number of members met with Mr Calcutt who assisted with his drafting skills. We were seeking to achieve a form of words which would effect the following proposition: A termination would not occur after 20 weeks, other than in special circumstances - which was the general view of all members. After considering, as carefully as we could, the various ways that could be achieved, we determined that one way was that proposed by the member for Collie, which was effectively to list conditions which could be justification for an abortion. It was the general view of members - no doubt some of them will speak - that that was not an appropriate way to proceed, partly because it would be difficult to define properly; it would also be a proposition that could cause a great deal of angst and harm to people in society who perhaps have those conditions now, and that is not something anyone wished to do.

Consequently we determined to seek to insert in the Bill before us a new subclause which would provide that after 20 weeks the procuring of a miscarriage is not justified unless some strict criteria are adhered to; first, two specialist medical practitioners from a panel - not people involved with the woman and her child - agree independently of the woman's medical practitioner that a severe medical condition exists; that is, the unborn child or the mother, in their clinical judgment, is in danger, and therefore the procedure is justified. Secondly, that such a miscarriage can be carried out only in a facility approved by the Minister for Health of the day. We think that no more than five or six of those procedures are carried out in any year. They are exceptional cases and some have been mentioned today. One example was a baby found to be suffering from gross deformity which is not likely to enable the child to live, or, as in the example provided by the Minister for Housing, a woman 23 weeks into a pregnancy who contracted breast cancer, and in order for the breast cancer to be treated, the child had to be aborted otherwise the treatment would have grossly affected the child as well as having a detrimental effect on the mother's survival. Those are exceptional cases, and no more than a half dozen occur each year.

Mr KOBELKE: The Minister suggested that the two medical practitioners would be independent of the one recommending the termination. I accept that in most cases that may be the practice but it is not a requirement. It may be that a woman in the special situation with child may be under one of the specialists appointed to the panel of six. Therefore, that does not guarantee independence.

Mr PRINCE: Two medical practitioners must be drawn from a panel of six appointed for the purpose. The new amendment to be moved by the member for Collie will not come before the Chamber until we reach the end of proposed subsection (3). Therefore, it is the intention of the member for Collie to withdraw the amendment presently before us. The intention is to achieve the same end by the foreshadowed amendment which has been circulated and will come before us at a later stage.

Dr HAMES: I seek some clarification. The Minister said that we may wish to speak, but I am not sure what we are debating. The member for Collie has not withdrawn her amendment. If she does not do that, I assume that we can still debate it. However, the appropriate time for our contribution in response to the Minister's comments will be at a later date when the amended Bill is introduced.

Amendment, by leave, withdrawn.

Mr PENDAL: I will not proceed with proposed new clause 5. That new clause would not make sense because last night the Committee eliminated the requirement for two doctors' certificates. When we resume on the compromise

amendment foreshadowed by the member for Collie we will be proceeding down the path of having two medical practitioners today, but we could not do that last night.

Proposed new section 316C in its entirety will not be moved; neither will new clause 6, nor new clause 3 listed at page 13 on the Notice Paper. That will allow us to move to either the amendments foreshadowed by the member for Collie or the amendments proposed by the member for Swan Hills.

Mr KOBELKE: Mr Deputy Chairman, what matter is currently before the Committee?

The DEPUTY CHAIRMAN (Mr Sweetman): The question is "that lines 5 to 8 be agreed to", which is the division of the Bill agreed to by the suspension of standing orders in the House.

Mr KOBELKE: It is appropriate to comment about maintaining these matters within the Criminal Code and some of the procedures which went on last night and today in this place.

This morning, the member for Eyre made a good contribution in support of the need to put some of these matters in regulations. There was some criticism of the amendment moved by the member for Collie and the suggestion that we should specify these matters and not provide for regulations. There seems to be some consensus that the matter referred to in the amendment moved by the member for Collie be handled by regulations through the Criminal Code rather than the Health Act, as suggested by the member for Collie.

Mr Prince: No, it is proposed that be dealt with by regulation.

Mr KOBELKE: The amendment we are debating states that practitioners will be appointed by regulation and the place it will be performed will be decided by the Minister for Health through subsidiary means rather than by legislation. Some members have argued that this matter should be in black and white in the legislation. However, I agree with the Minister's stance on this issue; that is, for it to be effective we must place certain trust in the administration of the Minister of the day, whether that be directly in his powers or his power to make regulations. However, considerable argument has been mounted against using regulations. Those arguments were not about the substance and whether it should be by regulation; they were about some people saying one thing at one time and then saying exactly the opposite at another time.

It twigged with me today that those members are running another agenda that has nothing to do with the substance of the amendment before the Chamber; it is about certain members being totally committed to removing this matter from the Criminal Code. Therefore, they were not prepared to listen to reasoned debate on matters of substance that they now say we must address. That is because they do not agree with the Foss Bill that we are now debating retaining certain matters in the Criminal Code, because they wish to move those matters to the Health Act. They see that is possible under the Davenport Bill in the other place. That is a reasonable tactic, although I am totally opposed to it, but it has not been put on record.

We have heard spurious arguments against primarily the amendments moved by the member for South Perth, because members want to defeat this Bill. That tactic needs to be put on record. It gives some sense to why members have argued at one stage that this is a blue issue and at another stage that it is a red issue. On a number of occasions they have expressed different points of view on the same issue.

I will comment on why this matter should be included in the Criminal Code. The wider issues were canvassed in the second reading speech. The procedure before this Chamber is that we are the masters of the destiny of this legislation. That is not what the debate has been about. The debate has been about whether we sink this legislation or carry it with a view to what is happening in another place. That is totally inappropriate for the carriage of good legislation. If we, as legislators, are to address issues, we need some leadership on the issues with which we deal. It is not appropriate for the Minister for Housing to wave amendments to a Bill that was tabled in another place.

Dr HAMES: I do not want to miss this opportunity to respond to the usual invective that the member for Nollamara directs against people who do not agree with his point of view. We have seen that with other pieces of legislation.

Mr Kobelke: Do you disagree with what I said? Do you want this Bill to get up and not the other one?

Dr HAMES: I did not interrupt the member for Nollamara. The member claimed we had an agenda on whether this Bill should pass and whether the issue is one for the Criminal Code or the Health Act. Some people believe it would be better dealt with in the Health Act. I am happy for it to remain in the Criminal Code. However, when the other Bill gets here I will be happy to deal with that.

Mr Kobelke: What is your position?

Dr HAMES: I will tell the member what my position is when I finish my speech. I am trying to explain that that is not our agenda. We have considered each matter as it has come before the Chamber. In most instances we have been

fairly distrustful of regulations. We want these issues to be more clearly defined than they are. I am not suggesting that the Bill introduced in the other place should not be considered. However, we must ensure that this Bill is properly considered and this amendment is part of that process.

The member for Nollamara says one minute that something is contained in regulations, and - when the Minister corrects him, he says, "Okay, we need to trust the Minister" - and the next minute talks about regulations. This amendment does not involve regulations. This provision states that the Minister will have some responsibility - we are happy with that. However, this amendment will ensure that certain actions will be taken only in the appointment of a panel to make the decision and when listing hospitals that are available. In our view, they are matters that are important in the process but are not important in the context of the Bill and what we are supporting. We will put amendments before this Chamber relating to a serious issue - terminations over 20 weeks. We know that the member for Nollamara also regards that as a serious issue, but we do not agree with proposals by the member for South Perth or the member for Collie that these things be done by regulation. There are some things that are acceptable under regulations, and I will talk about regulations when we debate counselling procedures. On the crucial elements of debate about who performs terminations and who can obtain terminations, we have not been prepared to accept that being done by some other body by regulation. That has been the basis for our opinion, not some hidden agenda in the mind of the member for Nollamara. The member has a suspicious mind. I wonder what is his agenda.

Mr PENDAL: It is true that the agenda is at last becoming clear. The woolliness of thinking that has been demonstrated by the Minister for Housing is a real worry. If the Minister used that level of woolliness in his practice as a general practitioner, his patients would be in real trouble. It was rank hypocrisy for the Minister of all people - he is a general practitioner - to come in here last night and tell the Committee it is impossible to have two practitioners as part of the equation. The Minister spent an hour telling us that was impossible. Now he has the gall to come in here, allegedly as a general practitioner in good standing in the community, and tell us he is an overnight convert.

Let me expose a little more of the duplicity that is occurring. The Moore amendments do not exist. Does the member for Yokine know that?

Dr Hames: They are proposals. I have stated that consistently.

Mr PENDAL: Not only do they not exist, but also they are not before the other Chamber. That is because a certificate is needed from the other Chamber instructing the Committee in that place that the Bill will be expanded in its scope sufficient to allow them to be included.

Mr Baker: I heard during lunch that another member of the upper House has another proposal and another series of amendments.

Mr Marlborough: That would be one more idea than you have ever had.

Mr PENDAL: It would be one more than Hon Norman Moore has ever had. He is now in competition with Hon Mr Foss. However, Hon Mr Foss is promoting -

Point of Order

Mr SHAVE: The member for South Perth is reflecting on members in another place. That is inappropriate and he should desist.

The DEPUTY CHAIRMAN (Mr Sweetman): I accept the point of order. The member knows the rules of the Chamber and he should observe them.

Committee Resumed

Mr PENDAL: We are exposing this cobbled together group of so far non-existent Moore amendments in which the member for Yokine has been involved. We have the two practitioners and the regulations relating to counselling that were impossible last night. We have a little bit of intra Chamber jealousy.

Several members interjected.

Mr PENDAL: The member for Swan Hills has been part of this, because the arguments that are soon to be put to us are those that our friends rejected last night. It is no clearer.

Mr Day: They are not.

Mr PENDAL: The Minister for Police obviously cannot read either. That is a worry because he is a dentist. We could have saved an enormous amount of time in this Chamber had the Government in the other place got its act together and stopped the proceedings to see whether members could amalgamate the best of what was being

suggested in both Chambers. Why would it not have done that? It comes back to the point originally made by the member for Nollamara: There was and is another agenda. It has been exposed and the member for Yokine is up to his neck in it.

Mr PRINCE: I remind members that we have now been debating this matter for a week and a day and a bit. By and large that has been done with the best of grace. Passions have been very high and many people have expressed themselves. However, we are now degenerating into a slanging match between individuals, and that does none of us any good. The member for South Perth, in particular, should not sink to it. I urge members to confine their comments to the issue before the Chair, which is whether we move an amendment to the Criminal Code. We are debating an amendment to page two, lines five to seven, after section 201A of the Criminal Code. Are we to legislate in the Criminal Code in respect of this matter? That is the question that should be debated at this stage and nothing else, other than by assistance. I appeal to members to confine themselves to that issue and not otherwise, particularly not to trespass into personal attacks.

Ms WARNOCK: There is no hidden agenda. I made it perfectly clear in my second reading speech that, like many people on the pro-choice side of the argument, I would prefer a repeal Bill. However, I will support this Bill because it is what is before the Chamber. Although I regard it as second best, it is the Bill we are debating at the moment.

Mr Pandal interjected.

Ms WARNOCK: There is no need for any further personal abuse. I support this amendment and, like my colleagues, I am very anxious to get on with the debate.

Mr BRIDGE: The Minister makes a very good point in appealing to us to confine our attention to the substantive matter before the Committee. The difficulty is that there are so many members in this Chamber who have completely run away from the issue. That makes it difficult for people like me who want to restrict our comments to the issue and not to have two bob each way.

Mr Prince: You would agree that personal attacks are not a constructive part of the debate.

Mr BRIDGE: I ask the Minister to put himself in my shoes for a moment. At lunchtime I walked to my office and in the course of doing so I met an Aboriginal lady. She asked me what was going on across the road. I told her that we were debating the abortion legislation. She asked what stage we had reached. I told her we were talking about the time limit for terminations. Her response reflected the accuracy of my gut feeling. She said that she hoped we would not consider terminations beyond 12 weeks. She is correct, because by making 12 weeks the limit we are being a little liberal. That is why I suggested it be 10 to 12 weeks.

I have not been involved in deal making or anything else; I have been coming into this Chamber and arguing the points raised. Why cannot other members understand how far they are drifting from the substance of the issue? How cruel it is -

Mr Riebeling interjected.

Mr BRIDGE: It is horribly cruel. As I said yesterday, I feel sick in the guts. I do not often feel that way, nor do I cower from anything. I have met the best in my day and have never had a difficulty on that score. This Chamber has been a very morbid place recently because we have been too loose with an issue of absolute importance.

It is fundamental that we have a set of checks and balances, but we have tampered even with that. If we are not careful we will have no checks and balances. Members should think about that scenario. There is a defiance on the part of people like me, not because we want to be smart but because we would like those with closed minds to give some regard to our way of thinking.

Mr KOBELKE: I wish to continue my remarks about this measure being retained in the Criminal Code. I accept the correction made by the member for Yokine about there being no regulation in this proposal, but I will ignore his vitriol. I suggest that he give an undertaking to answer the question I asked - he might do so later.

Members failed to address the issues before the Committee last night and today because they had other agendas. I accept what the member for Perth said - this is for her a second best option. In a debate where we were trying to find some middle ground, members have adopted totally polarised positions; therefore, we cannot get to the debate on the crucial issues which we broached in the previous amendment. I do not want to lay the blame for that on those who are either pro-choice or pro-abortion. Because of the strength of feeling, I, along with others, have contributed to that polarisation, and I regret that has happened. The fact is that whichever model we come up with, we must address the substantial issues that lie in the middle of the debate. That is very difficult because we are coming from positions that seem to be totally opposite. We did not seem to be progressing because many people were locked into a strategic position of wanting the Davenport Bill or the Foss Bill, rather than addressing the specific issues moved

by the member for South Perth last night. I can understand rational arguments being put against them; however, when on another issue the argument is put forward on the opposite basis, we start to think there is some other agenda.

I will talk briefly about how the Committee should be handling the matters in the Criminal Code. The Bill is primarily about the Criminal Code, which is a very different approach from that being taken in the Davenport Bill in the other place. The added difficulty to the polarisation and strong feeling is that we must find a way of dealing with these very important issues that lie in the middle ground.

Another very important factor is the way in which the Government has handled the issue. I do not understand why debates on two similar Bills have been allowed to proceed at the same time. I say to the member for Yokine - I do not mean this in a personal way - that he must appreciate that for him to come in on a debate which is taking place in this Chamber on our Bill and waive around amendments proposed on another Bill, of which I could not get a copy at that stage, gives a signal about the complexity of handling this matter when two Bills have been presented on the same issue at the same time. It makes it very difficult to have a constructive debate on the key issues.

Dr HAMES: The member said that the amendments were proposed. They were a joint effort between a member from his side of Parliament in the upper House and the Minister for Mines. I had a copy and I made it available to many other members on both sides of the debate.

Mr KOBELKE: I accept what the Minister says, but he has missed my point: On top on the considerable difficulties we have in resolving these key issues, we have two totally different approaches on the go at the same time. That has compounded the difficulty of drawing people into some middle ground so that we can resolve these important issues in a meaningful way. I will not continue, other than to say that although we may have major differences on key issues, I hope we can be a little more constructive on some of the matters of regulation, not in the sense of regulations approved by the Chamber, but regulatory regimes that must be in place. Whether members are for abortion or not, we simply must have regulation, otherwise the approach will be totally *carte blanche*, which very few, if any, members will find acceptable.

Mr MARSHALL: I can understand why some people may think there are speakers with agendas. Members of the Legislative Assembly have high moral standards and different religions and philosophies of life, which is very important; they are worldly educated, having had the advantage of travel and seen what is happening in the world, which enables them to talk on a wide range of subjects. Because they are members of Parliament, they are very close to their communities. Some members are very close to the youth of our State. It does not matter which of those qualities members bring to this Parliament, they will naturally put forward their point of view in this important debate. However, it is not an agenda; it is what they believe in. We should be basing our arguments on the use of the word "choice", rather than limiting our views to one small segment of life. I want to look at the big picture - the circumference of the circle, not just a small part of it.

Invariably the amendments that are passed will not cover every issue. This is one of the most emotional and sensitive debates to have been before this Parliament. Irrespective of the argument members present, they believe it is the correct one. These views are minuscule when we look at the big picture. If the girl who lives next door to me must go to her doctor because she is pregnant and ask about the options available to her, it will not matter how many amendments we have passed; that girl will make her own choice. If the choice she makes cannot be catered for in Western Australia, she will go to Sydney. That is the reality.

I know of the various philosophies members adhere to; however, I suggest that they speak not just to those in the 50 year old age group, but more importantly to the young people. As I said in my initial speech in Parliament, I find it difficult to comes to terms with *de facto* living, with people who live together on a trial before marriage basis; with the fact that we promote safe sex; and that we have free condoms in some schools - I cannot handle any of that. Because we have let that creep in, we have destroyed the very thing that some of our philosophies stand for. We are not dealing with separate agendas or infighting; members are merely putting forward a point of view. However, each point of view is a very small portion of the big picture.

At the end of the day, the women who are pregnant will make the choice. Generally, they are under 35 years of age. They are the people to whom we should be talking. They know more about the risks and the emotional cost of abortion than we will ever know. We have not consulted enough with youth. They are the ones who are living in *de facto* relationships, who adopt the "try before you buy" attitude, who, predominantly, find themselves in the predicament of facing unwanted pregnancies. We will not solve that with these amendments. We must get back to the guts of the issue - choice.

Ms ANWYL: I echo the comments of some speakers, particularly the members for Perth and Dawesville. They have been transparent. I urge members who accuse others of duplicity to go back and read the speeches in the second reading debate. We have waited for almost two weeks - a very long time - to start to debate the substantive part of

the so-called Foss Bill. I do not begrudge one minute of that debate; it was necessary. The people who have the numbers in here could have gagged the debate. It never entered our heads to do that because it would not have been appropriate. However, we have now reached a position in this debate where we will deal with the so-called Foss Bill, whether we like it or not. Let us do that.

Let us also remember we are facing a potential public health crisis unless we reach a solution on these issues. Whatever solution is reached, it will not be palatable to every member of the Western Australian community or to every member of this Parliament. However, as legislators, we have a duty to reach a conclusion that is workable. In my speech during the second reading stage, I made it clear that I would be supporting paragraphs (a) to (d) of the Foss Bill. Now that we have the amendments of Hon Norman Moore to the Davenport Bill, I make it equally clear that I will be supporting that Bill.

I have always made my position very clear. In trying to demean members of this Chamber who are pro-choice, members who are anti-choice are doing a disservice to the people whose views they represent and to their own views. The end result of some of the suggested amendments is to preserve the rights of the unborn; hence the comments made about the motives of the Minister for Aboriginal Affairs, which I found unusual and almost surreal. The reality is that the public wants us to reach a conclusion on these important issues in the not too distant future. I have made my position clear: This debate should not be gagged. I am sure that it will not be.

Members heard in question time today that I commissioned a survey of a lot of young people who attended the recent JOY festival. Many of the comments made in those surveys related to this issue and could not be repeated by me because they include unparliamentary language. Young people said, "How dare a group of you" - expletive deleted - "mess around with this issue when you are talking about our lives." I appreciate that members and the public have firm opinions about when life starts. In certain cases it should be possible for a woman to terminate a pregnancy. Like the member for Dawesville, I feel that we should get real about this issue and recognise that women will terminate pregnancies no matter what legislation we prescribe in this place. I urge members to debate the Foss Bill without engaging in the sort of demeaning tactics of name calling and implying duplicity that has already occurred this afternoon. As legislators, we have a responsibility to get on with this issue and in a reasoned and careful fashion progress the legislation through this Chamber and send it to the other place. I do not know when that stage will be but I am pleased we have reached the stage of the debate where we are now dealing with the so-called Foss Bill.

Mr McNEE: I am quite happy about choice. People talk about choice as if they are buying a tin of beans. I remind members that there is no choice for the unborn baby. That is what we are talking about, not whether somebody is wandering past a supermarket shelf wondering whether to have Brown's beans or somebody else's. We are not talking about 10 000 women in this State who have some terrible disease. As I said before, if that is the case the medical profession has failed dismally. Will anybody seriously tell me that there are 10 000 of them? Something like 2 500 or 3 000 people were in front of this building yesterday. Multiply that number by four or three. Is anybody seriously telling me that is the number of seriously affected women? That is a nonsense.

Since the outset of this issue I felt that I might have been about to get something that I did not want. I felt for some time that there was a really strong feeling for another Bill. I find the Foss Bill as abhorrent as the other Bill. I suppose a man can develop some sort of feeling for something happening around him. He might not know quite what it is but he knows that something is happening. I referred this morning to the doublespeak that had been occurring in this place. I have not been double speaking; I have been consistent. I did go to those meetings. If the Minister at the Table is worried because he has been here for a week, I do not care if we are here for the next six months.

Mr Prince: I am not worried at all.

Mr McNEE: That is just in case the Minister is concerned.

Mr Prince: I simply ask that the standard of debate remain as high as it has been.

Mr McNEE: That is fine by me. I am representing people who cannot represent themselves. All of a sudden I heard about some other amendments. I thought to myself, "Whose are these? I have not heard about these. What is happening?"

Mrs van de Klashorst: My amendments have been there for two or three weeks.

Mr McNEE: I am not worried about the member's amendments. That says to me that this a bit of a Dodgy Brothers' deal. If I were out in the commercial world I would be watching that fellow. He would be going down the list. That is the sort of thing that discredits this debate. I am here to represent and to try to do my very best for tiny babies who have no choice - never mind about somebody else's choice. I stand to ensure that whatever happens, happens after full and fair debate. These amendments might be excellent, but one of the problems I face is that I would like to seek some proper advice and that opportunity is denied me. Why would members think I am confused? Last night we

could not get one doctor involved and now we want two or six. Could you forgive me, Mr Chairman, for being confused and thinking that here is one of the greatest Dodgy Brothers' deals I have ever seen?

Mr Riebeling: Read the two amendments. If you cannot see the difference, there is big trouble.

Mr McNEE: If the member has some ideas about the amendments let me hear them. I will be pleased to listen to him. I stand absolutely in support of those who cannot defend themselves. As long as God gives me breath I will continue to do so.

[Interruption from the gallery.]

The CHAIRMAN: Order! I remind members of the public that they are welcome to stay in the gallery but they are not to participate in any way in the Chamber's activities.

Mrs PARKER: I wish to express at the outset of this debate on what we call the Foss Bill my support for keeping this legislation in the Criminal Code. I have stated before, but it is important to re-state, that whenever a population is surveyed - be it through a local survey or surveys overseas about which I have read - whether people are pro-choice or pro-life, a significant majority of the population accept that the termination of a pregnancy is the taking away of a human life. In the context of the severity of that act and our perception of this procedure's effect on a human life, it is important that we keep the governance of this activity in the Criminal Code. Just as we have murder in the Criminal Code, and allowance for self-defence for those who break that code, so it is important that in the Criminal Code we have rules governing activities to terminate pregnancies and some provision by which we value the life of the mother over that of the child. That is the issue of great debate in this Parliament as well as in the community.

Some of us would draw the line far sooner than others when we approach the amendment before us, the Foss Bill, and all the other amendments. As I said at the very outset, the law is a public educator and has great weight in its symbolism of what we value in a community. Therefore, it is absolutely essential that we keep this law within the Criminal Code. Although I will not support all the provisions of the Foss Bill, I support it in principle within the Criminal Code, and exhort all members of this Chamber to take the Bill as it is before us and put aside all other considerations in the other place, the amendments to amendments, and all that is happening outside. We have this Bill before us and we must deal with it with integrity and proceed as if this legislation will go to the other place and become law. If that circumstance changes we will deal with it accordingly. We must commit to what we have before us. I commend to all members this Bill and the importance of keeping the activities that govern a termination of pregnancy within the Criminal Code.

Mrs van de KLASHORST: I agree with the Minister that we must deal with what is in front of us. I do not have a hidden agenda, because I said during the second reading debate that I would prefer this abortion legislation to be in the Health Act, for the simple reason that that Act has many safeguards, and once abortion was in the Health Act and away from the taint of criminality, we could start to address some of the concerns about why 9 000 women become pregnant and need an abortion. While abortion is hidden under the Criminal Code, we cannot work out programs for dealing with this matter; and we saw a prime example with the leaking of people's details in *The West Australian* and people being frightened stiff.

I am on record as saying that one of my objectives is to get abortion into the Health Act. However, the problem is that we are dealing with a Criminal Code amendment Bill. Therefore, I will try to make some amendments to that Bill to make it easier for people in the community to understand. I move -

Page 2, line 8 - To delete the line and substitute the following -

No offence if termination of pregnancy justified

That appears to be a small change. The Bill states "No offence if procuring abortion justified". That is old fashioned language that relates to crimes such as prostitution and carnal knowledge, and other sex offences. That can be threatening. I want to use terminology that is more modern and that is accepted. The Minister also used the words "termination of pregnancy" in her speech. The words "termination of pregnancy" are used throughout the Western Australian community. I would like to see those words put into the Foss Bill, and I will seek to amend that phrase throughout the Bill. We could also use the word "miscarriage", but miscarriage is generally regarded by the people to whom I have spoken as an event that happens spontaneously and is not caused by another person. I may be pedantic, but I believe this amendment will bring the Bill into the modern age. I commend the amendment to the House.

Dr EDWARDS: I support the amendment to change the words to bring this part of the Criminal Code into the modern era. I, like others in this House, would prefer to deal with a repeal Bill that took this issue out of the Criminal Code, but we have no alternative but to deal with this amendment Bill; therefore, I will do anything that will be constructive.

This amendment is also important from a medical point of view, because abortion can be either spontaneous or induced, so "abortion" has a different meaning to a doctor than it has in the community. The insertion of the words "termination of pregnancy" will make clear what is being undertaken and what is meant.

Mr PENDAL: This clause is disarmingly simple. Another of its advantages is that it is remarkably honest, albeit that it is probably the most repugnant thing that has come before us today. This is the Dr Chan clause. It does not matter whether members have met Dr Chan; this is the Dr Chan clause. We are being asked to place into the Foss Bill at line 8 that subject to proposed subsection (3), a person is not criminally responsible under this code for any act done with intent to terminate a pregnancy where the act is done by a registered medical practitioner.

Mrs van de Klashorst: From where are you reading?

Mr Cowan: The statement that is in bold is in line 8. You have gone to line 9.

Mr PENDAL: Are we not dealing with the next line?

The CHAIRMAN: No.

Mr PENDAL: In that case, I will reserve my comments.

Amendment put and passed.

Clause 3, page 2, lines 5 to 8, as amended, put and passed.

Clause 3, page 2, lines 9 to 13 -

Mrs van de KLASHORST: I have advised that I intend to oppose those lines in the Bill and move to substitute new section 201A(1), which states -

Subject to subsection (3) a person is not criminally responsible under this Code for any act done with due care and competence with intent to terminate a pregnancy where the act is done by a registered medical practitioner.

I want to take the word "justified" out of the Bill because it has the negative connotation that the woman and anyone else involved is a criminal.

Mr Cowan: Do you realise that you have left the word "justified" in the main heading, but you now want to take it out of the body of the Bill?

Mrs van de KLASHORST: Yes. I want to take that word out of new section 201A, which gives the connotation that the woman and anyone else involved needs to have a measurement of justification; and we talked ad nauseam yesterday about how we need certificates and things like that to prove the measurement. I would like to see that provision removed, which is one of the reasons for my proposed amendment.

The reason for the words "a registered medical practitioner" is that a legally qualified medical practitioner may be a person from another discipline, such as a chiropractor. We should ensure that the woman is operated on only by a registered medical practitioner, not just a legally qualified medical practitioner.

Mr Cowan: What about a person with qualifications in ophthalmology or psychiatry?

Mrs van de KLASHORST: That person would still be a registered medical practitioner, whereas a person who was legally qualified might be under suspension and not registered. That is the rationale for the use of the word "registered". I will move the amendment standing in my name on the Notice Paper.

The CHAIRMAN: You will need to oppose the amendment on the Notice Paper before you move your foreshadowed amendment.

Mrs van de KLASHORST: I therefore oppose new section 201A(1) in the Bill, and wish to substitute my amendment on the Notice Paper -

201A. (1) Subject to subsection (3) a person is not criminally responsible under this Code for any act done with due care and competence with intent to terminate a pregnancy where the act is done by a registered medical practitioner.

Mr PENDAL: I understand the member for Swan Hills wants to insert a new section 201A(1) and make the current provision in the Bill redundant. Apart from the terminology, the only difference appears to be that the procedure in the amendment proposed by the member for Swan Hills would be carried out by a registered medical practitioner. The Foss Bill at least demands that the act be done with reasonable care and skill by the doctor.

Mrs ROBERTS: I am not comfortable with the amendment foreshadowed by the member for Swan Hills. I do not think she has explained why it is more satisfactory than the provision currently in the code. The fact that the procedure will be carried out by a medical practitioner is not sufficient in itself. In certain circumstances medical practitioners should be criminally responsible for performing terminations.

Mrs PARKER: I oppose the amendment proposed by the member for Swan Hills because this amendment and a further amendment to proposed new subsection (2) would remove the word "justified". Once that word is removed, the whole Bill will fall apart. New subsection (3) will destroy the Bill in one fell swoop. It is a mockery to remove the word "justified" from new subsections (1) and (2). In new subsection (3) reference is made to subsection (4) stating that the miscarriage of a woman is justified for the purposes of subsections (1) and (2) if, and only if, certain justifications are met.

Members must be serious about this. If the amendment were accepted, there would be no substance left in the Bill. The word "justified" is included in the Bill because whether one tries to sanitise the procedure by calling it a termination, or calls it an abortion, the end of a human life or the destruction of a baby, people understand that it is a serious procedure that has a devastating effect on the life carried within the mother. It also has a very significant impact on the woman's health and circumstances, both physical and psychological.

A decision to have an abortion must be seriously considered. The mother's health and the life of the child must be considered. Therefore, there must be serious consideration and justification for the decision to value the life of the child as secondary to the life of the mother. This Bill sets out means to determine the degree of justification for such an action. Although this matter has been debated for many hours, I still think it is too rushed. There is consensus within the Chamber that an abortion rate of one in four pregnancies in 1996 was too high. Such a high proportion cannot be justified. I implore members to consider the Bill in its entirety. We have all been so busy with the amendments up till now, that perhaps proper consideration has not been given to the whole Bill. I implore members to consider what will happen to the Bill if the amendment is accepted. It will fall apart and go to water.

Mr RIPPER: I ask the Minister to play his role as facilitator in this debate. I am somewhat unsure about the legal effect of the amendment foreshadowed by the member for Swan Hills. We have heard argument from the Minister for Women's Interests that the whole structure of the Bill will fall apart if the wording proposed by the member for Swan Hills is accepted. I am interested in hearing from the Minister his view of the exact legal impact of the amendment. I hope the Minister will be in a position to give some quasi legal advice.

Mr PENDAL: I will give the Minister five more minutes to get that advice, because I think the member for Ballajura is right. Paragraphs (a) to (d) of the Foss Bill will not be a factor if the member for Swan Hills is successful in her proposal to remove the word "justified". The justifications that underpin the Foss Bill are listed in paragraphs (a) to (d). That has been the whole purpose of the Government's sponsoring the non-government Bill put to the Parliament. If members were to support the amendment proposed by the member for Swan Hills, in the belief that it will facilitate the Foss amendments, they would be quite wrong. It would probably have the effect of limiting debate from 11.00 pm until 4.50 pm. On the surface it appears to be a benign or acceptable change, which makes the Foss Bill almost acceptable, although I hasten to say that it will not be acceptable to me. However, it casts onto the amendment scrapheap the test which the Attorney General wanted imposed. That pivotal point was drawn to our attention by the Minister for Women's Interests. Like the member for Belmont, I would like to hear from the Minister at the Table on these points.

Dr HAMES: I support neither these amendments nor the removal of the word justified. I support proposed section 201A up to proposed subsection (3)(c), and will also vote in support of (3)(d) with some slight misgivings. However, if the vote does not get that far and only reaches (3)(c), the justification of counselling will still be required. The member for Swan Hills' amendment states that this part of the Bill is no longer justified, even though that may not be her intent. I know the views on the opposite side of the argument with the member's colleagues to her right. The member for Swan Hills is strongly pro-choice. This amendment does not add to the Bill. Retaining the original provision would allow an opportunity at a later stage to outline the justification. I prefer that we move on to the substance of the Bill.

Mrs van de KLASHORST: I thought my proposed amendment was subject to proposed subsection (3), which indicates that the procuring of a miscarriage must have justification. That is why I was not concerned about that aspect. However, I could slightly amend my amendment so it stipulates that it will be subject to the justification outlined in proposed subsection (3) so that a person will not be criminally responsible in those circumstances.

The CHAIRMAN: Does the member intend to move in that direction?

Mrs van de KLASHORST: Yes.

The CHAIRMAN: The member is foreshadowing her intention.

Mr PRINCE: A number of questions were addressed to me which, with the assistance of parliamentary counsel, I shall endeavour to answer. First, a question was raised regarding "legally qualified medical practitioners", the phrase used in the last line of proposed section 201A(1). The expression in the amendment proposed by the member for Swan Hills was "registered medical practitioner". The reason for using the term "legally qualified medical practitioner" is that we are dealing with legislation which creates criminal liability. Registration as a medical practitioner implies that a person is qualified and competent and has a "licence" for a certain time. However, it is possible with administrative oversight that the licence may expire and a person may not be registered, although still being competent and, therefore, legally qualified. One would not wish criminal sanctions and liability to apply to a person simply because the paperwork was not done at the appropriate time.

Mr Pental: You mean in terms of registration?

Mr PRINCE: Yes. A legally qualified medical practitioner is a person who is competent and whose qualification is accepted by the Medical Board and is capable of being registered to practise, but at a certain time may not be registered.

Mr Pental: What if the person were not registered because he or she had been convicted, for example, of an illegal abortion?

Mr PRINCE: That person would not be legally qualified.

Mr Pental: What if he or she were legally qualified, but were removed from the register for having done an illegal abortion?

Mr PRINCE: I understand the member's point. The distinction is that such a person would not be legally qualified as the person is not entitled to be registered. Legal qualification means being entitled to be registered, even though a person may not have the necessary piece of a paper on a certain day. The member for South Perth is talking about a person who is not legally qualified, as he or she is not entitled to be registered. I hope the distinction is clear.

I think that the member for Swan Hills has endeavoured, in the amendments she has foreshadowed, and the subsequent amendments on the amendment sheet, to change the proposed subsections by rewriting them in somewhat different words from those in the Bill before the Committee. I understand that the amended form has the same intent as the original form. However, the expression "authorised, justified and excused" is found throughout the Criminal Code and other criminal law of this State and elsewhere. Not to use "justified" could create uncertainty of precise meaning. In that sense, any such change is perhaps to be approached with caution. To rewrite proposed section 201A(3)(a) and (b) - the Davidson test - into what would appear to be a more simple form of words might otherwise seem to be a good thing; nevertheless, it creates the potential for uncertainty. The words and phrases used in proposed subsections (3)(a) and (b) are well understood as a result of judicial pronouncement and usage. The member for Swan Hills, I think, is endeavouring to simplify the language, but in a sense she will create the potential for legal uncertainty by inserting language not used in the past.

I read nothing more Machiavellian into the intentions of the member for Swan Hills. In a conservative sense, and in looking for certainty, I prefer to stick with the form of language used previously. That presents a greater degree of certainty. However, it is entirely up to the Committee to determine whether it wishes to simplify the language used in line with the suggestions of the member for Swan Hills.

Mrs van de KLASHORST: As the Minister suggested, my intention was to simplify the provisions. However, I defer to lawyers. I drafted most of these amendments with the help of one non-lawyer to bring the provisions into the modern idiom. I take the advice of the Minister for Health. I would hate to muck things up now as we are making progress. I withdraw most of my amendments, except the last one regarding informed consent and counselling, which I will move at a later stage.

Clause 3, page 2, lines 9 to 13, put and passed.

Clause 3, page 2, lines 14 to 18 -

Mr PRINCE: I observe for the purpose of clarity that proposed subsection (2) is a logical necessity with the passage of proposed subsection (1), and vice versa. If proposed subsection (1) is enacted to state that a person is not criminally responsible for doing an act to procure a miscarriage if it is justified and so forth, it follows that the women cannot be criminally responsible in the same circumstances.

Clause 3, page 2, lines 14 to 18, put and passed.

Clause 3, page 2, lines 19 to 21 -

Dr HAMES: I move -

Page 2, line 19 - To insert after "(4)" the passage "and (5)".

I refer members to the circulated amendment relating to pregnancies later than 20 weeks' duration. We will attend to that when we have debated proposed paragraph (d). However, as a consequence of that, I must move this amendment first.

Ms McHALE: If this amendment is not passed, do we have a mechanism to resubmit this?

Mr PRINCE: I understand that we will resubmit it and withdraw it. It is a matter of procedure.

Amendment put and passed.

Mr BAKER: I note the phrase "if, and only if" at line 21. What is the intention of the Attorney General? Is he trying to set out a justification that can only apply in respect of procured miscarriages or is he also allowing the operation of section 36 of the Criminal Code which states that the excuses and defences contained in the code are applicable to all Statute law of Western Australia including the code? The excuses and defences are set out comprehensively in chapter V, headed "Criminal Responsibility". The sections to which I refer are 22, Ignorance of law: Bona fide claim of right; 23, Accident etc: Intention: Motive; 24, Mistake of fact; 25, Extraordinary emergencies; 26 Presumption of sanity; 27, Insanity; 28, Intoxication. I understand that under proposed subsections (1) and (2), reference is made to a defined intent. Can the Minister outline the reason that the words "if, and only if" are included, or are they superfluous? If it is the intention to exclude other excuses and defences, would that not exclude the application of sections 36 and 259 of the code?

Mr PRINCE: The expression "if, and only if" is obviously definitive in stating that the justifications that appear thereafter - (a), (b), (c) etc - are the only justifications for the purposes of proposed subsections (1) and (2). That is the clear meaning and intent of the words. The general defences in chapter V of the code under the heading "Criminal Responsibility" - for example, section 24, Mistake of fact - also apply. I cite the authority of Geraldton Fishermen's Cooperative and Munro 1964, Western Australian law reports, around page 200, from memory. It is a long time ago. If a woman had a genuine, honest and reasonable belief, for example, that the doctor was legally qualified, the woman would not be culpable. The phrase "if, and only if" should be read within this clause to refer to the justification that appears thereunder in the light of proposed subsections (1) and (2) - and nothing else! The general offences apply to all code offences.

Mr BAKER: So the Attorney General does not seek to exclude the application of those provisions. He does not seek to exclude section 259. The reason for my query is that the amendments moved by the member for South Perth included the same phraseology - "if, and only if" - but expressed a specific saving related to the application of section 259. After discussing the reasons with Mr O'Connor QC, I was told that unless there was a saving the words "if, and only if" would act as an exclusion.

Mr PRINCE: The reason for the saving in the amendment moved by the member for South Perth was that those amendments were to be in the Health Act. Otherwise there could have been an inferred exclusion of section 259 from the proper construction of those amendments had they become law. Therefore, the saving was necessary. Here, we are dealing with the Criminal Code. We are not touching section 259. Therefore it stays - assuming that will be the ultimate result - as the law of the State, and must be read in conjunction with everything else. The expression "if, and only if", and the way in which it is read, limits the application of proposed subsections (1) and (2). It does not limit the operation of any other section of the code. Insofar as I am privy to the intentions of the Attorney General, far be it from me to attempt to divine the works of providence!

Mr Baker: The intention will not interfere with the dual application of the justifications with other provisions in chapter V of the code.

Mr PRINCE: It does not. Chapter V still applies.

Clause 3, page 2, lines 19 to 21, as amended, put and passed.

Progress reported.

[Continued on page 1329.]

POLICE INTIMIDATION

Possible Breach of Parliamentary Privilege - Grievance

MRS ROBERTS (Midland) [4.31 pm]: My grievance is addressed to the Minister for Police. Some elements of it do not come strictly within his portfolio but I address it to him because it relates to the conduct of members of the Police Service and also to the use of police resources. This also comes very close to being a matter of parliamentary

privilege insofar as members of Parliament need to be able to go freely about their work in the community without any fear or intimidation. My grievance also relates to the asking of parliamentary questions. As some members in the House will remember, there was some scandal in the United Kingdom when members of Parliament were found to be accepting money for the asking of questions. It was generally accepted under the Westminster system that members of Parliament should be able to go about their work freely. They should not be coerced, induced or bribed into asking questions, nor should they be intimidated out of asking questions. Members of Parliament should be free to speak to whomever they like and to frame whatever questions they like without coercion, fear or intimidation. People should be free to provide information for the asking of questions or whatever other parliamentary use a member might like to make of them.

A volume entitled *House of Representatives Practice* contains some information regarding offences against witnesses. On page 704 it states -

Section 12 of the *Parliamentary Privileges Act 1987* provides that a person shall not, by fraud, intimidation, force or threat, by the offer or promise of any inducement or benefit, or by other improper means, influence another person in respect of any evidence given or to be given before a House or a committee, or induce another person to refrain from giving any such evidence. Further, under the Act a person shall not inflict any penalty or injury upon, or deprive of any benefit, another person on account of the giving or proposed giving of any evidence or any evidence given or to be given, before a House or a committee.

Some penalties are specified. While this grievance does not involve someone providing evidence before a committee that passage gives us some general guidance on how these matters should be conducted.

In the short time available to me I want to highlight to the House two cases that have been drawn to my attention. One involves a police officer who retired some five years ago and who has been doing some voluntary work for me by the provision of research and information in the conduct of my parliamentary duties. On Friday, 20 March 1998, two detectives from the public sector investigation unit of the Police Service attended the home of that retired police officer and asked whether he had assisted me in the writing of a particular parliamentary question. They also asked him whether he knew who had provided the information for that question. For the information of members I believe the question was 2079 that I asked of the Minister for Police. I asked -

- (1) Will the Minister advise the current policy regarding a drug offender who has had his driver's licence suspended for a long period and is prepared to assist police on drug matters and possibly be subject to payment for these services?
- (2) Is it current policy for the police to approach the courts and obtain a driver's licence for such a person under another name?
- (3) If so, what conditions would apply?
- (4) What happens to traffic breaches under the false name?
- (5) Would this person be considered suitable to act as an undercover officer?

I received the following response -

The Commissioner of Police has advised me of the following -

The Western Australian Police Service accepts information relating to drug matters from any member of the community, regardless of the status of their driver's licence . . .

The question was not really answered but it did not necessarily relate to a specific case. I wanted to find out what happens when an alternate identity is established for someone who might be operating as an undercover officer and whether it would be possible for that person to be issued with an alternative driver's licence. I do not think it is appropriate for serving members of the Police Service to ask people the basis on which I ask questions in this House.

The second case involves a councillor at the Shire of Swan, Dave Lucas. I have learnt recently that he is a sergeant in the firearms branch. Earlier this year I learnt that he was being investigated for allegedly providing me with the information I used in asking parliamentary questions. Given that he is from the firearms branch I have checked to see what questions might have upset people in the Police Service. On Tuesday, 10 March this year I received a response to question 2625, in which I asked -

- (1) Can the Minister advise what type of handgun has been chosen for future use of the Western Australia Police Service?
- (2) What difference in price is there between the Sigma branch and the Glock hand gun?

What has been suggested to me is that it was put to this fellow who is under investigation that I was formerly a councillor in the Shire of Swan, that he is a current councillor of the Shire of Swan and therefore he leaked information to me. I have never been a councillor of the Shire of Swan, although the suburb of Midland is certainly in that shire. They have put two and two together and come up with about five. It is a huge waste of police resources and it is unparliamentary and inappropriate for people to be investigated for allegedly providing information to me. I put it on record that that councillor gave me no information and until the point that I found out that he was under investigation I did not know he was a police officer.

I seek from the Minister some confirmation that he considers this behaviour inappropriate and improper; that he does not condone this use of Police Service resources; and an assurance that this does not represent some siege or bunker mentality where whistleblowers are becoming the target of police investigations.

MR DAY (Darling Range - Minister for Police) [4.38 pm]: I thank the member for Midland for some notice of this grievance earlier today. I agree entirely that members of Parliament have an extremely important role in the whole democratic system in bringing information before the Parliament and the public arena and raising issues of concern under parliamentary privilege so that those matters can be properly aired in the public interest. That assumes always that parliamentary privilege is not abused, and I think we have seen occasions in the past where that has not been the case. I am in no way suggesting that the question asked by the member for Midland comes into that category. As a corollary to that, obviously members of the public should feel free to speak to a member of Parliament, whether it be their own local representative or another member of Parliament, and to pass on information in an appropriate manner unless there is some good reason for that information not to be passed on. In some circumstances I believe there would be good reason for that information not to be passed on; that is, where it is sensitive operational information, or where it would compromise the Police Service, an investigation or the country, in the case of the defence forces.

In responding to the question of whether a breach of parliamentary privilege or contempt of Parliament has been committed as a result of the inquiries conducted in the Police Service, I am indebted to the Clerk for information provided earlier this afternoon. He has drawn my attention to an extract from Erskine May's *Parliamentary Practice*, which states -

Although both Houses extend their protection to witnesses and others who solicit business in Parliament, no such protection is afforded to informants, including constituents of Members of the House of Commons who voluntarily and in their personal capacity provide information to Members, the question whether such information is subsequently used in proceedings in Parliament being immaterial.

If we draw a corollary to this Parliament, there is no indication that parliamentary privilege has been infringed or a contempt has been committed.

That having been said, it is legitimate to question whether inquiring into this matter has been appropriate. I was very recently provided with some notes by the Police Service which indicate that the person to whom the member for Midland referred was interviewed by one officer of the public sector investigations unit in the course of an investigation into a matter that, *prima facie*, appeared to be a breach of operational security. The person concerned - like the member for Midland, I will not name him - fully cooperated with the investigating officer.

On occasion internal investigations are conducted in an effort to identify officers who may have leaked information to persons who are not authorised to receive such information. Such investigations may arise from a complaint by an individual who is aggrieved by the alleged unauthorised release of details pertaining to him or her, or the Police Service may, of its own accord, instigate an investigation into an unauthorised release of information to, for instance, a journalist. The Police Service encourages officers to discuss issues of public interest with the media. However, any officer releasing information must adhere to parameters established by the agency. For instance, it would be inappropriate for operational officers to discuss policy issues.

It has been suggested that a contempt of Parliament has been committed. I agree that it is appropriate for members of the public, including retired police officers, to be able to communicate with members of Parliament, including members of the Opposition. Although that might be uncomfortable for the Government on occasion, I recognise that it is part of the appropriate democratic process. Where there is concern that sensitive operational information has been released, it is appropriate for the Police Service to investigate.

WHITFORD INTERCHANGE CAR PARKING

Grievance

MR JOHNSON (Hillarys) [4.45 pm]: My grievance is to the Minister representing the Minister for Transport and it relates to the shortage of car parking spaces at the Whitford interchange.

I will briefly refer to another issue; that is, the need for more train carriages during peak hours between Whitford and the city. We are almost dealing with the Japanese scenario, where people are pushed onto trains. I do not believe our commuters should be required to travel in that way. That situation could be alleviated and people could travel in comfort if a couple of carriages were added.

Members may not be aware of the parking difficulties at Whitford interchange, but the problem has existed for a long time. Planning miscalculations have resulted in the Whitford train station and others on the northern line not being able to cope with community demand.

Two objectives of the master plan for the northern suburbs railway include increasing the public transport share of inter-suburban trips from 3 per cent to 12.5 per cent by 2029 and increasing the share of peak hour trips to the city from 35 per cent to 50 per cent by 2010 and 65 per cent by 2029. These objectives are all very fine, but to date the figures illustrating the popularity of the line have been totally inadequate. I have spoken at length with Westrail about these problems.

Anyone who wants to park at the interchange - it is probably the busiest station on the northern suburbs line - should be there before 8.00 am; if they are not they do have not a hope in hell of finding a parking space. Currently commuters find an unauthorised parking space where they will not obstruct the traffic flow and in recent times they have been fined \$50 for doing so. I am not against people being fined if they break the law. However, when we are trying so hard to get people to use the public transport system, and when they do their best to do so, it is unreasonable to fine them for illegally parking their cars.

The simple answer is to build a bigger car park - we could add a second tier. Westrail does not want to do that: It wants to build another railway station between the Whitford and Warwick railway stations, on the junction of Hepburn Avenue. That is not a very good idea because trains travelling on the northern suburbs line will be stopping and starting too frequently.

Mr Omodei: Where is it proposed to build the new station?

Mr JOHNSON: Over the freeway at the junction of Hepburn Avenue. If the proposed station is built, trains stopping at Whitford would be stopping again within a minute. That is not logical. Westrail told me that it would be cheaper to build the new railway station than to provide more car parking spaces by adding a tier to the existing car park. I cannot see the sense in that. It would cost \$6.6m to build a 550 bay car park - approximately \$12 000 per bay - but only \$4m to build a new interchange. I cannot understand those calculations and I would be interested to see how they were done.

I suggested that, rather than fine these people who have tried to use the train service, perhaps Westrail could first issue an infringement notice without a fine and warn those concerned that their vehicle registration had been recorded and if they offended a second time they would be fined. That is reasonable. Second, Westrail could reduce the fine so that it was not such a financial burden to those who want to use the service. Third, the provision of decent signage informing people that they will be fined \$50 if they park illegally would probably discourage the practice. At the moment the only signs relate to the railway Act and they have pretty small writing. I have driven into that area many times and have not been able to read the whole notice. There should be a simple sign with large letters stating that a person will be fined \$50 unless he parks in an authorised car parking bay. I put those options to Westrail. I am sorry to say that it rejected all of them, which I thought was a bit unreasonable. I hope the Minister representing the Minister for Transport will take my grievance to the Minister for Transport and to Westrail. The grievance is to think about the situation and do something which will help people who want to use our railway system. We could reduce the amount of pollution that comes into the city. At the moment people cannot get into the Whitford car park and so drive all the way to the city and create more problems there.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [4.52 pm]: I thank the member for Hillarys for his grievance. I must commend the member - he certainly takes a great interest in his community. He may rest assured that I will certainly raise the questions of passenger transport and car parking with the Minister. I do not have all the figures but I will check those relating to the cost of the proposed car park and the new station. It would seem to be cheaper to build a car park than a station plus a new interchange. Westrail is working towards a master plan. We certainly want to be able to reduce peak traffic. Many of my ministerial staff who travel from the northern suburbs say that extra railcars need to be put onto that section of the railway line.

Mr Johnson: Do you agree that our passengers should travel as much as possible in reasonable comfort?

Mr OMODEI: It is a reasonable request that people be allowed to travel in comfort, and that the exchange where they get out of the car park and onto the railway system should work, rather than their standing in a station for a long period. That may be not so much of a problem during summer, but during winter I imagine it to be quite a burden for people. We have been working on the northern corridor section of the railway. We have plans for additional

police for security. We want to secure the car parks at Currambine, Whitford, Stirling and Midland railway stations. We are also examining other sites for secured car parks. We need not only extra car parks but also properly secured car parks. We intend to begin a public awareness program in July.

So far we have 43 railcars which will be progressively fitted with proper surveillance cameras to improve security. July would probably be a good time to publicise fines, authorised car parking and so on that the member mentioned. I am informed that two new suburban railcars are due in November and also next February. I am not sure whether that means two in November and another two in February.

Mr Johnson: I hope so.

Mr OMODEI: As a country Minister, when I talk to people in Perth the feedback I get is that the railway system is working well above expectations. We must provide the infrastructure that goes with a rail link. After we have the public awareness program on security, it may well be that Westrail could run a public awareness program on parking and the fact that people will be fined for rule breaches. Obviously the Minister for Transport must take on board the need for extra car parks to be attached to the railway system.

I agree with the member for Hillarys that to create a new station at Hepburn Avenue would be another burden. At the same time I understand that many people stand on the platform and watch the train go by choc-a-block. It may well be that the Minister and his department are not fully aware of that. The member can rest assured that I will make sure the Minister is informed of that in no uncertain terms, particularly given the amount of information that the department has given to me tonight in order to respond to the grievance.

Mr Johnson: I have absolute faith in the Minister representing the Minister for Transport because I know he is a man of integrity and honour. He will do his utmost for members of this Chamber.

Mr OMODEI: I think the member is a good bloke too!

We have a master plan. Our rail system is working well. Its passengers obviously like it because they are using the system in greater numbers. At the same time, because of the extra load on the system, we need extra car parks. We need to address the issue of fines, if we are forcing people to park in places where they are being fined. If there is not enough room in the car park, obviously we need to address that matter.

Mr Johnson: We want to encourage people to use the link buses to take them to the stations but many people who live in some suburbs walk quite long distances to get to the nearest bus stop. We should be encouraging people to use at least half of the public transport system, which is the train part, even if we cannot encourage them to use the full system.

Mr OMODEI: I can only agree. Inclement weather in the winter and the safety of people walking in the dark are matters I will raise with the Minister. I do not have all the figures from the Department of Transport on the car parks and the exact intent, so I do not have all the information to give to the member for Hillarys. I certainly give an undertaking to pursue those matters with the Minister for Transport and to provide that information to the member for Hillarys. I will be urging the Minister to take on board the concerns raised by the member for Hillarys.

The DEPUTY SPEAKER: Grievances noted.

BREACHES OF PUBLIC SECTOR STANDARDS

Motion

MS MacTIERNAN (Armadale) [4.58 pm]: I move -

That this House condemns the Minister for Fair Trading for presiding over a Ministry that has breached up to eight public sector standards in appointing a corrupt former New South Wales police officer and calls on the Minister to provide a full explanation of his involvement in this issue.

I will start this debate by taking members through the concept of ministerial responsibility because we are dealing with a Minister who has very little understanding of it. He might be very skilled in branch stacking and doing the numbers, which might account for why he has the job, but it is certainly not because of any profound appreciation of the principles of Westminster democracy, in particular the principle of individual ministerial responsibility. For the Minister's enlightenment I will quote a passage from a well-known text "Ministers and Parliament - Accountability in Theory and Practice". It means that there is the expectation of routine accountability by Ministers for the actions of their departments and that such accountability is central to the concept of responsible government and may be regarded as essential in a system with a dominant executive.

The author goes on to say that individual ministerial responsibility is more than a convention which prescribes the varying relationship between Ministers and departments, and Ministers and the court. It is an integral part of government and has imposed itself upon the administrative and parliamentary structure. We know of one Minister in the Government who understands it and that is the Attorney General. The Minister for Fair Trading does not understand that when things go wrong in his department, it is his responsibility. When we raise these issues, we are not attacking the public servants; we are attacking the Minister for Fair Trading for his failure to manage the department.

Mr Shave: Yes, you are.

Ms MacTIERNAN: The Attorney General has something very constructive to say. He says one of the important things about ministerial responsibility is that Ministers are responsible for what their departments do, regardless of whether the Ministers know about it. They must have the capacity to know. The department is the Minister, and the concept that the Minister, in whose name everything is done in the department for which he is responsible, would not know what is happening is contrary to the constitutional idea of accountability. The Attorney General is absolutely correct: The Minister is responsible for what his department does. The Minister cannot simply take a bottle of Mogadon at the beginning of his ministerial appointment, sleep through the entire ministry and come into this place and say, "It is not my problem, I did not know about it". That is what the Attorney General is getting at. The Minister cannot go to sleep on the job and claim to have acquitted himself responsibly.

Mr Shave: What is Mogadon?

Ms MacTIERNAN: The Minister should ask one of his advisers because he tells us that he is incapable of answering any questions by himself. I think he is also incapable of asking any questions by himself. He has plenty of advisers; no doubt they will help him frame the question. In the last month, the Minister tabled a report in this place that was prepared by the Commissioner for Public Sector Standards. That report is a shocking indictment of his ministry. It analysed one appointment and in that one appointment - it was the appointment of an investigator - there were eight breaches of public sector standards in what is described as a politically sensitive issue.

It also found that the ministry has, despite repeated prompts and several reports, failed to implement controls to ensure that its investigators operate in a manner consistent with section 9 of the Public Sector Management Act. That is the provision relating to the implementation of codes of ethics. What has been the Minister's response after this damning report was tabled in this place? It has been to remain totally silent. He has made no attempt to provide Parliament with any explanation of how these events occurred, whether he was involved in them, to what extent he was involved and what disciplinary actions he has set in train. We have gone through *Hansard*, which indicates that he has not made even a ministerial statement; he simply tabled that report and walked away.

Mr Shave: I answered all your questions truthfully.

Ms MacTIERNAN: What disciplinary actions has the Minister set in train for those officers who clearly disregarded proper process? What actions has he taken to ensure systems are put in place so that breaches are less likely to occur in the future? What steps is he taking to ensure that, four years after the Public Sector Management Act was passed and after three negative reports concerning ministry failures, the provisions of the Act are implemented and that a code of conduct is put in place? He has failed not only to exercise any initiative and provide us with a ministerial statement about what he will do, but also refused to answer many of our questions. He has refused to tell us what his involvement in this whole shocking saga has been.

Through his representative in the upper House last night, he refused to release key documents because he said someone else had put in a freedom of information application. Obviously they were documents that would have been very useful in the preparation of this discussion. Not only that -

Mr Shave: What was that mumble about?

Ms MacTIERNAN: I was about to say that the Minister was absent for a week. However, I decided that he was on parliamentary business and so will not make that comment.

The report from the Commissioner for Public Sector Standards makes it clear that the Minister is not doing his job. He is overseeing a department which seriously breached its obligations under the Public Sector Management Act. What the report does not make clear is to what extent the Minister has been involved in the very questionable behaviour of his departmental officers.

I will run through some of the specifics that have been raised in the report of the Commissioner for Public Sector Standards. The genesis of this scandal was of course Mr Neil Stockton's appointment as an investigator for the Sure Sale Systems Property Ltd. The Minister for Industrial Relations who is not here at the moment knows the scheme well. It was initiated by Charles Patrick O'Leary and launched in May or June 1996. Minister Graham Kierath

attended the launch of that scheme. I understand he was videotaped lodging the first bid. The scheme promised, but never delivered, guaranteed sale prices. In the wake of the scheme's collapse it left scores of West Australian consumers massively out of pocket with many of them owing tens of thousands of dollars through their involvement in the ill-fated scheme. Inquiries were begun by the real estate business unit, which is part of a unit servicing the Real Estate and Business Agents Supervisory Board. Those investigations were commenced by a very diligent officer, Colin Sharkey, as early as July 1996.

A public furore erupted in November 1996 when it was discovered that the investigations were being overseen by the Real Estate and Business Agents Board which was chaired by Mr David Miller who was intimately involved in the Sure Sale scheme. He had prepared all the legal documentation and had provided advice to the participants in the Sure Sale scheme. A succession of Ministers refused to stand Mr Miller down for some reason. They knew they had to do something. So, having not been prepared to stand Mr Miller down while this investigation was going on, they decided to take the politically sensitive investigations out of the hands of Mr Colin Sharkey and put them under the direct control of the ministry. This seemed very odd because the problem was not with Mr Sharkey, who was very diligently pursuing the real estate agents and the other parties who were involved in this highly suspect scheme.

At some point a decision was made to contract out this investigation, or at least advertise for an investigator, and it was decided that the ministry would advertise for an investigator. It appears that that decision was made in November 1996. A month later, the ministry advertised for an investigator. Now it tells us that that advertisement was not for this investigator. It had to tell us that because Mr Neil Stockton, who saw the advertisement, applied for the position. It had to be able to say that Mr Stockton had not applied for the position that had been advertised, but for another position which was yet to be created.

That is an interesting scenario that we are being asked to accept as credible: The Ministry of Fair Trading decides it needs an investigator, it advertises for one and a person answers the advertisement. We are then asked to believe that the position advertised was not the one for which that person applied; nevertheless, the ministry was prepared to create a brand new position for Mr Stockton.

The ministry ignored public service obligations to advertise this new position. No-one else had been told about it. The ministry ignored the obligation to advertise the position within the ministry. Someone in the ministry interviewed Mr Stockton, who told that person that he had recently left the New South Wales Police Force. When the matter was reviewed, the Commissioner for Public Sector Standards could find neither an application by Mr Stockton nor a job description for this specially created job. They could find no record of the interview for the job. Ministry staff told the investigators that Mr Stockton gave them names of referees. The staff say they rang those people but no record was ever kept of that reference process.

Worse still, having interviewed this man for this specially created position, on 15 January the ministry wrote to the Wood royal commission to ascertain whether any adverse findings had been made against him. Rather than wait for a response, the next day the ministry offered him the job.

Mr Barnett: It sounds like they wanted a good undercover man!

Ms MacTIERNAN: Two days later the royal commission told the ministry to contact the New South Wales police and the New South Wales Director of Public Prosecutions. It did neither. All this highly irregular behaviour - creating a position, not advertising it, not drawing up a job description or keeping records of interviews or references - has been justified to the Commissioner for Public Sector Standards on the grounds that it was necessary to deal urgently with the Sure Sales Systems (Australasia) Pty Ltd investigation. It was such a hot potato that the ministry needed to deal with it very quickly.

Mr Shave interjected.

Ms MacTIERNAN: It certainly was.

Mr Shave: They were only echoing what you were saying.

Ms MacTIERNAN: The situation then gets rather puzzling.

Mr Shave: You support them.

Ms MacTIERNAN: No. The question that should be answered is why Mr Sharkey, who had been on the investigation for six months, was not simply transferred to this temporary position. Why was he not given that opportunity? Why did the ministry officers think it was important to contact the royal commission but completely fail to wait for its response and ignore the advice the royal commission gave them? It is stretching the credibility of this place to ask us to believe all that was aboveboard. Either way we have a real problem. Either some very funny business is going on or there is complete incompetence. Either way the Minister must be accountable for it.

In the recruiting of Mr Stockton corners were cut and public sector standard after public standard was breached. Mr Stockton is on board and what do we find? He has been there for less than a month when all of a sudden, in the language of the report by the Commissioner for Public Sector Standards, there is "an urgent exchange of memos".

Mr Stockton has been with the ministry for less than a month and even though he has another two months to go, his appointment must be extended to a whole 12 months. Suddenly the paper work is executed with great promptness. In the process more public sector guidelines are completely flushed down the toilet. Again no advertising is undertaken for the position. Ministerial guidelines specify that a position like this should be advertised throughout the public sector.

In August 1997 more moves are made in relation to Mr Stockton. He obviously has very good friends in high places within the ministry. They now want to give him a new job with more pay. He is to be made the coordinator of investigations within the housing and real estate directorate. He is not appointed to that position until 5 November 1997. However, interestingly he is back-paid to 5 September 1997. This appointment is made despite the fact that allegations were made about Mr Stockton's conduct over the prior month. I am not saying those allegations should have ruled Mr Stockton out of consideration. However, questions were raised about Mr Stockton's past employment and at that point at least the checks that were made should have triggered further investigation of the matters that should have been dealt with before he was appointed in the first place.

I asked questions in June, July and August regarding the Sure Sale investigation. I asked why Charles Patrick O'Leary had not been taken before the board. I also asked why no consideration had been given to prosecution of the other parties involved in the issue. The answer from the Minister was that the Sure Sale investigation had not been completed. Mr Stockton was urgently recruited but months before the investigation has been completed - based on answers we received this year it has not been completed - Mr Stockton is off investigating numerous other issues such as those surrounding Ms Luscombe. He has been promoted out of the position to which he was appointed in that high state of red hot urgency. We need an explanation for why Mr Stockton had to be taken on with such incredible urgency and all those corners were cut. He was barely on the job a few months when he was diverted to other tasks. He was promoted out of that job before that investigation was anywhere near complete.

The other point is the failure of the Ministry of Fair Trading to put in place a code of ethics as it was required to do under the Public Sector Management Act which was passed by this place in 1994. It was not as though it was something the ministry could just forget. As the report of the Commissioner for Public Sector Standards points out, the ministry has had reminder after reminder to do so. The Public Sector Management Office has constantly reminded the ministry that it is a problem and it should get on with the job.

Members might remember the Les Smith report commissioned in 1996. The Minister had it for four months before he was prepared to table it and he assured us that he had read it. One of the issues raised in the Les Smith inquiry, which the Minister tabled in July 1997 after a great deal of pressure to do so, was precisely that the ministry did not have its act together. It had not put in place, despite its obligations under the Public Sector Management Act, a proper code of ethics and proper induction processes for that code of ethics.

When we query the Minister about this, he tells us that the first time he became aware of this problem was a year after he took up the portfolio; yet in that time we had two reports, one of which was the Smith report. He told us in June last year that he had read the report. The Smith report contains the same comment.

Mr Shave: I am not sure that what the member for Armadale says is correct; I will have to check the date.

Ms MacTIERNAN: That is fine; I would not expect the Minister to know anything. Either way the Minister cannot get out of this. The Minister's department has failed, despite repeated warnings from the Public Sector Management Office and three reports - the Smith report, the report of the Commissioner for Public Sector Standards and the interim report from Dr Loudon which all commented on the same problem.

The Minister must be catching up with his zeds. He has been in the job for a year and still he does not know about the problem within his department. His department did not implement the provisions of the Public Sector Management Act.

I will summarise the issues that the Minister must answer. These questions arise out of a scenario that the Opposition has set out for the Minister -

When did the Minister first have discussions with departmental officers over the need to take the Sure Sale investigations out of the hands of the Real Estate and Business Agents Supervisory Board and into his ministry?

Mr Shave: Once again the member for Armadale wants me to give her dates on every issue. I am expected to come

up with this information off the top of my head. Without any prior warning the member has decided I should give her this information. She is not fair dinkum. She really is a joke.

Ms MacTIERNAN: A number of these questions were asked in this Parliament on Tuesday, 12 March 1998. The Opposition asks the Minister the following questions -

What directions did the Minister give ministerial staff concerning the removal of those investigations from the board?

Was the appointment of a special investigator to handle the politically sensitive Sure Sale investigation raised with the Minister?

When did the Minister first become aware of Mr Stockton's appointment to the ministry?

Why was Mr Sharkey who had been investigating Sure Sale for six months not transferred to the ministry staff?

Why was Mr Stockton appointed before the Wood Royal Commission into the New South Wales Police Service had commented on adverse findings against him?

Why was the advice of Wood royal commission to contact the New South Wales police and Director of Public Prosecutions ignored?

Why was there no record of interview or referee review ever made?

Why was Mr Stockton's position extended from three months to 12 months less than one month after his initial appointment?

Why was Mr Stockton given duties other than Sure Sale when the Sure Sale investigations were still not complete in December of that year?

How can the Minister say that he only became aware on November 17 that the ministry did not have a code of conduct when the same concerns were raised with the Les Smith inquiry which the Minister received at least six months earlier?

What does the Minister propose to do to discipline staff who breach public sector standards?

What does the Minister propose to do to ensure that this disgraceful state of affairs is not repeated within his ministry?

MR SHAVE (Alfred Cove - Minister for Fair Trading) [5.24 pm]: The member for Armadale takes two lines with the Public Service. On the one hand she wants the Minister to be involved. I posed a question to the member about whether I should become directly involved in the operations of the ministry - in the hiring and firing of the staff. I cannot get a clear answer from the member for Armadale on her position.

Ms MacTiernan: When did you ask me that?

Mr SHAVE: I have asked that question on a number of occasions and I will ask the member again now: Does she think I should be involved directly in the running of the ministry in issues such as Sure Sale Systems (Australasia) Pty Ltd on a day to day basis? Does she also believe that I should be involved in the hiring and firing of staff in those areas?

Ms MacTiernan: The Minister has an obligation to make sure that he knows what is happening within his department. The issue of Sure Sale has been raised in this place on numerous occasions over the past year and the Minister cannot tell us a single thing about it.

Mr SHAVE: The last time I asked the member for Armadale that question she would not answer me.

Ms MacTiernan: The Minister needs to have an involvement with and an awareness of his department. He needs to be aware of the structural problems in his department.

Mr SHAVE: Does the member for Armadale believe I should have a hands-on involvement in the hiring and firing of staff in the ministry?

Ms MacTiernan: No, not at all.

Mr SHAVE: Therefore, the member thinks I should not be involved.

Mr Riebeling: It is against the Act.

Mr SHAVE: I am glad that the member for Burrup realises that. The member for Armadale is a lawyer, although from the way she talks it appears she does not understand that. Perhaps the member for Armadale should exercise that legal mind of hers and read the Act.

Ms MacTiernan: The Act specifies how public servants are supposed to go about their jobs. They are not going about their jobs!

Mr SHAVE: The classic statement in the member's opening address is that the Minister is responsible for the actions of his staff in the Ministry of Fair Trading and he should know what they have done or not done. If someone at the Ministry of Fair Trading puts his or her hand in the till and breaches the standards of responsibility, am I responsible? Would that stand up in a court of law? Does the member for Armadale support that?

The member selectively quoted my good friend and colleague in another place, the Attorney General, and said that was his view. The member probably extracted a comment he made on one issue and broadened its horizon - as she usually does. It all goes up in a big balloon and she gets her needle out. When it all goes pop, she waits for everything to drop to the ground and hopes that something will shake out to cause the Government a problem. This issue is not a problem as far as my involvement is concerned. The member's motion reads -

That this House condemns the Minister for Fair Trading for presiding over a Ministry that has breached up to eight Public Sector standards in appointing a corrupt former New South Wales police officer and calls on the Minister to provide a full explanation of his involvement in this issue.

I had no involvement. I have not met the person. How many times must I stand here and say, "I did not have any involvement"? I did not know his name. Until the issue that this chap may have come from New South Wales was raised with me, I did not know his name.

The member for Armadale develops an argument about the different things that have occurred in the ministry and she expects me to tell her about the day to day running of that ministry. In excess of 200 people are employed in that ministry. The staff turnover is between 10 and 20 people every year. My view is contrary to that of the member for Armadale: Most of the ministry staff are hardworking public servants. If we were to listen to the member for Armadale we would develop the view that not one of them is doing his job. That is not the situation. In fact, I get very good reports about the operations of that ministry. On occasion there will be problems in the operation of any ministry; that is a fact of life.

The member has asked me to explain my involvement in the Neil Stockton affair. I have answered approximately 50 questions about that issue. Members have tried in this place and in the other place to prove that I was involved, that I knew something about it and that I was hiding something. I have hidden nothing. There is no use flogging a dead horse. The member for Armadale has nothing better to do with her time than to pursue an issue that does not exist. She has stated today that I was involved in the operation and - in her words - the incompetence of that ministry. To the contrary, the general view in the ministry was that the officer concerned was diligent, well liked and did a reasonable job - apart from the Luscombe case. That is what I am told and I am prepared to accept that unless I am told something to the contrary.

Mr Carpenter: Does his employment background mean anything to you?

Mr SHAVE: Yes. The fact that the person concerned was trained in that area was an advantage. His employment in the investigative area was seen as positive by the department.

The member for Willagee has a personal involvement in this and has run very hard with the issue. I have said as little as possible about it. As far as the member's sister is concerned, the issue was assigned to the Director of Public Prosecutions, he said it should not be handled as a fraud charge but that the member's sister had a prima facie case to answer and the matter should go the supervisory board to be evaluated. That will happen.

Ms MacTiernan: That is not the issue we have raised.

Mr SHAVE: No. The member for Willagee has made a concerted effort to support his sister, and I have no problem with that.

Ms MacTiernan: Do you have a problem with the fact that your department breached eight public sector standards in the appointment of Mr Stockton and will you do anything about it? I want an answer to this. The essence of this issue is that eight public sector standards were breached in this appointment. Are you concerned and what will you do about it?

Mr SHAVE: Obviously, if concerns are raised by the Commissioner for Public Sector Standards and he believes there should be changes in the running of the ministry, I will support that.

Ms MacTiernan: Are you supporting it? That is what he said. What are you doing about it? You read this report from the commissioner. What then went through your head?

Mr SHAVE: Does the member want me to say that I support what the commissioner is proposing? Would she feel more comfortable with that?

Ms MacTiernan: I want to know what you intend to do.

Mr SHAVE: I support the suggestions made by the Commissioner for Public Sector Standards.

Mr Riebeling: Do you think it is good to appoint a self-confessed corrupt officer?

Mr SHAVE: I was not involved in the appointment. I know about the procedures as I have been advised subsequently. I believe that the ministry officers genuinely thought they were employing a person of high character who was competent to do the job.

Ms MacTiernan: How could they when they did not undertake any checks?

Mr SHAVE: One interjector is trying to change the issue slightly by suggesting that the officer confessed to being corrupt. He did not tell any of our people that.

Mr Riebeling: They should have found out.

Ms MacTiernan: They asked him and he said he was not and they said that was fine and they did not consult the New South Wales DPP. That is the way you operate.

Mr SHAVE: When a person has a code number and he does not disclose that or anything other than his standard police record it is very difficult.

Ms MacTiernan: No, the royal commission told your people to contact the New South Wales Police Service and the New South Wales DPP. Your people, for no reason whatsoever, decided that they would not do that. That was the advice they were given and they ignored it. How do you explain that?

Mr SHAVE: The member for Armadale is implying that an incorrect procedure was followed in interviewing and employing this person. The Minister should be condemned because it happened and he must be responsible for it.

Ms MacTiernan: No, the problem is that you have sat back and done nothing. What have you done? Where is the ministerial statement?

Mr SHAVE: Why should I make a ministerial statement when the member asks me questions about this every day? I am answering her questions.

Ms MacTiernan: No, you are not. You are saying that you cannot answer them because I am asking you questions about things you should know and you cannot know anything unless you have been told by your staff.

Mr SHAVE: That is the truth.

Ms MacTiernan: I know it is and that is why you should not be taking a ministerial salary - you do nothing in the job!

Mr SHAVE: The member believes that I should be running the whole department - hiring everyone and interfering with the chief executive. I should tell him he is just a puppet and that I will do all the hiring and firing. I did that when I had my own business. I do not do it now because the system does not provide for it. The member's hypocrisy is astounding. She is criticising me for not involving myself when she knows very well that if I were to go to the ministry and select a couple of her cobbles and fire them because I do not like their political views -

Ms MacTiernan: My cobbles?

Mr SHAVE: The member has a number of friends there.

Ms MacTiernan: You do know something!

Mr SHAVE: I know a little about the member. What would she do? She would be the first person on her feet saying, "He is breaching the standards. He should resign!" She wants it both ways.

Mr Riebeling: You are covering up.

Mr SHAVE: No-one is covering up anything. The officer concerned no longer works for the Ministry of Fair Trading.

Ms MacTiernan: The people who breached the standards still work there.

Mr SHAVE: I understand that that officer has resigned and the director in charge of that section has also left the ministry - of her own volition - and I do not know the circumstances of her transfer. Stockton has gone and the person who employed him has also gone.

Ms MacTiernan: What about the six others named by the Commissioner for Public Sector Standards as being involved? Are Mr Morgan and Mr Bodycoat still there, or do you intend to use the "they have all gone" defence?

Mr SHAVE: No, but I will not conduct a witch-hunt on the member's behalf.

Ms MacTiernan: You are saying it is not a problem because they have all left.

Mr SHAVE: I have not said that; I have said that the two people principally involved in this issue are no longer working at the ministry, not as a result of any direction of mine.

Ms MacTiernan: Has Mr Morgan gone?

Mr SHAVE: No.

Ms MacTiernan: He was the person who did not make the phone call and was actively involved.

Mr SHAVE: The acting chief executive has made a determination on who is employed there and who is not. If someone made an error in good faith without any intent, like a mistake which the member might make from time to time, I do not believe that person should have his head cut off for one error. Does the member believe the person should?

Ms MacTiernan: No. We want to know what you are doing to make sure this sort of stuff does not happen again.

Mr Carpenter: You seem to fail to recognise that something fundamentally wrong happened. You do not seem to understand. You seem to think that it is the odd occasion when a bit of a dud can get through. Something quite fundamentally wrong happened in your department with the hiring of that person. Everything else followed from there. You wash your hands of it and say, "That is life."

Mr SHAVE: The Ministry undertakes many investigations.

Mr Riebeling: Not many in this case.

Mr SHAVE: It undertook investigations. The member for Willagee is very upset by the fact that the person behaved over-enthusiastically.

Ms MacTiernan: What was he doing on those other investigations?

Mr SHAVE: On the one hand the member for Armadale says, "You do not do anything at the Ministry of Fair Trading."

Ms MacTiernan: You don't.

Mr SHAVE: How often have we heard in the past 12 months when the member gets up on her feet, "You are not doing anything. You are not charging anybody. Why is Charles O'Leary still walking around the streets?"? The member for Willagee started running a campaign in here and outside saying, "My sister has been victimised."

Mr Riebeling: Rubbish.

Mr SHAVE: Do not say "Rubbish". That is exactly what he has said. Why does he not read some of the transcript?

Mr Riebeling: Why do you not take on some responsibility?

Mr SHAVE: No. Why does the member not get it right? We have two people, one of whom says that the ministry is doing nothing, is inefficient and protects people and the other of whom says it is victimising people.

Mr Riebeling: You are a joke.

Mr SHAVE: I might be a joke but I can count. Unlike the member, I can tell the difference between two weeks and one year and two weeks.

Mr Carpenter: You are very good at counting.

Mr SHAVE: Yes I am.

Mr Carpenter: Setting that aside, is there a problem when your Ministry of Fair Trading employs a self-confessed,

corrupt policeman and sets him loose on the public and when there is a complaint about it, you not only do nothing about it but also attack the complainants?

Mr SHAVE: What the member is saying is not true. The member is saying that I and the department did nothing about it.

Mr Carpenter: What did you do about it?

Mr SHAVE: Dr Loudon was employed. He commented that he has a high regard for the member. God knows why! He also said fundamentally that some of the things Stockton had done, one of which was to mention in the course of discussions that he was an ex-police officer -

Mr Carpenter: Did Dr Loudon discover that Stockton was a self-confessed, corrupt policeman who admitted threatening witnesses, stealing money and giving false evidence?

Mr SHAVE: He did not have that information available. It was given under secrecy provisions.

Ms MacTiernan: How did the Opposition find out about it when you were unable to?

Mr SHAVE: I suppose someone sent the Opposition some paperwork.

Ms MacTiernan: We made phone calls which your department was told to make and did not make. We want you to explain to us why your departmental employees did not make those phone calls.

Mr SHAVE: Half the time I stand in this place and answer the member's questions when the member has the question and the answer from my department before anybody has briefed me.

Ms MacTiernan: That is absolutely untrue.

Mr SHAVE: No it is not. Although the member receives paperwork from someone on a W13 or a W6 or whatever the person was, Dr Loudon did not have that information. In fairness to Dr Loudon, his brief was not to find out where Stockton had come from but whether he had conducted himself in a proper manner. At the end of the day Dr Loudon came to the conclusion that some areas of the interview conducted by Mr Stockton were possibly not conducted in a manner Dr Loudon could support. I put that softly.

Ms MacTiernan: This is not a debate about Mr Stockton but how Mr Stockton came to be appointed and why your officers breached public sector standard after public sector standard, and why Mr Stockton was taken off the Sure Sales investigation and given all these other jobs when the justification for employing him in this very unorthodox manner was to investigate Sure Sales. Why was he taken off the Sure Sales investigation?

Mr SHAVE: When Mr Stockton was taken off the Sure Sales investigation, if he was -

Ms MacTiernan: He was promoted to another position.

Mr SHAVE: That does not necessarily mean that he was taken off the investigation.

Ms MacTiernan: He was going out and investigating other cases.

Mr SHAVE: Someone does not investigate only one case at a time.

Ms MacTiernan: Even a big case like Sure Sales, which is still not yet complete?

Mr SHAVE: I cannot be absolutely certain, but the member is possibly incorrect in her assumption that he was taken off the Sure Sales investigation. She will find that he was probably conducting both investigations. He was involved in the Luscombe issue because it became very public.

Ms MacTiernan: He was involved in the Luscombe issue before it became public.

Mr Carpenter: It was because he was involved that the issue became public; he was the cause. What worse breach of public sector standards can you have? The Minister is saying, "I do not see anything wrong with it. He was a popular man."

Mr SHAVE: I did not say that. The member is making statements to this Parliament that I made certain suggestions in this debate, which I did not do. He is suggesting that I have justified the way Mr Stockton behaved and that I support it.

Mr Carpenter: You did not say that?

Mr SHAVE: I did not say that.

Mr Carpenter: You have failed to say that something was very wrong in the way in which he was employed. Why did your department not make the checks recommended to it by the Royal Commission into the New South Wales Police Service? You should know exactly why not by now.

Mr SHAVE: The department did make checks with New South Wales.

Ms MacTiernan: When was that?

Mr SHAVE: If the member wants the date, I do not have it with me.

Ms MacTiernan: So the Commissioner for Public Sector Standards got it wrong.

Mr SHAVE: With what statement?

Mr Riebeling: The Minister never read the report.

Mr SHAVE: I did read it. I may look pretty silly but I am not that silly.

Mr Ripper: You got your CEO to read it to you.

Mr SHAVE: I got the CEO to interpret it for me.

Mr Carpenter interjected.

The DEPUTY SPEAKER: Order!

Ms MacTiernan: The Minister has said that he has read the report. It reads that in a reply on 17 January 1997 they - that is, your departmental officers - were referred to the New South Wales Police Service and informed that the question of future charges for any person affected by the commission would be a matter for the New South Wales Director of Public Prosecutions. He wrote that the ministry did not contact either body.

Mr Carpenter: Why not? You must know the answer by now.

Mr SHAVE: My understanding is that they did contact police officers in New South Wales.

Ms MacTiernan: Yes, his mates.

Mr SHAVE: They did contact the royal commissioner.

Ms MacTiernan: The royal commissioner then wrote back and said, "Contact New South Wales police and the New South Wales Director of Public Prosecutions." As this report finds, they did neither. They ignored the advice of the royal commission. They say they rang a couple of his mates, but there is no record of this on departmental files.

Mr SHAVE: The member has asked what has transpired and what action I will take in regard to this issue.

Mr Carpenter: Why did they not do what they should have done?

Mr SHAVE: Perhaps they made an error.

Mr Carpenter: It is a fundamental error.

Mr SHAVE: Let us suppose that the member runs a business and he has some people working for him.

Mr Carpenter: I do not run a business and neither do you. You are the Minister responsible for a department and we are asking you a question in that capacity. Answer it in that capacity.

Mr SHAVE: I will still make the point. The member for Willagee does not want to put himself in the scenario that he runs a business, but I will talk about the member for Dawesville who runs a business. He wants to employ someone and gives the job to the person in charge of hiring and firing the staff. That staff employment officer employs someone who does not tell him all about his past. Let us say that for some reason he conceals the facts. Let us say that the staff employment officer does not go through all the procedures he should go through in relation to that appointment, but goes ahead and appoints the person anyway. The member for Dawesville must make a decision on whether to sack the person or let him keep going. He has two choices.

Mr Carpenter: You did not do either of those.

Mr SHAVE: He must make a decision on whether to reprimand him, sack the person or ignore him. That decision is not my decision. If I started hiring and firing staff, I would be in breach of the regulations. In this particular instance the officer in charge of that section and the person principally responsible for the engagement of that officer has made a decision to leave the position. I will not say that the person shifted because she felt she had made an

error. I do not know the reason. I did not ask the acting executive officer the exact reason the person left, but I was advised that she had left the position.

Mr Carpenter: Which person are you talking about?

Mr SHAVE: Jenny Bunbury, the person principally in charge of the appointment of Stockton, who made these decisions and who was responsible for many of the matters raised in this issue.

Ms MacTiernan: There is bigger turnover in the ministry than in the Applecross branch!

Mr SHAVE: I ask for some time. The person responsible for the issues listed by the member is no longer working in the department.

Mr Carpenter: Is she still in your department?

Mr SHAVE: She has been seconded to the Department of Transport for a year.

Mr Carpenter: So you cannot find out anything from her? Have you asked the head of your department why the department did not do what the royal commission of New South Wales recommended; that is, check Stockton's background?

Mr SHAVE: They did check the background.

Ms MacTiernan: They did not. You cannot claim that ringing two of his mates and not making any record of the conversation with those two mates constitutes checking his record. The royal commission said that you should check the New South Wales Police Force and the New South Wales Director of Public Prosecutions.

Mr SHAVE: The member is digging up old ground.

Ms MacTiernan: You have been in Bangladesh. This is the first time we have been able to discuss it with you.

Mr Carpenter: The Minister is responsible for what happens in his ministry. Do you think it would be reasonable for a department which wants to employ a police officer, knowing that hundreds of police officers in New South Wales are leaving the force because of the royal commission, to check for some sort of corruption?

Mr SHAVE: In the view of the officers of the Ministry of Fair Trading, they went through a fair and reasonable process when hiring this officer. It is not as though Stockton was their mate and they wanted to give him a job.

Ms MacTiernan: We do not know that. The member for Burrup will be interested in this. The officers knew enough to know they should ring the royal commission. They rang and wrote asking if there were any adverse findings about this bloke. They were aware that it was a problem. The royal commission said they must check with the New South Wales DPP and they did not do that. They wrote a letter on the 15th and employed him on the 16th without waiting for the answer to come back.

Mr SHAVE: All these matters have been raised before in this House. I have given answers.

Ms MacTiernan: No you have not. We have not had the opportunity to question you.

Mr Carpenter: All you have done is attack me for bringing it up in the first place.

Mr SHAVE: No. The member for Willagee has been having a go at the Minister. He should not think he can sit in a glasshouse throwing stones, and that I will not have a shot at him. That is not par for the course. If the member attacks, he must expect people to have a shot at him.

Mr Carpenter: You attacked me for raising the matter in the first place. That was your initial response.

Mr SHAVE: Yes, and the member did not just go for the chap involved with his sister, he went for Mr Emerson in the list of 60 questions. Has the member checked Mr Emerson's history?

Mr Carpenter: No.

Mr SHAVE: Does the member know why he left the New South Wales Police Force?

Mr Carpenter: No.

Mr SHAVE: He was involved in internal investigations in NSW. There was a lot of concern and threats were made by people such as Roger Rogerson about the way he was behaving. He is a very fine officer. When the member for Willagee asked the 60 questions about Stockton, he conveniently included Emerson and talked about corruption in the New South Wales Police Force. I do not like that very much. In the member's grubby list of questions he tried

to tie Mr Emerson in by association. In my eyes, the member for Willagee is not a total cleanskin. Let us face it, my friend, the DPP has made a decision that the member's sister has a prima facie case to answer on 9 April. The member can put all the pressure on me he likes in an attempt to affect that decision, but it will not work with me. He will not get comments from me in relation to that process, because it will continue. If the member's sister gets off on 9 April, good luck to her, but the DPP believes she has a case to answer.

Ms MacTiernan: You have raised the issue of Mr Emerson. Can you assure us that you have checked Mr Emerson's background?

Mr SHAVE: I have not personally checked his background..

Ms MacTiernan: Has anyone in your department?

Mr SHAVE: My understanding is that they have.

Ms MacTiernan: And his prior employment history?

Mr SHAVE: My understanding is that they have.

Ms MacTiernan: Will you confirm that?

Mr SHAVE: Yes I will. In summary, the member for Armadale has asked what is happening in relation to the recommendations made by Dr Loudon, the Public Sector Standards Commission, and the investigator who made the last report. My advice from the ministry is that it accepts all the recommendations of all those people, and the ministry is moving to implement all the proposals. As far as the code of conduct is concerned, the ministry was always given until June 1998 to complete it and have it in place.

Ms MacTiernan: Really?

Mr SHAVE: That is what I am told. I understand the ministry is on schedule to implement that. If that is implemented within the time allowed by the commission and if the changes proposed by Mr Flack and Mr Loudon are implemented, I totally support that also.

Sitting suspended from 6.00 to 7.30 pm

MR BARNETT (Cottesloe - Leader of the House) [7.30 pm]: I will not speak for long as I am conscious that the Opposition wants to deal with another motion. I rise not so much to defend the Minister for Fair Trading, as he really does not need it -

Dr Gallop: He does not need it, does not want it, or does not deserve it - which one?

Mr BARNETT: If the Minister for Fair Trading were relying on my defence, I suspect that he would not feel reassured!

This motion condemning the Minister effectively amounts to a censure motion, which under the Westminster system means different things in different parts of the Commonwealth. Members will recall that Lord Carrington in the United Kingdom resigned as foreign affairs Minister when his department failed to alert the Thatcher Government of the Argentinean invasion of the Falkland Islands. Therefore, he fell on his sword and did the noble thing.

Mr Shave: That will not happen here!

Mr BARNETT: I do not think the Minister for Fair Trading is about to follow Lord Carrington's example, as noble as that gentleman was! That standard displayed by Lord Carrington is peculiarly British, and tends to be followed on either side of the British politics, but it is not a standard which should apply here.

I comment now on a Minister's responsibility for his agencies and his portfolio. It is true that Ministers are responsible, and the Minister for Fair Trading has in no way ducked his responsibility.

Ms MacTiernan: Come off it!

Mr BARNETT: Hang on. He is responsible. Members opposite need to consider what responsibility means. Had the Minister for Fair Trading given a policy direction that was wrong, he would be responsible and accountable. Had the Minister done something improper, as happened in the 1980s, that would be wrong; indeed, to their credit, several Ministers resigned their portfolios in the 1980s adopting that principle. However, responsibility does not extend to knowing every detail of every administrative facet within a department. The issue of ministerial responsibility arises in a number of senses. First, if the Minister makes a policy decision which is seen to be wrong, he has imparted policy and is responsible and accountable for that policy. If something is administratively wrong or improper in the department, and it comes to the attention of the Minister and he fails to act, he is equally responsible.

Mr Carpenter: You have hit the nail on the head.

Mr BARNETT: Let me finish. I am not overly familiar with the actions in this case, but the Commissioner for Public Sector Standards conducted an inquiry, and he made a number of recommendations which are being acted upon within the department under the guidance of the Minister. As the inquiry was held, and was in no way frustrated, recommendations were accepted, decisions were made and action was taken. Had the inquiry not been held, had it been curtailed or concealed, and had the Minister and his chief executive officer not acted on the recommendations, one might argue that the Minister neglected his responsibility. None of those things happened.

Mr Carpenter: You have not read the report!

Mr BARNETT: No, I have not.

Mr Carpenter: You don't know what you're talking about!

Mr BARNETT: I am discussing the issue of ministerial responsibility. I will not hold up the House.

The Minister did not make a policy decision that led to any misconduct. When allegations arose of improper or inappropriate administration within the department, the Commissioner for Public Sector Standards undertook the inquiry, and the Minister and the chief executive officer have acted to implement the recommendations. In the fullest sense of the Westminster system, the Minister has accepted responsibility and behaved responsibly. The member for Willagee may not like the circumstances in the department - I suggest that the Minister does not either - but when the matter came to the Minister's knowledge, the inquiry was conducted and the action was taken. That is the essence of responsibility under the Westminster system. Therefore, in no way should the Minister be condemned. Members have properly raised an issue of significant public interest; however, it is wrong to translate that to say that the Minister has not been responsible. His actions have been responsible.

This is a nonsense motion. The Opposition has raised a legitimate issue, but it is wrong to try to direct it at the Minister. He probably does not want or need my defence. He has acted as a Minister should and has acted responsibly.

MS MacTIERNAN (Armadale) [7.38 pm]: Mr Speaker -

Mr Shave: You've already spoken on this motion.

Ms MacTIERNAN: Could somebody explain the standing orders to the Minister for Fair Trading as it is apparent that, as he does not understand the notion of ministerial responsibility, he does not appreciate that we have a right of reply.

Mr Shave: For someone who has never been a Minister, and never will be, you're a good judge!

Ms MacTIERNAN: I will certainly be a Minister. The sooner the Minister for Fair Trading becomes Premier, the sooner we will be in government! As I said to the Deputy Leader of the Liberal Party, who we know would make a much better Premier, we are putting our support behind this man, the Minister for Fair Trading, as he would be the most amazing Premier ever!

The SPEAKER: Order, members!

Ms MacTIERNAN: I am surprised that a man of the calibre of the Leader of the House could tonight have risen in defence of the Minister for Fair Trading. Obviously, he drew the short straw in the ministerial raffle today. The Leader of the House defended the strategy of the Minister for Fair Trading; namely, he determined at the beginning of his term to take no active involvement in the affairs of his department, to learn nothing about that department and to do no work - to hear nothing, see nothing and say nothing - so he would be absolutely immune from any notion of ministerial responsibility. As the Minister and the Leader of the House are well aware, that strategy is an absolute nonsense.

It was made clear again tonight that the Minister for Fair Trading does not accept the concept of ministerial responsibility. He is completely incapable of accepting that ministerial responsibility requires him, first, at the very least, to accept responsibility when major breaches of professional and ethical standards have occurred. This is an important issue. This concept of ministerial responsibility has been thrown out by the Minister, who believes that he is immune if he does absolutely nothing. He must accept that ministerial responsibility requires him to take the blame, to take some responsibility when senior officers in the administration of his department have committed major breaches of professional and ethical standards. Secondly, it requires him to take action to ensure that the persons who have breached the standards are disciplined, in some way, and that systems are put in place to limit the possibility of that happening again. In his entire presentation tonight, the Minister has not referred to one strategy that he has put in place since this damning report came out.

Mr Shave: The recommendations have either been implemented or are in the process of being implemented. I have already said that. The member should check *Hansard*. The problem is that I said that at around 5.58 pm and the member was too busy rushing to dinner.

Mr Carpenter interjected.

The SPEAKER: Order! We have allowed a fair number of interjections. Some have been pertinent to the debate, and some have added to the debate, but the level of interjections now is unacceptable.

Ms MacTIERNAN: The Minister has not been prepared to accept the seriousness of the issue. In his response tonight, the Minister has not been prepared to accept the seriousness of the breaches of standards. He does not even seem to know the facts. I repeat: Eight breaches of standards occurred in the appointment of Mr Stockton. The job was not advertised. A job description was not prepared. There is no record of interview, nor a record of a reference check. The ministry officers were aware that there was a potential problem with the status of Mr Stockton, because they contacted the Wood royal commission, but they employed him before they received a response. They then ignored the advice of the Wood royal commission to contact the New South Wales Director of Public Prosecutions and the New South Wales police. Less than one month later, as a matter of urgency, they extended his contract from three to six months. They then promoted him, even though the job that he had been engaged to do as a matter of urgency had not been completed, and the victims of the scheme are still awaiting some remedy.

The Minister knows about numbers. He must know that this simply does not add up. We do not know what happened in the department -

Mr Shave: How many inquiries do you want? You have had two!

Ms MacTIERNAN: The Opposition will be running its own inquiry. It knows that the Minister is happy to accept the perks and the pay that goes with a position in the Ministry but he is not prepared to accept any element of ministerial responsibility, and he is not prepared to discharge the duty he has to this Parliament and to the public.

Question put and a division taken with the following result -

Ayes (19)

Ms Anwyl	Dr Gallop	Mr McGinty	Mrs Roberts
Mr Brown	Mr Graham	Ms McHale	Mr Thomas
Mr Carpenter	Mr Grill	Mr Marlborough	Ms Warnock
Dr Constable	Mr Kobelke	Mr Riebeling	Mr Cunningham (<i>Teller</i>)
Dr Edwards	Ms MacTiernan	Mr Ripper	

Noes (31)

Mr Ainsworth	Mrs Edwardes	Mr Marshall	Mr Sweetman
Mr Baker	Dr Hames	Mr Masters	Mr Trenorden
Mr Barnett	Mrs Hodson-Thomas	Mr Minson	Mr Tubby
Mr Barron-Sullivan	Mrs Holmes	Mr Nicholls	Dr Turnbull
Mr Bloffwitch	Mr Johnson	Mr Omodei	Mrs van de Klashorst
Mr Board	Mr Kierath	Mr Pental	Mr Wiese
Mr Cowan	Mr MacLean	Mr Prince	Mr Osborne (<i>Teller</i>)
Mr Day	Mr McNee	Mr Shave	

Pair

Mr McGowan

Mr Court

Question thus negatived.

GLOBAL DANCE FOUNDATION

Motion

MR GRAHAM (Pilbara) [7.50 pm]: I move -

That this House notes that the Premier has constantly claimed that -

- (a) he was given advice to fund the event prior to his committing funds to Global Dance on 22 December 1994; and

- (b) he has provided all information and advice to the Public Accounts and Expenditure Review Committee,
- and now this House -
- (c) directs the Premier by Thursday, 9 April 1998, to table the advice that he was given prior to his making the decision to fund the event on 22 December 1994; and
 - (d) directs the Public Accounts and Expenditure Review Committee by Thursday 9 April 1998, to release the advice that the Premier has referred to.

The first part of the motion restates the Premier's oft stated assertion that he has acted only on the advice of the relevant authorities - he repeated that statement on 11 March. Members will be aware that on three occasions I have sought from the Premier the advice which he claims to have and on which he based his decision of 22 December; that is, the decision to fund the Global Dance Foundation.

Members opposite are now suggesting that that is not when the decision was made. That is not accurate; it is not open to government members to argue that. The following people say the decision was made on 22 December: The Premier in evidence before a parliamentary committee; the Western Australian Tourism Commission; and Peter Reynolds, the proponent. The evidence given in a whole range of places, not the least of which is the Public Accounts and Expenditure Review Committee report, makes it clear that that is when the decision was made and that it was made by the Premier, because no-one else could make it - as Treasurer, he is the only person who can approve the funding - and he did that on 22 December.

After questioning, the Premier produced one piece of evidence that he claimed supported his case. He did that after questions on 18 March when he tabled a treasury paper. The Premier says that he did not deal with Mr Hall but with the Under Treasurer. The evidence he tabled to defend himself is signed by Mr Hall - not the Under Treasurer. The letter states -

Following a meeting with the promoter, Mr. Peter Reynolds on 22 December 1994, it was agreed that the WA Tourism Commission would commit \$430,000 to promote a World Dance Congress to be held in Perth in late 1996 . . .

Even the evidence that the Premier tabled pins it down to the meeting of 22 December.

Had the letter been written prior to 22 December, it would have done exactly what the Premier says it does; that is, establish that he acted on the advice of the proper government authorities. However, the letter is dated 1 June 1995 - six months after the decision was made to fund the event.

This motion makes it clear that it is time for the Premier to put up or shut up. He cannot continue to claim that he was advised to fund this event, as he does and as he has done as recently as last week, and then say he does not have the evidence or that he will not produce it. He is saying two things: First, that he only ever acted on the advice of the responsible authorities; and, second, that all the information was given to the Public Accounts and Expenditure Review Committee.

The motion does two things: First, it directs the Premier to produce to this Parliament the evidence he claims clears him. We are now in the extraordinary position of having a politician in the middle of a political wrangle claiming to have evidence to clear himself and not producing it. That is extraordinary. The motion asks the House to direct the Premier to produce the evidence he claims to have. It is quite simple.

The second part of the motion directs the Public Accounts and Expenditure Review Committee to release all the information that the Premier claims to have provided to it. The Premier has been very good in appearing before the committee and saying that he will provide any evidence it wants and then telling this House that he has given it to the committee. As members know, giving the evidence to the committee locks it away unless the House authorises it to be released.

It is unfortunate that I do not have time to cover the arguments for and against. However, there is no doubt that the decision was made on 22 December and that the Premier has claimed repeatedly, and has introduced new evidence into this Parliament a week ago, that, notwithstanding the advice given by Mr Hall from Treasury, he spoke to the Under Treasurer. He said that he gets advice from the Under Treasurer on these matters. He was asked whether the Under Treasurer advised him in this case and he responded that he spoke to the Under Treasurer on this matter as he does when signing off on other matters. He was asked whether he overruled Mr Hall.

The Premier accused me of becoming confused. He said that Mr Hall gave evidence of his involvement but more than one person was involved. We do not know who was that other person. We have yet to receive evidence from

the Premier as to who advised him. We also have the official documents that recommend against it. After the event, we have the official documents that make it clear the decision was made by the Premier on 22 December. It is simple.

I commend the motion to the House. I have little doubt that it will get knocked off on party lines. However, I live in a land of constant surprise and amazement. We have seen stranger things happen during the past week. Perhaps I will be surprised. It is now put up or shut up time for the Premier. He says that he was advised by the proper authorities to fund this event. He must now produce the evidence to support his case. To date he has not done so.

MR OSBORNE (Bunbury) [7.56 pm]: The last statement made by my parliamentary colleague and good friend the member for Pilbara is correct: It is time to put up or shut up. However, he is making that statement to the wrong person. The Premier has stated time and again in this place that all the evidence that possibly pertains to this matter has been made available to the Public Accounts and Expenditure Review Committee - no more documentation is available. How is it possible for the Premier or anyone else in government to produce any more evidence to the House that clears him?

I remind the House that the Premier was cleared in the committee's report.

Mr Graham: He was not.

Mr OSBORNE: The committee clearly found that the Premier did not act improperly. In everything he did upon receiving the proposal from Reynolds and referring it to the Tourism Commission and calling the meeting of 22 December - about which the member is so excited and appears to have misinterpreted because of his view of the Premier's motives - the Premier did nothing improper.

It is worth reminding ourselves of the purpose of the 22 December meeting. The Premier was receiving contradictory advice from his department and the congress proponent. He had Reynolds saying that the commission was acting too slowly and the commission saying several distinct, different and contradictory things: First, it said that it had thoroughly analysed the congress and that it was worthy of support; second, that Reynolds wanted the \$430 000 in one bite but that was not appropriate; and, third, if it was not provided in one go he would take the congress elsewhere. The Premier did what he was supposed to do: He called the meeting and said that the commission kept telling him the congress was worth pursuing but the only method of making the payments would stall or kill the project for Western Australia. What are we going to do about it? That meeting of 22 December decided, and it was found in evidence that it was a consensus decision, that another way to make the money available to the project had to be found.

The Treasury Department advised the Premier and Treasurer as the Premier, in answer to a question without notice on 9 April in this place, has confirmed - that as the Treasurer, he was authorised to make the supplementary funding available to the Tourism Commission. The member for Pilbara keeps saying that the Premier approved the payment. Of course he did not, because he did not have to do that, and he did not have the authority to do it either. As Treasurer, what he had the authority to do was to take that supplementary funding from the Treasury Department and move it across so that it became available to the Tourism Commission, and the Tourism Commission was then responsible for signing the contract which would make the money available to the project. The Tourism Commission did that, as it was legally entitled and responsible to do, on 4 May 1995.

The Premier did not "approve" the funding in that literal sense that the member for Pilbara is trying to imply. The Premier authorised the money to be made available from the Treasury Department's supplementary funding. The funds moved over to the Tourism Commission, and the Tourism Commission - as it was supposed to do and as it was subsequently found it did not do effectively - scrutinised the project, did all of the proper processes and checks and made the information properly available to the project proponent, and then duly signed the contract.

The issue is quite clear. The member for Pilbara has been picking at a scab in his normal way. There is not even a scab there. There is not even something for him to pick at. He is wasting his time. It is put up or shut up time. He is the one who has not managed to do it. The motion should fail.

MR GRAHAM (Pilbara) [8.01 pm]: It is quite amazing! I do not want to start a blue between committee members, but I want to make it clear why the meeting of 22 December is important. The Public Accounts and Expenditure Review Committee spent an entire chapter of its report addressing that meeting, and the report said -

The meeting of 22 December 1994 was a watershed, turning what had become a lengthy stalemate in negotiations into a proposal with \$430 000 of Government funds committed to the project.

The rhetoric concerning when the decision was or was not made can be dispensed with.

The second point made by the member for Bunbury is that the Premier did not make a decision then; it was arrived at by consensus. Only the Treasurer can approve supplementary funding; no other person. If the decision was made

by someone else it was in fact illegal. It had to be made by the Premier. The Financial Administration and Audit Act allows for no other person to make the decision. The major outcome of that meeting is in the Public Accounts and Expenditure Review Committee's report, and it says this -

(5.8) There were two major outcomes of the meeting:

1. The event would be supported by the Treasurer making \$430 000 available to the WATC . . .

All we are asking of the Premier, and of this House, is that the Premier produce the evidence on which he made that decision. He has not done it to date.

Question put and a division taken with the following result -

Ayes (19)

Ms Anwyl	Dr Gallop	Mr McGinty	Mrs Roberts
Mr Brown	Mr Graham	Ms McHale	Mr Thomas
Mr Carpenter	Mr Grill	Mr Marlborough	Ms Warnock
Dr Constable	Mr Kobelke	Mr Riebeling	Mr Cunningham (<i>Teller</i>)
Dr Edwards	Ms MacTiernan	Mr Ripper	

Noes (32)

Mr Ainsworth	Mrs Edwardes	Mr Marshall	Mr Shave
Mr Baker	Dr Hames	Mr Masters	Mr Sweetman
Mr Barnett	Mrs Hodson-Thomas	Mr Minson	Mr Trenorden
Mr Barron-Sullivan	Mrs Holmes	Mr Nicholls	Mr Tubby
Mr Bloffwitch	Mr Johnson	Mr Omodei	Dr Turnbull
Mr Board	Mr Kierath	Mrs Parker	Mrs van de Klashorst
Mr Cowan	Mr MacLean	Mr Pental	Mr Wiese
Mr Day	Mr McNee	Mr Prince	Mr Osborne (<i>Teller</i>)

Pair

Mr McGowan

Mr Court

Question thus negatived.

CRIMINAL CODE AMENDMENT BILL

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Mrs Holmes) in the Chair; Mr Prince (Minister for Health) in charge of the Bill.

Clause 3: Section 201A inserted -

Progress was reported after clause 3, page 2, lines 19 to 21, as amended, had been agreed to.

Clause 3, page 2, lines 22 and 23 -

Mr KOBELKE: We are looking at proposed subsection (3)(a), which is the requirement of proof that a woman's pregnancy is causing serious danger to her physical or mental health. This requirement is to ensure that the abortion is justified and, therefore, not caught by the provisions of the Criminal Code. This test will be required to be met, along with the requirement of informed consent. Informed consent has been raised in the debate by a number of members. I find the expression to be really quite meaningless because informed consent simply requires that consent is given after receiving counselling. Without a definition of "counselling" involving some requirement, certification or some other means of ascertaining it, counselling will mean nothing. It could simply be someone saying, "How are you? Are you feeling well? Thank you very much." There is no definition of what counselling will be. That may be addressed by later amendments so I will not continue with it, but I need to mention it because it relates to the judgment members make about the intent. Also the effect of proposed subsection (3)(a) must be taken in the total context.

During the second reading debate I mentioned that Professor John Finnis, who is professor of law at University College, Oxford, had considered the Bill. He gave an overview which indicated that, as it stood, the Bill would give us perhaps the most liberal abortion laws in the western world. Professor Finnis was asked for an opinion on the

standing of the Bill if only proposed paragraphs (a) and (b) were carried; that is, the Bill as printed with proposed paragraphs (c) and (d) deleted, which is a possible option as a result of this debate. His letter reads -

My comments on the Bill, in my letter of 11 March to Right to Life Australia, were, of course, comments on the Bill as it stands - i.e. on its legal effect if enacted in its present form. You ask what its effect would be if enacted in a form excluding subclauses (3)(c) and (d), or (3)(b), (c) and (d).

The practical effects might well be quite similar to the effects of enacting all four subclauses. Abortion would be lawful right up to the completion of birth, on the say-so of a single doctor with a strong financial interest in being willing to declare that there was "serious danger" to "mental health".

Note that there is no clear requirement that the "serious" risk need to be *serious* damage to health. Members of Parliament may hear the ambiguous words "serious danger" as if they meant "serious risk of serious harm", and may even hear assurances that this is what is intended. But it is unlikely that the courts will so interpret those words. For criminal statutes must be construed in favour of the defendant, and the ambiguity will therefore very probably be resolved in favour of the meaning "serious risk of *some* damage however *slight and transient*". The category "transient, non-psychotic situational disturbance to mental health" was for some years used by the Government statisticians in Britain to record the abortions performed under the Abortion Act 1967. The overwhelming majority of abortions were performed for a reason accurately described by that phrase (now publicly suppressed as too embarrassingly transparent). Its meaning approximates to "significantly inconvenience for the woman and/or others who have a strong interest in terminating her pregnancy".

Abortion legislation defines the boundary of the community's protection of its own members. The law we inherited from previous centuries, settled in substantial ignorance of what goes on after conception, made birth the official beginning of citizenship and "legal personality" but did still treat killing the unborn as a very serious violation of human rights. This Bill, even with subclauses (c) and (d) excluded, treats with frivolity the reality, interests, and moral rights of babies identical to the unborn babies whom physicians down the road, or in the next ward or room, are skilfully saving from illness or death in the womb.

Any *serious*, responsible legislation would create firm legal and administrative structures to give unbiased assurance that alleged dangers are real, that the damage feared is serious and lasting, that counselling truthfully presents the consequences for the unborn too, and that consent is truly informed, considered, and free. Doubtless such legislation would still be more or less unjust to many unborn children, but at least it would not be casually indifferent - like the present Bill in any of its forms - to their rights, interests and reality as persons entitled to some genuine protection by their community's law.

Mr BAKER: My question to the Minister relates to paragraph (a) and indirectly perhaps paragraph (b). In his second reading speech the Minister said that paragraphs (a) and (b) contained the Davidson test. The Minister went on to say -

It is still open to interpretation. I see paragraph (b) as extending to those terminations where a foetus is determined to have a serious genetic defect, for in most cases the requisite of harm to the mother would be satisfied.

If I might read the decision in Davidson and then compare the test -

Mr Prince: You do not intend reading the whole thing?

Mr BAKER: I will read the test, the ratio decidendi, compared with the phraseology used in paragraph (b). The judgment of Davidson is reported at (1969) V.R. 667. Justice Menhennitt at page 672 is reported as saying -

... the Crown must establish either (a) that the accused did not honestly believe on reasonable grounds that the act done by him was necessary to preserve the woman from a serious danger to her life or her physical or mental health (not being merely the normal dangers of pregnancy and child birth) which the continuance of the pregnancy would entail; or (b) that the accused did not honestly believe on reasonable grounds that the act done by him was in the circumstances proportionate -

I emphasise the word "proportionate".

- to the need to preserve the woman from a serious danger to her life or her physical or mental health (not merely being the normal dangers of pregnancy and child birth) which the continuance of the pregnancy would entail.

I understand of course that the Minister has tried to state in a very succinct manner the gist of the Davidson test in

paragraphs (a) and (b) of the Foss Bill but I cannot find anywhere in either of those paragraphs reference to the proportionality or the usual dangers tests. We have heard much in this Chamber about the need to remove any uncertainties in the Bill, so that the legislation is not ambiguous. All members would agree we should try to do that at all times when drafting Bills.

When I compare the Davidson test with the text in paragraphs (a) and (b), two important features seem to be missing. One is the "proportionality" test and the other is the "normal dangers" test. I know that in the extract from which I quoted the judge was summarising what the Crown must prove, and he also referred to the alternatives. I accept that. In any event, I understand that if an accused person wishes to avail himself or herself of a defence, he or she must raise some evidence in support of the defence. At all times I accept that the Crown is responsible for proving beyond reasonable doubt each and every element of an offence. Why are the proportionality and normal dangers tests not included in paragraphs (a) and (b)?

Mr PRINCE: In a sense it is difficult in any legislation to state the law as expansively as a court might, and in the same detail. The Attorney has sought to express in paragraphs (a) and (b) in a succinct form, that which represents the Davidson test. Any court that may at some future date look at these words, should they become law, is bound also to look at the second reading speech, if not the debate in total. A very clear statement is made in the second reading speech -

Paragraphs (a) and (b) contain the Davidson test.

Therefore, by those few words, one imports into the law the totality of the Davidson test, which is an either/or situation. If an abortion is to be deemed unlawful, the Crown must establish beyond reasonable doubt one of two things; that is, either that the accused doctor did not believe on reasonable grounds that the abortion was necessary to preserve the woman from serious danger to life or physical or mental health, not being the normal dangers of pregnancy or childbirth which continuation of the pregnancy would entail, or that the accused doctor did not honestly believe on reasonable grounds that the act done by him was in the circumstances proportionate to the need to preserve the woman from serious danger to life or physical and mental health, again, not being the normal dangers of pregnancy and childbirth which the continuation of pregnancy would entail.

In a sense, one is a present danger and the other is a reasonably held potential future danger. That is why it is an either/or provision. In paragraph (a) of the Bill are the words "her pregnancy is" - using the present tense of the active verb. In paragraph (b) are the words "serious danger to her physical or mental health will" - that is the future tense. Consequently, it seems to me that by a succinct expression of words, in his drafting the Attorney has imported into the Bill the otherwise longer definitions that appear in the Davidson case. The problem with the Davidson case is that Justice Menhennitt considered the Victorian Crimes Act which is not the same as Western Australia's Criminal Code - it does not have anything like section 259. Nonetheless, it has been regarded as operable in this State for at least 25 years. The way in which that is expressed imports the full Davidson test into this Bill.

Mr BAKER: I accept the need for certainty. There are two ways of looking at that issue. We could look at the certainty in the content of the Bill, or look at the certainty of the provisions when the Bill is read in conjunction with the second reading speech or a parliamentary debate. It would be more appropriate to include all key words and phrases within the text of the Bill, rather than expect a member of the public, for instance, who is trying to determine the intent of the provision to research parliamentary debates and read them to understand what the intent is.

I understand that the Davidson test contains variables, but there are two common denominators in each of those variables: The normal dangers of life - the subtest - and also the proportionality test. For the sake of certainty, and to allow the clause to stand alone, perhaps the Attorney should have considered including those important words and phrases within the texts of paragraphs (a) and (b).

Beyond that, it is not as though we are dealing with several pages of decision. We are dealing with succinct phrases and key words that could be incorporated. I am concerned about certainty. I know it is said that paragraphs (a) and (b) are intended to contain the Davidson test.

Mr Prince: No, the statement is that paragraphs (a) and (b) contain the Davidson test.

Mr BAKER: As a matter of law, they do not. The Attorney General intended that they contain the Davidson test, but clearly they do not. I am concerned that some members may not be aware that the Davidson test includes a proportionality test and a normal dangers subtest. It would assist members of the public if what they saw in the Bill was what they got.

Mr PRINCE: The difficulty is that either one is very detailed and spells out with great precision particular circumstances, so that any decision making process is purely mechanical and involves no element of judgment, or one makes statements of principle. In criminal law it is always the case that a statement of principle is made. The

principle may be fairly narrow but an element of judgment is left as to the application of a set of principles to individual circumstances. With the statement that paragraphs (a) and (b) contain the Davidson test, any reasonable judge would recognise that it referred to the Davidson test as expressed by Mr Justice Menhennitt in the Victorian Supreme Court in 1969, and then go to that case for further elaboration. If the member wanted to spell it out in the detail that the good judge did 29 years ago, it would be cumbersome and very long legislation, and it would be unnecessary to do so. It would not be a good idea from a legal drafting point of view because the same thing is achieved by the two paragraphs and the statement that these contain the Davidson test. Any lawyer appearing in a court would so argue, and I would expect the court to so find.

The problem is whether one is looking for criteria that are so tight and specific that the judgment process is one of simply following the criteria, or whether one is making statements of principle and direction that require those who make the judgments to make a judgment and stand by it. We are dealing with criminal law, and those who make the judgments on this law and who are wrong, incur a criminal sanction. That is a significant imposition upon them in making those judgments, whether it be the woman, the medical practitioner or others involved. That should never be treated lightly, and I make that point with as much force as I can.

I want to say that it does not require us to amend paragraphs (a) and (b) for it to be taken to be the Davidson test. As far as any individual wanting to find out what it means, doctors are trained in many matters. One of the aspects in which they should be trained - to some extent they no doubt are - is that the law permits them to carry on their profession. Certainly in every other profession, trade and calling the law that regulates them is part of their training. In that sense the obligation is on those who educate the doctors to ensure their knowledge is full, comprehensive and kept up to date as undoubtedly it is with medical procedures.

In that sense for some time we have probably, as the Deputy Premier has said frequently, practised that which has diverged from the strict interpretation of the law. That is a debatable point. However, there is no doubt that, as a result of the debate in this House and the other place, those who train our doctors must re-examine the accuracy of what they teach and how they teach it. In that sense, if nothing else, much good will come out of this because doctors will be much better informed. It is expected that the patient will rely on the doctor for professional judgment, advice and knowledge about what is lawful in carrying out the medical procedure.

Ms WARNOCK: I am very disappointed to hear that we are still arguing about matters such as this when we have had a week and a half to examine them very carefully. We discussed them thoroughly during the second reading debate. I expected that by this time my colleagues on both sides of the Chamber would be prepared to vote on this matter. I am very disappointed that colleagues on my own side, including the member for Nollamara, seem unable to trust women to make judgments about their personal lives and to trust their doctors to make those decisions with them in good faith. I am disappointed that he should be treating women's desires and decisions so frivolously and with such contempt.

Mr Cunningham: There is more to come.

Ms WARNOCK: The community wants us to make a decision about this soon. As we know, court cases have caused these matters to be heard in both Houses of Parliament. The community has made its views perfectly clear in a number of surveys. The majority of people in this community want us to resolve the difficulty that has arisen as a result of the charges and to provide an opportunity for women and their doctors to make decisions in these personal, painful matters. They do not want us to make the matter more restrictive nor argue against these matters until the millennium.

With the deepest sincerity I beg my colleagues to vote on this matter. In the past several weeks we have heard the views of the community. It is now incumbent on us to make a decision.

Mr BRIDGE: During 18 years in this Parliament I have frequently heard that we must get on with the job and that people expect us to make decisions. As a result we have often made decisions hastily.

I was thinking about this issue tonight, as I have for a number of days. I thought about the social reforms that would make society better and that were introduced into this place during the past 18 years, but society has gone backwards. The elements of society have not been enriched by some of the reckless decisions made in this place.

Mr Cowan: Name a couple.

Mr BRIDGE: The Acting Premier knows the issues I have stood against. His memory is quite clear; I do not need to elaborate.

Last night we argued strongly that counselling was a significant and proper part of the checks and balances at the end of the process. Clause 3 is where the relevance of the argument is identified. It does not talk about counselling, yet it should. It does not seek to provide for properly funded family counselling by government bodies and others.

Members should acknowledge how lean it looks. Paragraph (b) refers to pregnancy causing "serious danger to her physical or mental health" and says nothing more. There should be some padding setting out checks and balances and describing them as simply as possible. The great tragedy about this debate is that we have become too technical and too smart. We have moved away from simplistic issues that are fundamentally important.

The arguments made last night in support of counselling have absolute relevance to paragraph (a). I do not know how it can be done, but the aim of this Bill should include a clear provision for government funds especially in the light of the considerable criticism of the shortcomings of government. This legislation is the rightful place for identifying that obligation.

Members are speaking for very good reasons; it is not a matter of prolonging anything but of trying to agree on a very important issue. A call for hastiness is something that I have often heard, but which in the past 18 years has resulted in society being kicked very hard.

Dr HAMES: As you know, Mr Chairman, we are about to debate four consecutive paragraphs that give increasing degrees of choice to women. Although we know that some members, such as the members for Moore, Kimberley and Girrawheen and a few others are strongly opposed to abortion under any circumstances, it is fair to say from the debate in this Parliament that most of the people who are here support at least paragraphs (a) and (b) which combine to form if not the Davidson test at least close to it.

The debate on whether it is the Davidson test pure and simple or a variation is irrelevant. In summing up the Davidson case the judge makes a very clear point that the case requires the accused to establish honest and reasonable grounds that what was done by him was necessary to preserve the woman from a serious danger to her life, or her physical or mental health, not being merely the dangers of pregnancy and childbirth.

Mr Prince: The Crown must establish beyond reasonable doubt that the accused did not believe on reasonable grounds that the abortion was necessary. You have turned it around.

Dr HAMES: The Minister for Health has made a legal argument on what the judge said and how that was interpreted. Based on what occurred the jury probably should have found the doctors guilty, because it was hard to establish those points. However, the jury found those doctors not guilty. It would be difficult for any jury in those circumstances to determine the facts. What the judge recommended and the jury decided are not relevant in this case. What is important is that the general principles of Davidson have been set out in paragraphs (a) and (b) and there is general support in this Chamber for those two paragraphs. The real issue for debate is whether we support paragraphs (c) and (d). Members who have strong objections and varying views should put forward their arguments during debate on paragraphs (c) and (d). I understand that the member for Kimberley and the member for Moore will speak against each option.

Mr Bridge: I have been consistent. I will go along with checks and balances, but only where they are clear to me.

Dr HAMES: It is probably important for the member for Kimberley and his colleagues to make their point at every step along the way. I suggest to other members, who probably support paragraphs (a) and (b), that the time to put their argument is during debate on paragraphs (c) and (d).

Ms McHALE: This is the crux of the debate. We have four options. Members may view those as independent, stand-alone options. By virtue of the fact we will vote on each of them they will stand alone. However, each option is part of a whole. With the exception of (d) each is deficient and does not address the needs of the community. No doubt the majority of members will support (a) and (b). As the Minister for Housing said, it is in (c) and (d) that the divisions we have felt and seen will probably come to the fore. However, it is important that we also look to our responsibilities to the community.

During the second reading debate a number of members made their anti-abortion position clear, and they will be voting against (a) to (d). A number of members have said they want to leave things as they are and a number have said we can no longer leave things as they are because the status quo has fundamentally and permanently been challenged by the Chan case. However, if members want to recreate what we have had for the past 25 years they will at least vote for (a), (b) and (c). Members who vote for (a) and (b) should not think they will be voting for the status quo, because they will not. They will be voting for a restrictive and repressive piece of legislation which will limit the availability of abortions or terminations to a few.

The status quo is no longer an option. We have heard that (a) and (b) might not fit the Davidson test, but what the hell! We are not concerned with legal niceties. We are constructing a piece of legislation.

Mr Baker: Based on law.

Ms McHALE: Yes, absolutely. However, it should meet the needs of our community. Surveys have been conducted

by various interest groups and the results have been reasonably similar. Regardless of the position that one adopts on the continuum in relation to this issue the results indicate that the community wants access to safe legal abortion with conditions. I urge members who are wavering at (c) and certainly those who are wavering at (d) to think beyond their immediate feelings to what the community wants them to deliver. I believe that if we incorporate the points relating to termination after 20 weeks and the amendment proposed by the member for Swan Hills on counselling there will be a balance in the legislation which will give conditions for and access to safe abortions.

Paragraphs (a), (b), (c) and (d) represent a totality. That is my aim. I made that clear in the second reading debate. Please do not see these paragraphs as individual steps but as a total package.

Mr BARNETT: We have not progressed in this debate in the past three-quarters of an hour. This is the fifth day of debate on a three clause Bill. I do not underestimate the importance of the Bill and the conviction and views of members. However, I signal to members that on issues that are not particularly contentious we should be coming to a vote. If we do not soon come to a vote I will move to bring on the vote. Members will have the opportunity to decide democratically whether we bring these matters to a vote. It is my view that those issues where the consequence is inevitable should go to a vote quickly. That will allow debate to commence on the more substantive and perhaps contentious elements of this legislation.

Mr KOBELKE: I can understand that members who have different views from me might judge someone who wishes to explain the detail of the Bill and tease out its meaning as being obstructionist. That is not my intention. My intention is to get through to members who, unfortunately, do not want to hear or to understand, the likely effects of the words we are about to put into law.

Professor John Finnis is a strong pro-lifer. However, I do not think anyone can dispute his legal eminence. As I have said previously, he has suggested that the way in which these words will be interpreted will mean the open slather availability of abortion. As criminal Statutes are normally skewed in favour of the defendant, any ambiguity will be in favour of the defendant. A pregnancy causing serious danger to a woman's physical and mental health is likely to be construed by the courts as posing a serious risk of some damage, however slight and transient. For example, if we relate that to physical health a woman may be in a situation where there is some danger to her health. That problem might be removed by medication, yet the words before the Chamber will allow an abortion because the legislation specifies only that the pregnancy is a danger to her health. It is a different matter in (b).

Under (a) there does not have to be a justification that abortion is the only solution; there simply must be a physical danger to her health even though some simple medication would relieve that danger. That would be ground for an abortion based on the words in paragraph (a), which we are likely to pass. I will take another example; that is, the pregnancy is causing serious danger to the woman's mental health. That is even more wide open. A woman who has no history of mental illness or psychosis and simply threatens suicide would be judged at that moment in time as having her pregnancy cause serious danger to her health; therefore, the abortion would be allowed. I have great difficulty with paragraph (a). As far as I can see, it is open slather unless there is a range of controls and checks relating to counselling and the doctors involved. As they are not part of this Bill at the moment, I cannot accept paragraph (a) as it stands.

Mr BAKER: I will draw from an independent legal opinion in relation to the matters I have raised and my concerns about certainty. I have been given a copy of a legal opinion from Narelle Johnson, barrister, to Dr Harry Cohen of Subiaco - I think we all know of the good doctor - dated 17 March 1998. The relevant paragraphs in this opinion state -

The use of the qualifying term "seriously" necessarily involves a question of degree and invites differences of interpretation. The Bill also uses a number of other terms which themselves require definition. For example, the following questions are raised by sub-section (3):

1. What is meant by physical and mental health in these circumstances?
2. What degree of impairment constitutes a danger to physical and mental health?

A restatement of an earlier point is that -

Each of these terms requires some further definition and is open to a wide variety of interpretations. The potential result is a lack of uniformity and implementation of the law and in outcome of proceedings should prosecution action be taken.

For my purposes and those of Narelle Johnson, barrister, I ask the Minister to explain what is meant by mental and physical health in these circumstances. What degree of impairment constitutes a danger to physical and mental health and is it proposed to define further those key words and phrases in the first instance in paragraph (a)?

Mr PRINCE: No, it is not intended to define those words and phrases. As I said earlier, it is a matter of judgment. It is a statement of principle. The principles will have to be interpreted and applied to each individual case. Questions of uniformity are important, for people are different and circumstances are different; the physiologies are different, as are the mental health and mental capacities. Consequently, what is before us at the moment is a relatively restrictive justification for what would otherwise be a criminal act which requires judgment of the individual by a person who is deemed to be expert in judgment, and a decision that follows.

To be more prescriptive than that in a sense of defining criteria and listing them to lead to a more mechanistic decision making process is not intended in what is before us at the moment. In that sense some of the amendments, which have been dealt with but have not been passed, have attempted to define more restrictively. I am not seeking to be critical; I am merely seeking the words to express that. This is where the Committee must adopt the Davidson test. It does impose an obligation to exercise judgment.

Mr Baker: You agree that paragraph (a) is the subject of the test without reference to any objective criteria.

Mr PRINCE: No; it is not. It is an objective test because the medical practitioner must on reasonable grounds come to the conclusion that there is a serious danger to physical or mental health. "Serious danger" is the term used in the Davidson case. There is already a body of law to back the use of that term. It is an objective test because it must be subjected to the standard of reasonableness; therefore, it can be examined. If it were subjective, it would be very difficult to have it in criminal law. Because it is objective, it means that later in time other people can judge the reasonableness, or otherwise, of the actions of that doctor, at that time, with that patient, in those circumstances.

Ms McHALE: If the member for Joondalup is so concerned with the legislation being certain, perhaps he should also quote the advice from Narelle Johnson which commends the Bill that went to the upper House, the Davenport Bill, for being clear and unambiguous. This debate is nothing more than wasting time and having legal niceties. I am tired of the lack of contribution the member for Joondalup is making to this debate. I wish the vote to be brought on.

Clause 3, page 2, lines 22 and 23 put and passed.

Clause 3, page 2, lines 24 and 25 -

Mr PRINCE: I will make an observation about paragraph (b). Paragraph (a) is intended to be a summary and succinct statement of the Davidson case. It is logical that if paragraph (a) has been passed, paragraph (b) should also be passed. It relates to proportionality. As the member for Joondalup has pointed out, it is also the statement that leads to the ability to make a judgment about serious danger that will result. That is not present.

Mr KOBELKE: We seem to be setting out to achieve the worst of all possible worlds. I tried to put very clearly, but briefly, the problems I had with paragraph (a). The terms in it are too loose. The likely construction that we place on them in any legal case that comes forward is such that almost any reason could be put up as the ground for abortion based on paragraph (a). The grounds set out in paragraph (b) are somewhat different. It relies on the serious danger to the woman's physical or mental health resulting if the miscarriage is not procured. This shuts off one of the problems I had with paragraph (a); that is, it may be just a transient or passing danger which could be treated by some other means.

This paragraph is projecting that physical or mental health will result if the miscarriage is not procured. The Minister might try to explain this. It seems to me that the result is pretty wide open, that there is very little in the way of definition about what that judgment might be, even if it is just taken as standard medical practice of the day. Just this morning I attended a breakfast as part of an official function at which the Minister for Training was present. I was speaking to a person who said that his child has just completed first year university. When his wife was pregnant with that child she went to the doctor and was told that there were some complications. The very first suggestion from the doctor was that she should have an abortion.

The person whom I was sitting next to and whom I have known for some years said that that set them back; they were astounded that that was suggested. She said that it did not take her and her husband a lot of time - although they considered it - to decide that they could not take that option. That child is doing extremely well in its first year of university. If we accept "will result", will it be judged by the standard medical practice of the day? Any possible medical complication seems to be becoming a good reason for an abortion. I hope the Minister clarifies the matter, because the way it is worded opens it to a fairly wide interpretation.

Mr PRINCE: As the second reading speech states, it is intended that proposed paragraphs (a) and (b) contain a succinct form of the Davidson test to which I have referred. The points raised by the member are not unreasonable. However, I refer again to the point I made earlier about the criminal law. Relatively speaking, statements of principle are set as tightly as possible. They are standards of minimal behaviour. The criminal law is a set of minimal statements - the minimal behaviour acceptable in society. It is not the maximum or not necessarily even the most

desirable. What is set down here is a statement of principle that requires the exercise of the human wit, judgment, and particularly in this case, expertise.

I understand the example provided by the member for Nollamara. However, in the example he has referred to people who are not doctors who have heard the advice and have rejected it.

Dr Edwards: Choice!

Mr PRINCE: No, it is not choice; it is a decision involving advice, however persuasive it may be, from an expert. Proposed paragraph (b) is part of the Davidson test that refers to proportionality; that is, the proportion that is needed to preserve the woman from serious danger, which is something that it is reasonable to expect will happen - reasonable being a subjective test, subject to being examined in intricate detail later by others who were not there. It is not a subjective test; it is an objective test. As I said, it is a succinct way of stating what otherwise takes many pages of a case report. It is unlikely that any court would otherwise interpret proposed paragraphs (a) and (b), if they ever get to the stage of being interpreted by a court.

Mr KOBELKE: I thank the Minister for providing what I consider to be a lawyer's answer. However, it did not explain how "will result" will be interpreted.

Mr Prince: I am sorry.

Mr KOBELKE: I am not trying to put the Minister down. He is handling the Bill in a very reasonable way. The fact is that much medical practice is what is fashionable. A visiting lecturer in the area of doctor training and who was in Australia a few years ago said - her statement was so concise that I remember it - that when medical students are being trained, a great deal of what they are taught suddenly dates because research and medical practice changes. She said that it has been established that 50 per cent of the procedures that medical students are taught will be proved wrong in five or 10 years. She said that the difficulty is that the profession at a given time did not know which 50 per cent was right and which 50 per cent was wrong. So there are trends and fashions in medicine as there are in most professions. The meaning of "will result" in the matter of physical and mental health, if a miscarriage is not procured, will be common practice at the time. Therefore, what may be, as the Minister suggested, objective tests, may be a minor part of the balance. I have real concerns about the way these words will be interpreted.

Mr PRINCE: I accept what the member for Nollamara said, as a result of two and a quarter years as Minister for Health - the longest serving Minister for Health in the past seven years.

Mrs Roberts: Are you looking for a change?

Mr PRINCE: No. There is no way that I will let go for a long time yet.

People involved in medical education and medical research and practising doctors have told me that many of what are considered to be normal medical procedures for patients are an art as opposed to a science. However, more and more, there is a move to what is called evidence based medicine.

What is seen to be "serious danger to her physical and mental health" will change over the years as the science of medicine gets better or understands human beings more and more accurately. One hopes, therefore, that that which is then seen to be a "serious danger" will cover a smaller range than it does presently. That is inevitable with medical science. That means that it must be able to be judged objectively from outside. It is not a subjective test and it is not the be-all and end-all. These judgments and decisions are capable, in a criminal context, of being viewed by people who were not there and who must be satisfied beyond reasonable doubt that the doctor concerned did not have an honest and reasonable belief that there was justification for the procedure. That means looking at the science of the day, and it changes, and must change. That is another thing about which the medical professions should be better aware. Practices change and what was good practice five years ago may not necessarily be considered to be good practice today.

Mrs PARKER: I share some concerns with the member for Nollamara about the wording of proposed paragraph (b) and its interpretation at a later date. The Minister just said that, as time goes by, the conditions which pose a serious threat to a woman's health will, in time with the improvement in medical practice and knowledge, change and, one presumes, diminish. However, if we applied that principle to the past 20 years, there have not been fewer abortions in relation to the number of pregnancies. While I understand that in medical diagnoses that might be true, it does not appear to have happened in practice.

I understand the intent of proposed paragraph (b). However, I want words from the Minister for Health that will provide some reassurance and comfort - not only to me now but also so that they are on the record for interpretation of this law in time - on the application of the proposed paragraphs. I understand that it is difficult to codify them. However, it is the generality of proposed paragraphs (a) and (b) about which I have some discomfort, although I

understand the application of the Davidson case. The member for Nollamara seems to have the same discomfort about them. As I said in my speech in the second reading debate -

Justice Menhennitt defined the meaning of "unlawful" by reference to what is lawful. He settled on the principle of necessity which provides that an act which would usually be a crime can be excused if, first, -

Here he was referring to a termination -

it was done to avoid otherwise inevitable consequences, second, the consequences would have inflicted irreparable evil, third, no more was done than was reasonably necessary, and fourth, the evil inflicted by the act was not disproportionate to the evil avoided.

The principle contains two elements that I believe are vital in this debate: Necessity and proportion. They require that in order for a termination to be lawful, the pregnancy pose a certain danger to a woman's health before its termination. I would like some comment from the Minister about the principles of necessity and proportion. We accept that without fulfilling those requirements, this procedure would be unlawful and would be the taking of a human life, so there must be a serious reason that one would value the life of the mother above that of the unborn child. I look forward to some comfort from the Minister that an interpretation at law at a later time will reflect the gravity of the decision that has been made by the medical practitioner.

Mr PRINCE: The situation is that under our criminal law, the act of abortion is unlawful. It is authorised, justified or excused only in certain circumstances. Victoria does not have a provision such as section 259 of our Criminal Code, which in summary states that a surgical operation can be carried out on a person for his benefit, or upon an unborn child for the preservation of the mother's life, if the performance of the operation is reasonable having regard to the patient's state at the time and to the circumstances of the case. This legislation seeks to better define that principle by bringing into the law in this State in a codified form the Davidson reasoning from Victoria, which otherwise would not be directly applicable but has been taken to be the way in which the law should be reasoned in this State.

The best answer that I can give to the problem raised by the Minister is the example given by the Minister for Housing of the patient who is found at 23 weeks' gestation to have a particularly virulent form of breast cancer and where the only way to treat the breast cancer in order to preserve her life is in part by surgical procedure and in part by chemical means and radiation, the result of which would either destroy the baby or so malform it as to make it unviable, and where it was in the interests of preserving the mother's life that the child be aborted. That is a difficult decision and represents extraordinary circumstances.

If medical science were to progress to the stage where the procedure necessary to save the mother's life in those circumstances would have no effect upon the unborn child - in other words, the chemicals were not of that nature, and radiography was not required - it would not be reasonable in the circumstances to abort, because that would not be necessary in order to preserve the mother's life under either section 259 or these provisions if they become law.

I cannot give a better answer to the quandary that is raised in that example, other than to say that the Davidson principle is a succinct statement of law - more succinct than the law as it is written in section 259 of the code - but it still of necessity has a breadth because it is a statement of principle, and it relies upon people exercising a judgment in individual cases. That judgment will be subject in a criminal court to objective view and test by those who were not there but who would be able to examine, with the assistance of experts, whether the decision was reasonable. That is a criminal sanction which the doctors perhaps have not appreciated as well as they could - I have no doubt they do now - and which if we were to change and better define the law would, I am certain, lead to some changes in medical education and certainly some changes in the way in which the medical profession perceives the law with regard to abortion.

Mrs PARKER: People want to be able to draw a line between paragraphs (b) and (c). They do not want generalities. In the case of a woman in the advanced stages of pregnancy who finds herself with cancer, not many people in this Chamber or in the community would object to an abortion being carried out, because it would fit into that definition that I have read from the learned judges where necessity and proportion must prevail. However, in the case of the practice in Western Australia, which is what most of us would accept is an unreasonable number of terminations of between 9 000 and 10 000 a year, or one in four pregnancies, we do not want the application of paragraph (b) to be so broad as to allow what we would call open slather or abortion on demand. We need to have some comfort that a line will be drawn in law between the application of paragraphs (b) and (c).

I seek the Minister's assurance that the wording of this clause is adequate to ensure that under paragraph (b) we will not see what we have seen occur in this State up until the laying of the charges some weeks ago.

Mr PRINCE: We are not yet talking about paragraph (c). Paragraph (b) is the second leg of the Davidson principle.

It is restrictive and applies to a fairly narrow band. If people chose to try to make that mean what the Minister has called open slather, or effectively abortion on demand, they would run the risk that the courts would not agree with them, which I think would be highly likely.

Mrs Parker: That is what I need to have on record.

Mr PRINCE: That is my view. Whether that will prevail will depend not upon the judge, but entirely upon the circumstances. It is not possible to predict here what will be the result of some court case, because we cannot know the circumstances under which a person may be prosecuted. The best we can do is say those are principles which are restrictive, yet clear, and which impose upon those involved in the decision-making an obligation which is very serious and onerous, and a criminal liability if they do not do it honestly and reasonably.

Mr McNEE: The real problem here is that a law does cover this matter, and that is simply "Thou shalt not kill" - four words - but because we are trying to cover up a rotten situation, we need to find all the verbiage that will do that for us, and I think we might be here a long time doing that. It seems to me that we have been presented with two lots of the world's worst: The other Bill, which is straight out abortion on demand, and this Bill, which John Finnis - I have read his opinion and accept him as a renowned person in the legal fraternity - says is the worst legislation in the world. The only one that beats us is China. What a record! That is the sort of rubbish that is sent down here and we are expected to do something with it. If it takes us a long time trying to make that rotten legislation right, so be it. This is a matter of judgment. The member for Kimberley and I are practical men. We know what judgment is. If the member for Kimberley has a look at a pen of cattle, he can say, "They will weigh this much and they are worth this much" and so on. That is his judgment.

A member interjected.

Mr McNEE: I am not talking about that at all. If the member wants to start being smart, he can try that on. I stand to support more women than he would ever support. He stands to destroy them.

[Interruption from the gallery.]

Mr McNEE: That is the problem with this legislation. The member for Wagin might look at a ram and say it is this or that, and that is the problem with this legislation.

Point of Order

Mrs ROBERTS: Members are interjecting from out of their places.

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): I take that point of order. I was going to let it go but as the point of order has been raised, I remind the people in the gallery that there is a convention in this Parliament that there should be no disturbance of the proceedings in this Chamber. I understand it is normal protocol to applause when one appreciates what someone is saying. However, in this Chamber we have a particular convention, and I ask that you abide by that convention and keep the noise to an absolute minimum.

Mrs ROBERTS: My point of order was that members of Parliament are interjecting from out of their place. I made no comment about the public gallery.

The DEPUTY CHAIRMAN: I apologise to the member, I did not notice members doing that.

Committee Resumed

Mr McNEE: The problem with this legislation is that if a judgment must be made on a person's mental or physical health, I am absolutely certain that one could drive 10 road trains sideways through it. If I were a doctor I would simply go out and find myself the best lawyer.

Mr Pandal interjected.

Mr McNEE: That is all that one needs to do: Get a rip snorter of a lawyer; Fred Nerk will cost \$2m a day, but who cares? The doctor must win. Do not forget, he will have plenty of money because this is a very lucrative trade; one which is worth \$500m in the USA. Already the competition is building up. We have the man on the way from the eastern States. This is a very important issue and one that cannot be determined by a judgment. Some of us are judged more harshly than others. If we are to have that situation, I do not believe it will work. This rotten legislation amounts to abortion on demand.

Question put and a division taken with the following result -

Ayes 41

Mr Ainsworth	Mrs Edwardes	Mr McGowan	Mr Shave
Ms Anwyl	Dr Edwards	Ms McHale	Mr Strickland
Mr Baker	Dr Gallop	Mr Marlborough	Mr Sweetman
Mr Barnett	Mr Graham	Mr Marshall	Mr Thomas
Mr Bloffwitch	Mr Grill	Mr Masters	Mr Trenorden
Mr Board	Dr Hames	Mr Minson	Dr Turnbull
Mr Brown	Mrs Hodson-Thomas	Mr Nicholls	Mrs van de Klashorst
Mr Carpenter	Mr Johnson	Mr Prince	Ms Warnock
Dr Constable	Ms MacTiernan	Mr Riebling	Mr Wiese
Mr Cowan	Mr McGinty	Mr Ripper	Mr Osborne (<i>Teller</i>)
Mr Day			

Noes 12

Mr Bridge	Mr Kobelke	Mr Omodei	Mrs Roberts
Ms Holmes	Mr MacLean	Mrs Parker	Mr Tubby
Mr Kierath	Mr McNee	Mr Pental	Mr Cunningham (<i>Teller</i>)

Clause 3, page 2, lines 24 and 25 thus passed.

Clause 3, page 2, lines 26 to 28 -

Mr PENDAL: I will not move the amendment standing in my name. It was the original intention of the group with whom I have had the pleasure to work that by now we would have passed an amendment to insert those key provisions into the Health Act which were discarded last night. That group intended then to vote for paragraphs (a) and (b) and no more, provided the amendments were passed. They have not been passed.

We now intend to vote yes when some of the subsequent amendments begin to secure, ironically, several of those amendments that were rejected by the Committee last night. I am delighted that the Minister for Housing will move a motion regarding two medical practitioners. I am delighted to see amendments being circulated which seek to restore counselling and that the member for Cockburn is considering an amendment to ensure the independence of counsellors.

Then I think we move to the member for Mandurah, who has thought of something no-one else thought of; that is, the protection of minors. That is a sensible and fresh initiative. For those reasons I do not intend to move along those lines because to do so would make a nonsense of what we have done so far.

Mr KOBELKE: It will be no surprise to members that I could not support in any way paragraph (c). This will make abortion a social convenience for a relational inconvenience. In the light of an inconvenience in our life with our relationships, the option is to kill the unborn child. I find it very difficult to stomach our State putting on the Statute book a law that amounts to that. People have not turned their minds to thinking what this will do to the legal system. I am not a lawyer so if I get it wrong I am happy to stand corrected. It is my understanding that an unborn child is not considered a legal personality. However, once it is born there is clear recognition of the rights of a child prior to its birth.

The member for Joondalup mentioned the case of a child injured in a car accident in the eastern States a few years ago. When the child was born litigation was successful in upholding that the child had been injured in the womb. Its rights stood at law. In the United States the case of *Witner v the State of South Carolina* involved a woman who had ingested cocaine during her pregnancy. She pleaded guilty to criminal child neglect because the child was born with a condition as a result of her using cocaine. Where do we end up if our law amounts to no protection for the unborn child? What will be the status of our legal system if that is the law we put in place in the State of Western Australia?

It may be fanciful, but it is worthwhile looking at some of the extreme scenarios. One was raised in the *Georgetown Law Journal* in 1984; that is, the potential for litigation of cases that could be called "wrongful birth" or "wrongful life". Under paragraph (c) a woman could ask a medical practitioner for an abortion on the grounds that the carriage of the child full term would have serious economic consequences for her. If that happened to be towards full term - as this Bill stands there is no limitation on when abortion should be procured - and a doctor agreed, obviously a contract would be entered into between the doctor and the woman with a child only a few weeks short of being born. If in seeking to procure that abortion - there have been cases - the doctor failed and the child was born live and lived, the woman would have a contractual base to sue the doctor for allowing the child to be born. There would be a case of unlawful birthing. That is the law we are considering putting on the Statutes in this State. I cannot understand how it can be countenanced.

I draw members' attention to the traditional ethics with which I have grown up. They cover three reasons for taking a human life. In self-defence, where one is caught in a life threatening situation, it could be justified to kill another person; the so-called case of a "just war", which we could argue at length about; or capital punishment, on which I have a clear view and others argue differently. We are moving much further to saying that unborn children have no rights whatsoever.

Mr BAKER: In his second reading speech the Minister stated that paragraph (c) provides for the Levine test as stated by Judge Levine in the Wald case, but it is expanded to include the words "personal and family".

The member for Thornlie alleged that I had made no contribution to this debate. This is nonsense. Without doubt this is an important social issue. However, we are drafting law. It must be certain. My concern is to ensure the law is certain. Rather than finding in 10 or 15 years the Supreme Court criticising this Chamber for sloppy drafting and rushing the passage of this Bill, it is important we examine the issue of certainty.

I also acknowledge that it is much easier to advocate a repeal Bill in these circumstances than to create new legislation. The repeal Bill in the other place is a three sentence Bill. I will quote from Judge Levine. Perhaps I am wrong, and I make no apology for this, but members can test me to see whether what Levine actually said is inherent in clause (c). He stated -

... it would be for the jury to decide whether there existed in the case of each woman any economic, social or medical ground or reason which in their view could constitute reasonable grounds upon which an accused could honestly and reasonably believe there would result a serious danger to her physical or mental health.

I acknowledge that I have put the words "personal and family" to one side. However, I challenge anyone in this Chamber to show me where the phrase "physical and mental health" appears in paragraph (c)? This is on the basis that the Minister's second reading speech stated that paragraph (c) is a mirror of Levine in Wald, plus the words "personal and family". They are not there.

Mr Thomas: They are not needed because they are in (a) and (b).

Mr BAKER: Straightaway we have uncertainty. The second reading speech can be referred to by the courts if there is uncertainty in interpreting an associated Statute. The Minister's stated intent in paragraph (c) is to use the Levine test in the Wald case and to expand it to include the words "personal and family". Paragraph (c) does not reflect the Levine test. Is it the intention that (c) will reflect the Levine test and hence will include a reference to serious danger to a woman's physical or mental health? I do not know. If that is the intention those key phrases should be included in the text of (c), and they are not.

Mr PRINCE: As the member for Joondalup correctly pointed out, the second reading speech states -

Paragraph (c) provides the Levine test as proposed by Judge Levine in the Wald case but expanded to include the words "personal and family".

It is not and clearly has never been stated to be the Levine test and nothing more. The member correctly quoted Judge Levine about the serious danger to physical and mental health, economic and social medical grounds as a totality. However, the member should not forget that this Bill was structured to enable this Parliament to deal with all the parts of this subject. It was not and is not intended to be a piece of legislation that is coherent unto itself; it is intended to be a vehicle for proper debate. That is, (a) and (b) are relatively narrow paragraphs; (c) is wider and (d) is wider again as to criteria or grounds for which justification can be found. We are debating this Bill line by line so that after debate and consideration of the peculiarities of any part of this Bill we can say yes or no. Some people have said it is a pickaboo. It is a shorthand way to choose how narrow or broad we wish the law to be with regard to the justification for what is otherwise an unlawful act.

Mr Baker: In your view there is no uncertainty?

Mr PRINCE: It is Levine plus the concepts of "personal and family" in the context of danger to physical or mental health. However, it is much wider than (a) and (b). I do not think anybody would dispute that from a legal point of view.

Mr TUBBY: I have not taken part in this debate since the second reading. Members are aware of where I stand on abortion. This is completely and utterly over the top. The clause refers to serious personal, family, social or economic consequences if the miscarriage is not procured. I have had only two children and I know many members have had a few more than I. However, each child has caused us serious personal, family, social and economic consequences. That has been the situation for almost 30 years. Let us get real. That is no qualification whatever.

This clause is saying that if a child will be inconvenient to one's lifestyle at some stage between now and when one

passes away, abortion is legal. We can get rid of the child if it is a problem and we do not want to know about it. This is the instant generation. If we want something and it feels good we go out and we do it. We do not worry about the consequences, the responsibility or anybody else except ourselves; we are No 1. This signifies that No 1 is the only person one must worry about.

Mr Pental: And doesn't society reflect that?

Mr TUBBY: Absolutely. If we legislate to allow this to happen in Western Australia now, we may take the next very small step. My parents are over 70. In a few years' time they probably will become inconvenient to the family. It is only a small step to say that they are inconvenient to our family's way of living and to our economic circumstances. What will we do? Euthanasia legislation has been proposed in the other place, and, although I do not think it will be passed at this stage, I give it a few years and it will get through. Allowing this Bill to pass will be the thin edge of the wedge. Someone may be involved in a serious car accident - they occur all the time - and although that person might not have been inconvenient to the family early in his or her life suddenly he or she is a severe inconvenience to the family. What do we do? Is the next step to say he or she is inconvenient and we will get rid of him or her?

Members know my view on abortion. This is far in excess of anything that has been experienced in this State. It is dangerous. If we open this door it is only a small step to take it further. I urge all members to seriously consider voting against this clause.

Mr KIERATH: The past 24 hours have been a roller coaster ride for me. I know that many people on this side of the Chamber do not agree with me. Yesterday, for the first time in nine years, I was ashamed to be a member of Parliament. The only good thing that came out of yesterday's debate is that the member for South Perth indicated we would deal with a further amendment, and I hope to put back some of that which was taken out.

I was brought up to believe that life is sacred. However, I disagree with the member for Nollamara and the member for South Perth on the issue of capital punishment. I believe that is justified for the perpetrators of heinous crimes. However, it is not justified for the most innocent and helpless of all. Members should reflect at this point that we are not talking about a procedure; it is killing a human life. A new genetic life starts between 24 and 36 hours after conception. I agree with the member for Roleystone that it is horrific to start to list circumstances in which abortion is justified, such as personal, family, social and economic reasons. I have two teenagers and in the past three months I have been to hell and back three times! Including economics as a justification for abortion offends me more than any other. I appeal to those members who represent broadly the left wing of the political spectrum. They are saying that someone should be killed on the basis of economic circumstances. That should offend everything for which all members in this Chamber have ever stood. That is no reason at all for taking a human life.

Mr Pental interjected.

Mr KIERATH: That is exactly the point. Sometimes in politics we form into two groups - those on the conservative side and those on the Labor side, or what I call the socialist side, who always have a view that we should try to make everybody equal. I believe people should make it on their own performance. We must give people equal opportunity, but in the end, people make it or break it on their own. I have heard the arguments from those whom I call the left wing in this political debate. Day in and day out they tell me about not putting economic criteria on anything under any circumstances. The member for Armadale bleats about people who are hard done by economically and how we should be in there protecting them. I ask her to use the same logic in this case. Does she think that the killing of any life should be based on economic circumstances? It should offend every member in this Chamber. It certainly offends me and everything I have stood for and goes against everything I was brought up to believe in.

Ms MacTiernan: How do you justify killing a baby whose father has been a rapist? You said to us in the second reading debate -

Mr KIERATH: Yes, I did. I gave some exemptions. I gave an answer in my speech during the second reading debate. I converted from being pro-choice to anti-abortion, or pro-life, after my wife went to our family doctor, whom we did not know was a Roman Catholic, to see what options were available to her and the doctor said that there was one option he would not give her. To this day I am thankful he was a Roman Catholic because we immediately crossed that option off our list. If we make it legal, we put it on the list for every woman who thinks she has difficult circumstances. I am reminded every single day of our decision. My child is now nine years old. Every day when I see her, I am reminded of how my wife and I could have made a mistake if we had gone down a different path. When dealing with this clause, I ask members to reflect that is what we are dealing with. If we vote for this clause, we are voting for abortion, or the killing of a human life, under economic circumstances or due to personal inconvenience.

Mr PENTAL: I will pick up the theme begun by the member for Roleystone and continued by the member for

Riverton. I will do that in the form we have heard much about in the past few days; that is, the question of choice. Paragraph (c) does not represent choice. It represents the grossest form of indulgence and selfishness on the part of people who have created life and who wish to destroy it. What concerns me is slightly different from that which the member for Riverton has said. He has correctly focused his concerns on economic consequences. I will touch on the social consequences because, for some reason, I find that even more repulsive. I will quote from an article by Melinda Tankard Reist, a freelance Australian writer, who spent many years looking at the feminist approach to these issues. In an article entitled "Abortion and the feminist sellout" she writes about what she calls "The Choice Myth". I will quote from this article because it says everything far more eloquently than I could about this fundamental flaw that says we are dealing with choice when we are not dealing with choice at all; we are dealing with the choice myth. It states -

Many women undergo abortion not because of "choice", but a lack of it. Sallie Tisdale, a registered nurse in an abortion clinic, told the American magazine *Harpers*: "Women who have the fewest choices of all exercise their right to abortion the most". Patricia Fernandez of the Pregnancy Aftermath Hotline, says the most repeated statement by women is this: "I didn't really want the abortion, but I didn't have any choice."

The Tankard Reist article continues -

According to a Nurturing Network survey, 91 out of 100 aborted women wanted options to abortion that were not forthcoming.

Where is the choice, I ask in that? Melinda Tankard Reist continues in this vein. Here is someone to whom the hardline feminists might turn their attention. The article continues -

In *The Sydney Morning Herald*, Germaine Greer writes that "the fiction of the right to 'choice' masked women's real vulnerability in the matter of reproduction. It is typical of the contradictions that break women's hearts that when they availed themselves of their fragile right to abortion they often, even usually, went with grief and humiliation to carry out a painful duty that was presented to them as a privilege . . . Abortion is the last in a long line of non-choices . . ."

That is coming from a feminist, examining feminist issues and coming to the conclusion that abortion is, in fact, a sell-out of the feminist viewpoint. Yet in this debate not one so-called feminist in this place has taken up the challenge that is inherent in these articles, that says there is no choice. I heard the member for Thornlie say that there are too many abortions in Western Australia.

Mr Cunningham: Why don't we do something about that?

Mr PENDAL: That is right. They have been silent on arguably the most central feature of the feminist argument, yet they have the temerity to say that a woman is entitled to choice. All of those writers say that that is a sell-out because no choice is involved.

Mr MARSHALL: I want to remind members again that the debate, in essence, is not about what we want; it is about what the young women of Western Australia want. Some of us are creating an injustice for the women of Western Australia. I believe the youth of today are better educated than we are. Of course, some members here have attained their leaving certificates, tertiary entrance examination passes and university graduation; however, the tertiary education courses today are more difficult than those which the members in this Chamber undertook at an early age. The youngsters of today are better educated and more skilled. They are more confident, more versatile and better travelled. I reiterate: They can debate better than most of us could when we were at their age. They have more to offer than we did at the same age. If members do not believe that is the case, they have failed as parents. I would not want to go out knowing that my children had not performed better than I did. I repeat: Their education and what we have created has made them more worldly.

[Interruption from the gallery.]

The DEPUTY CHAIRMAN (Mr Barron-Sullivan): I advise visitors in the public gallery that we have had a number of interjections from the gallery this evening. This is an extremely serious matter, and it is very important that members in this Chamber have the opportunity of debating this matter as clearly as possible. We have a convention in this Chamber, which is for one purpose: To enable debate to proceed clearly and in an informed way. Therefore, regardless of which side of the debate people in the gallery may support, I ask them to please keep silent so that the debate can proceed properly.

Mr MARSHALL: Thank you, Mr Deputy Chairman. During the past two weeks of debate, perhaps we have been carried away by the fact that it is nice to get up and talk for five minutes on this subject, when I believe we should have been endeavouring to understand the views of the young women of Western Australia rather than impart our own views. The polls tell us clearly that the women of Western Australia are pro-choice. The survey that I conducted

in my electorate, which some members did not have time to do, showed clearly that women are pro-choice. Paragraph (c) includes that choice.

Mr THOMAS: I move -

Page 2, line 27 - To delete the word "economic".

I am not seeking in practice to restrict the grounds upon which abortion should be available to women in this State. In fact, I support paragraph (d), which states that abortion should be available, subject to the definitions that follow, to women who choose to do so, if they have exercised informed consent. In my view, what we have in paragraph (c) is a set of euphemisms, and if we need to include those euphemisms in order to have that effect, I am prepared to have them; but they say that abortion is available to a woman if she will suffer serious personal, family, social or economic consequences. I believe we will cheapen the decision if we include economic consequences. I find it strange to be speaking on the same side of the argument as the Minister for Labour Relations, because I would agree with him on few things, but I believe that few women would choose to have a termination of pregnancy on economic grounds.

In setting out those criteria in paragraph (c), we are setting ourselves up to judge the criteria by which a woman would exercise that choice. We should not make that judgment. We should respect an informed choice, and we will have the opportunity to debate that when we get to paragraph (d). I suggest that the grounds upon which women choose to have a pregnancy terminated are personal, family and social. They are quite legitimate grounds. To suggest, as some people have done in earlier debate, that women choose to have a pregnancy terminated on purely economic grounds is to misjudge the criteria by which women make that difficult choice. If that were the case, I believe we should make available money so that the economic ground was removed. For example, in the mid-1980s, the family allowance scheme was introduced, which for a time at least dramatically increased the amount of money available to large families so that the economic consequences of having children were largely ameliorated. I do not believe from the statistics that I have seen that this had any impact upon the rate at which women chose to have their pregnancies terminated. I believe that is because they did not choose to do that on economic grounds. If that were the sole criterion, I am sure that in most cases those women and their families would make do.

The reason that women choose to terminate a pregnancy involves a complex matrix of criteria. I believe we will cheapen the criteria if we include the word "economic". We should include only personal, family or social consequences, and if a woman made a choice based on those grounds, that should be sufficient. To say that the reason can be solely economic is to describe inaccurately the basis upon which women make that choice.

I commend the amendment. I emphasise that I am not seeking to restrict the grounds upon which an abortion should be available. I am seeking to accurately describe the circumstances and to not cheapen the nature of this legislation.

Dr EDWARDS: I have some difficulty with the member for Cockburn's amendment. I understand his argument, and in many ways I support it in an isolated sense, but I and other medical practitioners who have referred women for terminations must consider the complex matrix of variables that contribute towards the woman's decision. I know from my background that health is determined by various factors. One of the most critical factors is the socioeconomic situation in which the woman finds herself. The statistics indicate that socioeconomic status is closely correlated with health.

My problem with the amendment is that it will narrow the scope of the matrix. At the end of the day we need to remember that whatever the law, some women will have an unplanned and unwanted pregnancy and for various carefully thought out reasons of their own that are different in each case will go to any lengths to terminate that pregnancy. If we were to include only paragraphs (a) and (b), perhaps 90 per cent of the women in this State who procure a termination would be desperate because they would not meet those criteria. Regardless of what members have said about decision making by doctors, doctors do take all these issues very seriously. They are practising increasingly in a litigious climate where they are worried about the consequences of their decisions. Paragraph (c) must be made as realistic as possible and the matrix must be made as broad as possible so that at the end of the day women can make their own decision and have autonomy. I am concerned that by removing the word "economic" we will be helping to turn the clock back rather than improve the situation.

Mr THOMAS: The member for Maylands seemed to suggest that if my amendment were carried, we would be forced back to paragraphs (a) and (b), which provide essentially that there would be serious medical detriment to the mother if a termination were not available. That would not be the effect of my amendment. My amendment would still leave those other criteria of personal, family or social circumstances. I have known many women over the years who have contemplated a termination of pregnancy, and it is those criteria that exercise their minds. I do not know any women who have made that decision on purely economic grounds. It is personal, family or social circumstances which are distressing them and causing them to make a decision, which I respect. We should legislate for that and hopefully we will do so unequivocally at paragraph (d). The decision may well be economic in origin or have an economic

aspect, but I think we cheapen that decision by allowing it to be made on economic grounds. It leads to the sort of cheapening of the decision that is made by women to have a pregnancy terminated as occurred during the second reading debate when the member for Wanneroo characterised in a most unfortunate manner the basis upon which some women choose to have a pregnancy terminated. While not being quite as crass as that, leaving the word "economic" in there will do that. If a woman chooses for personal, social or family reasons and makes an informed choice to have a pregnancy terminated, we should legislate for that and I would respect that decision. However, I do not believe that that is correctly described or enhanced by including the word "economic" in the paragraph.

A drafting error in my amendment has been drawn to my attention and a better form of words has now been drafted. I request leave of the Committee to withdraw the amendment and move another in its place to make it grammatically correct.

Amendment, by leave, withdrawn.

Mr THOMAS: I move -

Page 2, lines 27 - To delete ", social or economic" with a view to substituting "or social".

Mr BOARD: I cannot agree with the member for Cockburn because I think in many ways members on both sides of this debate should be considering striking out paragraph (c) in its entirety. Those who are concerned about pro-choice for women should be looking at paragraph (d) and the regulation thereto. I think paragraph (c) demeans our argument. It brings us down to a level of arguing over words which are not required in the legislation. The way this has been constructed is that members feel it is a pyramid of legislation going from paragraph (a) down to a broader base, but in effect paragraph (c) does not do that. It deals with a situation which is of a severe personal nature, which is possibly best left between the physician and the woman. I do not think that words such as "economic" or "social" are required in the legislation. We have already passed paragraphs (a) and (b) which was a necessary requirement. We should be getting down to the business of considering a situation that goes beyond paragraphs (a) and (b) for those people who find themselves in extremely difficult circumstances, and what is acceptable in the regulation to make paragraph (d) workable for the community. Paragraph (c) demeans the argument, and both sides of this Chamber can live without it. I cannot support (c) because of the terminology.

Mr RIPPER: I must disagree with my old friend, the member for Cockburn. I cannot support his amendment. I am a supporter of paragraph (d). I believe that informed consent should be the only criterion that applies to a woman's choice to have her pregnancy terminated. I am not particularly admiring of the way in which paragraph (c) is drafted, but at this stage of the debate, not being sure that paragraph (d) will receive the majority support of the Chamber, I will vote for all of the elements in paragraph (c) including the part relating to economic consequences. I think to do anything else is to restrict the rights of women to have their pregnancy terminated if that is what they wish to do. I am surprised that the member for Cockburn has moved the amendment because I would have thought that a social democrat would have recognised the importance and the legitimacy of economic factors in decision making, and there are economic factors related to raising children which should not be ignored. The child support scheme is based on an assumption that 18 per cent of a parent's gross income will be spent on the requirements of their first child. Estimates about the cost of raising a child over that child's lifetime go as high as \$120 000. It is a pretty significant financial decision to make to have a child. I do not believe that from the moment of conception a woman should be bound to that particular financial decision with all of the consequences. It may be distasteful to people in this Chamber to think about the financial consequences of raising children, but it must be accepted that it is a very significant financial decision to go ahead and have a child. It is a decision which according to the child support scheme is worth 18 per cent of one's gross income. One must think of the practical circumstances which people face. If a family has seven children and an annual income of \$15 000, to have another child in those circumstances would have a significant impact on the living standards of all of the people in that family, including the seven children, and it will have a significant impact on the welfare of those children.

I know I come from a different perspective from some people who have argued against the point that I am making. I do not believe that a foetus is a child. I do not believe that a woman who terminates a pregnancy between conception and 20 weeks is taking a life. However, I can understand why people who do accept that perspective have a different approach. I ask all those people who are interested in preserving the rights that women have acquired over the past quarter of a century to support the broadest possible construction of proposed subsection (3)(c). I agree that proposed subsection (3)(d) is better from the point of view of those people, but we do not know whether it will be accepted by the Chamber, and in the absence of that certainty, I for one will go for personal, family, social or economic consequences in the drafting of proposed subsection (3)(c). Those people who are supporters of paragraph (d) in fact are supporting people choosing to terminate a pregnancy for economic, cultural and all sorts of other reasons that constitute the informed consent of the woman. I find it very hard to understand how someone who supports paragraph (d) can move to delete anything from paragraph (c).

Mr BARNETT: I support the amendment moved by the member for Cockburn. The term "economic" is unnecessary, somewhat mercenary and crass. There is no doubt that a series of factors influence decision making. Economic factors will exist, but they will be dealt with through their impact on personal or social issues. Many people in the community would find the term economic to be offensive and it is a small concession to remove it.

Mr BLOFFWITCH: I also support the amendment. I am somewhere in the middle of the field in that I certainly respect the rights of women to make their own decisions. I also have a conscience. I therefore do not want to make abortion too easy to obtain. As the previous member said, including "economic" as a criterion will cheapen the Bill and what we are trying to achieve here today. We are not trying to change the rules; that would be tragically wrong for women. Women have had the opportunity to have an abortion if they wished. Many members will not agree with that and I understand why.

However, the reality is that somebody has said that 9 000 to 10 000 abortions are carried out each year. I do not believe that in changing the law Parliament should be making the procurement of abortions more difficult. I was very pleased to hear the member for Swan Hills say she would move an amendment to provide the opportunity for counselling. I do not believe mandatory counselling will work. However, where it is offered and people want a second opinion, they could make a rational decision. With a bit of luck they might decide to keep the baby. That would be a very positive step. I support the amendment. I also ask members to support it because it is a very positive step.

Ms McHALE: If members feel more comfortable taking out the word "economic" they should take it out. In reality it is a consideration which must come into the discussion between the woman and her doctor. It is a matter which underpins social and family matters and the mental and physical health of the woman. We cannot separate the socioeconomic state of the individual from her physical and mental health. Members should knock it out if they wish but they should not knock out the whole clause.

I am interested to note that the Minister for Works has joined the debate by saying that this clause should be knocked out by both sides. It is a pity he said it now when we no longer have the choice of bringing paragraph (d) forward. In hindsight it might have been better to deal with paragraph (d) and then paragraph (c) might have become irrelevant. We have now lost that opportunity. If we knock out paragraph (c) with or without "economic" members should be very clear that they will be restricting the opportunity for women to have terminations.

Dr TURNBULL: As has already been said, many women who seek abortions are economically disadvantaged or do not want to lose their job. However, that is not the sort of statement we should enshrine in legislation. Many women in a lower socioeconomic situation, as has already been strongly pointed out in the article quoted by the member for South Perth, do not have a choice. Pressure is put on them for economic reasons from their boss, family, husband or partner and from people outside.

I am positive that no doctor in Western Australia would want to take into account economic circumstances. Paragraph (c) is very dangerous, particularly the inclusion of the word "economic". If the procurement of an abortion for economic reasons is enshrined in the law, people from outside families will put pressure on the women involved. Staff at family planning clinics and within the planned family management system would be able to legitimately pressure a woman to have an abortion on the basis of unsuitable financial circumstances. The member for Dawesville referred to many young people who are educated and who would like to have a baby. However, if someone points out that the law provides for abortion on "economic" grounds, that will add to the pressure on the unfortunate woman.

As I said during the second reading debate, we could be waiting only 10 or 15 years before the population rationalists say that, in eugenic terms, Australia needs a certain mix of races. People in positions of authority such as social workers will say that we must make those decisions and the Western Australian law will allow them under those conditions. I do not support the issues, especially the word "economic".

Mr BRIDGE: The member for Collie makes some particularly good points. She brings us back to the core of the issue which has lost its way in this debate. For the immediate and foreseeable future this legislation will not have an impact. However, one day in the future it will haunt many of us. It will not haunt me, because I talked about checks and balances, but it will haunt others.

In considering the origins of this debate, it was not the woman involved who caused great outcry; it was other circumstances such as the discovery in Tasmania, etc. The question of charges being laid came into the equation, but the basis of the public furore was not the woman's position. When the issue was introduced into this Chamber, the critical issue was the unborn child. How can anybody say in that context that abortion is justified for economic reasons? I have not heard such outrageous rubbish in all of my life. This should not be gobbledegook. A zombie with half a brain could do better! This clause has no regard for the core of what we are required to determine. It is disgraceful that we are contemplating, however remotely, enshrining that terminology in this legislation. I will

continue to argue my point in the hope that some members will turn on their hearing aids and hear what some of us are trying to say about this issue. It is too dangerous. Some people might be able to live with their decision now, but it will come back to haunt them. This Parliament will be judged harshly if that is what we determine today.

We must recognise the rights of the child. A member in this place urged us to balance the equation. I referred to a termination at 12 weeks instead of 20 weeks, which is out of kilter with the medical facts. The significant and fundamental issue at stake is the wellbeing of the unborn child. If we can keep this debate even close to that issue we will salvage something. However, if we continue with this sort of leniency and tolerance we will be a million miles from the core issue. We are not a million miles from being told in the years to come how wrong we were.

Mrs ROBERTS: We have heard some weak and strange arguments in this debate. The member for Belmont says he has no problem with killing a foetus before 20 weeks because it is not a baby; it is not a human life. What a load of nonsense! Anyone who has had children in recent years would have been advised to have an ultrasound at about 18 weeks. The detail on the ultrasound is phenomenal. One can see the beating heart. The picture that one is given to take home identifies the head, the spine, and the vital organs. The purpose of an ultrasound is to check for problems with the developing baby. Some of those problems can be fixed in utero or after the baby is born. It is nonsense to say that is not a child. It is nonsense to say to someone that had I aborted my children at eight, 12 or 20 weeks I would not have killed them! If I had done that Elizabeth and Candice would not be here today. I would not have killed some tissue. I would have killed my children. I cannot believe that members in this Chamber are so ignorant as to stand here and say they are comfortable with aborting babies before 20 weeks because they are not really human. That is patently and demonstrably untrue. It is a human life - what else would it be? There are arms, legs, and all the vital organs. They measure to the millimetre the size of the skull to obtain an accurate reading of how advanced the pregnancy is. In cases where women are not sure when the baby was conceived the ultrasound can predict an accurate delivery date. It is a cop out for members to try to pretend it is not a baby. If a woman aborts a baby during her pregnancy, that child will not be here today. Some people are in a state of denial. They will not admit even to themselves that what they are doing is killing a human life. That is cause for considerable alarm.

It is a disgrace that this Bill and the amendments that have been moved to these lines refer to economic and social reasons. We need to support unborn children in the same way as we support the elderly, the disabled and those babies who are born pre-term.

Mr CARPENTER: I support paragraph (c) in the Foss Bill as it is unaltered and unamended. This is a situation that exists in the community. It is a reality for thousands of women every year in Western Australia. This has not suddenly arisen in the past three or four weeks. The people in this place tonight and over the past three weeks who are outraged, angry and in some cases bellicose with their arguments are talking as though this is a brand new circumstance. It is not. We are dealing with real life. We are dealing with a situation that exists; we are referring to the way women have been living their lives for 25 years. Are we telling an average of 9 000 women in each of the past 25 years that they are criminals?

Mr Bridge: We are making the law.

Mr CARPENTER: We are making the law adjust to reality. When reality and the law go their separate ways it is bad law. We are fixing the problem of bad law. We are not creating some brand new circumstance but dealing with one that has faced people every day of their lives. It is not for 50 or 60 year old - or in my case 40 year old - men and women to be suddenly imposing on people some moral outrage and labelling people murderers and exterminators when those people are going about dealing with life as it is, not as some members and other people might want it to be or as they tell people it must be. They are dealing with their lives as they are. Some members are seeking to make the lives of the people who must go to abortion clinics miserable, to make them feel guilty and ashamed. If those members had their way, they would make criminals of them. It was bad enough that a man who is probably in the gallery tonight sought to release to police two or three days ago the personal records of 24 women. That was done for his own agenda and to encourage the police to persecute or prosecute those women. It was interesting to hear one or two of the speakers in the Chamber yesterday agree that that was the wrong thing to do. Those members did not say that they wanted to go one step further; they did not want simply to put their names or personal details on the public record but make criminals of them and put them in gaol. I ask all those people who have been making those remarks to come with me and meet real people, not the ones who come in here with their moral outrage but the tens and thousands of women -

Mr Cunningham: You are Alice in Wonderland!

[Interruption from the gallery.]

The DEPUTY CHAIRMAN (Mrs Holmes): I remind the people in the gallery that you are extremely welcome to participate in the Parliament by coming here to watch this debate. You have been told before that you are welcome.

You have also been told before that you are not to interrupt the debate. I can understand your enthusiasm about certain things that happen, but please remember that you can be removed, if necessary. I do not want to have to cause that. Please understand that you are welcome to stay and listen but please do not interrupt debate.

Mr CARPENTER: At the outset of this debate I was trying to allow people to make their points of view and hoping that we might have some mutual respect for other people's points of view. We have gone quite a long way from that position. The point I have made throughout the debate is for members to have their view, have their God, have their religion and their morality, but not to try to force it onto other people. Members should face the reality that exists in this world and not force criminal sanctions upon other people. That reality exists for thousands of people whom we represent in this Chamber, as the member for Dawesville has so wisely tried to tell people. Members should face what those people face - real life in the terrible difficulties they face in coming to a decision. Members should not make it more difficult. Some people will come to a decision for an economic reason. I do not particularly like the wording of the amendment but I understand that is the real life that those women and their families face. We must bring the law into accord with reality.

Dr HAMES: I had intended to wait until we got to the debate on proposed paragraph (c). We are not debating proposed paragraph (c) but the deletion of the words as proposed by the member for Cockburn. However, given that everybody has been debating proposed paragraph (c), I thought I might get in and have my say now rather than later. I re-emphasise some of the points made by the member for Willagee about current practice. I have told some members what current practice is and has been for some general practitioners in Western Australia. It is true that some GPs are strongly opposed to abortion and will have nothing to do with it. The majority of GPs, myself included, have interpreted the Davidson case in a way the legal profession says we should not have. We have been doing it for 25 years. The provisions under proposed paragraphs (a) and (b) - that is, severe psychological or a physical effect on the mother - have been interpreted loosely. If a woman comes to me and strongly wants an abortion, our interpretation is that if we do not do it, it will have a severe psychological effect on the woman. We would refer her on so that she would be able to get a termination. That has been the practice for the past 25 years, certainly as long as I have been a medical practitioner. It was a big shock when two medical practitioners were charged. Until then those 9 000 or 10 000 terminations a year had been blithely carried out by practitioners who were under the impression that they were allowed to do them.

If we simply allow proposed paragraphs (a) and (b), maybe 2 000 of those 9 000 would get through the screening process. Probably of the 7 000 women who currently have terminations, most have become pregnant through accident. Most of those pregnant women are on contraception. I disagree with the 10 per cent figure mentioned by the member for Midland; I believe that 90 per cent had been using contraception.

Mrs Roberts interjected.

Dr HAMES: I do not have time to take interjections. I believe 90 per cent become pregnant by accident. Some 7 000 women will miss out. What will the member say in her electorate when someone comes to her, who did everything possible not to get pregnant, is perhaps having problems with her marriage, has four or five children and is in low socioeconomic circumstances? She may be a stable woman who does not have severe physical or psychological problems. She can cope with the baby if she must have it but she desperately does not want to proceed with the pregnancy. In supporting proposed paragraphs (a) and (b), the member will say to her, "I am sorry but you do not meet the criteria. You must have your child." Of those 7 000 women, 5 000 might listen and say that if it is against the law they will not proceed with their pregnancy. However, if 2 000, 1 000 or 500 say that they cannot possibly go ahead with the pregnancy and will have a termination anyway, what will the member do when they come back to her office and say that they took her advice but could not accept it; that they cannot now have another baby because they had an infection or that they have committed a crime? If the woman is doctored in to the police, she could end up in gaol for committing a criminal offence under the law. What will the member say to the other four or five children at home if the mother dies through infection as a result of the termination, or she ends up in gaol? What will she say to the doctor who carries out that operation in good faith, thinking that it qualifies and then finds that it does not? If he ends up in gaol, what about his children and family? These things have been going on for 25 years. If we just stick to proposed paragraphs (a) and (b), we will condemn a lot of women to having illegal terminations and to committing what is in effect a criminal act because some members want to turn the practice back to what they think it should have been, not what it has been for 25 years.

I conducted a poll of my electorate to find out what my electorate thought. I sent out 10 000 pamphlets. We have had about 500-odd back, of which 70 per cent want me to vote for proposed paragraphs (c) and (d). The pamphlet was very fair. It gave no preamble but gave the choice. It made it clear that proposed paragraph (b) was abortion on demand, yet 70 per cent supported it.

Mr OSBORNE: I have been waiting for an opportunity to speak on paragraph (c), but most members have talked about (c) while properly addressing the amendment. I support the amendment but I take the opportunity to make

further remarks to indicate my stance on paragraph (c). I will repeat some of the remarks I made in the second reading debate because I have not spoken on this Bill since that time. I restate and reinforce the comments made by my friends and colleagues the members for Dawesville and Willagee, that while the debate to some extent has been dominated by the rights of the child and the unborn, members must seriously take into account another set of rights - those of the women involved in this issue. I said in the second reading debate that I have been overtaken, struck and completely astounded by the near universal opinion of the women in my electorate and the women around me on this issue. In the normal course of my duties as a member of Parliament, I have taken the opportunity to ask every woman with whom I have come into contact what they thought I should do. Every single one of them, up to last week, said they wanted comprehensive abortion law reform in this State. As a legislator, that leaves me with no alternative whatsoever.

I was one of the members of this place "privileged" to be the subject of a flyer put out by Women Against Abortion last week. Although I respect the views of those people, and agree that everyone has a right to their views, people do not have the right to make incorrect statements. That disgraceful flyer made at least two significant errors of fact to which I objected, as did the Premier. The first error was the statement that this is a Court Government Bill. It clearly is not. The second error was the statement that I supported abortion for any reason, up to and including the birth of the child. That is clearly an error. I do not, and I never said I did. The flyer encouraged people in my electorate to get in touch with my office and tell me what they thought I should do with this Bill. My electorate officer has been keeping a careful log of the calls, and 52 to 11 still say that I should keep going with my support for choice in this debate.

Mr Baker: What about correspondence?

Mr OSBORNE: The huge bulk of the correspondence did not come from my electorate. Only five letters were from my electorate and I have answered them all personally. The anti-abortionists have drawn themselves a theological line in the sand, from which they cannot escape. The member for Midland said this is simply a human or not human question. It is more complicated than that. There is a third category; that is, a foetus can become human but it is not yet human. I agree with the Deputy Leader of the Opposition that many things must happen before a foetus can become human. As such, that foetus does not have rights which equal or outweigh the rights of the mother. If members continue saying that the foetus, not yet human, has rights that equal or outweigh the rights of the mother, they are arguing a nonsense.

The women of Western Australia want better law on this issue. Like the member for Riverton, I had dinner with my family tonight. My daughter is the light of my life and she asked me to make a law for her, not for someone else, or for someone overseas. She said it should not be a law that suits men between the ages of 50 and 60 years. She asked me to make a law that she wants to live with and said that if I did not do so, I would be left behind. She told me the future is hers, and that she wanted Australia to be a country in which she could live in peace and satisfaction without the fear of being branded a criminal for daring to exercise her conscience and her right to control her own fertility and body, and her human right to make a choice on whether to be a parent. This Parliament should support my daughter and all the other young women of Australia who are the future of this country in their demand and need for a better law.

[Interruption from the gallery.]

The DEPUTY CHAIRMAN (Mrs Holmes): Silence in the gallery.

Mr McNEE: I have argued consistently because I am passionate about Western Australia, Australia and young people. I have a family of four children and, as I have said before, the best thing parents can do is watch while their children walk proudly away from them. I am very proud of my family, as I am sure other members are proud of their families.

We are trying to cover something. Because something has been done for so many years, and now it is discovered that it is wrong, there is a flurry of action to fix it. It does not seem to matter how it is patched up but it must be made to look good and the pattern must be made to fit what is happening. That is a nonsense. If I am to adopt the thesis that because it is current practice or common practice - it certainly is common - I should accept it, then what about the burglaries, murders and assaults on grandmothers?

Mr Omodei: Make it compulsory.

Mr McNEE: What about them? If members accept abortion, they must also look at those things. If they accept murder in this case, why should they worry about murder in other cases? Those are the simple facts of life. I strongly support the member for Midland. It is an absolute nonsense to say this is a theological matter.

I would not have been one of the fellows who rushed to sign the Universal Declaration of Human Rights. However,

it includes a right to life. Members on the opposite side of the Chamber would have signed that declaration long before I would have, and I would have said I did not need it. The rights of the child are No 2 on the list. The child has an unfettered right to live. Members should make no mistake about this. I do not give a continental about when people think life starts; for example, if I put a little seed in the ground and there is no rain, the seed will stay there for some considerable time. When it rains, that little seed will shoot. If I lop the shoot off, it will die and there will be no plant. Will members say that that was not alive because it was in the ground and could not be seen? Even if people pretend it is not there, it is still there. The same applies to the little baby in the mother's womb. Is it not sad that in this modern day and age the most dangerous place for a baby to be is in its mother's womb? That statement was made in an excellent letter to *The West Australian* the other day.

[Interruption from the gallery.]

The DEPUTY CHAIRMAN (Mrs Holmes): I have already spoken to people in the gallery about this. I understand how they feel when a member says something with which they agree. They should understand the rules of the House. The members of Parliament representing people in this State are governed by the law of the Parliament which states that each member has the right to interject, but if the member goes too far the member will be warned. Members are given three warnings. After the third warning, the Speaker can order the member to leave the Chamber. The same rule applies to people in the gallery. What I am saying to them now, applies to members and to me. If members interject too much, they are warned. I have told people in the gallery that that is the law of the Parliament. We want members of the public to join the debate, but I ask them to please contain their enthusiasm until they leave this place. While they are in the gallery they must abide by the law of the Parliament.

Mr McNEE: I want members to think about this. I guess most of them have children. When those children are teenagers and have their first driver's licence, the parents worry like Hades when they go out and are so thankful when they come home. The parents probably ask their children to let them know when they come home. That is done because we worry about them. Is it not odd that the most dangerous place for these little babies is in the mother's womb? I remind members that three out of five pregnancies result in the baby's death. I say to the Deputy Chairman that I do not have any truck with the nonsense about the phrase "social or economic" or whatever else. I would sooner be born in a caring, good family which is damned poor and cannot afford anything than the richest mob who will produce the greatest drop kick of all time!

Mr KOBELKE: I address a few words to those who spoke a little before me and clearly had a different view from mine. I respect their position which I thought was put very capably and rationally. However, I do not accept their argument, although I understand where they were coming from.

The rights and needs of a woman who has an unwanted pregnancy were eloquently pointed out by two members. That cannot be lost from the debate. I do not want to be so trite as to suggest that I have the answer. Many things can be done to assist women in that predicament. However, that does not remove the considerable angst and burden that such women carry. I would not suppose in any way that I could fully empathise or understand how women cope in that situation with the considerable pressures they face.

However, I ask members to consider whether a solution should be found which involves the death of another. One can rationalise that away by stating that it is not a human life, but there is no logic to that argument if members are honest with themselves. We need to find a solution which helps women in that situation which does not treat them as criminals, but still maintains the rights of the unborn child. That is the dilemma. We clearly have a problem. Two groups are coming from different directions. However, we need to respect both the rights of the women and those of the unborn child.

Are we to set our laws only on the basis of what is the current practice and standard in our society at any given time? Are we to exercise no moral leadership as politicians? In moving into this area, it is very dangerous to try to get ahead of public opinion. I marvel, as I expect do all members, at Nelson Mandela. From the oppression, persecution, death and hatred of Apartheid in South Africa, how did he tell 20 million blacks not to seek retribution for what had been done to them? How did Nelson Mandela exercise that moral leadership? He said, "Do not do what is in your heart. Do not massacre the whites for what they did to you. If we do not establish moral values, we cannot have a South African nation that can hold together." We must have moral leadership if a democracy is to mean anything and to provide any value to the life of its members.

Mr Cowan: Do you know what the amendment is?

Mr KOBELKE: We are being called on to exercise some moral leadership.

The CHAIRMAN: Is the member speaking to the amendment?

Mr KOBELKE: It is difficult. I admit that I am transgressing, but I am not the first to do so. I say to members who

contributed an opposing view prior to me that I respect their position. It is very difficult but I hope that we can see a little movement to try to resolve this matter. However, we should not move to strike out the rights of the unborn child as the amendment of the member for Cockburn seeks to do.

Point of Order

Mr BARNETT: I refer to Standing Order No 133 which states that members may not digress from the subject matter of any question under discussion. We are debating the deletion of the words "social or economic" and the effect of that action. Although there is an opportunity for general comments, and further opportunity will be available, this is a specific motion before the Chair.

Committee Resumed

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

Ayes (33)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Nicholls	Mr Strickland
Mr Baker	Mrs Holmes	Mr Omodei	Mr Sweetman
Mr Barnett	Mr Johnson	Mr Osborne	Mr Thomas
Mr Barron-Sullivan	Mr Kierath	Mrs Parker	Mr Tubby
Mr Board	Mr MacLean	Mr Pandal	Dr Turnbull
Mr Bradshaw	Mr McNee	Mr Prince	Mrs van de Klashorst
Mr Bridge	Mr Marshall	Mrs Roberts	Mr Wiese
Mr Day	Mr Minson	Mr Shave	Mr Cunningham (<i>Teller</i>)
Mrs Edwardes			

Noes (21)

Ms Anwyl	Dr Gallop	Mr McGinty	Mr Riebeling
Mr Brown	Mr Graham	Mr McGowan	Mr Ripper
Mr Carpenter	Mr Grill	Ms McHale	Mr Trenorden
Dr Constable	Dr Hames	Mr Marlborough	Ms Warnock
Mr Cowan	Mr Kobelke	Mr Masters	(<i>Teller</i>)
Dr Edwards	Ms MacTiernan		

Amendment thus passed.

Mr KOBELKE: I ask members who wish to support paragraph (c) to listen for a moment about the actual effect of these words. I say at the outset that I voted against the removal of the word "economic" because I believe that the whole paragraph is basically of little or no effect other than to leave it wide open to abortion. It is inconsequential whether we have an economic basis there or not, and that is why I voted on demand against its being removed. Members are suggesting that strong family, personal or social reasons should be a basis for being able to legally procure an abortion. I suggest to members that the more likely interpretation of these words are much closer to, if not exactly, what was put to us so eloquently by the member for Roleystone, and that is that every woman and every family can say that they suffer serious personal, family or social consequences as a result of having a child. It is not a matter of saying that these persons are going to have their lives changed in some extraordinary way, in a social or personal sense. It is simply a matter of looking carefully at what the words mean.

Mr Trenorden: Sit down! You make the same speech every time.

Mr KOBELKE: If the member for Avon will keep quiet, I will be as quick as I can.

The CHAIRMAN: Order! I must confess to the member for Nollamara that I have heard him make these points several times tonight. I am not going to rule him out of order but I mention that I have listened to him in the same vein several times on this issue.

Mr KOBELKE: I thank you Mr Chairman for listening so intently to what I have been saying. The point I wish to make briefly is that I believe that members who are espousing the inclusion of these particular words are placing a particular interpretation on them which is not what they mean. What we have in paragraph (c) is any trivial reason, any impact on a person's life, as being the basis for being able to procure a legal abortion. The arguments that have been put forward for these being exceptional circumstances are not what is reflected in these words.

Mrs PARKER: I was not going to speak to the amendment but I feel compelled to make a few comments on paragraph (c). I have made the point before in this debate that, as difficult as it has been for us as it has been for others in the community, what we have tried to do is create some balance and find some common ground on which we can join together to put in place some middle ground between what was practised and what was the law in

Western Australia before the charges were laid some weeks ago against two practitioners. Paragraph (c) is a critical point in the whole debate. It really glares at me in terms of how we will test the balance. We acknowledge that abortion is the taking of a life. However we also acknowledge that in grave circumstances that can be justified to protect the interests of the woman. It is on the point of how grave those circumstances must be that we have great variation of opinion in this place and in the community. Paragraph (c) is so dramatically different from paragraphs (a) and (b) that there is a great leap between the two. Where the numbers have been clearly defined in the vote on paragraphs (a) and (b), paragraph (c) is a point of extreme consideration. It is proposed to put into law a provision that will allow the taking of the life of the unborn to protect not the physical well being of the mother, but her personal circumstances, her family circumstances, and, God forbid, her social circumstances, and to measure any of those three components as being of the same value as the unborn child. I have always felt that this vote would be the dividing line in this debate.

We can very seriously commit to the health of the woman. Whether abortion for her is choice or it represents a very poor choice, we can debate and be divided forever. However, there is a real consensus that there is a point in time where we are overweighting the circumstances of the woman against the gravity of the impact on the life of the unborn. Paragraph (c) is the telling point in all of that. How can we weigh the life of the child against the social circumstance of a woman or a family's circumstances? The Universal Declaration of Human Rights states that it is the recognition of the inherent dignity and the equal and inalienable rights of all members of the human family, and that recognition is of freedom, justice and peace in the world. Article 4 of the American Convention on Human Rights states that every person has the right to have his life respected. This right shall be protected by law and in general from the point of conception. The words "in general" allow for the situation where the life of the mother may be threatened. Can members in this place tonight weigh against the life of the unborn child, to protect something that might seem temporarily serious and insurmountable in the life of the mother, to the point where they will take away the life of an unborn child forever, never to see the light of day, its destiny and its right to life destroyed?

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

Ayes (29)

Ms Anwyl	Dr Edwards	Mr McGowan	Mr Strickland
Mr Barnett	Dr Gallop	Ms McHale	Mr Thomas
Mr Bradshaw	Mr Graham	Mr Marlborough	Mr Trenorden
Mr Brown	Mr Grill	Mr Marshall	Mrs van de Klashorst
Mr Carpenter	Dr Hames	Mr Masters	Ms Warnock
Dr Constable	Ms MacTiernan	Mr Riebeling	Mr Wiese
Mr Cowan	Mr McGinty	Mr Ripper	Mr Osborne (<i>Teller</i>)
Mr Day			

Noes (25)

Mr Ainsworth	Mrs Holmes	Mr Minson	Mr Shave
Mr Baker	Mr Johnson	Mr Nicholls	Mrs Roberts
Mr Barron-Sullivan	Mr Kierath	Mr Omodei	Mr Sweetman
Mr Board	Mr Kobelke	Mrs Parker	Mr Tubby
Mr Bridge	Mr MacLean	Mr Pandal	Dr Turnbull
Mrs Edwards	Mr McNee	Mr Prince	Mr Cunningham (<i>Teller</i>)
Mrs Hodson-Thomas			

Amendment thus passed.

Clause 3, lines 26 to 28, as amended, put and passed.

Clause 3, page 2, line 29 -

Question put and a division taken with the following result -

Ayes (28)

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

Noes (26)

Mr Ainsworth
Mr Baker
Mr Barron-Sullivan
Mr Bridge
Mrs Edwardes
Mrs Hodson-Thomas
Mrs Holmes

Mr Johnson
Mr Kierath
Mr Kobelke
Mr MacLean
Mr Masters
Mr McNee
Mr Minson

Mr Nicholls
Mr Omodei
Mrs Parker
Mr Pendal
Mr Prince
Mrs Roberts

Mr Shave
Mr Trenorden
Mr Tubby
Dr Turnbull
Mr Wiese
Mr Cunningham (*Teller*)

Clause 3, page 2, line 29, thus passed.

Clause 3, page 2, line 30 -

Dr HAMES: I move -

Page 2, after line 29 - To insert the following -

(4) If at least 20 weeks of the woman's pregnancy have been completed when the miscarriage is procured, procuring the miscarriage is not justified unless -

- (a) 2 medical practitioners who are members of a panel of at least 6 medical practitioners appointed by the Health Minister for the purposes of this section have agreed that the mother, or the unborn child, has a severe medical condition that, in the clinical judgement of those 2 medical practitioners, justifies the procedure; and
- (b) the miscarriage is procured in a facility approved for that purpose by the Health Minister.

This amendment was arrived at after lunch prior to debate being adjourned when different members put different views about what should happen to a pregnancy after 20 weeks. It is appropriate now, given that we have progressed to paragraph (d), that this be inserted. The original Bill says nothing about the time at which a miscarriage can be procured. No-one in this Chamber would support aborting a healthy child after 20 weeks' gestation. We are referring to those pregnancies currently performed at King Edward Memorial Hospital where the life of the mother would be in severe jeopardy if the pregnancy were to be continued.

The case raised earlier by the Health Minister involved a patient of mine who had breast cancer. She was unable to undergo treatment and had other children at home. She chose to have the birth induced. There was no attempt at termination; it was induction of the pregnancy where there was a significant chance the child would survive. However, it was done at 23 weeks' gestation, when the chances are 50:50. That was the choice of the mother, her husband and her family. This puts in place a choice for such women or those who find at a late stage of the pregnancy that the child they are carrying has no brain. Those children die at birth. It is often considered far better for the woman and her future childbearing prospects to have that pregnancy induced. The baby dies at birth as it would otherwise have died at term. As I said, only six to 10 of these cases occur each year.

We have included these words to do our absolute best to stop the Queensland circumstance referred to - that doctor cannot come to Western Australia and practice terminations on healthy children after 20 weeks' gestation. I will be happy to respond to members' questions in that regard.

This amendment was drafted carefully so as not to be too prescriptive in listing those conditions that should and should not be the subject of termination. Until now doctors have been very responsible in the way they have managed this situation. This will involve a panel of six doctors, two of whom are called upon to take advice from the person wishing to procure the abortion, saying whether that should be the case where there is a severe threat to the life of the mother or a severe medical condition of the foetus that warrants a termination at that stage.

Mr BRIDGE: I move -

That the amendment be amended in line 1 of proposed subsection (4) by deleting "20 weeks" and substituting "12 weeks".

Earlier today I said that 12 weeks' gestation should be the limit for terminations. There is some debate about the rate of growth of the unborn child up to 12 weeks' gestation. In fact, we could confidently say that there would not be terrible, dramatic or horrible consequences following a termination until that time. Anything beyond that creates major problems and introduces a high degree of risk.

This is not only my interpretation. It was interesting to hear the member for Dawesville say that one of the basic requirements of members of Parliament is to familiarise themselves with the views of young people and, with a topic such as this, particularly young ladies, and to take account of those views. In fact, old blokes like me should not have much to say. I have sought the advice of a wide range of people. They have been to my office and I have had telephone conversations. I have been generally prepared to engage in this debate. As recently as 5.00 pm, three young ladies told me that, whatever I do, I should stick to my guns and ensure that the law does not extend the period beyond 12 weeks. They said I must rigidly stand by that principle, and that is what I said I would do. That is the basis upon which I move this amendment and hope that it will be supported. Members should accept this as a fair proposition and I urge the Committee to accept it.

Mrs ROBERTS: I support the amendment. One of the arguments put by pro-choice proponents is that we should face up to the reality of a certain number of abortions already occurring in Western Australia each year. We are told the figure is about 9 000. Those same people have also told us that 90 per cent of abortions are conducted before the end of 12 weeks. Therefore, they cannot argue that we would be denying the majority of those women the right to have an abortion, as they would term it. Even those with the hardest of hearts must surely acknowledge that between 12 and 20 weeks there is significant development of the baby in the mother's womb. For healthy foetuses to be aborted between 12 and 20 weeks or 12 weeks and full term is abhorrent. Members should consider supporting this amendment.

The cases of a malformed baby and a mother whose life is in jeopardy, or any of the other conditions mentioned so far, can still be covered. We are referring to cases other than where one is dealing with a healthy foetus between 12 weeks' gestation and term. I can see no excuse for aborting a healthy foetus beyond 12 weeks' gestation.

The argument relating to before 12 weeks is not particularly strong, but given the nature of the debate and the votes that have been taken in this Chamber and given that pro-choice people have consistently told us, as has the medical evidence that has been presented, that over 90 per cent of abortions occur in the first 12 weeks, the acceptance of the amendment of the member for Kimberley would still allow most abortions to take place. It is a very small check to put in place.

We are also told by pro-choice people that the vast majority of the abortions that take place beyond the 12 week period are because of some imminent medical danger to the mother or some severe medical problem with the infant in her womb. If that is the case, they will meet the criteria of other clauses and will not be affected by the amendment put forward by the member for Kimberley. His amendment is a test of the honesty of the pro-choice lobby. If they expect everybody to believe what they say - that is, that they want to legitimise what is currently occurring - they should have no difficulty supporting the amendment of the member for Kimberley.

Dr EDWARDS: I oppose the amendment moved by the member for Kimberley. I support the amendment moved by the Minister for Housing. The basis of the Minister for Housing's amendment is to look at a very particular group of women who involve about 15 terminations a year in this State. That group of women wanted to be pregnant. Some of them had trouble getting pregnant, knew they were pregnant and made an extremely hard decision. Recognising all of that, the Minister for Housing has moved an amendment in which there are two doctors and various hoops that must be gone through. I support that. I was part of the meeting that put the amendment together.

Although I understand the sentiments of the member for Kimberley, they are unrealistic. If we look at the tests women undergo throughout their pregnancy, the first they can have to determine genetic abnormalities can be done at around 10 weeks, but in fact doctors advise women against having that test because of the risk of miscarriage associated with it. They therefore wait until around 16 weeks to have an amniocentesis. A number of weeks will go by before that result comes through. If we put in that 12 weeks limitation, we are cutting out the ability of women who are affected by the results they get at 16 weeks or indeed 18 weeks from an ultrasound to have access to a service that they want.

Mrs Roberts interjected.

Dr EDWARDS: I do not think that is sufficient. On top of that there are also instances where young pregnant women do not know they are pregnant or deny the symptoms of pregnancy. In that case they do not present until late. I believe we need to leave it at 20 weeks. We are dealing with only a small number of women each year and not the vast majority. It fits with consistent practice and is not rushing people to have tests earlier or forcing them into a more difficult circumstance than comes into place if they get up to the 20 weeks period. I urge members not to support the amendment of the member for Kimberley but instead support the amendment of the Minister for Housing.

Mr PRINCE: I take a little issue with the member for Maylands with regard to some of that which she just said concerning an abortion where there is evidence of chromosomal or genetic abnormality. I understand from advice I have received from health professionals that there are about five, perhaps six abortions of this nature post-20 weeks'

gestation in any one year. They are extraordinary and tragic cases. They are obviously handled individually with very great care because of the danger to the mother, which is very high, in procuring an abortion at that gestation time. I think I am right in saying that only about 15 occur from 16 weeks thereafter.

Dr Edwards: It is 15 after 20 weeks.

Mr PRINCE: Whatever, it is relatively low. The point I want to make in respect of abortion for a chromosomal or genetic abnormality is that if the woman has a pregnancy which has gone past 10 to 12 weeks when the chorio villus biopsy can happen, and there is a risk associated with it, she and her family will not know whether there is an abnormality probably for at least a week after the biopsy is taken because there is a necessity to culture some of the material. With an amniocentesis at 16 weeks or thereabouts it takes another week or thereabouts for the culturing of substances taken to enable DNA testing to be carried out. Therefore, an abortion that is carried out at that stage of pregnancy, which is past the first trimester and into the second, concerns the genetic side of things. The woman has a pregnancy and wants the baby but as a result of information from testing it is determined that the pregnancy should not be completed because of the nature of the abnormality of the unborn child. These are a relatively small number; in fact, the total is no more than about 300 in any one year. I do not see those being affected at all by reducing the period from 20 weeks to 12 because those will be subject to circumstances of the amendment, as proposed by the Minister for Housing. Two medical practitioners, who would be geneticists, obstetricians and gynaecologists who are independent, are there in a sense to ensure that there is a severe medical condition which in their clinical judgment justifies an abortion. Reducing the period from 20 to 12 weeks will not prohibit or inhibit those few abortions for those particular genetic or chromosomal reasons. I disagree with the member for Maylands in that sense. I would have thought that it effectively potentially limits the ability of a woman to obtain abortion on demand after 12 weeks.

Dr Edwards: What if she continues menstruating after 12 weeks?

Mr PRINCE: Then the member is saying that is an abortion on demand. There is no genetic or other reason an abortion is sought. A person who wishes to seek an abortion on demand, which is effectively what proposed paragraph (d) allows through informed consent -

Dr Edwards: You have obviously never counselled a woman in that situation.

Mr PRINCE: The widest interpretation is proposed paragraph (d). If that passes, it will effectively limit that as a ground for abortion from 12 weeks on. I simply express that as my view so that members are aware of it. They are free to disagree with me. It seems to me to be the logical conclusion of a reduction from 20 to 12 weeks. The genetic abortion can still take place, but that which is otherwise possible under proposed paragraph (d) would be at the least limited, if not excluded.

Dr HAMES: I generally agree with the comments of the Minister for Health; we were talking about 16 weeks rather than 12 weeks. Some have suggested that if this amendment is lost, another may well be moved that substitutes six weeks for 12 or 20 weeks. I could certainly live with and support that time period. I do not supporting going right down to 12 weeks, not because a huge number is involved in the period between 12 and 16 weeks, but we must remember for what we just voted. We have just voted and gone down to proposed paragraph (d), which is pro-women's choice with counselling.

It can be said that they should all be aware in the first 12 weeks and should get their counselling, make a decision and have their termination. However, it is not always that easy. Some do not want to admit it to themselves. Some put it off and some may want further counselling, and it may be extremely difficult to have that done within the 12 weeks. However, 16 weeks might be a reasonable compromise between the two dates. It is recognised by the medical profession that 20 weeks is generally the cutoff date, but I appreciate the comment by the member for Midland that ultrasounds tend to be carried out at 17 or 18 weeks, at which time a lot of the detail of the child can be seen. I felt uncomfortable putting forward the proposal for 20 weeks. It must be remembered that I am proposing to provide the opportunity for women whose unborn children have severe defects or whose lives are in danger to go by another route; that is, a panel of six doctors from whom two will make that decision.

If the cutoff period is moved backwards, the number will increase. If the cutoff stage is 16 weeks, the panel of doctors will make a decision in respect of approximately 150 pregnancies a year. They must go into the detail of these individual cases when making those decisions. Many abortions taking place after 16 weeks of pregnancy occur because of congenital abnormality that is not diagnosed until 16 or 17 weeks of pregnancy. It is not unreasonable for them to go through that process in which the doctors will make a choice for them. No-one will be forced to have a termination, but women who become pregnant by accident will have access to termination. Twelve weeks is not long enough. GPs often see women in the 10 to 14 week range who want to procure abortions. It is reasonably common even though the figures show that many try to procure an abortion by eight weeks.

Mr Bridge: That may well have been the practice in the past because there has not been the 12 week factor. If, as part of the process, we create that 12 week limit, people will adjust accordingly. You are not giving any recognition to the change.

Dr HAMES: I appreciate the point and the member is right. Certainly people will try harder but I do not think human nature can be changed that much and nor will it affect the unwillingness of many women who become pregnant by accident to face up to a termination. Although I might agree that 20 weeks is too far down the track, if the proposal for a 12 week limit is lost, someone might move for a 16 week limit. Despite what the medical profession might like me to do, I probably will support that.

Mr KOBELKE: I support the amendment moved by the member for Kimberley, to the amendment by the member for Yokine. This Committee is putting in place a different regime to apply for the procurement of an abortion after a certain period. I believe the cutoff point should be 12 weeks. There will be one regime up to 12 weeks, when a choice may be made by the woman for matters of fashion or whatever. After that 12 week period, a different regime should be in place for a legal abortion. Then abortion must be approved by two medical practitioners drawn from a panel of at least six doctors appointed by the Minister for Health. For the purposes of this section the mother or the unborn child must have a severe medical condition that in the clinical judgment of those two medical practitioners justifies the procedure. The question of what justifies the procedure will be another issue. It could be a matter of medical ethics, with some input from the Minister for Health. There will be a panel of at least six doctors, from whom two will be drawn. That will ensure there is some understanding of clinical judgment, and the people involved will clearly have the expertise, as well as the ethical background, to make such judgments.

Is it practical? The member for Yokine has suggested there is some impracticality. The Coalition for Legal Abortion has indicated that only 4 per cent of the 9 000 abortions carried out annually are performed on women who are more than 12 weeks pregnant - approximately 360. That equates to approximately seven abortions a week, and it should not be difficult for the panel to handle that number. Those abortions will be carried out on the basis of medical assessment, and not for a matter of fashion or whatever. That is a most workable proposal and it will provide the level of medical supervision required. If the figure is changed to 16 weeks, it will change only slightly the number of women who will require that assessment by two medical practitioners.

Mrs ROBERTS: According to the comments by the member for Maylands, women with a severe medical condition or those who are carrying a child with a severe medical condition will not be in jeopardy. The amendment moved by the member for Kimberley has as part of it the proposal by the member for Yokine. It will apply these conditions at 12 weeks rather than at 20 weeks. Only a small number of people will be caught in between those periods. My time speaking on this amendment will be justified if it saves one life. It is not a matter of saying that only a small number of lives will be affected - to me every life is important.

Women in those circumstances who have a severe medical condition or those whose child has a severe medical condition will still be able to proceed, but there will be a check beyond the 12 week period. Other members think that the check should apply only from 20 weeks of pregnancy. If the amendment proposed by the member for Kimberley were defeated and if the amendment proposed by the member for Yokine were passed, women bearing healthy foetuses could have an abortion. The two cases mentioned were women who continued to menstruate and did not realise until a late stage of the pregnancy that they were pregnant, and teenage girls or other women in a state of denial who did not go to the doctor before 12 weeks or 20 weeks had passed.

The other significant matter I raise, which has not been raised previously, is the impact this will have on people with disabilities. If the cutoff period is not 12 weeks, mothers who discover that their child will have a disability will be able, virtually on demand, provided they give informed consent, to terminate the life of a child who is destined to be born disabled. I think that perhaps some members should consider what that means for people with disabilities. It allows just the woman and her doctor to make a determination that that child's life will not be worthwhile and it will not make a valued contribution to society, because in the judgment of the mother and the doctor, and under very liberal abortion laws which are likely to be passed by this Chamber, given that (a), (b), (c) and (d) are there, they will be able to make that choice to determine that they do not want to have an imperfect child born. They will make a choice about the quality of life for that child and the woman's own personal quality of life and in doing so will have a free rein to determine the killing of a disabled child.

They should not be able to make those kinds of value judgments. One small check in the procedure would be to have paragraphs (a) and (b) that the member for Yokine has moved as part of his amendment; that is, the judgment must be made not just by the informed consent of the mother and a general practitioner, but also after two practitioners from that panel of at least six medical practitioners agree that the unborn child has a severe medical condition that justifies the procedure. That is an important check, and if we do not have that kind of check applying from 12 weeks on, it will be a very sad day for people with disabilities.

Dr HAMES: I will say two things at this stage. One is to inform the Chamber that I have had discussions with various members about the numbers of weeks that are listed, and I found a strong consensus of opinion that 20 weeks should be amended to 16 weeks. I foreshadow that if this amendment is lost, I will put forward an amendment that takes it back to 16 weeks, not 20 weeks. With regard to my continuing support for 16 rather than 12 weeks, I make the point that there are difficulties for those women who are near that 12 week period and we have voted for choice for those women. Many country people may not wish to have terminations in the town in which they live when they find they are pregnant at or just before that 12 weeks, and for them to be able to make arrangements to come to Perth to have counselling and to go through that procedure which will lead to that termination can sometimes be very difficult. It will make things very difficult for those country women - that relatively small number of women who are pregnant and for whom we have just voted to give a choice whether they should have a termination - to be put through the hoops of having to go to two doctors from the panel of six, which will inevitably be in the city and not in the country. I ask again for those who have voted for choice for women, not to support going down to 12 weeks. I foreshadow that I will amend my amendment to change the 20 weeks down to 16 weeks to address the concerns of many of those in the Chamber who would not support 20 weeks.

Amendment on the amendment put and a division taken with the following result -

Ayes (25)

Mr Ainsworth	Dr Hames	Mr McNee	Mr Pandal
Mr Baker	Mrs Hodson-Thomas	Mr Minson	Mrs Roberts
Mr Board	Mrs Holmes	Mr Nicholls	Mr Shave
Mr Bradshaw	Mr Kierath	Mr Omodei	Mr Tubby
Mr Bridge	Mr Kobelke	Mr Osborne	Dr Turnbull
Mr Day	Mr MacLean	Mrs Parker	Mr Cunningham (<i>Teller</i>)
Mrs Edwardes			

Noes (29)

Ms Anwyl	Dr Gallop	Mr Marlborough	Mr Trenorden
Mr Barnett	Mr Graham	Mr Marshall	Mrs van de Klashorst
Mr Barron-Sullivan	Mr Grill	Mr Masters	Ms Warnock
Mr Brown	Mr Johnson	Mr Prince	Mr Wiese
Mr Carpenter	Ms MacTiernan	Mr Riebeling	Mr Bloffwitch
Dr Constable	Mr McGinty	Mr Ripper	(<i>Teller</i>)
Mr Cowan	Mr McGowan	Mr Strickland	
Dr Edwards	Ms McHale	Mr Thomas	

Amendment on the amendment thus negated.

The DEPUTY CHAIRMAN: The question now is that the words to be inserted be inserted.

Dr HAMES: I note the strong support for retaining the provision for 20 weeks. I am not unhappy with my indicating that I support 16 weeks. The figure that has been accepted is regarded by the profession as being acceptable. I support my amendment.

Amendment put and passed.

Clause 3, page 2, line 30 as amended, put and passed.

Clause 3, page 3, lines 1 to 3 -

Dr HAMES: I move -

Page 3, line 1 - To insert after "(3)" the following -
or paragraph (a) of subsection (4)

This is a drafting requirement.

Amendment put and passed.

Clause 3, page 3, lines 1 to 3, as amended, put and passed.

Clause 3, page 3, lines 4 to 7 -

Dr HAMES: I move -

Page 3, after line 4 - To insert the following -

"Health Minister" means the Minister administering the *Health Act 1911*;

Amendment put and passed.

Mrs van de KLASHORST: I move-

Page 3, lines 5 to 7 - To delete the lines with a view to substituting the following -

"informed consent" means consent freely given by the woman where -

- (a) a legally qualified medical practitioner has properly, appropriately and adequately provided her with information about the medical risk of termination of pregnancy and of carrying a pregnancy to term; and
- (b) a legally qualified medical practitioner has offered her the opportunity of referral to appropriate and adequate counselling; and
- (c) a legally qualified medical practitioner has informed her that appropriate and adequate counselling will be available to her should she wish it upon termination of pregnancy or after carrying the pregnancy to term.

Having listened to the debate yesterday and participating in it I am getting the message that some members want mandatory counselling and others want non-mandatory counselling. My amendment is a compromise in that it provides the option to have counselling, but it is not mandatory. However, the medical practitioner must offer the woman counselling and the woman can then make a decision about it. That might address the concerns of some members; it certainly addresses my concerns. I said yesterday that not all women would want to be counselled but some would need and ask for it. If we make it mandatory for the doctor to offer it and put the onus back on the medical practitioner, that might solve the problem. The amendment also covers those women who decide to continue with their pregnancy after counselling. For many women that would be just as traumatic. Women who go full term should also be counselled. I commend the amendment.

Mr BAKER: Can the doctor provide the information and also the counselling?

Mrs van de KLASHORST: Most women go straight to a doctor when they decide to have a pregnancy terminated. Therefore, the first doctor would be obliged to ensure the woman knows counselling is available and also to counsel her initially. This is done with most operations. When I had an operation a couple of years ago, I was so counselled. That should be done by the original doctor. The woman can then be offered further counselling if she wishes to have it. However, providing that advice would be mandatory.

Mr GRILL: Members are forgetting a very important point. We must address ourselves to the question of what the penalty will be if these provisions are not complied with. The penalties are extremely severe - seven or 14 years' imprisonment. Last night I moved an amendment that would make people liable for a fine, which I indicated was fairly benign. In the event that this provision is passed, we are thrown back onto the provisions of the Criminal Code, which makes provision for seven and 14 years' imprisonment.

Ms MacTiernan: Can we not simply move for a penalty of \$2 000?

Mr GRILL: Not in this situation. I did that last night and that gave members the option of voting for a provision that would have made a medical practitioner liable for a fine of up to \$10 000. Because of the way it is drafted and how it interacts with the Criminal Code, this provision is particularly draconian and will make the practitioner and the other party involved liable for penalties of up to seven or 14 years' imprisonment. That is the advice I have received and that is my understanding of the situation.

We must be very clear about this. If the member who moved the amendment is not clear about it, she should obtain some advice or at least indicate to the Committee what penalties will apply in the event that this provision is not complied with, either by the person seeking the termination or the medical practitioner.

Mr WIESE: We have just been given advice that the penalty for the offence under section 201 of the Criminal Code is for a term up to 14 years. My reading of the Criminal Code is that the offence the person is guilty of is a misdemeanour, the penalty for which is imprisonment for up to three years. Is my reading of the Criminal Code correct, or is the member for Eyre correct?

Mr PRINCE: Section 199 of the Criminal Code makes it an offence to procure a miscarriage by doing something for which the maximum penalty is 14 years; section 200 makes it an offence for the woman to permit that to happen and the penalty for that is seven years; and section 201 provides for a penalty of a maximum of three years for the person who supplies the instruments. If clause 5 of the Bill, the amendment moved by the member for Swan Hills,

or the foreshadowed amendment to be moved by the member for Cockburn pass - in other words, if informed consent howsoever defined becomes part of the Bill that passes this Chamber - the justification for an abortion is either proposed paragraphs (a), (b), (c) or (d) with informed consent in each case. Unless the criteria of informed consent is satisfied, the abortion is unlawful. If it is unlawful, it is a crime. Depending on who is charged and how, the penalties are a maximum of 14 years, seven years, and three years.

Mr RIPPER: I appreciate the Minister's explanation. It supports the remarks of the member for Eyre. Very serious penalties are involved if the informed consent requirement is not met. That is why I am moved to support the amendment moved by the member for Swan Hills. That amendment is the only version of informed consent which does not require mandatory counselling. If we accept that which is in the Bill or the proposed amendment by the member for Cockburn, we will be putting into the legislation mandatory counselling and we will be further accepting a situation whereby the penalty for not going ahead with mandatory counselling is a possible seven years' imprisonment. I do not think that is acceptable. If the penalty is that extreme, we cannot accept the requirement for mandatory counselling. Therefore, the only acceptable amendment is the one proposed by the member for Swan Hills.

Mandatory counselling is a contradiction in terms. All of the advice that I have received about counselling is that if people are compelled to go to counselling, it is useless. Counselling works only if people want to hear what is being said to them. I was Minister for Community Services and that was the consistent advice that I received from a department full of experts on counselling. It is important that we make counselling services available to women considering terminating their pregnancies. Every woman considering that should have that information and that opportunity made available to her. However, I do not think we can impose counselling on a woman. Firstly, it is a useless procedure anyway because it does not work if it is imposed upon people and, secondly, given the structure of this Bill, which we have already endorsed through our Committee debate, the penalty for not accepting mandatory counselling and going ahead with the termination would be seven years' imprisonment. That is absurd.

Mr COWAN: To make sure that the Committee is not confused, are we moving to delete lines 5 to 7 on page 3 of the Bill?

The DEPUTY CHAIRMAN (Mr Sweetman): Yes.

Mr COWAN: In that case, I am opposed to the amendment to delete the lines. The Committee has got itself tied up with wanting to be very prescriptive about all of these issues. As I said at the beginning of the debate, the issue is that the women have to receive counselling because that is what informed consent requires. I do not think we must further define the counselling that is to take place. I recommend to members of this Committee that the most appropriate thing to do is to vote against the deletion of any words and to vote in favour of the words in the Bill.

Ms MacTIERNAN: We have become hung up on the use of the word "counselling". We seem to think that counselling means something more than it does in this context. I would be happier if the member for Cockburn's amendment referred to a woman having been informed rather than counselled. Essentially, the amendments proposed by the member for Swan Hills and the member for Cockburn aim very much at the same thing; that is, making sure that the woman concerned has adequate information about the risks and consequences of the procedure she is about to undergo. One is not counselling and the other counselling; they are similar. The fundamental difference between the two is the requirement in the member for Cockburn's amendment that the person providing that information is a person other than a person procuring the miscarriage. The other night, the member for Collie said that 8 000 of the 9 000 abortions carried out in this State are carried out in two clinics. There is no doubt that there are two medical practices in this State that are substantially abortion clinics. I understand that the doctors providing the abortions in those circumstances may not be considered to be sufficiently objective or sufficiently removed from the financial consequences of the process to provide information in a disinterested fashion. Therefore, I suggest that we follow the current practice.

It has been said a number of times in the debate that we want to ensure that the law catches up with what has been the current practice for the past 25 years. In the vast majority of abortions that occur in Western Australia today, there has been a referral from one medical practitioner to another practitioner. Therefore, the insertion of the requirement that some independent person be involved in the provision of information is not something that is new or different from that which already exists today. In fact, we are slightly extending it and making it more broad by saying that medical practitioners may not be the only people who provide this information; we could also allow information to be provided by suitably qualified people who fall within a class that is then gazetted in the regulations by the Minister - for example, social workers and trained counsellors. Women in the country who do not have ready access to doctors to refer them on would be able to access information collecting services from a medical practitioner or from a social worker. They would then be referred to the clinic where the abortion was procured.

I do not know whether the member for Cockburn has signalled that he is prepared to change the word from "counsel"

to "informed" to ensure that we do not get hung up on the issue of what is counselling and what is providing information, but it is important to recognise the current practice, which is that generally women do not attend an abortion clinic without some prior medical consultation, and to ensure we entrench in the law the principle that women have some access to financially disinterested advice about the procedure that they are about to undertake.

Mr GRILL: Members need to be very clear about what they are voting on here, because I am not sure that they understand the sorts of penalties with which they are dealing. I am very much in favour of counselling. I made that clear last night, and I put forward a provision, through the member for South Perth, that would have made counselling mandatory.

Whether the counselling is on a voluntary basis where information is provided, or is on a mandatory basis, as the member for Cockburn is suggesting, the situation is that where those provisions are not complied with, the conditional precedent that will authorise the act of abortion has not been met, and we are then thrown back onto the penalties of the Criminal Code. Therefore, under both scenarios, we are thrown back to the situation where a practitioner or a person seeking an abortion may be sentenced to gaol for seven or 14 years. I do not believe that the people who advocate these amendments are fully aware of that fact, and they should be aware of it before they proceed any further, because that is a draconian situation. I believe that has not been envisaged by the movers of the motion. I may be wrong about that; perhaps they are doing it with the full knowledge that they may be sending a person to gaol for seven or 14 years, but I doubt that they are.

These penalties apply under all of the scenarios that are before us at present. I am in favour of counselling, but I am certainly not in favour of voluntary counselling or mandatory counselling where the penalty for non-compliance may be seven or 14 years in gaol. I know that the provisions of the Foss legislation may well bring that about, but in a far less certain and precise way. I think we are making it almost certain under either of the scenarios before us - that is, the Bill and the proposed amendment - that a medical practitioner or a person seeking an abortion who does not comply with those provisions will face a charge which may ultimately lead to a maximum penalty of seven or 14 years' imprisonment.

Mr Prince: Presumably they would not then proceed with the abortion.

Mr GRILL: That is the point I made last night. At least last night all that people were facing under the provisions that we were advocating was a fine of up to \$10 000. Under these provisions, they will be facing not a fine but a custodial sentence of seven or 14 years. We need to be very careful about these provisions before we vote on them, because these are the consequences. We are not moving a vague and amorphous provision to advocate counselling. We are including within the Bill a provision which is a conditional precedent to an abortion, and if the abortion takes place without that conditional precedent being met, those who are involved in the act of terminating the pregnancy may be charged. It is as simple as that, and I think we need to be very careful.

Dr HAMES: I have given a lot of thought to the issue of counselling and to how it should be done and by whom it should be done, and to what doctors should be doing, because a lot of criticism has been made of the counselling that doctors provide, and, by and large, I think that criticism is justified. In my own case, over the years I became better at providing counselling. In my early years as a doctor, I did not have the experience or knowledge to provide reasoned and adequate counselling to my patients. I have had discussions with the medical profession about what should be done to get doctors to provide better counselling. I have put two options to them that they have accepted as being reasonable. One option is that they develop a code of conduct that tells doctors what information they should provide, what things they should talk about, and, whatever may be their views, how they should put a balanced view about both sides of the debate. The medical and psychiatric professions have been discussing what they think should form part of that code of conduct, and they have given a commitment to get that out.

Another essential element is that a woman who goes to a doctor to have a pregnancy terminated suffers a great deal of trauma. We need to recognise that patients who see a doctor about a normal complaint such as a chest infection often remember only half, or less, of what they have been told, and when they are emotional and upset, they remember even less. I propose that a series of pamphlets be provided as part of that counselling process so that a woman who has received counselling from her doctor will have something to take with her to read in the privacy of her home.

I propose a set of three pamphlets. The first pamphlet would be strongly in favour of the woman continuing with the pregnancy and would outline the good things about keeping the child and list the places, including the Right to Life Association, to which the woman could go to get that type of counselling advice if that was what she chose to do. The second pamphlet would list all the pros and cons of termination, what the woman might feel after she had undergone that procedure, the devastation that many women did feel after that procedure, and the type of counselling that people might require.

The third pamphlet would cover post-termination factors and the importance of post-termination counselling. Many patients have told me that the thing they have regretted the most is that they did not talk about it afterwards but buried it in their subconscious. Women need to be told how important it is to seek counselling after abortion and about the places to which they can go for that counselling. They also need to be told about family planning so that they do not get pregnant in the first place, or get pregnant again and have to come back a few months later.

Those three pieces of information, and the normal counselling that a doctor would provide to those patients, would address the matters proposed in the member for Swan Hills' amendment. I support that amendment. I do not support the member for Cockburn's amendment, because although we want to get away to some degree from the concept of the doctor who procures the abortion being the one who provides the counselling, in some country areas that is not possible. A country doctor may have delivered a woman as a child and looked after her all her life, and if that woman then talks to him about a termination, he is probably the one who will have to perform that procedure because no other doctor is available for miles around. We cannot say that he should not be the one to provide that woman with that counselling and she must find some stranger.

Regarding whether I would prefer it in the Criminal Code or the Health Act, I want to move that this matter be part of the regulations but I am told that it cannot be done under the Criminal Code. I give a commitment in line with the medical profession that we will do our best to get this under a code of conduct. If the other Bill comes from the other House containing the provisions in the Health Act, I will try, as the member suggests, to incorporate it into regulation. I do not support the mandatory requirement proposed, but I support the regulation on the mandatory provision of information.

Mr THOMAS: The proposition before the Committee is that the words proposed to be deleted be deleted. If that occurs, we will have an opportunity to debate the amendment I have foreshadowed or the amendment which the member for Swan Hills intends to move. Let us be clear: The current provision in the Bill involves mandatory counselling to the disadvantage of the present situation. We are amending the Criminal Code if we vote for the words to be deleted.

We then move on to the option of whether we support my amendment or that to be moved by the member for Swan Hills. The member for Eyre suggests that in that way we will overcome the problem - we all agree it is a problem - of draconian penalties. The amendment of the member for Swan Hills defines informed consent as requiring information rather than counselling; that is, that being informed is somehow less onerous than being counselled. That is a fine point. However, I am prepared to further amend my amendment and remove "counselling" and substitute "information". Therefore, we will have an unobtrusive requirement on the woman concerned and we can debate the nature of the information as opposed to the nature of the counselling and the way it is delivered. I suggest that the Committee support the amendment moved by the member for Swan Hills.

Mr Grill: How do you get around the draconian penalties?

Mr THOMAS: We cannot get around, as the Minister said, the draconian penalties. We have already passed provisions which state that a woman who has a termination without informed consent will be in breach of that provision. Therefore, the 14 years' or seven years' imprisonment will apply. If we do not have a definition of "informed consent", we will go back to the common law. I do not know that definition, but something will apply and we will have a problem. I suggest that both the member for Swan Hills and I have a way out of the problem; that is, to define "informed consent" as being informed in a certain manner. I have a model and the member has hers. We can debate the merits of those models of being informed. Being informed is easier and less onerous than being counselled - apparently. Therefore, it will be easier for people to avoid being in breach of the requirement if the consent must be informed.

I can see no other way out. I ask the member for Eyre, and any other lawyer present, why we cannot move a later amendment to reduce a penalty from seven years' imprisonment to \$1 000.

Mr GRILL: The Foss Bill provides a very general clause about informed consent. It is a condition precedent for the legalisation of abortion.

Mr Prince: It is part of the justification.

Mr GRILL: Right. Superficially, it would appear to give rise to the penalties to which I referred earlier. However, it is a general provision, and in the event that we recommit the Bill and amend the Health Act, we could inject into the Health Act specific provisions about counselling and consent, whether it be voluntary or compulsory, and we could apply a penalty. In those circumstances, the provisions of the Health Act would apply. In those circumstances, the persons involved would be running the risk of a fine rather than the penalties of the Criminal Code. That is one way around the problem, and another might be to amend the Criminal Code to reduce the penalties.

Mr Thomas: Can we do that?

Mr Prince: I really do not think you can do that.

Mr GRILL: When I obtained information from parliamentary counsel last night, he was of the opinion that we could insert the provisions within the Health Act. We can insert penalties within the Health Act, and those penalties and provisions would apply in those circumstances. Therefore, an amendment to the Health Act - I might be corrected, and parliamentary counsel might rightly change his position - seemed to be a benign way of ensuring that some counselling took place. My preference last night was for compulsory counselling. We were not successful even with the watered down version proposed by the member for Mandurah.

If we want to consider a form of a voluntary counselling, as suggested this evening, the proper place for it is in the Health Act. We should look at amending the Health Act.

Mr Ripper: We cannot do that.

Mr GRILL: We could recommit.

Ms MacTiernan: We have tried that. We are trying to give the community some idea of where we stand on these matters. So while preparing amendments for the Health Act, it can take into account what we have determined here tonight. Most of us do not believe it should be within the Criminal Code but we must work in the structure provided to us.

Mr GRILL: I do not believe we can amend the Criminal Code in the way the member is suggesting. The Minister may be able to give some further advice. Most of us believe that the proper place for such provisions is in the Health Act. That is where they should be placed and we should endeavour to find a way to amend the Health Act to enable that to happen.

Mr RIPPER: The member for Eyre has proposed shifting the counselling provisions to the Health Act. I do not think that that deals with the problem of the penalties which arise because counselling is included in the definition of "informed consent", which needs to be given in order to justify the abortion. If the abortion is not justified, the Criminal Code penalties for unjustified abortion come into play. The penalty is seven years' imprisonment for women. Shifting the provisions to the Health Act will not achieve the end of getting away from the penalty. The only way to avoid the penalty for something going wrong with the counselling is if the concept of counselling is decoupled from the definition of informed consent. In other words, some provisions for counselling will be needed, but they cannot be linked to the definition of informed consent. Otherwise, if something goes wrong with the counselling - that is, if it is a mandatory scheme and the woman refuses to accept the counselling, or if it is voluntary and the practitioner does not make the necessary referral, and the offer of counselling is not properly given - the question of the penalties will arise.

Two things must be done: The definition of informed consent must exclude concepts of counselling; and we need a proper counselling provision which should be voluntary. Obviously the best place for those is the Health Act. Perhaps the Committee should reconsider that matter. It also needs to decouple the concept of counselling from the concept of informed consent otherwise we will be stuck with the draconian penalties the member for Eyre has spoken about and the Minister has confirmed in reply.

Mrs van de KLASHORST: Would the words in the Foss amendment provide a penalty of 14 or seven years?

Mr PRINCE: The whole structure of this Bill is to justify abortion under certain circumstances. Every one of the defined circumstances involves informed consent. Consent is well understood. Informed consent means that the woman has received counselling. If she refused to have counselling and the doctor proceeded he would be a fool because he would be committing an offence as would the woman and everybody who assisted. If, however, she received counselling and then gave consent, the criterion of informed consent and paragraphs (a), (b), (c) or (d) being satisfied, the procedure would be a justified abortion because we start with the proposition that all abortion is unlawful.

Mr THOMAS: The intent of the Bill is to say that a person is not criminally responsible under the Criminal Code in certain circumstances. Would it not be possible for the Committee to add another proposed section to this Bill that would say "notwithstanding any other provision of the Criminal Code a person is criminally responsible by not obtaining informed consent and is liable to a penalty of \$1 000". Like the Bill, it is messy, awkward and undesirable. As soon as it is consolidated in health legislation where it belongs, the better. If we are fearful of having draconian penalties for what should be non-criminal offences or non-serious offences, I cannot see why we could not draft something that would sit within the Criminal Code until we are able to consolidate the provisions into the health legislation concurrently with the regulations that the Minister for Housing has so excellently foreshadowed to enable us to legislate now.

Mr BARRON-SULLIVAN: At present a serious situation exists in this State and we must legislate for it. I regret not speaking earlier. I did not jump to my feet after hearing the points made by the Minister for Family and Children's Services about the crucial stage we reached with paragraph (c). Now that we are talking specifically about the amendment moved by the member for Swan Hills I stress that counselling is probably the most crucial question, irrespective of how far down the tick-a-box procedure we go, that this Committee will consider. In discussing this matter with the member for Swan Hills I indicated previously that I would support her amendment. That was before the member for Cockburn indicated his other amendment.

After comparing the two I must sway towards the latter amendment. I say that because, firstly, I do not believe all doctors offer the same advice as we heard from the member for Yokine. I have spoken to some medical practitioners about how women are counselled before an abortion is procured. In some cases the advice and counselling goes nowhere near the extent we heard earlier. In view of the fact that this Committee has agreed to paragraphs (a) to (d) inclusive, technically there will be no limitations whatsoever on a woman's ability to procure an abortion.

In view of that there is one safeguard this Committee could consider. It is not a question of whether we are pro-choice or pro-life, it is a matter of striking the essential balance. That one safeguard is to provide for some form of independent mandatory counselling. Some members will say this example would never happen. However, I can assure them that in some nations it does happen, and will continue to happen and could happen in this State.

I refer to the classic case of a family who has three daughters and the next pregnancy is determined to be another daughter. The parents might choose to terminate that pregnancy purely on the basis of the sex of the unborn child. Regardless of whether we believe in total choice for the woman, most people would consider it abhorrent to undertake an abortion to engineer the birth of a child of a particular sex. It has happened elsewhere in the world and it is something some people are motivated very strongly by, for personal or cultural reasons. All I am saying is that if we provide for a form of mandatory counselling which is provided by regulation under the Health Act, appropriate people can be appointed to be those counsellors and I hope, before any decision is made to procure an abortion, the women who make that decision, in many cases with their partner or husband, will be as informed as possible.

I appreciate that that is an extreme example and that in most cases women will make choices for far less extreme reasons. However, it demonstrates the fact that if we do one thing tonight we must provide for mandatory counselling if at all possible under the Health Act.

Mr COWAN: I remind members we are not dealing with the Health Act. We are dealing with the Criminal Code, which contains significant penalties. That is one of the reasons the clauses in the Bill have a degree of generality. The moment we want to be definitive about the counselling and make it mandatory to the extent suggested we will run into trouble with the Criminal Code. People will be charged because they did not follow the law according to the Criminal Code. This Committee has determined that it is the appropriate law under which this issue should remain. In that sense, if we now want to reverse all the decisions we made over the past five sitting days, so be it. However, I will not be part of that. I suggest we stick to the line of thought that the Committee has held for five days; that is, we retain this aspect of abortion within the Criminal Code.

Members will notice that the provisions with regard to counselling under this clause provide the definition of informed consent. That has a degree of generality about it and that is the way it should be. If we want to be prescriptive we face the prospect of more people finding some difficulty in complying with the legislation and we will find it much more difficult to implement all of the things we have said should apply - paragraphs (a), (b), (c) and (d). In other words, we are bringing the convention into the law. Having done all of that, members want to make the law much more prescriptive and undo all of the work we have done. That is a nonsense.

As the member for Mitchell has said, we should have made the decision earlier to deal with this matter in the Health Act where we can be prescriptive and find appropriate penalties and other courses of action that should be followed by medical practitioners, assistants or whomever. That has not been done. In this case the die has been cast. In my view we cannot now start being overly prescriptive. I recommend to the Committee that we oppose the question before Chair and we do not change the Bill in its current form.

Mr RIPPER: I find the Deputy Premier's remarks somewhat persuasive. I am concerned about the penalties in the Criminal Code that might be invoked if the scheme of counselling that we adopt eventually is somehow contravened. I want to vote for the least prescriptive form of counselling and I am trying to choose between the amendment moved by the member for Swan Hills and what is in the Bill. The basis on which the choice must be made is what is the least prescriptive form of counselling, because the more prescriptive the form of counselling we adopt the more we place women and practitioners at risk of those serious penalties under the Criminal Code.

What sort of information giving or counselling would be necessary to satisfy the provisions in the current Bill? I am leaning towards the amendment moved by the member for Swan Hills because it seems to imply voluntary rather than

mandatory counselling. On the other hand, it too has detailed prescriptions and a lot more detail than that which is in the current Bill. Could the Minister explain what is required from counselling under the current Bill? If he can satisfy me that it is not a particularly onerous scheme I would be prepared to go for the Bill rather than the amendment moved by the member for Swan Hills. The key point is that we do not want to expose women or medical practitioners to serious penalties under the Criminal Code because of minor infractions of the counselling scheme we have sought to impose in the Bill.

Mr PRINCE: The Bill before the Chamber defines informed consent as consent given by the woman after receiving counselling about the consequences of induced miscarriage. The plain, ordinary meaning of that would be that she has received some form of information and advice with respect to the consequences of induced miscarriage. Clearly that advice can be given by the doctor. It would be debatable whether it could be provided by anyone else, because advice on the consequences of induced miscarriage should come from someone who has the competence to speak about that and one would tend to say that that is a medical practitioner or one who is involved and has experience of induced miscarriage. The expertise would mostly be found in the medical profession. My reasoning would be that the counselling would probably have to come from a doctor. If the woman refuses to be counselled, the doctor who performs the abortion commits an offence, and so does the woman and anybody else involved in the procedure. The logical conclusion would be that the abortion would not be performed.

The amendment which is moved by the member for Swan Hills places an obligation upon the doctor to provide information, to offer the opportunity of referral to appropriate counselling and to inform the woman that appropriate counselling will be available upon termination or carrying the pregnancy to term. That is a positive obligation on the doctor to do certain things, although whether that is counselling is perhaps debatable. However, it is a positive obligation and in that sense is probably less prescriptive and less of an onerous duty than what is contained in the Bill at the moment. It is not a receiving of counselling; it is a provision of information, which is a different exercise.

Mr Grill: Nonetheless, if it is not complied with there is not informed consent

Mr PRINCE: The amendment moved by the member for Cockburn refers to counsel by a suitably qualified person, which indicates an active exercise between the woman concerned and someone else.

Mr Thomas: Suppose I delete counsel and substitute informed?

Mr PRINCE: "Informed" implies that she has some cognitive understanding of that which has been said to her or given to her. The amendment moved by the member for Swan Hills says "provided with information", not that she understands. It is a fine distinction, but important. The amendment that is the least prescriptive is that moved by the member for Swan Hills. That also places a positive obligation on the medical practitioner to do things, rather than a judgment about whether there has been information and advice and it has been understood.

Mr Thomas: What about the amendment of penalties?

Mr PRINCE: The only way we can amend the penalties is to amend sections 199 to 201 of the Criminal Code, which is to amend the penalty for an unlawful abortion.

Mr Thomas: Can't we include a provision in this Bill that says "notwithstanding any other provision"?

Mr PRINCE: No, that will not work, because informed consent is arguably the most important part of the justification excuse and authorisation for an abortion which is otherwise illegal. The only way to amend the penalty is to amend the penalty for an unlawful abortion.

Mr Thomas: Is that the advice from parliamentary counsel?

Mr PRINCE: Yes. He is working out how it can be done, but it is complicated.

Ms MacTIERNAN: I understand the points that have been made by the Minister. It is unfortunate that we have got locked into this aspect of the debate and to some extent are skating over the substance of the amendment proposed by the member for Cockburn. He has indicated that he is prepared to change the word counsel to informed, so that we have consistency between what has been required by the member for Swan Hills and Cockburn insofar as they want the woman who is contemplating an abortion to be properly informed.

Putting aside the bits about how these things fit within the Criminal Code, the fundamental difference is that the amendment of the member for Cockburn does require that there be some involvement in that information giving activity by a person other than the doctor who is to perform the abortion. That is very important because, as the member for Collie has pointed out, about 8 000 of the 9 000 terminations carried out annually in Western Australia are effected by two medical clinics. It is important that the person giving the information is financially disinterested in the transaction that is about to take place. That amendment reflects current practice. At the moment the vast

majority of abortions is either on referral from a separate and independent general practitioner, or the person who has presented at the clinic where the abortion is to be done is given counselling by a representative of the Family Planning Association.

My concern with the amendment of the member for Swan Hills is that we may perhaps see a diminution in the availability of any independent advice and information on the consequences of pregnancy and termination. To date the practice has been by referral so an independent person has been involved as a matter of practice, and why would that not continue? It may well continue, but it may also be that the doctors who have been performing the abortions have been careful to protect their backs, knowing that the law was not on their side and what they were doing was not condoned by the law as it stood. It is quite conceivable that now we have basically implemented abortion on demand, which I have supported, the availability to women of this independent advice if they front at these clinics will disappear. We have talked about the niceties and the details of how this fits in with the Criminal Code. We have been compelled by the Government to deal with a Bill in this totally unsatisfactory manner, but we are not dealing with a more fundamental issue -

Mr Cowan: Don't tell us you are being compelled by the Government to do anything. You are not.

Ms MacTIERNAN: We were presented only with the option of this Bill. If we wanted to progress the debate, it became pretty clear that we had to talk within the framework of the Bill. We are trying to work in a difficult situation, within a Bill that basically we believe will not go forward. The substance of what we are talking about will be taken on board by the upper House in its formulation of amendments to the health regulations. That is what we should be doing here. That is the only thing that makes any sense. I just want it to be understood that the substantive issue - not the technical one - for us to consider at this time is whether we believe a woman contemplating a termination should have access to information from a person other than the doctor who has a financial interest in procuring an abortion.

Mr GRILL: There are a number of substantial questions, but the most important one is that we now have a piece of legislation that makes a medical practitioner and the person seeking an abortion liable to very draconian penalties - nearly all of us were not aware of that - by virtue of this legislation.

Mr Cowan: They exist now. That has always been the case.

Mr GRILL: No. We want to include in some piece of legislation some provisions for counselling. As I understand it, there are probably two ways of doing this and at the same time fixing up the problem we have with the Criminal Code and the Foss Bill. The first option is to recommit proposed new section 3(d) of the Foss Bill and to amend section 201A of the Criminal Code. I think we all know what that deals with. We should take out reference to informed consent. We would seek to take out the word "informed" and merely leave the word consent. Then we would go on to remove the whole of proposed new section 5 so that informed consent is removed altogether from this legislation. We would be taking out the word "informed" from proposed new sections 3(d) and 5 so that informed consent is not defined under the Criminal Code.

Mr Prince: Your proposal is to take out the word "informed" from proposed new section 4.

Mr GRILL: Yes, and from section 5.

Ms MacTiernan: A woman does not have to be told.

Mr GRILL: No. I am coming to that. It would simply mean that we do not have draconian penalties under the Criminal Code in the event that the woman has not been properly counselled. Then we would seek to insert into the Health Act either the provisions that the member for Swan Hills has proposed or those that the member for Cockburn has put forward, or maybe something along the lines that I moved last night which would apply a penalty. We could argue about that later.

The first thing to do is recommit that proposed new section in the Bill and to take out the definition of informed consent. Then we can get onto the question of how to amend the Health Act. There is a simpler way of doing this but it is probably objectionable to a number of people; that is, simply to amend the penalties under the Criminal Code. Parliamentary counsel has put forward a way in which we could go about reducing the penalties under the code in certain cases, which would be those that would come up under this legislation. Parliamentary counsel has drafted an amendment to do that. That and the way advocated by member for Cockburn are the simplest ways of doing this, but it has the objection that we are still leaving the penalty provisions within the Criminal Code. Most members who have spoken have indicated that they would rather not leave the penalties within the Criminal Code and would rather have lesser penalties under the Health Act.

Mr Prince: Only in respect of the giving of counselling.

Mr GRILL: That is right. Therefore, I suggest that we recommit proposed new section 3 and that, in recommitting it, we remove the words in the proposed new sections to which I have referred.

Mr THOMAS: I will argue the contrary case to that argued by my colleague and friend the member for Eyre and suggest that we take up the proposal that has been prepared for us by parliamentary counsel.

The proposed amendment referred to by the member for Eyre could be inserted by us now and would overcome the problem. That amendment is a proposed new clause entitled "Reduction of penalty in certain cases", which would read -

If a person is criminally responsible under section 199, 200 or 201 by reason only of the consent referred to in section 201A(3)(d) or (5) not having been informed consent within the meaning of section 201A, the offence committed under section 199, 200 or 201 is a simple offence and the person committing the offence is liable to a fine of not more than \$50 000.

The suggested penalty is \$50 000, but we are advised that we could reduce the penalty from \$50 000 to \$5 if we wanted to do that. We have the scope to do that this evening.

The only substantive objection that I have heard as to why we should not deal with the question of counselling this evening - we must deal with it one way or the other, because it is in the Bill, and we have to deal with the Bill which is before us by voting for or against it, or leave the issue of abortion to common law - and as to why we should not complete the job which we have started by delineating the criteria by which abortion should be permitted in this State is that people would be subject to draconian penalties. No-one would want to see under either counselling model or under the original provisions of the Bill, which the Deputy Premier referred to as being sufficiently vague as to not secure a conviction, people go to gaol for seven or 14 years, or go to gaol at all.

In any event, parliamentary counsel has provided us with a simple means of averting that possibility. We can vote for the amendment moved by the member for Swan Hills that the words proposed to be deleted be deleted. We can then debate the two alternatives that are before us with regard to counselling or informing, depending on how we want to put it. We can then carry the provisions with regard to penalties, depending on what quantum of penalty we believe is appropriate. We will then provide a proper model for counselling or being informed, which is essential given the pivotal role of informed consent under the provisions that we have already carried, and we will also effectively remove this matter from the area where people are likely to be sent to gaol.

Sure, it is a dog's breakfast in a sense and the whole thing needs to be taken from the Criminal Code at a suitable time and put into the Health Act. In the meantime, we will have workable legislation; we will have regulation, and we will have provision for people to be counselled when they exercise the right that we are giving them to obtain a termination of pregnancy, but we will not be subjecting people to the potential of imprisonment, be they women seeking terminations of pregnancy or doctors performing that procedure. I commend what the member for Eyre has said as the simplest case and the suggestion that has been given to us by parliamentary counsel.

Mr COWAN: That is not a recommendation that I would accept and that is not a recommendation that I would make to the Committee. I understand that there has always been a requirement that the provisions of the Criminal Code be somewhat general. In this case, the dilemma that the Committee is facing is that if we delete these words, the words that will be inserted will be quite specific, and that is something that is not generally found in the Criminal Code.

Ms MacTiernan: That is not true.

Mr COWAN: I have been told by the Attorney General that what we have been dealing with for the past five days, and particularly the informed consent that we are now talking about, does need to have general expression in the Criminal Code. We may argue about that, but the point I am making is that for a long time now we have moved down the path of determining, firstly, that we want to retain in the Criminal Code the right of the State to deal with abortion. If my memory serves me correctly, that was the first decision made. Having made that decision, we have now had someone suggest that the words in respect of informed consent and counselling are not prescriptive enough. I suggest that we should not change the provisions of the Criminal Code to try to satisfy some of the needs of members of this Committee but should undertake what has been suggested by a number of people and amend the Health Act, because in amending the Health Act we will have the capacity to be more prescriptive, as was proposed last night and rejected.

Mr Baker: As you can now understand.

Mr COWAN: I understand what those members want, but I do not want that, because I have recommended time and time again that we should not accept the proposal to delete the words. I have always understood exactly what people have been saying about whether this matter should remain in the Criminal Code or be dealt with in the Health Act. The instruction was given to the Committee, the Committee said it would consider the Health Act, and the Committee

rejected it. If all members believe that we should revisit this matter, I suggest that can be done entirely separately from this debate; and as a Government, that is something we can do. We can certainly identify whether we need to amend the Health Act to provide for the more prescriptive nature of counselling that is requested by the members for Swan Hills, Cockburn and Eyre. That can be done. I assure the Committee that we can do that. We have gone down the path of retaining these provisions in the Criminal Code and making some exemptions. Why should we change now at this late stage when we can still exercise the option of examining the Health Act quite separately and proposing as a Government amendments to the Health Act which can be more prescriptive and can accommodate some of those demands that people have made?

Mr GRILL: When would that be done?

Mr COWAN: As soon as possible, if that is what members want.

Mr PRINCE: If that is the will of the Committee, I will undertake to do it as quickly as possible, commensurate with coming up with good legislation. I am talking about a definition of counselling in the Health Act which will have an effect upon this matter.

Mr GRILL: I will not oppose that, because that is exactly what I suggested last night. It will be done with a bit more consideration and take a bit more time. However, I put this question to the Minister: If we leave this Bill as it is and subsequently, as suggested by the Deputy Premier, we amend the Health Act to put in place some regulations about counselling, will those changes to the Health Act allow a practitioner and a person who is terminating a pregnancy, by complying with those new provisions in the Health Act, to overcome any threat of a prosecution under the Criminal Code?

As the Minister and I have agreed privately - it is now said publicly - as a result of the general provisions of the Foss Bill, it would probably be difficult for prosecutors to bring about a prosecution under this proposed provision. I have said that across the Chamber, and I think the Minister has now confirmed it. However, it has been lost on the Chamber. I put that to the Minister directly and I would like to hear his answer. If the Minister can answer that question in the affirmative, most people will accept the Foss Bill on the undertaking given by the Deputy Premier that amendments will be introduced to the Health Act.

Mr PRINCE: If the doctor, woman and others do not comply with whatever might be inserted into the Health Act as a further definition or prescription for counselling, they would commit an offence. Under the Criminal Code, informed consent is part of that which needs to be satisfied for a justification for the abortion.

Having said that, in many respects informed consent is more important than the actual procedure. Although the physical procedure leads to the termination, and must be performed sensibly, responsibly and hygienically, the decision to abort is arguably the most important of the two in human terms. Therefore, to say that counselling and the decision making process is of less importance than the act itself is nonsense. If abortion is illegal, and it is, in many respects it is the decision to abort which is the most important part of the exercise. The actual medical procedure is the lesser part. Therefore, the informed consent - the receiving of counselling - is critical. At the moment if one were to attempt to prosecute for not receiving counselling, one would need to prove beyond reasonable doubt that the woman in question did not receive counselling, and that the doctor did not provide it; that is, at no stage did the doctor try to communicate with the woman in a manner she understood the consequences of an abortion: The termination of the potential life of the unborn child, and from his knowledge of a medical practitioner the consequences which will flow to that woman which have occurred to other women, and the available alternatives. That is an obvious summary of what would need to be proved.

How is it done? One produces other doctors to outline the practice and what should be done, and one asks whether the doctor did that as described. It is an objective, not subjective, test. Did the doctor do the things which all other doctors are saying should be done? If the doctor concerned did not do so, he is guilty. The practice at the time the prosecution is mounted is the way the receipt of counselling is determined in the way the Bill is written at the moment.

We have heard opinion from medical practitioners who are members of this place, and I understand from information I have received from senior practitioners who see me in my ministerial capacity that the counselling doctors provide a spoken exercise. In some cases it involves some form of written material, but the gynaecologists and obstetricians are working on a broader package of written material. If that exchange occurs and the doctor is satisfied that the message has been passed across, that would satisfy the requirement for "received counselling". If the woman consents in writing, as is usual with any surgical procedure, informed consent is satisfied. Does that answer the question?

Mr GRILL: Yes. To add to that, in the event that the Bill is passed in this form, does the Minister give an undertaking to introduce amendments to the Health Act which would reflect a prescriptive form of counselling?

Mr PRINCE: The Deputy Premier is taller than I, but not as wide. He has said that I will do it. I have undertaken to come back with whatever seems to be the appropriate way to amend the Health Act to provide for more definition for counselling for the purposes of this amendment to the Criminal Code.

Mr Grill: Why not make it a separate offence under the Health Act?

Mr PRINCE: As soon as one attempts to do so, one promptly tries to remove that element for the justification for an abortion. One cannot do that and still have an offence of an unlawful abortion in the code. I thought I had explained that.

Mr GRILL: Surely the two could exist side by side.

Mr Prince: Double jeopardy.

Mr GRILL: No. One could be quite prescriptive, and the other could be in general terms, as already agreed. One would need to meet all of its elements under the Health Act, for which a fine might apply for non-compliance. The other would be in more general term in the Criminal Code as a conditional precedent for lawful terminations. This would carry much higher penalties.

Mr PRINCE: I would object as a matter of principle to that scenario. One would say that the actors in this drama are liable to be prosecuted under the Health Act for offences arising out of certain circumstances, and under the Criminal Code for another offence arising out of exactly the same circumstances. One would have two prosecutions and two offences arising from one act. That is not necessarily right. The member is saying that the non-provision of counselling should be some form of relatively lesser offence, but non-justified abortion should remain a serious crime. The justification for an abortion is the decision making process to undertake it, rather than performing it as a medical procedure.

Paragraphs (a), (b), (c) and (d) of proposed section 201A(3), however the member may want to regard them, are all part of the decision making process and not the medical procedure conducted in a hospital theatre or surgery. I do not see how conceptually the counselling can be taken out of this process and non-provision made into some form of lesser offence when the whole genesis of this measure is the decision to abort, and the justification for that decision.

Mr GRILL: Given that explanation I do not believe that amendments to the Health Act will serve much purpose. In fact they would make it more likely that a person had not complied with the provisions for counselling and more likely that they could be liable for imprisonment for a long period. In those circumstances I would not want to advocate a prescriptive set of regulations because that would place a medical practitioner and/or a patient in a situation where they could be prosecuted for non-compliance with something that could be quite exacting and prescriptive.

I do not know where at the end of the day this piece of legislation will end up. It is a most unusual situation to have two pieces of legislation dealing with the same matter in two different places. However, I understand the offer made by the Deputy Premier which has been reiterated by the Minister for Health. I would not like to subject either a medical practitioner or a patient to the further jeopardy of not complying with a set of prescriptive counselling procedures in the event that non-compliance meant either one or both could go to gaol for seven or 14 years.

Mr THOMAS: We should move to a vote. The amendment before the Committee is that the words proposed to be deleted be deleted. We must decide whether we will accept the words in the Bill or accept one of the amendments that have been foreshadowed. The Deputy Premier argued the case for the words in the Bill, saying they were so vague it would be unlikely that anyone would be prosecuted. They require mandatory counselling and because of the provisions of the Criminal Code, if an abortion takes place without that having been satisfied, there will be a breach of the Criminal Code. The draconian amendments in the Criminal Code to which the member for Eyre has drawn the Committee's attention will apply. For that reason we should move to consider the amendments.

The only reason for not moving to consider one or other of the foreshadowed amendments is that the penalties under the Criminal Code would apply if they were to be breached. It was felt that they might be too prescriptive and more likely to incur a breach. I do not know where the people who said that they were not aware of the draconian penalties have been for the past five days. They are in the Criminal Code, which is the principal legislation. Anyone who has taken an interest in this matter must have known that penalties existed.

We have been leaning towards liberalising provisions and, therefore, rather than thinking about penalties we have been thinking about penalties being avoided. I do not want this to be in the Criminal Code, nor to see people go to gaol. However, for as long as it is in the Criminal Code, we have an easy and practical option before us this evening. Parliamentary counsel has drafted for us a form of words that could go in as a further clause of the Bill. We can argue about the extent of the penalty. Before the night is out we could incorporate a provision in the Bill to preclude

people from threats of imprisonment for non-compliance with one or other of the penalties of the foreshadowed counselling prescriptions.

We have a relatively easy option before us. We can carry the proposition that the words proposed to be deleted be deleted or we can consider the amendments. I am concerned that that will place people under threat of long gaol sentences and the like. If nobody else is I am prepared to move the provision drafted for us by parliamentary counsel which will amend the penalty to one that is more appropriate to the circumstances rather than talk about seven year gaol sentences. I do not think anyone wants that. I urge the Committee to support the question that the words proposed to be deleted be deleted.

Mr GRILL: I have an amendment drawn up by the Clerk of the Assembly which does all the things I said represented the preferable course of action on this matter; that is, recommit clause 3. However, there is not the stomach here to do it. Those people who won the division tonight are afraid that if it is recommitted they could lose it. There is probably not the support on either side of the House to do what we should be doing; that is, taking the definition of informed consent out of the Criminal Code and putting it into the Health Act.

An amendment has been drafted. I do not think it will be supported even though most people will privately agree that it is the right thing to do. However, I indicate that these Bills will be dealt with probably formally and informally later. People should know there is an amendment that will probably work and which should be given some consideration later. I would have moved the following amendment -

That the Criminal Code Amendment Bill 1998 be recommitted for the purpose of considering the following amendments -

Clause 3 (as printed)

To delete from proposed section 201A (3) (d) the word "informed"; to delete from proposed section 201A (4), as printed the word "informed"; to delete from proposed section 201A (5) the definition of "informed consent"; and

New clause 3 - To insert at the end of new clause 3 the following -

316B (1) A medical practitioner who does any act to terminate the pregnancy of a woman commits an offence unless subsection (2) applies.

Penalty of \$50 000.

(2) This subsection applies if -

- (a) a legally qualified medical practitioner has properly, appropriately and adequately provided her with information about the medical risk of termination of pregnancy and of carrying a pregnancy to term; and
- (b) a legally qualified medical practitioner has offered her the opportunity of referral to appropriate and adequate counselling; and
- (c) a legally qualified medical practitioner has informed her that appropriate and adequate counselling will be available to her should she wish it upon termination of the pregnancy or after carrying the pregnancy to term.

Dr Turnbull: Could you add a subclause to say that the practitioner must be independent of the practitioner carrying out the abortion?

Mr GRILL: That is in the amendment foreshadowed by the member for Swan Hills. Recommitting that clause is the proper way to do it, but I do not think there is stomach here to do it.

Mrs van de KLASHORST: I have listened to debate on the definitions. Mandatory counselling should not be part of this Bill because from experience in the justice system and in many other areas we know that it does not work. We have moved amendments knowing that the penalty in the Criminal Code is imprisonment from seven to 14 years.

The doctor should be obliged to offer a woman counselling. The woman can then decide whether to accept that counselling. At least we are giving her the opportunity for counselling. I intend to go ahead with my amendments and the Committee can make the decision.

Mr KOBELKE: I seek clarification from the Minister regarding the clause proposed to be deleted. In debate with

the member for Eyre the Minister presented an explanation that I found useful. However, his explanation opened up some concerns about the interpretation of the words to be deleted. The Minister said that informed consent as defined in the Bill related to the doctor providing counselling to the woman seeking to procure a miscarriage. That will be the situation in most cases, but that is not how I read this clause. This is caught up with the fact that the medical procedure of the procurement of a miscarriage requires a level of consent by the patient. That may impinge on this clause, but is separate from it. If there were some allegation of malpractice with regard to procuring a miscarriage, a court would consider the type of consent that was given by the woman consenting to the procedure and there may be case law on that. Consideration of the level of consent may impinge on this, but it is clearly separate from it.

What is the extent of the Minister's understanding of this clause? I do not assume that counselling must be done by the medical practitioner procuring the abortion. The Minister spoke as though that was taken for granted. It could be that the receptionist or nurse working for the doctor provides a level of counselling. If the doctor were asked whether a woman received counselling prior to giving her consent, he would be in a position to know that. It is even looser than that. The doctor could ask the woman whether she had discussed the matter with her boyfriend or husband to a level she believed she had been adequately counselled about the consequences of an induced miscarriage. If the doctor felt he had satisfied himself that the woman had received adequate counselling, he could fulfil the requirements of informed consent.

Mr PRINCE: I answered this question in the context of a question about what must be proved in order to get a conviction. I said that the counselling must be that which would be reasonable to expect would be given. The counselling can be given by anybody, but in seeking to prove in a criminal court that this clause had not been complied with and consequently there had been an unlawful abortion, a prosecutor would have to show what is the acceptable level of counselling and the case before the court did not comply with what was generally done.

Mr Kobelke: What is to be taken as generally done when the clause gives various indications of the level of counselling?

Mr PRINCE: The clause does not prescribe what counselling is or who gives it. The question that was asked of me was what would I expect it to be. The only way to answer that is, "What must one be able to prove for the purpose of prosecuting someone?" In order to bring a successful prosecution we would have to show that counselling for abortions is normally provided by a doctor to the person, in person, and orally and this was not done. If the woman was informed and the doctor had an honest and reasonable understanding that she understood, that is the end of it. If the doctor did not do that, and the person walks in and says, "I want an abortion" and it is provided either by that doctor or through referral to another doctor and there is no attempt at counselling, informed consent has not been given because there has been no counselling and there has been an unlawful abortion.

Mr Kobelke: The Minister is working on the premise that the standard practice would be for the doctor to provide counselling before the consent.

Mr PRINCE: One needs to find out what is the standard practice. A number of doctors have told us what their practice is and what they believe the standard of practice to be. I am talking about a criminal law court. In order to deal with this in a litigious sense we must have a defence. The accused person must show on the balance of probabilities that he had an honest and reasonable belief that counselling had preceded consent.

Mr Kobelke: And not that it was beyond reasonable doubt?

Mr PRINCE: The accused must on the balance of probabilities show he had an honest and reasonable belief there was counselling. The prosecution must prove beyond reasonable doubt that he did not. This is getting very technical. There is no other way to answer how a prosecution works. Counselling is not defined in a prescriptive way.

Mr Kobelke: I accept Professor Finnis' view that in the case of criminal prosecution any ambiguity is likely to be judged on behalf of the defendant.

Mr PRINCE: Any reasonable doubt must be resolved in favour of the accused.

Mr Kobelke: It seems likely that the level of counselling could be quite minimal, rather than what might be perceived as an industry standard when there is currently no existing industry standard.

Mr PRINCE: I suppose that is possible. We very much depend on the view of the jury.

Mr BARNETT: We have debated this issue now for some time. Clearly it is legitimate, but there is some confusion about it. The Minister for Health has indicated that he believes it will be possible to make a regulation under the Health Act to deal with this. We should leave it to him. This must be considered carefully. The question before the Chamber is whether we will agree to this deletion. We should put that to the vote and if it is carried this discussion is

irrelevant. Most members do not want to delete the section. Perhaps before the Bill gets to the upper House a more elegant solution can be found.

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

Ayes (38)

Mr Ainsworth	Mrs Edwardes	Ms MacTiernan	Mr Shave
Ms Anwyl	Dr Gallop	Mr McGinty	Mr Strickland
Mr Baker	Mr Grill	Mr McNee	Mr Thomas
Mr Barron-Sullivan	Dr Hames	Mr Marlborough	Mr Tubby
Mr Bloffwitch	Mrs Hodson-Thomas	Mr Masters	Dr Turnbull
Mr Board	Mrs Holmes	Mr Nicholls	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mr Omodei	Mr Wiese
Mr Brown	Mr Kierath	Mrs Parker	Mr Cunningham (<i>Teller</i>)
Mr Carpenter	Mr Kobelke	Mr Pendal	
Mr Day	Mr MacLean	Mrs Roberts	

Noes (14)

Mr Barnett	Mr Graham	Mr Prince	Ms Warnock
Dr Constable	Mr McGowan	Mr Riebeling	Mr Osborne (<i>Teller</i>)
Mr Cowan	Ms McHale	Mr Ripper	
Dr Edwards	Mr Marshall	Mr Trenorden	

Amendment thus passed.

Mr WIESE: I totally agree with what the member for Swan Hills was indicating. I had, unfortunately not with her knowledge, already prepared an amendment, photocopies of which are available. I move -

That the amendment be amended by inserting after the words "medical practitioner" in each of proposed paragraphs (a), (b) and (c) the following -

independent of the medical practitioner who procures the miscarriage

What we are endeavouring to do is very clear. The great majority of people expressed during the second reading debate the need for counselling both before and after the performance of a termination. Also expressed has been quite strong desires that counselling should be independent of the person who is to perform the termination of the pregnancy. I believe this amendment achieves that. It picks up what the member for Cockburn signalled in his amendments. I do not believe that the amendment foreshadowed by the member for Cockburn is an acceptable way to go because it has far too great a degree of compulsion. I believe that what we are putting in here basically meets the needs of the House and will certainly satisfy the great majority of the people in the real world who are concerned about what is being put in place.

Dr HAMES: I support the amendment moved by member for Swan Hills but I oppose the additional amendment by the member for Wagin. I cannot believe that a country member would put forward something which so severely disadvantages country people more than anyone else. I guess he was trying to cater for the situation in which somebody would go to an abortion clinic and get counselling by the doctor in the abortion clinic who would then go on to procure the abortion. If that is his intention, that just does not happen. The doctors do not have time to get involved in counselling; they have independent people who sit in their offices and provide counselling. Doctors do mostly terminations. In country areas what will happen? In a little town like Wagin on occasions there has been one doctor who delivers the woman when she is born and then looks after her through her childhood. She might decide to go to him because she gets pregnant by accident and wants a termination. He might be the only doctor around. He might borrow the doctor from Narrogin to do the anaesthetic. He will do the termination, but she is not allowed to see him for counselling - her own doctor whom she has known all her life. She has to go and see somebody else for counselling. I do not think that is a reasonable imposition to put on country women, to have to go to some other doctor in some other town whom they do not even know to get that counselling.

The other group will have genetic counselling and have the termination for genetic reasons. The best person to give a woman advice in those circumstances is the genetic counsellor who has all the information and is the expert on it. That doctor has been looking after that patient and talking about the fact that she has a severe abnormality. That doctor then has to send her to somebody else to get counselling because the doctor does the operation. It is nonsense to require the doctor procuring the operation to send for someone to do the counselling. We need to make sure that the doctor who is doing the counselling provides adequate counselling. We addressed those things with the pamphlet system and code of conduct that I proposed. That is the best way to go. It is quite reasonable that a country doctor

who has looked after a patient all her life is in the best position to provide adequate and decent counselling for country women, even if at the end of the day he has to do the termination because there may not be anyone else around. In the member for Wagin's area with its many little towns close together, doctors might be available, but in some of the more remote communities in the middle of nowhere, I can assure him that is not the case.

Mr THOMAS: I foreshadow moving a further amendment to the amendment before the Chair, which would be to delete all the words after "informed consent" with a view to adding further words. Those words appear on the amendment that I have circulated and that all members should have before them, except that I will delete the word "counselled" and replace it with "provided with information". That would provide the committee with a very convenient way of considering the various options canvassed in several amendments that are circulating in the Chamber at present. My amendment is somewhat different, although not greatly, from the one proposed by the member for Swan Hills. More commonality has been brought into that amendment with the amendment moved by the member for Wagin. I draw the attention of members to the fact that I propose to delete the word "counselled" and replace it with "provided with information" in the second line of the amendment circulated. It would then read that "informed consent" means, in addition to its general meaning under law, consent given by a woman after she has been provided with information by a suitably qualified person and so on. It is less prescriptive on the person receiving the information than would be the word "counselled", where there is some obligation on the woman to accept counselling. If that has not been accepted, the woman is in greater peril of being subject to a penalty. Moreover, there are some other significant differences between the amendments I have circulated and those of the member for Swan Hills. The first difference, which has in part been picked up by the amendments proposed by the member for Wagin, is that provision of information should come from a source independent of the provider of the abortion service. I have heard the argument from the Minister for Housing that there are circumstances in which that is not possible. I draw attention to the definition in the second amendment I have proposed of a "suitably qualified person" which means either a registered medical practitioner or a person otherwise approved by regulation under the Health Act 1911.

The situation referred to by the Minister for Housing is probably not that common. This is a fairly mobile society, and the archetypal town with only one doctor, where a person is unlikely to be able to obtain counselling from anyone else, is a rare situation. If that were the case it would be possible under the Health Act for regulations to be drawn up to prescribe a wide range of persons who could provide counselling or information. That overcomes the problem referred to by the Minister for Housing. I know Western Australia pretty well and I have visited most towns in it. Not many are so remote and the people are not so immobile that they would not have access to some other suitable person who could be prescribed under the Health Act.

I suggest to the Committee that my circulated amendment is preferable to the amendment moved by the member for Swan Hills, even as amended by the member for Wagin. My amendment suggests some direction and subject matter that should be addressed in the counselling or provision of information. No use is made of the word "appropriate", it states which matters should be addressed.

Dr TURNBULL: On this occasion I disagree with the member for Yokine. In small country towns in Western Australia the doctor to whom a woman first goes in order to obtain a referral is never the person who performs the abortion. That is because generally the woman seeking an abortion does not want it performed in her own town and does not want the nurses in her local hospital to know about it. In many cases those nurses would not agree to perform an abortion.

It is a different situation in regional towns, such as Albany, Port Hedland or Geraldton, where some abortions may be performed. Apart from the 600 or so abortions carried out at King Edward Memorial Hospital each year, most abortions are performed at the two abortion clinics. Women are happy to get referrals from their GP but they do not want the abortion performed in their home town. Some do not even consult their regular GP. I have had that experience as a doctor in a country town. I have been asked to organise an abortion by women who do not regularly visit my surgery. After they have obtained the referral, they go back to their regular doctor. That is why many of them choose to go for their referral to the quickie GPs in the terrace or to the doctors who are located around the corner from the abortion clinics. That is why it is important to insist that the form of counselling about which the member for Yokine spoke is implemented by the AMA. Some quickie GPs who provide referrals will not do the job properly. Of the 9 000 abortions a year, that applies to probably 8 000. It is quite legitimate for the amendment proposed by the member for Swan Hills, together with the amendments proposed by the member for Wagin, to refer to a counsellor who is independent of the abortionist. Another option is the amendment foreshadowed by the member for Cockburn. It is the very least we can do, as members of the Legislative Assembly, who have been trying to be responsible in their approach to the Bill so far.

Mr BARRON-SULLIVAN: Earlier today when I spoke about the need for independent counselling, I did not expect the debate to reach this stage. It appears that for the first time in so many days of debate, the Committee is reaching

a degree of common ground. The question is whether the amendment proposed by the member for Swan Hills, together with the subsequent amendment by the member for Wagin, will provide for independent counselling. The key difference between these amendments and those foreshadowed by the member for Cockburn relates to the nature of the independent counsellor. The amendments of the member for Swan Hills provide that the person who wishes to have a termination must have some form of counselling as specified by a medical practitioner independent of the practitioner who will procure the abortion. The woman must see a GP and then go to the abortion clinic. Under the amendments circulated by the member for Cockburn, the person providing the independent counselling is not necessarily required to be a doctor. It is dependent entirely on the definition of a "suitably qualified person" under the regulations in the Health Act. It might be a social worker or a hairdresser.

The fundamental question when looking at these two different sets of amendments is whether we believe that a woman who wishes to have an abortion should go to a GP or a doctor independent of the doctor who will actually be procuring the abortion. If we believe that, the amendments of the member for Swan Hills are the only ones to support. I am absolutely delighted that there appears to be some common ground on the need for counselling. It is a crucial point.

Mr THOMAS: I wish to advance to the Committee the case of the amendment which has been circulated in my name in preference to the amendment which has been moved by the member for Swan Hills. There is not a great deal of difference between us and I think that gap has been closed by the member for Wagin's amendment which has incorporated some of my suggestions into the member for Swan Hills' amendment to include in the legislation provision for independent advice; that is, counselling from somebody who has no interest in the outcome of that information provision or counselling. I do not want to suggest that people are motivated by improper motives; no doubt they see the issue very nobly and correctly. However, an independent person is less likely to be predisposed to a particular outcome from that counselling. That point has been picked up by the member for Wagin; in fact the member for Swan Hills was attempting to pick it up. So whatever the outcome, a degree of commonality exists between the two options that are before the Committee. It remains to be seen what are the differences between the two.

What I am suggesting is that this Parliament provide a direction for that counselling. We should not simply say that people should be counselled; we should also say what the counselling should be about. The amendment moved by the member for Swan Hills is deficient because it is silent on that point. We as a Parliament are saying that people in this position should be counselled but we are not saying what about. Should they talk about the weather, or about something else? There is nothing in this amendment and there will be nothing in this legislation about the subject of the counselling. Paragraph (a) of the amendment states that the qualified medical practitioner has "appropriately and adequately provided her with information" but there is no statement as to what is appropriate. Paragraph (b) of the amendment refers to "appropriate and adequate counselling" being provided. Again, there is no discussion about what is appropriate. I am not suggesting that the member for Swan Hills is trying to avoid the issue.

A member interjected.

Mr THOMAS: I will concede that. Under paragraph (a) the doctor is going to talk about the medical consequences of having a termination and of carrying the pregnancy to term, but under paragraph (b) the woman is provided with referral to "appropriate and adequate counselling"; finally under paragraph (c), a legally qualified medical practitioner informs her that appropriate and adequate counselling will be available to her should she wish it upon the termination of pregnancy or carrying it to term. What I am suggesting is a simple difference, but one I think we should make. The counselling or provision of information should address two subjects. One should be the impact of the termination upon the mother, and that is something that is addressed explicitly in my amendment, and I concede it is also addressed in the amendment of the member for Swan Hills. The other matter that should be addressed is alternatives to termination of pregnancy. I happen to believe that in many cases there are alternatives to terminations of pregnancy that can be and should be ultimately explored and we should require that information about those alternatives is made available to women who are contemplating termination of pregnancy. I do not believe that this should be an opportunity for women who are contemplating a termination of pregnancy to be berated or tormented. We should make a legislative provision that adequate information should be provided to them about what other options are available. On other occasions perhaps we can talk about what those options are and how they can even be promoted. I believe that the amendment which is proposed by the member for Swan Hills is deficient in that it does not make provision for that. I ask members to vote for the amendment on the amendment of the member for Wagin and then to defeat the amendment of the member for Swan Hills and vote for mine, which I foreshadow moving if that is defeated.

Mr GRILL: The more prescriptive we make these provisions, the more onerous they become, and in a sense the more certain they become. The more certain they become, the more we place the medical practitioner and the patient in jeopardy, not to a fine, but to very severe penalties under the Criminal Code. I want everyone to understand that and

then I want people to understand my position. I am going to support these amendments because I am in favour of counselling. I intend to support them on the basis that a further amendment is to be moved by the member for Cockburn which substantially reduces the penalties. I do not think we should be subjecting a medical practitioner or a patient to the jeopardy of seven to 14 years in gaol on the basis that they have not fully fulfilled some prescriptive provisions within the Criminal Code and possibly under some regulations in relation to counselling. I believe that we should do that only in circumstances where these penalties are substantially reduced.

Mr THOMAS: I confirm the point that has been raised by the member for Eyre that following the resolution of the question as to which of the amendments the Committee will carry, I intend to move an amendment which has been drafted for us this evening by parliamentary counsel which will reduce the penalty in those circumstances from seven years' gaol or whatever it is under the Criminal Code to a fine of \$50 000. I think everyone would agree - I have not heard anyone, even those who are strongly opposed to abortion - say that we should be subjecting medical practitioners and their patients to gaol terms. No member should have a fear of the proposition that the member for Swan Hills is putting forward, and more so the one I am putting forward; namely, that a woman contemplating an abortion should be provided with information about alternatives and that that information should be provided by a person who is disinterested in the outcome of the provision of that information, will result in people being subject to gaol terms due to noncompliance. We will be able to reduce that this evening to a more civilised penalty, hence that should not weigh heavily on members' minds.

We do not need to labour this point all night. The options before the Committee are very clear. The member for Swan Hills' amendment, particularly if the member for Wagin's amendment is accepted, includes in it the requirement that the provision of information should be from a disinterested party. The differences between us are basically that my amendment suggests that the provision of information should include information about options other than termination of pregnancy, and they both have in common that that information should be about the impact of it, so they are common in two respects and different in one.

Mr MASTERS: The member for Cockburn has argued in support of his foreshadowed amendment on the basis that it better defines the details of counselling. However, the amendment moved by the member for Swan Hills defines the detail that the member for Cockburn seeks. The proposed amendment by the member for Cockburn uses the words "counselling, considering the nature and consequence of procuring a miscarriage". They are similar words to those used by the member for Swan Hills; that is, it relates to information about the medical risk of termination of pregnancy. The similarities are enough to satisfy me. Secondly, the member for Cockburn uses the words "alternatives to procuring a miscarriage". I see only one alternative, which is to carry a pregnancy to full term. The words are almost identical to those in the amendment moved by the member for Swan Hills.

Proposed paragraph (c) on the second page relates to counselling after termination. This is wording that the member for Yokine strongly supports. It is certainly a matter that has been raised by a number of my constituents who say that once an abortion is performed the woman is often forgotten. Proposed paragraph (c) in the amendment moved by the member for Swan Hills is very important, and could be lost if the amendment of that amendment by the member for Cockburn is carried.

Amendment on the amendment put and a division taken with the following result -

Ayes (32)

Mr Ainsworth	Mr Grill	Mr Marshall	Mr Shave
Mr Baker	Mrs Hodson-Thomas	Mr Masters	Mr Strickland
Mr Barron-Sullivan	Mrs Holmes	Mr Nicholls	Mr Thomas
Mr Bloffwitch	Mr Johnson	Mr Omodei	Mr Tubby
Mr Board	Mr Kierath	Mrs Parker	Dr Turnbull
Mr Bradshaw	Mr Kobelke	Mr Pendal	Mrs van de Klashorst
Mr Day	Mr MacLean	Mr Prince	Mr Wiese
Mrs Edwardes	Mr McNee	Mrs Roberts	Mr Cunningham (<i>Teller</i>)

Noes (19)

Ms Anwyl	Dr Edwards	Mr McGinty	Mr Ripper
Mr Barnett	Dr Gallop	Mr McGowan	Mr Trenorden
Mr Carpenter	Mr Graham	Ms McHale	Ms Warnock
Dr Constable	Dr Hames	Mr Marlborough	Mr Osborne (<i>Teller</i>)
Mr Cowan	Ms MacTiernan	Mr Riebeling	

Amendment on the amendment passed.

The DEPUTY CHAIRMAN (Mr Sweetman): The question now is that the amendment, as amended, be agreed to.

Mr THOMAS: I do not wish to argue the merits of the provisions. In discussion with colleagues on the other side during the division, it was apparent that some members were confused about what is happening. In practical terms, two alternative amendments are before the Committee: The one circulated in my name and the other moved by the member for Swan Hills. The question before the Chair now is that the amendment moved by the member for Swan Hills, as amended, be carried. If it is, my proposed amendment would lapse. I suggest to those who support my proposed amendment that the principal difference from the amendment proposed by the member for Swan Hills is that the information provided to women contemplating an abortion should include the alternatives to an abortion. If members wish to support my proposed amendment they should vote against the question that is about to be put - that is, that the amendment moved by the member for Swan Hills, as amended, be agreed to - which would then allow me to move my amendment, otherwise it will lapse.

Ms MacTIERNAN: I support the proposed amendment by the member for Cockburn rather than the amendment moved by the member for Swan Hills, as amended, because the member for Cockburn's amendment in an important way reflects current practice - in a way that the member for Swan Hills' amendment no longer does. In many cases, women receive information from members of the Family Planning Association who are stationed at the various abortion clinics. They are not financially associated with those abortion clinics but they provide information to those women. That arrangement would be precluded by the amendment proposed by the member for Swan Hills.

The member for Cockburn's amendment is more flexible and would be more suited to current practice. It would also provide greater options for people in the country. While the amendments have in common the requirement for information to be provided by some independent person, this does not mandate that that independent person be another medical practitioner. It contemplates that persons such as those currently providing the service through the Family Planning Association would also be able to be considered as discharging that obligation. I ask those members who are concerned to ensure that the current practice is preserved not to support the member for Swan Hills' amendment but that of the member for Cockburn.

Amendment, as amended, put and passed.

Clause 3, page 3, lines 4 to 7, as amended, put and passed.

Mr NICHOLLS: I move -

Page 3, after line 7 - To insert the following lines -

(6) For the purposes of this section -

- (a) a woman who is a minor shall not be regarded as having given informed consent unless the woman's parents have been informed, before the procuring of a miscarriage is being considered and, in the case of a dependent woman, each custodial parent has been given the opportunity to participate in a counselling process and in consultations between the woman and her medical practitioner as to whether the miscarriage is to be procured;
- (b) a woman is dependent if she has not reached the age of 16 years and is being supported by a custodial parent or parents; and
- (c) a reference to a parent includes a reference to a legal guardian.

I move this amendment with the clear objective of ensuring that where a minor is thinking about procuring a miscarriage, the parents of that minor are informed before that abortion takes place. The amendment will require that in the case of minors under the age of 16, the custodial parents be informed, and also that they be given the opportunity to be involved in any counselling that takes place or in any information that is provided by the medical practitioner to the minor.

It is important when we talk about a minor to understand that we are talking about children who are at various stages of maturity. Stories that have been told to me and articles that have been written suggest that women in Western Australia as young as 13 have sought and received abortions. I do not have any hard data about how many such abortions have been performed and where they have taken place, but it has been clearly communicated to me that the community is concerned about young adolescents who find themselves pregnant and for reasons that are not necessarily sound seek to procure a miscarriage without the knowledge or support of their parents.

The current process in Western Australia is that medical treatment to minors is essentially covered under common law. The Gillick case that is often quoted arose in the United Kingdom, and *Law and Medicine* by Belinda Bennett states clearly that the High Court in Australia treats the medical treatment of minors in a way that is consistent with the Gillick ruling. In essence, that means that if a doctor believes that a minor is mature enough to understand the procedure and give consent, but at the same time the minor requests that that information be kept from her parents

or legal guardian, the doctor is required to abide by that request but also to provide that medical treatment to the minor. That provision is not new in Australia; both New South Wales and South Australia provide for medical treatment or health care for minors. I suggest that an abortion is a serious matter and that it is in the best interests of minors and the community that we provide in this legislation that minors be given some support and that parents be given information when their child wants to procure a miscarriage.

I am sure that as parents we want to believe that our daughters would seek our help and guidance if they were faced with this situation as an adolescent or a minor. It has been argued that one of the reasons that we should not support this amendment is that parents might try to persuade their daughter not to have an abortion. I can understand that, but, on the other side of the equation, a minor who was living at home and was supported by her parents and who had an abortion without her parents' knowledge would invariably go back home and would at some stage be confronted with having to tell her parents what had taken place and in some cases would probably experience significant trauma. In arguing that information should be communicated to the parents, I stress that this amendment would not give parents the right of veto; it would allow the minor and her doctor to make the ultimate decision, but would also involve the parents, particularly of minors under the age of 16, and would provide the basis for a good quality decision, given that the situations might vary. I ask members to support this amendment.

Ms MacTIERNAN: I cannot support the proposition put by the member for Mandurah. I understand that we need to take particular care to ensure that additional assistance is given to minors who are dealing with this difficult situation, but a number of most unfair and possibly even dangerous circumstances could arise if we compelled doctors to inform the parents of a young girl that she was pregnant. One of the effects is that many young girls who were absolutely terrified at their parents discovering that they were pregnant would either go to some illegal backyard abortionist or would do what we have seen happen with alarming frequency; that is, disguise their pregnancy, go to term, deliver the baby themselves, usually in a lavatory, and end the life of that child post-term. It is not an acceptable situation.

Sometimes I think I must be living in a parallel universe to that experienced by members here. All these members seem to know only of a world full of people who live in loving, supportive family environments where the parents are really understanding and kindly towards their children and do not have strict and rigid views. Unfortunately, that is not the full picture and, although it is very nice for these members to have this lovely, rose coloured view of the world, it does not make them good legislators in this area. The facts speak for themselves. The number of occasions on which young women have gone to extraordinary lengths to conceal their pregnancy from their parents, indicates the fear they have about their parents discovering that they have been involved in pre-marital sex and are pregnant.

The real effect of this provision is that those people who are highly apprehensive about their parents' reaction will not seek medical advice. They will put themselves at risk by seeking a non-authorised, non-medical abortion or by taking the pregnancy to term and attempting to conceal it after the child is born. Neither solution is at all satisfactory. The primary concern must be to protect the position in which young women find themselves. I would be happy to consider at another time more elaborate provisions to ensure that young women are given additional advice or counselling, but I certainly think this provision is unsupportable.

Dr TURNBULL: I support the member for Armadale because in a number of cases involving young girls under the age of 16 years, the mother knows exactly what is going on but neither of them informs the father. A requirement for both parents to be notified or for the doctor to notify at least one parent would create a difficult situation. I can assure members that in many cases the father of the pregnant girl is not informed of the pregnancy, regardless of the age of the girl. Despite the fact that the member for Mandurah has raised an important issue, we are not discussing Family and Children's Services. A young girl goes to the doctor for assistance and the doctor must make a judgment about his future actions. It is similar to the decision made on pregnancies that have passed the 20 week stage, in that we must trust the clinical acumen and experience of the doctor.

Mr NICHOLLS: I expected the response from the member for Armadale in general terms. The member suggested that a horrific consequence could follow if the parents were notified. I suggest that many young women may consider or go through an abortion simply because they are afraid of what their parents may think. In my view those young women are likely to need the support of their family after the abortion has been carried out, although they may not realise it at the time. It was suggested that some family environments may not be utopian and that one parent might not accept the situation. It was also suggested that perhaps it would be appropriate to tell only one parent. However, at the moment in Western Australia the doctor is not required to inform the parents. Clinics are not required to inform parents or guardians.

Tonight, this Committee has effectively passed legislation allowing for abortion on demand. If this amendment is not agreed to, it is an indication that members do not care if a 13 or 14 year old becomes pregnant, goes to a clinic and has an abortion, as long as some information has been provided to her. As a parent I know that these situations do not confront only people in dysfunctional families in which there is no support. It is important to understand that

in many cases these young women must go back into the family environment. It is nonsense to suggest that they can go through an abortion, go home, and carry on with life as though nothing had happened. That may happen, but I find it hard to believe. We are talking about a serious and sensitive decision. The members for Armadale and Collie suggest that the decision should be left to the doctor.

Ms MacTiernan: I am happy for there to be some other level of intervention, perhaps by someone from Family and Children's Services, but it should not be mandatory for parents to be advised.

Mr NICHOLLS: Is the member suggesting that it is okay to tell the welfare authorities but not the parents?

Ms MacTiernan: That is right.

Mr NICHOLLS: What absolute nonsense.

Ms MacTiernan: Can you imagine the father of a young girl from a Middle Eastern background being told his daughter is pregnant?

Mr NICHOLLS: We are talking about a young girl under the age of 16 years, where the parents could be involved in the counselling process or assist with the decision. The member is suggesting that some parents should not be notified because they might react badly. It may be necessary to provide counselling for the parents. As a community and as responsible parliamentarians we should be providing support and, where possible, reinforcing the role of parenting. Any problems that exist should be addressed.

Mrs PARKER: This amendment raises some very critical issues, one of which is what we expect of parents. How empowered do we expect parents to be to be able to undertake responsibility for their children? Unless we empower parents to accept responsibility for their children, we will have problems. We will live in a welfare state. We will have bigger problems with juvenile crime, with children on the streets, with graffiti, and with children whose parents are not taking an interest in them or supporting them.

It is not right for a minor to be able to have a procedure that may have a major impact on her life without the support of her parents. Parents do not have to be brutal parents for the young girl to be intimidated into not telling her mum or dad that she is pregnant. If children have done something wrong, they will always be worried about telling their parents; it is a normal teenage reaction. However, I know of a young girl who became pregnant, arranged for the termination, and has had serious emotional difficulties dealing with it. Her parents still do not know about it. I will not go into the health problems that this young girl is having or the serious consequences she is experiencing from not only having the termination but also having it without any emotional support at all. If there was ever a time when she needed her mum, it was then. However, we have a system that allows her to have a termination without requiring her to have parental support.

I accept some of the points raised by the member for Armadale about overreactions by families, violence and other responses by parents. However, as the member for Mandurah said, the counselling provided by the doctor should also embrace the parents and their behaviour. I am sure that most parents would react strongly to their teenage daughter's pregnancy. However, following the initial reaction, the parents, usually the mother, will respond with care to the needs of their daughter and help her. It is not acceptable to inform officers of Family and Children's Services, the school nurse and others about a young girl's pregnancy without also informing the parents. Therefore, I hope that this amendment will ensure that parents are informed. Responses by parents that cause danger to the young girl are the exception rather than the rule. It is far more likely that following the initial reaction the parents will support their daughter through her very difficult time. We should not allow the exception rather than the rule to dictate whether we support this amendment.

Ms MacTIERNAN: I agree with the member for Ballajura that if at all possible the involvement of a young woman's parents should be encouraged. I hope that the counsellor's efforts would encourage the young girl to have her parents involved. However, the point that the member is not grasping is this: If it is mandatory for the doctors to inform the parents, many young girls will refuse to seek medical advice. They will be out of the loop. They will not have access to anyone. They will not have access to medical advice or counsellors. They will run a million kilometres from the doctor.

In many cases, their fears about their parents' reactions may be unfounded. However, they are fears and those fears will keep them away from medical advice. That is the worst possible outcome for the health and future of those young women. I ask the Committee to consider seriously how young people will react when they know that the doctor is required to tell their parents about the pregnancy. It is far better to try to bring them into the loop and tell the young girl that her medical practitioner and counsellors will talk her through it and do whatever they can to persuade the young person to get the support and advice of her parents. However, unless we allow for the young person to get that medical advice in full confidence, many of them will stay out of the system.

Dr TURNBULL: This Bill has reached the stage at which it will allow for abortion on demand up to 20 weeks.

Mr Nicholls: At any age!

Dr TURNBULL: Yes, at any age of the woman. We therefore must deal with the practicalities of that. We are now where the member for Dawesville told us he wanted us to be. He supports well educated, well informed, confident young women going out and doing what they want. As far as he is concerned they can be sexually promiscuous and do what they like.

Mr Marshall: I did not say that.

Dr TURNBULL: Yes, he did. Many members have said that. The member for Bunbury said it. He said that his daughter wants to be able to do what she wants. That will now apply to every girl in Western Australia regardless of her age. These girls are now much better educated, much more physically developed and more confident. However, many of them are in homes where they do not get much support and in some cases their fathers or de facto fathers are abusing them. Sometimes that is why mum turns up at the doctor's with them. However, they will never admit that.

We are now also where the doctors wanted us to be. The doctors wanted certainty; they wanted us to lay down the rules. Well, we are telling them that the rule is that anyone can have an abortion. Therefore, doctors will now have to be a lot more responsible. As the member for Yokine said, the Australian Medical Association will have to lay down the rules for abortion and set in place the protocols. The doctors' insurance companies will demand it.

If the member for Swan Hills' amendment is passed, doctors will have to ensure that post-abortion counselling is provided. I have assisted in arranging abortions, but have not given post-abortion counselling unless the person came back to me.

Mr OSBORNE: For the information of the Chamber and the member for Collie, the daughter I described this evening as the light of my life is 19 years old. She is a university student and I did not claim the privilege the member says I claimed for my other daughter who is under the age of 16. I claimed it for my eldest daughter who is a woman.

Mr MARLBOROUGH: Despite the length of this debate we have moved no further forward from the present situation in the community. We are all on tenterhooks awaiting receipt of an upper House Bill, which I presume will be some time next week. It will move the Foss Bill to one side and the issue will be taken out of the Criminal Code and put under the Health Act.

Dr Turnbull: That will not change it one iota.

Mr MARLBOROUGH: I will come to that. In a perfect world we would all love our daughters up to 18 and beyond to come to us with their problems. My electorate of Peel includes the town of Kwinana. In that town 16 year old school girls attending high school in Kwinana are already living with their boyfriends in flats or houses in Kwinana. Many of them left home at 13 or 14. The Minister for Family and Children's Services should talk to her officers about it rather than moving in that lost world of hers.

Those young women at 16, although certainly not as mature as we would like them to be in worldly ways, have been mature enough to leave a home where there is no love. In many instances they have been molested by the mother's latest boyfriend. Nearly all of the Minister's street kids in Kwinana-Rockingham, particularly the girls, fit that category. The Minister for Family and Children's Services is nodding in agreement. My world is not a perfect world; it is the real world.

In a democracy certain areas provide us with confidentiality. If we go to our priest we talk confidentially and expect him to maintain that confidentiality. We have been able to go to doctors and tell them of our concerns about our health and it has remained confidential. If a young girl went to the same doctor with any other complaint but an abortion her health concerns would remain between her and the doctor. However, under this legislation, a young girl who wants an abortion and, because of her circumstances, does not want her family told, is faced with the prospect of her parents being informed of her situation. She is not living in a perfect world; she is a kid who is not even understood or recognised any more by members of Parliament who sit here.

John Howard has categorised kids under 18 years - under 25 if they are students - as totally dependent on their family. They will not get any dole money. People with these new found morals on the road to Damascus and the comments by the Minister for Industrial Relations earlier today amaze me. We now know from him that all Western Australian workers should be in a womb because they would get far better treatment from him there than they would when they got out of the womb. The Minister talks about the economic circumstances of kids while the basic wage in Western Australia is \$40 a week less than in the rest of Australia. My mums in Kwinana are asking for the \$40 to feed their kids.

The CHAIRMAN: I ask the member for Peel to direct himself to the amendment.

Mr MARLBOROUGH: In the real world patients are afforded confidentiality with their doctors. Present practice indicates that that has worked fairly well until now.

Dr TURNBULL: I continue the member's appeal to those people about the real world. I can assure members that this Bill and the conditions insisted on by many people will change the attitudes of people. It will change what people can expect; that is, they can expect abortion on demand.

Mr Marlborough: It has been going on in WA for 30 years.

Dr TURNBULL: In 1974 in the first 30 days of the new Labor Government's social engineering environment, Whitlam legislated for supporting mothers of 16 years to be paid the supporting mother's benefit. What happened in the town from which I came?

Ms MacTiernan: Presumably there were not as many abortions.

Dr TURNBULL: No, because previously there had not been abortions. There was a huge explosion of children born to 16 year olds. It became the "in" thing.

Ms MacTiernan: Were you not arguing that you want more alternatives for abortion?

Dr TURNBULL: The member for Armadale should wait until I finish what I am saying. Twenty years later women are not keeping their babies because they are choosing abortion. It has become the "in" thing. Therefore young pregnant women will choose abortion. The amendment moved by the member for Mandurah is just not practical. The situation the member for Armadale described will occur where one of those physically well developed young women, who has been looking after herself for a long time and has been told at school that she can make her own decisions, in her own terrified way will make her own decision.

We know from the newspapers that in the past few years this has happened on a number of occasions. We are not talking here about a large number of people. We are now talking about the occasion when we ask the doctor to use his discretion. We are talking about a new world where doctors must take far more responsibility for what they do in this area. Unfortunately, despite the fact that some very good girls come from very caring families, those parents will miss out if the doctor cannot convince the young girl of the right thing to do.

We must consider the girls who do not come from good caring families who are battling and trying to make their own decisions. Unfortunately, if they are scared to go to the doctors they will try to make other arrangements.

Mr NICHOLLS: I find the debate somewhat difficult to fathom with the member for Peel trying to mount an attack on the Minister for Labour Relations -

The CHAIRMAN: I remind members that debate in Committee is not a general debate in which we can bring up different issues. We are here to discuss this clause.

Mr NICHOLLS: It is very late and people are tired. The point I make to the members for Collie and Peel is that paragraph (b) of this amendment indicates that a woman is dependent if she has not reached the age of 16 years and is being supported by a custodial parent. That covers the point made by member for Peel that a girl who has left home for whatever reason is not deemed a dependent minor. Having been in the position of Minister for Family and Children's Services I am aware of the real traumas that exist in our community. However, we should not make laws based on the worst case scenario. If a young woman has been abused in the home or is suffering some degree of abuse, provisions in the Child Welfare Act clearly enable Family and Children's Services or the police to intervene and to ensure that she is protected from harm.

Mr Marlborough: Most people do not even tell their story.

Mr NICHOLLS: The member for Peel is saying that none of these young women have any family to talk to because they are all being abused or are in a situation where they cannot talk to their parents.

Mr Thomas: Not all, but some.

Mr NICHOLLS: If we require that information to be provided to the girl's parents it will remove the onus on the doctor to make that difficult decision. At the moment, if the child tells the doctor that she does not want her parents informed the doctor cannot provide information to the parents. A common law precedent that is relied upon by the High Court is in place for the medical treatment of minors. If this is such a problem why do NSW and SA provide that where the minor is under 16 years the consent of the parent or guardian is required. If telling the parents will cause major social catastrophes, why do we not have a huge problem in those States? I am not suggesting that parents must give their consent, merely that parents should be informed.

Although members can come up with extreme cases and hypotheticals, we are talking about young adolescents who are faced with a significant and serious decision. It is my belief that if parents are informed there is a real chance that that young person will be better supported than if the parents were kept out of the decision. If the daughter or the young woman is being harmed the provisions under the Child Welfare Act provide mechanisms to provide not only support but also protection. Although members may find it difficult to believe that this can work, if there were major problems with these provisions major concerns would be coming out of NSW and SA.

Mr MARLBOROUGH: I suggest to the member for Mandurah that we deal with this amendment as two separate motions. We may be able to live with the situation in (b), because it is the present practice. Material sent to us from the Coalition for Legal Abortion - a group of doctors - states that the situation for under 16 year olds is self regulated in Western Australia and 16 year olds must have written permission from one custodial parent or guardian or a social worker if Family and Children's Services is involved. The present practice is that if a girl is under 16 years she must have written consent of one or other of her parents. I am concerned that confidentiality between a patient and doctor should remain. Even if a girl in the under 16 age group went to the doctor with an ailment other than the need to have a termination no-one but the doctor need know about the problem. That is my preferred position. However, if the mover of the amendment saw fit to move it in two separate ways we may be able to advance on that.

Proposed subsection (6)(a) does not refer to girls under 16 years of age. It relates to a woman who is a minor, 18 years and under. That is an entirely different age group. If a 17 or 18 year old does not want her parents to be informed, and she knows that information will go back one way or another to a parent, I am concerned that she will not go through that process. It may be that she will go interstate, where it is easier. The indications in America with States which have tougher guidelines is that these girls cross state borders to access the facilities so that their parents will not be told. Girls, rather than commit a misdemeanour under the Western Australian law, will go to South Australia or wherever. I would be in a better position to accept his amendment to proposed subsection (6)(b) if the member for Mandurah would consider breaking (a) and (b) into two separate motions as I have great difficulty with proposed subsection (6)(a)

Ms ANWYL: I cannot support this amendment because it prescribes that the parents of all 17 and 18 year olds must be notified, no matter what the circumstances, before being taken to have informed consent. As the member for Peel has pointed out, we have many independent 17 and 18 year olds who are not caught under paragraph (b) of this amendment. We have the unusual situation in which 17 and 18 year olds must have a parent informed. There is another test for those who are aged 16 years and under which provides for the opportunity to participate in counselling. I cannot agree that the parents of young 17 and 18 year old women should be notified. I am also very concerned that the usual rule of medical professional privilege or confidentiality will be abrogated by the result of this provision. We owe it to members of the medical profession to allow them some clinical practice guidelines in this debate. We have been unduly harsh on them during this debate. I am also concerned that there is nothing in this amendment to provide an exception for a woman who is aged under 18 years and dependent, but for whom there are some extenuating circumstance; for example, incest or fear of abuse or something else.

The member for Mandurah said that the department could take out a care and protection application. I just happen to have at my fingertips statistics of the care and protection applications taken out by the department over the past three financial years. In 1996-97, there were zero care and protection applications for boys and girls aged 16 years; the year before that there were two; and in the year before that there was one. We know the department does not readily take out applications in these matters. That would open up another process which is extremely complex, but I do not have the time at the moment to debate the pros and cons of that.

Some research has been available from the United States which indicates that some States provide for rules of the kind that are being put forward here, and other States do not. Needless to say, a lot of border hopping takes place. That is not an option for Western Australia. I am on the record as saying that the women who will be most disadvantaged in all of this are those who are young and vulnerable, who are poor and who are in the country and remote rural areas.

The amendment of the member for Mandurah is defective in many areas and I urge members not to support it. I suggest that one option might be to consider by way of regulation something relating to the under 16 year old girls. I say that because I am informed - we all have a volume from the Coalition for Legal Abortion - it is now standard practice at the two operating clinics that clients under 16 years must have written permission from one custodial parent or guardian or a social worker from the Family and Children's Services, if that department is responsible for the person. I am loath to create extra work for the department, but it seems to me that any cogent provision in that regard for those under 16 years must include some reference to the department. We know in many cases we are dealing with quite young women who have been abused in one form or another. I maintain that we should be including the doctors by allowing and respecting their clinical judgment on these issues. I cannot vote for the amendment as it stands for the reasons I have outlined.

Mrs ROBERTS: I can see the rationale behind the amendment by the member for Mandurah. It is an area that the Parliament must look at. I have had raised with me in recent times the difficult situations parents have sometimes been placed in when children of age 15 or 16 years leave the family home or absent themselves. I have also had reported to me one instance, in particular, in which a girl under the age of 16 years became involved in a relationship with an older man. That was a violent and abusive relationship. As part of that relationship, she became pregnant and had a miscarriage. Her parents were not informed about that. We must have some checks and balances.

As proposed, the amendment is a little strong. I agree with the member for Kalgoorlie that it is appropriate if the woman has not reached the age of 16 years, and in terms of 16 and 17 year olds we do not need to be quite so strict. I would like to see a provision in this proposed new section dealing with girls under the age of 16 years. It is appropriate to ensure that at least one of the woman's parents is informed. In some circumstances, even where a 14 or 15 year old may have two custodial parents, it is sufficient that she tell just one of those parents. In many instances the girls concerned ask that that parent informed should be their mother, but I do not think we should specify that it must be the mother. In occasional circumstances the girl may rather have her father informed. Providing that at least one of the parents is informed, that parent can then make a determination whether he or she feels it is appropriate to advise the other parent.

Let us look at what I believe will be the most likely circumstance in which the mother will be the parent who is informed. It is for the family to decide whether both the mother and the daughter who is procuring the termination choose not to inform the father. I do not think there should be any compulsion to advise both custodial parents. I am hopeful that the member for Mandurah will revise his amendment and will accommodate my concerns and also those of the member for Kalgoorlie. I am also hopeful that the Chamber will agree to an amendment couched in those terms under which only one parent must be informed and that the provision deal only with girls under 16 years.

Mrs PARKER: I appreciate the comments that have been made. I have had discussion with the members for Mandurah and Midland. The critical point of protection and support that we are trying to achieve is for those young women under the age of 16 years. We are prepared to try to find some ground there in amending this provision. The member for Mandurah is working on that at the moment. The issue of advising one parent and not both is also being taken on board. I agree with the member for Midland that in most cases, the daughter will seek out the mother. It is very important for the daughter to have that support as she goes through the difficult time of the termination and the time beyond.

I am happy to also support the proposition that only one parent be informed. The member for Mandurah has raised an important issue, and I look forward to the compromise that has been worked through with members of this Chamber. We need to recognise that this is a critical time in a young woman's life, and we need to ensure that parents fulfil their obligations. We should not just reduce all this to the bottom line and the worse case scenario but should recognise that in the majority of cases of a child being supported by a custodial parent, although there may be a fairly strong initial reaction, there will be support and a healthier outcome for the young woman involved.

Mr Osborne: Are you saying that we will define as a minor dependent a person who has not yet reached the age of 16?

Mrs PARKER: The critical age is under 16. We will refer in paragraph (a) to a woman who is a dependent minor, and we will define a dependent minor as a person under the age of 16 who is living with a custodial parent.

Mr Osborne: In the case of a dependent minor, we are talking about one parent and not both parents?

Mrs PARKER: That is right. That reflects the view expressed in this Chamber that we must ensure that for minors at that younger age, one parent is involved in providing support for that dependent child who is experiencing a traumatic situation. I trust that the members for Kalgoorlie and Peel will support the compromise that the member for Mandurah is working through.

Mr NICHOLLS: I have sought to reach a compromise that will address most of the concerns that have been raised. It has been argued that minors aged between 16 and 18 are mature enough to understand the decision that they are making. My specific concern is minors who are in their early teenage years, who I believe may find it difficult to make a decision of this gravity and to go back into the family home without that information being provided to their parents and, in some cases, without their parents knowing what they have done. I propose to amend my amendment to read -

- (a) a woman who is a dependent minor shall not be regarded as having given informed consent unless a custodial parent of the woman has been informed before the procuring of a miscarriage is being considered and has been given the opportunity to participate in the counselling process and in consultation between the woman and her practitioner as to whether the miscarriage is to be procured.

- (b) a woman is a dependent minor if she has not reached the age of 16 years and is being supported by a custodial parent or parents; and

Mrs Roberts: I would be interested in supporting the amendment if I knew a bit more about it.

The CHAIRMAN: The word "who" in paragraph (a) is not in the copy of the amendment that I have been given.

Mr NICHOLLS: That is an oversight. The amended version will provide for women aged under 16, so we are talking about women aged 12, 13, 14 and 15, who are pregnant and are seeking information about or are seeking to procure a miscarriage. This amendment would require a custodial parent to be informed and to be given the opportunity to be involved in counselling and in the decision making process if the young woman was living at home or was dependent upon the custodial parent or parents. That would address the issue of young women who are not living at home for various reasons.

The member for Kalgoorlie raised the issue of young women who were at risk from harm or neglect. The Child Welfare Act clearly gives power not only to Family and Children's Services but also to the police and, I would argue, the Health Department to take the necessary action to protect that child and, if necessary, to seek a court order to intervene with a care and protection application and, if necessary, wardship.

I am endeavouring to ensure that the concerns that have been raised by members with regard to older minors are addressed by a compromise. Although I would like to see the parents of all minors informed, I understand the concerns that have been raised by members; therefore, this amendment will clearly remove 16, 17 and 18 year old minors from these provisions but will, in line with the legislation in New South Wales and South Australia, provide for parents to be involved with medical treatment that is of this serious nature. I argue that this amended version of the amendment is a compromise to the point where we are dealing simply with vulnerable young people who I argue will find it very difficult, when placed under extreme anxiety and pressure, to make such a serious decision, and who need the support of their parents.

This amendment will mean that a doctor will not be placed in the unenviable situation whereby a child who has some doubts about the reaction of her parents asks that doctor not to provide information and that doctor, under the Gillick precedent, is bound not to provide that information to the parents even though the doctor believes that the young woman will benefit from the support of her legal guardian or parents.

I urge members to consider this amendment on the basis of their being parents and on the basis of the general good of our community, and not on the basis of the extreme case of harm being done to the child, because the Child Welfare Act provides protection and mechanisms to ensure that the child is protected.

Mr OSBORNE: I pose a couple of questions to the proponent of the amendment and seek a response. The wording is that the parent be informed before the procuring of a miscarriage is considered. I wonder how the member for Mandurah proposes that the legislation in that sense could get into the mind of the woman so it can be defined that the parent has been informed before the procuring of a miscarriage has been considered. Also, the wording is that the parents be given the opportunity to participate in the counselling process, and in consultation between the woman and her medical practitioner. Two processes will be involved.

Mr Nicholls: It is possible.

Mr OSBORNE: Parents will attend the separate counselling and also the consultation between the woman and the medical practitioner. I am concerned that it sets up two practices with inherent delays. Why is it not possible for the parent to go to the counselling process with the woman and the medical practitioner so the process can be shortened?

Mr NICHOLLS: The amendment does not require that they must attend counselling, but it provides for an opportunity to participate in the counselling process should the minor desire them to do so. I suggest that not only should the parents be informed, but also they have the opportunity to participate. There is no mandatory requirement to do so, but it will give them the opportunity to participate. This alleviates the problem whereby the minor is discussing the procurement of a miscarriage with another medical practitioner, who may have the view that the Gillick ruling on the treatment of minors prevents the parent from being involved if that is the minor's wish.

In practice, when a minor goes to a medical practitioner to seek information, the practitioner will explain to the minor that a parent needs to be informed so the parent has the opportunity to participate. Also, it allows the medical practitioner to explain the reasons for, and the benefits in, doing so.

Mr Osborne: If the woman has gone to the medical practitioner, she has by definition considered the procuring of a miscarriage and the parents are not yet informed at that point.

Mr NICHOLLS: Although the person has sought information, the GP can say that a custodial parent must be

informed before a decision is made. Therefore, a decision will not be made at the consultation about procuring a miscarriage, but information can be provided. The issue I am trying to put to rest is cases in which the adolescent attends a medical practitioner and agrees to a miscarriage without the parent's knowledge or opportunity to express support or participate in discussions on the decision. That notification is necessary.

Mr Osborne: You use two different sets of words. You refer to when a miscarriage is being considered, but you said in answer to my interjection that you mean that it is before a decision is made on whether the termination is to be performed.

Mr NICHOLLS: If the member is splitting hairs, I suggest that before a minor goes to a medical practitioner for advice, before the process can be engaged, the minor should understand that a parent needs to be notified. The dependent minor is under the age of 16 years. I hope the GP will be able to explain the merits of having a parent involved. If the minor discloses that she is suffering from abuse or potential harm, the GP can then refer the minor to the Department of Family and Children's Services, the Police Service or the Health Department in some cases. The Child Welfare Act provides the necessary mechanisms to protect the child.

I stress that this amendment is designed to provide a mechanism so parents are informed and have the opportunity to be supportive and participate in a decision making process where a minor aged 12, 13, 14 or 15 years is involved. As a parent, if the member's daughter, or anyone else's, of that age fell pregnant, for whatever reason, and that person felt uncomfortable about how the member or his wife may feel about it, he would want to be informed. Such young people could be advised by a person who believes that parents have no understanding and that the abortion is the best option. Therefore, the process could be undertaken without parents ever having the opportunity to discuss the matter with the minor. Most parents would feel the need for that involvement.

Ms McHALE: The member for Mandurah referred earlier to a young women who does not wish her parents to be approached. He said something which may be linked to doctor-patient confidentiality. Please refresh my memory.

Mr Nicholls: I was talking about a medical treatment of a minor under common law. Precedent in the Gillick case effectively says that if the minor does not give consent to the GP to release the information to the parents or notify them, the doctor cannot do so.

Ms McHALE: Is the amendment predicated on that principle?

Mr Nicholls: My amendment is based on the belief that a minor who is pregnant and considering procuring a miscarriage, would benefit from the support of parents. By putting that requirement into this legislation, it would remove the difficulty that a medical practitioner would face should a young person say, "Don't tell my parents; I don't think they can handle it."

Ms McHALE: I envisage a situation where the parents may wish the daughter to proceed with a termination and the daughter does not want to.

Mr NICHOLLS: The daughter will have the ultimate decision. The parents cannot exercise a veto and cannot provide consent. They are simply informed and able to participate in discussions.

Ms ANWYL: I again outline my difficulties with the amendment as it stands. The difficulty is that it contains no provision for a decision to be made that it is not in the best interests of that young person that one parent or guardian be notified. The most obvious case is with some forms of sexual abuse, such as incest. We know that it is not as simple as saying that we should tell the mother as she will support the daughter ahead of the father. That does not always happen. The member for Mandurah suggested that to overcome that problem, the Department of Family and Children's Services should take out a care and protection application. I say no to that suggestion. I have on hand statistics regarding the type of care and protection applications taken over the past three financial years. An average of four were taken out each year for 15 year old girls and boys. These are complicated court proceedings.

It is not the ideal way to deal with these, admittedly, rare cases. We should keep in mind that we are also talking about a small number of terminations that would be performed on girls 15 years and younger. Unfortunately the best information we have is from South Australia because we do not have the statistics on 15 year old girls in this State. The best evidence is a number in South Australia of approximately 13 out of 5 000. We should keep it in perspective. There is no reason to suspect that the case would be much different in Western Australia to that in South Australia, at least not markedly.

Having said that, together with the Minister for Family and Children's Services I have drawn up a proposal. I am unclear whether it is acceptable to the member for Mandurah. There should be provision - this happens in some other jurisdictions - for two doctors to decide together that the child would be put at risk if a parent or guardian were informed. It is nonsense to suggest we should have a full blown care and protection application in the Children's Court which could take several weeks to obtain and inevitably result in the parents being notified of the whole thing

anyway. As part of the disclosures that must be made to the Children's Court - I have experience of this - documents must be served on the parents. The whole matter would come out in any event and the parents would have to be involved. It could be more traumatic for the young person than a simple notification; it could become a legal nightmare. That is the last thing we want to do to 15 year old or younger girls who have been sexually abused in their homes.

The best alternative would be to have two medical practitioners certify that the child's interests would be put at risk by that notification. As I said, there is some precedent for that in other States in Australia and we are talking about very few cases. We have short-changed doctors to a certain degree in this debate. We must accept that doctors apply their best clinical judgment in these cases. If two medical practitioners are involved we will adequately deal with those exceptional cases which will be few and far between. The alternative proposed by the member for Mandurah, which is not contained in his amendment, would be for full blown legal proceedings to be taken by way of care and protection application. Those applications do not occur often in this State and they would hardly be in the best interests of the child. I await with interest the proposal from the member for Mandurah. If there is no further amendment, I urge members to oppose this amendment.

Ms McHALE: How will this work in practice? I am focusing on the words "before the procuring of a miscarriage has been considered the woman's parents must be informed". It is to do with the procuring of a miscarriage. Does that mean that the doctor could not talk to the young woman about an abortion until her parents had been informed of it?

Mr Nicholls: I am suggesting that a doctor cannot counsel the minor until the parent has been informed.

Ms McHALE: It is more about making the decision than discussing it as an option.

Mr Nicholls: I am trying to prevent the minor going to the doctor and making up her mind before the parents are informed of the minor's decision to have an abortion the next day at 3 o'clock.

Mr WIESE: I heard what the member for Mandurah said. However, the amendment is different. It is an absolute nonsense. The key part of the amendment is that a woman who is deemed a minor shall not be regarded as having received informed consent. That is absolutely critical because it means that if that process has not been undertaken the abortion will be illegal. It then goes on "unless a custodial parent of the woman has been informed before the procuring of a miscarriage has been considered". How can somebody be informed before it will happen when she has already gone to the doctor and is obviously considering having an abortion? This amendment requires that she must go through this process before the procuring of a miscarriage is being considered. That is an absolute nonsense. However, it is critically important because if we do not follow that process the abortion will be illegal. That is why this amendment is a nonsense.

The amendment then refers to a woman who is a dependent minor. If she has not reached the age of 16 years and is being supported by a custodial parent or parents she is considered to be a dependent minor so she must go through this proposed nonsense or the termination will be illegal. If she is not supported by a parent or parents she is no longer considered a dependent minor. She is probably the person we should be trying to look after. This is a total nonsense and we should throw the amendment out.

Mr NICHOLLS: We are endeavouring to work through amendments to accommodate the different points of view. It has been suggested that the word "before" should be changed. It is difficult to continue to pull apart the amendment to meet the desires and concerns of different people. For the benefit of the member for Wagin, my concern is those minors who are living with and dependent on their parents going back to the family home after an abortion and the parents not being given information about that.

Mr McGowan: How often will that happen?

Mr NICHOLLS: It might happen only once a year. This amendment will mean that the parent or parents of children possibly as young as 12 years old will be notified before those children make a decision to procure a miscarriage. For those minors who have left home and are being supported by guardians, the guardians have the same rights of notification and participation. This has been written expressly for those young people who have left home and are living independently and their parents are not involved in the decision making.

Mr McGowan: What if they desperately do not want their father and mother to know because of some cultural prohibition and such notification will cause them to fear for their lives?

Mr NICHOLLS: If they fear for their lives there are clear protections in the Child Welfare Act.

Mr McGowan: We cannot draft these things on the run.

Mr NICHOLLS: If a girl fears for her life because her parents might find out she is having an abortion, what a nonsense to say that when she has the abortion without her parents' knowledge she will not still fear for her life. What a nonsense to say she will no longer have any anxiety once the abortion is over.

Mr Carpenter: She might not go back to the family home for a week or two weeks. She may have gone to a different location to have the abortion.

Mr NICHOLLS: If the member's adolescent child disappeared for a week and he did not know where she was, when she came home would he say, "Shit, you're home; welcome back"? A girl could disappear for a morning to procure an abortion and then go back home. If her parents did not know and the minor was going through some difficult times due to mental anxiety and were oblivious to what had taken place, that would cause significant problems in the family environment at a time when the daughter needed support and understanding the most.

Ms MacTiernan: She might not get that understanding.

The CHAIRMAN: The member may need to delete paragraphs (a) and (b) and read in his new version so we get some sort of order.

Mr NICHOLLS: An amendment is being worked through to try to ensure that the wording is up to the standard that the member for Wagin would like. I would like that process to be completed so we do everything at once.

Mr JOHNSON: Most members in this Chamber have sympathy for the general principle that is being put forward by the member for Mandurah. However, the amendment that is before the Chamber is a dog's breakfast. The worst thing we can do is to try to amend this on the run. We would end up with terrible legislation and that would be a disaster.

I am worried about the comments made by the members for Peel and Collie. I am concerned that where a young girl is nervous about telling her parents that she is pregnant and we legislate so her doctor must tell her parents that girl will be put off going to a doctor. The danger we face is that the young girl might try to do it herself job.

In its present form the amendment will do nothing to enhance the Bill. I doubt it will improve the Bill even in its amended form. More thought should be given to that and it can be brought in as an amendment at a later date. We need to make some decisions.

The CHAIRMAN: I do not think the member for Mandurah is listening to you, so you are probably wasting your time.

Mr JOHNSON: You are listening, Mr Chairman, and so are my colleagues and if they agree with me they may not support this amendment. I cannot support it in its present form.

Mr McGowan: He can introduce a private member's Bill.

Mr JOHNSON: Let us deal with the Bill in toto and the member for Mandurah can give this some serious consideration and get some solid advice. He probably needs about two pages of definitions alone. It cannot be done on the run. I do not want to see that dog's breakfast incorporated in this Bill.

Mr OSBORNE: I support the comments of the member for Wagin on the matter of a dependent minor who shall not be regarded as having given informed consent unless the woman's parents have been informed before the procuring of a miscarriage has been considered. I do not understand how it is possible for a woman to go to a doctor and that not be considered as advice on a termination. A lawyer would be able to quickly and easily prove that the act of having gone to a doctor about procuring a termination means it was considered at that point. Therefore, the test of informed consent would fail and the woman and her medical practitioner would be in breach of the legislation. I agree with the member for Hillarys that this should not be done on the run. The wording could say "before the decision to procure a miscarriage is made" rather than "before the procuring of a miscarriage is being considered". We are talking about a concrete decision. We cannot put ourselves in the position of going into a woman's mind to determine whether the procurement has been considered. That is a practical impossibility. It makes almost certain that the woman will fail the test of having been given informed consent.

The CHAIRMAN: I must say that it is most unsatisfactory that we are trying to legislate on the run like this. Amendments are going here, there and everywhere. We must put an amendment, or we will still be here at 8.00 am trying to get something that is suitable.

Mr NICHOLLS: I appreciate the difficulty we are experiencing. It is interesting to listen to the members for Bunbury and Hillarys talking about legislation on the run. I have been involved in this debate for the past week. We have done nothing but legislate on the run. The point made by the member for Bunbury is pertinent and it can be addressed simply by changing the word "before" to "that". The amendment would then read that the parent of a

woman has been informed that the procuring of a miscarriage is being considered. That would address his concerns about that taking place before or after and would address the intent that I am trying to convey.

The CHAIRMAN: I suggest the member move to delete paragraphs (a) and (b) and read into the record the proposed new amendment.

Mr NICHOLLS: By leave, I move -

That the amendment be amended by deleting paragraphs (a) and (b), and substituting the following -

- (a) a woman who is a dependent minor shall not be regarded as having given informed consent unless a custodial parent of the woman has been informed before the procuring of a miscarriage is being considered and has been given the opportunity to participate in the counselling process and in consultations between the woman and her practitioner as to whether the miscarriage is to be procured;
- (b) a woman is a dependent minor if she has not reached the age of 16 years and is being supported by a custodial parent or parents; and

Paragraph (c) will remain the same.

Mr BARNETT: I have been listening with a sense of confusion about these amendments. I support what the member for Mandurah is trying to do. I think it would be very foolish for us to make legislation in this way. The most sensible thing for us to do is to take on board the sentiment of what the member for Mandurah wants to do and not legislate in this way. If some practical way of dealing with it can be found when this Bill goes to the upper House, the provision could be inserted at that stage or it may be able to be addressed in other ways through health legislation. Although I support in principle what the member is trying to do, I will not vote for this amendment because I think it is dangerous. I do not think we know what we are doing. It has not been thought through and has not been defined properly.

Mr NICHOLLS: I realise that a process of trying to accommodate the different needs on a question is difficult, for many changes and alterations will always occur. The alternative was simply not to accept any amendments and to go with the original proposal. However, the difficulty I have is that if I accept the suggestion of the Leader of the House, and should the learned members of the upper House not decide that they wish to have this revision in the legislation, there is no capacity at all for me to move that this be included. I suggest that the House of Review is in a very good position to consider this amendment and make alterations to it as it will to the whole Bill, and then provide it back to us with the learned comments of the members. It is not acceptable to suggest that the way out of not making a decision on this is to say, "We all support your principle, but we really do not want to do anything."

The CHAIRMAN: It is up to the member whether he withdraws his amendment.

Mr NICHOLLS: I am making my case, and I thank you, Mr Chairman, for your guidance. I am suggesting that I have endeavoured - I understand I have caused some confusion to you and others in this Chamber - to accommodate all the views in consideration of the concerns raised. We have now got to the stage of saying that this is all too hard and we do not want to make a decision. I will understand if members do not want to support this proposal. However, it is not acceptable to say that we do not want to support it because members in the upper House can insert this provision. When it goes to the upper House, the House of review, the learned judgment of those members can be applied and we will have time to look at the wording. We may then have to consider it again, but at least this provision will be in the Bill.

Mr Johnson: I have sympathy, as I think we all do, with the principle that the member is espousing. I think there will probably be some amendments to this Bill while it is in the upper House anyway and the Bill will then be sent back to this place. That would give the member another opportunity to move exactly what he wants to move, but after the amendment has been considered further.

The CHAIRMAN: That does not give the member for Mandurah the opportunity to do anything other than discuss the amendments that are sent back to this place.

Mr NICHOLLS: We have debated this issue at length, and I thank members for their consideration. I know it is very late.

The CHAIRMAN: I am very anxious to put the question.

Mr NICHOLLS: Although members may feel that there are some deficiencies in the amendment I have proposed, it does not stop the upper House from making a change to it. By not putting it in and by members not supporting it, it leaves open the potential that there will be nothing in this Bill or in any legislation that will provide for those

minors aged between 11 and 15 years of age. We need to bear in mind that we have moved a Bill that will effectively provide abortion on demand. We need to provide a mechanism to protect or at least support those young people.

Amendment on the amendment, by leave, withdrawn.

Mr SWEETMAN: I commend the member for Mandurah for trying to instill into this legislation something that is in sympathy with the normal family. I guess I take an over-simplistic point of view on many of these issues, but I put myself in the position of seeing my daughter caught in this situation. I know that we are trying to craft amendments or regulations that cater for the worst case scenario, and they will be anomalies, but what we are doing by not giving reasonable recognition to what the member for Mandurah is trying to do is in itself undermining the family and is perhaps anti-family.

We are dropping a bucket on society today, and particularly on parents when we talk about law enforcement, because parents are not taking enough responsibility for their kids. We now have an opportunity to involve the parents, because in the overwhelming majority of cases it makes good sense for the parents to know that their child is contemplating an abortion.

Children who have left home are not covered in this amendment. A woman may have moved out of home and be living with friends or on her own, and we need to have some respect for the tact and diplomacy of the doctor in that situation, although this amendment may provide a good opportunity for a reconciliation and to put the family back together.

The point has been made that we will in effect have what we have had over the past 25 years - abortion on demand. I am concerned that we are crossing the boundary from abortion to another domain which is equally as sacred as life - the family. Children under the age of 16 still need the permission of the court to be married, and they cannot vote and drink, but we are suggesting that those children, on the advice of a doctor, whether they be 11, 12, 13 or 14, can have an abortion. I am horrified at the thought of that.

The wording of this amendment may not be what we would like it to be, and I wish those people who are good at crafting amendments with the correct wording had had the time to spend on this amendment, but I intend to vote for it. I acknowledge that the amendment has some problems, but it is appropriate that I make these comments now because I do not think I will get another shot at talking about this issue once it has gone to the other place.

Amendment put and a division called for.

Bells rung and the Committee divided.

Dr Constable: We claim the member for Midland because she called the division and must come over here.

Mrs Roberts: I will not move.

The CHAIRMAN: I am not sure who called the division. All I heard was the call to divide, and I accepted the call without noticing who made it.

Dr Constable: I know who called it.

The division resulted as follows -

Ayes (27)

Mr Ainsworth	Dr Hames	Mr Nicholls	Mr Sweetman
Mr Baker	Mrs Hodson-Thomas	Mr Omodei	Mr Tubby
Mr Barron-Sullivan	Mrs Holmes	Mr Osborne	Dr Turnbull
Mr Board	Mr Kobelke	Mrs Parker	Mrs van de Klashorst
Mr Day	Mr MacLean	Mr Pendal	Mr Wiese
Mrs Edwardes	Mr McNee	Mrs Roberts	Mr Cunningham (<i>Teller</i>)
Mr Grill	Mr Masters	Mr Shave	

Noes (23)

Ms Anwyl	Dr Edwards	Ms McHale	Mr Strickland
Mr Barnett	Dr Gallop	Mr Marlborough	Mr Thomas
Mr Bradshaw	Mr Graham	Mr Marshall	Mr Trenorden
Mr Carpenter	Mr Johnson	Mr Prince	Ms Warnock
Dr Constable	Ms MacTiernan	Mr Riebeling	Mr McGowan (<i>Teller</i>)
Mr Cowan	Mr McGinty	Mr Ripper	

Amendment thus passed.

Mr GRILL: It is appropriate that I move the clause that I foreshadowed. I move -
New clause 4.

Section 201B inserted.

4. After section 201A of the *Criminal Code* the following section is inserted -

"Reduction of penalty in certain cases.

201B. If a person is criminally responsible under section 199, 200 or 201 by reason only of the consent referred to in section 201A(3)(d) or (5) not having been informed consent within the meaning of section 201A, the offence committed under section 199, 200 or 201 is a simple offence and the person committing the offence is liable to a fine of not more than \$50 000. "

I have explained the reasons for that amendment previously. I think they are understood by the Committee. I understand this amendment is non-contentious and I hope it will have the support of the Committee.

Mr KOBELKE: I seek an explanation because I do not think the amendment has been circulated and, therefore, it is extremely difficult for members to vote on it. Will the member for Eyre advise the Committee of the intention and effect of the amendment?

Mr GRILL: I have indicated that I believe it would be outrageous for the Parliament to make people liable for prison terms of seven or 14 years in the event that the provisions of a prescribed clause for consultation were not fully complied with. It is fairly clear. A substantial fine of \$50 000 is more than enough. Yesterday most members, including the member for Nollamara, were prepared to accept a clause that would have applied a fine of \$10 000 under those circumstances.

Mr WIESE: I support the amendment. I wonder whether the wording is wrong. It does not make sense. The phrase "If a person is criminally responsible under section 199, 200 or 201 by reason only of the consent referred to in section 201A(3)(d) or (5) not having been informed consent within the meaning of section 201A, . . ." is not English. I am not sure what the intention is. It may be purely a grammatical error but it needs to be corrected.

Mr PRINCE: The amendment has been drafted with the assistance of parliamentary counsel. It is correct. It might be somewhat cumbersome for those who are accustomed to the simple prose of newspapers.

Mr Wiese: It should be in plain English.

Mr PRINCE: It is plain English and it is grammatical. It means that if someone has committed an offence and the only way in which they have committed the offence is by not complying with the counselling requirement, the penalty will not be imprisonment but will be a fine. The offence will not be a crime but will be a simple offence. Informed consent is referred to throughout the Bill. It is in new subsection (3)(d) and by new subsection (5) is implied for (3)(a), (b) and (c).

Mrs van de Klashorst: Perhaps it should be in inverted commas.

Mr PRINCE: No, inverted commas are not used in Statutes, apart from in the definition clause. It could be changed.

Mr BAKER: I gather the intention is to change the nature of the conviction from being a crime to a simple offence. In the middle of those two is the misdemeanour conviction, which has been passed over. Was that the intention?

Mr Grill: Yes.

Mr BAKER: Why does the member believe that a misdemeanour category would not be appropriate?

Mr GRILL: Crown counsel indicates that a simple offence is one that would not need to go before a judge and jury. It is not an indictable offence. This could be dealt with without going through the indictment procedures.

Mr BAKER: I think you will acknowledge that certain indictable matters in certain provisions in certain legislation can be dealt with summarily in certain circumstances. Has the member considered that option rather than going straight to the simple offence option?

Mr GRILL: This could be dealt with summarily, and it is probably an effective way of doing this.

Mr BAKER: The person charged may decide they want a trial by judge and jury; there are certain advantages of course for them. What the member is doing through this amendment is removing what would otherwise be a right in that regard. Does he acknowledge that?

Mr Grill: Yes.

Mr BAKER: Does the member have any concerns about removing such a fundamental right that would otherwise apply?

Ms MacTiernan: What you are suggesting -

Mr BAKER: No, I am asking questions at this stage. I will come to my suggestion shortly.

Mr GRILL: I am advised by parliamentary counsel that it is most unusual for a judge and jury or an indictable situation to be created where there is simply a monetary fine and no prospect of a custodial sentence.

Mr BAKER: I was really simply saying that that is looking at the fine scenario; but prior to the member's amendment: The person charged would have the right to a trial by judge and jury. Is that correct?

Mr Grill: Yes, and the prospect of going to gaol for 14 years too.

Mr BAKER: But a very good prospect of getting an acquittal before a jury. The member will agree that many people who are charged would elect for trial by judge and jury if that is possible. I accept that there are a lot of other factors such as legal costs and delays, but the member does acknowledge that effectively he has removed that right?

Mr Grill: Yes.

Ms MacTiernan interjected.

Mr BAKER: Has the member thought of giving an election to the person charged so that rather than having it dealt summarily in a Magistrate's Court, they can at their election decide if they want it dealt with summarily or before a judge and jury; that way they have a choice?

Mr Grill: The truth of the point is that under this amendment there is no prospect that a person would go to gaol and in those circumstances it is probably not necessary to provide for an indictable situation where there would be a judge and jury; crown counsel seems to be pretty firm on that point.

Several members interjected.

Mr BAKER: Not at all, these are valid points. We can just rush it through of course; put it to the vote and off we go again. There is a conviction factor as well.

Mr GRILL: Yes, but it is only a conviction for a simple offence. People are going to appreciate that particular point. I think we are better off to leave it but there might be some chance to massage it at a later date

Mr BAKER: Can the Minister think of any simple offence under the Statute law of this State which carries a maximum fine of \$50 000?

Mr PRINCE: Off the top of my head, no. I can think of some fairly large fines under the Misuse of Drugs Act and there is the power under either the Criminal Code or the Sentencing Act for a large maximum fine; it is one of the alternatives to imprisonment. I think it is \$100 000 off the top of my head. I do not think that is altogether unusual.

Ms MacTiernan: In WorkSafe legislation there are no fines but there are fines up to \$200 000 and no imprisonment at all -

Mr PRINCE: Certainly under the Misuse of Drugs Act we wind up with some situations where indictable offences are dealt with summarily.

Mr GRILL: Crown counsel has advised that one way around it would be to say that the defendant may at the election of the defendant be dealt with summarily in which case the penalty for the offence is a fine of no more than \$50 000. One could go before a judge and jury and the penalty would be 14 or 7 years or one could opt to have it dealt with summarily and the fine would be \$50 000. Quite frankly, I would rather remove it altogether from the jeopardy of a 14 or 7 year sentence. Therefore, the first option is the better one.

New clause put and passed.

Title -

Mr PRINCE: In the course of the amendments that we have made, we have actually made an amendment to the Health Act and, therefore, if the member for South Perth is not going to move the amendment in his name, it is appropriate to amend the title to accurately represent what we have done. I move -

Page 1, line 3 - To delete the words "*Criminal Code*" and substitute "*Health Act 1911 and the Criminal Code*".

Amendment put and passed.

Title, as amended, put and passed.

Bill reported, with amendments and an amendment to the title.

Remaining Stages - Standing Orders Suspension

MR BARNETT (Cottesloe - Leader of the House) [5.30 am]: I move -

That so much of the standing orders be suspended as is necessary to enable the Criminal Code Amendment Bill to pass through all stages at this sitting.

MR KOBELKE (Nollamara) [5.31 am]: Members must consider whether this is what we really should be doing as we approach six o'clock on Thursday morning. It is far from reasonable or effective management of the business of this House to move to the third reading of such an important Bill at this time. The Leader of the House has not offered any reasons for suggesting this extraordinary method of dealing with the Bill.

The nature of the debate has meant that we have been involved for some time, but members should recognise that the debate has drawn in almost every member. Those members have contributed where they felt they needed to make a contribution. Debate has been across parties and across groups representing both anti and pro-abortion. Members have attempted to deal with issues that had to be addressed at the Committee stage. The Government did not give a clear lead in a number of areas, and that meant that individuals had to cobble together some sort of approach to address the issues. A simple approach was taken by the member for Mandurah. He addressed an important matter relating to minors and how they would be treated under this Bill. He tried to reach consensus on a workable proposal. Many of us might not be satisfied with the nature of it, but that proposal was put together.

By moving the suspension of standing orders, the Leader of the House seeks to put aside the normal requirement for proceeding to the third reading stage. That procedure can be found at pages 96 and 97 of the standing orders. The standard procedure is for a clean print of the Bill to be produced. We do not have a clean print, because amendments have been made -

Mr Cowan: It should be a fair print!

Mr KOBELKE: A fair print does not exist, and we must go through the process of seeking the suspension of standing orders in order to move to the third reading. Any member wishing to make a detailed contribution to the third reading debate will not possess an up-to-date copy of the Bill. Under the standing orders, the extent of debate is somewhat limited at the third reading stage. Members can canvass only matters specifically relating to the Bill as it proceeded through Committee.

During the second reading debate, some members indicated they would vote at that stage, but would reserve their right at the third reading stage to consider the amendments made, and, on the basis of those amendments, would decide individually whether to vote for the Bill at the third reading stage. In that context, the third reading is very important. It is a matter of explaining the situation to our constituents. On an issue such as this, most members have been lobbied very heavily by constituents. Therefore, we owe it to our constituents and to the proper procedures of this place to put on the record the reason we vote in the way we will at the third reading stage.

Mr Trenorden: You have not said enough. You should speak for two more hours!

Mr KOBELKE: I thank the member for Avon for his encouragement, but I do not require it.

I want to place on the record the reason I will not support this Bill at the third reading stage. I will have the opportunity to do that, but it is not appropriate to begin that debate at 5.00 am or 6.00 am. I joined the Minister for Employment and Training at a meeting at 7.00 am yesterday - Wednesday! I am sure that other members were involved in similar early morning meetings. Putting that aside, we began the proceedings of this House at 11.00 am yesterday. It is now 5.00 am on Thursday. We have been sitting for more than 18 hours. In addition, we must undertake the third reading debate before we can conclude.

The second reading debate involved almost every member. Considering the nature of the legislation, one would expect that. I expect that not every member will be involved in the third reading debate, but even if only one-third or one-quarter of the total number of members - that is, roughly 14 - spoke for 20 minutes, we could face another five hours of debate, beginning at 6.00 am.

Mr Barnett: We will be finished by morning tea time.

Mr KOBELKE: If we begin at 6.00 am, the debate will continue until 11.00 am - I do not know whether the Leader

of the House will allow a break for breakfast. He is being most unreasonable. He introduced the Bill, but he has not been able to exercise any leadership by presenting proposals which were more highly developed than those offered. Therefore, a number of members had to work on proposals, and that is why the debate has taken so long. We cannot do justice to this legislation at this hour of the morning, or by pressing on into the afternoon. It would be to my advantage if debate went through until question time, because the Opposition could ask questions at 2.00 pm today.

Many members regard the third reading as an important part of debate, because they want to clarify their position. Therefore, it is not appropriate to suspend standing orders in order to continue that debate now. I hope that standing orders are not suspended, because that will allow the production of a clean copy of the Bill when we return later this afternoon - if that is the wish of the Leader of the House. We can then take up debate at that time. That would be a proper process rather than our being shanghaied at this stage to continue debate at this ridiculous hour.

MRS ROBERTS (Midland) [5.39 am]: I support the argument put by the member for Nollamara. It has been an endurance test since we came into this Chamber on Tuesday. We sat in this place until after midnight on Tuesday night. Yesterday we entered Parliament at 11.00 am. Some 18 and a half hours later, the Leader of the House has suggested that another five, six or seven hours of debate will be necessary. Members often talk about family commitments, and suggest that they give priority to their families. I do not think any priority is given to families if parents cannot be sent home from this place at breakfast time - especially members who have children to attend to in the mornings. An additional burden is being placed on members and their families. This is senseless. The standing orders should prohibit the House sitting for periods of greater than 18 hours and probably from sitting more than 12 or 13 hours consecutively. This is passing legislation by endurance. It does not give members the opportunities they should have. The standing orders of this place are generally in place for a reason. We should have a fair copy of the Bill available to us and we should be debating the third reading of this important Bill at a sensible time, not after 18 and a half hours of debate.

By the time I and some others get to participate in the third reading, depending on who gets the call first, we may have been here for 20 or more hours. I do not support the suspension of standing orders to allow us to go forthwith to the third reading contrary to the rules.

Question put and a division taken with the following result -

Ayes (43)

Mr Ainsworth	Mr Day	Ms McHale	Mr Shave
Ms Anwyl	Dr Edwards	Mr McNee	Mr Sweetman
Mr Baker	Mrs Edwardes	Mr Marlborough	Mr Thomas
Mr Barnett	Dr Gallop	Mr Marshall	Mr Trenorden
Mr Barron-Sullivan	Mr Graham	Mr Masters	Mr Tubby
Mr Bloffwitch	Dr Hames	Mr Nicholls	Dr Turnbull
Mr Board	Mrs Holmes	Mr Omodei	Mrs van de Klashorst
Mr Bradshaw	Mr Johnson	Mrs Parker	Ms Warnock
Mr Carpenter	Mr MacLean	Mr Prince	Mr Wiese
Dr Constable	Ms MacTiernan	Mr Riebeling	Mr Osborne (<i>Teller</i>)
Mr Cowan	Mr McGowan	Mr Ripper	

Noes (5)

Mr Grill	Mrs Roberts
Mr Kobelkie	Mr Cunningham (<i>Teller</i>)
Mr Pandal	

Question thus passed with an absolute majority.

Recommittal

Mr PRINCE: I move -

That the Bill be recommitted for the further consideration of new clause 3.

It has been brought to my attention that the conscientious objection clause we passed has inadvertently found its way into the part of the Health Act that deals with venereal disease. It should be in the miscellaneous section. I simply wish to move it to the appropriate place. I express my gratitude to Mr Calcutt for the work he has done.

Question put and passed.

[Applause.]

Committee

The Chairman of Committees (Mr Bloffwitch) in the Chair; Mr Prince (Minister for Health) in charge of the Bill.

New clause 3 -

Mr PRINCE: I move -

To delete the words -

3. Before Part II of the *Health Act 1911* the following section is inserted -

" **Choice for medical professionals**

316A.

and substitute -

3. After section 363 of the *Health Act 1911* the following section is inserted -

" **Participation in certain procedures voluntary**

364.

Amendment put and passed.

New clause, as amended, put and passed.

Report

Bill again reported, with a further amendment, and the report adopted.

Third Reading

MR PRINCE (Albany - Minister for Health) [5.49 am]: I move -

That the Bill be now read a third time.

MR PENDAL (South Perth) [5.50 am]: I rise in the third reading to reflect on the tragic fact that history will record that the first session of the thirty-fifth Parliament of this State will have come to the end of its labours, having given more in the way of protection to animal welfare in Western Australia than it has done to children. To understand the level of desensitisation that has gone on in Western Australia in the past 20 years, members should consider for a moment the statistic that has been mentioned frequently, ad nauseam, in the past couple of weeks - 10 200 children are sent to their death each year because of the vile practice of abortion. Only 25 years ago Western Australians marched in the streets when fewer than 70 Western Australians went to their deaths on the battlefields of Vietnam. Here we are talking about a factor of 20 times that number. People have treated the issue of those deaths as though they amount not to a row of beans.

Each year in Western Australia roughly 300 people go to their deaths on the roads. Here we are talking about a factor of 30 in relation to those who go to their deaths because people do not care enough or have enough respect for the sanctity of life; yet, we have constant campaigns waged through the news media, paid for by the Government, for us to do all in our power to reduce that road toll. That is the level of desensitisation that has gone on. As I said, we once marched in the streets because 70 people died in Vietnam. We pour millions of dollars into teaching people not to kill themselves on the road; yet, in the flicker of an eyelid, we are prepared to institutionalise practices that will take 10 000 people - the most vulnerable, the most unprotected - out of the equation. I repeat: That is the level of desensitisation this materialistic society has brought upon itself.

If that does not sound cruel or callous or vile enough, I will reflect for a moment on the role in this whole sorry saga of the Government of this State. The whole process from day one of the charging of Dr Chan and his colleague has been one of gross amateurism on the part of the Government of Western Australia.

Mr Day: That has nothing to do with the Government.

Mr PENDAL: I will tell members this: The Government must promote members to the Cabinet based on their lack of brains. That interjection indicates a gross lack of brains on the Minister's part. The Davenport Bill got up because a member of Parliament who had spent a lifetime of undistinguished service found that this was her swan song. I can understand that Hon Cheryl Davenport would want to make a running before she left Parliament after this term. However, I cannot understand the political ineptitude, the brainlessness, the mental poverty that drove the Liberal and National Parties into wanting to wrest this issue away from Hon Cheryl Davenport.

What a magnificent piece of political strategy of the Liberal and National Parties, and their leadership within the Cabinet. It defies any imagination in political terms. Why would they want to do that? The result has been a tussle between two Cabinet Ministers in the upper House who do not know what they want out of this legislation, but they know they want what the other person does not. The result has been an unholy tussle between one House of Parliament and the other to see whether one can outdo the other in the bid to institutionalise the killing of those 10 000 kids this year, next year and the year after. Again, I ask: What drove the leadership of the Liberals and Nationals to that level of ineptitude and political impoverishment when the issue was being pursued by a Labor member in another House?

For five weeks I have heard, as have other members, this issue being portrayed as one of the principal pieces of advocacy for a woman's right to choose. That is the most dishonest element in the whole of the debate. The woman had already made her choice when she conceived her child with the father of that child. The principle here should not be the woman's right to choose because, I repeat, she has already made that choice. The principle here is the right of the conceived child to live.

If the Liberals and their coalition partners, the Nationals were involved in this, and they were, their intellectual and political impoverishment was matched only by a core of 16 hardline Australian Labor Party members. That party was once the proud custodian of the tradition that looked after the dispossessed, the weak, the underdog and the vulnerable. The Australian Labor Party was once great. It pursued human rights and human rights violations to the nth degree. Today that party has been reduced to one whose members have no sense of the vulnerable or the dispossessed; trendy people who have come out of universities, never having got their hands dirty and who are prepared to sacrifice those principles of human rights' advocacy on the altar of children who are the most vulnerable and unprotected. It is mindless. We must live with the decline of the impoverished Labor Party from the days - as late as the 1960s and even into the 1970s - when it stood up for those who could not stand up for themselves, the battlers, the dispossessed, the weak, the underdogs and the vulnerable. That is not surprising when we consider Labor's rebirth in the 1980s in this State and nation which was centred on one simple slogan.

The slogan was called "me". The slogan put the individual ahead of the collective that the members of the Australian Labor Party once so proudly represented. The me mentality and the materialistic society which caught up with those members and the rest of us caused them to refuse to resist those pressures and instead they went down the road of impoverishment in order that they would service themselves ahead of the people who had historically been their constituents.

Three weeks ago a group of seven or eight people met in a room in this Parliament to see if they could make a difference. In the early stages those people were ridiculed for what they were trying to do. The seven or eight people grew to a group of 10 or 15 people which regrettably last night saw losses of two to four people in consistent votes of 24 to 29. That group along with a lot of other people succeeded at least in slowing down the processes of this place sufficient to give a voice to those who up until now had not been heard. Into the bargain we were ridiculed and growled at by the Leader of the House. We were threatened by the member for Belmont.

Mr Ripper: That is not true.

Mr PENDAL: We were threatened by him with the use of the guillotine in a comment which will haunt him until the day he leaves this place. A few years ago one of his upper House colleagues in another place when pressed as to why he, Fred McKenzie, had done nothing to challenge his leaders about the growing cancer of WA Inc, said in the Chamber, "I saw no evil. I heard no evil. I spoke no evil." He said in explanation, "I did not want to know. I wanted to turn a blind eye because I did not want to believe those things." The member for Belmont will find that his remarks will haunt him as much as Fred McKenzie's haunted him until the day he left this place. As I said at the time, the member for Belmont became to my knowledge the only opposition member in the history of parliamentary democracies around the world to threaten the use of the guillotine. Anyone with any level of political aptitude at least waits until they have moved over to the right of the Speaker before they use the tyranny of numbers and the threat of it against other people because they dare to stand up for what they believe in.

The group met three weeks ago and grew from seven to 15 or 25 people and a few more from both Houses who were realistic enough to know that they would not stop abortions. They were realistic enough to believe that if we could create a new climate we might get to the point in 15 or 20 years where women would become so repulsed by the nature of abortion that abortion would be removed from the landscape in Western Australia and Australia, just as 150 years ago a cultural climate changed the repulsive and repugnant institution of slavery. The parallels between the two are interesting: They have in common the belief that one can own somebody else; that human lives are tradable commodities. In the middle of the past century people were sufficiently advanced and sophisticated so that even the hardest and cruelest heart had to accept that trading in human flesh was wrong. It took a long time to change that culture. That will be the challenge for people not only here, but around the world, so that one day the scourge of abortion will be seen in the same light as slavery. That process has begun. The femocrats, as it were, those hard

women who want to protect "me, me, me" will have to start bringing themselves up to date with what is happening elsewhere in the world and take heed of the growing level of repugnance against abortion. They should bring themselves up to date with some of the occurrences in the United States and the United Kingdom, which are bringing home to people -

Mr Ripper: Like blowing up abortion clinics?

Mr PENDAL: No, that is as repulsive as the act of abortion itself. In the United Kingdom as little as three years ago a parliamentary committee brought down findings on the first 25 years of the operation of the revised abortion laws. One of the chief findings was that 87 per cent of women who went through abortion had suffered major problems with psychological and physical health. If we had that sort of incidence out here for breast cancer, if the Government were to deny a proper screening process, women would be marching to the front steps of Parliament House. Members in here would be demanding action against that sort of scourge. It is starting to catch up, but as with many other things this little State and jurisdiction sometimes takes a while to catch up with what is happening elsewhere in the world. The amount of literature coming out of those two jurisdictions alone is legion in the belief that abortion is as anti-feminist an activity and advocacy as it is possible to get. Nothing degrades a woman more than to have to wrench from her body that which she has helped create. That will be the challenge for the next 25 years in this State and in Australia as we begin to reassess just what a twenty-first century of slavery abortion is in our time.

Even in the space of 24 hours' debate in this Chamber we saw a remarkable turnabout on the part of those headline femocrats. Twenty four hours ago they would not have a bar of counselling. They opposed the group with which I worked every inch of the way to ensure there would be no counselling. Tonight they are back and have accepted it. Last night the general practitioner members of this Chamber, who should hang their heads in shame, were telling us that to make a demand that two doctors be involved in certain procedures was not on and inconvenient. Today they came back and sponsored their own miserable amendment to achieve the same purpose. What does that say about the quality of debate and the quality of minds of people who will do one thing one day and who will be easily led to do the opposite within the space of 24 hours?

We were left with slim pickings. For that reason, I will vote against the third reading. At one stage, the vote against the third reading would have been a bit of a dilemma from my point of view, for reasons that have been well canvassed, but there is no dilemma about it now, because this House and this Chamber have removed any level of decency towards the lives of those 10 000 unborn children who are aborted annually and have left members like me with a relatively easy decision to make: We will oppose the third reading.

The pickings were slim. We did manage to get in at least one semblance of a human rights advocacy which even the Labor Party members - those great custodians of human rights - could not resist. That is, we gave the doctors, nurses and other health professionals in government hospitals the right to say, "I want none of your vile abortion operations if it offends my beliefs". However, it was like drawing teeth to get that one miserable, albeit important, concession from these people who fought every inch of the way to ensure that others, including the mothers in that predicament, would never get a fair go and would never make a serious choice about abortion.

Yesterday, the House and the Committee rejected comprehensively things that we saw them accept begrudgingly today. Perhaps that is a good sign in itself. Perhaps that is a sign that the process to which I referred earlier has begun, and perhaps it is more advanced than many of us think. Perhaps that will give us all some additional hope. I will read one simple quotation which came from *The Canberra Times* 10 years ago but which is as relevant today as it was when it was written. The article is headed "Feminists declare war on abortion" and is written by Melinda Tankard, whose work as a feminist I have had particular pleasure in quoting to the House in the past few days.

Mr Cunningham: She is a great woman.

Mr PENDAL: Yes. She begins the article in this way -

In an unusual twist in the battle over abortion in the United States, a feminist group has labelled abortion a "public-health disaster".

In a brief submitted to the US Supreme Court, attorneys with the Feminists for Life Law Project call "safe, legal abortion" a myth and say women are being exploited at the hands of the "lucrative, unregulated private abortion industry".

That was written 10 years ago about the United States; it could have been written last week about the position in Western Australia. It behoves all members here, no matter which way they have voted, to at least confront their minds with this matter in the next day or two. Is anyone happy that we lose 10 000 children a year to abortion? I have heard people like the member for Thornlie say that too many abortions take place in Western Australia. If it is possible for a person with her views to say that, then I leave her and others, including myself, I suppose, with this

request: What can we do to make sure that that too many is reduced? Even if it were reduced by a factor of 10 per cent, even if that change in culture to which I have referred meant that it were reduced by 15 or 20 per cent, or by 3 or 5 per cent, it would have been worth it if members like the member for Thornlie were at least prepared to acknowledge, as she did - I think generously so, given her arguments - that there are too many abortions in Western Australia.

I do not believe that this Bill will achieve anything like that. It would have had the opportunity to achieve it had the Committee been prepared to leave in place some of those genuinely pro-human rights amendments that were scattered to the wind, almost as an act of contempt, in this place yesterday. I still live in hope, notwithstanding this vile Statute that will now go to another place, that the culture will change, because the rest of the world is catching up with us and there is no escape.

MR OMODEI (Warren-Blackwood - Minister for Local Government) [6.16 am]: The last 24 hours has been indeed a sad and sorry saga. My wife Ros and I have four healthy children. We come from large families. I have three brothers and two sisters, and Ros comes from a family of 11 children. We both believe passionately in the right of a child to be born and to be raised in the tender loving care of a family with a mother, a father and an extended family. We both believe that life begins at conception, and all of the scientific evidence confirms that belief.

The time spent in the womb is a stage of life, just as infancy, childhood, puberty, youth, adulthood and old age are stages of life. Life in the womb deserves at least as much respect and at least as much protection from society as any other stage of life. If abortion is to be regarded as a medical treatment, it must meet certain basic conditions and pass certain standards of scientific scrutiny.

Firstly, are there any medical conditions for which abortion is the treatment of choice? None has been mentioned during this debate, and people more learned than I in this field assure me that there is no medical condition for which abortion is the treatment of choice. However, in case there are some such conditions, the next question becomes: Does the treatment of these conditions by abortion significantly improve the relevant prognosis? Again, the answer is no. Thirdly, if we are to adopt a rational and scientific approach to a medical problem, we must ask: Is there any evidence that there are no significant consequences, short term or long term, of abortion? That question is harder to answer than the first two because of the appalling lack of follow up of the maternal victims of abortion, but to the extent that we have knowledge, it strongly suggests that there are significant negative consequences of abortion.

Like me, most members will have received correspondence on this subject, and one not infrequent reference is to the 1994 United Kingdom Commission of Inquiry into the Operation and Consequences of the Abortion Act 1967. It found that there was so little follow up to abortion that it sent out 200 questionnaires to what was considered a reasonable profile of the people who had had abortions. It found that of the 136 people who replied, 87 per cent said that they suffered long term emotional consequences.

I am indebted to Dr Peter Barnes for the information about a 1976 study in which Westminster Hospital reviewed 1 000 attempted suicides within its catchment area. It found that there were seven times as many women who had had abortions among the attempted suicides as there were in the control group, and up to nine times as many as other studies suggested were present in the general population. Not one woman among the attempted suicides was pregnant. These are significant figures, but they point in exactly the opposite direction from the signpost being held aloft by those who want to declare abortion a medical matter. It is difficult to find out precisely why abortions are performed in Western Australia. The vast majority of them are illegal and nobody bothers to explain why they are performed. However, in our neighbouring State of South Australia, where this appalling dismembering of infants in the womb has long been legal, annual reports are made on this sort of thing. In 1995 a massive 97 per cent of the abortions - more than 5 300 individual cases - were performed for psychiatric disorders.

Here is a medical mystery. In the 1994 UK report to which I referred earlier, the Royal College of Psychiatrists stated that there is no psychiatric justification for abortion. However, just over the state border in South Australia, the medical profession finds more than 5 000 psychiatric justifications for abortion each year. Is this a huge medical advance by a handful of South Australian doctors? Can they find 5 300 people a year with psychiatric disorders and cure them by abortion? Sadly, we may never know, because these pioneering medicos make no attempt to follow up their patients or report their remarkable results in psychiatric or other medical journals. Perhaps a whole class of psychiatric disorders are never suffered by men, or perhaps these marvellous doctors have a different treatment of choice for men with those same problems. Alternatively, is this operation so intrinsically evil that all the medicos involved in it become pathological liars?

The problem is not confined to South Australia. I understand that when reasons for abortion are specified in North America and Europe, between 85 and 95 per cent are performed for psychiatric reasons. However, nobody will say what psychiatric conditions exist for which abortion is the treatment of choice. No-one reports on how treatment by abortion is expected to improve the psychiatric condition of the patients, and no-one reports on how effective the

treatment is. In short, the entire scientific rigour of the medical profession collapses into utter disuse in the face of this monumental deceit. That is what those in favour of abortion want to use as the foundation for law in Western Australia! Surely that alone should be enough to make anyone stop. No rational Parliament could possibly legislate on the basis of such utterly unprincipled, unscientific and untruthful medical practice.

Another medical issue has been raised in this debate. It is perhaps something of a side issue but it is significant nonetheless. It relates directly to the failure of the Health Department to tell the truth - a matter I raised in the second reading debate. We were informed that the safest method of contraception is the barrier method, and that it is unsuccessful in 10 to 20 per cent of cases. A woman aged 35 years who used the barrier method for the rest of her reproductive years, statistically, would have two unplanned pregnancies. My concern is whether the Health Department knows this, and is being careful to tell our children about it.

For years the department has been urging young people to practise safe sex; that is, to use the barrier method of contraception. But, is it telling them that if they practise this so-called safe sex during, for example, the six or seven years of their medical training, statistically, they will have two, three or four pregnancies, and one, two or three cases of infection with HIV or other sexually transmitted diseases? In all the bombardment of the population, particularly the younger section of the population, through all the means of public communication, I have not noticed the Health Department mentioning these uncomfortable facts, much less emphasising them.

Many who advocate abortion as a medical treatment also defend it under the name of freedom or pro-choice. I will deal with this first in relation to health and then in its broader application in relation to law. The organisation Human Life International put the question of choice rather succinctly when it said, "Legalise abortion and you turn your back on all the vulnerable women in our society, the ones who are dragged or pushed into abortuaries by exploitative men or embarrassed parents." Do members think that is extreme?

Members should listen to the words of Bishop Christopher Saunders of Broome, who wrote a very thoughtful letter on the subject to me, and probably other members. He wrote that in his experience the present process at work among medical personnel in many remote indigenous communities does little to ensure the freedom of choice about whether to consent to an abortion which the present law attempts to uphold. The process, as it is presently applied, is inadequate, as it is not informative or supportive of the pregnant women and is open to serious abuse. He wrote that he was privy to information from young girls who have become pregnant that on presenting themselves at the clinic they are asked whether they want the baby. If their answer is no - as it often is at the first news of their unexpected pregnancy - a process is put in place which concludes with their transportation from the community to a hospital and thence to the abortion theatre.

He also stated that the present law is open to real and constant abuse. There is inadequate care for the right to life of the unborn child, and insufficient care for the expectant mother who, all too often, is pressured to make a serious decision in the presence of medicos who have their own agenda and who have little notion of the great dignity and sanctity of life. Bishop Saunders wrote that in a number of cases, through counselling and care, young women have come to accept lovingly the life in their womb and have refused to go ahead with the abortion. Without exception, these young women are happy that they have. In every other instance of which he has intimate knowledge, the mothers who have aborted their children have regretted the decision - and therein lies the tragedy and the crime. They have felt powerless to reverse a process begun and administered by a medical service operated by non-community members. Those who have had contact with remote communities will know how some people, especially anxious young girls, are too easily intimidated by official, bureaucratic personnel.

I am not sure what the pro-abortion response to this might be. Perhaps it might be to retort that it is a good thing too. Perhaps it might be to claim that these are isolated cases, arising mistakenly from communication problems - perhaps they were just a bunch of girls who did not know they had psychiatric problems that could be cured by abortion. But they are not isolated and they are not exclusively Aboriginal.

I have received a letter from one of my constituents, a young married woman who, eight years ago, at the age of 18 years, had an abortion in Western Australia. She is happy for her name and story to be used in any situation, but I prefer to protect her privacy and will use only her story. She wrote that she had an abortion in Perth on 28 September 1990 when she was 18 years old, and it was a day she will never forget nor ever fully grieve. She had wanted her child, but those around her whom she should have been able to trust were opposed to her keeping the baby. They did not ask what she wanted but pushed their view that they knew what was best for her. She wrote that the so-called counsellor at the family planning centre, to which she was taken by her mother, was supposed to ensure that pregnant women know what they are doing and have considered the matter thoroughly. The counsellor was more open to her having an abortion than to keeping the child. She asked if the girl was sure that she wanted an abortion, and when she replied that she was not sure but that she did not know what else to do, the counsellor quite placidly organised her abortion without offering her other options. The young woman was not informed of government assistance, child care, church groups who are willing to assist, adoption, or any sort of assistance available or possible alternative, even

though she had sat and cried over the life of her child because she did not want to abort the baby but she did not know what else she could do.

She asked how many other girls go through this. How many others live with the same incredible guilt and depression that hung over her for years and which never completely passes? She said it applies to many other girls because she has met them and shared and cried with them. Her letter covered three pages, all of which are worth reading as it illustrates the reality. All of this happens under a law which forbids abortion in this State. Therefore, what chance will vulnerable women have when there is virtually no law to protect unborn children?

I turn now in a little more detail to the question of choice as it applies to the making of law. The thing that stood out in the argument of the pro-abortion speakers was that their concerns are entirely about the circumstances faced by the mother. There is a monumental attempt to convey their great personal compassion for the difficult decision women must make, and to persuade us that women do not take these decisions lightly - an argument refuted in many cases by those who write letters to the editor to the contrary. Some even speak of it as a moral decision, although they do not discuss the moral issues. Nowhere do they discuss the realities of the existence of a child. They do all they can to convey impressions of difficulty, concern, compassion, anxiety and all such sympathy towards the mother's circumstances, but never do they examine the same things in relation to killing a child. They consistently fail to show the intellectual discipline or moral courage to present the total picture; namely, that a woman, and possibly even her family, face a difficult set of circumstances as her plans for her life, her career or her family have been suddenly altered by the arrival of a child. The question is: What steps can she take to protect her plans and her vision of how her life should develop? The answer given by the abortionist is to kill the child, except that abortionists never quite have the courage to say it in that way.

This approach reflects another common attitude; that is, when examining the social problems of our day, people look at anything to blame except the moral behaviour of adults in our community. If there is too much adult crime, too much youth crime, too much violence, too many sexual assaults, too many suicides, and too much drug taking, people can blame the police, the prison system, the judges, the lawyers, the teachers, the unemployment statistics and even the El Niño effect, but do not dare examine the moral standards of the adult population! Sacrifice the child by all means, but do not dare question the moral standards of parents!

This approach of arousing sympathy for the mother while killing the child is almost always associated with the broad claim that everyone has the "right" to be in control of their lives and the circumstances of their lives. The philosophy and psychology of control deserves our examination, but we can leave them for the time being and concentrate on those aspects of control which are of prime importance to us as legislators.

Those aspects can be summed up in the following questions: Do we as a society really believe in such control? How far are we prepared to go to allow people to determine their destiny and to control their lives? The entire Criminal Code is a description of the circumstances and behaviour in which society defines how far it is prepared to let people go in their efforts to control their own lives. The Criminal Code and a great deal of other legislation say that people are free to pursue their own destiny, but only if they follow certain prescribed behaviours and avoid other proscribed behaviours. We are not pro-choice about these matters. We are emphatic that people may not step over these boundaries no matter how desperate they are to control what is taking place in their lives. In this debate we suddenly find the most fundamental of all principles of the rule of law thrown from people's minds. The pro-abortion, pro-choice forces simply demand the right to control their own lives, even if exercising that right means killing their children.

The only attempts at justification have been descriptions of how compassionate members feel about women whose lives are made less certain and less comfortable by the unexpected arrival of a child. That is no basis for abandoning society's protection of innocent lives. If we abandon that protection, we have no basis for demanding any other form of protection. If we delete these provisions from the Criminal Code, we will invalidate the social force that we use to uphold the remainder of the Criminal Code.

I have supported part of this Bill against my basic belief. It was my hope that the group led by the member for South Perth would achieve some changes by amending the legislation before the House. In general we have failed that test. Nevertheless, I supported the second reading of the Bill, as did the member for South Perth and others, in the attempt to amend the legislation. We tried hard to change the legislation.

I warn the Parliament that if we continue to preside over this kind of legislation, it will lead over the next couple of decades to the total decay of our society. I also warn Parliament that this is not the end of the debate - this is the beginning. We are seeing now the beginning of the community's spontaneous revulsion to what is happening in abortion clinics and public hospitals of our State. The movement towards pro-life and the protection of the unborn is inexorably growing. Today it is a ripple, tomorrow it will be a wave and in the future it will be a tidal wave. It will not be like what happens in America; it will apply to this country.

I did not take much part in the debate on this Bill in the Committee stage. We left it to a few members who are lawyers, doctors and people who knew more about it. The intention was to keep debate short and to get on with the business of the House, although tedious repetition was the order of the day. There comes a time in one's life when one must stand up for that in which one believes. I do so without any fear of the consequence. I believe as a member of Parliament that I must defend a baby's right to its life as a greater right than any other.

MR CUNNINGHAM (Girrawheen) [6.38 am]: I strongly oppose this draconian legislation. First, it is my great privilege to place on record my appreciation for the wonderful assistance I have received, as well as the moral support, in this debate from four outstanding Protestant clergymen. I refer to the Church of Christ Pastor Dwight Randall, the Director of the Life Ministries in Nollamara; Pastor Morris Randall from the Baptist Church in Ballajura; Baptist Pastor Andrew Lansdown; a good friend in Pastor Rex Gabrielson from the Girrawheen Baptist Church; and another good friend in Father Tom Gaines, known as the friend of the battler, from our Lady of Mercy parish in Girrawheen. The support came from not only these five wonderful clergymen, but also their very active congregations. I am indebted to them and thank them for their hard work.

In my contribution to the second reading debate I was very deliberate not to share with members the horrific and barbaric - the only way to describe it - nature of so-called modern medical procedure employed to murder unborn Western Australian children. The savage, cruel and inhumane procedure should be made known to members of this House. The stark reality is that abortion is evil, is against all humanity and is all about destroying human life. The Western Australian Parliament is about to legalise mass extermination and genocide as practised by Hitler's Nazi Germany and Pol Pot's Cambodia. The abortion industry is nothing more than a creeping poisonous and sickly disease. When this legislation is passed, members should make no mistake that it will paralyse this State for generations to come.

It is so easy to skirt around the issue of abortion. A lot of members prefer to sanitise abortion. The term abortion seems vaguely medical; it has a clinical sound to it. One can use the term without ever visualising what it really involves. Abortion is not a clean and clinical procedure as some members of this House would believe. It is in fact a very brutal and hideous business. It is a grizzly and evil business where abortionist doctors earn up to six to eight times more than a local GP for half the work. It is obscene that I must explain in graphic detail what abortion is all about. Abortion is totally and utterly obscene to the very nature of humanity. Abortion violates the very essence of womanhood.

There are three main types of abortion; three methods of exterminating unborn Western Australians. I make no apology whatsoever for bringing crude, graphic detail and disturbing realities of abortion to the members of this House. During the first trimester the most common abortion procedure is suction aspiration. After administering the anaesthetic to the pregnant woman, the abortionist doctor dilates the cervix by inserting a series of graduated instruments. The abortionist doctor then inserts a hollow plastic tube with a very sharp edge into the uterus. The unborn child belonging to the placenta is torn apart and sucked out by a powerful pump that deposits the remain of that child in a jar. Thus the life of an innocent child is terminated.

More fully developed unborn babies must be killed by more refined methods. One means of killing involves the use of prostaglandins which, when administered to a pregnant woman, induce labour resulting in the birth of a baby that is too premature to survive. Most babies are killed by injecting a poisonous and fatal solution into the uterus. This is done to the handicapped children at our public hospitals. It sounds horrific; a lot of us know it is horrific and some of us here may not admit how horrific it is. To the shame of many in this House, some members would legalise this hideous and barbaric form of extermination. Another form of extermination by the abortion doctor is known as dilation and evacuation which is D&E. This form of killing involves slowly expanding the cervix and then using forceps to locate and brutally tear apart the innocent baby's body, piece by piece. At this stage of development, the child's head is normally too large to be removed. So the skull, which is calcified, must be crushed prior to removal from the mother's body.

We are indeed a very sick society that has continually gone backwards over the last 30 years, in allowing the extermination of our unborn. Rather than enjoy the protection of the law, the abortionist butcher doctors should feel the full weight of the law. As I said earlier in this debate, there is nothing clinical or nothing civilised, whatever form it takes, in a barbaric, hideous and evil procedure. Let no-one here be mistaken. Let no-one deceive themselves, and nor should they deceive others. Let no-one here be misled. We are debating in this House whether to legalise a barbaric, hideous and evil procedure. We are debating in this House whether to give the go ahead for the butcher abortionist doctors to brutally tear living babies limb from limb from within their mother's womb. That is what we are doing in this legislation. We are debating whether to sanction abortionist doctors poisoning living babies in their mother's wombs. Do not let us not get away from it. That is what we are doing. This is the essence of this whole debate. Let us be extremely clear. Let us not kid ourselves or lie to ourselves. Abortion is really nothing else but baby extermination.

What arguments were put forward to this House over the past fortnight to justify this brutal, barbaric, hideous, evil and bloody form of baby extermination? One argument that has been put to this House repeatedly is that abortion is a health issue which should be removed from the Criminal Code. If this were true, no-one would have any difficulty in convincing this Assembly that it should be removed from the code, but it is not true. It is a big, outrageous lie. It is an outright lie that abortion is a health issue. The Criminal Code deals with abortion because it is a criminal offence that involves the killing of human beings. The Criminal Code speaks of a woman with a child, not a woman with a medical problem. Abortion is not like having an appendix, a tooth or tonsils removed. On the contrary, it involves killing a baby with a beating heart. Thus it is a legitimate matter for the police and the courts to pursue. In this State we have laws that may soon provide more protection to the undersized fish and abalone than to unborn children. Many of my constituents come to me about picking up abalone, but not the unborn children. Is this right? Is an abalone or a fish worth more than a human child? It cannot be worth more than a human child. To remove abortion from the Criminal Code is the same as declaring that unborn children are absolutely and utterly worthless, to be legally disposed of as if they were garbage. This would be a treacherous act of cowardice and a betrayal of every unborn child in this State.

The second argument we have repeatedly heard is that abortion is exclusively a woman's choice. I have heard for the past fortnight that the rest of us should butt out. We should never forget why we are debating this issue today. It involves innocent babies, fathers, doctors, nurses and medical staff paid largely by the public purse. Legislators, this very Parliament of Western Australia and each and every member of this Parliament are involved. We must decide whether to give approval to abortion on demand.

I will repeat a passage from my second reading speech in which I said -

It is an extremely sad truism in human relations that all that is necessary for evil to triumph is for good men and good women to do nothing.

There are many good men and women from both sides of politics in this Assembly who are opposed to this disgraceful, barbaric, brutal and hideous legislation. We must ask ourselves frankly and honestly: Are we in favour of killing unborn children? Countless children's lives rest in each and every member's hands of this Assembly.

It is naive to say that this Parliament should remove the legal impediments to abortion and that we should simply trust in the goodness and compassion of pregnant women to make a right decision. That is totally and utterly wrong. Over the past 25 years, at least 150 000 unborn babies have been slaughtered by abortionist doctors in Western Australia. The vast majority of those abortions have been for social convenience, not because of a genuine threat to the life of the mother.

Many women have used abortion as a form of contraception. We have an honourable course of action still left to us. We can defeat this odious and obnoxious legislation. The Foss-Davenport legislation has a sickly stench about it. As I said in my second reading speech, this legislation does not offer one spectrum of options. As we have just seen over the past few hours, in this House we have offered nothing but abortion on demand, abortion on demand and abortion on demand. This is the first time in Western Australia that a sitting Government has attempted to legalise the killing and extermination of its unborn children.

I reiterate that there will never be a greater abuse of power by this Parliament. We, as legislators cannot vote for this evil Foss Bill that ensures nothing less than a killing field of unborn children. This Assembly should not associate itself with the Foss abortion Bill. Both the Foss and the Davenport Bills will remove all legal protection of unborn children. This Bill shows that the Attorney General has very little or no regard for those children who have been killed by barbaric abortionist doctors.

This Bill offers nothing more or less than abortion on demand. This Thirty-fifth Parliament of Western Australia will go down in history as the Parliament that legalised the killing of unborn Western Australians. It will be famous for it in the years to come. This Parliament could have been remembered for advocating, in the words of the Premier of Western Australia, "The creation of a 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."

During the second reading debate I indicated that the Premier was leading a campaign to legalise the abuse of abortion. Some say I could have been wrong. To his credit the Premier has attempted through some of his colleagues to prove me wrong by voting for the Pandal amendments. However, history will prove me correct that the Premier has lost control to the pro-abortion Foss lobby in the coalition and that he lacks the necessary leadership to gain just a few extra votes. He has lost control to the Foss pro-abortion lobby.

This pro-abortion lobby in the government coalition is hell-bent on exterminating our unborn. Through this legislation we will be permitting the evils of abortion on demand. When this legislation is passed, Western Australian parliamentary history will be recorded as a week of shame. It has indeed been a week of shame as members of this

Assembly have allowed our future generation to be exterminated in a way similar to that which happened in Nazi Germany some 60 years ago.

Yesterday on the front steps of Parliament House, Hon Tom Stephens told a gathering of pro-life supporters that the fight for the unborn was just beginning. He said, "Don't you believe for one moment that the good people - there are many good people from both sides of politics in this House - who are anti-extermination of the unborn are about to fade away. This issue is about to change the face of politics in this State." Out of evil legislation, good legislation will be born.

In conclusion, I have felt very proud for the past fortnight of this debate that after 42 years as a member of the Australian Labor Party I have waged "the good fight" in supporting the culture of life against the culture of death. I dedicated my second reading speech to the wonderful Doctor Sarah Oh. This third reading speech is dedicated to the feminist movement and the sisterhood of Western Australia in the hope that it will see its way clear to campaigning for the equal rights of all unborn women in this world.

MR McNEE (Moore - Parliamentary Secretary) [7.00 am]: I am humbled by the three great speeches that have been made this morning. I pay tribute to those members, because I understand how they feel. This is a sad day for Western Australia. Today we will make it very clear to the rest of the world that we no longer live in a Christian State. The butcher shops of Western Australia are now open for business! Members may wish to hide that fact but it is true. Members can deny the truth; they can walk away from it, but they cannot beat it. As sure as God makes night follow day, the truth will catch up with them. We will all atone for the way we have handled this legislation.

I stand here in this dingy place now, but earlier I walked out into God's beautiful sunshine, and I was reminded of the time when I left school as a young man and went onto my farm. I was young and enthusiastic in those days. I would rise very early in the morning and go into the paddock. Every Friday, about 6.20 am the local train would pass by and I would think how lucky I was to be able to enjoy the simple things in life, such as God's sunshine. The world was at my feet. Madam Acting Speaker (Ms McHale), you have denied thousands of unborn children their right to see God's sunshine, and to share it with me. You and your clinics will deny them that right, but I am pleased to say that I have played no part in that.

I hope that members who feel the same way as I feel will try to change the shameful acts in which they have played a part over the past few days. I cannot believe what has happened. I have been a member of the Liberal Party for many years, probably since about 1960. In those days the party stood for freedom of choice. I do not know whether it still stands for that, but it did then. The party attracted me because it stood for all the good things. I never thought I would live long enough to be part of a day when we would legislate for the slaughter of the unborn child. That is what we are doing, but why are we doing it? It is not a popular move to say why we are doing it, because members do not want to know about it.

A few weeks ago I visited a friend who happens to be a shire president. He asked me to attend a school function with him. I went to the function and I was made very welcome. I was given a seat in the front row so that I could watch the dedication service. The minister conducting the service invited us to say the Lord's Prayer. I did not think much about it at the time, but as we were driving home, my non-religious friend told me that the last time he went to church was probably when he was married.

Mr Cowan: It might have been earlier when they threw water over him.

Mr McNEE: It could have been.

My friend asked me if I noticed anything about the ceremony. I had to think about that. He also asked me how many children were present, and I said that I thought there were a couple of hundred. He then asked me how many of that number I thought would know the Lord's Prayer. I said that I thought it would be less than half. He thought that was right. He then said that he expected me, as a political representative, to change that situation, because our traditions are slipping away. As I sat in this place the other day, I realised that young children need something solid to hang on to. They do not need this froth and bubble; they need to be offered choices, but some members would deny unborn babies a choice. Members have the audacity to say that I should not impose my beliefs on them, but I do not give a damn if members do not believe what I believe. All I ask is that members think about what they are doing. They certainly have not given much thought to what they are doing so far.

Yesterday I heard a senior person in this place say that he did not know what a conscientious objection clause was. He did not know that it was the basis of an amendment. That is how much attention he paid to the legislation. It is a ridiculous situation, but members want me to believe that they have given serious thought to what they have been doing.

In a few weeks we will attend Anzac Day services. Members will stand up and make fiery speeches. They will

probably talk about the fallen, what they did and what they stood for. I hope members recall when they make their powerful speeches that the fallen gave their lives in the name of decency. They did not give their lives to allow the murder of the unborn. Members should remember that. Members may even be lucky enough to attend a dawn service. They should remember that day, because it will be a very important day in their lives, just as this day will mark a historical moment in the Parliament of Western Australia. As the member for Girrawheen said, this day will make an indelible mark on our history. Thank God that my name will be recorded as a vote against this miserable legislation which will authorise the murder of unborn children and allow the abortion butchers to operate.

We should try to strengthen Western Australia, not destroy it. We are certainly about to destroy this State. If members have an interest in their families, they will do something to reverse this situation. I am not about to criticise the legislation, because I have become part of the process. We have allowed the debate to continue all night, and that is wrong. In the dying hours of debate, members were not in a fit condition to address their minds to the amendments which they wanted to bring to a successful conclusion. No-one can say that we can work at that time of night and in that condition.

We face this problem now because certain people got into trouble in the "butchery trade" - the abortionists. We could not move fast enough to hide the situation, to introduce legislation to legalise those activities or to make them more acceptable. As leaders, we should have adopted a steadier approach, one that would have given us time to consider our next move, but that was not to be. We rushed into this legislation in a cavalier fashion. Without any shadow of doubt, the Davenport Bill represents abortion on demand. This legislation will put back the cause of women 100 years. We have made women chattels. I have a profound respect for women. I was taught to respect women. As my father used to say, "That lady is somebody's mother and she is pretty important." In the name of helping, women members in this place have degraded and reviled women in the most barbaric way. Members should take stock and think about what they are doing under a fallacious argument about choice. Members act as if they were buying a tin of beans. I remind members that there is no choice for the baby.

What happened with the Government's legislation? I wish it were not the Government's legislation. I do not want to apportion blame, but in the final analysis the Government will cop the blame. It will not be the Parliament, because people talk about the Government.

The Attorney General presented us with Pontius Pilate legislation. Old Pontius Pilate had a problem. I guess he followed the polls. Is it not strange that we are eight days from the anniversary of his barbarous act? Pontius did not know whether Jesus had done anything wrong but the mob was calling for his head. Pontius asked them what they wanted. Pontius knew the state of the polls but he knew jolly well that the man in front of him was not guilty. In order to cover himself Pontius symbolically washed his hands of the decision. He hoped it would all go away. Unfortunately for Pontius it did not go away. That is what this legislation does and the Attorney General shall carry it with him to his eternal shame.

I do not pretend to be a professional man or to understand legalese, but I took this legislation to a lawyer friend of mine who said, "I cannot believe what I am reading." He said, "I thought it looked a bit simple. It looks as if he is going to build a bridge. Bill, you couldn't build a decent bridge on this sort of stuff!" That is the attitude that the Attorney General displayed to this most important problem. Does he not understand the gravity of the situation, and what he is doing? He has placed us in a difficult position, more particularly those who have been fool enough to vote for him. Thank God my name will be recorded as voting against this Bill. I will be proud of that. I am not proud of what this place is doing.

I have heard about the "me" attitude in Western Australia; it is alive and well. If it gives me a warm fuzzy feeling I will do it. Kids bash up their grandmothers because they have no respect for anybody's property. That is why they write on our walls. They have no respect. How can we expect them to have respect for us while we pass filthy legislation like this? We are not giving a lead. We are being wood ducks, not leaders. In fact, a good wood duck would probably beat us. That is the unfortunate thing about this legislation.

I was told 30 years ago when some of us dared to ask whether the pill was good, bad or indifferent that it was the answer to unwanted pregnancies; women would be able control the size of their families and mum and dad would have lots of time to spend with the family - not this nonsense quality time they talk about today. My wife and I raised four children. It is all quality time. If my kids came home from school and their mother was not there - it did not matter much that the old man was there - the cry was, "Where's mum?" I would say, "Mum'll be home soon. Do you want to come down to the paddock with me?" "No, where's mum?" There is no greater profession than motherhood. Do not let anyone say otherwise.

Let us get back to the pill that was to have given mum and dad time on their hands. What have we got? We have more unwanted pregnancies than one can poke a stick at; families are scattered left, right and centre; and three marriages in five fail. That is regardless of the fact that we encourage couples to shack up and practice before they

get married. Sometimes the marriage does not last the time it takes to organise the wedding! That is because there is no commitment. If one is going to marry the girl next door one needs commitment. If we are going to tear this building down we need a commitment to do it. We have no commitment. That is what has gone wrong. It is simple, but we are denying it. We like to walk around with the blinkers on. Members in this place are like ostriches. They think that if they stick their heads in the sand the problem will go away. I am told that parents are under huge financial pressure. In this country that God has provided with so much wealth, if people are on the verge of starvation all of us had better look at what we are doing because we are not doing it well. It is important that we do, and I cannot see any future for us if we do not.

The pill did not work and the butchers were caught red-handed. We are told that if we make the legislation look as though everyone is doing it right, if we confirm that as right and approve the slaughter of 10 000 children, that will be the answer. That will not be the answer.

Where will we look next? What atrocities will be foisted on the community by this place, which is all powerful? We must think about how we use our power. The things we do here have a lasting effect on the people outside this place and on the direction of Western Australia. Unless we take an intelligent approach, we are doomed, just like those 10 000 babies.

If members think they have solved the problem for women in offering them abortions at will, they should think again. My wife told me a while ago that a friend of ours had an abortion. I never knew. Why should I? It had nothing to do with me. Even though she has two other children, she could tell my wife that it was done on a Wednesday, at a particular time, on a particular date in a particular year 25 years ago. She always remembers the anniversary of that event - the day her child was sentenced to death. She told my wife that that day is the hardest day of the year for her because she slaughtered her baby. The Minister for Local Government referred to a woman who wrote to him with a similar experience.

Mothers are about loving and caring, and that is why I said that motherhood is the greatest profession of all. They nurture and care for the young defenceless baby that they bring in the world with the aid of their husband. We must remember that.

If members want to believe that they have helped women, I can give them a gilt-edged guarantee that they have not. The other guarantee I am prepared to give is that I will never stop working to right the wrong we have done. We have imposed on the Western Australian population an horrific piece of legislation. In the final analysis, they will not thank us. Members who think they have scores of people lining up outside their office door should come to my office and I will show them how many people have written to me requesting abortion on demand. None! That is what members have delivered to the people. It is wrong and they will regret it - the people will make us pay for it.

There is no doubt that I will vote against this dirty, rotten piece of legislation. I am revolted that the Attorney General would foist it upon me and expect me to accept it as an intelligent answer to the problem. If he were my employee, I would tell him to get back to his desk and come up with a decent answer.

[Interruption from the gallery.]

The ACTING SPEAKER (Ms McHale): Like members, visitors in the Public Gallery have been here all night. We appreciate their patience and tolerance. However, they should not interfere with the debate. We are happy to have them remain in the gallery, but their presence is dependent upon their silence. If they are willing not to interrupt we will continue to welcome them.

Mr MacLEAN (Wanneroo) [7.27 am]: I make it perfectly clear that I do not support the third reading of this Bill. I will speak very briefly because in a moment I will leave to go home to have a shower and shave before attending a school assembly. I hope that none of the children ask me what I have been doing all night.

This Bill has made me sick. The one silver lining I have as a result of it is the friendship and support I have received from people of like mind. However, they are not like political minds. As the member for Marangaroo will attest, when I was a member of the other place, we were bitter enemies, although reasonably friendly.

This is probably the saddest day that I have faced for some time. I have been a member of Parliament for a short time and I have been very proud of the fact that from my humble beginnings I represent one of the biggest metropolitan seats not only in the State but probably in Australia. However, I am not very proud to be a member of this Parliament now.

We have legislated to allow all types of people - not the mothers, but the "doctorcrats", technocrats and the people who hold themselves up as counsellors - to recommend to women who are often in a distressed state that they engage in one of the most barbaric practices known to man.

Abortion is not new; it has been around since the French Revolution. Because they were very good at their job in those days, the tools have not changed much. They are shinier and sharper, but they do the same thing. We look down on them as a barbarous race for inflicting these injuries on people, yet the tools have not changed. Given that, we cannot have changed very much either. As I said, this is a barbarous practice. From the very outset I was willing to support the second reading of the Bill so that we could try to put in some amendments. Although they would not ease my conscience very much, simple things like counselling may assist people. It is extremely important. People from a service background will know how important counselling is. The only people who did not suffer from post-traumatic stress disorder after the Vietnam War were the regular enlisted personnel, not those who signed on for seven years. The conscripts who went to Vietnam had an idea that the war would be the same as they had seen in John Wayne movies. They had no idea what they were in for. It is no wonder they suffered severely.

We are doing that to these pregnant women. We have effectively ruled out any form of positive counselling for them. Perhaps not today or tomorrow but, just as with post-traumatic stress disorder, in 10 years' time these women will wake up and wonder what the hell is going on with them. They will not know. They will suddenly be faced with a psychological disorder that will be traced back to their decision to terminate a pregnancy without having adequate knowledge of the consequences. I will not be terribly happy in the knowledge that I was a member of the Parliament that moved that process into law.

Last night and yesterday we went through some of the cheapest point scoring I have ever seen. There were genuine attempts to soften the absolutely abhorrent practices. They were rejected out of hand. The pro-abortion members said that they supported counselling, yet they would not support the provisions for counselling that we were putting up as amendments, and they did not put up anything in return. It was just a cheap point scoring exercise to defeat what we were trying to do. We in this place often comment on the lack of respect people now show for members of Parliament. People on our side blame the previous Administration for its lack of accountability in relation to WA Inc. In turn, they blame us because we tend to be a little driven in our wish for economic stability. How can we expect any respect from the community after what we did with this legislation last night and this morning? We allowed for the execution of the most vulnerable human life in existence.

If I went outside and kicked a pregnant dog, I would be in more trouble than an abortionist will be in for terminating a human life. I want to make it perfectly clear that I was willing to support the second reading of the Bill in an attempt to get some viable amendments included in it. However, because these have been defeated for cheap, non-political reasons, I will in no way support the third reading of this Bill. I am ashamed that this House could contemplate such legislation.

MR TUBBY (Roleystone - Parliamentary Secretary) [7.35 am]: This is a very sad day for Western Australia. I am appalled at what this House has done during the past two weeks. The sanctity of life will no longer be absolute in the law of this State. We have failed to protect the rights and the lives of the most innocent and vulnerable of all human life - the unborn child. To legalise the killing of human life at any stage is the thin end of the wedge. As I said in my short speech during the Committee stage, it will be only a matter of time before we sanction the killing of the elderly, the infirm and the incapacitated because they become inconvenient.

We have taken the first step and I am appalled at the wrong signals we are sending to the wider community. By legislating for inconsistency and not upholding the sanctity of human life at all its stages, we are set to reap a whirlwind in future years. In the past in this State we have applauded ourselves for our respect for human life. This State has been a beacon attracting persecuted settlers from strife torn countries around the globe. In one fell swoop the legislation we are about to pass will put our jurisdiction at the forefront of the destruction of human life, purely for the sake of convenience. I oppose this legislation with every fibre of my being.

MRS PARKER (Ballajura - Minister for Family and Children's Services) [7.37 am]: I oppose the third reading of this Bill. I supported the Bill's passage through the second reading stage because I thought it was important for all members to express their views and to see what we could gain in the context of closing the gap between practice and reality in this law that says abortion is illegal, except where the life of the pregnant woman is at risk. In reality, we had abortion on demand. To see enshrined in law and supported outside this House such a liberalisation of that law is grievous to those who have a great conviction that we cannot move away from - life begins at conception and abortion is the ending of an innocent, defenceless human life.

There is a great sense of sadness for what has taken place here. We all respect the value of children. I cannot comprehend how there is not a greater sensitivity to the fact that termination of a pregnancy will end the life of the youngest of our children - the tiny baby. If any good has come of this, it may be that it takes away the hypocrisy that existed in the gap between practice and the law. We are feeling great discomfort about shedding that hypocrisy and showing the rawness that we might have. We have certainly closed the gap. For those of us who will not support the third reading, we feel the legislation has gone more closely towards dealing with the practice than we would have preferred.

In the context of this debate, I am very pleased with some of the outcomes. First of all, we have recognised the great need to support women in the process and after the time of their termination. We now have a far greater debate about the need for counselling and support. I am pleased that there has been a lengthy debate in that regard. There is an increased awareness in the community of that requirement. I will certainly be looking forward to hearing the Australian Medical Association's discussions on the code of conduct. It has been discussed and now the AMA has a great responsibility with that code of conduct. The referring doctor and the consulting doctor have the responsibility to see that the woman is supported in two ways. She must be supported in dealing with the situation emotionally at the time and with the reasons she feels she must terminate the pregnancy. The woman is under stress. It is an awful decision for her to make. There has been honesty in recognising that she must have far more support than has been available to her in the hypocrisy of illegal abortions. I suppose we had a sense of comfort about that, which we should never have had because in practice it was available on demand. Now that this is in the open, a far more pragmatic view has come out of this House today.

There is an acceptance and acknowledgment that we must provide to women far greater support during the very stressful and emotional time they are going through and that they will continue to go through in some cases for many years as they deal with the emotion of the decision that they have had to make. A man will never understand the feelings that a mother has for her embryo as soon as she knows that she is pregnant. Abortion is a far simpler process for a man. It does not matter what a woman does to justify and rationalise the bad decisions she has to make, there is evidence that there is a significant post-abortion trauma syndrome. With all of the rationalising that she can muster in the world, down the track that trauma remains and confronts a woman. We need to recognise that for not only the women who will consider abortion in the days, months and years ahead in this State, but also the women in our community who still struggle with the decision they have made in the past. They need our support and we need to make sure that support is available.

Now that a far more honest and pragmatic view has come out of this Chamber about the laws and the practices in this land, we need to acknowledge - and the medical fraternity have a great responsibility here - the health impact that an abortion has on a woman. As I have said, I believe that aspect of this debate has been the poorest of all. The abortion industry, particularly in the United States, has a great interest in not having good research into the after-effects of abortion. Just as there is a great impact from tobacco smoking and we now have a process of litigation and public education to warn people about the health impacts from smoking, in years to come we will face up to the great health cost of women who have had abortions. If a woman is faced with a terrible circumstance and she feels that she has to consider the choice of terminating that pregnancy, she should take into consideration when making that decision the health effects that it will have on her, not just in the short term and emotionally because there could be great physical impacts. No feminist in the land would want to oppose such information and research being carried out to ensure that women are making choices that are good for them in the short term and the long term.

I might not believe that the decision is good in the short term or the long term but we have research that shows that the risk of breast cancer almost doubles after one abortion and rises further with two or more abortions. We have a great and increasing rate of breast cancer in this land. We all attend breast cancer day functions and lobby for more research moneys to be spent. We must be realistic and ask what has contributed to this great rise in breast cancer. As in any other medical procedure about which the patient is consulted and advised by the practitioner of the outcomes, it is beholden on the medical profession and particularly the AMA to ensure that we set in place advice and warnings about what will be the long term costs. I have in front of me a consent form from King Edward Memorial Hospital which every patient must sign. It states that they have been advised and had explained to them the nature of the operation and its likely outcomes. A note at the bottom of the form states that no other staff of the hospital except the medical practitioner can sign it. Just as we do with every other procedure, we must make sure that the woman has been properly advised about the health risks involving a termination.

I believe that today we have confronted the traditional values relating to the right to life and all those things that we get in human rights declarations about the value of human life. We refer to this great land of Australia as the land of opportunity in which everyone is entitled to a fair go and where people are valued; yet in this debate we have failed to recognise that we should value the life of the unborn child and place a great priority on it. We should allow the termination of that life only when it challenges and confronts the life of the mother in a very serious way.

I will be opposing the third reading of the Bill. I do that in the knowledge that it will proceed through the other place. Much remains to be done in this debate because of the activity of the other place during the past 24 hours and what we will be presented with. I trust that at the end of the day we will have some checks and balances in place if we go down this path. We must make sure that the health considerations of women are taken seriously and not merely paid lip service. Often women who have had an abortion have not had it as a matter of choice: They have had it because they had no other choice.

DR HAMES (Yokine - Minister for Housing) [7.48 am]: It seems that we have heard so far only from speakers who

are opposed to the legislation that the majority of this House has supported. This Bill drags those people into the world of reality. What we have done in this House and the other place is to support what has been happening for the past 25 years.

Several members interjected.

The ACTING SPEAKER (Ms McHale): Order! May I just make an observation which will not be a ruling? We have had four speeches from members who indicated their intention to oppose the Bill. Their speeches were heard in relative silence. I believe that all speakers should be accorded the same right. I ask all members to refrain from interjecting.

Dr HAMES: It is particularly important in such an important issue as this that members whose views are different from those of the member for South Perth be given the opportunity to express their views in the same way that the member for South Perth was given the opportunity to express his views.

I have always had a lot of respect for the member for South Perth. I have always valued his opinions and statements and have always thought that he conducts himself in a very statesmanlike manner. However, I have been disappointed with the member for South Perth's final speech today, not because I do not appreciate his extreme dislike of what has happened with the vote, and perhaps even his dislike of the conduct of the vote, but because at the end of the day, we should be responding to and debating the principle of what has occurred today. The member for South Perth managed to attack everyone who disagreed with him: The Liberal Party, the National Party, the Labor Party, the member for Belmont, the doctors, and even the so-called femocrats. They all had the opportunity to experience the member for South Perth's vitriol and expressions of disappointment that went to a very personal level.

That was a very disappointing aspect of his speech, because in supporting the legislation today we have supported what the majority of people in Western Australia want, and what every survey that has been done by both *The West Australian* and people like me -

Mr Pental interjected.

The ACTING SPEAKER (Ms McHale): Will the member for South Perth please resist and desist from interjecting.

Mr Pental interjected.

The ACTING SPEAKER: I have asked the member for South Perth to refrain from interjecting. I will repeat the same observation. As the member for South Perth was heard in silence, I expect him to show the same respect for all members.

Mr Pental: I was not heard in silence.

Dr HAMES: The member for South Perth may not have been heard in silence by others, but he certainly was heard in silence by me. What we have done today in supporting this legislation is, in my view, to support the views of the majority of the people in Western Australia and to support a situation that has been in existence for 25 years. I appreciate the comments of the Minister for Family and Children's Services about what we need to do, about the devastation of abortion, and about the fact that members on both sides of this debate agree that far too many abortions were performed year after year without those members in this House who oppose the legislation doing anything specific of which I am aware to try to address that issue.

It is now time for the Minister for Family and Children's Services, who has an important role to play, the Minister for Health and the Australian Medical Association to try to do something about the very high incidence of abortion. They will not do that by strengthening a law that has not been practised for 25 years. They will do it through educating people on proper family planning and sexual relationships, providing proper counselling for people, and promoting the moral value of a woman keeping her child if she happens to fall pregnant.

The other day I discussed this matter in my house with a group of young girls aged 14 to 15 years. This debate has brought enormous stimulation into the debate in the community. I am pleased to say that my daughter, who was one of those girls, was strongly opposed to abortion and said that if she was pregnant, she would want to keep the baby even at the tender age of 15 years. I told her that I would be very disappointed in her if she did anything but keep that child and I would support her absolutely in keeping that child. The girls discussed it further among themselves and had the very strong conviction that if they were pregnant, they would keep their child. Of course, if that circumstance arises, people can have those high ideals and not necessarily live up to them, but I believe these girls would. When asked what they would do if one of their girlfriends or anyone else was pregnant at the age of 14 or 15 years and did not want to continue with that pregnancy, they said they believed that person should have the choice to decide her future.

That is what this debate is all about. The member for South Perth can be as strongly opposed to abortion as he likes, and I can be as strongly opposed to abortion as I like, and if I were female and pregnant, I am fairly certain I would not have an abortion, and I would be very disappointed if any member of my family had an abortion. However, that does not mean that I have the right to say to those who do not share my views and beliefs that they must believe as I do and choose as I do. If they are religious, their God will decide in the future whether they have made the right decision. It will be too late for any child who has been terminated, but at the end the day it will be up to the woman who was pregnant to identify whether that was the right thing for her.

The member for South Perth's religious and personal beliefs are for him alone. They are not even for his children. I hope the member for South Perth will try to instill in his children the same views that he has and the views that my children have, but if they do not have those views, and if one of his children does have a termination, I hope he will not turn his back on that child and say, "You have done something that is totally abhorrent to me. You are a criminal in my eyes, and I will not have anything further to do with you."

At the end of the day, what we have done in this legislation is support the belief of the majority of the people of Western Australia that whatever their views, and no matter how much they personally might be opposed to abortion, they do not have the right to impose their views on other people. The woman who is pregnant must have the right to decide for herself. We have put in place today legislation that allows a woman to make that choice, with proper counselling, at any time up to 20 weeks' gestation. We all regard that as appropriate, other than in very special circumstances. We have put in place the condition that counselling is required, and I hope we will progress that in the future to ensure that those women have proper access to counselling and can make an informed decision, but at the end of the day they must make the decision, not the member for South Perth or me.

MRS ROBERTS (Midland) [7.57 am]: Many members of this House have said that those of us who have a pro-life view have no right to inflict our religious or moral beliefs on others. I point out to the House that just because a particular view happens to coincide with a particular religious belief, it does not necessarily indicate that one has not considered a matter objectively, or that one is adopting a view for that reason. I will draw an analogy to indicate this point.

Many members of this House do not support prostitution and do not believe that prostitution is right. Most churches have a position against prostitution, and archbishops, bishops, priests, pastors, rectors and ministers of religion generally oppose prostitution. Most of them, so far as I know, actually oppose the legalisation of prostitution.

People like me are capable of divorcing our moral beliefs in lots of matters that we need to determine in this House. On the issue of abortion, it is too difficult an imposition to ask members to condone the taking of a human life.

Another strong religious or moral belief held by a number of members in this Chamber is opposition to the death penalty. I oppose the death penalty, and it coincides with my moral position and how I would vote on that matter. I ask members of this House, including many of my colleagues, to consider their position on the death penalty and whether they would be prepared to change their views or vote in this House on the basis of some polling in the community, or because someone said it was simply the member's moral view that a person who committed a murder or multiple murders should not be subjected to the death penalty. I wonder whether people who hold a strong moral view that the taking of a human life is wrong in that circumstance, would change their vote in this House if someone showed them polling that indicated most people supported the death penalty. That argument has been used against those members who are pro-life. We have been told that most women support abortion and, therefore, we should vote for it. If members who oppose the death penalty were faced with those polling figures, would they change their votes in this House?

I also ask members to consider how they would feel if other members said they had been to their local shopping centre and had asked people in the street whether they supported the death penalty, and, because 18 out of 20 had supported it, those members should support it.

Mr Bloffwitch: In my electorate 88 per cent said they did.

Mrs ROBERTS: No doubt the member for Geraldton has a consistent view, but I am appealing to those who hold moral views on other issues. I do not believe they would change their vote because someone said they had a moral or religious view or that polling had indicated the majority of people did not support that view. Would they change their vote?

I ask members to imagine voting against the death penalty in this place and to contemplate losing that vote. They would have voted according to their consciences, and I ask how they would feel about members opposite who laughed and were happy that they had managed to impose the death penalty. Members should imagine themselves in that position. Having gone that far, they should contemplate the idea of going through the amendments to determine to which cases the death penalty would apply. They would need to determine how many people would

come under the umbrella. It could be said that it would apply only to mass murderers or murderers of a particular type. More people would be caught in the web under each of those categories. I am sure that if many of my colleagues were in those circumstances, they would come closer to understanding my position on the legislation before the House.

I recognise that some members in this House favour the death penalty and they would be happy to vote for whatever the polls indicated, whether on abortion or the death penalty. I respect their views and I ask them to respect mine.

I ask others who would vote on principle against the death penalty, why arguments that members should suspend their own moral beliefs fail to persuade people. Members of the Australian Labor Party have a conscience vote on this matter. I could not in good conscience vote to support legislation that liberalises abortion laws to the extent of allowing 9 000 abortions a year in Western Australia. I confirm what I said in the second reading debate. I make no judgment about women whose life circumstances are different from mine. I also have sincere concern for women who have no choice other than to abort their child. Because of those concerns, I put a great deal of effort into discussion about amendments that would provide sufficient checks and balances to enable me to vote for the legislation. Although we fought the good fight for good amendments to the legislation, unfortunately, we lost. I have supported parts of the legislation and I would like to have continued to support it. However, on balance we are left with legislation that I am unable, in good conscience, to support.

MRS EDWARDES (Kingsley - Minister for the Environment) [8.06 am]: I also indicate that I will not support the third reading of this legislation, primarily for the reasons I gave in the second reading debate. Personally I do not support abortion in any form. However, I did support the provisions in (a) and (b). If the courts had had the opportunity to interpret the current law, they would have interpreted it according to the Davidson test, which has effectively been passed in paragraphs (a) and (b). The extension of the law to incorporate informed consent means that those women who must make a choice that many of us will never need to make, will have received no help from this Parliament. This Parliament has supported a provision whereby economic, social, family or personal reasons can be used to justify the taking of a human life. Therefore those women have not been given a proper choice and they are not offered any support.

It has been suggested that this Parliament should be doing far more to assist women who do not have the same support of family and friends that many in this place have. What message has been sent to women who find they cannot continue with their pregnancy for family, personal, economic or social reasons? They are not given a proper choice, or alternatives or the support that should be available to them. I have discussed this matter with many women who have had abortions. Whether they would make the same decision today or whether they sincerely regretted their decision to have an abortion - some of the stories I heard were quite sad in relation to the consequences of the abortion - not one of those women has been able to discuss the issue without some form of emotion.

Whether it be through a break in their voices or tears welling up in their eyes, not one person with whom I have discussed the issue has remained unemotional. As a community, we have not been helping and supporting those women in the way we should. We cannot make the decision for the mother, and we cannot judge the women who have made those decisions in the past or will make them in the future. We have not helped them in any way in the framework of these current laws.

I do not understand the decision the Parliament has made to liberalise the laws to this extent. Whatever stage members believe that human life begins, I cannot believe that Parliament has passed such liberal laws without providing requisite support for the women who must make those decisions. I suppose several good things have emerged from this debate, because for the first time people have had to confront what is taking place in the community and to make a decision on it. I do not think many have had to do that before.

As a solicitor, I was involved many years ago with supporting Filipina brides who were threatened with deportation if they fell pregnant and did not abort. I had already determined my position on the issue of abortion and the compulsion women faced, not through choice, but the pressure they faced without the requisite support facilities being provided.

The other positive aspect is that we have all faced up to the counselling issue. I have indicated that women still today cannot talk about the decision to have a termination without some form of emotion. Those women, and their husbands, still need support and help. I have spoken to many such couples, and one family in particular found dealing with the decision to terminate beyond description after their only child died. Their grief is enormous. Again, as a community we have not done very much to help and support that couple.

The other issue is education. We have talked in this House about the great need for education, not only in terms of contraception and effects and consequences, but importantly a greater level of awareness about the effect of abortion on the body, physically and mentally. That attention is well and truly overdue.

At this stage, I will not support this legislation on this matter. There is a long way to go. A Bill will come to this House from the Legislative Council, and this Bill is to be considered by the Legislative Council. I will not support any attempt to remove this issue from the Criminal Code. As I said in the second reading debate, a public interest test is applicable to the entire decision making process. Again, it is not only a medical procedure.

Little debate was held on the stage at which human life begins. If members value human life, at whatever stage they believe human life begins, these provisions must remain in the Criminal Code. It is not just a health procedure to support what is being presented as a simple decision.

As the Minister for the Environment, I come across a lot of passion in many areas. Not everybody shares the same level of passion. Passion is expressed for trees, clean air, clean water and whale sharks - I could go on. However, I express passion for human life. I will not support the third reading of this Bill.

MR BLOFFWITCH (Geraldton) [8.16 am]: I was not here during the second reading debate so I will place a few thoughts on the record during the third reading of the Bill.

I was a little surprised that the Bill passed in its entirety. I expected proposed section 201A(3), paragraphs (a) and (b), to pass, as most people have sympathy for the principles they contain. I thought paragraph (c) would have trouble, and I thought paragraph (d) would definitely fail. It shows how wrong one can be about the Parliament's and the community's feeling, and this debate has been a good reflection of the community view on the issue.

I have some sympathy with the speeches made by people expressing the child's point of view - it is a valid view. I decided to consider the abortion issue from the women's point of view. We owe women an awful lot in this country. We owe them the respect to say that they are a sensible body of people and deserve to make decisions and to accept responsibility for their own actions. When it comes to circumstances in which women decide to abort, as a couple of members have said, that is between them and God. I am glad that we have not had inspectors waiting to catch women undertaking abortions who have tried to put them in gaol. I hope we have restored a little dignity for women in that approach.

Other members do not see the issue as I do - I can understand that. The Parliament has done with this Bill what the surveys I have done in my electorate have indicated the majority of people wanted it to do. Having a free vote has reflected exactly that view.

Our Catholic Archbishop, with a deputation of four or five people from his congregation, left no doubt about where they stood on the issue. I respect them for giving me the opportunity to hear their views. I said that I would listen to the debate in this place, and that I was pretty sure I would support paragraphs (a) and (b), and did not think I could support paragraph (d). It turned out that I happened to be in the Chair for most of the Committee stage so I did not get a chance to vote. However, in the final analysis, I probably would have voted for paragraph (c) if the chance were available as the reference to economic factors, which cheapened the process, was removed. I was pleased that Parliament went more for the social issues, which are more relevant in such cases.

I can never imagine anyone from my family ever wanting to have an abortion, but we are not talking about my family. We are talking about people from different and dire circumstances. We are talking about people in awkward situations who do not have some of the gifts I have been able to give to my children. As a Parliament, we do not have the right to restrict these people's access to these procedures.

I know it is possible to argue just as passionately the other way but I am pleased the Bill has gone through. I am pleased that we have allowed in law what has basically been happening in practice in the community for the past 25 years. That is our job as members of Parliament - to reflect what the community's opinions and attitudes are. We have done it in this way and I certainly have not lost my respect for any members in this Parliament, no matter what has been said, because I believe we have all pursued our points passionately and that is what I would expect every member of Parliament to do.

MS MacTIERNAN (Armadale) [8.21 am]: There must be at least a quarter of a million women running free in Western Australia who in the eyes of the member for South Perth and his colleagues are murderers. One cannot actually pick who these people are. These murderers are loving wives, they are good mothers, they are best friends, they are dutiful daughters, they are dedicated community workers, women who have made real contributions to our community, through their jobs, through their work on P & C associations and through their work on myriad other community organisations. Those members who are so convinced of their moral certainties to claim that these people are murderers probably deal with 10 or more of these murderers each day. One would think if these women were prepared to engage in what has been described here as child murder, one would be able to pick them. One would either recognise them because they were hardened or callous or unfeeling or because they would have that tragically haunted manner about them. We cannot pick them because they are ordinary everyday women. These are perfectly decent ordinary people who are the wives, mothers, and daughters of millions of people within this community. If

the member for South Perth did the figures, he would know we are talking at least about a quarter of a million women in Western Australia today who must have had abortions.

Mr Pandal: You say that with a sense of pride.

Ms MacTIERNAN: I ask the member to be realistic. If we truly believe that a quarter of a million women who are murderers in our community, what hope is there for this community? It is an absolutely extraordinary proposition that such a substantial proportion of our community are murderers. We must wonder how we have managed to continue to run a society.

The reality is that most members in our community do not accept the view that these early stage abortions are in fact murder. What has puzzled me about the contention that we have these quarter of a million murderers in our community and the sanctimonious stance of many, but not all, of the pro-life speakers, is that they must have known about this for decades. It has been common knowledge for decades that abortion on demand has basically been available in WA, but what was being done in this House? These people who have come up today have called us Nazis and Fascists, they have said we are just like Adolf Hitler. What have they been doing for the past two decades? If we had concentration camps and charnel houses, what have they been doing? I do not remember and have not heard a single grievance, a single budget speech, a single private members' Bill, or a single question demanding explanations as to why the police were not out there prosecuting these quarter of a million women who had abortions or the doctors who had performed them. It does not make sense. The reality is that in their heart of hearts many of these members must not truly believe that this is murder. They have brushed this under the carpet, they have let it be papered over, and they have let their fiery passions subside into a mere smoulder only to have them belled up by the decision of the Director of Public Prosecutions and his ability to put us on the spot.

There has been a lot of criticism of the DPP for making the decision to lay the charges against these doctors. I have to say the DPP has done the right thing. He has effectively forced us to confront this issue and I, like many people, have in fact been guilty of saying that it is okay, the law is wrong, but we have managed to deal with it in a de facto way, let us not bring this thorny issue out into the public domain. In fact the DPP has forced us to confront this issue and to take a position on this.

None of us can hide behind a particular position, and we know there will be electoral consequences for us whatever side of the debate we stand on. I think the public needs to know where we stand on these issues. If my electorate believes that my position is fundamentally wrong and they do not want a person who shares my moral views in Parliament, they have the perfect right to vote me out. I appreciate that it has been a very difficult experience for many of the members who have opposed abortion. I certainly do not adopt the view that they should abandon their personal views on a moral issue like this and simply adopt the view of the majority in the community. One must stand by one's moral position on certain issues, but I simply ask that those members who oppose abortion accept that those who support abortion do so because they have a genuinely held, and I think very valid, view that this is not in fact murder, and that they are decent people. We are concerned about the welfare of our community. We value human life and the sanctity of human life.

One of the distressing things that has come out of this debate has been the preparedness of some members - certainly not all - to assert in absolute terms that they are totally right, and that those of us who hold the opposite view are in fact the equivalent of Adolf Hitler. I support this Bill. I believe it is a just and fair Bill and that at the end of the day it will serve the greatest good for the community.

MS WARNOCK (Perth) [8.27 am]: I will speak simply and briefly at the third reading stage of the Bill to thank those pro-choice members on both sides of the House who spoke so strongly for the right of women to make a choice in a matter of such personal concern to them. Despite what those on the other side of this intense debate have said, no-one who is pro-choice is pro-abortion and I cannot stress that often enough. Most of us would rather that no women ever needed an abortion and many of us would not make that choice ourselves if we were ever placed in the position of having an unwanted pregnancy. However those people who voted for this legislation, through that very long passage of several days have voted for it simply because they are realists and they live in the Western Australian community and have seen what that community has wanted. They know that the fact that thousands of women seek abortions every year in this State means those women feel they cannot responsibly sustain a pregnancy. Every child should be a wanted child and when a woman is deeply unhappy about an unexpected pregnancy, most often caused by failed contraceptives, pro-choice people believe that it is not right for society to compel her to carry on that pregnancy.

That in essence is what the pro-choice side represents. I repeat that pro-choice people would prefer to live in a perfect world where no-one was ever raped, no marriages broke up and no contraceptives ever failed. Realistically we know that in the past women have sought abortions in every society of which I am aware and they will continue to seek them, however regrettable many of us find that.

The question before this Parliament was simply whether we would countenance gaoling women who sought abortions and condemning them to backyard terminations with coat hangers and knitting needles, or whether we would provide an alternative for them. Making abortions illegal or even more restricted than they have been for the past 25 years would not stop them. That is something of which we are all intensely aware. That will not be the effect of putting in place a tough law of the kind wanted by some anti-choice people in this Parliament.

The Western Australian community made it very obvious to me and to most members of Parliament what they wanted us to do. They wanted us to give women choice in a very unhappy decision that most of us hope we never have to make. They do not want us to make the abortion decision much tougher for women in this community. I have no doubt about that, having been associated with trying to change this law for 25 years or more.

This Parliament has made a decision to trust women to make their own moral choice and not to punish them if those choices are different from the moral choices members make. I thank my pro-choice colleagues on both sides of this Chamber for their staunch support. It has been a painful and pressured debate for all of us. I thank all the people from the pro-choice groups in the community, representing I remind the House some 80 per cent of the Western Australian community, for letting me know what they wanted us, as legislators, to do.

We have made the right decision despite views to the contrary and despite the difficult nature of this decision. We have voted against compulsion for women and for the very firm separation of Church and State. I sincerely believe that this is the right decision however painful and that, based on all the evidence before us, we were compelled to make that choice.

I thank my friends and supporters on both sides of the Chamber for their extraordinarily hard work under very difficult pressure.

MR BARNETT (Cottesloe - Leader of the House) [8.30 am]: I will be consistent with what I said during the debate. I support this Bill at the third reading. If members are consistent in their voting behaviour I expect the third reading to be passed. As the member for Perth remarked, a vote in favour of this Bill is not a vote in favour of abortion and should not be portrayed as such. It is a vote in favour of choice and of leaving that difficult decision to a woman, her medical practitioner, partner, family and friends. I think most members - I am among them - were shocked to learn in this debate that an average of 9 000 abortions are undertaken in this State every year. That is a shocking statistic. This debate highlights the shared responsibility of this Parliament and the Government to do what is necessary to dramatically reduce that incidence of abortion within this State.

As some members have commented, the debate has been very long and intense. Passionate views have been heard on either side of the debate. One can take great comfort from the fact that, with perhaps only one or two blemishes, respect for the views of other members of this House was obvious. Views and opinions were respected throughout a difficult and long debate. Even though he is not in the Chamber, I take this opportunity to acknowledge and thank the Minister for Health for his role in the unwanted task of facilitator throughout this long debate. I also thank the staff, the Speaker, Chairman and Deputy Chairmen of Committees for their roles.

The two critical votes in this House were close - 29:25 in favour of paragraph (c) and 28:26 in favour of paragraph (d). In that sense I make the observation that the third reading will also be close; nonetheless it will be passed.

Given that the Davenport Bill was passed in the upper House with a relatively comfortable margin, in its amended form the Foss Bill will gain relatively easy passage through the upper House. I suspect, however, that the Davenport Bill will not succeed in this House given the closeness of the vote. That should be borne in mind by members as they contemplate over the next few days what further action should be taken. I thank members for the debate and I trust and hope we will successfully conclude this debate and pass the third reading.

MR BRIDGE (Kimberley) [8.34 am]: My comments will give members of this Parliament an appreciation of the depth of compassion I feel about this issue and why, because of that depth, my emotions run high on the odd occasion. My life experience is unparalleled to the lives of most members. That is not said in the context that I think I am superior to members, but I have had mixed experiences of life. I have been a horse breaker, a stockman, a drover and - with my family - an owner of pastoral property.

I have treated the human race with the compassion I have applied when tending livestock. I have never departed from that. I will give members some examples of the passion I have felt in that regard. When I was a young child my father said to me, "There is one golden rule from which you and I will never allow our pastoral property to depart; that is, whenever we slaughter a beast for our own consumption or send stock to the market we will never send a cow or a heifer - the female beast. There are two reasons this rule will be rigidly enforced: First, there is a potential mother in that female beast and when she is slaughtered she may be pregnant." I rigidly believed in that. Throughout our life as bushmen and cattlemen, with breeds of our own, we did not depart from that golden rule.

When I come into this Chamber as I have done in the past few days, I liken the topic I am debating to that experience. I cannot make a distinction between what this legislation tells me it is capable of doing and what my father and I insist we will never do.

The member for Dawesville is interested in horses because he owns trotters.

Mr Trenorden: So do I.

Mr BRIDGE: Members who own horses should put up their hands. Obviously there are quite a few.

On one occasion in my earlier life the stock horse I was riding fell when it was chasing cattle and snapped its shoulder blade. A great old bushman, the camp cook, was near the stockyard camp. He rushed over to see how I was. I was thrown clear but the horse was badly injured. We decided it would be humane to destroy the animal. He picked up a gun and walked back with it.

This is important because again I am caught up in this debate in likening the issues with my experiences. He handed the gun to me, and said that he did not have the courage to shoot the horse. I picked up the rifle and held the barrel between my horse's eyes. When he looked at me with his wonderful sad eyes, I could not pull the trigger. At that moment, I knew what I should do but I could not do it. In later years, I recorded a song called "Only a bushman would know". Members will understand how I feel. I could not pull the trigger because when I looked into the horse's eyes, he seemed to say, "Don't shoot me; I am your mate."

I am in a similar situation now. The image presented to me today in this Parliament will remain with me for the rest of my life, but at least I did not pull the trigger on my horse. I had to allow someone else to do it. Today I am part of this decision. What is the difference between the two situations? Often we play with words. Often we used the phrase, "A rose by any other name would smell just as sweet". If we were driven by our hearts we would not use such a phrase, because we usually associate those words with people we do not trust. There is a similarity between this experience today and the one I faced as a young man, years ago. This legislation represents a big decision for me. It hurts me profoundly, as did my decision long ago. This decision will come back to haunt me; however, I must submit to this law.

I wish to move on from this emotional moment. I could not help becoming emotional, because once I form an attachment to a horse or any animal, I become emotional. I have been a bushman all my life but I have never shot a dingo because, again, I could not do it. Very few bushman would ever admit that they have never shot a dingo. However, I can admit that I have never shot a dingo. I liken that situation with the situation I face today. My whole life is bound together with personal experiences.

When I came to this place today, salt was rubbed into my wounds because the radio news was that Western Australia was about to become the first State to adopt the most liberal abortion laws in Australia. How proud should we be of that? How proud should we be that Western Australia will be the first State to take this step? I thought that if such a step would ever be taken in this country, Western Australia would at least hold back and allow some other State to have a go at dealing with such an important issue in such a reckless manner. But no, it must be us!

As I said last night, I will not point to the occasions on which we have passed bad laws and introduced bad reform in this place. However, throughout my 18 years in this Parliament, on many occasions, laws supposedly for the betterment of society have worked against society. No-one can tell me that the liberalisation of laws during my political life, the freeing up of the right of choice, and the privileges of the individual, have produced a better society. Members could never convince me of that. Members should consider the law and order situation, crime and violence, and the disruptive elements in society and then decide whether the situation has improved. The statistics demonstrate that we have been too loose, too reckless and irresponsible when making decisions.

It would not matter if 18 million Australians wrote letters to me or contacted me to tell me I was wrong. That would have no bearing on my feelings, nor would it change my vote. That is where I stand on the issue. Members may have heard my angry thoughts on particular issues over the past few days, and now they will have an appreciation of the reasons I feel so strongly.

MR MARSHALL (Dawesville - Parliamentary Secretary) [8.44 am]: Before debate commenced last week, members had an idea of how they would vote. Although many hours of debate on pro-life or pro-choice have taken place since then, I do not believe that many - if any - members have changed their point of view. I do not want to talk about the result of the debate but about the manner in which members have participated in it. Even though at times debate became heated - we had two cooling down periods - I have the utmost respect for the orators who spoke with passion and a strong belief.

I support the third reading but in doing so I must say that I admire the ideology of the member for South Perth, the Minister for Local Government, and the members for Moore and Kingsley. I admire their commitment to their ideals.

To be comfortable with life, a person must know who he is. Those members are strong leaders and I respect them. This is an emotional moment because the member for Kimberley has got me going. However, as a sportsman, I would like to think that when the House resumes next week, even though we have had our differences, we will meet not as enemies. I hope that we will be able to say that we have learnt from this experience, and we will be able to work together as we did before. Just as the member for Kimberley related his experiences as a stockman, I turn to my experiences as a tennis player. When one walks under the archway to the centre court at Wimbledon, one cannot help noticing the quotation from a poem by Rudyard Kipling of a father talking to his son. The man states -

If you can meet with Triumph and Disaster
And treat those two impostors just the same; . . . you'll be a Man, my son!

It is in that frame of mind that I would like to meet members next Tuesday.

MR KOBELKE (Nollamara) [8.48 am]: I must place on the record my opposition to this Bill. I could never vote for this Bill in its current form. I have come to that conclusion, because I believe it is my responsibility, as a lawmaker, to try to uphold the right to life of the unborn child. I regret that, as legislators, more members in this Chamber do not see that as their primary call. I regret that I and my colleagues who have tried to place in the law some provision to look after the unborn, have not had the negotiating or oratory skills to bring more members across to acknowledge the importance of that stance.

I recognise a mood for change in the law in the community at large. This debate was set off by two doctors being charged under the Criminal Code. That fact has been used in a skilful way to misrepresent the truth and to give an impetus to this whole thing. I will not say more because the matter is sub judice and, in addition, I do not have all the facts. Those prosecutions are yet to be determined. I feel we have acted prematurely in not awaiting the outcome in those cases.

The political campaign that has been waged concerning the constraints on abortion is having a great measure of success. That campaign is not something I will comment on now. However, it needs analysis because it has been successful. I also think it has misrepresented the truth of the matter in a number of ways. I voted in support of the second reading of this Bill because I recognised that change was afoot. I saw the potential to put in place some control, and some system of regulation which I thought could uphold the right to life of the unborn at least to a minimum extent. The way that the matter was dealt with and in which particular amendments were lost leaves me no other option but to vote against this Bill. We must uphold in our laws the rights of the unborn.

If this House had arrived at some legislation which had meaningful protection yet was short of full protection I would have reluctantly voted for it, recognising the change in community attitude. I would have been happy to accept half a loaf as opposed to no loaf at all. I regret that I and the colleagues I tried to work with have failed and we have ended up with hardly a crumb.

The industrial legislation that went through this Parliament last year raised high emotion. At that time I was affronted by the attack that the Court Government was making on the rights of workers and the standard that generally has been accepted throughout the States of Australia and western democracies. Well established conventions of the International Labour Organisation were being cast aside. I felt great concern and regret that we could be so far out of step with established standards that protect the rights of workers. How much more now am I ashamed to be a member of a Parliament, which is doing away with any real protection for the lives of unborn human beings.

It is my understanding that this legislation, which we will vote on in this Chamber today, offers less protection than one would find in most western democracies - if not the worst of all. It is a great shame as a member of this Parliament to be in a Chamber which is showing such a total rejection of the sanctity of life. My family upbringing and the values to which I have aspired led me to find a natural home in the Australian Labor Party which has sought to represent the general good for all Australians. The Australian Labor Party has taken a special interest in trying to protect the weak, to represent those who are unrepresented, to find a place in our community for the dispossessed, and to work on behalf of the oppressed to give them a role in our community. Who can be less represented, and less dispossessed than the unborn child? Those concerns and political debates at home and in the community with which I have become involved have led me to consider carefully and at great depth the involvement of our nation at war, and the taking of life.

It is no secret that along with Bob MacMullan I counselled many young men to become conscientious objectors during the Vietnam War. That meant long nights talking to individuals about their personal values and what they thought of life and the preservation of life. It led me to a deep scepticism of the political decisions made at national levels that caused young men and women's lives to be sacrificed in the national interest. I accept that there are times when for liberty and the preservation of the nation, lives will be lost. However, there are all too many examples of expediency and political advantage being the reason that hundreds of thousands or millions of lives were cast aside.

I have also adopted a position on capital punishment. I could never countenance that. Regardless of how popular that view is in the community, and even if my electors wanted to throw me out I would not vote for capital punishment. The issues of euthanasia and abortion are similar.

What is the point of waging wars in the national interest if we lose respect for human life? What is the point when we are so moved by the plight of innocent victims that in the search for justice we cast aside human life and revert to capital punishment? What is the value of our judgment if the sad and harrowed faces of people who are terminally ill will be met with the ability for people to kill them? Again what is the point of talking about the rights of women if unborn women and men are to be sacrificed for the rights of an individual woman. Life is a fundamental issue.

The upholding and protection of life is not a matter to be judged by political opinion polls. If members of Parliament do not have some moral leadership on at least some crucial issues they will not gain the respect of the people they seek to represent, or produce a society that people want to be a member of. They must have a rock on which to base the decisions they make. Sir Thomas More, in the famous play *A Man for all Seasons* by Robert Bolt, stated that for each of us there is a small area no bigger than a tennis court that must be one's own and cannot be given away to political expediency. Without that compass and without some fundamental values, members of Parliament cannot be leaders.

What meaning can be attached to a profession of concern for individuals if members are not willing to preserve the life of an individual whether born or unborn? What is the point of our policies and debates talking about the needs of and respect for the elderly if we do not respect the individual lives of the elderly? What is the point of programs to give meaning and life to the disabled so they can live life to the fullest potential, and to talk about their needs, if the individual rights of disabled people are not upheld? What is the point of talking about the rights and needs of children if we are not willing to uphold the rights of children born and unborn?

We can extend that to groups. Why wax eloquent about the importance of families? How can one stand up and speak of family values if one cannot uphold the rights of children born and unborn? How can one speak about the rights of minority groups if the minority group least able to protect itself will have no rights in our society? The Criminal Code establishes minimum standards for upholding personal rights: The right to life and liberty. The relevant sections of the Criminal Code are well known to members: Section 199 refers to attempts to procure an abortion; section 200 refers to women who seek abortion; section 201 refers to the supply of drugs and instruments; and section 259 allows surgical procedures where the life of the mother is threatened. This exemption casts those aside. It is so wide ranging and so open to abuse that the other sections will become meaningless.

I have never used the word "murder" with reference to a mother who seeks to procure and has an abortion. It is totally inappropriate. Some of my colleagues may have used it, but it is not a term that should be used. There are cases of homicide, manslaughter, accidental killing, suicide and abortion, and we should not apply the term "murder" to abortion. The law as we know it has made a statement about the importance of the life of the unborn. Clearly it has not been upheld. We as legislators have failed to grasp that issue. The non-productive outcome of this debate illustrates the great difficulties that would have been experienced trying to enforce the law effectively. The problems are large, but we must address them. We cannot simply sweep them aside and, in doing so, totally disregard the rights of the unborn.

I recognise the difficulties in upholding the rights of the unborn. I come from a very strong position and perhaps people see me as totally unbending and unwilling to listen to reason. I hope that is not true. I do recognise the rights of women who find themselves in a predicament with an unwanted pregnancy. While I feel concern and angst at the situation in which they find themselves, my feelings are nothing compared with what many of them go through. I do not make light of their problems.

However, the child, while part of the mother, is not the mother. Those of us who are parents have experienced feeling the pregnant tummy and the joy and excitement of watching the child in the tummy move. One sees the kick or the elbow poking out. Clearly what is inside the woman is another life. It is part of the woman, it is in the woman, but it is a new life. We must find a way of recognising that without casting aside the rights of the pregnant woman, her needs and the real problems she faces.

Whatever decision we make - I have made a decision that the primacy is life - we must recognise the consequences. Many will say it is easy for me, and I accept that. However, it is the individual woman who carries a burden she may not want. I accept that, and there is a degree of unfairness in my taking that position. However, I ask those who are voting for this legislation, who give primacy to the choice of the pregnant woman, to think of the consequences of that alternative position. I suggest that that position fails to recognise the full consequences of their support for this legislation. Either they do not understand the legislation and its consequences, or they do and they are personally willing to pay a very high price for the choice they wish to afford women. I use "choice" in a loose way, because it is the term used.

I have great personal regrets about the way in which this debate has progressed. Clearly, I regret that we were not able to get the numbers, and that I am a member of the losing side. However, far more than that, I accept that there was a tremendous positive contribution by members - a very strong, heartfelt contribution - and it was a new experience for members across the parties to contribute their own views. When I stand back and look at it, although it is difficult at this stage, I find that in some respects the way the debate went was not dissimilar from the party political debates generally held in this place. Members did not follow the traditional party structures, but there was still a sense of tribalism in that people followed their group.

My great regret is that, as with party political debates, very few of us - I will not suggest who they were or make judgments; people may make a judgment about me if they wish - were open to looking at the key issues in the legislation. The second reading debate led members into the big issue - whether they were pro-abortion or pro-life. That is a major issue.

My judgment is that when we got to the detail of the legislation and what it meant, very few members took the trouble to think through the implications of the words we were setting in this legislation. That polarisation, and the tribalism that developed may, in part, be attributed to the fact that there were two Bills. Some people had primacy for the other Bill and, therefore, did not want to put time into understanding the detailed implications of the Bill before us. As I said, it may just have been a polarisation, that people felt they were members of a group and went along with the group, rather than tried to understand what this legislation meant. As a result, my view is that we have before us unbelievably bad legislation, legislation to which I am ashamed to have been a party.

Despite the fact that I will vote against the third reading of this Bill, I must accept some collective responsibility for being a part of the formulation of such a horrendous law. I will point out the reason for my concerns. The Bill gives exemptions for abortions which are to be conducted in accordance with the provisions in section 201A of the Criminal Code. New subsection (3)(a) and (b), which I believe has wide application, in itself amounts to abortion on demand.

That was not enough. This House then included a new paragraph (c), which allows, as an exemption, an abortion or the procuration of a miscarriage for a woman who will suffer serious personal consequences. I repeat: If a woman will suffer serious personal consequences, it is now open to her to obtain an abortion. If that is the case, can any member suggest one woman who bears a child who does not suffer serious personal consequences? What do those words mean? Can anyone tell me that? Do any members know a woman who has borne a child, who did not suffer serious personal consequences? This law is a joke; an absolute joke!

These provisions do not just enable women in difficult situations to avail themselves of a legal abortion. It is an advertising sign saying, "Come and have an abortion". I ask members to think of those words again. It is saying that if a woman will suffer serious personal consequences, she is welcome to have an abortion merely by giving her consent. The Government has run a campaign, including the issuing of car stickers, saying that parenting is forever. How can that mean anything other than serious personal consequences for a parent, a mother?

I will give another example in relation to new subsection (3)(c). That provision makes it legal for a woman to have an abortion if she will suffer serious family consequences. I do not know of any mother or family who has not suffered serious family consequences as a result of bringing a child into the world. It is like night following day; it is part of life, yet that is seen as the basis for having an abortion. I really see this provision as encouraging people to have an abortion. I will give two examples of our opening up a Pandora's box. The community that I am privileged to represent in Nollamara is proudly multicultural. The particular social characteristics and customs of many of those people mean that they value boy children in preference to girls. We are saying that if people have a serious family consequence, such as, "My family will be lower in status if I have girls," they can simply abort all the girls.

Mr McNee: It is making it easy.

Mr KOBELKE: It is more than making it easy! It is encouraging them. It is saying to them, "You have a right to an abortion if having a girl child will create a serious family consequence." For many of the non-Anglo-Saxon cultural groups in my community there is a serious family consequence in their traditional society if they have girl children.

Mr Pental: It is practised widely in China at the moment.

Mr KOBELKE: I ask members to contemplate this question: Do they really think that we are serving the interests of women in our community by putting in place a law which I believe will actively encourage the abortion of female children?

Because of the high rate of abortions there are very few adoptions. Many families who long for and desire children

are led to various fertility programs. Some of those fertility programs have in the past - I am not sure how quickly medical science changes in these areas - used fertility drugs which have produced multiple births. This right to abortion for a woman being likely to suffer serious family consequences means now that it is open to people to have foetal reductions. If a woman is suddenly found to be carrying three children as a result of a fertility drug but wants only one, she can have two taken away. Why not? Having triplets has serious family consequences. Some might say that twins are very hard to handle. If there are older children, coping with twins has huge family consequences. The woman could simply go to the doctor and have one taken away. What about those scientists who are less than ethical and want to make a name for themselves experimenting in the production of the special children that we might all like to have? They will be out of the test tube and experimenting in the woman's womb. If they can find a woman they can pay enough, they can put in a few children, take them out, put them in and take them out. They can experiment because this law says it is all right, that there is no problem at all.

That is the law we are seeking to put in place. I return to the point that I do not think those who are voting for this Bill have on the whole taken the time to consider what this actually is and what consequences flow from it. I accept that they have a different point of view. I accept responsibility because perhaps my overreaction has seen me at one side and helped polarise those opposite. Those who support this legislation have not been willing to move in and look at the detail of the legislation to see whether they want a society with a law with these implications.

The other real problem I have is that the consent which is required in proposed paragraphs (a), (b) and (c) is not required if it is impracticable. There is no measure of what "impracticable" means. I understand it would be a test of evidence as to whether in a particular case there was some impracticality. What will that do for women who are incapacitated or perhaps have low mental ability? Will judgments now be made by a third party, without the woman's consent, that because there will be serious personal consequences she must have an abortion? There will still be a contract between the practitioner and the woman, which is another legal issue, but this legislation will open a Pandora's box for the abuse of women by others who believe that an abortion should be procured.

It has been said that religious and moral values should not form part of this debate. I cannot accept that. The taking of life is a moral decision that members cannot just skirt around. In the early days of the settlement of this colony, much to our regret, and it has been emphasised in a different way with the stolen generations report, sections of the community had no compunction about poisoning, shooting or otherwise killing Aborigines. They were a different class; they did not have the same right to life. Sections of the community, most probably a majority of the white community, had no problem with that. Should we say they made a moral judgment about who should live and who should die, and it was their moral judgment? That would be nonsense.

We do not need to go back even that far. I remember reading in the Press a few years ago of a case in Kalgoorlie where two white men found a drunk Aboriginal and kicked and beat him to death. They were charged with murder and, according to the paper, they had the very straightforward and simple defence that they did not think that to bash a drunk Aboriginal was wrong. That was their moral judgment. Are members telling me that is all right and their moral judgment about a particular individual because of his race or the colour of his skin can be put aside? We cannot do that with key matters of life and death.

The DEPUTY SPEAKER: Order! The third reading is fairly restrictive.

Mr KOBELKE: Thank you for your guidance, Mr Deputy Speaker. I am about to finish. Traditionally, our mainstream ethical code has sought to penalise the taking of human life. Arguments have been put that relate to the right of people to protect themselves when at war with another country, when under attack from an assailant, or from a person who has been convicted of murder, by sentencing that person to capital punishment. We are now moving totally away from that by saying that an unborn child who has not made a threat to the mother - because abortion is allowed where there is a threat to the mother's life - can have its life taken for some reason that has nothing to do with any threat from that child. That has major consequences for our legal system.

DR GALLOP (Victoria Park - Leader of the Opposition) [9.18 am]: I begin by taking the lead of the former speaker in this debate when he said that it is most important that members look at the consequences of what they do. The case for giving this legislation a third reading is built, firstly, on the consequences that would flow from this legislation as opposed to the consequences that would flow from an alternative form of legislation. It is based, secondly, upon certain very important principles that lie at the heart of our political system and at the heart of what it means to live in a free society.

I will refer firstly to the consequences. I urge all those members who may still be considering how they will vote on this issue to think about the 100 000 to 200 000 women who died last year throughout the world - these are very conservative estimates from the World Health Organisation - as a consequence of illegal abortions. Members should think about the 25 per cent of all maternal deaths in Australia before 1971 that were due to illegal abortions. It is important that we understand the consequences of what we might or might not do with our vote.

It is an established fact from any study of history or contemporary politics that the desire for abortion seems to be clear in any community. Therefore, if we accept that that is the case, many different things can be done as a community regarding unwanted pregnancy. I hope members will support such measures when they are brought into Parliament. The Leader of the House suggested a strong family planning policy, the encouragement of people in sexual relationships to be responsible and to understand about contraception. I hope all members who expressed outrage at the number of abortions performed will support those measures.

We know that the desire for abortion will continue for reasons to which I will refer in a moment. A system of legal restriction would lead to deaths in our community. It is a fact that we must bring that aspect into the moral calculus. Those who have that strong, restrictive moral framework must understand that many women in the community would die as a result of such a regime. There is no such thing as a simple moral or absolute point of view on this issue which justifies a view that all will be well if a certain position is followed. This is an issue of great moral complexity. That is why doctors and nurses, of all people, have strong opinions on this issue. Nurses over the age of 65 and 70 years have strong opinions as they know what it was like when heavy restrictions applied, resulting in many women in our community suffering severe injury and death.

Those of us who advocate legal and safe abortions do so from a strong moral conviction that this should not happen in a civilised society. The 100 000 to 200 000 women who die around the world each year should not die. The fact is that those numbers have gone down because throughout the western world there has been access to safe and legal abortion. Our State is no different from other jurisdictions in that respect.

We start with consequences. If members believe strongly in legal restriction to be backed up with vigour by the police, they will create a situation where many women in our community will experience injury, and possibly death, as a result of fears and doubts arising in their minds. We are talking about people, and we do not live in a perfect world. As a Parliament we must consider the consequences of the measure. I encourage all members who are thinking about the issue to consider the consequence of going back to strict restriction.

A moral argument applies on all views on the issue. This Bill is based upon a profound and important concept. I refer to the concept of human freedom. It is understood and accepted that freedoms and responsibilities must go together in our community. But who in this House would argue that responsibility should go with a society that does not guarantee political freedom, personal freedom, religious freedom, or cultural freedom?

Let me look at the human rights that exist in our society in respect of liberty. I go to the American concept of liberty. It has three basic concepts of liberty: Firstly, the autonomous control over the development and expression of one's intellect, interests, tastes and personality; secondly, the freedom of choice in the basic decisions of one's life respecting marriage, divorce, procreation, contraception and the education and upbringing of children; and, thirdly, the freedom to care for one's health and person, freedom from bodily restraint or compulsion. We take those freedoms for granted. They are the backstop and the underpinning of a responsible society. We cannot have responsibility without freedom. Let us look at some of these concepts. Some societies force people to a certain form of birth control; that is a restriction and imposition on those people that should not be tolerated. Some societies prevent people from accessing contraception; some societies force people into particular marriages; and some societies force people to hold a particular point of view, and if they do not, they are subject to the constraints of the law.

Let us bring into that equation women - 50 per cent of humanity. Are we saying that every pregnancy that occurs in our community, as a matter of law, should be carried through to its completion, and if that does not happen, a criminal conviction will follow? To my mind that is an issue of basic freedom. That is like talking about political freedom, about cultural freedom, and about religious freedom which I will fight for in this Parliament. The freedom of women is no different. Of course, responsibilities go with that freedom. Of course, the law will provide constraints around that freedom just as this law has done in terms of the distinction between early and late terminations, and just as it does in terms of a definition of informed consent. However, the basic principle is there - the basic principle that we established in our voting last night that people will have this essential freedom.

There has been a lot of talk about responsibility, with which I agree. There cannot be a caring, responsible society that is underpinned by authoritarian Government. We should not regard responsibility over there and freedom over here as two separate things. One requires the other. Responsibility requires freedom and freedom requires responsibility. Those who advocate strict legal restriction on the right to abortion want to restrict in a very fundamental way the rights of women in our community. Therefore the basis upon which women live in this world will not be a basis upon which there can be a civilisation, because women must exist in this world on the basis of autonomy and freedom, just like all of humanity. That is the basis upon which we built our democratic western civilisation.

It is such an important principle that it has become established in the ways and understandings of our life over the

past 25 years. As members know, I argued during the second reading debate that access to abortion in Western Australia was legal according to all the court interpretations laid down in the past 25 years. I now quote from the famous decision of the United States Supreme Court - the Roe v Wade decision - in which Justice Harry Blackmun referred to basic liberty and the right of privacy. He said -

This right of privacy, whether it is founded in the Fourteenth Amendment's concept of personal liberty and restrictions upon state action, as we feel it is, or, as the District Court determined, in the Ninth Amendment's reservation of rights to the people, is broad enough to encompass a woman's decision whether or not to terminate her pregnancy. The detriment that the State would impose upon the pregnant woman by denying this choice altogether is apparent. Specific and direct harm medically diagnosable even in early pregnancy may be involved. Maternity, or additional offspring, may force upon the woman a distressful life and future. Psychological harm may be imminent. Mental and physical health may be taxed by child care. There is also the distress, for all concerned, associated with the unwanted child, and there is the problem of bringing a child into a family already unable, psychologically and otherwise, to care for it. In other cases, as in this one, the additional difficulties and continuing stigma of unwed motherhood may be involved. All these are factors the woman and her responsible physician necessarily will consider in consultation.

An important moral principle is involved here. Will the State - in this case the State of Western Australia - interfere with the basic decisions in a way that is inappropriate and unjustified? This House has placed constraints around that through its distinction between early and late abortions. That is a good distinction with which I agree and which I will defend. It placed a framework around that distinction by putting some detail into informed consent, but it will preserve this basic principle. It is the same principle which gives people their religious freedom and which led the Australian Labor Party to write into its constitution that my good friends and colleagues, the members for Nollamara, Midland and Girrawheen can speak with passion on this issue. It would not be right for us, as a political party, to interfere with their consciences that way.

However, I ask them, as the member for Geraldton put it so well, to let a woman come to terms with her own God on that issue. We wish her every support in coming to terms with that rather than the threat of criminal sanction.

I conclude by quickly saying the consequences provide a very good case for this legislation. The consequences of going back to heavy restrictions on the availability of abortions will be major trauma and illness and, as the evidence indicates, a significant number of deaths in our community.

This issue raises some of the most fundamental principles at the core of our society. They give us justification for what we have done with this legislation. Some people cannot agree with that because they put a very important value on the unborn child. I ask those people not to give up their values. No-one in this Parliament would ever ask them to do that. They must consider that if those beliefs became the basis of law in our community, certain consequences and impositions on the rights of women would follow that I believe are not justifiable in Western Australia at the end of the twentieth century.

MRS HODSON-THOMAS (Carine) [9.35 am]: As I said during the second reading debate, I find it difficult to reconcile abortion on demand. I still find it difficult, after all the debate I have heard in this place. I had intended to support this Bill, and I was certainly pleased to support proposed paragraphs (a) and (b), but I will now not support the Bill due to what has happened in this place during many hours of debate. I have heard so much about the consequences of unplanned pregnancies. During the second reading debate, I said that I had two unplanned pregnancies. If all women were to determine the fate of their children on a fact of economic convenience, there would be no children in this world!

I will not support this Bill. I do not believe that we have done justice to the people of Western Australia. This Bill does not contain a framework to provide protection from genetic selection. The member for Nollamara eloquently explained that situation. I have grave concerns about the Bill. The women in this place should have grave concerns if women were able to terminate their unborn, female offspring. I also have concern about genetic abnormalities. As a member of the Select Committee on the Human Reproductive Technology Act, I have learnt a lot about technology and what geneticists are doing in examining embryos. I really wonder what path we are taking here. My second son failed to thrive at 16 weeks. He had severe problems with his breathing. If someone had determined at 16 weeks that my child might not survive due to those severe breathing difficulties, we might have terminated that pregnancy. However, I am pleased to be his mother. He is 10 years of age and he has greater moral fibre than many members in this place.

I am concerned about genetic abnormalities, and I care about women being provided with a safe environment in which to have an abortion, but I will not support the Bill.

DR TURNBULL (Collie) [9.39 am]: I wish to pick up a point made by the member for Victoria Park. He waxed

eloquent about the freedom of women in our great western society, a society built on freedom - freedom to have an abortion on demand! One of the very interesting points about this debate is that the first time a government legal structure placed a prohibition on abortion was in 70AD. That prohibition was introduced because the population of Rome - that wonderful, supreme and all conquering society in the whole world, at that time - was dropping below replacement level. The reason that the population of pure bred Romans dropped below replacement level was that the matrons of Rome were exercising their freedom and their desire not to have children and were having abortions. That was the first statement of government attaching criminality to abortion. The population of Australians who are born in this country is below replacement level. The only reason the population of Australia is increasing is through immigration and, as we know, immigration is dropping too. I thought the member for Victoria Park would appreciate that digression and recognise that he would be painting the picture for the demise of this great western civilisation connected with the freedom of choice for women to do exactly what they want to do.

I am disappointed that both Houses of Parliament will pass Bills which authorise abortion on demand. I do not support abortion on demand and I am sad that we have got to this state of affairs. The only point about which I am pleased in this Bill is the unanimous support of the Legislative Assembly for the laws which state that abortion after 20 weeks is a criminal act by either a person who procures the abortion or the woman. That is a very important statement: In Western Australia, abortion after 20 weeks will be a criminal act. There will be few exceptions. I know that some people say that there are only a few such abortions in Western Australia at this time. I agree with that and Western Australia should be applauded for that. However, if that amendment had not received the unanimous support of this House, we would have opened the gates in Western Australia to those abortionists who have no compunction about late term abortions.

I supported the amendment moved by the member for Yokine to reduce this level to 16 weeks. Within a very short time, as has already been described to this House, the advance of medical science will mean that the detection of severe foetal abnormality will be possible by the sixteenth week. I trust that when we get to that stage we will agree unanimously to lower the level from 20 weeks to 16 weeks. I do not agree with even that level. However, I saw that as a practical level which everyone in this House could accept.

I would like to speculate on what will happen with the two Bills. The Bill introduced in the other place includes a similar clause to outlaw abortion after 20 weeks. If all of these clauses that result in abortion on demand end up in the Health Act I ask all those people who are here today or who are listening to consider inserting the clause into the Criminal Code. If there was no new section 201A, I would still like to see new sections 199A and 200A of the Criminal Code state categorically that it is still a crime to procure an abortion of a woman whose pregnancy is beyond 20 weeks. As far as I can see, that would not interfere with the attitudes of the people who want abortion on demand. I know there will be another time to develop that case, but I flag that I will raise that issue. If we arrive at a conference of managers, where members such as me will not be able to debate this, it is important that this issue be considered at that time.

I put on notice those spokespersons of the Australian Medical Association who said so strongly that the legislators must provide certainty. I know well that those spokespersons were not necessarily speaking for all doctors in Western Australia. Two doctors in Collie, including my husband, wrote to the AMA stating that the association was not expressing their opinion. Apart from that, the AMA must recognise that there will be a huge onus on the conduct of the referring doctor and the abortionist.

It might appear that we are letting the abortionists off lightly in relation to verifying that the woman is giving informed consent. We have provided that the informed consent or the counselling process must be separate from the abortionist. However, an abortionist still has an obligation to ensure that the woman signs the informed consent form as required before he goes ahead with the procedure. That puts an onus on abortionists.

Now that we have freed up the law in Western Australia in relation to the availability of abortion, the industry may become more attractive to groups other than the Nanyara and Zera clinics. Abortion is a very lucrative activity. Because there will no longer be any threat under the law, we may find it becomes very easy for any doctor to do an abortion. We have more gynaecology specialists per head of population in Western Australia than in many other places in the world. Where the availability of a service is greater than the demand, people become very attracted to financial return. It is very important that an organisation, such as the Australian Medical Association, should make quite sure that not only its members, but also non-members, adhere very strongly to the provisions in the Bill. The doctors are being given the privilege of operating in this environment without the threat of the law. In return for that privilege and also the privilege to make financial gain from it, the doctors must adhere to these specifications. There should no longer be any fudging or blurring of the lines of responsibility.

I know some young women have not wanted to go to the doctor in their home town and have slipped off to another doctor and asked for and received a referral without any questions, without any counselling and without any great consideration. It now behoves those in the medical profession to enter into this huge effort of trying to ensure the

abortion rate falls in Western Australia because people have information and because they understand that contraception can go wrong. Condoms are not entirely successful, and doctors should pass on that information. The pill has a failure rate. I have a wonderful, beautiful daughter who was born as a result of the fact that I did not take the pill on the day I went to my brother's wedding. Unplanned pregnancies do occur. Contraception is not foolproof. It behoves the doctors and the public health professionals who lobbied very heavily in this issue to get out and educate people so that the number of unplanned pregnancies is reduced. I do not think it is up to the Government to provide extra money for additional programs. This is part of the responsibilities of those people who lobbied us in this area.

I cannot support abortion on demand. I am afraid that within about five years it will lead to a situation where women are being coerced. I have already said that I am very concerned that some bureaucrats are planning population engineering. For 30 years we have had social engineering, and now there is a growing trend towards population engineering. The people who will not be able to withstand that pressure will include the disabled, those who have genetic defects, those who are poor, those who do not have the ability to speak up for themselves, and those who will be coerced by others, including people from their own families. I repeat: I cannot support abortion on demand.

I see that the right of individuals to make a decision to have an abortion will be linked with the right to determine the timing of their death and euthanasia. Once we get to that situation, the rights of the strong will supersede those of the weak, those of unborn babies, those of the disabled, those with genetic differences and those of the elderly. This has been a very important debate. It is not complete as yet. I trust that you, Mr Speaker, will take on board my very strong request that the clause relating to the outlawing of abortions being performed after 20 weeks remain within the Criminal Code, regardless of what else happens.

MR BAKER (Joondalup) [9.55 am]: At the outset, I wish to thank all members in this Chamber for the meaningful contributions they made during all stages of this debate. I also thank all members of my party, the National Party, the Australian Labor Party and the three Independents in this Chamber for agreeing to allow the vote on this Bill to be dealt with on a conscience basis. It was totally appropriate that the abortion issue be debated on that basis. I will always respect the views of members who disagree with my views, and I will always support their right to air their views, irrespective of whether they disagree with my views. Also, I will always respect their right to have a full debate on any issue in this Chamber.

During my speech in the second reading debate I made it abundantly clear that in my view human life begins at conception. At that point in time the most inalienable, fundamental right on the planet Earth, namely the right to live, is created by two human beings. I also said during that speech that the real issue in this debate, in my view, is how to seek to resolve competing interests and competing rights. Of course, this is a very difficult issue.

I still hold all these beliefs, and I always will. Nothing I have heard, seen or read will in any way affect me in terms of changing my views on those fundamental maxims. I feel very sorry for those who say they are not sure about when human life begins. No matter how we look at this abortion issue, no matter how we try to fudge around it, the concept of when human life begins is fundamental to it. It is a central issue in this debate and it is clear that many members share my view. If people are unsure about when human life begins, they can never be in a sound position to attempt to resolve the competing interests of the unborn child to live and the alleged rights of a woman to terminate the life of the unborn child for any reason, necessity or convenience.

When it is all said and done, how each and every one of us has addressed this issue is based on how we have been conditioned and socialised in society. Many of us have relied upon our strong religious views in forming our view as to whether the Foss Bill was adequate, whether amendments were required and, if so, the sorts of amendments that were necessary. Nonetheless, it goes without saying that I could be sharing the views of others if I had been conditioned and socialised in a different manner. I am always mindful of the saying "There but for the grace of God go I". Other members in this Chamber would be well advised to remember that maxim in all facets of life.

Throughout this debate I have sought to balance the aforementioned competing rights in what I perceived to be a fair, just, equitable, and reasonable manner. This has been very difficult. In addition to resolving that issue of how to balance these competing rights, I have also sought to ensure that a woman's choice to procure a miscarriage will be as fully informed as possible and as free and unfettered as possible. As a result I have supported various amendments to the Foss Bill dealing with the key issues which impact upon the formation of that free and unfettered choice. As members will recall, those amendments related to the provision of information, counselling, a cooling-off period, a mandatory limitation period with only very limited exceptions thereafter for procuring miscarriages, and also proper medical advice. I am well aware that many of the amendments to the Foss Bill which I supported with a view to achieving those objectives were not successful. The reason they were not successful is that the majority of members in this Chamber were determined that they should not be. I respect the rights of the majority in the various amendment votes in this Chamber. I find it interesting to note, and I am awestruck by the irony of it, that the spirit of most of the amendments that I proposed and others supported was revisited late last night and early this morning

by the very same members who argued, in the first instance, that the amendments I and others supported were not appropriate. I cannot understand that, quite frankly. It is a very perplexing situation to try to analyse.

I will not beat about the bush. The Foss Bill as amended does not go far enough in applying the appropriate checks and balances in an area of the law that purports to justify the taking of a human life. The Foss Bill and some of the amendments that have been debated have been rushed, poorly drafted, debated in haste and amended on the run. Everyone in this Chamber would have to agree, by any definition and any commonsense reasoning and sense of justice, that that clearly was the case. I would prefer to see this issue dealt with in a stand-alone piece of legislation that could address the concerns raised by each member in this Chamber. Unfortunately, due to time constraints that was not possible. What we have been left with is a rushed Bill and a Bill that has not been clearly thought through. The member for Nollamara has highlighted many examples of where we have not thought clearly about the consequences of the various new sections that we have approved, particularly paragraph (c) of new section 201A(3). There are scores of other examples that the member for Nollamara did not have the opportunity to touch upon. I am almost certain that in due course our haste will come back to haunt us. I may be wrong; we will have to wait and see. I cannot support the Foss Bill as amended because it is totally inadequate; as such, I will not support the Bill at this third reading stage.

I wish to make some general comments about polls and leadership. Leadership is not about being poll driven. Leadership is also not necessarily about being popular. It is not simply about seeking to be elected as a member of Parliament. It is not simply about trying to remain the Government of the day or seeking to be elected as the Government of the day. It is not about being the captain of the local football team. It is not about playing a cynical game of political manoeuvring. Leadership is about leading and not following. This particular issue is about seeking to resolve conflicting and competing rights in a fair, just, equitable, proper and balanced manner and not succumbing to extreme points of view. I repeat: Leadership is about leading, not following.

Mr Bridge: And about setting good examples.

Mr BAKER: Yes; of course. I believe that, regrettably, each and every member of this Chamber has followed rather than led. That is unfortunate. Those members of this Chamber who think that the Foss Bill as amended is too restrictive do not need to vote for it at the third reading stage. Unlike some people who have a vested interest in this issue, we have a choice. Those members who think that the Foss Bill as amended is too permissive do not need to vote for it. Once again, we have a choice. Those members who think that the Foss Bill as amended is poorly drafted do not need to vote for it. We have a choice. I am very fortunate to have that free and unfettered choice, and as a result of my having that choice, I have made the clear decision that I will not support this Bill, as amended, at the vote on the third reading stage.

MR SWEETMAN (Ningaloo) [10.03 am]: I made it clear during the second reading debate that I would support this Bill. I made it clear to the Parliament that I found abortion abhorrent, and I explained in some detail why that was so. I also explained in some detail why I felt obligated to support this Bill. At the end of the day, I too share the disappointment of some people in this House that paragraph (c) has been included in the Bill. I do not have an enormous difficulty with paragraph (d), but I do have a problem with paragraph (c). Proposed new section 201A(3) contains paragraphs (a), (b), (c) and (d).

I simply give advice to members who have perhaps changed their opinions or are equivocating about whether to support the third reading.

The SPEAKER: Order! Hansard is having some difficulty; it has been a very long day.

Mr SWEETMAN: While we could have ended up with better legislation than that which we handed up to the other place, I take the view that the debauchery one knows is better than that one does not know. We do not know what will be passed from the other place, or whether the outcome in this Chamber will be any different after considering the other Bill.

It will probably take a long time to live down the stance I took on this issue, but I am steadfast in my view that we have had de facto abortion on demand for 25 years. This House is putting right some anomalies in the legislation which existed during that time which eventually culminated in doctors being charged for procuring abortions.

I made the point in the second reading debate that this is overwhelmingly a moral issue. Therefore, abortion, the terminating of pregnancies, is a moral absolute. I cannot stand in this Chamber and change a godly precept. A moral absolute demands its own answer, and I cannot right something when I do not have the power to do so. To me, it is ultra vires. This Bill delivers an awesome responsibility to people who in future will procure abortions. They will have to answer for that action. I do not see myself as a murderer or butcher in taking the point of view I hold. In fact, the spiritual values I hold mean that I look at the 9 000 and 10 000 abortions procured every year in this State and wish it was not so. I know that all those people who choose to have abortions are not murderers themselves, and I

content myself in knowing that the judge of all the earth will do right. A child who is uniquely conceived - in fact, some will say divinely conceived - will never come into the world, and we will debate whether life begins at conception or birth. However, the judge of all the earth will do right. If ensconced in that womb is the epitome of innocence, I am sure it will suffer no loss.

In the earlier hours of this morning during the Committee stage I touched on the apparent state of our society. We will hand this Bill to the upper House containing a section which is aimed at protecting minors. We called them women as we debated the issue last night, but they are younger than 16 years of age - they are kids. They could be members' children. I implore members with whom at this moment I am on side - we are diametrically opposed on many issues, and we may never agree on anything in this Parliament again - to ensure that we do all we can to protect minors.

Government is anti-family in many ways. Despite the dear Minister for Family and Children's Services being as good as she is, and working as hard as she does, some luminaries in Family and Children's Services are wreaking havoc on society. They have no philosophical or spiritual background to fall back on, apart from a head full of ideas upon leaving university when they are cut loose on society. They are not doing us any good. Government is trying to usurp the position of the family as some time ago it usurped the position of the church.

Almost gone are the days when the Salvos were the saving grace for the drunks, the down and outs, the homeless. The Government is now in there competing. Wherever it can it is undermining the good work that the churches do. We are building refuges for battered wives and battered women in society. Once those people went to the church for shelter. The Government is setting up alternative institutions to attract that business away from people who could actually solve the problems. When we set up those institutions, we are not outcome driven; we are there to service the problem in perpetuity. The churches focused on solving the problem.

In conclusion, we have to support the third reading of this Bill. We have agonised over it for a long while. To defeat the third reading at this stage would be to put to nought six days of what I believe has been very intense and hard work, which has taken an extraordinary commitment from every member in this Chamber. Everybody is to be congratulated, regardless of the things that have been said, and the sides on which they lined up. Instead of hanging our heads in shame and horror at the outcome, we should be pleased with it. I am prepared to be judged on the stances I have adopted on this issue. Members have made a significant contribution to what has been an horrendously difficult issue.

MRS van de KLASHORST (Swan Hills - Parliamentary Secretary) [10.11 am]: I support the third reading of this Bill. In doing that I want to reflect on some of the things that have happened in the past couple of days. This may be simplistic, but I see all members of Parliament representing the whole spectrum of our society. People with very strong religious beliefs have argued the opposite way from people at the other end of the spectrum who believe that abortion should be on demand. People have been in between the two extremes and some people have been unsure about their stance. Everybody in the community has been very well represented in this debate. I know that some people will not believe this but this has been a wonderful example of democracy at work in Australia.

I was not born here; I chose to come here and to be naturalised an Australian. However, I am proud to be an Australian today. We have all had a chance to speak for our communities and for ourselves. We have been able to put our points of view without fear of being shot. That does not happen in many countries in the world. That is an indication of the strength of the Australian community. The fact that, although we do not all agree with all parts of the Bill, it will be passed is an indication that democracy is alive and well here in Western Australia. As a community we have to hang on to that because we could lose it very quickly if we give in to threats. Fortunately, that does not happen in Western Australia.

A Supreme Court justice in the United States said in a judgment involving the West Virginia Board of Education that freedom to differ is not limited to things that do not matter much. He said that that would be a mere shadow of freedom. He continued by saying that the test of its substance is the right to differ as to things that touch the heart of the existing order. That is a very profound statement because that is what we have done here. We have been able to express different arguments but arrive at a result that will benefit the community.

As I have said, I am very proud to be an Australian at this time even though not all members got the result they wanted.

In a perfect world abortions would not be needed. Unfortunately, we do not live in a perfect world and we have had to make decisions that are abhorrent to many of us. The decision was more difficult for women than for some of the men, but I cannot put myself in the shoes of some male members of this Parliament. It has been a very difficult decision for me, as it has been for many other women. I am appalled at the comments of one or two people that many members have not thought through their decision. More than at any other time in the five years I have been a member

of this Parliament, members have spent a lot of time reading about, considering and examining this issue. Each decision made, although sometimes they differed, and each word spoken came from the heart of each and every one of us.

Members had to be caring and compassionate, and remember in their deliberations that they were dealing with the human side of life which is always much more difficult to deal with than the manufacture of cups, saucers or pipelines. They were dealing with the root of society, the human side of life. Every member has been compassionate and considerate, and has tried to make the best decision for most people concerned.

I firmly believe that, otherwise I would not be standing here now. Where to from here? I urge members to support the Bill. This is just the beginning of a journey working towards a reduction in the number of abortions in Western Australia and Australia. If every one of us commits ourselves to stopping one person having an abortion, we will have achieved something. I do not mean they should not be given a choice; we should examine ways of helping young people to understand the necessity for birth control and ways of reaching people who have little knowledge of birth control. There must be myriad things people much cleverer than I can think of. We must set that goal.

People who have watched the debate from the Public Gallery should be moving into the community to help, for example, some of the people who have been into my office begging me to vote the way I have voted because they have found themselves in untenable positions. As leaders in our community, we must set ourselves that goal of reducing the number of abortions. It might take a number of years but if we work together we can do that. We must not allow ourselves to be so busy with other problems of government that we put it behind us until another day and then leave it. Many of us will not do that, but some of us will.

I reiterate the comment I made during the second reading debate that I could never put myself in the shoes of another woman. Therefore, I believe this Parliament has done the right thing in enabling the woman concerned to choose what she will do with her own body, and I have voted accordingly. We shall not make the decision for her; she will have a choice and that is her right. I commend the Bill.

MR BARRON-SULLIVAN (Mitchell) [10.14 am]: I regret that I did not get the call before the member for Swan Hills. It would have been appropriate had she been the last speaker on this matter, assuming there were no more speakers. I must get on the record the reason I will oppose this Bill.

If it were possible to have a big red plastic button in front of me which I could push to ensure no more abortions occurred, I would push it so hard and so often that my hands would bleed. However, I am pragmatic enough and realistic enough to realise that that situation does not exist. This House could pass the most restrictive legislation opposing any form of termination of pregnancy, but such legislation would have no practical effect and might even have detrimental effects. On the other side of the equation, very significant moral questions are at stake here. The decision being made today could have very far-reaching ramifications for community standards in future. I have envied the people to whom I have spoken, and those who have visited me and spoken to me about the issue - those who are totally pro-life or pro-choice. I envy the clarity of their position and their dogmatic stance. I am not that sort of person. I tend to look for what I consider to be the more pragmatic and balanced approach. As I said during the second reading debate, the people I represent probably fall somewhere between the two arguments. They support a degree of choice. They certainly acknowledge that at times terminations of pregnancies are necessary. However, the majority of people also understand that moral and ethical considerations are involved.

Again, without going into the detail of the argument we have heard in recent days, I believe that had we gone through what has loosely been described as the Davidson test we would have been able to meet the broad community expectations of choice without sending out the message that abortion will become a more normal practice and can be more accepted in society. Had we gone one step further than the Davidson test, had we gone to the extent of adding a provision that terminations could be approved if appropriate social or economic factors were involved - provided safeguards were attached to such conditions - that would have met broad community expectations without, again, dropping the barrier. By moving down to the next stage of abortion on demand, we are sending a particular message to society as a whole.

I used a very simple example last night, and no-one has challenged me on it: If this legislation is ultimately passed through both Houses of Parliament in this form, parents will be able to decide to terminate a pregnancy simply on the basis that they do not want a child of that sex. A family may already have three daughters, and may decide it can afford only one more child. However, the mother and father may particularly want a son. They may have been trying to have another child, but the ultrasound has determined that the child will be another daughter. Members should make no mistake about it: Under this legislation technically those parents could request a termination of the pregnancy simply because the child was a girl.

Dr Hames: As a general practitioner, I have never seen that happen. It could have happened in the past. Nothing

has prevented that, until now. This legislation provides no greater opportunity than people had one month, six months or a year ago.

Mr BARRON-SULLIVAN: Community standards go further than laws passed by Parliament. When we change a law we move towards changing those community standards. I have lived in a country where baby girls are aborted, and they are aborted to this day. I am not saying this process will become a common practice. God forbid! I hope it never happens. I just use this as an example of a technical possibility under the legislation which is likely to pass through this Chamber today. I use that to demonstrate how this House is sending out a new message to the community

Mr Bridge: It is not a good message.

Mr BARRON-SULLIVAN: No; the message has gone too far. I believe in a degree of choice; my constituents believe in a degree of choice. I hoped that the outcome of this would be a good, workable, sensible, reasonable blend of moral considerations, community standards and need for that degree of choice. I realised that in taking that stand I would upset people on both sides of the argument: People who say no abortions under any circumstances; and people at the other end of the extreme who say abortion on demand. If this legislation passes through both Houses of Parliament, its implications will be revealed in years to come. I am unable to support this legislation.

MR MINSON (Greenough) [10.26 am]: I will add a few comments for the sake of completeness, rather than adding new material. I said what I wanted to say during the second reading debate. I listened to the Committee debate, and as I could add nothing to the debate I did not waste the time of the Parliament. The points I will make are not necessarily new, but I want them on the record.

From listening to media reports on this issue one would think that the two Houses of Parliament have passed the same Bill and resolved the issue. Unfortunately, that is not the case. Once this Bill is transmitted to the Legislative Council we will start on the next chapter.

I will repeat what I said in the second reading debate: Whether someone has an abortion or performs an abortion is a matter of personal responsibility. I would prefer to have some checks and balances in the system. For that reason, despite my personal views which are well known and which I stated in the second reading debate, I supported options (a) and (b) in the Foss Bill. The Bill has gone too far; it does not provide any checks or balances to the system. I am uncomfortable about that. I will not support the third reading of this Bill, but not for the reason that people might think.

One thing that needs to be said is that which underpins our style of government is personal responsibility. I have been a little offended by some of the mail and telephone calls I have received that tell me I will be responsible for the killing of unborn children. I will not be responsible. The people who will be responsible will be those who seek the abortion and those who carry it out. I will not be responsible at all. I say that with a clear conscience. If this Parliament does what I think it will do - that is, totally liberalise abortion laws - the responsibility on the individuals involved will become that much greater.

I want to make a clear distinction for those who think that the fault lies with the Parliament. If we were to move to the situation that we see in China, or in Hitler's Germany, of compulsory abortion, where people are coerced, blood would be on the hands of this Parliament.

I need to make it very clear that in no way is this Parliament making abortion compulsory for anyone: It is making it possible, not compulsory. I reject the notion that anyone can have an abortion or perform one and blame it on this Parliament or me. However, I would like more checks and balances in the process.

There is a danger, despite what has been said in this place, that people will opt for sex selection and have abortions for the sake of convenience, and they will regret it. That does not sit comfortably with me.

I will explain why I will not vote for this Bill at the third reading. Because we have approved it in its entirety and we have not included appropriate checks and balances, it does not sit easily with me. In addition, it is not what my electorate wants. I have consulted widely in the past few months in my electorate. Even those who believe that the decision is between the woman and her doctor say they do not want abortion on demand for convenience. They want it to be possible if someone really intends to do it. I believe that the position my electorate would have me adopt would have been reflected by the Foss Bill including paragraphs (a) and (b) and an appropriate definition of "informed consent" but not including paragraphs (c) and (d). For those reasons, I will oppose this Bill. If it were not for that, I would consider abstaining because I see the sense of both points of view.

I will oppose the Bill but, in doing so, it is my judgment that I am reflecting what my electorate wants. I did not find anyone who wanted open slather. We will end up with a mishmash if this eventually goes to the other House and we do not pass the other Bill.

The responsibility for deciding whether an abortion is performed does not rest with this Parliament: It rests with the woman who seeks it and the medical practitioner who performs it. There is no blood on my hands or on the hands of this Parliament.

Question put and a division taken with the following result -

Ayes (31)

Ms Anwyl	Mr Cowan	Mr McGinty	Mr Ripper
Mr Barnett	Mr Day	Mr McGowan	Mr Thomas
Mr Bloffwitch	Dr Edwards	Ms McHale	Mr Trenorden
Mr Board	Dr Gallop	Mr Marlborough	Mrs van de Klashorst
Mr Bradshaw	Mr Graham	Mr Marshall	Ms Warnock
Mr Brown	Mr Grill	Mr Masters	Mr Wiese
Mr Carpenter	Dr Hames	Mr Nicholls	Mr Osborne (<i>Teller</i>)
Dr Constable	Ms MacTiernan	Mr Riebeling	

Noes (19)

Mr Ainsworth	Mrs Hodson-Thomas	Mr Minson	Mr Shave
Mr Baker	Mr Johnson	Mr Omodei	Mr Tubby
Mr Barron-Sullivan	Mr Kierath	Mrs Parker	Dr Turnbull
Mr Bridge	Mr Kobelke	Mr Pendal	Mr Cunningham (<i>Teller</i>)
Mrs Edwardes	Mr McNee	Mrs Roberts	

Question thus passed.

Bill read a third time and transmitted to the Council.

ADJOURNMENT OF THE HOUSE

MR BARNETT (Cottesloe - Leader of the House) [10.37 am]: I move -

That the House at its rising adjourn until Tuesday, 7 April, at 2.00 pm.

The implication of that is that the House will not sit at any stage during the remainder of this day. The motion is necessary because we are still in yesterday's sitting. In a somewhat bizarre sense, we are still sitting yesterday. So that we do not sit tomorrow - which is today - I must move this motion.

Question put and passed.

House adjourned at 10.38 am (Thursday)

QUESTIONS ON NOTICE

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

CROSSWALKS AND UNDERPASSES - REGULATIONS

2901. Mr PENDAL to the Minister representing the Minister for Transport:

- (1) With reference to the earlier representations regarding the lack of use of the underpass in Walanna Drive in Karawara is there a regulation prohibiting the use of a crosswalk painted on a road where an underpass exists within 75 metres of the road?
- (2) If yes to (1) above, will the Minister undertake to have that regulation reviewed in cases where an underpass can be shown not to be in regular use by pedestrians?
- (3) Will the Minister agree the solution might be to abolish the 75-metre rule so that, in such cases, a painted crosswalk and an existing underpass maximises the choice for pedestrians, thus ensuring their increased safety?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) Regulation 704(7) of the Road Traffic Code makes it an offence for a pedestrian to cross the road, except by using an underpass within 120 metres of any entrance to an underpass.
- (2)-(3) No. Pedestrian underpasses and overpasses are installed, at a significant cost, where it has been found that it is not safe for pedestrians to cross at road level.

GERALDTON BOAT BUILDERS - CONSTRUCTION OF FISHERIES AND TRANSPORT DEPARTMENTS' BOAT

2903. Mr BLOFFWITCH to the Minister representing the Minister for Transport:

What was the tender price for the boat presently being built by the Geraldton Boat Builders for joint use of Fisheries and Transport Departments?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

The tender price was \$2.1 million.

MENTAL HEALTH NURSES - NUMBER

2921. Dr CONSTABLE to the Minister for Health:

In each of the last five years in Western Australia -

- (a) how many mental health nurses were registered;
- (b) how many mental health patients were admitted to relevant institutions;
- (c) how many mental health nursing positions existed;
- (d) how many mental health nurses graduated from relevant courses;
- (e) how many mental health nursing graduates remained in mental health nursing following the completion of relevant programs?

Mr PRINCE replied:

	1994	1995	1996	1997	1998
Registered Nurse	1509	1501	2018	2493	2481
Enrolled Nurse	323	359	402	467	462

- (a) All nurses who are university trained are able to work in mental health. The number of Registered and Enrolled nurses registered in the Comprehensive and Mental Health specialties are as shown above:

- (b) Information not available within the specified time frame. Increasingly, mental health patients may not be admitted, and are case managed in the community.
- (c) The Health Department of WA is not currently the employer of mental health or the vast majority of other health service provision staff. In 1993, there were 849 dedicated Registered Mental Health Nurses in public employment excluding Teaching Hospitals (who are the major employers of nurses). The number of mental health nursing positions at that date is unknown. Since that time over 60 individual Health Service and Hospital Boards have become the legal employers and responsibility for management of establishment and staffing has been devolved to Health Service Management. Integration of services under each Health Service means that it may be impossible to identify the number of full time equivalent nurses working in the mental health area. A Comprehensive or Mental Health Nurse may work a proportion of their time in mental health, and the rest on other nursing duties. As a result, the number of identifiable Mental Health positions would under-estimate the FTE delivering mental health care.

(d)

Year	Registered Nurse Graduates	Postgraduates
1994	439	
1995	400	
1996	347	
1997	314	19
1998		24

All university trained nurses are trained comprehensively, and can work in a mental health environment. In addition there are post-graduate studies in Mental Health. The figures available show comprehensive graduates from Curtin University and Edith Cowan University for the last 4 years, and post-graduate students for 1997 and 1998.

- (e) It is not possible to determine the number of nurses who remain in mental health nursing following completion of a qualification incorporating mental health - either as a dedicated mental health nurse, or as part of their comprehensive role. Comprehensively trained nurses and nurses with multiple registrations (eg mental health and general) may choose from a variety of work areas. Increasingly, mental health and other nursing duties are combined within the role of individual nurses as Health Services integrate their services to provide holistic and seamless care.

INFRINGEMENT NOTICE FINES

2924. Dr CONSTABLE to the Minister representing the Attorney General:

Since the commencement of the Fines, Penalties and Infringement Notices Enforcement Act 1994, what percentage of persons -

- (a) fail to pay infringement notice fines within -
- (i) the initial 28-day period;
 - (ii) and each following 28-day period
- until a licence is suspended;
- (b) have their infringement notice registered;
 - (c) have a licence suspension order made in respect to the infringement notice; and
 - (d) have civil proceedings commenced in respect to the infringement notice?

Mr PRINCE replied:

The Attorney General has provided the following reply:

- (a) (i) Figures unavailable as infringement notices are issued by a number of prosecuting authorities and are monitored by each authority not Magistrates Courts.
- (ii) Figures unavailable as infringement notices are issued by a number of prosecuting authorities. Fines Enforcement Registry does not maintain statistics relating to responses from the notices it issues prior to the licence suspension occurring.
- (b) 10% of Police issued infringement notices.
- (c) Percentage of persons not available. Total number of licence suspension orders made is 131,788 since the commencement of the system.
- (d) Not applicable under the *Fines Enforcement and Infringement Notices Enforcement Act 1994*.

FINES - TIME TO PAY ORDERS

2925. Dr CONSTABLE to the Minister representing the Attorney General:

Since commencement date of the Fines, Penalties and Infringement Notices Enforcement Act 1994, what percentage of persons receiving a Court fine -

- (a) apply for; and
- (b) obtain

time to pay orders under section 33 of the Act;

- (c) fail to pay court fines within 28 days after the fine is imposed;
- (d) apply to amend a time to pay order;
- (e) breach a time to pay order;
- (f) have their Court fine registered;
- (g) have their licence suspended;
- (h) have a warrant of execution issued in respect to the fine;
- (i) are required to attend for work and development; and
- (j) have a warrant of commitment issued?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(a)-(d) The data required to calculate the percentages sought is not recorded.

(e)-(j) In respect of parts (e)-(j) data is available in the following format:

- (e) Estimates obtained from locations Statewide indicate less than 50% are breached.
- (f) 80,102 individuals have had their court fine registered.
- (g) 47,896 have had their licence suspended.
- (h) 17,533 people have had a warrant of execution issued against them.
- (i) 2,866 persons have been issued with a work and development order.
- (j) 1,264 persons have had warrants of commitment issued against them.

FINES - TIME TO PAY ORDERS

2926. Dr CONSTABLE to the Minister representing the Attorney General:

- (1) What is the administrative procedure with respect to monitoring the payment of fines under time to pay orders made under the Fines, Penalties and Infringement Notices Enforcement Act 1994?

- (2) How many time to pay orders are presently in force?
- (3) How many FTEs administer the time to pay order system?
- (4) What is the average length of a time to pay order?
- (5) What percentage of fines are paid within the time permitted in a time to pay order?

Mr PRINCE replied:

The Attorney General has provided the following reply:

- (1) Time to pay orders are monitored by checking them on a regular systematic basis. This is done manually or if the computerised courts debtors and payments system has been installed at the registry non compliance of the time to pay order is defaulted automatically by the computer.
- (2) 6850.
- (3) 5.3 FTEs.
- (4) No statistics are kept however estimates obtained from locations statewide indicate the majority would average 6-9 months.
- (5) No statistics are kept however estimates obtained from locations Statewide indicate a variance between 10% to 85% with the majority over 50%.

FINES - ENFORCEMENT FEES

2927. Dr CONSTABLE to the Minister representing the Attorney General:

- (1) Under the Fines, Penalties and Infringement Notices Enforcement Act 1994, what is the maximum amount payable in enforcement fees under Parts 4 and 5 of the Act?
- (2) Since the commencement date of the Act -
 - (a) what amount has been levied and paid by way of enforcement fees under Parts 4 and 5 of the Act; and
 - (b) what has been the actual cost of bringing enforcement proceedings?

Mr PRINCE replied:

The Attorney General has provided the following reply:

- (1) \$20 licence suspension fee.
\$30 warrant of execution fee.
- (2) (a) \$2,476,278
(b) Budget allocation for the Fines Enforcement Registry since January 1995 has been \$2,181,200.

INFRINGEMENT NOTICES, COURT FINES AND ENFORCEMENT FEES - REVENUE

2928. Dr CONSTABLE to the Minister representing the Attorney General:

In each of the last five years, what is the total revenue collected from the payment of -

- (a) infringement notices;
- (b) court fines; and
- (c) enforcement fees in respect to (a) and (b) above?

Mr PRINCE replied:

The Attorney General has provided the following reply:

(a) Infringements

92/93	\$17,007,000
93/94	\$17,072,000
94/95	\$18,226,000
95/96	\$19,480,000
96/97	\$21,978,000

(b) Court Fines (all jurisdictions)

92/93	\$12,137,000
93/94	\$12,275,000
94/95	\$13,372,000
95/96	\$13,248,000
96/97	\$14,068,000

(c) Fees collected by Fines Enforcement Registry since commencement:

January 1995/June 1995	\$442,243
1995/96	\$594,648
1996/97	\$884,062
1997/February 1998	\$555,325

HEALTH BUDGET

2932. Dr CONSTABLE to the Minister for Health:

In each of the last five years -

- (a) what was the State health budget;
- (b) what percentage of the health budget was provided from Commonwealth funds;
- (c) what percentage of the total State Budget did the health budget comprise?

Mr PRINCE replied:

(a) The State Health budget as approved in the published budget paper for the last 5 years were:

	(\$,M)
1997/98	1521.5
1996/97	1467.2
1995/96	1319.2
1994/95	1325.3
1993/94	1301.1

(b) The percentage of Commonwealth funds as approved in the published estimates for the last 5 years were:

1997/98	40%
1996/97	41%
1995/96	44%
1994/95	45%
1993/94	42%

- (c) The percentage of the total Consolidated fund, State budget comprised by Health over the past 5 years were:

1997/98	23%
1996/97	23%
1995/96	23%
1994/95	24%
1993/94	23%

The above figures are based on recurrent expenditure estimates less capital.

SPEEDWAY OR DRAG RACING FACILITY

2937. Dr CONSTABLE to the Parliamentary Secretary to the Minister for Sport and Recreation.:

- (1) Are there any plans to establish a facility at which speedway or drag racing could be conducted in the Perth metropolitan region?
- (2) If yes to (1) above -
 - (a) who is the proponent of the speedway facility;
 - (b) where will the facility be built;
 - (c) who will provide the funds to build the facility; and
 - (d) who will operate the facility?

Mr MARSHALL replied:

- (1) Yes.
- (2) (a) The State Government has responded to approaches from the proprietors of Claremont Speedway and Ravenswood Raceway.
- (b)-(c) Not determined.
- (d) Not decided.

INQUIRIES BY MR GARY BYRON

3004. Mr BROWN to the Minister representing the Attorney General:

- (1) Did the Attorney-General forward a letter to the Member for Bassendean dated 17 February 1997 which dealt with certain inquiries being undertaken by Mr Gary Byron?
- (2) Have all of the inquiries referred to in the letter been completed?
- (3) If so, when were the inquiries completed?

- (4) What conclusions did the inquiries reach?
- (5) Has the Ministry of Justice and/or the Minister endorsed the results of the inquiries?
- (6) If not, what position has the Minister and/or the Ministry taken on the findings of the inquiries?
- (7) Have all the administrative actions in relation to the inquiries been concluded?
- (8) If so, when?
- (9) If not, what issues remain unresolved?

Mr PRINCE replied:

The Attorney General has provided the following reply:

- (1) Yes.
- (2) No.
- (3) The majority have been completed, some are still outstanding.
- (4) Most matters have been resolved satisfactorily, some are still being resolved.
- (5) The Director General of the Ministry of Justice has endorsed the findings to date.
- (6) Not applicable.
- (7)-(9) There are still some issues the subject of Anti-Corruption Commission inquiries. Other matters outstanding relate to Mr Colin Whittaker. In particular those matters concerning:

His claim for loss of access to a government vehicle;

The state of his office after the search conducted by the Police Task Force in February 1995; and

The tabling of the Report of the Director of Public Prosecutions on 20 November 1995.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3019. Mr BROWN to the Premier; Treasurer; Minister for Public Sector Management; Federal Affairs:

- (1) In any of the departments or agencies under the Premier's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?
- (2) Have any plans been made to contract such work out over the course of 1998?
- (3) What work is planned to be contracted out?
- (4) Has any department or agency contracted any work out since 1 July 1997?
- (5) What work has been contracted out?

Mr COURT replied:

- (1)-(5) As part of normal business management, government departments and agencies continuously review

opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant outsourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3020. Mr BROWN to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

- (1) In any of the departments or agencies under the Deputy Premier's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?
- (2) Have any plans been made to contract such work out over the course of 1998?
- (3) What work is planned to be contracted out?
- (4) Has any department or agency contracted any work out since 1 July 1997?
- (5) What work has been contracted out?

Mr COWAN replied:

Department of Commerce and Trade

- (1)-(2) Yes.
- (3) Assessment of applications for grants and loans under the Aboriginal and Torres Strait Islander Commission's business programs. Preparation of non-priority economic and country briefing notes and the maintenance of the statistical data base.
- (4) Yes.
- (5) Intellectual Property Support Program.

Small Business Development Corporation

- (1) The Small Business Development Corporation has no plans to contract out to the private sector any specific services or functions currently carried out by corporation staff. However, the opportunity will be taken to regularly evaluate the prospect of contracting out services and functions in the interest of efficient and effectiveness.
- (2)-(3) Not applicable.
- (4) Yes.
- (5) The Small Business Development Corporation has contracted out its internal journal subscription management service and information technology help desk support.

Perth International Centre for Applied Solar Energy

- (1)-(2) No.

(3) Not applicable.

(4) No.

(5) Not applicable.

Gascoyne Development Commission

(1)-(2) No.

(3) Not applicable.

(4) No.

(5) Not applicable.

Goldfields-Esperance Development Commission

(1)-(2) No.

(3) Not applicable.

(4) Yes.

(5) Personnel processing.

Great Southern Development Commission

(1) Yes.

(2)-(3) Consideration is being given to contracting out the preparation of the financial statements for the 1997-98 year.

(4) No.

(5) Not applicable.

Kimberley Development Commission

(1)-(2) Yes.

(3) Corporate Newsletter production.
Year 2000 problem - risk assessment.

(4) Yes.

(5) Design - Internet web site.

Mid West Development Commission

(1)-(2) No.

(3) Not applicable.

(4) No.

- (5) Not applicable.

Peel Development Commission

- (1)-(2) No.

- (3) Not applicable.

- (4) No.

- (5) Not applicable.

Pilbara Development Commission

- (1)-(2) Yes.

- (3) Personnel processing services.
Some promotional activities.
Review of the Pilbara Development Commission workplace agreement.
Development of a communications plan.
Internal audit.
Some corporate services functions.

- (4) Yes.

- (5) Accounting processing and accounts database maintenance.
Promotional activity.

South West Development Commission

- (1) No.

- (2)-(5) Not applicable.

Wheatbelt Development Commission

- (1)-(2) Yes.

- (3) Web Page design and maintenance, secretarial work and financial statements.

- (4) Yes.

- (5) Clockworks - Human Resource Management - maintenance, payroll, computer maintenance, gardening and cleaning.

GOVERNMENT DEPARTMENTS AND AGENCIES - CONTRACTS

3031. Mr BROWN to the Minister for Works; Services; Multicultural and Ethnic Affairs; Youth:

- (1) In any of the departments or agencies under the Minister's control, are there any plans to contract out to the private sector any services or functions currently being carried out by the public sector workforce?
- (2) Have any plans been made to contract such work out over the course of 1998?
- (3) What work is planned to be contracted out?

- (4) Has any department or agency contracted any work out since 1 July 1997?
- (5) What work has been contracted out?

Mr BOARD replied:

- (1)-(5) As part of normal business management, government departments and agencies continuously review opportunities to improve the efficiency of services and functions currently being carried out by the public sector workforce. This includes consideration of contracting out to the private sector. The Government's approach is that the decision to contract out services and functions is made at agency level to suit agency needs. Since July 1997 many agencies have contracted out work previously performed by the public sector workforce. This ranges from small and routine functions contracted out to release skilled public sector staff for higher value work in their agencies, to significant out sourcing projects where moving functions and staff to the private sector has resulted in better service and value for money to the community. Agencies normally disclose their key contracting processes as part of their annual reporting process.

WESTRAIL PRIVATISATION

3047. Mr GRILL to the Minister representing the Minister for Transport:

- (1) Is the Minister aware of rumour circulating concerning the possible privatisation of large parts of the Westrail operation?
- (2) Is it correct that at least three companies including one American company have been involved in negotiations with Westrail staff concerning possible privatisation?
- (3) What are Government plans concerning further privatisation of Westrail?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1)-(3) I presume the member is referring to tenders recently called by Westrail for consultants to undertake a scoping study into the potential for changes in ownership of the organisation. As a result of its modernisation program, Westrail's operations are now highly efficient and profitable. As such, it is in Western Australia's best interests to canvass options for ownership of the organisation. Therefore, in 1997 Westrail commissioned a pre-feasibility study to assess the commercial opportunities of the organisation and to outline some of the issues requiring further resolution. The results of that study suggested that there was merit in considering the changes for ownership of the organisation. Accordingly, tenders were called for scoping study proposals to fully investigate the issues involved and to develop a firm plan of action. Those tenders closed on February 10 1998. A total of twenty five tenders, including two from companies based in the United States of America, have been received and are currently being evaluated. The evaluation process includes presentations from short-listed tenderers. As of March 18 1998 negotiations have not been entered into with any of the tenderers. When the scoping study has been completed, the results will be presented to Government for consideration and a decision on whether to proceed further.

DOMESTIC VIOLENCE - LEGAL SERVICES FOR VICTIMS

3051. Ms WARNOCK to the Minister representing the Attorney General:

- (1) Does the Government plan to provide legal services to victims of domestic violence through Legal Aid?
- (2) If not, why not?
- (3) Does the Domestic Violence Prevention Unit provide training services about a victim's legal rights and responsibilities?
- (4) If not, why not?

Mr PRINCE replied:

The Attorney General has provided the following reply:

- (1) The Legal Aid Commission has a Domestic Violence Legal Unit comprising two solicitors, a co-ordinator and secretary who provide legal services to victims of domestic violence.
- (2) Not applicable.
- (3)-(4) The Domestic Violence Prevention Unit falls within the responsibility of the Minister for Women's Interests. I therefore suggest that the member redirect this question.

HERITAGE COUNTRY INTEGRATED TRANSPORT STRATEGY

3059. Ms McHALE to the Minister representing the Minister for Transport:

I refer to the Heritage Country Integrated Transport Strategy launched recently by the Minister and ask -

- (a) what are the Land Use Assumptions underpinning the Transport study; and
- (b) how were these Land Use Assumptions determined?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (a)-(b) The land use assumptions were based on the Metropolitan Region Scheme, the corridor structure planning and other structure planning undertaken by the Western Australian State Planning Commission and Local Governments.

UNION DUES

Deduction for Payrolls

3070. Mr KOBELKE to the Premier:

- (1) Was it a formal Cabinet decision to order all Government agencies to cease deduction of union dues arrangements from the first pay period after 1 January 1998?
- (2) If so, then what was the date of the Cabinet meeting at which this decision was taken?

Mr COURT replied:

- (1) Yes.
- (2) It is not customary for the Government to advise the Opposition of the detail of Cabinet deliberations.

ROYAL PERTH YACHT CLUB - MEWS ROAD CAR PARK

3096. Mr McGINTY to the Minister representing the Minister for Transport:

- (1) What are the leasing arrangements whereby the Royal Perth Yacht Club (RPYC) has fenced off the former public car park adjacent to Mews Road, with barbed wire and razor wire?
- (2) As the former public car park is underutilised for parking and as there is a chronic shortage of public parking in the area, does the Department of Transport have any plans to open the car park to the public?

- (3) What lease fee is paid by the RPYC for use of the car park?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) The land area you refer to, which is not included in the head lease, was leased to the Club on 1 January 1990 for a term of five years. The Club has retained this area since 1 January 1995 on a monthly tenancy.
- (2) The majority of the above lease area has been surrendered and the Department of Transport has planned to develop 30 public parking bays in this area.
- (3) \$2 000 per annum.

ROYAL PERTH YACHT CLUB - JETTY D, CHALLENGER HARBOUR

3097. Mr McGINTY to the Minister representing the Minister for Transport:

- (1) Has Jetty D in Challenger Harbour been leased to the Royal Perth Yacht Club?
- (2) If so, what are the terms and conditions of the lease?
- (3) What consultation occurred with shareholders in Challenger Harbour before decisions to lease Jetty D were taken?
- (4) Why did the current leaseholders first hear about the lease arrangements when they were told to move from their leased places on Jetty D by the end of March?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) Yes.
- (2) The lease of D Jetty has been formalised as an extension to the Club's existing sea bed lease with similar terms and conditions. A copy of the lease can be supplied to the member if required.
- (3) Consultation dates back to 1995 when local stakeholder groups, including the Fremantle Cruising Yacht Club, Challenger Harbour Preservation Group, Royal Perth Yacht Club, Challenger Harbour Accommodation Units, River Yacht Clubs and the City of Fremantle were included in discussions regarding the lease options for jetty facilities. Stakeholder groups have been frequently consulted since this time regarding development options and proposals at the harbour.
- (4) The Department consulted with the representatives of the stakeholder groups on the understanding that information would be passed on to the end users of the facilities. Some vessel owners currently mooring their vessel on D Jetty have been asked to consider various alternative mooring location options on the other three jetties to allow access to D Jetty for the construction of pens for the Club.

ROYAL PERTH YACHT CLUB - ANNUAL LEASE FEE

3098. Mr McGINTY to the Minister representing the Minister for Transport:

What is the annual lease fee payable by the Royal Perth Yacht Club for their annexe in Fremantle Challenger Harbour and associated area?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

\$39 476 per annum.

PLEASURE CRAFT - EMERGENCY POSITION INDICATING RADIO BEACONS

3101. Mr McGINTY to the Minister representing the Minister for Transport:

Does the Government propose to require pleasure craft to carry an EPIRB when travelling in Cockburn Sound or to Thompsons Bay on Rottnest Island?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

The new regulations governing EPIRBs, which take effect on 1 October 1998 will exempt vessels from the carriage of EPIRBs while travelling in Cockburn Sound, to Thompson Bay on Rottnest Island, and a 400 metre perimeter from the shoreline of Rottnest Island.

LOT 778, PLAN 62880, CANNING LOCATION 37 - FENCE DEMOLITION

3102. Mr PENDAL to the Minister for Lands:

- (1) I refer to Lot 778 on Plan 62880 and being Portion of Canning Location 37 and ask, by whose and what authority does the new owner of a neighbouring property demolish a dividing fence and partially erect a replacement, creating a dog-leg which is inconsistent with the lines on the title deed?
- (2) What recourse does an owner have against such action when the owner -
 - (a) believes the new fence is illegal; and
 - (b) has been told of the principle of adverse possession?
- (3) Can the department arrange a site visit to mediate to avoid future complications over boundaries in the area, given that the owner of Lot 778 has lived there for some 17 years?

Mr SHAVE replied:

- (1) A search of land title records indicates that there is no Plan 62880. Replacement, maintenance and construction of dividing fences is provided for in the Dividing Fences Act which is administered by the Minister for Local Government. The first step in a dispute about the location of a dividing fence would be to employ a surveyor to ascertain the correct location of the boundary in relation to a dividing fence.
- (2)
 - (a) If the owner believes the fence to be "illegal", he or she should consult with their Local Government Authority to ascertain whether it meets the relevant regulation.
 - (b) A proprietor seeking to apply for adverse possession would need to seek appropriate legal advice.
- (3) No.

ROAD OFFENCES - INCREASED PENALTIES

3113. Mr BROWN to the Minister representing the Minister for Transport:

- (1) Has the Government increased the penalties on certain road offences?

- (2) How many penalties have been increased?
- (3) What is the nature of each penalty?
- (4) How much is each penalty being increased by?
- (5) Have the penalties been increased for the purpose of raising Government revenue?
- (6) Why has the Government resorted to increasing penalties rather than raising revenue in the normal way?
- (7) Has the Government given any consideration to the manner in which the increased penalties will impact on people with low incomes?
- (8) Are the increased penalties seen as a deterrent?
- (9) Does the Government have any evidence that the increased penalties will act as a deterrent in relation to those people with substantial incomes?
- (10) What evidence does the Government have to support this contention?
- (11) Why has each penalty been increased?
- (12) Have the penalties been increased to maintain parity with penalties in New South Wales as publicly claimed by the Premier?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) Following a comprehensive review by the Road Safety Council and the Ministerial Council on Road Safety, the Government increased the penalties of particular traffic offences to better reflect the seriousness of those offences. These increases became effective from the 1 January 1998, following debate in the 1997 Spring session of Parliament.
- (2) The majority of penalties in the Road Traffic Act and Regulations have been increased as per the Road Traffic Amendment Bill 1997. Increases were based on the relative crash risk of the particular offences.
- (3)-(4) The regulations are currently being scrutinised by the Joint Standing Committee on Delegation of Legislation. Any enquiries regarding specific content should be directed to that body.
- (5) No. Penalties had not been increased for a considerable number of years and had lost their value as deterrents. The recent increases are a countermeasure to the high-risk road user behaviour which causes immeasurable grief to families and an associated economic cost to the community, through road trauma on Western Australian roads. An additional reason for amending the individual penalties was to achieve parity with other jurisdictions and national consistency. Western Australian penalties had reached a stage where they were significantly lower than other jurisdictions.
- (6) The Government has reviewed penalties for traffic violations as part of a major initiative to help change high-risk behaviour of road users and thereby reduce the high personal and community loss resulting from road crashes.
- (7) People incur penalties for engaging in high-risk behaviours on the road. A road user can avoid penalties altogether by simply obeying the current rules and reducing those risk behaviours. Therefore the relative capacity of a person to pay a particular fine is not relevant.
- (8) Yes. The increases will assist in modifying the types of behaviour which place road users at a higher risk of being involved in a crash, or at a higher risk of being more seriously injured as the result of a crash.

Increased penalties have been an important component of an overall strategy to reduce road trauma in this State. Major community education campaigns backed up by enforcement form the major components of this strategy.

(9)-(10)

Yes. Fines for traffic violations are part of an overall package of penalties (backed up by community education campaigns) aimed at deterring road users from engaging in high-risk behaviour. The imposition of demerit points and/or driver's licence suspensions are also used to deter certain categories of road users from continuing to behave in an unsafe manner. The State of Victoria has reduced fatalities by 51 per cent over a ten year period and serious injuries by 36 per cent over the same period (1987-1997) by a combination of increased penalties for high risk behaviour and investments in areas such as speed cameras and booze buses. This reduction was achieved across all income sectors of the community.

(11) Refer to response to questions (5) and (9).

(12) Both the current penalties applicable in other jurisdictions and their respective road safety records were examined in the analysis stage of this initiative. The increases introduced for Western Australia were based upon a number of factors including an aim to achieve national consistency and parity with other states, as well as addressing high risk behaviour.

BOAT LICENCES

3114. Mr BROWN to the Minister for Water Resources:

- (1) Has the Government given consideration to introducing or expanding boat licences?
- (2) What consideration has been given?
- (3) Has the idea of requiring or expanding the use of boat licences been promoted as a revenue raising measure?
- (4) If not, why are boat licences being considered?
- (5) How many boat incidences caused a concern in the 1996-97 financial year?
- (6) What was the nature of the concern?
- (7) How will a boating licence overcome such concerns?
- (8) What is the anticipated number of boats used solely for recreational purposes in Western Australia?
- (9) How many boats in this class caused problems in the 1996-97 financial year?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) The Government has not yet considered introducing recreational boat drivers' licensing.
- (2) The National Marine Safety Committee, on which Western Australia is represented, is currently developing nationally agreed principles for the issue of recreational boat drivers licences. The purpose of this initiative is to promote recognition between those jurisdictions that do have a licensing system in place.
- (3) No.
- (4) See (1).

- (5) There were over one thousand reported incidents involving recreational vessels requiring assistance in 1996/97.
- (6) For many years, concerns have been expressed by members of the boating community, the marine industry and government agencies with an interest in marine safety about the general standard of recreational boat operators. In addition, the Coroner has, on a number of occasions, recommended that consideration should be given to the introduction of a recreational boat drivers' licensing system.
- (7) Transport has not yet developed a policy with regard to boat drivers licensing. Those States that already have such a scheme in place consider that their licensing systems promote a higher level of competence and knowledge amongst boat operators.
- (8) There are currently over 57 000 registered recreational vessels in Western Australia.
- (9) In addition to the reported incidents mentioned in item (5) above, the Department of Transport receives over 150 complaints regarding breaches of regulations and a lack of understanding of safe boating practices.

WESTRAIL EMPLOYEES - SUICIDES AFTER REDUNDANCY

3119. Mr BROWN to the Minister representing the Minister for Transport:

- (1) Has the Government carried out any research to ascertain the number of former Westrail employees who committed suicide after being made redundant or offered "voluntary redundancy"?
- (2) If so, what is the number of former employees who have committed suicide?
- (3) Over what period of time was the data gathered?
- (4) If no research has been undertaken, does the Government intend to carry out any research?
- (5) If not, why not?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) As Minister for Transport I have not initiated any such research and I am not aware whether such research has been carried out by other areas of the Government.
- (2)-(3) Not applicable.
- (4) There is no intention for such research to be undertaken within my Ministerial portfolio.
- (5) Westrail's voluntary severance scheme is administered in accordance with the Public Sector Management Act 1994. Under the requirements of the Act no employee can be forced to leave the service of the Government on the basis of his or her position becoming redundant. The options of retraining, redeployment and voluntary severance are available to all employees who are displaced as a result of their position becoming redundant. Employees considering accepting a voluntary severance package from Westrail are advised to seek independent financial advice. Westrail provides extensive support services for its displaced employees, including:

A counselling service provided by qualified and experienced practitioners.

Access to a Career Guidance and Job Search Training Program. Staff who participate in the Voluntary Severance Program are able to attend a 12 week Outplacement Program to obtain the skills necessary to find alternative employment including:

- Skill identification training.
- Job search skills.
- Preparation of resume and statements to address selection criteria.
- Interview presentation.

BRAND HIGHWAY UPGRADING

3121. Mr BROWN to the Minister representing the Minister for Transport:

- (1) Has a section of the Brand Highway north of Gingin and stretching for approximately 13 kilometres been upgraded since 1994?
- (2) When was the work undertaken?
- (3) Who undertook the work?
- (4) What was the cost of the work?
- (5) What was the nature of the work undertaken?
- (6) Was the work undertaken successfully, creating a good road for that stretch of the highway?
- (7) Has that section of the highway deteriorated?
- (8) Does that section of the highway, or parts of it, have an undulating and corrugated surface?
- (9) Was the work undertaken only of temporary or minor nature?
- (10) Was it the expectation of Main Roads Western Australian that the work undertaken would provide a decent road for that section of the highway for the next five, ten or twenty years.
- (11) If not, what period of time did Main Roads Western Australia expect the highway upgrade to last?
- (12) Was it expected to provide a decent surface for more than two to three years?
- (13) Why has the road deteriorated to such a condition?
- (14) What remedial action has the Government taken to have the matter resolved?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1)-(2) The Beermullah Deviation and Brand Highway was upgraded in 1993. The final seal was applied in February 1995.
- (3) Pioneer Road Services.
- (4) \$214 099.
- (5) Final seal.
- (6) Yes.
- (7)-(10) No.

(11)-(12)

Thirty years.

(13)-(14)

Not applicable.

LEAD TOXICITY - CHILDREN IN WYNDHAM

3127. Dr EDWARDS to the Minister for Health:

- (1) With respect to question on notice No. 746 of 1997, and the investigation of heavy metal contamination in soils and in sediments around the Port of Wyndham, will monitoring of blood levels in children in Wyndham be recommended?
- (2) If not, why not?
- (3) Will the Minister table the results of tests carried out by the Kimberly Public Health Unit into the blood levels of children in the Kimberly region?

Mr PRINCE replied:

- (1) No, but opportunistic testing for lead is available through the Wyndham Hospital to any parent who has concerns about the health of their children. This service is free of charge.
- (2) Designing of a testing program would be problematic and likely not to yield any useful information. It would require a cohort of children exposed to the lead concentrate transit through Wyndham for a full 2-5 year period to address any question of excess lead levels. Any such group has now grown older and dispersed. A cross sectional survey of children less than five now resident in Wyndham would include some children with only minimal or no exposure. The group may be so small as to not be useful for analysis. Finally, there are no data as to levels prior to exposure with which to compare. For these reasons no program of testing or research has been planned in Wyndham.
- (3) The report is readily available to the public and can be obtained from the Kimberley Public Health Unit or the Shire of Derby West Kimberley.

PLEASURE BOATS - DIVE FLAG EXCLUSION ZONE

3129. Mr McGINTY to the Minister representing the Minister for Transport:

- (1) How many reports has the Department of Transport received this summer of pleasure boats intruding into the 50 metre exclusion zone around boats displaying the internationally recognised dive flag?
- (2) How does this figure compare with previous years?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) Four.
- (2) (a) Nil for 1 July 1996 to 30 June 1997.
(b) No statistics prior to 1 July 1996 as new computer program came online then.

ROAD AWARENESS - TELEVISION ADVERTISING

3132. Mr BROWN to the Minister representing the Minister for Transport:

- (1) Further to question on notice No. 2360 of 1997, will the Minister advise if any television advertisements were -
 - (a) prepared;
 - (b) shown,as part of road awareness month?
- (2) What was the total cost of -
 - (a) production of such advertisements;
 - (b) televising of such advertisements?
- (3) What was the essential theme of the advertisements?
- (4) Are copies of the advertisements publicly available?
- (5) If so, where?
- (6) Of the \$128 814-74 spent on the Fix The Roads Campaign in the 1996-97 financial year, was any of that money used in any way in the production of the advertisements used or then planned to be used as part of the Road Awareness Month?
- (7) If not, was any of that money used to produce any television advertisements or film or video which promoted the Fix The Roads Campaign message?
- (8) If so, what film or video was produced?
- (9) Is a copy of that film or video publicly available?
- (10) If so, where?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) (a)-(b) Yes.
- (2) (a) \$31 007. The advertisements were also used elsewhere.
(b) \$68 383 for Road Awareness Month.
- (3) Better roads reduce pollution, the cost of living and improve road safety. Road maintenance and road construction provides sustained employment.
- (4) Yes.
- (5) From the Fix Australia Fix the Roads Steering Committee.
- (6)-(7) No.
- (8)-(10) Not applicable.

FIX THE ROADS CAMPAIGN

3133. Mr BROWN to the Minister representing the Minister for Transport:

- (1) Further to question on notice No. 1093 of 1997, was any of the amount of \$82 610 spent on the Fix The Roads Campaign incurred prior to the date of the 1996 Federal election?
- (2) Was the total amount of \$82 610 spent on work commissioned after the date of the Federal election?
- (3) How much of the work paid out of the \$82 610 was -
 - (a) incurred;
 - (b) ordered;
 - (c) commissioned;

prior to the 1996 Federal election date?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1)-(3) The information is not readily available. However, expenditure on the Fix Australia Fix the Roads Campaign to June 30 1998 is expected to total \$1 155 575 over the five financial years 1993-94 to 1997-98.

Before March 2 1996 Federal Election	572 965
After March 2 1996 Federal Election	582 610
Total	1 155 575

This is not a campaign which stops and starts from one election to the next or one financial year to the next. The member should be aware by now that the Fix Australia Fix the Roads campaign continues to highlight the problems faced by the nation's road system regardless who is in power in Canberra. The Fix Australia Fix the Roads Committee would be happy to brief the member, just as it briefed the Opposition's spokesperson on Transport last year. By the end of the current financial year almost equal amounts will have been spent before and after the 1996 Federal election, with slightly more having been spent during the current Federal Government's term. It is estimated that there is annual shortfall in funding for roads across Australia of \$2.5 billion for the next ten years.

The Federal Government collects around \$10 billion per year from road users and returns only \$1.6 billion to the States and Territories for road improvements. The amount provided to the States has been reduced over recent years, while our Government has increased road funding from around \$320 million in 1992/93 to over \$550 million this year.

GOVERNMENT DEPARTMENTS AND AGENCIES - NATIONAL POLICY BODIES

3158. Mr BROWN to the Minister representing the Minister for the Arts:

- (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?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

Ministry for Culture & the Arts

- (1) One.
- (2) Cultural Ministers Council.
- (3) One.
- (4) No.
- (5) Not applicable.

Library & Information Service of Western Australia

- (1) Three.
- (2)
 - (a) The Council of Australian State Libraries.
 - (b) The Council of Federal, State and Territory Archives.
 - (c) The Australian Council of Archives.
- (3)
 - (a) Three.
 - (b) Two
 - (c) One
- (4) (a)-(c) No.
- (5) (a)-(b) Not applicable.

Western Australian Museum

- (1) Eight.
- (2)
 - (a) Meetings of the State Delegates to the Minister responsible for the Historic Shipwrecks Act.
 - (b) Council of the National Centre of Excellence in Maritime Archaeology at the Western Australian Maritime Museum.
 - (c) National Committee of Threatened and Endangered Fishes.
 - (d) National Committee for Animal and Veterinary Sciences Australian Academy of Science.
 - (e) National Cultural Heritage Committee.
 - (f) Heritage Collections Council (and its constituent working groups).
 - (g) National Museum of Australia.

(h) National Portrait Gallery.

(3) Yes.

(4) No.

(5) Not applicable.

Screen West

(1) One.

(2) Screen Finance Group.

(3) Yes.

(4) No.

(5)(a)-(b) Not applicable.

Art Gallery of Western Australia

(1) None.

(2)-(5) Not applicable.

Perth Theatre Trust

(1) None.

(2)-(5) Not applicable.

NATIONAL COMMISSION OF AUDIT - JOINT SUBMISSION

3167. Mr BROWN to the Premier:

(1) Did the Western Australian Government participate in the formulation of the May 1996 States and Territories Joint Submission to the National Commission of Audit?

(2) If so, did the Government formally participate in the development of that submission by presenting a paper or submission to the other States and Territories or some of them?

(3) If so, when was that paper(s) prepared and forwarded to the other State(s) and Territories?

(4) Is a copy of that paper(s) publicly available?

(5) If not, why not?

Mr COURT replied:

(1) Yes.

(2) Western Australia coordinated on behalf of Premiers and Chief Ministers a joint submission to the National Commission of Audit.

(3) The submission was prepared and forwarded to all States and Territories in May 1996. The States and

Territories expressed their appreciation for the efforts undertaken by Western Australia in coordinating production of the submission and in achieving broad consensus on the issues addressed.

- (4) The submission is publicly available. A copy was sent to the member for Bassendean on 3 September 1997.
- (5) Not applicable.

COMMONWEALTH GRANTS

3168. Mr BROWN to the Treasurer:

- (1) Did the Western Australian Government participate in the May 1996 States and Territories joint submission to the National Commission of Audit?
- (2) If so, did that submission observe that as a share of Commonwealth taxes, Commonwealth grants to the States has fallen from 35.7 per cent in 1982-83 to 27.7 per cent in 1995-96?
- (3) As a share of Commonwealth taxes, did Commonwealth grants to the States in the 1996-97 financial year increase, decrease or remain the same in percentage terms when compared to the previous financial year?
- (4) What was the share, in percentage terms, of Commonwealth taxes received by the States in the form of grants in the 1996-97 financial year?

Mr COURT replied:

- (1) Yes.
- (2) Yes, but due to revisions in the data, the result for 1995-96 is 28.1%.
- (3) Decrease.
- (4) 26.7%.

BUSINESS TRAVEL INTERNATIONAL - DOMESTIC AIR TRAVEL CONTRACT

3207. Mr GRAHAM to the Premier:

- (1) What is the annual cost (in dollars) to the Government of the domestic air travel contract with Business Travel International (BTI)?
- (2) What is the estimated annual return (in dollars) to the Government of rebates from the major airlines and their affiliates?
- (3) Were any rebates received by Government from the major airlines and their affiliates prior to the introduction of the contract with BTI?
- (4) If no to (3) above, why did the Government not negotiate rebates?
- (5) If yes to (3) above -
 - (a) how much (in dollars) did the Government receive in rebates each year;
 - (b) how was the rebate paid to the Government?

Mr COURT replied:

- (1) The contract is held jointly by BTI and American Express. There is no set dollar cost to Government. BTI

and American Express can earn up to 5% of the value of fares ticketed, dependent on meeting specified performance standards.

- (2) Savings of up to \$7 million are targeted through a combination of discount fares and rebates, based on a benchmark total full fare value of \$30 million.
- (3) Yes.
- (4) Not applicable.
- (5) (a)-(b) Government previously received about \$5.4 million in savings through a combination of discount fares and rebates. Discounts were automatically received at the time of ticketing, while rebates were applied on monthly statements from Ansett.

CARVIE STREET/ENNIS AVENUE, HILLMAN - TRAFFIC LIGHTS

3209. Mr McGOWAN to the Minister representing the Minister for Transport:

- (1) When will the promised upgrade to the traffic lights on the corner of Carvie Street and Ennis Avenue, Hillman take place?
- (2) When will the right hand intersection arrow turning into Hillman be installed?
- (3) What is the cost of this project?
- (4) If delayed, what is the cause of the delay?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1)-(2) Right turn arrows and pedestrian phases are programmed for installation in July 1998.
- (3) \$30 000.
- (4) The work has not been delayed.

COCKBURN SOUND HARBOUR

3216. Mr McGOWAN to the Minister representing the Minister for Transport:

- (1) What are the State Government's plans in relation to a harbour development in the southern region of Cockburn Sound?
- (2) Will this harbour be constructed with private or public funds?
- (3) What is the total projected cost of this harbour?
- (4) Will this harbour encroach on any land currently occupied by BO or used by BP Refinery?
- (5) Will this harbour encroach on any areas of seabed or sea currently occupied or used by BP?
- (6) When is it expected that this harbour will be constructed?
- (7) What sort of consultations have been taking place with local community groups?
- (8) What sort of consultations have been place with BP?

- (9) At what date did these consultations take place with BP?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) The Government has invited expressions of interest from the private sector to build, own and operate a new port facility in the Naval Base area of Cockburn Sound.
- (2) Private funds.
- (3) The cost has not been identified at this stage of the process.
- (4) The Government requires that the port facility be established at a location within a four kilometre section of the coast, which is defined by James Point in the south and the northern land boundary of Alcoa in the north. The specific location of the port facility has not been identified at this stage of the process, so it is not possible to comment on whether the harbour will encroach on land currently occupied by BP or used by the refinery.
- (5) The Government requires that the port facility be established at a location within a four kilometre section of the coast, which is defined by James Point in the south and the northern land boundary of Alcoa in the north. The specific location of the port facility has not been identified at this stage of the process, so it is not possible to comment on whether the harbour will encroach on any area of seabed or sea currently occupied or used by BP.
- (6) While the Government has not been prescriptive at this stage about the time table for construction of the new port facility, it is possible that construction could commence during 1999.
- (7) The Minister for Transport has issued an open invitation for local community groups to request personal briefings by members of his staff on the proposed port development at Naval Base/Kwinana. A number of local community and industry groups have received briefing during the past few months.
- (8) A group comprising of representatives from the Department of Resources Development, Main Roads WA, the Minister for Transport's Office and the Department of Transport visited the BP refinery and provided a briefing to senior managers.
- (9) 22 January 1998.

HAMPTON ROAD, FREMANTLE - SCHOOL CROSSING FACILITIES

3219. Mr McGINTY to the Minister representing Minister for Transport:

- (1) Is the Minister aware of the inadequate street crossing facilities on Hampton Road, Fremantle for students attending Beaconsfield Primary School?
- (2) What action is the Minister proposing to prevent a traffic tragedy among school children crossing this busy road?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1) I am told that concerns have been raised.
- (2) The site will be investigated forthwith to see whether a Warden Controlled crossing is warranted.

HAMPTON ROAD, FREMANTLE - TRAFFIC CALMING STUDY

3226. Ms MacTIERNAN to the Minister representing the Minister for Transport:

- (1) How many companies tendered for the contract to conduct a study of traffic calming in Hampton Road, Fremantle?
- (2) Which company won the tender?
- (3) What other contracts does the successful company currently have with the Department of Main Roads?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1)-(3) This work was carried out as a variation to a larger detailed planning and preliminary design contract.

MILITARY TATTOO - FUNDING

3231. Ms McHALE to the Minister representing the Minister for Arts:

- (1) What Government funding was provided to stage the 1997 Military Tattoo from the Arts portfolio budget?
- (2) Did Arts WA recommend against providing funding for this event?
- (3) If so, on what grounds?
- (4) On what date was it decided to provide funding?
- (5) On whose authority was funding provided?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following response:

- (1) \$4,000.
- (2) The multi-arts advisory panel of ArtsWA made a recommendation not to fund this project for the initial request of \$12,000.
- (3) The arts development content of the submission was not sufficient to warrant the level of funding requested.
- (4) 11 November 1997.
- (5) The Acting Director, ArtsWA in consultation with the Minister for the Arts and the Acting Director General of the Ministry for Culture & the Arts.

MINISTRY OF FAIR TRADING - STAFF

3234. Ms MacTIERNAN to the Minister for Fair Trading:

- (1) With respect to staff employed by the Ministry for Fair Trading what are the total staff levels?
- (2) How many staff are currently employed in an 'acting' capacity?

- (3) How many staff are on short term contracts?

Mr SHAVE replied:

I have been provided with the following information by the Ministry of Fair Trading:

- (1) The number of full time equivalent (FTE) staff paid in the pay period ending 19 March 1998 was 212.92. This figure includes 44.43 FTE's which are externally funded and located in the Real Estate Industry Business Unit and the Housing and Real Estate Policy Directorate.
- (2) Forty-one staff currently receive higher duties allowance for acting in positions which are classified higher than their own substantive levels.
- (3) Forty-four staff are employed on contracts for periods of 12 months or less.

"PHANTOM OF THE OPERA" - OPPORTUNITIES FOR WA ARTISTS

3237. Ms McHALE to the Minister representing the Minister for the Arts:

- (1) I refer to the Minister's media statement dated 10 February 1998 on the staging of the *Phantom of the Opera* in Perth and ask the Minister explain what skill development opportunities there will be for Western Australian artists?
- (2) Can the Minister advise if these opportunities are for professional Western Australian Artists and/or Western Australian amateur performers?
- (3) Does the Minister expect the Cameron Mackintosh Organisation to be offering employment to Western Australian professional artists?
- (4) If so, can he elaborate on which aspect of the production employment is to be offered to Western Australian Professional Artists?
- (5) Can the Minister advise how much, if any, Government aid, financial or otherwise, has been offered to the Cameron Mackintosh organisation to encourage the presentation of this production in Western Australia?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

- (1) The upcoming Perth season of the national tour of the *Phantom of the Opera* will require the hiring of 14 Western Australian musicians to perform in this world class touring show. Many more local musicians will be involved in the auditions process for these positions. In addition, up to 100 technical staff will be employed in the set up and running of the performance. The pool of talented Western Australian artists and technical personnel who have worked on productions ranging from *Cats* to *The King and I* will welcome the opportunity to return to employment in large scale productions in Perth, and to further their skills in this area. The development of the recently announced new 2000 seat facility at Burswood Showroom will continue to provide these employment and skill development opportunities in large scale productions for Western Australian artists and technical staff.
- (2) No amateur artists will be hired to perform in *Phantom of the Opera*
- (3) See answer to (1).
- (4) See answer to (1). Western Australian professional artists will be hired to perform as musicians in the orchestra performing with the production.

- (5) I am not aware of any government aid of any kind provided to encourage the presentation by Cameron Mackintosh of the *Phantom of the Opera* in Perth.

FREMANTLE HOSPITAL - INTERPRETERS

3243. Mr PENDAL to the Minister for Health:

- (1) How many language interpreters are employed currently at Fremantle Hospital?
- (2) Does the current number differ to that employed in the first half of 1997?
- (3) If interpreter numbers have been cut, what is the rationale behind the change?
- (4) If a reduction of numbers has taken place, have there been specific changes to the ethnic mix of language interpreters?
- (5) Are there less male interpreters employed than females?
- (6) If yes to (5) above, does such a possible gender bias stem from the need to cater for female patients with female interpreters?

Mr PRINCE replied:

- (1) One (1) part time interpreter (45 hours per fortnight).
- (2) No.
- (3)-(4) Not applicable.
- (5) The one interpreter employed is a female.
- (6) Not applicable.

ROCKINGHAM SENIOR HIGH SCHOOL - SPEED LIMIT

3267. Mr McGOWAN to the Minister representing the Minister for Transport:

- (1) Will the Government re-consider its decision not to lower the speed limit on Read Street outside Rockingham Senior High School?
- (2) If not, why not?
- (3) Does the Government acknowledge the speed limit on this road is a potential danger to school students?

Mr OMODEI replied:

The Minister for Transport has provided the following response:

- (1)-(2) Given that Read Street is designed to carry a high volume of traffic, the imposition of an unrealistic speed limit would only have minimal effect on vehicle operating speeds unless constant Police enforcement were provided.
- (3) No. There are two warden controlled children's crossings, to ensure the safety of students crossing Read Street and these are the most appropriate means of providing for their safety. The warden controlled crossings are located near Swinstone Street and Farris Street and each has two attendants.

ALBANY PRISON

Escapes

3280. Mr RIEBELING to the Parliamentary Secretary to the Minister for Justice:

In relation to the Albany Prison how many prisoners escaped from custody in the calendar years -

- (a) 1994;
- (b) 1995;
- (c) 1996;
- (d) 1997; and
- (e) 1998 (to 1 March)?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

- (a) Nil.
- (b) 2 (includes 1 from Albany Hospital).
- (c)-(e) Nil.

ART GALLERY FOUNDATION

Director

3286. Mr RIEBELING to the Minister representing the Minister for the Arts:

- (1) In relation to the position of Director, Art Gallery Foundation, when was this position created?
- (2) Has this position now been advertised?
- (3) If yes to (2) above, who occupies the position?
- (4) If no to (2) above, when will it be advertised?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

- (1) The position of Director, Art Gallery Foundation was established on a temporary basis in January 1997 to take advantage of an offer of a secondee from another government agency. The secondment ended on 6 March 1998.
- (2) No, the position has not been advertised.
- (3) Not applicable.
- (4) As this position no longer exists, it will not be advertised. A new fixed term position of Executive Officer Foundation & Development has been established. It is planned that this position will be advertised pending finalisation of a workplace agreement.

HEALTHWAYS' FUNDING OF EVENTS

3289. Mr BROWN to the Minister for Health:

Did Healthways provide any funding to the events listed below, and if so, what was the extent of their support -

- (a) 1997 World Triathlon Championship;
- (b) 1997 World Windsurfing Championship;
- (c) 1998 Heineken Classic;
- (d) 1998 Hopman Cup;
- (e) 1998 World Swimming Championship; and
- (f) 1997 Rally Australia?

Mr PRINCE replied:

- (a)-(b) Nil.
- (c) \$15,000 - To ensure all marquees and public seated areas were designated as smoke free, and to promote the Smoke Free WA message.
- (d) \$120,000 - To enable the promotion of the Sunsmart message at a major sporting event in Western Australia. This sponsorship involved a wide range of promotional, educational and structural reform strategies.
- (e) \$30,000 - To enable the Asthma Foundation to promote the Swimfit Swimming Helps your Asthma message at a significant international swimming event. This was achieved through a billboard campaign.
- (f) Nil.

TOURISM PORTFOLIO

3305. Mr GRAHAM to the Premier:

What was/were the reasons for the Premier relinquishing the Tourism portfolio to his successor Hon Norman Moore, MLC?

Mr COURT replied:

Hon Norman Moore, MLC became Minister for Tourism as part of a major Cabinet reshuffle in December, 1995.

BENTLEY HOSPITAL

Child and Adolescent Psychiatry Services

3310. Mr McGINTY to the Minister for Health:

- (1) Will the Minister confirm that four Child and Adolescent Psychiatry Service positions at Bentley Hospital will be reduced to one?
- (2) Will the Minister provide an explanation?
- (3) What after hours Child and Adolescent Psychiatric Services are available in the South East Metropolitan Area?
- (4) Are there any changes planned to these services?

Mr PRINCE replied:

- (1) The four positions will be reduced from 4.0 FTE to 1.5 FTE at Bentley Health Service with the remaining 2.5 positions being relocated to the areas of Armadale (2.0 FTE) and Kalamunda (0.5) in order to improve the accessibility of services closer to the clients' homes.
- (2) This will occur in order:
 - To facilitate the development of Community Mental Health Services (which will include community nursing) at Armadale and Kalamunda Health Services in order to provide a local, responsive service with better access for clients who are currently utilising Bentley Health Service.
 - To enable the development of multi-disciplinary services at Armadale and Kalamunda Health Services to provide an integrated and comprehensive service.
 - To facilitate the establishment of the South-East Corridor Child and Adolescent Mental Health Service that will deliver co-ordinated clinical care across this region.
 - To enable the redirection of statewide funds to provide a statewide partial hospitalisation unit targeted to the rehabilitation and treatment of adolescents in the community.
- (3) Telephone Triage is available after hours from Princess Margaret Hospital. Urgent domiciliary assessment is available 7 days a week. Emergency Services are available through PMH and PET.
- (4) The attempt to provide urgent domiciliary assessment will continue, but utilising a full multi disciplinary team not just nursing resources, in order to more effectively case manage the clients and reduce the unacceptably high and inefficient 1:1 dependency ratio.

MUSEUMS AND NON-COMMERCIAL GALLERIES

3311. Ms McHALE to the Minister representing the Minister for the Arts:

What is the Government's policy towards support for museums and non commercial galleries which fall outside of the responsibility of the Art Gallery and Museum of Western Australia?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

ArtsWA provides an annual grant of \$30,000 to Museums Australia for its ongoing operational funding. Non commercial galleries are also eligible for funding through ArtsWA. Museums are eligible for funding available through the Lotteries Commission to Museums Australia.

MUSEUMS AUSTRALIA

Funding

3312. Ms McHALE to the Minister representing the Minister for the Arts:

- (1) What was the funding to Museums Australia for the years -
 - (a) 1996-97;
 - (b) 1995-96;
 - (c) 1994-95; and
 - (d) 1993-94?
- (2) What is the anticipated funding for 1998-99?

- (3) Will the Minister consider increasing the funding to Museums Australia for 1998-99?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

- (1) (a)-(d) \$30,000.
(2) \$30,000.
(3) No.

MINISTER'S FAMILY

Government Credit Card Issue

3333. Mr RIPPER to the Minister for Health:

- (1) Has the Minister's spouse, or any other member of the Minister's family, been issued with a Government credit card?
(2) If yes, who was the card issued to and for what purpose?

Mr PRINCE replied:

- (1) No.
(2) Not applicable.

MINISTER'S FAMILY

Government Credit Card Issue

3339. Mr RIPPER to the Minister representing the Minister for the Arts:

- (1) Has the Minister's spouse, or any other member of the Minister's family, been issued with a Government credit card?
(2) If yes, who was the card issued to and for what purpose?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following reply:

- (1) No.
(2) Not applicable.

ATTORNEY GENERAL'S FAMILY

Government Credit Card Issue

3341. Mr RIPPER to the Minister representing the Attorney General:

- (1) Has the Attorney General's spouse, or any other member of the Attorney General's family, been issued with a Government credit card?

- (2) If yes, who was the card issued to and for what purpose?

Mr PRINCE replied:

The Attorney General has provided the following reply:

I refer the member to my answer to Question on Notice 3339.

MINISTER'S FAMILY

Government Credit Card Issue

3343. Mr RIPPER to the Parliamentary Secretary to the Minister for Justice:

- (1) Has the Minister's spouse, or any other member of the Minister's family, been issued with a Government credit card?
- (2) If yes, who was the card issued to and for what purpose?

Mrs van de KLASHORST replied:

The Minister for Justice has provided the following reply:

I refer the member to my answer to Question on Notice 3339.

SALE OF GOVERNMENT ASSETS OVER \$1 MILLION

3412. Dr GALLOP to the Deputy Premier; Minister for Commerce and Trade; Regional Development; Small Business:

Will the Deputy Premier provide the following details for all Government owned assets sold since January 1993 (excluding land and building sales undertaken in the ordinary course of business, for example land sales undertaken by the Department of Land Administration), in both the general government and government trading enterprise sector of their portfolio areas, which had a sale value of \$1 million or more -

- (a) name and nature of the asset;
- (b) date sold;
- (c) nature of sale and name of buyer;
- (d) proceeds received from the asset;
- (e) associated revenue from the sale, such as stamp duty;
- (f) the application of the funds received; and
- (g) any associated costs incurred in the sale process?

Mr COWAN replied:

Department of Commerce & Trade

(a)-(g) Not applicable.

Small Business Development Corporation

(a)-(g) Not applicable.

International Centre for Applied Solar Energy

(a)-(g) Not applicable.

Gascoyne Development Commission

(a)-(g) Not applicable.

Goldfields Esperance Development Commission

(a)-(g) Not applicable.

Great Southern Development Commission

(a)-(g) Not applicable.

Kimberley Development Commission

(a)-(g) Not applicable.

Midwest Development Commission

(a)-(g) Not applicable.

Peel Development Commission

(a)-(g) Not applicable.

Pilbara Development Commission

(a)-(g) Not applicable.

South West Development Commission

Only asset valued at greater than \$1m was former Westrail land.

(a) Lots 806, 807, 809, 813, 814 vacant lots - former Westrail land.

(b) March 1997.

(c) Contract of Sale/LandCorp.

(d) \$1 026 875.

(e) Not applicable.

(f) Bunbury Harbour City Stage II.

(g) Settlement agent fees.

Wheatbelt Development Commission

(a)-(g) Not applicable.

SALE OF GOVERNMENT ASSETS OVER \$1 MILLION

3421. Dr GALLOP to the Minister for Health:

Will the Minister provide the following details for all Government owned assets sold since January 1993 (excluding land and building sales undertaken in the ordinary course of business, for example land sales undertaken by the

Department of Land Administration), in both the general government and government trading enterprise sector of their portfolio areas, which had a sale value of \$1 million or more -

- (a) name and nature of the asset;
- (b) date sold;
- (c) nature of sale and name of buyer;
- (d) proceeds received from the asset;
- (e) associated revenue from the sale, such as stamp duty;
- (f) the application of the funds received; and
- (g) any associated costs incurred in the sale process?

Mr PRINCE replied:

- (a)
 - (i) Part of Mt Henry Nursing Home site - Canning Location 4095
 - (ii) Healthcare Linen business sale comprising:
 - Plant and equipment
 - Inventories
 - 20 laundry service contracts
 - Lease for land and buildings
- (b)
 - (i) Agreement for sale and purchase was signed 24 June 1997, 50% payment in 1996/97 Settlement date 23 June 1998.
 - (ii) 16 September 1996.
- (c)
 - (i) Land purchase subject to terms and conditions of the Agreement. Purchaser is the Western Australian Land Authority (LandCorp)
 - (ii) Public tender, consortium comprising:
 - Western Pacific Consulting
 - Mr Stan Boskovic
- (d)
 - (i) \$11,760,000
 - (ii) \$8,750,000
- (e)
 - (i) Agreement exempt from WA Stamp Duty.
 - (ii)

Stamp Duty	\$212,649.50
Facility charge	\$75,000
Lease	\$775,000 pa
- (f)
 - (i) Net sale proceeds utilised for State Government Nursing Home Restructure Program as approved by Cabinet.
 - (ii) The sale proceeds were paid to Treasury as this was part of the 1996/97 Treasury Revenue budget for Capital sales.
- (g)
 - (i)-(ii) \$944,000 transition costs.

QUESTIONS WITHOUT NOTICE**NURSES' WORKPLACE AGREEMENT****995. Dr GALLOP to the Premier:**

- (1) Why did the Premier choose April Fool's Day to perpetrate his latest sick joke on the State's hard-working nurses?
- (2) Is his Government not treating nurses with contempt by today offering them the same shabby, recycled workplace agreement that they so flatly rejected in 1995?
- (3) When will his Government show some leadership and solve this dispute?

Mr COURT replied:

- (1)-(3) Unlike the former Labor Government, this Government has a policy of providing regular salary increases to public employees. Negotiations have been completed with the teachers, and a similar proposal has been presented to the nurses. It has been difficult to get the nurses to the negotiating table in respect of a number of issues. Unlike the former Government, this Government has offered a reasonable increase.

Dr Gallop: They rejected it two years ago. When will you show some leadership and solve this problem?

Mr COURT: There have been increases since then, and the Government wants to pay an increase as soon as possible.

PUBLIC HOSPITAL DOCTORS*Pay Increase***996. Dr GALLOP to the Premier:**

Is it the case that doctors in our public hospitals have been offered a pay increase of 15 per cent?

Mr COURT replied:

The doctors have received an increase, with trade-offs involved. We are also prepared to pay an increase to the nurses. At the same time we are prepared to pay a considerably greater increase if there is an agreement with trade-offs involved. Right across the public sector, whether the members opposite like it or not, negotiations now take place on a regular basis where people are quite prepared to have trade-offs and flexibility in their agreements. The Australian Nursing Federation wants a standard agreement across all areas. In government these days there is flexibility.

NATIVE TITLE**997. Mr SWEETMAN to the Premier:**

Can the Premier advise the House on the outcome of a survey commissioned by the Western Australian, Queensland and Northern Territory Governments on native title issues?

Mr COURT replied:

A crucial debate on amendments to the unworkable native title legislation will commence in the Federal Parliament next week. A survey has been carried out, and I will table the results of it. They make it very clear that when the community has an understanding of what is involved in the amendments, there is very strong support for what is being put forward - in particular, the areas about the threshold tests and whether there should a physical, rather than a spiritual, connection to the land; whether a stricter test should be used to ensure only bona fide claims occur; and whether pastoralists and native title claimants should be going through similar approval processes in relation to leasehold land and government owned freehold land. The Labor Party is saying that those lands should be able to be claimed. That is just an absolute

nonsense and is starting to discriminate between different classes of freehold land. In all those areas there is overwhelming support for the proposals in the amendments being put forward by the coalition, which will go into the Senate. The position of the Labor Party on these matters is in direct conflict with the wishes of the great majority of the Australian people. I just hope that next week in the Senate we can get some certainty back into the native title legislation, so we can get on with properly handling our responsibilities for land and resource management in the State.

[The paper was tabled for the information of members.]

GOVERNMENT MEDIA OFFICE

Provision of News Items Free to Private Agencies

998. Mr RIPPER to the Premier:

Notice was given of this question at 10 o'clock this morning.

- (1) Does the Government Media Office provide media monitoring services and audio or video tapes of news items to any private public relations companies, free of charge, on a formal or informal basis?
- (2) If so, which companies have been receiving these taxpayer funded services?
- (3) If the Premier is unaware of such practices, will he inquire into the matter and report back to Parliament?

Mr COURT replied:

- (1)-(3) I will certainly do that. The Government Media Office provides those services to Ministers' offices and to government agencies. I think the member might be referring to the Anti-Corruption Commission. It receives the news summaries and the relevant transcripts from the Government Media Office. As far as I know, that is in accordance with the guidelines that are in place.

GOVERNMENT MEDIA OFFICE

Provision of News Items Free to Private Agencies

999. Mr RIPPER to the Premier:

Can the Premier guarantee that no ministerial officers are giving this information from the Government Media Office to these public relations companies free of charge?

Mr COURT replied:

I cannot guarantee what happens to information when it goes to the Ministers' offices, but if the Deputy Leader of the Opposition wishes, I can make inquiries of the Ministers.

MOSQUITOES

Dawesville-Mandurah Area

1000. Mr MARSHALL to the Minister for Health:

Surprisingly there have been no complaints about mosquitoes in the Dawesville-Mandurah area this summer; in fact, mosquitoes seemingly have left the area. Will the Minister explain if the extra money for spraying or the change of spray has produced this result?

Mr PRINCE replied:

I thank the member for some notice of this question.

Most members will probably not be aware of this: The member for Dawesville never misses a week in reminding me of the mosquitoes in his area. During the months of several past summers he has been on the phone at least every day. There has been a huge problem about which I have answered questions and we have had some debate. There are problems with Ross River virus and other diseases that can be carried by the vectorial mosquitoes in the area. Mosquitoes are almost non-existent this summer. Undoubtedly there are a number of reasons for that. Probably a good deal has to do with tides being lower than predicted. The frequent tidal flooding of the marsh in that area obviously leads to a much larger breeding ground for the mosquitoes. Certainly the lower tides have something to do with climatic changes.

The drop in the number of mosquitoes also has something to do with the use of a new larvicide. As opposed to spraying insects when they are on the wing, the Health Department and local authorities in a combined plan are using the services of some people who are expert at dealing with insects. They have developed a larvicide which operates on the larva and prevents it from mutating into the adult. That has undoubtedly significantly reduced the population of mosquitoes, which is good to see. However, it remains to be seen whether that will keep the population down to acceptable levels in the future. Work is being carried out. It is not that people must put up with it. We are trying to control the menace in acceptable and environmentally friendly ways. There seems to be some reason to say that it has been somewhat successful this summer.

Dr Gallop: Do you intend to write a book too?

Mr PRINCE: The Leader of the Opposition will get one only if he joins the secret squirrel club.

POLICE CORRUPTION

Officers under Investigation

1001. Mrs ROBERTS to the Minister for Police:

Yesterday I asked the Minister how many serving police officers are currently under investigation for corrupt or other improper conduct by the WA Police Service or any other investigative agency. Is the Minister now able to provide an answer to the House?

Mr DAY replied:

I thank the member for some notice of this question.

Information on investigations being undertaken by the Police Service is obviously not held by my office but by the Police Service. I understand that to extract the information is somewhat more complicated than it might appear at first sight and that it requires the modification of a computer program, which is currently being undertaken.

Mrs Roberts: Are there hundreds? Is that what you are talking about?

Mr DAY: I very much doubt it. I regret to say that the information is still not yet available but I am informed by the Police Service that it will be available in time for tabling tomorrow.

Several members interjected.

The SPEAKER: Order!

Mr DAY: I have contacted the Anti-Corruption Commission. It has advised that it will provide relevant information but only in response to a question asked of the Minister responsible for the Anti-Corruption Commission; namely, the Premier. If some notice is given of a question, I am sure it will be answered. The short answer is that I do not know the number of officers involved because the Anti-Corruption Commission has not told me. The Ombudsman's office is currently investigating 57 cases in which a party has requested a review to determine procedural fairness of a Police Service investigation. I make the point to the House that just because a complaint has been made against an officer or officers and an investigation is undertaken, it does not mean that any offence or wrongdoing is necessarily proven.

RANFORD PRIMARY SCHOOL

Construction

1002. Mrs HOLMES to the Minister for Education:

On behalf of the Ranford Primary School P & C association, acting for the parents of children who will attend the proposed Ranford Primary School which is due to open at the beginning of the 1999 school year, I ask the Minister to please advise -

- (a) what is the current situation regarding planning for the new school;
- (b) when is it proposed that building will commence; and
- (c) when is it estimated that the works will be completed?

Mr BARNETT replied:

I thank the member for the question and for prior notice. I have had the details checked. The tender documents are currently being finalised, and tenders are about to be called. It is anticipated that construction will commence in late May and be concluded in December this year. That will allow the school to open, hopefully fully equipped and ready to go, at the beginning of the 1999 school year.

OMBUDSMAN'S COMMENTS ON POLICE INTERNAL INVESTIGATIONS

1003. Mrs ROBERTS to the Minister for Police:

I refer the Minister to the Ombudsman's 1997 annual report and his comments on the inadequacies of police internal investigations and ask: What action has the Minister taken to address the two main concerns expressed by the Ombudsman with regard to Delta and the outsourcing arrangements?

Mr DAY replied:

With regard to the comments made by the Ombudsman in his report last year, I understand that those matters are being addressed within the Police Service and to a large extent have been addressed.

Mrs Roberts: How have they been addressed? I am told there is no change.

Mr DAY: With regard to the specifics of how it has dealt with those matters, I will seek that information.

SWIMMING POOL AT ARENA JOONDALUP

1004. Mr BAKER to the Parliamentary Secretary representing the Minister for Sport and Recreation:

Can the Parliamentary Secretary provide the House with a progress report about the construction of the Olympic-size swimming pool at Arena Joondalup?

Mr MARSHALL replied:

I thank the member for the question. The Minister has responded as follows -

The design and development phase of the project, together with a limited cost estimate, has been concluded. Subject to satisfactory funding negotiations, construction is scheduled to commence in June-July of this year, with a November 1998 completion date.

OAKAJEE STEEL MILL

1005. Mr BROWN to the Minister for Resources Development:

I refer to the announcement by An Feng Kingstream that an international consortium will finance and build the \$1.4b steel mill at Oakajee and that construction will be undertaken by German construction giant Mannesmann Demag, and ask -

- (1) Apart from the obvious earth and building works, what is the anticipated value of design and manufacturing work that will be made available to Western Australian manufacturers?
- (2) Has the Government had detailed discussions with the proponent about the level of local content?
- (3) If so, has the Government been able to secure an agreement on the nature and amount of the local content?
- (4) If so, can the Minister enlighten the Parliament on what has been agreed?

Mr BARNETT replied:

- (1)-(4) I thank the member for the question. I am unable to answer the first part of the question relating to the proportion of the contract being made available to Western Australian manufacturers. There may be design work. I do not know the full details of that contract.

With regard to local content, the An Feng Kingstream project is being conducted under a state agreement; therefore, it has a local content clause which provides a full, fair and equal opportunity. The experience with onshore mineral and processing projects has been that levels of local content have typically been in the range of 70 to 90 per cent. I expect similar levels to be achieved for this project. The state agreement contains standard provisions with regard to local content.

The Government is also funding the Industrial Supplies Office through the Chamber of Commerce, which has proved very effective in maximizing not only Western Australian but also local content, in this case around the Geraldton area. That will go through the normal process and we will do all that is possible to maximise local content on that project and other projects in this State.

Mr Brown: Will you provide a detailed report about that matter, because you would not answer any of my other questions about the details of other projects?

Mr BARNETT: As the project develops, I will be happy to provide information on local content. At this stage, construction is yet to begin, so I cannot do that. Clear provisions under the state agreement set in motion levels of local content. The evidence is that in projects over which Western Australia has jurisdiction and responsibility, we have achieved substantial increases in local content in recent years, and this project will be no exception.

YOUNG PEOPLE - GOVERNMENT'S RESPONSE TO VIEWS

1006. Mr BARRON-SULLIVAN to the Minister for Youth:

I refer the Minister to reports made earlier this week which claim that an alarming number of young Western Australians believe that members of Parliament do not know or care about what they want, and ask: What is the State Government doing to listen to the views of young people in Western Australia?

Mr BOARD replied:

The member for Kalgoorlie has raised this issue via the media and I thank her for raising the issue because it gives us an opportunity to highlight what we are doing for young people and what we have achieved in providing a permanent input for young people in Western Australia. Over the past 18 months we have conducted 33 major youth forums throughout the State and the young people have come out with two major concerns. Firstly, they want to raise the profile of young people to show what they are doing and achieving in Western Australia; they want to get the negative

images of young people off the front pages of newspapers and promote positive images about what young people are doing. Secondly, they want a permanent and an important voice into government. We are providing that by the creation of our youth advisory councils. With thanks to local government for its cooperation, we expect to have 60 youth advisory councils throughout the State. Young people are very excited about this. We have already established 17. The young people who sit on those councils will have a direct input into the Cabinet so that it hears their views. It will be empowering those young people to deliver programs and have a very strong voice. I invite the member for Kalgoorlie and any other members to use those councils to listen to the voice of young people and to work with the Government.

PATH TRANSIT BUS CRASH

1007. Ms MacTIERNAN to the Minister for Labour Relations:

Notice has been given of this question. I refer to the path transit bus crash on Saturday, 16 November 1997 at Cottesloe.

- (1) Can the Minister confirm that WorkSafe has conducted an investigation into the accident?
- (2) If yes, when was this completed and what was the outcome?
- (3) Will the Minister table the results of the investigation?

Mr KIERATH replied:

- (1) Yes.
- (2) The investigation was completed on 19 November 1997 and found no breach of the occupational safety and health legislation regulations.
- (3) The inspector's report on the investigation is tabled for the information of members. [See paper No 1292.]

LIFTING DEVICE

1008. Mr BLOFFWITCH to the Minister for Labour Relations:

Last week an award was made for a lifting device which was claimed could reduce the number of injuries in the workplace. I ask the Minister to inform the House of the significance of this device.

Mr KIERATH replied:

Last week we made an award to an inventor in Western Australia who invented a device for the lifting and placing of very heavy tyres. It is a very simple device but extremely effective. Last Saturday's *The West Australian* published a photograph of that invention, which is called the Underslide. I congratulate *The West Australian* for highlighting this, because this device will result in a reduction in back injuries for truckies and other people who are involved in jobs that involve tyre changing. The device is very simple and allows an operator to change a tyre very quickly. It is interesting that some of the best ideas are very simple. The vehicle is lifted with a jack and this device is used to change the tyre. The inventor knows something about back injury and pain as he suffered an injury from working with tyres. However, he did not succumb to it; he did something about it when he got out of driving trucks. He spent his time inventing this device and it highlights some of the best of the Australian character that he has been able to come up with a device to help his mates. He has been creative, used his initiative and remedied a situation so that all parties gain from it. The pleasing thing is that both employers and employees alike and even the Transport Workers Union have been very supportive of the device. The inventor's name is Jim Larmont. Last Friday we recognised him by presenting him with a WorkSafe award. Only 20 such awards have been given over the years. This device will go a long way to reducing manual handling injuries in the transport sector, where one-third of all injuries result from manual handling. I am sure the House will join with me in congratulating Jim on producing something very good. Not only was his invention launched at the WACA last Friday, but all those involved believe it will probably go overseas and provide export income for this State. It is a credit to all concerned.

TELEVISION DIGITAL BROADCASTING

1009. Mr BROWN to the Minister for Commerce and Trade:

I refer to the Howard Government's decision to give television networks free additional channels for digital broadcasting, and ask -

- (1) Does the State Government support the Federal Government's decision to grant existing television channels this benefit?
- (2) Has the Government or the Minister's department assessed the impact of the decision on the communications industry and, particularly, the impact it will have on the Internet industry, telecommunications companies and newspapers?
- (3) If so, what is that impact?

Mr COWAN replied:

The Government supports the additional regional broadcasting licence and, as the member knows, it is being auctioned today.

Mr Brown: I know you support that one. I am asking about the other one.

Mr COWAN: I ask the member to put the question on notice, and I will give details on all the other parts of the question at the same time.

CHILD HEALTH NURSE SERVICE, TRIGG

1010. Mrs HODSON-THOMAS to the Minister for Health:

I have been approached by a constituent who is concerned about the proposed cessation of a child health nurse service in Trigg. Will the service cease and if so, why?

Mr PRINCE replied:

The child health services offered from the Trigg centre have recently been re-evaluated as part of an annual process of review, which involves the City of Stirling, which is partly involved in delivery of many of these services, and the North Metropolitan Health Service. I am informed there are no plans at present to withdraw any of the services provided at the Trigg child health centre. At the moment and into the future, access to a child health nurse is by appointment on Tuesdays between 9.00 am and 12.00 noon, and between 1.00 pm and 4.00 pm. On Thursday the centre offers a drop in service between 9.00 am and 12.00 noon, for those who can avail themselves of a fairly short consultation, and appointments between 1.00 pm and 4.00 pm.

I assure the member that the service is regarded as extremely valuable, and that sort of nursing support and consultation for families on matters relating to health and wellbeing is absolutely vital. The activities of all the child health centres in the North Metropolitan Health Service, which covers most of the western and northern suburbs, are very valuable. However, as populations change, particularly as demographics change, it is necessary on a periodical basis to review the services being offered in various locations to determine whether the most appropriate service is available in a suburb in which the demographics may have changed. It might be necessary to move a service from one place to another. A review of service should not be assumed to signify a withdrawal of the service, but rather to signify that its effectiveness is being considered to match it to the needs.

STEVEDORING MONOPOLY, DAMPIER

1011. Ms MacTIERNAN to the Minister for Resources Development:

Yesterday the Minister said he was prepared to support the granting of a stevedoring monopoly on the Dampier public wharf because of problems there, including the piloting and tug charges. Does the Minister now accept -

- (1) that these costs are not covered by the Government's deal with Western Stevedores;
- (2) that the oil and gas operators in the area have consistently praised the flexibility of the service offered by P & O Ports at Dampier, the company now excluded from operation; and,
- (3) the same oil and gas industry representatives are genuinely concerned that the monopoly created by the Government could lead to reduced services and increased costs for this important industry?

Mr BARNETT replied:

- (1)-(3) I will comment on the question but, again, it should be directed to the Minister for Transport. In the preamble to the question the member put certain words in my mouth. I did not utter those words yesterday and I do not accept them. Concerns have been expressed publicly by some oil and gas operators in the area, but none has come to me directly. If they came to me, I would listen to them and take up the issues raised. There have been problems of restrictive practices in those port operations. They need to be corrected.

Ms MacTiernan: Will you explain? Yesterday you said it related to piloting and tug charges.

Mr BARNETT: By way of example, in some of the north west ports -

Ms MacTiernan: That is not relevant to this contract.

Mr BARNETT: The member raised the issue yesterday, and I commented on some of the problems in the north west ports and they have related to those sorts of matters. In one case a crew was flown from Darwin and after sitting there for three days and not being required, the crew was flown back to Darwin. That sort of wastage is not accepted. If the member wants to ask a detailed question on that, she should direct it to the Minister for Transport or put it on notice to me and I will respond. Again I make the point that the oil and gas industry has not approached me over this issue.

SCHOOL MAINTENANCE, AUSTRALIND-BUNBURY

1012. Mr BARRON-SULLIVAN to the Minister for Education:

- (1) How much is to be spent this financial year on school maintenance in the Australind-Bunbury area?
- (2) What is the total estimated value of outstanding maintenance required at schools in this area?
- (3) When it is expected that this backlog will be eliminated?

Mr BARNETT replied:

I thank the member for some notice of this question as it seeks detailed information.

- (1) Maintenance expenditure in the Australind-Bunbury area during 1997-98 is as follows -

Breakdown maintenance	\$205 000
Normal Planned Maintenance	\$173 000
Asbestos Roof Replacements	\$58 667
Electrical (RCD) inspections	\$6 208
Total	\$442 875

- (2)-(3) At the last planned maintenance inspection in 1996-97 it was estimated that \$496 405 worth of planned maintenance needed to be done in the area. Of that amount, in the following year, \$173 000-worth was actually completed. There will always be maintenance tasks within schools. Any public building will have a requirement for maintenance. What is critical is that we reach acceptable levels. Through the Department of Contract and Management Services, maintenance needs are prioritised and then the most important jobs are done. The emphasis within schools obviously is on safety. When we came into government we inherited a disgraceful backlog in maintenance in schools and it has been necessary for this Government to address the problem.

As the finances of this State have been corrected, the reality has been that this Government has not only increased but has also supplemented spending on school maintenance, to make up for the backlog of some \$26m. We will finally make up that backlog only around 2001, but at the moment the Government is spending approximately \$50m a year on school maintenance and the standard of our schools in the physical sense has been dramatically improved. In Bunbury, as in any other area, there is a backlog of maintenance which has been narrowed every year. It is estimated that within two years that will be corrected and we will have maintenance requirements down to the normal, acceptable level.

ARTIFICIAL REEF

1013. Dr GALLOP to the Premier:

During the last state election campaign the Premier matched Labor's commitment to build an artificial surfing reef at Cable Stations beach, boasting that the Government was "ready to start construction". Can he explain why construction has now been delayed a second time since he made that promise? Can he guarantee that the reef will be built this year?

Mr COURT replied:

There is a time frame in the season when the construction work can be undertaken and it is hoped to commence construction in spring. Some issues have been raised in relation to the final design and the construction techniques to be used - whether it be constructed from dropping rocks from a barge or building a groyne and then removing the groyne later. Other issues have been raised by the local councils in relation to the design of the reef and facilities to be provided, but I believe we are close to having all those issues agreed to. I think the Leader of the Opposition will appreciate that in building an artificial reef where the natural environment is affected, we must get it right before we build it and that is the work that is being undertaken at the moment. The project is funded and we are very keen to have it constructed because we believe it will be a tremendous addition for our young people in the metropolitan area.

MIDLAND SPEED DOME

1014. Mrs van de KLASHORST to the Parliamentary Secretary representing the Minister for Sport and Recreation:

The world track cycling was a huge success for Midland and Western Australia generally but unfortunately the velodrome cycling track in Midland is still battling to pay its way. Western Australia needs a first class international cycling venue and I ask, what is being done to help make this facility viable?

Mr MARSHALL replied:

As the son of Horrie Marshall, the former all time great of cycling in Western Australia, I am delighted to be asked this question. The Minister has responded in the following manner.

The Midland Speed Dome was built by the previous State Government on the current site - which incidentally many people believe was the incorrect site - and it has been operated by the Shire of Swan since its construction in 1990. During this time the shire has incurred losses each year to the point where the operating deficit for the 1996-1997 financial year was approximately \$97 000. Because of this deficit and those of previous years the Shire of Swan decided that it was unable to give a commitment to the maintenance and operation of the Speed Dome following the World Cycling Championships.

As a result of discussions between the relevant sports, the shire, the Ministry of Sport and Recreation and the WA Sport Centre Trust, it was recommended and agreed that the State Government should assume responsibility for the Speed Dome. The State Government is currently funding the operational deficit and the WA Sports Centre Trust has appointed a manager to oversee the management of the venue. At the same time, the WA Sports Centre Trust is developing a business plan for the future of the venue in conjunction with the WA Cycling Federation and the WA Roller Sports Association. It is expected that various activities will be planned for the facility, an example of which is the school holiday cycling programs. The management, in conjunction with the state sport associations, will also be aiming to secure national events at the Speed Dome. Those already secured are the National Roller Sports Championships in

July of 1998 and the BMX and the Cycling National Championships in 1999. In a move designed to improve the delivery of its sport and to boost the use of the venue the WA Cycling Federation has recently moved its offices to the Speed Dome.

I believe this answer means that the member for Willagee owes me a lotto ticket.

SCHOOL UPGRADE FUNDING

1015. Mr RIPPER to the Minister for Education:

- (1) What funds will be available for school upgrades in the western suburbs following the forced closure of high schools in these suburbs?
- (2) What funds will be available for school upgrades in the south east metropolitan corridor following the forced closure of high schools in these suburbs?

Mr BARNETT replied:

- (1)-(2) In response to the question I restate, as I have publicly a number of times, that decisions have yet to be made on school closures. The most likely outcome is that some schools will close in the western suburbs and in the south eastern suburbs. If land is disposed of, the proceeds of those sales will be allocated to education exclusively. Approximately two-thirds of the proceeds will be spent on schools in the locality and one-third across the system. Perhaps the concern is that the real estate values in the western suburbs will be higher than in the south eastern suburbs. That is a possibility and is why provision is made for one-third of the proceeds to be applied across the system.

Mr Ripper: Can you give us some idea of the approximate figures?

Mr BARNETT: Not at this stage because decisions have not been made to sell school sites. However, I will give an example. If Scarborough Senior High School were to close that site might be worth \$10m to \$20m. I do not know; it is difficult to say. However, the funds will be plowed back into education, principally in the area but also across the system to achieve equity. It is true that property values vary but in the education system the vast majority of spending is in areas of so-called need and that is the reality of the way money is spent.

The SPEAKER: Order! For members' interest, 21 questions were asked, including supplementary questions.
