



WESTERN AUSTRALIA

Parliamentary Debates

(HANSARD)

THIRTY-FIFTH PARLIAMENT
FIRST SESSION
1998

LEGISLATIVE ASSEMBLY

Wednesday, 18 March 1998

Legislative Assembly

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

HAZARDOUS LIQUID WASTE DISPOSAL PLANT AT BIBRA LAKE

Petition

Mrs Holmes presented the following petition bearing the signatures of 737 persons -

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

We the undersigned citizens of Western Australia wish to register our strongest possible protest over the building of a hazardous liquid waste disposal plant, at Lot 197 Cocos Drive Bibra Lake, in an area that should be clearly defined as light industrial. This proposal places both our houses and schools in a potentially dangerous situation.

We hereby request that the Minister for the Environment urgently review the proposal of the granting of a licence to build this plant.

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 156.]

RIGHT OF WOMEN TO SAFE AND LEGAL ABORTIONS

Petition

Mr Masters presented the following petition bearing the signatures of 22 persons -

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

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

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

[See petition No 157.]

ALBANY GAS SUPPLY UPGRADE

Statement by Minister for Energy

MR BARNETT (Cottesloe - Minister for Energy) [11.06 am]: I wish to inform the House of the Government's decision to endorse an upgrade of the gas supply in Albany by AlintaGas.

Close to 3 200 customers in Albany are currently supplied by tempered liquefied petroleum gas. This gas is a mixture of liquefied petroleum gas and air and is similar to coal gas or town gas which was widely used in Western Australia prior to natural gas being available. TLPG requires appliances to be specifically manufactured or converted to enable its use. Only a small market exists for such appliances and conversion costs are high. The existing TLPG distribution system in Albany is unable to supply increasing demand, with potential new customers unable to connect and existing customers unable to add new appliances. This has resulted in many Albany customers using both AlintaGas TLPG and bottled LPG.

The appropriate way to provide Albany with a similar level of service to that available elsewhere in the State is to upgrade the Albany system to supply LPG. This upgrade will cost AlintaGas approximately \$3.2m, including \$1.5m to convert customer appliances. Customers will not be asked to pay conversion costs.

To fund this major expense, AlintaGas will increase its nominal tariffs in Albany by 10 per cent following conversion in March 1999. The last gas price increase in Albany was less than 2 per cent in 1991 and the increase in CPI since 1991 has been 12.6 per cent. Existing customers will be provided with a better service, be able to increase consumption and have a wider choice of appliances at a more competitive cost. The biggest benefit for customers who choose to connect to the new system is that it will be up to 40 per cent cheaper than bottled LPG at current prices. An average household using 25 gigajoules of distributed LPG each year can expect to save up to \$150 on its gas bill when compared with bottled LPG. The upgrade will increase the system's capacity by 400 per cent and after the project is completed, AlintaGas will evaluate the feasibility of progressively extending LPG to suburbs and new developments which are not currently part of the supply system.

The current TLPG supply system in Albany cannot guarantee existing customers a reliable gas supply, nor can it cater for new customers. The upgrade I have outlined will provide a better service in Albany and bring significant benefits to this important regional centre.

STS *LEEWIN*

Statement by Minister for Youth

MR BOARD (Murdoch - Minister for Youth) [11.09 am]: I wish to inform this House that the Sail Training Ship *Leeuwin* will continue to operate in Western Australia - thanks to a strong commitment from the State Government and the Lotteries Commission, and a new management direction.

The STS *Leeuwin* is an asset unique to our State and during the past 10 years its educational and personal development programs have benefitted more than 10 000 young people from across the community. However, it has not been all smooth sailing for the *Leeuwin* in recent times. At this time last year, the Leeuwin Ocean Adventure Foundation was facing financial difficulties after the Federal Government made changes in its funding allocations of programs for the long term unemployed. Bookings on the ship had dropped by 30 per cent or 350 places a year.

The foundation approached the State Government with a proposal aimed at attracting more young people to use the ship as a stepping stone into their adult lives. The foundation did not ask for a handout, but sought to ensure the maximum possible use of the ship through government agencies placing young people for training programs. This Government pledged its total support and I vowed to do everything possible to ensure the programs provided by the STS *Leeuwin* were kept in Western Australia.

The Office of Youth Affairs immediately began negotiating with other relevant government agencies which might have been able to use the *Leeuwin* for their programs. Exactly 12 months to the day, and due to the outstanding efforts of the Office of Youth Affairs, in particular my executive director, Mike Daube, government agencies have identified about \$200 000 worth of training places for youth this year.

Agencies expected to make use of the *Leeuwin* or to support its programs include Education, Training, Youth, and Primary Industries. Further negotiations are continuing with both government and non-government agencies which might use the *Leeuwin's* training programs for young people. This leaves the *Leeuwin* much better placed to maintain and develop its training programs and to attract interest and commitment from the private sector.

Recently, I was honoured to present the foundation with cheques for more than \$179 000, comprising \$119 830 from the Lotteries Commission and a \$60 000 youth grants allocation from the Office of Youth Affairs.

The Lotteries Commission grant provided vital safety equipment, maintenance and modifications which were required to enable the ship to pass stringent commonwealth safety survey standards. I would like to stress that the \$60 000 grant from the Office of Youth Affairs will be spent on providing training programs for young people.

The training programs will recognise and reward consistent performance and efforts, and motivate participants to excel beyond preconceived limits. The foundation has also appointed new ship and office staff with extensive experience in the delivery of meaningful education programs with specific learning outcomes. I congratulate the work of Mr Daube and the Board of the Leeuwin Ocean Adventure Foundation, and wish them every success in continuing youth training in Western Australia.

PRIVATE MEMBERS' BUSINESS

Motion

MR BARNETT (Cottesloe - Leader of the House) [11.12 am]: I move -

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

- (1) Private members' business shall not take precedence of other business; and

- (2) So much of standing orders be suspended as is necessary to enable the Speaker to call for grievances on any day and only if so requested by the Leader of the House.

As I mentioned yesterday, this motion will allow the abortion debate to continue today without interruption for private members' business. I will negotiate with the leader of opposition business about dealing with some private members' business tomorrow if we have concluded this debate at that stage.

Question put and passed.

BETTING CONTROL AMENDMENT BILL

Introduction and First Reading

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

CRIMINAL CODE AMENDMENT BILL

Speaker's Ruling

THE SPEAKER (Mr Strickland): According to Standing Order No 285, an instruction empowers a Committee of the Whole House to consider matters not otherwise referred to it. The standing order exists because Standing Order No 267 provides in part the following -

Any amendment may be made to a clause, provided the same be relevant to the subject matter of a Bill, or pursuant to an instruction . . .

In other words, amendments must be within the scope of a Bill or they are out of order.

Erskine May's *Parliamentary Practice* records at page 482 of the twenty-first edition -

An instruction is necessary to authorize the introduction of amendments into a bill, which extend its provision to objects not strictly covered by the subject matter of the bill as disclosed on the second reading. But for such an instruction to be in order the objects must be cognate to the general purposes of the bill.

At page 484, May records -

Instructions are out of order if they attempt to embody in a bill principles that are foreign or not cognate to it; if their objects are inconsistent with the decision of the House on second reading or seek to replace that decision by means of an alternative scheme or postponement; or if they propose to amend Acts which are not cognate to the bill, or attempt to introduce into a bill a subject which should properly constitute a distinct measure.

I have looked briefly at some other Parliaments, and I note that in the Australian House of Representatives, although provision is made for the instructions to be moved, the procedure is obsolescent. I think the main reason for that is that standing orders of that House, particularly Standing Order No 300, provide specifically that no instruction may be given in the case of a Bill being referred to a select committee to deal with a question beyond the scope of the Bill as read a second time.

McGee's *Parliamentary Practice in New Zealand*, second edition at page 281, records -

If amendments which are outside the scope of the bill are to be made, the Committee must be specifically empowered to take them into consideration and if it thinks fit, to adopt them. This is done by means of an instruction.

At page 273, McGee states -

While an instruction is designed to extend the Committee's regular powers in respect of the way in which it can deal with a bill, it must be not be completely foreign to the bill or it will not be a proper instruction. This is particularly significant in the case of amendments. An instruction can be used to widen the scope for accepting amendments which would not otherwise be in order; it cannot be used to introduce a subject that is totally irrelevant to the bill.

The long title of the present Bill is "An Act to amend the Criminal Code", and in the absence of a direction to the Committee, amendments to other Acts would be out of order. In my view, the scope of this Bill is wide as it is designed to allow the House to review broadly the law relating to abortion and to determine the extent to which, and the circumstances in which, it should be legally available.

Of course, I am aware of arguments put by some members that this is a matter which should be dealt with under the

Health Act rather than the Criminal Code, and I consider that proposed amendments to the Health Act, although not within the scope of the Bill as it stands because of the restriction of its long title, are matters which can be the subject of instruction to the Committee because they would be relevant to the Bill and not be inconsistent with the decision of the House on the second reading. In the Committee of the Whole House, the Chairman will still have the responsibility to ensure that the amendments relate to abortion in accordance with the instruction the House has given.

Members may have seen as a footnote to Standing Order No 285 a decision of 1972, which coincidentally related to the then Criminal Code Amendment Bill, suggesting that proposed amendments must be relevant to the subject matter of the Bill. In case members mistake the meaning of that decision, I indicate that the case referred to a clause which existed in a Bill as presented to the House, and an instruction was used to remove that clause which was outside the leave for introduction which the House was given. In brief, an instruction to the Committee in the terms proposed by the member for South Perth will be in order.

Second Reading

Resumed from 17 March.

MR TRENORDEN (Avon) [11.17 am]: I welcome debate on this measure. I echo the point made by other members that this is a serious matter and one of the most difficult problems faced in my 11 years in this House.

I now make my views clear: I fall strongly on the side of the right to life people, but my vote will not please people with that point of view. I do not have the means to decide when life begins, so I will make no judgment on that issue.

This issue is not as simple as banning termination because history has shown that such action is fruitless. Banning only drives activity elsewhere; in this case, it would be interstate or underground. Prohibition in America and gun and drug laws have all shown that legal barriers do not work. If I vote against terminations totally with the full knowledge that women will take other measures - namely, travel interstate or take action in this State - I would be voting for an open system.

This issue will remain a moral as well as a health matter. The practice for some time has been for terminations to be readily accessible in this State, unchallenged legally by anybody until recent weeks. Modern means enable people to travel easily. Therefore, it is no problem for any individual to take a plane and travel interstate. That means that the legislation, or any legislation we seek to pass in this place, will not be able to lock people within the boundary of this State. That is an important consideration.

Abortion will remain a moral issue, but for me the State has no real power to interfere with a woman's decision. The best we can ask for is that the key parties involved carry responsibility for that procedure. I understand that doctors swear an oath, although I heard someone say in the debate yesterday that they do not. I ask the member for Collie whether that is the case.

Dr Turnbull: It is 30 years since I first became a doctor.

Mr TRENORDEN: Certainly there is a general understanding among the public that they swear an oath. Whether or not doctors swear an oath, they have a responsibility as medical practitioners to medically support life. Society also believes that women have substantial carriage of the caring for and nurturing of life. I am not sure what that says about me as a man because I believe I have the same responsibility. Nevertheless, many volumes have been written on that subject.

Without doubt, the world has already decided that the decision on abortion will be made by the woman and her doctor, and that the law will have little impact on that activity. The only difference I can make is to seek to add one proviso - this has also been raised many times by other speakers - in relation to counselling on the basis of convenience. I do not believe many people will travel interstate or go to backyard operators because of the requirement for counselling. In general this Parliament can have some impact on this issue in the area of counselling. That counselling should not be delivered by the doctor involved or, as mentioned in *The West Australian*, totally by psychiatrists. That is not the type of counselling needed. Counsellors should seek to ensure that no pressure has been imposed on the woman beyond her own judgment. That is an important point. As previous speakers have pointed out, there is ample evidence that the lives of women and medical practitioners who have been involved in abortions have been affected.

The moral issue remains. A doctor who is conscious of his responsibility and a woman who believes in her role as a woman should have great difficulty terminating a pregnancy. However, it is also my view that people will always find an avenue for termination. Whether or not we like it, over the centuries some doctors have been willing to offer abortions. The Parliament can make a statement on abortion but it is powerless to stop the practice.

I am pro-life but I have a responsibility to pass legislation that is workable. The Davenport Bill will remove this issue

from the Criminal Code. The Bill before us will remove the involvement of legally qualified practitioners from the Criminal Code. I understand that relates to all qualified people involved in the process. I favour the latter Bill, even though I have said that I have empathy with the Davenport Bill. I favour precluding from the Criminal Code only those qualified to be involved in abortions. I fall on the side of the government sponsored Bill. I respect the right of members in this Chamber to express views that range across the spectrum. I also know that I will disappoint a number of constituents in Avon. I will vote to retain the status quo, as close as possible to the situation before this Bill came to the House.

The substantial arguments on the Christian moral values must be championed by the churches; it is their role to convince the public about what is right or wrong in this area. Medical practitioners need to balance their own moral and professional requirements. Currently there seems to be serious doubt about that balance. I have noted with interest that doctors on radio and television programs have pointed out that it is my job, as a parliamentarian, to fix the problem. I agree in terms of the legislation, but that does not preclude their responsibility as doctors.

Husbands and wives must be very careful about making these decisions. Legislation aside, the question of what is right does not change. Life is sacred. Also boyfriends and lovers are involved in the procedure. The women's movement must realise, even within the wisdom of its movement, that what is current thought now may alter in time.

Leave to Speak - Leader of the House

MR BARNETT (Cottesloe - Leader of the House) [11.26 am]: In accordance with Standing Order No 121, I seek leave of the House to speak on the second reading of the Criminal Code Amendment Bill. As Leader of the House, I undertook to read the second reading speech because the Minister for Health, in his capacity representing the Attorney General, was absent at the time. Under the standing orders that would normally prevent me from speaking on the debate. However, I wish to have the opportunity to express my views as the member for Cottesloe, and I have written to you, Mr Speaker, accordingly.

Leave granted.

Debate Resumed

MR BARNETT (Cottesloe - Leader of the House) [11.27 am]: First, I make a brief observation on the debate. It has been very encouraging in the sense of the operation of this Parliament that members have given so much thought to this issue and have taken so much care with their remarks, whatever their views might be. It is evident that there is a divergence of strongly held views on this issue. Some members have clearly seen it as a moral or religious issue, others have seen it primarily as a health issue, and others have seen it primarily as an issue of the rights of the individual. Indeed even in that context, some have referred to the rights of a woman and others to the rights of an unborn child. All members to this point have agreed that it is a difficult and emotive issue about which people have strongly held views. It does not surprise me that the tone of the debate on a moral issue has been more conservative than outside commentators may have anticipated.

People's views are one thing, but what they will decide or do if faced with the circumstances might well be different. In my view - it has been mentioned by many speakers - a woman faced with a decision about whether to have an abortion will not make that decision lightly in any circumstances. For the partner, whether husband or friend, who becomes involved in the decision it can also be a difficult and vexing issue.

I do not feel comfortable with this debate or the issue of abortion. I would prefer not to be confronted with the issue and, whatever view I express in this place, I am not sure it would necessarily be the action I would take if confronted with that decision in my life. I have no choice, however. I must vote. I also believe I have a responsibility to declare my position to my constituency. Also I cannot dodge the reality of an appalling statistic of 9 000 abortions annually in this State. My position primarily is that the decision is one that can and should be made by the woman, I hope with the support of her partner and family. It is primarily a decision for the individual. It is not a decision I would want to make on behalf of any other human being. I hope, in making those decisions, it is an informed decision.

Much of this debate will focus on what is meant by an informed decision. We have very little alternative, and we should not do it in a grudging way. I put much of my faith in the ability of a person to make an informed decision and, indeed, in the relationship between the woman, the family and the doctor concerned. We must rely on the morals and the ethics of the medical profession. If we feel there is a need to provide a view on what those ethics and morals should be, we should not resile from that. There has been discussion in the debate about counselling, systems of multiple referrals of doctors and all sorts of other measures. Although I hope an informed decision occurs in all cases, the reality is that perhaps it will not.

I would like to think people, in making this decision, seek advice and support from partners, friends and family, that counselling is available and that people make use of it. It is inappropriate to suggest, as will be done later in this

debate, that in a mandatory sense we can in some way place in front of a couple faced with this decision a whole lot of requirements about multiple referrals of doctors, mandatory requirements for counselling or for a cooling-off period. All these things may well be desirable - I support them - and contribute to better decision making by the individual. However, if Parliament heads down the path of erecting a series of hurdles and barriers, we must be honest about the effect of that.

It may make our consciences feel easier with an issue that most of us do not want to be involved in. However, we are members of Parliament and we are involved. I believe this will simply set up hurdles in front of a decision making process, and it will have the undesirable consequence of driving abortion to the backyard, the eastern States, underground, or whatever the scenario will be. It is a matter within the Criminal Code, and I understand there are good legal reasons that it may need to remain in the Criminal Code. Like many other members, I would prefer to see it dealt with under the health legislation and I wait to hear the arguments against that.

Primarily it is a choice - hopefully an informed choice - and as a society we should provide the support and mechanisms for people to make an informed choice. We must rely on the morals and the ethics of the medical profession. If we have a view about that, we should be free to express it. We would be failing if we set up hurdles and barriers in this process. It would be flying in the face of what has been the reality for the past 20 to 30 years. I cannot dodge the issue; no member of Parliament can. I simply place on the record that I shall be voting in favour of the right of the individual woman, and hopefully her partner, to make the decision. I place a reliance on her ability to do that in a professional and informed relationship with her medical practitioner.

Ms ANWYL (Kalgoorlie) [11.33 am]: Like many other members I am pleased we are finally debating this issue and there will be some certainty for those in the medical profession who find themselves having to deal with abortion. However, it disturbs me that the scenario confronting Western Australian women at present is that we may end up with a situation where the Legislative Council passes a repeal Bill and, from the indications I have, this House is likely to pass a piece of legislation which enables only the first two provisions to apply.

The medical profession has made its position about these two provisions in paragraphs (a) and (b), very clear. It has said, "Do not think for a moment that proposals A and B liberalise the existing Criminal Code provisions." These two provisions represent the actual law in this State. For 25 years the actual law in this State has not been applied and the medical profession has been able to conduct termination of pregnancies largely at the request of the women who require it. I am concerned that we are about to have a public health crisis in this State. I am also concerned that those we would expect to display some leadership, namely the Government and certainly the Premier, are not adequately briefed on the public health crisis that is about to occur. I say it is about to occur not because I want to be alarmist, but because I am very concerned that some of my parliamentary colleagues believe an A and B choice will somehow make this issue go away. It will not. In the case of the nurses, the Secretary of the Australian Nursing Federation, Helen Attrill, was reported in *The West Australian* this morning as saying that the Government's Bill appears to raise problems for nurses. That is assuming it is passed in its entirety. My prediction is that we will have an A and B scenario.

I will address a public policy issue. What happens when a society has many unwanted children? That is another scenario we are failing to face up to. What happens when a society has a number of fatherless children? To some extent Western Australia is fortunate. In the United States of America there have been six deaths since 1993 where anti-abortionists have arranged for the killing of pro-abortionists or people who are carrying out abortion in that country. That has occurred by shootings and bombings. I am sure we all hope that we never reach that situation in Western Australia. However, some very strong views have been raised in the wider community as a result of the charging of the two doctors. The charging of those doctors has led to this debate in this House today. It is not that the Criminal Code has made abortion illegal, but that there has been a de facto ignoring of that law for 25 years. That period has ended and suddenly we are plunged back into 1973 when it is 1998. My concern is that at the end of day the legislation will suggest that we are back in 1973.

There are several reasons I believe a woman should have the right to determine whether she can terminate a pregnancy. As parliamentarians we are elected by our electorate not on our religious beliefs, but because people want someone to represent them and legislate for them. We have an obligation to legislate on the tough issues. None of us enjoys having to make serious decisions when we have personal, moral or ethical difficulties with what may be for the greater good. We need to employ a utilitarian philosophy on this issue. Bad laws should never be passed. If we legislate to uphold the Criminal Code provisions banning abortion, that will be a bad law. It is already a bad law, because we know that up to 9 000 abortions are carried out in this State every year, that many women are choosing not to obey the law as it stands, and that the medical profession has been placed in a difficult position.

There are wider health issues for Western Australia. For instance, we do not have proper monitoring of things such as genetic defects and of the exact number of woman who are obtaining abortions, at what age and at what time. By contrast, every year the South Australian Parliament receives an annual report from the committee appointed to

examine and report on abortions notified in South Australia. Every year there is a comprehensive breakdown of data associated with women who are seeking terminations in that State. Interestingly the statistics show there has not been a major increase in women seeking abortion since abortion laws were liberalised in that State. One of the features of the situation in this State is that people working in the field of genetic defects and trying to prevent them, are not able to access the relevant data. A letter was circulated to all parliamentarians from a group of concerned academics and medical practitioners who are working in the field of preventing genetic defect. That letter states -

We feel that it is important in the debate about the legislation for terminations of pregnancy that issues in relation to maternal and child health are brought to your attention . . .

More than 5% of all our births have a major defect, which are biological phenomena . . .

The letter talks about primary prevention and says that it is necessary to carry on research that will determine whether interventions are successful. One case cited is the promotion in recent years of the use of folate by pregnant mothers. We have seen in this State a marked decrease in births occurring with imperfect neural systems; that is, largely, the spina bifida situation. However, epidemiologists working in that field are frustrated partly by their inability to access firm data but also about which fetuses may be aborted. I said that we should not pass bad laws, and clearly it would be a bad law.

It is clear from both what occurred pre-1973 and what has occurred in other countries that women will continue to access abortions. I cannot sanction the possibility of one woman having a septic abortion or one woman becoming infertile or dying from a less than safe abortion. The reality is that there will always be medical complications. However, if we force women out of a safe public health system, it is clear who will be disadvantaged. It will not be rich women or women who have ready access to interstate services: It will be poor and, specifically, rural and remote women, who are already to some extent bearing the brunt of the changes.

As the member for Kalgoorlie, I have been alarmed to note the number of country hospitals that have already taken the option of making it difficult for women to access terminations. Some women can afford to fly to Perth or interstate to access treatment but others cannot. We know it will be those from low socioeconomic circumstances who will be particularly disadvantaged by regression in this area of the law.

One of the most moving experiences I have had in relation to this debate is discussing with older women what happened before abortions became available in this State. I have seen women, often approaching their latter years, in tears recounting the experiences of friends, acquaintances and loved ones affected by this issue. I have also been especially moved by medical practitioners who can recount in some detail what happened in the bad old days. In those days we had the same law that we have now. Many people argue that the law is an ass. I am a legal practitioner and I tend not to subscribe to that theory. The reality is that we had a law 25 years ago and we have the same law now, but our society has allowed terminations to occur for public health and policy reasons.

Medical practitioners can give examples of practising in hospitals in which whole wards were devoted to the treatment of women who had had septic abortions. That is particularly true of those who have practised overseas, where unfortunately this can still occur. To suggest that we can pass a law that will prohibit women from seeking terminations and that that will work is a nonsense.

Secondly, and most importantly, we must address the public health aspect of the debate. There can be some horrific consequences. I realise that my views are offensive to those who consider that a life is formed when a sperm and egg meet and start to multiply. I also understand that some of them are in my electorate and may well have voted for me but will not do so again at the next election. However, I find it offensive that a group of largely middle aged men will vote about what will happen to a woman's choice to access a termination in the future. I also find it offensive that people with a particular moral or religious view can proscribe the actions of people who do not share that view. That is the essence of the debate. I try very hard to respect the views of others and I hope that they respect mine. However, it is offensive to me when members trivialise the anguish - that is the best word - that women requiring early terminations go through by making comments such as those made last night by the member for Wanneroo. I am sure many other women and many men also find that offensive.

I have been most persuaded by the letters and representations that have been made by a number of medical practitioners. To be fair, representations have also been made to me by medical practitioners who choose not to work in this area, and that is their choice. No-one is suggesting that medical practitioners should be forced to participate. That is not currently the practice and it will never be.

Dr J.A. Cumming, Executive Director of Medicine at the Centre for Women's Health at King Edward Memorial Hospital writes -

As one of the 23 health leaders involved in formulating a statement regarding the urgent need for law reform

on abortion, I am writing to support the document forwarded to you last month by Professor Holman and Ms Michele Kosky.

Whatever one's personal views may be on the availability or otherwise of abortion services for women of this state, the public health issue is clear. It is essential that the legislation is changed to decriminalise abortion when performed with appropriate medical safeguards by a registered medical practitioner. If this does not occur, health professionals will be left with no indemnity and existing abortion services will cease with resulting serious public health consequences.

I also cited the need for preventive health programs to have access to proper data about what foetuses are being aborted in Western Australia. I received a letter from 11 representatives from the Centre for Women's Health involved in the field of preventive health in which they state -

Because of the uncertainty in interpretation of the law, there is, not surprisingly, an unwillingness to notify the Registry of terminations for fetal abnormality.

Of course, that is the register of birth defects in Western Australia. It is clear how the current laws work against preventive health for mothers and infants in this State.

I said at the outset that I am very worried that there are members of this Parliament who support the right of women to have an abortion but who think that, if we accept paragraphs (a) and (b) of proposed section 201A(3) in the current Bill, women will have a choice.

I have a letter from Dr Jonathan Rampono, a consultant psychiatrist and the head of the Department of Psychological Medicine at King Edward Memorial Hospital. We heard in a briefing yesterday from this doctor that he is already getting referrals from other doctors who want him to say whether a woman's mental health will be endangered if she carries a baby to birth. That doctor estimated that only 4 per cent of women who came before him would classify for a ruling under proposed subsections (3)(a) and (b). That means that up to 96 per cent of women will be denied access to abortion if those proposed subsections are passed by this House and resolution between the two Houses does not occur. As I said, I find it repugnant that this Parliament cannot get its act together sufficiently to provide some certainty about what will happen following that occurring in this House and the repeal Bill being passed in the upper House. I understand it might be passed tonight. Presumably the Legislative Assembly will continue this debate tomorrow. I imagine that at the end of the day - I know that the member for Swan Hills has endeavoured to further this cause - the repeal Bill will be brought into this House.

The repeal Bill may not be passed, in which case we will be left with the current situation; that is, nurses and doctors not performing terminations in this State. That may make some people feel really good about the way the world is going. However, in that event I will have grave concerns about the health of women who must endure unwanted pregnancies.

I have not discussed and do not propose to discuss some of the more emotive examples of women needing to access pregnancy termination services. Judging by the comments of some members some element of blame seems to be attaching to women. However, we should remember that statistically more than 51 per cent of women seeking terminations do so because their usual forms of contraception have failed. Members should also bear in mind the more horrific cases of women becoming pregnant as a result of sexual assault.

Should we be promoting the issue of unwanted children in Western Australian society? Effectively, if we deny access to pregnancy terminations we must deal with a number of unwanted children. I refer to the letter from the TVW Telethon Institute for Child Health Research signed by seven professionals - all doctors, except for Professor Stanley - which says -

Unwanted pregnancies are over-represented in many poor outcomes for the child from birth right through to adolescence and beyond. These include such things as preterm births, many childhood developmental and psycho-social problems, child abuse, neglect and major problems in adolescence including juvenile crime. Some of these outcomes are explained by social and economic adversity, but not all of them. The addition of 9,000 unwanted pregnancies every year to the State of Western Australia is a considerable issue for the provision of services for children and we need to consider the costs of the resulting high rates of psychosocial problems which we are all trying hard to reduce and prevent. Not to mention the health, education and social services that would be required for 34,000 births each year rather than 25,000!

I suggest that we are having trouble coping in a number of areas relating to unwanted children. In my local newspaper this morning I saw a large article about the need for foster carers in Kalgoorlie-Boulder. Foster carers are not available for the children who cannot be cared for by their parents. I understand that has been a phenomenon in this State for a long time and political blame cannot be attached to it. Nevertheless, it is a reality that we cannot

place all the children now who need homes.

It is also very sad, nevertheless a reality, that many couples in Western Australia want to have children but cannot. Many couples are unable to reproduce. According to some people who say that women must not be allowed to abort, more children will be available for adoption. That view is disturbing because if members speak to relinquishing mothers - the bulk of whose experience occurred when it was not possible to have terminations or who chose not to - they will find that they are still extremely distressed 20 to 40 years after giving up their children for adoption. I acknowledge that there are many examples of adopted children who fit in very well, who are happy and who have full relationships with both their birth parents and their adoptive parents. However, the answer is not to say that all those unwanted children can be adopted out. That will not work.

We have heard much about supports that can be offered to parents. In many cases parents have trouble accessing that support, let alone those who do not wish to maintain a pregnancy. We also hear much about the rights of the child. I recommend that this Government open an office of children and appoint an independent person as commissioner who would oversee children's rights in this State. In many areas in this State children's rights are not given the weight they deserve. In reality when we consider the rights of an unborn child we must also consider the rights of a child to be loved. We know what problems can occur if a child is not loved. I quoted the indicators of problems from the Institute for Child Health.

Another interesting issue not often addressed by the pro-life lobby is the right of a child to have a father. We know that many children do not have access to their natural fathers for a variety of reasons. We also know that single parents, whether they be male or female, do an excellent job in bringing up their children. There are some implications for society in the lack of a child's access to its father. Evidence shows that inaccessibility to a second parent is the single most powerful determinant of child poverty. Some academics, particularly through American research, are now suggesting that a range of other social problems can be attributed to lack of access to a father.

I refer members to an article from the magazine *Quadrant* of December 1997 by David Blankenhorn who writes -

Paternal investment enriches children in four ways. First, it provides them with a father's physical protection. Second, it provides them with a father's money and other material resources. Third, and probably most important, it provides them with what might be termed paternal cultural transmission: a father's distinctive capacity to contribute to the identity, character and competence of his children. Fourth, and most obviously, paternal investment provides children with the day-to-day nurturing - feeding them, playing with them, telling them a story - that they want and need from both of their parents.

That article is interesting because it progresses a theory that we can examine such severe social issues as child sexual abuse, domestic violence and child poverty and work out from data that children who do not have fathers are most likely to be susceptible to those issues in their households.

Having said that, I practised family law for many years. Bitter breakdowns in marriages are frequent and it is quite common for the custodial parent of the child to ask one, as a lawyer, how to make the father or mother have involvement with the child. We have situations where Family Court access orders are in place but one or both parents do not wish to have access to that child. We are no closer to solving those existing problems in society. To suggest that we should have a lot more unwanted pregnancies is not considering the interests of those children who would live in that situation.

Another good example of where parents do not want to take responsibility for their children is the child support maintenance legislation. All members of Parliament are contacted by people with grievances. Many times parents do not wish to pay for their children, let alone have contact with them or show much concern for their welfare. If we look at the number of wards of the State in Western Australia we see that the situation is less than perfect.

Of course in an ideal world no-one would have a termination of a pregnancy. Everybody accepts that and sincerely believes it; but we do not live in an ideal world. As Dr Scott Blackwell from the Australian Medical Association has said, he does not like to be described so much as pro-choice but rather pro-reality. It is important for members of Parliament to decide that. We are talking about women from the age of 12 years upwards who reproduce and about their ability to determine their own lives. Statistics show that not all that many abortions are carried out for women under the age of 15 years, so we are talking largely of the 20 to 24 year age group. Data from South Australia shows that to be the largest group. Of course, the need for access tapers out as women's reproductive years end. However, we are talking about a significant group of women in Western Australia. As I have said, I find it difficult to accept that a group of - let us face it - largely middle aged men in this Parliament will decide the issue. I knew that would get members' attention.

Mr Barnett: I am youngish middle aged!

Ms ANWYL: Nevertheless, the members of this Parliament are largely men of an older age group. I have said nothing about physical appearance. I do not want to trivialise this because it is important. The reality is that we will have a group of men making a decision about what women aged between 12 and 40-plus years should do with their bodies. I suggest that is unacceptable in 1998. Members should not think for a moment that proposed paragraphs (a) and (b) of this tick a box Bill will solve the problem - they will not. The medical professionals have made that clear. If members have any doubt, they should contact medical professionals. I urge all members to support proposed paragraphs (a) to (d) and, failing that, vote for the repeal Bill, which will no doubt come into this House.

MR TUBBY (Roleystone - Parliamentary Secretary) [12.03 pm]: Like other members in this place I find this the most difficult issue which I have had to face in the 10 years I have been here. The difficulty is that there are strongly held views in both the Parliament and the community on both sides of this issue. I have a great deal of sympathy for people on both sides of the argument and for the arguments that they have put. It has been very difficult for me to arrive at the position in which I now find myself, because in this debate - many members have highlighted this - there will be winners and losers. Whenever there is a debate where there will be winners and losers, no matter which decision is made, people will feel very strongly about it and people will take extreme views.

Various speakers have raised a number of issues on both sides of the debate. I want to focus on two issues that have been discussed by people who have been speaking in favour of abortion. The first issue is choice for women and the second is that abortion should be a health and not a criminal issue. To deal first with the choice argument, many of the arguments I have heard from various members have not really come to terms with the issue that is crucial to this debate, which is when we perceive that life begins. One or two members have tackled the issue. The member for Cockburn did, although I did not agree with his point of view. The member for Nollamara did and a couple of other members have fleetingly touched upon it. Until we personally come to terms with when we consider that life begins, we cannot address the fundamental issue behind this debate. My view, which I hold quite strongly, is that life begins at conception and I cannot find any other point but conception from there through to natural death where it could commence. We add nothing more to that life form than that which exists at conception; it is all there. All the inherited characteristics which will take that person from conception through to natural death are present at conception. The only things that must be added from that point until that person dies are food, water, oxygen and shelter. At any stage during that continuum, if we deprive a living person of any one of those for any length of time, that person will die. I accept that point of view. It took me a while to arrive at that concept, but when I arrived at it lots of other things fell into place. I have no option but to say that termination of that life form at any time from conception is murder - it is as simple as that.

Everybody was, rightly, morally outraged at the drive by shooting of the innocent young bouncer in Fremantle the other day. We are morally outraged every time an innocent person's life is terminated in our community. We were outraged at the violent death of the young mother in the Mt Lawley area, and members could name many other examples. The whole community is outraged by those occurrences. If we are to be consistent, surely we should be just as outraged when those innocent victims, the unborn children are aborted in great numbers each year, not only in this State and country but all around the world. It is an appalling indictment of our society that we have continued to allow this to occur. People have been speaking out against abortion and movements have been trying to make people aware of the real situation we are facing. Unfortunately, that message has not got through to the wider community. We should all be morally outraged at the taking of any innocent life, whether unborn or from a different ethnic group, as we are seeing in middle Europe at the moment; or whether - as the member for Nollamara pointed out more eloquently than I could ever do in this debate - as occurred in Germany and in other areas around the world in our history. We must be consistent. If we are not consistent, how on earth can we stand in this place and debate at length the disgraceful decline in law and order in this State? We must have a standard and we must be consistent. If people perceive that it is okay because the State and a great body of people in our community sanction the taking of innocent life at a certain stage in its development, other things become easy. It becomes okay if I feel like doing something to go out and do it, irrespective of the consequences to the other person. If we have a lack of respect for people at any stage during their life, it is an outrage to the community at large if it happens after birth. It is an outrage to me if it happens at any time during a person's life, which I believe commences at conception. Everything is there to take that person right through life until a natural death.

Once we arrive at that conclusion, women do have choices. People have said that what we are trying to do in this argument is deny women choices. I am not trying to belittle the choices that women must make or denigrate those who might make a choice with which I disagree. I am saying that we should look at the foundations and fundamentals behind what we are doing.

Women and their partners have a choice about what form of contraception to take prior to intercourse. I have listened to doctors such as the member for Maylands and the member for Dianella, and I have listened to other speakers. I understand that some 51 per cent of unwanted pregnancies occur because the method of contraception that is used fails. That is a problem that we should not inflict upon the life that will result from that conception. Women do have

a choice prior to conception.

Women have a series of choices after the child is born: To keep the child and raise it as a member of their family, to allow their extended family to raise the child, or to put the child up for adoption. Some members have said that a great number of couples in Western Australia and Australia who are infertile through no fault of their own are desperate to adopt a child but are unable to find a child in this country and must turn to Asian and other overseas countries to find a child whom they can adopt to create a family.

Women do have choices. Unborn children have no choice at all. They cannot even get involved in the debate. Therefore, people like us in the community need to argue their point of view and their rights. During an average woman's lifetime of three score years and 10, which is extending all the time and is now probably closer to four score years, a woman who has an unwanted pregnancy may have to undergo a few months of inconvenience. I know the drama and trauma that may be associated with pregnancy, but, for heaven's sake, what we are talking about here is those women sacrificing a few months of their life to give those unborn children the right to have their four score years of life. We must give those children that right. I cannot accept the proposition that we should allow women to not make that sacrifice for a few months and thereby sacrifice the entire four score years of life of their unborn child, and I think many other members cannot accept it either.

The next issue is women's health. I am not qualified in this area; all I can do is refer to some research and try to come to terms with it. Despite what the member for Thornlie, who is now in the Chair, and others have said, a growing body of evidence in the world, and particularly within the United States - which has been debating this issue for longer than we have, which has had more court cases on this issue than we have, and which has access to a much larger database than we have because of its population of 260 million - indicates that women who undergo an abortion face serious health risks.

Breast cancer has already been mentioned and put aside as not being an issue in this debate. There is no question that the increasing incidence of breast cancer throughout the world is an increasing health problem for women. Some researchers and medical professionals believe that the use of the contraceptive pill has led to this increase in the incidence of breast cancer, but research has shown that in some socioeconomic groups and in some countries - for example, the former Soviet Union - where the pill has not been used widely, breast cancer rates are still comparable. Nancy Krieger, a breast cancer researcher in the United States, has compared health statistics from around the globe, and abortion is one of the few consistent influences which has been linked to breast cancer and has been present on both sides of the Iron Curtain.

Researchers and others have determined that other physical risks and complications can result from an abortion. This information has been published in journals in America and other countries. It has been shown that 24.3 per cent of women experience complications in future pregnancies, which include excessive bleeding, premature delivery, surgical damage and sterility. Another complication is pelvic inflammatory disease. A first trimester abortion can result in bacterial vaginosis, leading to PID, a condition that must be treated quickly. Another complication is uterine perforations. Uterine perforations can often occur and may go unrecognised and untreated. I have already mentioned the increased risk of breast cancer. One source indicates a 140 per cent increased risk of breast cancer following an abortion. Another complication is tubal pregnancy. Abortion appears to contribute to an increase in ectopic pregnancy in younger women when associated with pelvic inflammatory disease. Statistics show a 30 per cent increased risk of ectopic pregnancy after one abortion and a 160 per cent increased risk after two or more abortions. Another complication is placenta previa, which is a condition producing extremely severe, life threatening bleeding in future pregnancies; statistics show a 600 per cent increased risk following an abortion. Another complication is increased bleeding in subsequent pregnancies, while another complication is retention of placenta, which is increased in subsequent pregnancies.

The data states also that women under 20 years have a two times greater risk of medical complications and a 150 per cent greater risk of cervical injury. Women who have had a previous abortion have a 200 per cent increased risk of miscarriage after two or more abortions, a 160 per cent increased risk of tubal pregnancy, and an increased risk of abnormal positioning of the baby in future pregnancies after one or more abortions. Women with previous or existing pelvic inflammatory disease have a decrease in fertility following an abortion, more days of post-abortion pain and cramping, and increased risk of tubal pregnancy following an abortion.

I am not saying that this data is the be-all and end-all. I am not saying that not just as many studies put another view. What I am saying is that these results of studies and research in America indicate that women who have an abortion face severe health risks. We are not allowing women to have ready access to that information. Very little, if any, counselling takes place. The medical profession does no advertising, from what I can understand, of the possibility of an abortion leading to ongoing health problems. Further research must be done on this issue, and women must be made aware of the growing body of evidence on the health issues that are associated with abortion.

All members will have received a great deal of information on this issue from both sides of the argument, among which has been a number of personal case histories and testimonials from woman who have undergone an abortion. One story that summarises many of the views that have been expressed to me and with which I have a great deal of sympathy is from a woman called Melanie, who states -

Fifteen years ago I had an abortion. Although I am now a happily married woman with two children, ages 10 and 11, I have carried this deep dark secret up until the last year and a half. Upon sharing this information through various outlets - writing, picketing, etc., I have found that I am not alone in the pain and heartbreak this so-called simple procedure has brought to my life. What began as "freedom of choice" has resulted into the emotional bondage guilt (over taking my child's life), sense of loss, and regret abortion often brings. As difficult as it is, I have chosen to share my experience with anyone who will listen since those involved in the abortion industry refuse to fully address the physical and emotional consequences of terminating a pregnancy.

... I can vividly recall the day I killed my baby. The clinic was very quiet with the exception of the staff who were carrying out their duties. I was placed in a room with about 12 other young women, most under age 20. A 'counsellor' explained to us in very brief detail what would soon happen. She used words like "uterine contents" and "wastes expelling," but never once used the word "baby." Today, I now know that the well-chosen terminology is intentional. All the girls were then given a pill which was said to be a low-dose muscle relaxant.

She then provides a graphic, detailed description of the abortion process. I will not read it. Most members are aware of the inhumane process that takes place. Melanie continues -

I was told to expect a little spotting for a few days after the abortion, but I bled like a regular period for several weeks. I also became anemic from the loss of blood, but was too ashamed to go back to the clinic.

Eventually the bleeding stopped, as did the pain - emotional and physical. I put the abortion behind me (or so I thought), and got on with my life.

For many years, I erased the memory of the abortion until it crept back into my life when I gave birth to my 'other' children. I looked down at their tiny faces - so innocent and trusting, and I couldn't believe what I had done to my 'other child.' Here were two little babies that were perfectly formed. When they were in my womb, I felt them kick and squirm. They were alive! Not a tiny clump of cells as I was led to believe, but a baby! A living, breathing, thinking, and feeling baby!

Living with the pain of knowing that I chose to end my first child's life, is nothing compared to the sense of loss. I wonder if my aborted child was a boy or girl. What would he or she now look like? What type of personality would he/she have? Strangely, the same love that I have for my two (living) children is the same love I will always carry for the child I aborted.

Our society has been greatly deceived into tolerating abortion because we have bought into the lies which the abortion industry has propagated. One of these lies are that a woman's right to choose is more important than a child's right to live.

That summarises my views on this issue. I will not be supporting this legislation at either the second or third reading stages. If the Bill passes the second reading I will try to amend it - as will the member for South Perth - because I think that a small loaf of bread is a great deal better than no loaf.

DR CONSTABLE (Churchlands) [12.23 pm]: Many members have contributed to this debate and I think we have seen a thorough canvassing of all the issues involved. I will concentrate on two or three issues to which I wish to draw attention. First, I will make some general comments. The matter of how to legislate for the termination of pregnancy encompasses many issues including moral and ethical questions, the health and welfare of women, the foetus, legal issues and the protection of the medical profession and other health workers. For some people in this debate the issue of termination of pregnancy or abortion is almost exclusively about the preservation of a foetus; while for others, it is almost exclusively about women's health and welfare. Some have stressed moral and ethical issues; and others have looked, to some extent at least, at legal matters as they relate to women and the medical profession. In my view, it is all of these and we cannot consider one issue and block out the others. If we are to do the right thing by the people of Western Australia in this debate and in this legislation we must consider all those aspects of the matter. We cannot minimise the importance of any of them by excluding them from our consideration.

Like many others, I declare that I have thought very deeply about this issue, and over the past few weeks I have tried to read as much as I can and to listen to as many points of view as I can. Like some members, I have come to the conclusion that this is an issue unlike any other with which we have had to deal and unlike any other with which we

might have to deal. It is special in its own way. Indeed, it concerns the most fundamental of all the issues with which we might deal - the issue is life itself.

I agree with other speakers that we must deal with the issue of termination of pregnancy in a moral and ethical framework; but at the same time it is very much an issue which concerns women. It is at the centre of the very being of every woman for us to be considering this issue. Therefore, we must consider the physical and mental health and welfare of women. That point is often forgotten by the hardline, pro-life advocates.

In all the points of view raised there seems to be one common point of agreement which is that if the life of the mother is at risk - and for some, even if her health is seriously at risk - a termination is warranted. Even there, I have been somewhat disturbed by a major point of departure for some. That is the point where the discussion of rape and incest has come into this debate. I was quite disturbed by a report in *The West Australian* on Monday, 16 March, in which the view of the Anglican Church was reported - a church of which I am a member. The report refers to the acceptance of termination of pregnancy in this way -

... when the mother's life was at risk or when a congenital abnormality was such that if born, the child would not live. But pregnancy resulting from rape would not warrant abortion on request.

Delving further into this, I looked for further explanation in the Anglican Bishop's press release which reads -

This means, because a person knows that she has been raped, that she is able to seek medical treatment in the form of curettage to ensure that a pregnancy does not result. In this exceptional case it is therefore not really appropriate to speak in terms of abortion, given that no human individual will have been conceived.

In all of this debate, particularly on that issue, one must exercise compassion. I keep asking myself how we can take a compassionate view of a woman whose life is threatened if she does not have a termination, but not take the same compassionate view of a woman whose life was threatened by a rapist, a woman who has been violated by a terrible act of violence, and as a result finds herself pregnant. I think at least some element of compassion must come into that, and I cannot agree with the view expressed by some members, and to some extent expressed in the view of the Anglican Church, that pregnancy as a result of rape does not warrant a woman's deciding to have a termination.

In an English case - the Crown against Bourne in 1939 - in which a well-known surgeon was tried for an abortion on a young rape victim, the judge's direction to the jury concluded with these comments -

... if "the probable consequence of the continuance of the pregnancy will be to make the woman a physical or mental wreck, the jury are quite entitled to take the view that the doctor who, under these circumstances and in the honest belief, operates, is operating for the purpose of preserving the life of the mother".

Helen Pringle of the University of New South Wales noted in her article "Abortion in and out of the Courts" that the judge also said that it was not necessary to wait until the woman's death was imminent before action became lawful. Therefore, a threat to the woman's life, in this case, was seen by the judge in his direction to the jury as a pregnancy as a result of rape.

I turn now to the issue of a free vote, and what it means to me. I have been thinking carefully about the concept of a free vote, because it is something that I have available to me at all times, but it is not something we see occurring in this House very often. I have tried to examine it in the context of the issue of abortion. The available literature on free votes suggests that free votes are non partisan votes where members are free to vote without the constraints of their party. Some will interpret this as a matter of conscience and we must be very careful what we mean by a matter of conscience. I do not believe that matter of conscience is a personal or individual vote. No matter how we are able to vote, I believe that we are still here representing the people who put us here to represent our electorates, so one must weight up a personal point of view with a point of view that represents a wider group of people as well. Exercising a free vote is not necessarily simply one's individual point of view. The fundamental belief is that we are here as trustees in a way of the power that has been given to us by our constituents at election time and we are not here to represent our own point of view or only one section of the community.

I illustrate this point by telling members about a telephone call I received during the past few weeks; like other members, I have received hundreds of calls and letters about this issue. One telephone call which stands out for me was from a female doctor involved in the area of women's health. She was brought up a Catholic and as a medical practitioner she had made a decision on one hand that she would not perform terminations. On the other hand she went on to explain that if any of her patients come to her seeking an abortion, she refers them to another medical practitioner who does perform terminations. I think that is actually a very brave stance to take and one that illustrates how one can think about a free vote in this debate. It illustrates that it is possible to have a personal view that is different from a professional point of view. I know this woman quite well; she is thoughtful, compassionate and a very good doctor. Her personal view is anti-abortion but her professional view is pro-choice, but with all the medical

and professional support which includes education and counselling for women who are seeking abortions. Just as this doctor can have one point of view which is highly personal, she can also have a different, professional point of view.

My stance is very similar to that one. My point of view, for myself, is the preservation and protection of human life. I have had a fortunate life and many women do not have a life as fortunate as mine; but in this forum I take a pro-choice stance. I respect the choice of every woman to make up her own mind regarding the termination of pregnancy. As others have said, in an ideal world we would not be talking about the need for termination of pregnancy; it would not be a matter of concern. However, we must face the reality faced by many of our constituents, and one of the realities is that in the past few decades in this State we have had a very strict law which has been interpreted in a very liberal and open way while thousands of terminations have been performed each year in this State.

Members of Parliament, including those here now and those who have come before us, and law enforcement agencies have sat on the sidelines while the law has been interpreted according to the case law of other States, relying particularly on the Davidson and Levine judgments. That has been the situation until the recent charges laid against two medical practitioners. It is those charges that now require us and members of the community to face the reality and to examine the law and look at changes. Some would like to turn the clock back as far as possible, but that is not a viable option. Is it a realistic option for us to say there should be no terminations? I think not. One way or another we must make the law more certain, and along with that we must also consider the need for more education and counselling in the community and support for women who find themselves in this situation.

I will make a few remarks about the Bill itself. If changes are to be made to the legislation that applies to termination of pregnancies, the law must be made certain. Medical practitioners and others who assist in these procedures and women must all be certain about what the law is saying. At all steps this Bill requires various conditions that will still need to be satisfied for abortions to be legal, and if a condition exists in the law, it invites challenge. I do not believe what we have before us provides the required certainty. We may never know with certainty whether any particular abortion is legal until it has been tested in a court. The Director of Public Prosecutions retains the power to question whether that test has been satisfied in the circumstances of any termination. If this law is passed, we may still see prosecutions resulting from any perceived failure to satisfy a condition in the Bill, including consent. If only paragraphs (a) and (b) of proposed section 201A (3) are passed, we will not even achieve a codification of the existing legal interpretations of the issue of lawfulness.

In *The West Australian* of 14 February, the Attorney General was reported as making a broad assertion that the policy on prosecutions for abortion would not differ from that which had been applied for more than 20 years. He said he would continue to apply the Davidson test which he said, "Permits doctors, for sound health reasons to carry out abortions".

This assurance from the Attorney General does little to reassure. Firstly, the Davidson test is a Victorian ruling which is not binding law in Western Australia. Secondly, the Attorney General has no power to interfere with the prosecution policy of the Director of Public Prosecutions; so one is not comforted at all by those comments of the Attorney General.

Obviously, radically opposing views are held on the morality of abortion, and there will continue to be those opposing views. I am one of those people who respects the rights all members of society to search their own hearts and minds and form their own views on this issue, but in our democracy no-one has the right to impose his or her moral or religious view on another. As we grapple with this issue we must try to fulfil some of the primary health goals of prevention: Education about contraception and sexual behaviour, and counselling for women who find themselves in this predicament. No matter what the outcome of this debate, it is obvious that the Government must address the matter of funding for educational programs in the areas of family planning, conception and funding for counselling women who seek terminations and for those who undergo termination. I will expect to find these funding requirements reflected in the next Budget. Ultimately, the decision to have an abortion must be freely exercised by the woman in consultation with the doctor prepared to perform the procedure.

MR DAY (Darling Range - Minister for Police) [12.38 pm]: As with most members of Parliament I have had to consider this proposal to amend the Criminal Code much more deeply and seriously than has ever been the case in the past. I recognise that strongly held views exist on both sides of the argument and I have received a lot of correspondence from within my electorate which reflects the wide diversity of views in the community at large. On the one hand some believe very deeply that a termination should not occur at any stage following fertilisation in virtually any circumstances. As an aside, I was interested to note from the comments of the Anglican Archbishop in Perth that the Anglican Church draws a distinction between fertilisation and conception, with conception occurring about three weeks after fertilisation. On the other hand, I recognise that there are people who characterise the issue as being primarily one of a woman's right to choose what happens to her body. In Western Australia over the past

20 to 30 years, with very few exceptions, prosecutions have not occurred. The existing law has been interpreted widely following judgments in courts in some other jurisdictions in Australia, most notably the Davidson case in Victoria in 1969.

I will put on my ministerial hat for a moment. It is true that police and other prosecuting authorities in Western Australia are placed in a difficult position at present. On the one hand, the law is strictly worded but, on the other hand, there is a general community expectation that there will be a much less restrictive interpretation placed upon the law in practice.

I have come to the conclusion that while difficult issues and questions must be answered, ultimately the only one who can make the final decision in an individual case is the pregnant woman in conjunction with her partner, if appropriate. In essence, the decision must be made between the woman and her conscience, her faith, her doctor and her partner. It is all very well for us as legislators to seek to dictate to a woman or a couple what she or they should do about a deep personal and moral issue. It might be fine in theory for the state to seek to intervene, but in reality it is a decision that only the individual can make.

The decision about the termination of a pregnancy, an abortion, is one I have never had to face either within my family or more broadly. However, I have no doubt that it is a decision that is not taken lightly and generally is taken only after careful consideration and a great deal of soul searching. It is clearly a difficult decision which can have significant implications for the woman whichever way it is made. I believe it is essential that any woman who is facing such a decision does so after appreciating all the implications. It is essential that adequate professional counselling is available and is provided. I believe that the medical profession has a heavy responsibility to ensure that this occurs. I am not convinced that it has always occurred in the past and perhaps some changes need to be made in that area. Those comments do not mean that I think that the practice of abortion is necessarily right. However, in the end it is a decision that really only the individual can make.

Obviously it would be far better for a woman to be in a situation where she did not have to contemplate an abortion. It is very much preferable for the couple involved to act responsibly and either abstain or use effective contraception if they do not want pregnancy to occur. In that respect it is also important for Governments and the community to ensure that adequate education and advisory services are available to those who may be sexually active and are likely to contemplate abortion if the woman becomes pregnant.

A strong argument exists that the best way to deal with this difficult subject is not through the Criminal Code but the Health Act and that may be the subject of debate at the later occasion. Whatever we determine in this Parliament about this difficult issue, abortions will continue to occur and, as others have said in this debate, making the practice illegal will not stop it happening. There will be those who attempt to self-abort or resort to backyard operations. The results may be tragic. I will quote from a letter received from a constituent which sums up the situation as I see it -

My first experience with the issue arose when I was at University in the late 1960's. At the women's college at which I was a resident, one of my fellow students, who I had known since school, died as a result of complications from an illegal "backyard" abortion. The aftermath left many of us shocked and traumatized. It should never have happened.

Supporting this Bill does not indicate that I am pro-abortion, but it recognises that in the end the only person who can make the decision is the woman together with her partner, if appropriate. I support the Bill.

MR OSBORNE (Bunbury) [12.44 pm]: I agree with other members who have participated in this debate who say that this has been the most important matter that has come before this Parliament - certainly in the years since my election. One thing that is clear is that some sort of change is necessary. The status quo cannot stay in place. For too long we have operated with a completely inadequate legal situation, where we have asked the police to exercise discretion in the application of the law and where women, nurses and doctors have been put in an impossible legal and moral situation. We are in the same situation with prostitution, where the law says one thing and we have turned a blind eye to the reality and ducked our responsibility as legislators to provide a clear and unambiguous legal environment. One thing is clear: We have a responsibility to resolve this issue and to give legal certainty to the people of Western Australia.

The problem of Governments making distinctions between private decisions and the public good is one of the biggest problems facing Governments today. Political parties in many countries are wrestling with deep philosophical differences over what should be public and of concern to the community, and what should be out of bounds. The irony is that, generally, the political right supports a market oriented approach to all decision making and the political left, generally, has supported state oriented solutions. The significant exceptions to this pattern has been freedom of speech and religion, where in this place the left has stood broadly for the principle of a fundamental private right, whereas the consideration of the public good has been more favoured by the right.

The issue of abortion makes the importance of privacy very clear. It also reinforces some old moral lessons about the social fabric; that is, individuals are inevitably connected to other people. Sexual activity is anything but purely private - at least one other person is involved - and abortion is a decision to terminate a pregnancy which was produced by the behaviour of two people resulting in the creation of a third. This debate has made me reflect deeply on that old dilemma about where to draw the line between things that the community cannot touch and things that are made possible by membership of the community. Although I believe that many brands of cultural regulation are unappealing, they do make at least one important point; that is, private behaviour does have public consequences. It is necessary that we tend to the social bond that makes every bond, including privacy, possible. Therefore, I have veered towards the right of privacy in moral issues.

In general, my position is that although we have no easy answers we need to tend to the social bond which makes every value, including privacy, possible; that tolerance and accommodation are the best approaches to complex moral issues; and that on balance most political issues should be resolved through pragmatic adjustment rather than laying down unalterable rules. I cannot see any solution to this abortion issue which is acceptable to everyone. That suggests the need for politics of tolerance and accommodation rather than politics of absolutism.

Like many members I have given more serious and deeper thought to this issue than to any other since I became a member of Parliament. I previously thought through the capital punishment and euthanasia issues. I once supported those issues. Now I have changed my mind. With capital punishment, once upon a time I would have been one of the first people to pull that lever; now I am opposed to capital punishment. We all wish that murder did not happen. We have all been crushed by the horror of people like the Birnies, Ivan Milat and Martin Bryant. However, I now think that if our response to murder is a retributive state-sanctioned murder we all become morally indistinguishable from the murderer. How can we tell our citizens not to murder when all of us collectively reserve the right to murder in response? It is the same with euthanasia. Even though some people are sick to death and only want to die I cannot make myself cross that dividing line where it becomes legal to take a life. For the sake of a very few we would be throwing into the shadows the elderly, the disabled and the chronically ill. Euthanasia is a willed act of killing. If we allow it onto the Statute books we cross over that line that divides a civilised from a barbarous society.

In this debate, after weeks of reflection and careful introspection, I ask myself why it is that I have found myself unable to come to a similar conclusion on abortion. I believe there are several important differences between the capital punishment and euthanasia issues on the one hand and abortion on the other. Firstly, we are not talking about a small minority of people and we are not being asked to change the law which applies to all for the benefit of just a few. Women make up over 50 per cent of the Australian population and it is such a large number of people that by simple virtue of their numbers it demands consideration from us as legislators.

Secondly, women are free agents and are entitled to control their own bodies, to scrutinise their own consciences and to decide whether they want to be mothers. I agree with the member for Kalgoorlie that it is offensive for a predominantly male institution to set itself up as a gatekeeper on women's consciences in this way. It is as though women are too feeble-minded to be responsible for their own consciences. As we have been cast in the role of decision makers in women's lives in this matter, we should exercise our responsibility with as much compassion and understanding as we can manage.

Thirdly, I believe that a fertilised egg is not a human, and that it is medieval to argue that it is. It is superficially attractive to say that this definable moment is the time that life begins, but the reality is more ambiguous and complex than that. A fertilised egg can become a human, but for a significant time it is not yet human so it does not have rights which equal or outweigh those of the mother. Therefore, I do not believe that an abortion of the foetus in the first trimester is murder.

Finally, I have been struck by the near universality of opinion of the women I have spoken to on this matter. I started with my mother, who was a nurse for 35 years, the last 16 years as the matron at Denmark Hospital. Like many medical practitioners of her generation, she has seen it all. She has seen the backyard abortions and the septic deaths. She stood at the bedside of these desperate women and did her best to help them die. I have spoken to my sister, my wife, my two daughters, my electorate officer, my branch president, my branch treasurer, my campaign manager, my parliamentary assistant and my landlady. During the last couple of weeks I have asked all women I have spoken to in the normal course of my duties as a member of Parliament what they think I should do on this matter. The outcome was conclusive. Literally all of the women to whom I spoke support the comprehensive reform of abortion laws in this State. The score was 33 to nil at last count - it was not even close. All the women to whom I spoke were crystal clear on this matter. They said, "It is our business. It is our decision. Give us the freedom to make it."

Last night a letter came to my office which is typical of the responses I have received on this matter. It is dated 17 March and was written by a high school student from Bunbury named Taryn Houghton. I read it into *Hansard* -

To Whom it May Concern.

I've always been very happy and proud to say I am Australian. Proud because of what a beautiful country this is and happy because I believed that I lived in a nation where I could live my life as I saw fit. I used to read articles in magazines like *Cosmopolitan* and *Marie Clare* about women in Pakistan and Sri Lanka and almost all the Middle Eastern countries and I thanked my lucky stars that I was born an Australian. The women of these countries have no choice, they live their lives as men see fit, they dress as they are told, act as they are told and speak what they are told. When it comes to sex in these countries it is for the males pleasure only, women are there to satisfy the men and if the men are not satisfied they are legally allowed to rape, beat, torture and kill their wives, daughters and even strangers. I used to think I was lucky that I didn't live in a society like that. I used to think I would have the choice to choose what I said, thought and most of all what I did with my body. This is my body, my life, no-one else's. Don't you think I know what is right for me? People can guide me, show me different paths to follow but in the end it is my decision which way I choose. I used to think this was the case, and in many ways it still is. But over the past month or so I have become scared. I'm scared because as a young women I may not be able to decide my future. Like many women I am well informed about sex and know how to practice it safely but what if one day something goes wrong? What if out of no fault of my own I suddenly become pregnant? How will I be able to live out my dreams my aspirations with a child that I may resent? I'm not saying I or every other women in Western Australia is going to have an abortion if we are put in this situation but I would like to be able to have the choice. Australian doctors pride themselves on being able to provide the public with clean and safe medical procedures. I wonder how proud they would be if they knew that in a few months women had had to resort to having procedures performed by untrained, backyard doctors in an unsafe and filthy environment. If this situation takes place it is almost inevitable that the woman's life will be at risk. I'm not saying that abortion is a good or a bad idea, only you can make that decision but we must all realise that abortions are still going to take place, whether they are considered a Criminal act or not. So the real question our Politicians must ask themselves is if they want Western Australian women to be having backyard abortions with potential life threatening consequence or be able to access safe and clean medical centres. Everyone, Man or Woman should have the right to choose their destiny. So to every Politician who has to make a decision on my future, please make the right one, give me my freedom and choice back and make me proud to be an Australian again.

Unashamedly, I am trying to help make a law for all these women in the secular here and now. I am not making a law for a vengeful and judgemental Old Testament God, the Archbishop of Canterbury, the Pope in Rome, or any of the people who have got into this debate as though they owned it and have the right to control its outcome.

I put a contrary point of view to those who say that if Parliament agrees to the legislation, it will commit an act of barbarity. I argue that reform of this law will confirm our humanity. I do not accept, as some have said, that this is a matter on which we should submit to the will of God; namely, if a baby is conceived, that is the end of the matter. I do not accept that. I believe that my creator gave me free will to exercise as I see fit. Humans, of all the animals, have the unique ability to exercise choice, and to choose our response to all things which impact on us in life. We are "response-able". Animals do not have this unique human quality. If they are tired, they sleep; if they are hungry, they eat; if they are frightened, they run. In that place between stimulus and response, as humans we have the ability to exercise choice with integrity so we can decide for ourselves. It is in that place, and at that point, we act as humans, not as animals.

The argument that we must accept circumstances as they present on the basis that "It is God's will" would put us in the position of being irresponsible - less than human. My creator gave me the place in my mind to choose, and I choose to make a law for the people in my life - my mother, my sister, my wife, and my daughters who want and need a better law. Having worked hard to get into Parliament with the intention of making this a better country in which to live, I do not intend to stand by and do nothing while this State reverts to a situation which could break the heart and body, and even take the life, of my daughters or any other woman. If there is such a thing as a day of judgment, I know I can stand in front of my Creator in the certain knowledge that I have exercised the discretion I was given as a human, and that I used that discretion with integrity.

Finally, I ask members to remember that we are not mandating abortion if we pass this Bill. We may well be deeply troubled by it, but nobody could be more aware of the consequences of the act and the gravity of what is being done than the expectant mother. To assume, as mostly male legislators, that we understand the unique and personal consequences to the woman concerned is paternalism. Women are not chattels; they are not property. We will be acting wrongly if we stand in the way of these adults making their own free decision. If we do so, we will be denying them the freedom we have awarded ourselves as we exercise our free vote on this issue. As we have given ourselves a free vote, the only logical outcome we can provide for women is the right to enjoy the same privilege. If we pass the legislation, we will not be mandating, or condoning, abortion - we will be making it available to those who choose it. This legislation will not result in the murder of one child, and it will not force one single woman to have an

abortion. However, it will allow any woman to exercise her fundamental right to control her fertility, to control her own body, to choose parenthood responsibly, and to face the consequences of all those decisions, as all responsible people should.

Finally, I repeat: I have spoken to and been approached by many women over this issue. They are almost universally saying the same thing; they might not ever want an abortion for themselves, but they want the freedom to make the choice without the police, the clergy or the Parliament getting into the picture. They respect the stories of the women who have gone on with difficult pregnancies and are reconciled and happy with their decision to do so, but they say this does not mean it is the right decision for them. They want the freedom to make the choices that are best for them, and this Parliament should give them that freedom.

In conclusion, this crazy tug of war over women's bodies might never end, but we should now try to establish in this State a political and moral tone by taking the laws prohibiting abortion off the Statute books and saying, as a Parliament, that abortion is a matter between women, their partners and their doctors. In this debate we could do with a bit more liberal rhetoric about privacy, freedom and a woman's right to choose. I urge all members to support the Bill.

Sitting suspended from 1.02 to 2.00 pm

[Questions without notice taken.]

MRS ROBERTS (Midland) [2.35 pm]: This Bill seeks to amend the Criminal Code by inserting new section 201A. The proposed new section is headed "No offence if procuring abortion justified", and outlines the circumstances under which women and medical practitioners would not be criminally responsible in procuring a miscarriage.

Many members have commented that this has been the most difficult decision they have had to make. It has been a difficult position for some members, but probably not for others, because some members in this House hold very strong views either way, such as the member for Perth and the member for South Perth - at both extremes of the argument. I do not think it is a particularly difficult decision for those people, because they have had strong and known views which they have promoted for years. It becomes a difficult position for those of us who hold a particular view in one direction or another, when we try to countenance the views of the other side. Many members have commented on the amount of correspondence they have received on the issue.

I wish to make my personal position clear: I am opposed to abortion on demand. I do not use that term to offend anyone, but to describe my position. I oppose abortion being freely available in the community. Some people will suggest that those of us who oppose abortion do so for religious or moral reasons. Reference has been made to religious grounds, as if that has some kind of mystery. I do not oppose abortion only on religious grounds. It is not as if I agree with every teaching of the Catholic Church, or any other church. Unlike some people who say that they were brought up as Catholics, my experience of being brought up as a Catholic is probably different. Everyone's experience has some impact on the conclusions one may reach on issues such as this.

For reasons I do not intend to address, I have been put in a position of having to question my faith and the teachings of the church on many occasions from a very early age. It is not for me an article of blind faith. I do not accept that people can attempt to dismiss my view as one without a rational basis, a view solely based on the teachings of the Catholic Church and in accord with the teachings of other Christian churches. In many instances, I would agree that the church has done the wrong thing, and that its teachings have left a lot to be desired - that those teachings have not been as Christian in their attitudes as they could have been. Naturally, one's upbringing has an enormous impact on one.

I note the statements that many of those who support abortion were also brought up as Catholics or in other Christian faiths, yet it is accepted that they have come to their own view independent of their religious upbringing. I ask those people to accept that other people, also brought up as Christians, can also come to reasoned, rational views and oppose abortion. I consider myself to be one of those people. Mine is not a blind faith and I certainly question various teachings of the Catholic Church. Unfortunately for those who are pro-choice, nothing that I have heard so far has convinced me that a foetus is anything other than a human being - in my view, a precious human life. I have stated previously that I believe human life begins at conception. Having listened to many other points of view, I believe there is some credence to the opinion that at the point of seven or eight days, cell division has occurred and the beginning of human life is evident. However, the moment one acknowledges a point of view such as that, it can be argued that logic is lost and one enters a debate about when a life becomes a human life. For some, that is when the baby is born and takes breath. Yesterday many of us received a document from someone purporting to be involved in the Uniting Church who made a biblical reference to the taking of breath and stated that that was where life actually began. I believe it was under the heading "Christian but pro-choice". To me that points out an inconsistency in the arguments of those who describe themselves as pro-choice. Those who are pro-choice strongly

argue that abortion is a matter between a woman and her doctor, yet I think most people would agree that at some point during that pregnancy a human life in the form of a baby is being carried by the woman. If we accept that at some point during that pregnancy what has been conceived is a human life, at that point it should be logically accepted that to kill that life should be illegal, both for the woman and the medical practitioner performing the abortion. To me that is the dilemma: When does that which is conceived become a human life?

We have heard some heated arguments both inside and outside this House, and some very strong words, some of which have offended people on both sides. Those who are pro-choice are offended by terms such as abortion on demand. They are offended that people suggest that abortion is being used as a contraceptive and women are not taking abortion as seriously as they might. They are offended that there has been an emphasis in the debate on women seeking abortions for what are described as social reasons. Some members ridiculed the member for Wanneroo last evening when he suggested that a woman might seek an abortion because summer was approaching and she wanted to wear her bikini. I know that many women who have procured abortions will have been offended by the comments of the member for Wanneroo and some of the other people who have contributed to this debate, because it is a suggestion that perhaps they took lightly their decision to have an abortion. I am aware also that we cannot simply dismiss the arguments of people such as the member for Wanneroo completely in that there are examples, albeit isolated, I hope, where women do have an abortion for social reasons.

In our society today there is an undue influence on the body beautiful, on the body image, and one has only to look at young girls who become victims of anorexia and other similar illnesses to see the truth of this. Body image is important for a lot of teenage girls and older women. We need only to look at the pictures in the fashion magazines and women's magazines, and at especially young girls but also boys who are falling victims to things like anorexia and bulimia to know that. We read about people in public life such as Nicole Kidman, who has adopted two children, reportedly because she does not want to ruin her figure for the movies. Women do read those magazines and some women take note. Some women are concerned about how they will look at the end of a pregnancy. I doubt that very many people seek abortions for those reasons. I have certainly heard of cases where women have chosen, even though they are in a secure relationship and part of a couple, not to continue with a pregnancy because they have an overseas trip planned or some other priority at that time; so they abort that foetus and attempt to become pregnant at a later stage. I do not think those kinds of arguments against abortion can be dismissed entirely. They illustrate that some women do have abortions for convenience.

Those who are pro-life have also been offended by some of the arguments in the debate. They are offended by the suggestion that abortion is just another medical procedure - quite a minor operation, the impact of which may not be significant - and that a foetus is something that can be removed perhaps like an ingrown toenail. For some abortion is not regarded any more significantly than a trip to the dentist or doctor. There has been a lot of misinformation and exaggeration in the debate, and that has come from both sides. Such inflammatory remarks do not assist the debate.

I chose to speak late in the debate because I wanted to listen to what people had to say and to consider their points of view. We have been asked by many of the speakers so far to consider the society in which we live; the fact that the 1990s and into the next century is a different era from perhaps the 1950s or the 1960s. I am sure everyone here lived through the 1960s and knows of the sexual revolution that occurred during that time, largely due to the availability of contraceptives. I accept that the sexual practices of people in society today are very different from those of people in the 1950s and 1960s. I am not aware of any stigma to the use of contraceptives. I am also aware that there is now very little stigma to unmarried motherhood; in the 1950s and 1960s, to have a child out of wedlock was certainly a matter of some social stigma. That stigma no longer exists to anywhere near the same extent. Society as a whole is far more accepting of unmarried motherhood. From my own experience in dealing with many Catholic women and girls who proceed with pregnancies and have babies out of wedlock I know that those women are largely accepted into their Catholic families and in fact are congratulated on their decision to proceed with the pregnancy.

It has also been suggested during the course of the debate that men should have no role in this debate, especially those men who are against abortion. It has been said that they cannot understand what it is like to have an unwanted pregnancy. I also point out that those same men cannot understand or comprehend the joy and excitement of a pregnancy; the wonder of a baby growing within one's body. They do not know that privilege. Of course, men are not alone in this. Many women have not borne children and do not know what it is like to carry and bear a child.

There have been many comments on moral issues. We have been told that we cannot make moral decisions for other people. As legislators in this Parliament we make moral decisions all of the time. We make moral decisions about penalties for crimes, and whether capital punishment should be the law in this State. We make moral decisions about corporal punishment and whether children should be hit at home, at school or anywhere. We make moral decisions about the age of consent for sexual intercourse, or the age at which someone can drink alcohol in a public place.

We have been told that we now live in a plural society and we welcome different views and diversity. On the face

of it, that is true. However, that does not mean, for example, that we will welcome polygamy because people elsewhere have a diverse view that it is okay for a man to have two, three, four or a dozen wives. Those kinds of arguments do not hold water. We make decisions on behalf of other people as to whether they can take various drugs, or engage in self-harm. We are making those decisions all of the time as legislators, so an argument that we have no role to play in making moral decisions is an argument without foundation.

Some of the speakers have also suggested that we will be making a judgment on those women who have procured abortions. We have been asked to think about all the women we know who have had abortions. We have been asked to consider that they could be branded as baby killers and that women who have had abortions will find pro-life comments offensive. I make no judgment. Their life circumstances and beliefs are different from mine.

At least one of the speakers referred to a woman who was pushed into having an abortion by a man in her life. There have been isolated examples of that but we do not make good law on the basis of isolated examples. I note this because it does occur. There are women who are pressured by their husbands, boyfriends or parents to procure abortions because that is what suits the husbands, boyfriends, or parents of a young girl. Some of the checks and balances which have been suggested in the Pental amendments may go some way towards helping women in those circumstances. They are women who perhaps in their hearts would rather keep their babies, women who perhaps will carry that decision with them for the rest of their lives because in order to save a relationship with their boyfriends or husbands or to comply with the wishes of their parents they make the decision to have the abortion. The member for Thornlie said that in those cases she does not agree with abortion either, because it is not the woman's choice. We must ensure that women are in a position where they are informed and independent of the influence of others. That is not happening in all circumstances at the moment.

The question of whether a foetus that is being killed is a human life is at the heart of the abortion issue. If one believes it is a human life it is difficult if not impossible to condone abortion. I have listened to and read the arguments of those who favour abortion being available to pregnant women. What strikes me is that those people do not see what they are doing as the killing of a life or in some cases they do not even see it as the killing of a foetus. Some prefer to describe it as a mass of cells or some kind of parasitic growth in need of removal. Most members say that they value human life but is not causing a miscarriage the taking of a human life? That is the key matter on which we differ.

I know that many people will be proud of me for the comments that I have made today. At the same time I know that there will be also many people who are disappointed that I do not accept that abortion is a matter of individual choice. Of course, individual choice is a popular concept during the 1990s. In many senses, in an age when many believe that they are not their brother's keeper or in this sense their sister's keeper, it would be easier for me to agree to leave it to the woman's conscience and to accept what popular opinion polls say, but as a legislator I would see that as passing the buck. I ask those people who are disappointed in my comments to understand the dilemma of one who believes that from the earliest stages of pregnancy we are dealing with a human life.

I know that many who oppose me are women and men of principle who agree with me on very many other moral issues. In many cases that is also against popular public opinion. In considering that, one can look at the death penalty. I know that many of those people who are pro-choice are also against the death penalty. I acknowledge that polls exist showing that most people in society accept abortion. However, among the 80 per cent of people who accept abortion concern exists about the circumstances under which abortions are performed.

It is my belief from talking to colleagues that most people in this Chamber will support abortion in certain circumstances. As we move into Committee we will need to consider those circumstances. I do not intend to take a head in the sand attitude to this. If it is inevitable that this Parliament will determine that abortion should be legal it is then a matter of agreeing to those circumstances in which it should happen. The matter that still needs to be resolved is when that which is conceived actually becomes a human life. That is something that has not been countenanced in the legislation that I am aware of. We also need to resolve that those medical and health practitioners - the doctors and nurses - who are in a situation where abortion is legalised must have the right to say that they personally and individually do not want to take part in those abortions and do not suffer any consequences.

I want to see that checks and balances are in place to ensure that women come to a considered view. I accept that most women do not come lightly to the view to procure a termination. It weighs very heavily indeed with most of these women.

I ask them to consider the position I face. During this debate, some analogies were drawn with Hitler and slavery and how certain practices were condoned in certain societies in other times. That is why I always return to the question: What is a human life? One speaker said that slaves were not regarded as human; therefore, the way they were treated was justified. In the same sense, women in earlier times and other societies were regarded as chattels and domestic violence was not considered to be a problem. In earlier times, domestic violence was condoned within

Anglo culture. It was believed that a man could treat his wife as a chattel, that she had no property rights and that she must accept whatever is meted out to her by her husband. That situation is analogous. If one believes that a woman is not a human life, and is just a chattel, one can do what one likes to her. One can perpetrate domestic violence.

We recently reached a position in our society at which women are treated equally, and we do not condone domestic violence, slavery and many other things which were once condoned by societies which considered themselves to be Christian. I contend that if one believes that human life begins either at conception or very close to that point, it is too hard an ask to request anyone to condone abortion.

MR COURT (Nedlands - Premier) [3.02 pm]: I have made a number of public comments on this issue, but I now record my personal views in this debate. My views are very similar to those of the previous speaker, the member for Midland, and I share many of the concerns she expressed.

I have three children - two natural children and one adopted - and three of the happiest days of my life were when I was told of the pregnancies and when we welcomed our adopted child into our family. I can still vividly remember those days which were a wonderful experience. The member for Midland spoke of a woman's joy during pregnancy, but I found that time to be a wonderful experience as a father. Of course, the whole concept of a child being conceived, the pregnancy and the birth brings with it a great deal of joy, a lot of responsibility and at times a lot of sadness and happiness. We cope with those experiences with our children.

I have repeatedly said that I see life as the most precious gift that God gives us. Therefore, this debate deals with a moral issue which must be handled in a very delicate way. I hoped that during this debate we would all have an opportunity to put our views in a considered way, but I took offence at comments made by the member for Girrawheen. He said that "Richard Court, the Premier of the State, will be remembered as the Premier who, in spite of a sizable majority and claiming to be pro-family, legalised the killing of unborn children." The member went on to say that I would be remembered as a "dishonourable" person.

Mr Cunningham: I said that other people believed that; I do not. It is in *Hansard*.

Mr COURT: It was said. The Government has put forward a mechanism by which we can debate this matter. Equally, I could say that a Labor person has introduced a Bill into the other House which I do not like, and I could make some emotional comments. Such comments are unnecessary in this debate.

We have a free vote, a conscience vote, on this side of the House, and the same situation applies on the other side of Parliament. This debate enables us to express our personal views on these issues. One matter of concern is that we are often told that we live in a disposable society - it is easy come, easy go. I am concerned that in recent decades, we have seen a considerable increase in the number of abortions carried out. A total of 100 000 abortions being performed in this country each year is a significant social issue from which we cannot walk away.

I am realistic enough to know that in certain circumstances it is perhaps appropriate that a woman, on the advice of the medical profession and the like, decides to have an abortion. This is where the difficulty starts. As the member for Midland said, we cannot make a judgment on someone else's circumstances because we simply do not know them; we are not privy to the different pressures and advice that the individual may receive. It may well be appropriate in certain cases to have the termination.

I am realistic enough to know that no legislation can cover the difficult issue of whether a termination is taking someone's life, or whether circumstances arise by which it is accepted. Broadly, acceptance has been evident throughout the country of what has been known as the Davidson test; those aspects are covered by paragraphs (a) and (b) of proposed section 201A(3) of this Bill. It is simplistic to think that the so-called test will cover a certain set of circumstances, a view I share with the member for Midland.

I have yet to see the amendments which will be moved by the member for South Perth, but the proposition explained to me in general terms was that the member wanted to include certain aspects like counselling and medical advice in the Health Act. I do not have a difficulty with that proposition.

Interestingly, a minority section of the medical profession has said publicly that if we do not agree to remove the abortion provisions from the Criminal Code, they will stop all procedures. I saw that as straight blackmail, and I said so publicly. It works against the interests of the medical profession. I had discussions with the President of the Australian Medical Association, to whom I said, "Why not take a constructive role in this issue? You are being told that women experience difficulties because they feel that insufficient counselling is available." I am told that counselling applies not only before making a decision, but also after an abortion has taken place. Counselling could be required one or two years after the event. I would like the medical profession to say, "Yes, we have the evidence. These are the case studies. There is a requirement for counselling at certain times of the process." The profession should be proactive and encourage practices to assist women, for example, in the provision of counselling before and

after the abortion.

That is preferable to some members of the profession taking an aggressive stance and threatening that, if we do not take certain action, other actions will follow. It was a hollow threat. I understand the laws in the other States are similar to those in this State. Therefore, if one makes such a threat here, one must also make it in other States. People can fly to other States and face similar law in practice. The profession has not made a constructive contribution to this debate by adopting that stance.

I referred earlier to the point that this will always be a difficult issue to cover with legislation. It will always be a situation in which a woman must depend on the advice provided, whether medical or in counselling, in relation to the options available. That is why it is a difficult issue because one never knows the situation in which different individuals will be. Reluctantly, I can accept only the options set out in paragraphs (a) and (b) of the legislation. I would prefer that provision to be accompanied by amendments proposed to be moved. I have not yet seen those amendments so I cannot comment on them.

I would like to think that use can be made of the tremendous publicity this issue has generated in the community. I hope it will alert all sections of the community, including the medical profession, to their responsibility to better understand the whole process. I would like people to understand that conception is the beginning of life, and to recognise all the other responsibilities that go with raising a child from the moment it is born. It should never be taken lightly because it is the most important responsibility any of us is given.

I am often asked what is the best qualification for someone to become a member of Parliament. I have two answers. The first is that if a person has brought up a family, that is as good a qualification as any. Anyone who can survive that has all the basic skills required of a politician. Secondly, involvement in small business is also good training. However, the most important responsibility people have is to their children. We all know it is not easy and that it is a lifelong responsibility. The tremendous media coverage of this process should be used as a stepping stone to enable all people, particularly, but not exclusively, the younger generation, to understand how precious the concept of life is. We live in a disposable society with an attitude of easy come, easy go. There is nothing easy about the precious gift of creating life and having the responsibility of raising a child. That is why we must be very considered when making these decisions. I accept the difficulty that many members of Parliament have in coming to grips with it.

I have come to a conclusion similar to that of the previous speaker and I have done so reluctantly. However, we must be realistic and understand that there are some circumstances in which that judgment would be made by a woman. That is why there must be some basis in law - as it is the current practice around the country - for that to occur. I do not like simplistic titles such as pro-choice, pro-life and abortion on demand. An issue as complex as this cannot be simplified, as convenient as it may be for media coverage to do so. They are my personal views and I appreciate the opportunity to participate in the debate.

DR HAMES (Yokine - Minister for Housing) [3.14 pm]: It is opportune for me to speak at this time and to provide some small defence for the medical profession and, to a lesser extent, the Australian Medical Association in terms of its role in this debate. One of the advantages of speaking this late in the debate is that one has an opportunity to hear all the speakers who have already presented their views, which helps one to form some opinions. I have been impressed by the range of speakers and the quality of speeches in this Parliament over the past two days. It is one of the few opportunities a member has to speak, not as a member of a political party but as an individual. As part of that, excellent speeches have been made by members on both sides of the House and on both sides of the argument. I had intended to praise some of the people who made excellent speeches but as the debate has worn on, there have been more and more of them and I would have to name half the members in this Chamber.

One of the disadvantages of speaking at this stage of the debate is that many of the comments I wished to make, which I thought were fairly important, have been covered by other members as part of the debate. Therefore, I plan to concentrate on one aspect that has not been covered, which others do not have the opportunity to cover; that is, as a medical practitioner to give the view of medical practice on abortions, and how they have proceeded and occurred to date.

For the 20 to 25 years before the two doctors were charged, there has in effect been abortion on demand. I say that although it was not given that title, since most doctors had heard of the Davidson case but did not know much about it because they went into practice long after it occurred. Doctors developed their knowledge of whether terminations were legal, not from legal opinion given to them because no court case had challenged that, but on current practice and experience. It was the understanding in the medical profession that if a woman had physical or mental reasons for requiring a termination and two doctors could reach that opinion, it was legal to carry out a termination. If it was not legal in the full sense of the word, in terms of being defended in a court, it was legal in the sense that it was accepted practice. As a previous speaker said, the debate had been held and mostly it was accepted that the situation

had been resolved to the extent that doctors were free to refer people for terminations, provided they felt that if they refused that would have a psychological impact on the person seeking the termination. Therefore, it came under the requirements of the psychological reasons accepted for termination. Nearly all general practitioners quite freely gave those referrals. Some doctors have always been totally opposed to terminations and will have nothing to do with them. Others, like me, as they developed through their careers, found they were not happy with abortions but if people requested terminations they would refer them to a specialist or clinic that would do the termination. That has been the case for as long as I have been a medical practitioner.

Where counselling has occurred, it has varied enormously and it depends very much on the doctor and the clinic. In some cases it has been adequate and in many cases it has been woefully inadequate. That issue definitely needs to be addressed. Nevertheless, in my practice, for example, when people come to me I try to give a balanced point of view giving both sides of the story, about the way they might feel if they had a termination and the regret and unhappiness that many people feel afterwards. At the end of the day if they decide that they still want a termination, I refer them to a clinic. The clinic to which I refer them also provides counselling before terminations are proceeded with to make certain the women are sure about their decisions.

People talk about terminations for those who are victims of rape, under age, or are in a range of other circumstances, and say that perhaps in those cases it is okay to perform a termination. Of the 10 000 terminations in this State each year, my experience as a general practitioner is that perhaps 90 per cent of people seeking terminations of pregnancy do not fall into those categories. I am only guessing with these figures, but perhaps 10 per cent fall into that category. I estimate that 90 per cent of women seeking terminations become pregnant by accident. Some people have said that these women are to blame for their pregnancies; that if they had been more careful or taken proper precautions, they would not be pregnant in the first place. That is simply not true. Many women fall pregnant despite taking all the precautions - other than abstinence - to try not to get pregnant. I am sure no member will say that people who are worried about getting pregnant should practice abstinence.

The fact is that medical technology is not perfected sufficiently to prevent pregnancy in all instances, including when one is taking the pill. People talk about using condoms and say that those having casual sex should use them. I can tell members that condoms have an enormous failure rate. For people who use them regularly, it is about 40 per cent, but I ask not to be quoted on that. A very large number of people who use condoms regularly get pregnant; it is not just those who have an occasional, casual sexual encounter. Most of them do not have intercourse very often. They may do it now and then, but the chances of those people getting pregnant are pretty small. The ones who do get pregnant are often in longstanding relationships - they may be either de facto relationships or marriages - and use condoms as their method of contraception. Because of the increased frequency of intercourse by virtue of those relationships, these women are much more likely to have failures and get pregnant despite their best efforts.

Some members may say that if that is the case, they should use some other method. In times past it was the intra-uterine contraceptive device, the IUCD. One of these little plastic devices was called the Lippes Loop. My father was a general practitioner, and he favoured that one for use by his patients. When I took over his practice the first four patients I saw who were pregnant had Lippes Loops inserted. I fairly rapidly stopped using them because I did not think they or other intra-uterine devices were very successful.

The contraceptive pill is not 100 per cent successful. It is pretty good; it is probably 97-plus per cent successful. Those using it who experience a lower success rate are highly fertile women, or women involved in sexual relationships with highly fertile males, or a combination of those two situations. Many variations are involved. As the father of six - without boasting - I can tell members that my last child comes into this category. I do not want to put a label on the poor girl.

Mr Marlborough: You have just done that.

Dr HAMES: I know I have. Women taking the pill can get pregnant. They need only to have a bout of loose motions a couple of times a day during the critical stage of the month and they can fall pregnant. Some say that if that is the case, it is bad luck for those women, but it is also good luck because they will have another child. However, a woman might already have a large family; already be experiencing a financially or emotionally difficult time; be having severe problems with her husband - the circumstances vary enormously - and might not wish to proceed with the pregnancy and have done everything possible to make sure she did not get pregnant. Members who reject this legislation are saying that these women do not have the choice and must proceed with the pregnancy.

People who have strong religious views put that point. The member for Willagee made a very strong and compelling point in his speech yesterday; that is, the religious views of an individual are exactly that. I am a religious person and have religious views also, particularly about abortion; but I do not think we should say to people who do not share that point of view that they must follow the doctrines that we have about when a life is constituted and whether it is the right thing, morally or ethically, to proceed with a termination.

People whom I have referred for terminations have said to me years later that they wished they had not gone ahead with the termination and still regret it. They said that I had a blase approach and did not care; in my determination to provide an unbiased view and to give alternatives, I should have given a much stronger point of view against terminations. Some of those women said that, had I done that, they would have made different decisions. I sincerely regret that is the case. If many doctors were aware of that and could go back to the time they were giving referrals for abortions, they would provide much better counselling than they have. Some of these women who regret the lack of counselling would have made the same decisions.

I will talk about some of the debate surrounding when abortions occur. Some members have said that in America abortions are being carried out at 27 or 28 weeks, or nearer to term. I do not know what the law is there. In medicine the definition of abortion is a termination of a pregnancy up to 20 weeks. The definition of termination after 20 weeks is covered by another piece of legislation, although at the moment I cannot remember which one it is. That legislation says that after 20 weeks, it is regarded as a stillbirth and is recordable as such. Those who do terminations try to do them as early as possible. Most are done in the range of eight to 12 weeks. They are sometimes done after that and, in some cases, particularly where it might take time to decide whether the child has a congenital defect, it may happen closer to 16 weeks.

When I was a medical student at King Edward Memorial Hospital and pregnant women came in at 16 weeks there was an enormous reluctance on the part of doctors to allow them to have terminations. It was done under exceptional circumstances, but, in most cases, these women were advised that it was too late. After 20 weeks, nobody of whom I am aware would perform a termination. After 12 to 14 weeks, I am very reluctant to refer someone for a termination because of the advanced stage of the pregnancy.

Some people say that terminations occur after that time, but I can tell members that that is not medical practice in Western Australia, unless it is in exceptional circumstances. For example, women might not find out until after 20 weeks they have an anencephalic child; that is one who has a normal body and a normal face, but no brain, and within hours of birth, passes away. In that circumstance a medical decision will be made in consultation with the patient as to the pros and cons for that woman to proceed to the end and to deliver the baby, knowing the child will die, or to induce the pregnancy early so that it will proceed and be over. Those decisions are made on medical grounds, as I think they should be. Abortion in the early stages is the current practice among the medical profession.

I will talk about those who support the concept of choice, but who have said that they intend to vote only up to paragraphs (a) or (b). I want to encourage members to also vote for paragraph (c) or perhaps even (d). At present, of the 10 000 terminations per annum in Western Australia, it is my personal evaluation - I have no way to prove this - that perhaps only 2 000 fall within the paragraph (a) and (b) categories. It means that the other 8 000 women who currently have terminations would not be eligible. We have talked about women who fall pregnant by accident and are not able to get terminations. Some women will proceed to carry their children to term; however, I will bet that a great many of them will try to find some other avenue. It may be either going to another State or going back to the bad old days of knitting needles. That will be the case for young women who are desperate, yet cannot prove that under paragraphs (a) or (b) they will suffer severe psychological impact by keeping the children. We must remember that it is up to the courts to decide whether that is the case. These young women will not risk that decision or will not find a doctor who will take the risk in the first place, so they will find other methods to get terminations. If members do not support the legislation to at least paragraph (c), they will create a huge problem with people seeking alternative methods of termination.

I have decided to support the legislation to paragraph (d). Originally I was going to support it only to paragraph (c), but I have a couple of reasons for my change of heart. I did a survey of my electorate. I did not have much time to do it given that we received the proposed legislation towards the end of last week. However, over the weekend I sent 7 000 pamphlets to my constituents to get a response as to how they believe I should vote. While I have my own views, I have 25 000 constituents, and it is also my job to represent their views. The responses have been pouring in, with people very grateful to be given the opportunity to voice their opinions. I received 200 responses in the first two days, and I am sure I will receive many more over the next few days before we vote on this legislation. So far, 44 respondents have stated that they want me to vote for no change; 17 respondents want me to vote for paragraphs (a) or (b); 29 want me to vote for paragraph (c); and 122 want me to vote for paragraph (d). Just under 60 per cent want me to vote for paragraph (d) to give women a choice. Most responses were from women, but many men also responded. If one were to add those supporting paragraphs (c) and (d), obviously that results in a much larger figure - about 70 per cent. My constituents are telling me what they want me to do.

One of the other reasons I will support paragraph (d) and why I advise against supporting only paragraphs (a) and (b) is that, in effect, it is the current law. It is not the current law as we have been interpreting it but as it applies to the Davidson case in Queensland. That is the law under which these two doctors are being charged. We will not know for one to two years what circumstances proscribe that person's having a termination. It will not be interpreted the same way, because we will have been through this debate. Doctors will no longer have the confidence to do

terminations according to paragraphs (a) and (b) and patients will not have the confidence to seek terminations. It will not happen for the majority of people other than by some illegal or alternative means. Until the courts establish some certainty, most of those people will be ruled out under paragraphs (a) and (b). As a doctor and a politician I have had some experience of decisions made in the courts - I had one today in respect of Homeswest. I do not always have great confidence in the decisions made by judges or that they will reflect my views as a member of Parliament representing my constituents or those of the population. A judge may make a determination based on a legal aspect that I do not think reflects the will of the people of Western Australia. I do not have great faith, even in supporting the legislation to paragraph (c), because that still provides the opportunity for some court to make a decision on whether the doctor and patient, as part of the consultation, have proceeded down the right path in a legal sense.

The last reason for my support of paragraph (d) is that we have had the equivalent for the past 20 years. It has been accepted by the community generally, but certainly not by those who are strong opponents of abortion. They work actively and progressively to oppose it. That is good because it is important to highlight the problems of termination and pregnancy.

This morning I attended a meeting at Homeswest and spoke to a secretary there. Over the past few weeks, I have tended, as have all members, to ask the opinions of all people I meet to try to shore up my own view. She said she was anti-abortion. I said that I did not particularly support abortion either, but that was not what I asked. I asked her if another woman decided she wanted to have a termination, did she agree that she should be able to have one or did she object to that also? She said she was only anti-abortion for herself. She was pro-choice and that is the distinction we must make. We are not telling people they must have abortions. We are not telling a person who is pregnant with a Down syndrome child that she must abort that child. We have been told that such children often bring great joy to their parents. The member for Moore told us about a couple in his electorate who have a Down syndrome child who is the pride of their lives. We are not telling those people they must have terminations but that they can do so if they wish. It is their choice whether it is a child who is normally formed, a Down syndrome child or whatever the circumstances. We are not saying they should do what we believe they should do; we are saying they should do what they want to do. It is not compulsory for people to have abortions, it is their choice.

At the end of the day, it is they who will be judged. We might be judged as legislators when we get to heaven and God says that we had the opportunity to stop people having abortions and that we did not take it. I am prepared to be judged on that, both by my electorate and my God. However, that is my decision. The true test is of the person who decides to have that termination. That must be their decision based on their religious and moral beliefs and the circumstances at the time.

I do not share the view of those who say that abortion cannot be included in the Criminal Code but must be in the Health Act. That is not to say that I oppose its being in the Health Act. I flag that, if the Parliament does not support paragraphs (c) or (d), I will support the other Bill when it is put. This does not need to be in the Health Act, because that Act deals with surgical procedures, legalities and advice in relation to operations. Unlike this legislation, it does not deal with counselling requirements. This legislation provides not only that counselling must be undertaken, which I believe is extremely important, but also that if a person does all those things, she is not committing a criminal act and it therefore automatically comes under the Health Act - there is nowhere else for it to stand.

The Criminal Code does not simply define what is a crime; it also defines what is not a crime. If paragraph (d) is supported, this legislation will provide that, if the woman has exercised informed consent in making the decision to have a termination, it is not a crime. I believe that that is perfectly adequate. It means that backyard abortions are still crimes; people who do not follow those procedures and who do not fit into the categories described are still committing a crime. For example, if someone does a termination at a certain late stage of pregnancy outside those categories, it can still be a crime under the Health Act.

All those other issues are covered. Comments that the Australian Medical Association and doctors should take a proactive stance are valid. Doctors have rested on their laurels for far too long. A patient I saw the other day after having a termination said that not a week goes by when she does not cry over it. That makes me extremely sad. I asked her what she would do if she were faced with the situation again. She said that she would probably proceed down that path again because in her circumstances it was the only choice she could make. I asked what she thought about how I should vote. She said, "You must give women the choice. It must be the woman who decides whether she proceeds." However, she said that one of the most important things is the provision of adequate counselling before a possible termination. The problem is that women who have had a termination often feel so sad afterwards that they do not want to face their doctor for a while. They also do not want anyone else to know about it. That makes it very difficult.

The AMA and doctors generally have a role to play in educating people and telling them that they do not have to have terminations. They must tell them much more succinctly how easy it is to get pregnant and about the extra things they

can do to avoid it.

People do not know about the morning after pill, for example. A normal contraceptive pill taken in a certain dosage within 72 hours of intercourse significantly reduces the chance of a woman falling pregnant. Many people do not know about that. People need better education. When I talked to the AMA about this today I was informed that it has already had meetings and has made a commitment to be much more involved in consulting and counselling people and drawing up a code of conduct for doctors so that they make a much stronger effort than in the past to provide the counselling women desperately need to make a proper choice.

The right to life groups have a strong role to play in this, and should not judge women who have made a choice. Those people believe very strongly in their side of the issue and want to convince people that, for religious and other beliefs, it is not the thing to do. However, they have a proactive role to play in ensuring that people get the right information and both sides of the story. They are doing that already through many of the clinics. Doctors should make sure that their patients are aware of those clinics and that their patients get both sides of the story. However, it must be the patients' choice. They must decide what to do about their pregnancy; it is not up to us as legislators to make that decision.

MR BOARD (Murdoch - Minister for Multicultural and Ethnic Affairs) [3.43 pm]: If there is anything a member of Parliament would appreciate about a difficult and sensitive debate such as this it is the honesty and integrity evident in the speeches made in this place. I say that with great joy because, as a member of Parliament it is an opportunity to demonstrate the Parliament's capability in difficult circumstances. Undoubtedly, the community now finds itself in difficult circumstances.

It is the proper role of Parliament and of members of Parliament to deliberate on a sensitive issue honestly and openly and reflect on not only issues of conscience but also issues that reflect community opinion. The outcome of this debate will be certainty, which is desperately needed in the community. Uncertainty has led us to this debate and resolution of that is vital to the outcome for women, medical practitioners and the judiciary.

From a selfish point of view, I hope an understanding will emerge in the community of what is the proper and important role of the Parliament. I say that because in my five years as a member of Parliament, no other issue, other than the Medical Care of the Dying Bill, has been under such scrutiny within our democratic process. Through this, I believe people will appreciate more the role of the Parliament and of the members of Parliament. From that point of view, the debate will have been also worthwhile.

The issue of abortion is a dilemma and a difficult matter. I will not repeat the many fine speeches that have been made, but I hope I can make a contribution to the debate of my own views. One of the difficulties we face is the convergence of the church and the State. Something that has been accepted under the Westminster system and which is important to the democratic system of government is the separation of church and State for obvious reasons.

Questions of faith, government and community representation do not always meet at the same point; yet in this debate we see convergence to the point at which members must examine their faith and the way in which their role as members of Parliament may conflict. We have heard from members views about professionalism versus their personal points of view. What is the role of a member of Parliament? The 50 000 men, women and children who live in the state seat of Murdoch have expectations and aspirations for my vote. Therefore, do I reflect the majority point of view, which I believe I know, or do I reflect a personal point of view? I hope I do both and I hope I get it right.

Like many other members of Parliament I have received hundreds of approaches to both of my offices. Of the many letters I have received by far the majority are from women, some of whom have asked me to protect women's interests. I hope I do that. However, the majority of people who have supported no change in the law have been women. It is a difficult issue for women. As a man standing here in this Parliament - I make no excuse for that - it is incumbent on me to reflect both my community's wishes, particularly women's aspirations, and my own.

I have reflected for a long period over what makes a woman choose to terminate a life within her body under extreme and difficult circumstances. I have spoken to many of my close friends - women whom I trust - who have loving families, who have raised children and who would give their lives for their children. There is no doubt that those mothers would give up their lives tomorrow to protect and support their children, yet those women have had terminations and in very difficult and distressing circumstances for them. However, they have done that having been informed, thinking people and in their own faith and conscience. As a legislator and person who stands representing the community with the power in this instance to help in a collective sense to legislate, I must in all conscience deliver to those women a choice.

Having said that, it is incumbent on the State, this Parliament, all of us and me as an individual to protect the sanctity of human life. We must do nothing that diminishes the importance of that issue. Somehow in this debate we must

get that balance right. I do not say this as a cop out, as an easy way of saying that we will do this and that. We must protect the sanctity of human life and allow women in difficult and distressing circumstances a choice. I cannot see a situation where the State can enforce women to carry a pregnancy against their will. However, it is incumbent on us to prevent the wrong decision by every means we have available to us through advice, counselling and knowledge so that people do not make the wrong choice for themselves, that life force and their future. I believe Parliament will get that balance right and, from the quality of the debates I have heard, will make the correct decision at the end of the day.

Many points of view have been put and I would like to reflect on a couple. We live in a strange society in which people are prepared to send their sons and daughters to war and in many cases to see their lives given up to protect democracy and freedom of speech. In many instances, to protect that principle, their lives are given up not in their own country. We do that because we believe as a society that certain things are important and go beyond life itself. A principle is being debated here. I am certainly not the hand of God. I am certainly not wise to that position. All I can say is that those people who call upon their faith to help them in that decision do very well, but that faith is different for many people. Many people for lots of reasons are unable to call on that faith.

The choice is one for the women, and they must make their decision according to their own faith and conscience. Abortion must be as a last resort and not a first choice. From that point of view it is incumbent upon the Parliament to show direction and leadership. We need to reflect on a number of aspects of this Bill. From what I understand and have heard, I doubt that too many members in this Chamber would not be happy with proposed paragraphs (a) and (b). However, proposed paragraph (c) has been questioned. To me - and here I disagree with the member for Yokine, the Minister for Housing who spoke a little while ago - proposed paragraph (c) in many ways diminishes our debate. To include in the equation such words as "economic" and "social" does not do well by our legislation. We need to address proposed paragraph (d) because women could find themselves in situations in which (d) must be looked at.

When I come to vote on this Bill, unless I am convinced otherwise between now and the Committee stage, I will certainly be supporting its passage through Committee. I intend to support proposed paragraphs (a) and (b) and I look forward to some of the amendments that have been foreshadowed to deal with the difficult and sensitive issue of choice, when it can be made and how people could be counselled and helped to make the correct choice. That is the dilemma for the Parliament. Over the next few days I believe we will get the situation right.

I am not sure I can add too much more. The question is of great importance to our community. Every member of this Parliament has taken the opportunity or will take the opportunity to put his or her views on the record, and it is important that that occur. People are expecting leadership and vision from this Parliament. They are expecting us to protect the sanctity of human life but at the same time produce legislation which will deal with the extremely difficult circumstances in which women find themselves.

Last night when I got home I took the opportunity of talking to my nearly 18 year old daughter. I wanted again to listen to her attitude, I guess from the point of view of not only the member for Murdoch but also the Minister for Youth. I asked what I thought were difficult questions for me to ask my daughter. The first question was what she would do if she found herself pregnant. To my pride and some amazement she indicated that she would carry the child. I asked what would happen if she found that the baby was severely deformed and might not enjoy what some people, not the child, would consider to be the quality of human life. She answered that she would weigh up that situation and try to see it from the child's point of view. She did not give me a direct answer. I thought that was quite a mature response for a person of her age. The third question I asked, which was very difficult for me, was what she would do if she had been raped. She said she would definitely not carry the child. I asked why that would be; after all, it would be her child. She said it was because she could not live with that on a day to day basis. In each of those answers she was making a choice. The last question I asked her was whether she would prefer that I made the choice for her. She said, "No, I could not understand why you would do that, Dad. It is something I need to live with." I think that sums up the argument.

MR RIPPER (Belmont - Deputy Leader of the Opposition) [4.00 pm]: I will state my position on this matter at the outset. I intend to vote for this Bill in its entirety, and if and when the Davenport Bill comes to this House, I intend to vote for that Bill also. As this issue has been taking root in the community, I have been struck by the number of women who have lobbied me for repeal of our abortion laws. All of the women to whom I have spoken about this matter - colleagues, staff, friends, relatives and guests at parties that I have attended - have urged me to support abortion law reform. Even my mother, a conservative woman in her eightieth year, has taken me aside and sought my assurance that I will vote for abortion law repeal.

My mother's experience is interesting. She is a midwife and trained nurse, and she remembers working as a trainee nurse in the early 1940s at Royal Perth Hospital. That hospital had a gynaecological ward with 44 patients on inside and verandah beds and some additional patients in other rooms. That ward was called "the naughty girls ward",

because a substantial proportion of the patients of that ward were the victims of backyard abortions. It was a very sad ward, with a lot of pain and suffering. The people who came to that ward were victims of either amateur abortionists or self-inflicted abortions. The hospital had to patch up patients who came to the ward haemorrhaging and mutilated. Deaths occurred on that ward, and children were left motherless as a result.

It is no wonder that so many women have rallied to the cause. The reason they have done so is the contrast between the experience that my mother witnessed in the 1940s and the experience that has been witnessed in this State in the last quarter of a century. Effectively the latter experience has been abortion on request. The nice way to describe it is that we have had a social truce where the pro-choice people have had the practice and the anti-choice people have had the law.

Perhaps a more accurate way to describe the situation is that we have dealt with a divisive social issue through the exercise of official hypocrisy. The real risk is that as a result of the actions of the police and the Director of Public Prosecutions, and the deliberations of this Parliament, women will lose the right to safe, legal abortion that they have had over the past 25 years. Unless this Parliament at least endorses this Bill through paragraph (d) of proposed section 201A(3), a woman's right to safe, legal abortion will be reduced significantly.

I warn the women of Western Australia to take notice of what is happening in this House. This House is a lot more conservative than is the remainder of the community. People outside this place may not realise that once this Parliament has passed this new law, there will be no room for official hypocrisy and there will be no room for the social truce that I have described. The Director of Public Prosecutions and the police will have no alternative but to enforce the new law. As the Minister for Housing said in his remarks, if we do not go at least to paragraph (d), a large proportion of the women who have been able to access safe, legal abortions in the past will, in the same circumstances, not be able to access them in the future. That is a potential social disaster. If this House does not endorse this Bill at least to paragraph (d), it will find itself on a collision course with the women in this community and with the overwhelming majority of community opinion. It is time that women in the community realised the seriousness of the threat that these developments pose to their right to control their own fertility and lives.

The reason that I support the right of women to access safe, legal abortion is that I simply cannot accept that once conception has occurred, pregnancy should be compulsory. To become a mother is a major, life changing event in any woman's life. The woman must undergo, firstly, the physical and emotional experience of pregnancy. Pregnancy is a risk; women do die from complications associated with pregnancy. For example, between 1988 and 1990, 37 deaths in Australia were related directly to pregnancy, and 33 deaths were related indirectly to pregnancy. Therefore, in telling a woman that it is compulsory to continue with a pregnancy, we are saying it is compulsory for her to face serious physical risks, and even death.

Secondly, the woman must make a commitment to child rearing. We all know that raising a child requires a significant investment of time, emotion and resources. It is at least an 18 year contract; and under the new federal government financial arrangements, it is at least a 21 year contract. The commitment that is required to care for a young child is significant. We need to recognise that the responsibility for these care commitments falls disproportionately on mothers.

Mothers set very high expectations for themselves. A chapter in Leslie Cannold's book *The Abortion Myth* headed "The Good Mother" reports the results of a study by Betsy Wearing of 150 suburban mothers in Sydney. Wearing found that the women in that study agreed on the following definition of a "good" mother -

A 'good' mother is one who is always available to her children; she gives time and attention to them, listens to their problems and questions and guides them where necessary. She cares for them physically . . . and emotionally by showing them love. She is calm and patient, does not scream or yell or . . . smack. . . . The cardinal sin of motherhood with its associated guilt is to lose one's temper with a child. Self control should be exercised at all times. Even in extenuating circumstances such as when a baby screams with colic for days or when the mother has no emotional or physical support in her task, she must at all times be in complete control of her own emotions.

Those very high expectations for motherhood are what mothers set for themselves. It is interesting to read the quote at the beginning of that chapter from Dr Elizabeth Karlin, which states -

Women have abortions because they are aware of the overwhelming responsibility of motherhood.

The emotional commitments of child rearing and parenthood are most important. However, we should not ignore the financial commitment. It costs around \$120 000 to rear a child in Western Australian society. The child support scheme is based on an assumption that parents will spend 18 per cent of their gross income on the requirements of their first child. In what other area of life would we accept the imposition of a financial commitment of this magnitude on a person by virtue of the raffle or lottery of conception?

Some people argue that a woman does not have to make the emotional and financial commitment to raise a child because she can relinquish her baby for adoption. I hope we all remember the debate in this Chamber on adoption law reform. I hope we all remember the pain and anguish experienced by the women who gave up babies for adoption decades ago. I remember that debate very well, because I was Minister for Community Services at the time. Many women in our community still suffer intense grief and psychological difficulty because they gave up babies for adoption many decades ago. The very small number of healthy, newborn babies put up for adoption in our community demonstrates that women do not regard relinquishment as an acceptable option. No more than two dozen healthy, newborn babies are relinquished for adoption each year.

The commitment required to become a parent and the magnitude of the decision to become a parent is significant indeed. Therefore, I find it difficult to accept that we should tell a woman that parenthood is compulsory once conception has occurred. Naturally, I prefer that people do not find themselves in the situation of having unplanned pregnancies. I prefer that people are cautious and sensible about the sexual relationships into which they enter. I prefer that people use contraception wisely. However, we must recognise that sexuality is an arena where irrational behaviour is quite common, and where unconscious motivations are very evident and influential.

There is an obvious lack of choice for a woman who is pregnant as a result of rape. But women can be victims in other ways. They can be lied to by the men with whom they are having relationships; they can be manipulated; they can be subject to exploitation; they can be subject to abuse; they can be subject to all sorts of bad behaviour and as a result of that exploitation and bad behaviour, find themselves pregnant. Relationships can sour just before a woman conceives. Contraception can fail. I do not think people recognise how often contraception can fail. I quote again from *The Abortion Myth* by Leslie Cannold -

Over the course of a year, 36 per cent of women will become pregnant if they use the cervical cap or sponge, 18 per cent if they use the diaphragm, 3 per cent if they use the pill and 12 per cent if their partners use a condom. One American study found that condom failure was responsible for 32 per cent of the pregnancies in women seeking abortions. The IUD is nothing to write home about either, with two of 40 women in one study becoming pregnant with one inserted.

Contraception cannot be relied upon and the extent of unplanned pregnancies is really quite astonishing. Leslie Cannold further states-

... the number of unplanned pregnancies in Europe and Australia is even higher - two out of three.

Pregnancies in this country are unplanned, according to Leslie Cannold. In the face of these realities; of the magnitude of the decision to become a parent; of the extent of the unplanned pregnancies, I cannot accept that it should be compulsory for any woman to continue with a pregnancy. Access to safe legal abortions is essential if women are to have control over their lives. Access to safe legal abortions is a basic requirement for progress towards gender relations in this country based on equality.

I know that the arguments I have put will not cut a lot of ice for many people in this House, because for them this issue involves the taking of human life. I agree that abortion is a moral issue and that it is not just like any other operation. However, I put a few arguments to those people who want to restrict women's access to safe legal abortions because of their concern about life. Firstly, a foetus is not a baby; a foetus is not a child. Those are my values, and I say that this is not a question of science, but of the values which one brings to this issue. We live in a pluralist society.

Given the diversity of values in our community, I do not think that on an issue like this we should be imposing our values on other people. I trust women not to choose abortion lightly. Most of the women to whom I have spoken about abortion, some of whom in recent times have spoken to me about their experiences of the abortion, have not considered the matter anything but very seriously indeed.

We are not consistent in our attitudes to the sanctity of human life in this community. We in this House almost universally have supported policies which have resulted in the deaths of tens of thousands of living and breathing children. Members might wonder what those policies are. I talk of the sanctions against Iraq and of the Gulf war. Those who campaign against the sanctions imposed on Iraq state in a background article -

By 1995 over a million people (567,000 of them children) had died as a result of the sanctions (source: U.N. Food and Agriculture Organisation (FAO), 1995.)

I have made an attempt to track down that source and I have not been able to find the original source, so I do not want to rely on that figure because it comes from people who are politically campaigning against sanctions in Iraq. However, I think I can rely on an article entitled "Effect of the Gulf war on infant and child mortality in Iraq" contained in the *New England Journal of Medicine* of September 1992. I obtained an abstract of that article from

the Internet. The conclusions state -

These results provide strong evidence that the Gulf war and trade sanctions caused a threefold increase in mortality among Iraqi children under five years of age. We estimate that more than 46 900 children died between January and August 1991.

These were living, breathing Iraqi children. People in this House, including me, supported the Gulf war and supported sanctions against the brutal regime of Saddam Hussein. We have been prepared in this House for reasons of State to devalue the lives of those Iraqi children, but it seems we are not prepared to accept that, for reasons very significant to a woman's life, she should be allowed to access a safe legal abortion so that pregnancy for her is not compulsory. I would like all those people who cite life as their predominant reason for adopting a position in this debate to reflect on those Iraqi children and on their being prepared for reasons of State to allow those sanctions to continue, but on their not being prepared for very significant personal reasons that apply in a woman's life to let her access an abortion.

I wish to comment on the difference between morality and law. Politicians often mistakenly think that what is moral must be put into law. It is not necessarily prudent to legislate for our own moral views. I want to give members an example: Consider the example of a man lying to a woman with whom he is involved in a sexual relationship by telling her he has had a vasectomy, and as a result the woman becomes pregnant. I regard that as an immoral act in which the woman is a very significant victim. However, it would not be prudent, wise or effective to seek to put that moral view into legislation and to make that a criminal offence, and the same applies to our views on women's access to abortion services. We need to recognise that it is not our role to put all our moral views into legislation. There are times when it is prudent to keep our moral views to ourselves and to legislate in a way which recognises the diverse values in our community and the social realities. I say to those people who have strong views about life and who base their attitudes to this issue on those views that the choice we face in this debate is not between more abortions or fewer abortions. We know that women will continue to seek to terminate their pregnancies if the circumstances in their lives demand that they do so. We should recognise that whenever we are dealing with strong human emotions, in particular questions relating to sexuality, there are limits to the effectiveness of law. Law can do only so much and it is very difficult to compel people not to do certain things when the whole future of their lives, their careers, their access to education, their family relationships, and the care of their other children might be compromised if they are not able to have access to a safe legal abortion. We know what will happen. Whatever this Parliament says, women will go ahead and terminate their pregnancies if the circumstances in their lives demand it. However, there will be inequity because affluent women, women with connections, will hop on a plane and fly to another jurisdiction. Poor women whose first language is not English, women without middle class contacts, will be forced to resort to much less safe ways of terminating their pregnancies.

Therefore, if we do not reach paragraph (d) in the Government's Bill, we will not protect life, if that were the aim. We will increase inequities in our society. We will force some women back into the backyard arena, which my mother witnessed as a trainee nurse back in the early 1940s. I owe it to my female relatives, female friends, female colleagues and female constituents to give them the right to control their own fertility and their lives by access to safe, legal abortions. I simply cannot accept that pregnancy and parenthood, which are such life changing events, should be compulsory for women following conception.

I will vote for this Bill, although I see some problems with it. I prefer to vote for the Davenport Bill if and when it arrives in this Chamber, although either part (d) of this Bill or the Davenport Bill would produce an acceptable result.

I am worried by the way the debate has progressed. This Parliament is in danger of going off the rails, and a serious risk exists that women's access to abortion rights will be seriously eroded. The community should be aware that rights enjoyed for a quarter of a century are under serious threat. The vote on this measure will be very close indeed. It is a significant possibility that Parliament will not pass Hon Cheryl Davenport's Bill and will pass the Government's Bill only to point (b). If that happens, serious social consequences will emerge for a significant number of women in the community. Also, there will be a growing disrespect for Parliament. If it does not at least endorse point (d) of the government's Bill, Parliament will show itself to be woefully out of touch with the realities of modern life, particularly for women.

MRS EDWARDES (Kingsley - Minister for the Environment) [4.22 pm]: As most members have indicated, this is an issue of great sensitivity and emotion. I have received many letters and calls, some urging abortion on demand, some wanting a woman's right to choose, others wanting no change, and some seeking clarification so that the current practice - the status quo - will be maintained. The last position, as outlined by other members, involves meeting the needs of the community under the present system.

I have spoken to members of the medical and health profession, some of whom want change, others do not. The same can be said of mothers, daughters, grandmothers and our men folk. A united position exists neither in the community,

as we have seen demonstrated, nor in this House.

The position I take in the final analysis represents the consolidation of views expressed to me, perhaps also with a view to the legal position. It is not my personal position. I do not support abortion. I believe that human life starts at conception, and I am similarly opposed to euthanasia and capital punishment, which also involve taking human life in one way or another.

However, I acknowledge that circumstances arise involving serious risks to the physical and mental wellbeing of the women concerned. Everybody is different, and people handle situations differently - that is the value of our society. Everyone does not have the same level of support. As such, we cannot judge individual cases, and ultimately it is a decision between the woman and her doctor.

A doctor indicated to me that in all the years of his practice, he had not come across one woman who had lightly made a decision to terminate. Given the situation which has now arisen, it is imperative that the law be clarified and, consequently, we are debating amendments to the Criminal Code. The clarification of the law is based on a view expressed to me by a large number of people; namely, that we should retain the law as we have always understood it to be. That proposition does not extend or liberalise the law, although some people in the community seek such an extension.

We need to restore confidence in the community for the law. We should draft the law in consideration of how we might believe the court would interpret the current provisions in the Criminal Code, and what is believed to be the current practice as evident in the community. The courts and most members of the community would agree that, when a mother's health is seriously at risk both physically and psychologically, an abortion would be justified. The decision then is one between the doctor and the mother.

Interpretation by the courts changes as community attitudes progress, although the courts are often out of step with community attitude as their rate of change is often much slower than that of the community; in fact, the legal profession regards it as appropriate for the courts to move more slowly than the community in making such changes. However, it is not good policy to have a law out of step with community attitudes or practice.

As we have all experienced over the years, particularly in recent weeks or perhaps months, this debate encompasses extreme views and a wide range of views in the middle. The test as set out in *R v Davidson* and its subsequent interpretation will continue to evolve as we make amendments and other States of Australia reflect its view. Davidson's judgment is how I believe the courts in Western Australia would interpret the current sections of the Criminal Code, and the majority of the community would support this view. I place the Davidson judgment on the record -

For the use of an instrument with intent to procure a miscarriage to be lawful on therapeutic grounds, the accused must have honestly believed on reasonable grounds that the act done by him was (a) 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 childbirth) which the continuance of the pregnancy would entail; and (b) in the circumstances not out of proportion to the danger to be averted. Accordingly, to establish in such a case that the use of an instrument with intent to procure a miscarriage was unlawful, 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 childbirth) which the continuance of her 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 to the need to preserve the woman from a serious danger to her life or her physical and mental health (not being merely the normal dangers of pregnancy and childbirth) which the continuance of the pregnancy would entail.

The amendments before the House in parts (a) and (b) would simply make the Davidson test law. I have spoken to doctors, and although they would like (c) to (d) passed also, (a) and (b) would meet what they understand to be the current practice, as outlined in the Davidson test.

I now draw the attention of the House to the situation in other States. It has been stated that not making this law would necessitate people travelling east and, therefore, limiting the opportunities to those who can afford to make such a trip. I quote from *Halsbury's Laws of Australia* as follows -

In all jurisdictions except the Northern Territory and South Australia the defence of necessity is available to abortion related offences in that a person is not guilty of an abortion related offence where a pregnancy is terminated by a registered medical practitioner in good faith and with reasonable skill, provided that the performance of the operation is reasonable, having regard to the patient's state at the time and all the circumstances of the case . . . In addition, in Queensland, Tasmania and Western Australia a person is not

criminally responsible for performing in good faith and with reasonable care and skill a surgical operation upon an unborn child for the preservation of the mother's life, 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.

In the Northern Territory and South Australia an abortion is lawful, in addition to the defence of necessity, where the termination of the pregnancy is carried out by a legally qualified practitioner in a hospital and in the opinion of the medical practitioner and another legally qualified medical practitioner, the termination is necessary either because the continuance of the pregnancy would cause a greater risk to the life or physical or mental health of the woman than if the pregnancy were terminated, or because there is a substantial risk that if the pregnancy were not terminated, the child would suffer from such physical or mental abnormalities as to be seriously handicapped. In determining whether the continuance of a pregnancy would involve a risk of injury to the physical or mental health of a pregnant woman, account may be taken of the woman's actual or reasonably foreseeable environment.

If this House were to pass the proposals in paragraphs (a) and (b) to interpret the law as we currently do, some States might remain with a narrower provision, but our law would be similar to what has always been accepted as being both here and in other States of Australia. There has been discussion about whether the amendment should be in the Criminal Code or in the Health Act. If we value human life, and I suggest all of us in this Parliament do - there is a strong public interest in the rights of an unborn child however or whenever they may arise, and I recognise there are differing views on that matter in the House - the matter should still remain in the Criminal Code. It is not just a public health issue. A public interest test must be applied here, although I agree that there should be amendments to the Health Act to support the law.

The decisions we make in this Parliament will not meet the views of everyone; however, that is rarely the case, perhaps even more so on this issue as it remains a very hotly debated one with very wide and differing views. I believe, however, that all members have considered it seriously. I will be supporting a change to the law in line with the proposals in paragraphs (a) and (b) for the reasons I have outlined, but not a total liberation of the law as has been put forward under the proposals in paragraphs (c) and (d).

MRS HODSON-THOMAS (Carine) [4.32 pm]: I believe life begins at conception. I find the issue of abortion particularly difficult to reconcile. In my life I have been truly privileged and fortunate to have a husband who loves me, who loves his children and who was deeply happy in the knowledge of my pregnancies. We both rejoiced in the birth of our two sons. Both were unplanned pregnancies and both interrupted my career, but I know of no greater gift than bearing a child and holding that child in my arms. Although the debate has been a very emotive one, I commend members in this place for the civil way in which the debate has been conducted thus far and the very fine speeches from both sides of the argument.

For the purpose of my electorate, I place on record that I have wrestled long and hard in all my deliberations on this issue. I have undertaken private polling and have been very mindful of the views and concerns of my electorate. Never have I received as many letters on an issue. Whatever decision I make in this place today and on any future day, I will be damned and condemned. Abortion should never be taken lightly and by the large number of very open and frank letters I have received in recent weeks, it is evident that it is not taken lightly by people. What is apparent from those letters is the importance of the provision of information and counselling so that women contemplating abortion have the opportunity to make an informed decision about their determination.

I feel a great sadness for those women who shared their stories and who for many reasons decided there was no alternative but to choose abortion. In that regard I will add briefly to what has already been said about post-abortion syndrome. It has been described to me as a post-traumatic stress disorder, which gives rise to a number of health problems for women; for example, postnatal depression, suicidal behaviour, drug and alcohol abuse, anxiety attacks - the list goes on. Women Hurt by Abortion state that "unprocessed grief is complicated by the fact that abortion is not a socially recognised loss. The aborted woman often has no social support in which gradually to process the pain she has experienced." It is imperative that no matter what decision we make, we must ensure women contemplating abortion should be fully counselled on both the physical and psychological implications of the procedure, and how that may impact on her in her future life. Those women who decide they have no alternative but to abort should also be able to access post-abortion counselling.

I also add my support to those in this place who have stated they would like to see the number of terminations decrease and that education campaigns are essential if we are ever to reduce the number of abortions in Western Australia. For some, abortion has become a convenient way of disposing of an unplanned pregnancy. The dilemma in supporting my claim is that it cannot be supported with facts. There is currently no mechanism to facilitate the collection of data on why abortions take place. We must collect this information if we are ever to reduce the number of abortions taking place. I do not believe in abortion on demand, but I will support the Bill in part, and also a number of amendments covering access by women to unbiased counselling so they are better informed on the

decisions they will make.

MR COWAN (Merredin - Deputy Premier) [4.37 pm]: Many speakers have dealt with the moral and social issues associated with this matter and I do not need to contribute to that portion of the debate.

The reason we are now considering an amendment to the Criminal Code must be stated very clearly. In most instances changes to the legislation are brought about because invariably the expressed law has been superseded by convention, and the practices that convention dictates quite often are not tested. In this case the Criminal Code provisions covering abortion have not been tested in this State for at least 20 to 25 years. In that time, although the Criminal Code has not changed, a convention has arisen - some people may wish to deny this - that effectively permits abortion on demand.

There may very well be a very special relationship between the woman and her doctor. Nevertheless the woman makes the decision. If she makes the decision, generally the doctor will say either that he is not prepared to do this or that he knows of a clinic or a medical practitioner prepared to do it, and then recommends that the person attend that clinic or see the doctor and, in fact, gives the person a referral in some instances.

This legislation is before the Parliament for the simple reason that the Criminal Code, with respect to abortions, within a period in which the courts can process it, is about to be tested. For that reason it has been decided that the convention we have lived with somewhat uneasily for the past 20 or 25 years must be more accurately reflected in the law. The Government decided that this was not something on which it had to demonstrate a party political line or a government line, but that it should present options for the Parliament to decide upon.

Those options have been clearly outlined by previous speakers. The amending Bill contains only one functional clause which gives certain stages by which the Parliament, if it consents in Committee, will amend the law. Proposed section 201A, subsection (3), paragraphs (a) and (b), as the Minister for the Environment said, relate to the need for meeting medical tests. Paragraph (c) deals with the broader socioeconomic test and paragraph (d) provides for informed consent. If people in this place want to be realistic and are prepared to acknowledge the practice that convention has permitted in this State of Western Australia, without doubt paragraph (d) is what we have been operating under for the past 20 to 25 years. If anyone wants proof of that he need only read the Criminal Code to identify that no charges have been laid against anyone for the procurement of abortion or against a medical practitioner for the provision of an abortion.

The convention is that effectively - one assumes with consent by the woman involved - abortion is undertaken quite freely. Like everybody else, I have been very strongly lobbied by a number of people. However, the most appropriate course for me to take is to support what convention has determined over the past 20 to 25 years. In that sense I intend to support this legislation in its entirety because it will then give us a law within the Criminal Code that reflects more accurately the convention of today. It is appropriate that, in the final analysis, the decision belongs to the woman and to nobody else. It is not appropriate to impose our morals or our values on women.

Without doubt an approach has been made that will deal with some of the other issues such as the capacity to access counselling. A ruling has already been made from the Chair - I will deal with that in Committee - that, should the Committee wish, an instruction will be able to be given to the Committee of the Whole to deal with matters outside the Criminal Code but which relate to abortion. In this case the inclusion of provisions within the Health Act will provide some of the safeguards that I think the medical profession is demanding. However, they are overly prescriptive and would be virtually impossible to apply in a practical sense.

Some members have argued that this matter should be taken from the Criminal Code. I would like members to reread the Bill and examine proposed section 201A subsections (1) and (2). A person is not criminally responsible under this code. Those people who have the qualifications and the need and who have satisfied the requirements in paragraphs (a) to (d) should this Parliament pass them, will not be subject to the provisions of the Criminal Code. Anyone else will be and I feel very comfortable with that. For that reason I am not inclined to support any legislation which attempted in any way, shape or form, to take this provision out of the Criminal Code, other than the amendments in this Bill.

All I am suggesting to this House is that we acknowledge that the law must be changed to bring the written, expressed law closer to the convention practised for the past 20 to 25 years. I acknowledge that there will always be two sides to the argument. People will always argue about the right to life saying that the law, not as it is expressed but as convention allows it to be practised, is wrong.

Pro-choice people will always say that the law as it is expressed is wrong and should be taken out of the Criminal Code. I am suggesting that we do not change the conventions of today but that we write into the law an accurate reflection of those conventions, and that is all this Bill seeks to do in amending the Criminal Code. It does nothing more and nothing less. For members to ignore something for the past 20 to 25 years and suddenly, in a fit of

conscience or moral obligation, believe they must make a quantum change is a nonsense. Where were they during the past 20 to 25 years? I am suggesting that this Bill merely recognises the conventions of today and can be supported confidently by every member of the House.

MR BAKER (Joondalup) [4.47 pm]: I will make a very brief contribution on this topical and emotionally charged issue of abortion. Much of what I will say has probably already been said but that is the way things have developed through some members getting the call ahead of others.

I thank all members who have participated in the debate for the exemplary way in which they have conducted themselves and for their thought provoking analyses of all matters related directly and indirectly to the subject of abortion. Although I strongly disagree with many of the views put forward by some members, I thoroughly respect their views and support them in exercising their democratic right to express them and to actively and passionately participate in the representative, democratic processes in this Chamber. I will seek to avoid the use of rhetoric and emotive terms because they will only cloud the issues and the substance of the debate. I will be dealing with issues of substance rather than rhetoric.

Like most other members, I sought to consult my constituents, friends and family on this issue. On the basis of my consultations I am satisfied that the overwhelming majority reject the notion of abortion on demand. They want certain limitations to apply.

Regarding the criticism of the Attorney General's legislative model for dealing with the abortion issue, although I disagree with many of its provisions because of the lack of certainty and my preference for "fully informed consent" rather than "informed consent" and other matters, it at least gives members the opportunity to support or reject the various options in this debate.

I contrast this approach with the Davenport approach which is to repeal the relevant provisions of the Criminal Code dealing with abortion. That is all her Bill does. It is interesting to contrast the Davenport approach with that of the very organisation which supports abortion on demand. I refer to the Association for the Legal Right to Abortion WA Inc. Like many other members, a couple of weeks ago I received a very detailed submission from that organisation. Attached to the submission was a model of the legislative amendments that would be necessary, in the view of that organisation, to effect abortion on demand. As one would expect, the model proposes once again to repeal key provisions of the Criminal Code. However, it goes beyond that; it proposes certain key amendments to the Medical Act. The gist of the amendments is to give legal protection to medical practitioners who procure miscarriages. I know that the medical profession has been asking for that certainty in the law, not only in the Criminal Code.

My point is that the Davenport model does not even deliver upon the legislative changes deemed to be necessary by the key lobby group in this State which supports abortion on demand. That is yet another reason to reject that model. It is a very simplistic repeal model. Anyone can suggest a Bill with a couple of sentences to repeal provisions. One must look further and consider the consequential amendments that will need to be made to other areas of the law. The Davenport Bill fails on that count.

We were told by the Davenport lobby group that the proposal was to take the abortion issue from the Criminal Code and place it in the Health Act. We have been told that many times. Members in this Chamber have openly said that they support the Davenport model. My question is, where are the Health Act amendments? Where are these comprehensive, crucial Health Act amendments to assist the Davenport Bill? They do not exist. Many members have been conned in that regard. They have been told that two things must happen: The relevant provisions of the Criminal Code must be repealed, and subsequently key amendments to the Health Act must be made. Where are those amendments?

In effect, the Foss model is a tick a box model, because it gives members a variety of choices on the grounds members think should be reflected in criminal law to excuse or justify the procurement of miscarriages. The Davenport model does not offer that approach. It says that members either agree with repeal or they do not. The Foss model gives five or six choices. The Davenport model says, "Here it is. Take it or leave it."

Later in my remarks I will be talking about the issue of choice. However, it is clear that the Davenport model does not give us much choice at all. The take it or leave it approach hardly permits members to have a real choice on this issue. It is a complex, complicated issue. It is not a case of open slather, one way or the other. Everyone would acknowledge that is the case. It is not a case of looking only at the extremes.

Some people allege that the current law is uncertain and, therefore, we should make sure that it is certain and, if necessary, liberalise it, depending on contemporary Australian standards. I have looked at the current law and the code, and they are very certain indeed. The law is drafted in clear, certain, unambiguous terms. It contains no uncertainty in the key words and phrases in the provisions. It may well be that other case law exists over east, arising from the cases of Wald; Davidson; CES v Superclinics, the latter of which is really a restatement of the law; and

myriad other cases. However, we must remember that those cases relate to eastern States' jurisdictions. With the exception of Queensland, they are non-Criminal Code jurisdictions. They are common law jurisdictions. It is wrong for people to think that is the law in the eastern States and if it ever becomes an issue here, that law will apply here.

Anyone who has a slight doubt about the law on this issue and is asked to procure a miscarriage should seek detailed legal advice on the current law in this State rather than simply have a guess. When any doubt exists on this issue, one should always proceed with great caution. It is wrong for doctors to try to crystal ball gaze and hope that their interpretation of the law should be based on case law in other jurisdictions. This is conjecture, and it is very dangerous. It is fair to comment that the charges that have been referred to in this Chamber - I will not go further - arise out of doctors' conjecture on what is the law in this State. Members should look at the consequences.

The focal point for any intellectual debate and analysis of the abortion issue is, when does human life begin? From that point, legal rights accrue and separate legal entity status comes to fruition, and the ongoing resolution of the conflict between competing human rights also begins. Any member who disputes that this is a central issue refuses to accept the application of logic or reason in this debate. This is the central issue. I believe there is ample, compelling and irrefutable scientific and even case law authority in support of the proposition that human life begins at the time of conception. It is a matter of looking at existing law. Myriad civil law cases say that if a child sustains injuries in the mother's womb, when the child is born it can sue whoever is responsible for inflicting those injuries. The law appears to say that a person has a right to do something once that person is born, but it can relate back in time to something that happened before the person was born. To me, that is legal nonsense. In this regard, I refer to the Criminal Code, section 269, which states -

A child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother . . .

I turn to a couple of key cases: *The Crown v Martin*, reported in 1995; 85 *Australian Criminal Law*, page 587, and the associated Supreme Court decision of *Martin (No 2)* 1986 87 ACL 133 - an earlier decision on appeal. Those two Supreme Court decisions held that when a baby has proceeded in a living state from the body of the mother but subsequently dies from injuries which were inflicted upon it before it was born and was still a foetus in the mother's womb, the person who inflicted those injuries is guilty of unlawfully killing the baby. That decision tries to go all the way, but it stops short. It is a case involving a legal fiction.

I can refer to many other cases which basically state the same thing: When a child is born, certain rights arise, but they can relate to something that happened before the child was born. If one accepts the pro-choice lobby argument, one would think that when a child was born and a right accrues and the right of a human being arises, any action the child could take would apply only prospectively not retrospectively. This is a case where the law has said that, in certain circumstances, rights are retrospective - but retrospective to what and for what reason? It is my view that to not accept the view that life begins at conception is to create a nonsensical legal fiction for the sake of the general convenience of those humans who have already been born, and to attempt to give a false and superior status of rights and entitlements to those persons. Those cases indicate that we are dealing with legal fictions here. To say that life begins once an unborn child is born and the umbilical chord is severed is the most absurd, contrived and nonsensical legal fiction ever created by mankind in an attempt to subvert the will to live of the unborn child to the more dominant and capable will of the already born.

Generally speaking - there are exceptions, and I refer to suicide - all living things wish to live. They wish to continue to live, and it is the will to live which gives rise to the right to live. From the right to live, the right to live independently and freely follows. All rights relate to the will to live, and the right to live.

Those who seek to subvert or diminish the rights of the unborn child seek to ignore the will of the unborn child to live. This will is evidenced by each heartbeat and the progressive increase in size of the unborn child and the subsequent birth of the child. The behaviours I have just mentioned clearly evidence the will of the unborn child to live, to grow, to develop, and to eventually leave the womb. It is this will and the right of the unborn which is unfortunately from time to time pitted against the competing will and rights of born humans. In these circumstances, the latter group, due to its greater size, power of speech, comparatively advanced intellect and previously obtained rights as a human being, prevails. I see this as being yet a further extension of Darwinism or the survival of the fittest. My view of the world is that the notion of Darwinism should never apply and should have no place in human nature.

I believe that all human life is sacred. However, I see this as a general rule and not without exceptions. I do not see it as being an absolute. Unfortunately, the real world has few absolutes. I wish there were more, but there are not and probably never will be. As with any general rules there are exceptions. Although I hold all forms of human life sacred, both independent and dependent human life, I acknowledge that some exceptions to the general rule must apply in cases generally described as cases of necessity. In the case of a born human our present criminal law reflects the acceptance of certain exceptions to the general rule that life is sacrosanct. It is interesting to note that it is only

the body of law known as criminal law which contains all the key penal measures such as imprisonment or the deprivation of one's liberty and the imposition of large fines following the conviction of persons charged with the unlawful killing or injuring of human beings.

If human life is sacred, the strongest sanctions for wrongful acts interfering with this sanctity should be and are dealt with in criminal law and are therefore contained in the Criminal Code and nowhere else. I am certain we would all agree that this is and should be the appropriate body of law to regulate the taking of human life and the circumstance in which human life can be taken. It would not be appropriate to put provisions of that kind in the Police Act or the Town Planning and Development Act. Criminal law is the appropriate body of law and the Criminal Code is the appropriate statutory enactment to deal with crimes against human life.

Each of us, by our continued endorsement of the Criminal Code, accept that it contains partial and total exceptions to prohibitions against the taking of human life. We accept many exceptions through our continued tacit endorsement of the existing Criminal Code provisions. I refer to the excuses and defences known as self-defence, compulsion, provocation, emergency, unwilled acts, accidents, a killing in war, insanity and mistake of fact combined with many of these - just to name a few exceptions. The Parliament has said that these exceptions should apply to the general rule that we should not take a human life.

The application of the sanctity of human life general rule also has exceptions when applied to the rights of the unborn child and should have certain limiting exceptions. The major limited exceptions are fairly obvious - they were discussed in the Chamber earlier today - and include non-consensual sexual intercourse, incest, and where the mother's life is threatened or she would otherwise suffer a real or appreciable serious danger or harm. To accept the sanctity of human life as an absolute would require us to rule out myriad excuses and defences contained in the Criminal Code excusing or justifying the lawful killing of human beings.

I also disagree with those who say we need to decriminalise abortion because the law is not stopping people from having abortions. That is absurd nonsense. No law has ever stopped everyone from breaching it. Let us consider the provisions of the Road Traffic Act and the problem in this State with the offence of armed robbery. That is not the test. The test for the success of law is not whether anyone breaches it; the test is whether it is widely accepted as having general application and whether people will, by and large, recognise it, adopt it and modify their behaviour so they do not breach it.

We cannot ignore the moral and educative effect of the law and its importance in setting key fundamental moral standards in society. The full open slather proposal - which I refer to as the Davenport model or the pro-choice or pro-abortion on mere suggestion model - is open slather legislation that will radically change contemporary Australian standards forever. It will indirectly result in the general diminishment of the sanctity of human life. Sometimes it is difficult to perceive subtle changes in Australian contemporary standards. Sometimes it is a matter of conducting a before and after test once law is changed. It may be that the diminishment of that general maxim will not be capable of being perceived for another 10, or 30 years. It will happen. We have seen this before in other areas of social activity. I will not go into detail but there are simple examples involving illicit drugs.

Just because certain criminal behaviour is prevalent in a society - I have heard that argument from the pro-abortion lobby - it does not mean it should be legalised or decriminalised. The natural extension of this argument would result in the repeal of most of our criminal and other laws. This would be absurd. In fact in the body of law known as the law of sentencing, the prevalence of an offence is often considered to be an aggravating matter which requires a stiffer sentence to deter others who are thinking of exhibiting the same sort of behaviour which gives rise to the commission of an offence.

As with the current law concerning unlawful killings in the Criminal Code, accepting the exceptions to the general rule that life is sacred does not mean we should repeal the law concerning the unlawful killing of human beings or the law concerning unlawful miscarriages or abortions. It does mean we should actively police these exceptions and at the same time continue to uphold the fundamental general rule that all human life is sacred. To do otherwise would be to adopt a absolutist stance which is totally untenable. We can uphold the law only if someone tells us of a breach. When one looks at the abortion provisions it would be difficult for a police officer to realise a breach had occurred, without someone telling him there had been a possible breach at a clinic or backyard abortionist premises. In those circumstances, a positive obligation is placed upon the medical profession and other people involved such as health practitioners to make any complaints of breaches of the abortion provisions of the Criminal Code. I am advocating some liberalisation and I will deal with that shortly.

In any issue, the extreme view is the easiest to advocate, apply and sell to the community. These are usually danger signs. As with extreme positions on any issue, the truth and prudent view is usually somewhere in between but never at the extremes. It is not a matter of compromise, but commonsense and logic from which the viewpoint of the unborn child can be taken to determine the position of the broader community and particularly members in this

Chamber in enacting laws that will impact upon the unborn child.

I will make a few points about the issue of choice, particularly a woman's choice in seeking to procure an abortion. I ask members a simple question: What is choice? In everyday life one's choice can be exercised in many different circumstances. It can be a choice based upon impulse, innate urges or a choice following much thought and appropriate advice. Depending on the circumstances prevailing at the time of exercising that choice, we may properly consider the consequences of our choice, or we may not be fully aware of them. We may disregard the foreseeable dangerous consequences with a view to enjoying the immediate pleasure derived from the immediate exercise of choice. I believe that true choice in its purest form is free, unfettered, not subject to duress, not subject to threats of violence, undue influence or intimidation and is made after a person has received proper thorough, impartial, balanced and informed advice. Only then is that person in a position to consider his or her circumstances and only then can he or she make a choice. If a woman is to have the choice to procure a miscarriage of her unborn child this form of choice - being my definition of choice insofar as it is reasonably practicable - is the sort of choice that we as fellow human beings and parliamentarians should seek to foster within the parameters I have already mentioned.

The laws of our State recognise this and make clear distinctions between choice and consent. The exercise of choice by its definition involves the selection between two or more alternative courses of conduct or action and once the choice or selection is made the person consents to undertaking or to participating in the proposed course of conduct in respect of which he or she has control. A choice exercised when the person is fully aware of its consequences is a prudent choice. The question of abortion is a woman's choice, subject to the limitations I have mentioned. That choice must be as free, unfettered and as fully informed as possible.

In view of this, I will support several amendments to the Foss Bill, specifically dealing with counselling, a cooling off period, proper advice to assist women who are considering procuring a miscarriage in the choice process, and also a time limitation beyond which miscarriages can be procured only in life or death situations. Each and every amendment to the Foss Bill that I will support has at its very heart the need to ensure that free choice is available to a woman seeking to procure a miscarriage of her unborn child. I ask members to consider supporting these amendments because if choice is the issue, let us make sure it is truly free and unfettered and not merely a choice based on advice from friends, neighbours and associates. For the reasons I have mentioned, the abortion issue is a health, criminal law and choice issue rolled into one. It is very complex and it involves a resolution of competing interests or rights; specifically the rights of the unborn child and the pregnant woman.

I ask all members to be very patient and to respect the views of others when the Bill passes through the Committee stage. There will be much debate as we go through each clause of the Foss Bill and the various amendments that will be put forward in due course.

I raise briefly the consequences of abortion on demand. Think, for example, of the implications it will have for the provisions of the Human Reproductive Technology Act. At the moment in most circumstances research and experiments on the embryo and foetus are prohibited. If the view is taken that the foetus is just surplus human tissue, people should be able to conduct whatever experiments they like and there should be no prohibition at all, provided they obtain the consent of the owner of the tissue. The same would apply to the sale of surplus bodily tissue. If the owner of the tissue agrees to the sale, why cannot it be sold? What about the sexual selection of children? We are aware that it already occurs overseas in different cultures, and there is no reason that it could not be carried out if abortion on demand is results from the repeal of the abortion provisions of the Criminal Code.

A woman's decision on whether or not to procure a miscarriage should start with the consensual act of sexual intercourse. That is when the initial decision is made, and what follows thereafter follows suit. It is inappropriate in terms of sex education to tell teenage girls that the time of choice for procurement of miscarriage arises when they are pregnant. That is wrong; it goes back to when that person engages in the sexual intercourse which gives rise to the conception. I find it very interesting that whenever we, as human beings, seek to interfere in the law of nature we often find ourselves confronted with serious problems. We think we are very smart. We can use science and technology to interfere with and change the order of nature, to conduct tests, and to create intelligence. It is interesting to note that when we do this, from time to time our fingers are burnt. That perhaps says something. From my perspective, it indicates that there is most certainly a God and a divine being. If we play around with the rules of nature too much, we may be punished and suffer great pain and anguish. I wish to go on the record as a person who believes in God. That is most certainly my view, and other members are entitled to their contrary views.

It is important to respect the views of all members on this very contentious issue, and it is important to show compassion for a woman placed in the awkward position of deciding whether to proceed with a pregnancy. There is much need for better education for women, particularly young women, on the contraceptive devices, methods and techniques available. There is a great need to teach men, particularly young men, to be responsible and to act responsibly when engaging in acts of sexual intercourse. In many encounters involving sexual intercourse the male is usually proactive and seeks the consent of the female. In doing so he should act carefully and responsibly, and take

into account the wishes of the female with whom he proposes to have sex and the general consequences of sex.

MR GRAHAM (Pilbara) [5.15 pm]: I have listened with interest to the debate, for a number of reasons. I have heard many colleagues say how difficult it is for them to make a decision on, and how emotive it is to deal with, the issue of abortion. I have not found it at all difficult to make up my mind and to reach a decision. Like most people in Western Australia, I made up my mind on this issue a long time ago. I fall loosely into the category of pro-choice and pro-abortion on demand. Most of the reasons I would give to support that position have been given very eloquently by other speakers, and I see no need to hold up the House to deal with those core issues on either side of the argument. However, I will make some comments, firstly about the churches.

I very much respect the views that the churches put forward in these debates. I happen to disagree with the views put forward, but I will not dwell on that point. The message I send to people of religion in this day and age is that many of us - no-one knows how many - do not share the churches' religious views in any way, shape or form. I am not a believer, but in an egalitarian society I do not stand in others' way to believe and I will fight long and hard to ensure those people have the freedom to exercise their beliefs. I do not seek to restrict their beliefs. However, I do not want to put their views, because they are from organised religions, ahead of the views of those who hold contrary views. There are many such people. Our job as legislators is not to take on board the views of the churches because they are saying it; rather it is to take on board the views of the community, and then make our decisions and be answerable for them.

A long time ago I made up my mind about where I stood on the abortion issue. In the past 20 years I have heard nothing in the abortion debate to change my mind. In 1978 my late wife and I discovered she was pregnant. We were living in Port Hedland at the time and we went to the local hospital. There was a technical difficulty with the pregnancy in that the baby was forming in the tube. The advice of the medical practitioners of the day was for my wife to have a D and C, which is in effect an abortion. That advice came from medical practitioners in the north west of the State. We then sought medical advice from doctors in Perth, and were given the same advice. I am happy to say that we ignored that advice from both medical sources and took the risk. Today I am the proud father of a son who is almost 19 years of age. Had my late wife and I taken that advice, we would not have had our son. That would have been sad for us, and a lot sadder for him. I encourage people who are given advice to have abortions to seek further advice and to make balanced decisions. It is a very personal and difficult decision for someone to make.

The stupid advice from some organisations in times of stress is, "Have the baby and we will take care of it." We all know that that does not happen; if it did we would not have the problems that we have in our society today. We all know that over the thousands of years that we have been reproducing that has not happened.

One of the reasons we are having this debate in 1998 is that our forebears in the 1970s could not come to grips with the realities of the situation - not just the emotion, morality and ethics.

One cannot say that, if a person exercises his sexual freedom responsibly and his partner becomes pregnant, seeks counselling and fits into a family circle, everything will be warm and fuzzy and everyone will live happily ever after. The history of the world is the opposite: Unwanted pregnancies have been the bane of people's lives.

I am obviously not female, but I can imagine nothing worse than going through a 41 week pregnancy to deliver a baby I did not want. The hormonal changes that occur and the responsibilities during that time are terrible. I went through it with my late wife during three pregnancies. To know that when the baby is born it is not wanted is a terrible position in which to put a woman. It is because we as a Parliament have avoided the issue for about 150 years that the experts tell us 9 000 women are having abortions illegally every year in Western Australia. The prohibitionists say that we should leave abortion in the Criminal Code, tighten it up and it will stop. History tells us that it will not stop.

The wealthy people in our society will do what they have always done - dig into their wallets and go somewhere in the world where they can get abortions. They always have and always will. The moderately wealthy in Australia will go interstate to have abortions done, and that is a relatively simple task. The State can never and should never restrict the movement of people in this country, unless they are criminals. To go from one State to do something that is perfectly legal in another State is the right of every Australian, and the moderately wealthy of this State will do it. The people who will not do it are those who cannot afford it.

The prohibitionists will stop abortions for those people who cannot afford them. Where do those people go to deal with their problems? One does not have to think very hard about that, because history tells us: They go to struck off doctors, backyard abortionists, miracle fixers and naturopaths, by whatever name. I am not slating naturopaths, but over the centuries there has been myriad pregnancy fixes from natural medicine, most of which have had terrible side effects. The only people so locked in are those who cannot afford to get away. That is the difficulty confronting me. Mr Acting Speaker (Mr Baker), you know my electorate almost as well as I do, because you lived there. You

are aware of the income range and the limited choices - these people have no alternative.

If the system is not changed, medical practitioners are saying that we should not expect them to accept a nod and a wink. Given all the recent hype and rhetoric, medical practitioners in this State would be crazy if they started to perform abortions again and put their livelihoods on the line by bending the rules. They will do what we enable them to do.

It is incumbent upon members to put aside their personal and religious views. Although they are perfectly entitled to them, they are not entitled to use those views to restrict the freedoms and choices of others. That is the fundamental point with which I have great difficulty. If it is my choice to do something, I should be able to exercise that choice.

I listened very carefully to what the Acting Speaker said about people exercising their choice, and I tend to agree with much of what he said about giving people the information to make quality choices. However, we cannot have a system whereby one section of the community, by virtue of its standing, exercises an authority to restrict the choices of others.

The opposite side of the coin is religious intolerance. I am not a religious person and I do not believe, but by no stretch of the imagination do I seek to remove from any churchgoer his ability to worship, pray and do all the things that he holds dear. I also expect the churches not to use their influence to remove from me and mine our choices.

MR WIESE (Wagin) [5.26 pm]: I am very pleased to have had the opportunity to listen to many of the other speakers. It was a great pity that the Police Service or the Office of Director of Public Prosecutions made the decision that it would prosecute and effectively destroy forever the legislative framework or belief under which we have worked in this State for many years. That is what happened when that decision to prosecute was made. In doing so, those responsible have called into doubt the legality of what has been done for the past 25 years with the best belief and understanding and for the best reasons.

Doctors' and nurses' abilities to perform terminations were certainly thrown into great doubt. A couple's ability to implement their decision to terminate a pregnancy, no matter what the effect of taking that pregnancy through to full term, was destroyed when that decision was made. The abilities of doctors and the people who support them in performing terminations, no matter what the dangers to the woman, both physical and mental, and no matter what the effect of this pregnancy on others, was thrown into great doubt.

Now, as legislators, we must endeavour to re-establish a legislative framework that reflects the community consensus about what the law should allow and what it should prohibit. That is the purpose of this debate.

I do not support abortion on demand as a form of birth control. Frankly, I do not believe the terminations which are carried out in this State and which have been carried out for many years under the existing framework are carried out as a form of birth control.

I believe those abortions were carried out after tremendous thought and serious contemplation of the consequences. No woman or couple lightly embark down that course of terminating a pregnancy. However, as legislators and as a Parliament we now have a responsibility to re-establish what has been accepted in Western Australia for at least the past 25 years. As I say, people do not make such a decision lightly. The reality is that the great majority of pregnancies will proceed through to full term and lead to live births and children being brought into the world and the community. It has always been the case that a small percentage of pregnant women will seek terminations. The previous speaker highlighted the position very clearly. It has been the case for as long as man can remember. That situation will not change. We must ask ourselves - and nobody seems to have touched on this question - why do we have the present situation?

The previous speaker commented that when we start interfering with nature we almost inevitably bring about bad consequences for humanity. I do not believe that to be the case. If we look back at what has happened when we have interfered with the natural order, we see that enormous advances and improvements have occurred in the standards of our lives and health. Indeed, health, which is part of the present debate, is a classic example. If we look back, we can see how many of the women who had terminations prior to 1940 died from septicaemia. Members have spoken about that in this Parliament in the past few days. Literally hundreds of those women died. In 1940 penicillin was used for septic infections arising from abortions, whether botched or conducted carefully, and they were able to be controlled. If we look at the figures, we will see an enormous decrease in the number of deaths of women who had abortions. We have made some huge changes and advances, which is probably why this issue is so hotly and strongly debated.

The introduction of the pill and the resultant freeing up of women's lives, allowing them to become 100 per cent people in the wider community, enabled women to have full lives in all aspects. Prior to the introduction of the pill,

many women, no matter how bright, capable or good, because of the multitude of pregnancies they experienced, were not able to go out into the world in the way in which women can today. Perhaps the reason so many talk about pro-choice is that, as a consequence of the pill, women have the ability to make choices. As a result, this issue has perhaps become a lot more emotional than it was in the past, although I suspect it has always been an emotional subject. Women do have and have had the ability to make choices. Although I do not believe the great majority of abortions are contraceptive measures, in some ways a logical extension of the pill is that we are debating this topic in this Parliament.

A great number of members have spoken about the importance of defining when life begins. There may be reasons why we want to define when life begins. I cannot accept the view that a human life begins at conception. Certainly that is the beginning of the growth of cells, then the embryo and ultimately the foetus. I believe we start to talk about a human life being in existence when we get to the stage where a foetus is able to sustain itself outside the womb. It is generally accepted that happens at around 20 to 22 weeks. Certainly it seems to be strongly accepted today that a foetus is not self-sustaining prior to about 20 weeks, and many would say 22 weeks. My belief, and I emphasise that it is a personal belief, is that until that stage we are talking about a foetus. When that young child in-utero is developing from a foetus we are talking about a very valuable and much wanted potential life. It was interesting and it helped me to hear the member for Yokine explaining the situation that is accepted by the Australian Medical Association when dealing with this subject. His advice to the House was that the AMA's stance has been that, until the developmental stage of 20 weeks, the death of the foetus is considered to be exactly that - death of a foetus and a miscarriage. After 20 weeks the death of the foetus is considered to be a stillbirth, and hence needs to be reported to enable all the procedures to occur that follow from the death of a human being. That quite independently supports the belief I have always held on this subject.

A couple of aspects of the Bill are inadequate. There needs to be a restriction on the stage beyond which the termination of a pregnancy can be carried out. I understand that approximately 90 per cent of current terminations occur before the 12 weeks' stage of development of a foetus. I also understand that a foetus is not able to be sustained if it is removed from the mother or born before approximately 20 to 22 weeks. I certainly believe there should be a prohibition on abortions or terminations after a certain number of weeks of pregnancy. I am not sure that I would go so far as the 12 weeks that is suggested in the amendments that will be moved in Committee by Hon Phil Pandal. I believe that the time of development beyond which a termination should not take place is around 20 weeks; and beyond that time, a termination should not take place under any circumstances.

I have some concerns about paragraph (c) of proposed section 201A(3) which refers to the social and economic consequences that may befall a woman if a miscarriage is not procured. I do not believe those are sufficient justifications for a legal termination of a pregnancy. However, I accept that undoubtedly those factors will have a strong impact upon the physical and mental health of a woman and, as a consequence, must be taken into consideration along with all the other factors when a woman ultimately makes the decision to have a termination, in consultation with and with all of the help and guidance that she can get from her doctor and other people who provide advice to her.

I believe also that strong safeguards should be built into the legislation to ensure that the woman is thoroughly and appropriately counselled about the potential effect of a termination on her physical and mental health both currently and in the future. I do not believe that any woman embarks lightly upon a termination of pregnancy. I believe that any woman who has a termination is affected in some way by it, not just by the physical fact that the developing foetus has been removed from her body, but also mentally when she remembers that a termination of pregnancy has taken place. A great number of women who have dealt with that situation in the past have gone on to lead good lives and to work with their families, but undoubtedly some women find that termination of pregnancy a totally life changing experience, with strong, emotional and mental consequences. I do not believe we have the capacity to identify which women will be affected in this way and when those consequences will take effect.

This Bill must be amended to ensure that women have good access to all of the counselling and advice that they need, not only before the termination takes place but also after it, because that is almost as important as the pre-termination counselling. To a large degree the legislation will ensure that the woman gives fully informed consent. That is very important. Full support must also be made available after the termination has taken place.

I find it difficult to come to grips with some of the comments that have been made by those who support the case for a total prohibition of abortion. Those people have in many cases supported the stand that they take by referring to the emotional and mental trauma that is suffered by a woman who undergoes an abortion. I do not belittle the fact that those effects undoubtedly take place. However, I am amazed that we do not hear comments about the effects that bringing an unwanted child into the world can have on the woman, on her partner, and on the other children who may be part of that family. The effects of an unwanted and unplanned child on a family and on a relationship can be and often are absolutely disastrous.

Therefore, in making a judgment about whether a woman should be able to go ahead with a termination, we need to consider and absolutely respect that woman's right to take into consideration her personal circumstances and judgments about the effects on her and those other parties of carrying that pregnancy to full term. We can also go further than considering the effects on the mother, the father, the relationship and the existing children and consider the effects on the potential grandparents.

It is a huge commitment to bring into a relationship a child who is not wanted and who the relationship is not capable of sustaining, nurturing and raising through to adulthood. Many of the problems in society today can be attributed either directly or indirectly to the fact that many of the children who have been born as a result of an accidental pregnancy have had enormous impacts upon their families and the community because they have not been sustained in a loving family relationship to become worthwhile members of our community. Therefore, when we perform this balancing act, we need to weigh the trauma to the woman of having a termination against the effects of not terminating that pregnancy and bringing the foetus to full term.

It has been suggested that these children can be adopted out. We in this Parliament have seen clearly the effects of adoption upon the child who has been adopted, upon the person who has relinquished the child, and in many cases upon the person who has nurtured that child through to age 15, 18 or 20, only to have that child realise that he or she was adopted and has other parents, because no matter what we may say, that blood relationship is very strong and instinctive and cannot and should not be ignored. We have seen what happens when those children are adopted out. I do not believe that can be offered as an alternative. In some cases it works. However, it is not an acceptable alternative in my opinion for either the woman or child.

In closing I say this: I do not like the concept or practice of abortion; I never have and I never will. It goes against all my ethical and moral beliefs and upbringing. However, I am aware that a great number of people in the wider community do not share my beliefs on the termination of a pregnancy. I do not believe that I have the right to impose my personal standards and beliefs upon those people who do not share my beliefs. I do not believe that I can condemn a woman to carrying a pregnancy that she did not want to have to full term, and that could have potentially disastrous effects on her and her family and on all of those close to her. I believe that I and we have a responsibility in this Parliament to support this legislation. However, it is very important that we impose safeguards. To that extent I will be looking closely at the amendments that will be put forward by the member for South Perth, although I believe them to be too proscriptive and I have strong doubts about whether in reality and practice they will be able to be effectively and properly implemented by those who are involved in this termination question; that is, by the mother, the family, and the doctors and all those who work and assist in the termination of a pregnancy.

I believe we as a Parliament need to clarify the situation. We need to restore the situation that has existed in Western Australia for at least the past 25 years. I believe that this legislation does that, to a large degree. Generally speaking, with the reservation that we have to support strongly the need for counselling, I support the legislation that is before the House. I do not do that lightly. Like everybody else in this Parliament, I have thought long and hard about this issue. My reasons for supporting this legislation have been arrived at after careful consideration and are very important. However, we have to place in the legislation the situation that most Western Australians thought had existed for the past 25 years and this legislation will do that.

MR GRILL (Eyre) [5.53 pm]: I cannot say anything profound about this legislation, nor can I say anything particularly decisive. However, I owe it to my electors and constituents and the other people who have made representations to me to explain how I will vote and why I will vote in a particular way.

I approach the debate from the other end. I believe, as do all other people in the Labor Party, that capital punishment is immoral. The wanton taking of human life by the State is incorrect and improper. That has an abiding policy in the Labor Party since its very inception. It has been one of the longest standing policies if not the longest standing policy that the Labor Party has had. There are many practical reasons for our opposing capital punishment. On the other hand, many people in the Labor Party who oppose capital punishment also oppose it just not for the array of pragmatic and practical reasons; they oppose it for reasons that go beyond that. I think it is because they believe there is some sanctity in human life and something precious about human life.

I remember the deceased Rex Connor saying a long time ago that everyone should have some cosmology in life. I think that is very true. Perhaps one of the starting points is to have some reverence for life. If we have some reverence for life, we are irresistibly drawn to the question of when life begins. A number of people have alluded to that question during this debate. I am drawn to that position too. It is a very hard question for people to answer decisively. We cannot say, even with all our medical knowledge and our legal judgment today when life has ended, and it is very hard to say when life commences. I find it very hard to accept the view of some of the more extreme pro-choice people that life for a human being begins only when a child takes breath. Marion Millin puts that view in a theological statement which was circulated in Caucus on Tuesday. She referred to the *Bible* to support her position. I know that view is accepted by many of the pro-choice people. However, it is very hard to take that view

to its extreme, because it means that a child could be aborted up to one minute before it is born. Very few people would support that situation.

I do not have the support of a religion to fall back on - I am an atheist; I do not have that background or a dogma. However, I think to believe in some preciousness or sanctity of life is a good starting point. I would like to have that particular starting point, which I suppose represents my theoretical position. However, we do not live in a theoretical world; we live in a very imperfect world. The facts are that there is a tidal wave of abortions in our community. We cannot close the floodgates. No matter what we say, no matter how we moralise, no matter how sanctimonious our position might become, we will not stop abortions as they have never stopped during the history of mankind. We need to ensure that abortions take place under the best conditions and that we do not put innocent young women in the position of having to go through the trauma of having an abortion in septic conditions or in circumstances in which they do not get good medical treatment. In that respect, we do as a community take a much more understanding role of the position of women than we might have 30, 40 or 50 years ago and thank God for that.

At the end of the day, I indicate to my electors that I will be voting for this legislation. Like many members, I will do that with some misgivings. However, we live in a practical world and we have to take into account the trauma that is suffered by many women in this situation. We cannot stop it. I do not know whether we can codify or proscribe in chapter and verse when and how abortions should take place. I suspect that the pro-choice people are right; that is, we must leave it up to the medical professional and just give some general guidelines. I do not feel I have adequate expertise to do that. Consequently, I will be supporting this legislation in its entirety.

I feel very inadequate about making this speech. I wish I did not have to. However, for the sake of my electorate those are my reasons.

Sitting suspended from 6.00 to 7.30 pm

MR McNEE (Moore - Parliamentary Secretary) [7.30 pm]: I have been making decisions since I was aged about 16 years and in my own business. During those years and since my years in Parliament, I have never faced a more serious decision than that on this abortion Bill. As a decision maker, one becomes used to making decisions. Some we make are right, some are wrong, and some fit somewhere in between. However, none of my previous decisions equal the importance of the one I must make on this subject.

I have heard some great contributions to this debate. Just before the dinner suspension, I listened to the speech of the member for Eyre. I have a lot of respect for that member, not only regarding his views he expressed today, but for other speeches he has made in this Chamber. I like his balance. He said, "I am an atheist", and I respect him for that comment. In fact, he expressed Christian views far better than many Christians could.

We must be careful in this debate because people will claim that it is an emotive argument. Of course it is - life and death are very emotive! How could one discuss such an important issue without being slightly emotive? One would not be human if one did not have strong views on the subject and it is not possible to eliminate emotion from this debate.

Others will say that decisions will be made from a religious point of view. I am not sure whether those people mean that some form of religion is bad, or that it is used as an excuse for the way some people will vote.

Many of my values came to me through my parents. I was thinking earlier today about when we were little tackers and used to go on holiday to South Beach. In those days we did not camp on South Beach, although others did. I remember an old lady, who was pretty tatty, who had a pram with four wheels, but one of her wheels was smaller than the others and she walked along in a crooked fashion. We used to laugh. I am not sure that we laughed at the elderly lady or her pram. Our father used to say, "You must not laugh at that lady - she is someone's mother!" I can well remember the lessons that my mother taught me, as mothers are about love and care.

In addressing this vexed abortion question, comments have been made about Christianity or religion generally, and I am concerned when I read learned opinions that we are almost post-Christianity. The problem today is that our young people have nothing to latch onto. I am glad that I am not 16 years of age today. I have children ranging between 30 and 34 years of age and I hope they will eventually marry and give me grandchildren, and I am concerned for those grandchildren my wife and I look anxiously forward to seeing - they will come one day, God willing.

I had a wonderful life as a teenager. The only thing we worried about was having a few bottles of beer and getting slightly under the weather, and perhaps the policeman ringing up my father to say that he had picked up some young blokes. I was in big trouble in that case. It was the only trouble we had. However, we had a strong sense of Christianity, whether we realised it or not. My friends never spoke much about it to me, but in sport and the things we did in the district the clergymen from various religions took part in activities as they were part of our life. Many of the problems people would be counselled over today were probably discussed unknowingly with those good

people. Is it not a shame that young people today do not have that support because we have taken it away? It was a solid linchpin. If this country has no solid linchpin, we need to think about how we will replace it. That point is terribly important.

One of my colleagues said this evening that he believed in God. I am old fashioned enough to believe in God also, although it is not a very popular view. It is considered old fashioned and unnecessary. One can ignore Him and push Him out of one's mind, but one cannot live without Him. Members should reflect on that point.

I feel passionate about Western Australia, Australia and our people. I want to see our young people have the wonderful life I had when growing up in this State. It was a wonderful, carefree, loving time, and I doubt that we are offering that to young people these days.

Poetry has never been one of my strong points, but I will read to the House an exert from *The Prophet* by Kahil Gibran which I thought might be appropriate as we are discussing who owns what. It reads -

And a women who held a babe again her bosom said, Speak to us of Children.
And he said:

Your children are not your children.
They are the sons and daughters of Life's longing for itself.

They come through you but not from
you,
And though they are with you yet they
belong not to you.

You may give them your love but not your thoughts,
For they have their own thoughts.

You may house their bodies but not
their souls,
For their souls dwell in the house of tomorrow,
which you cannot visit, not even
in your dreams.

You may strive to be like them, but seek
not to make them like you.

For life goes not backward nor tarries
with yesterday.

You are the bows from which your children
as living arrows are sent forth.

The archer sees the mark upon the path
of the infinite, and He bends you with His
might that His arrows may go swift and far.

Let your bending in the archer's hand
be for gladness;
For even as He loves the arrow that flies,
so He loves also the bow that is stable.

I hope there are many stable bows around here. I wonder what we stand for? I once felt I knew. However, I now find that consistently I am being confronted with double standards; for example, I am encouraged not to smoke, and there is nothing wrong with that. A good program has been running to suggest that I should not smoke. I then find people who claim to be spokesmen for the Australian Medical Association who have no hesitation in supporting the murder of babies.

I have listened to the debate with a great deal of interest. My understanding has been that an abortion could be available in extreme and dire circumstances affecting the mother's health. Yet we have 10 000 abortions a year. Does anybody seriously believe that in this modern day we have 10 000 babies aborted in a single year because of danger to the mother's health? Is anyone serious about that? If we are serious, I suggest the medical profession has failed, but I do not believe it has.

Given the conditions under which babies have become the victims of the abortionists, I could understand if the pro-abortion proponents were in here arguing with me that because the restrictions are so tight, no-one can obtain an abortion. However, that is not the case before us. It is openly admitted that there are 10 000 abortions a year. We are here because of the set of circumstances that brought this to our notice. I cannot believe that the restrictions are tremendous, because about 10 000 abortions a year are carried out.

Could it be that people are badly advised? I can understand the tremendous angst that a woman goes through in trying to come to grips with the decision to terminate a pregnancy. I am greatly concerned that the abortionists might well be propelled by the size of the industry. I have not bothered to work out in monetary terms what that industry represents in this State. My colleague tells me that it is \$7.5m a year, and that might be right. I understand in the United States it is worth about \$500m a year.

The sad part is that the poor people who experience abortion are left with the remorse of their decisions - decisions that I can appreciate were not made lightly. I question the decision making process. Have members considered who actually makes the decision to seek a termination? Is it the boyfriend, the father and the mother, the de facto husband or the husband? I imagine in a stable marriage faced with this situation, it would be a joint decision, but I do not know the opinion of the fellow who has goaded a woman into some action, having found out that the person with whom he has been having intercourse on a temporary basis has fallen pregnant. I wonder what influence he would have in that decision.

In this State, beyond any question of doubt in my view, we have abortion on demand and the abortionists must be very happy with that situation. I am distressed when I look not only at this Bill, but also at the legislation that has been introduced in the other place. The latter Bill is not worth consideration. In fact, I doubt that either Bill is decent legislation. Indeed, this Bill, if left in its present form - irrespective of whether members want to look at paragraphs (a), (b), (c) or (d) - contains provisions for abortion on demand.

This Bill has been criticised by a legal man from the University of Oxford who has, as I understand it, an impeccable legal background. He describes it as the worst legislation in the world, exceeded only by Chinese legislation. There they have dying rooms for little girls. That is very sad. I am distressed to bring that matter before this House, but it is important that members understand what we are doing. If we take certain actions, we can change irrevocably the moral code - the moral ethics - of Western Australia. Before we step across that line, we must be very careful because this legislation is associated with other things.

As the member for Eyre asked when he was speaking about the sanctity of life, once we remove that, where does it end? Are you and I next in line, Mr Speaker? We could be with some form of euthanasia. I urge members before they step across that line to be extremely careful. People will make fallacious, sweet sounding arguments.

I am reminded of Adam and Eve who were sitting in the Garden of Eden, when Eve, who was apparently a bit of a devil, flashed her fig leaf and said, "If you have a bite of that apple, you will have as many brains as him up there." Of course he took the apple and we have been in trouble ever since!

The cold hard fact is that this is a human rights matter. I would not have signed the international covenant on human rights; it is not the sort of thing I would do. However, it was signed on behalf of the Australian community.

I draw a few matters to members' attention. Now that they have signed it they must abide by it. Article 3 of The Universal Declaration of Human Rights states -

Article 3

Everyone has the right to life, liberty and security of person.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

The Convention on the Rights of the Child states -

Article 6

1. States Parties recognise that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

A report was prepared recently of the Commission of Inquiry into the Operation and Consequences of the British Abortion Act. We must pay attention to its recommendations, which are -

1. An analysis of consequences show that some 87% of the women suffered long term emotional consequences;

I do not want to see that foisted upon our ladies. To continue -

2. There has been inadequate research into the long term consequences of induced abortion;

This is an interesting point -

3. Of all the abortions in the United Kingdom since the 1967 Act only 151 . . . were done to save the mother's life;
4. Follow-up rates of those who undergo abortion are always low;
5. That there was too much pressure put on women to make a rapid decision; and
6. Other individuals eg the child's father, the grandparents; other children, or medical staff may suffer adversely.

In the 1970s I was chairman of a hospital board and along with other members of the board I interviewed a matron facing retirement. She wanted to go to a little country hospital where she did not have to worry about big staff rosters. She asked me if the hospital doctor performed abortions. I said, "I am sure he doesn't; we don't do those things in the bush." She said to me, "I'm absolutely serious. When I was a young girl in the 1930s one of the friends with whom I went through nursing was forced to attend abortions because she needed a job." That young girl finished up an alcoholic. I do not want to see our nurses, male or female, put in that position. I can think of nothing worse. The report continues -

The issue of abortion is often presented as one of a woman's choice even though in legislative terms it is a medical decision which requires doctors to apply certain criteria. The philosophy of choice is, however, flawed where all the options are weighted in favour of abortion. Women who now regret a previous abortion might have taken another option if alternatives, and the necessary support to take one of those alternatives, had been offered. The Commission received evidence from many of the witnesses and from the case histories of individual women indicating that far from being a choice of several alternatives, the decision to have an abortion often appeared to be the only "choice" available to them. Such a decision does not represent a free choice.

If I had the time I would dwell on that but it is not possible.

I will read some letters I received from some of my constituents. The following letter is from a 17 year old girl. My office contacted her mother and asked if I could read her letter in Parliament because I do not want to embarrass her or her parents. Her mother said to read it by all means and I thank the family for that. It states -

Dear Mr Bill McNee,

I am writing to you about the bill that is trying to be passed at the moment on the issue of abortion.

Coming from a family of ten, my parents, my seven brothers and sisters and myself, and being a christian I know that what people are doing in having an abortion, is totally wrong. I strongly disagree about killing an innocent baby who has not even seen the light of day.

It is murder. That is what it is. They are killing an unborn child. What I should say is, they are murdering a baby. That baby has a heart and it beats. It pumps blood around those tiny little body parts. It is like in Bosnia where thousands of children are being killed. It is the same here where doctors are aborting babies. Is it right to want to save the children of Bosnia and murder the babies of Australia?

Yours sincerely

Carmel Donnelly aged 17

Another letter from a constituent reads in part -

If you believe that an unborn child is a human being then I would suggest to you that you would find the murder of that child unacceptable.

She says in an earlier paragraph -

I know, I have one inside of me. I can tell you for a fact, that if the child that is currently living in my womb isn't really a baby then I really don't know what could be kicking me in the ribs for the past 20 weeks.

Like other people in this place I have been growing things all my life. There is no doubt in my mind that life starts with conception. If I place a wheat seed in the ground and leave it in dry earth nothing will happen. However, if I wet the earth, the coleoptile slips out through the plant and it grows. If it is nurtured it will become a plant of wheat.

Can members tell me where life begins? If members have any doubts they could buy some eggs at the supermarket and do whatever they like with them - they could incubate them but nothing would happen because the egg would not be fertile. If we put a rooster with a hen and fertilised her egg, and kept it at the right temperature that egg would

go through the hatching process and we would have a chicken. There would then be nothing we could do about it. The only way we could get rid of the chicken would be to break the egg, which is what it would be.

Learned opinion might well argue about whether a baby is a life at six weeks, four weeks or whenever. I want someone to prove to me that life has not commenced immediately after conception. The process must start at that stage. I cannot believe we could argue about where life begins. Perhaps it is one of life's mysteries; perhaps it is something we have difficulty grappling with.

I will not support the Bill in its present form. I am prepared to look at the amendments proposed by the member for South Perth. If we are to achieve anything, we must act with goodwill, and I hope to do that. In my perfect world I would not allow a single abortion. Doctors of 40 years' experience say to me they have never seen patients who needed an abortion. One doctor said that he had had two such patients and both had aborted naturally before the pregnancy finished. The pregnancy did not have to be, as we say in nice parlance, terminated. I say we should forget those nice soft words. They are abortions and the people who carry them out are abortionists.

MR KIERATH (Riverton - Minister for Labour Relations) [8.01 pm]: I have listened to quite a few of the speeches so far. The real question, and the member for Moore touched on it, which decides all the issues is where a life begins: Is it at nine months when a baby comes into the world and starts breathing air and taking nutrition from outside food sources, or does it occur between conception and nine months; or does it start at conception? In my view this House has already resolved the issue in the Human Reproductive Technology Act. We decided life began between 24 and 36 hours after conception when new genetic material is formed. The material is no longer that of the mother or father but that of a new life. That is where life begins. I was interested to hear the member for Cockburn talk about his definition of where life begins. I do not mean to deride the member or be derogatory in any way, but he seemed to fluctuate between three months and five months as the point where new life begins.

I acknowledge at the outset that I was brought up a fairly strict Baptist but I moved away from the Baptist Church. My beliefs do not come from a religious background but from experiences later in life. I want to outline the position we face. The current law would be a very good law if it were enforced. The problem is the current law and practice could not be further apart. The current law is the proper law; current practice is abortion on demand. The issue that has brought this to our attention is that there is a huge gap between the law as it stands and as it is practised. That is where we as parliamentarians have let down the community; we have not been able to enforce the law.

I want to say something of my own experiences. I was one of some members of this House who perhaps thought abortion was okay under certain circumstances. I must admit that until I was faced with personal circumstances, I thought that may have been possible. I want to share my personal example. I have six children and I am not a Roman Catholic. We had three children - two girls and a boy - and at that point we decided we would call it quits and not have any more children. Eight years passed by and my wife found herself pregnant. In the 28 years I have been married to her, she would say it was the worst piece of news she had ever received. She was devastated by it. We had a discussion and she went to her local doctor to "consider the options". We thought, "Okay, whatever is legally available, we will consider the options." Unbeknown to us, our family doctor at that time was a Roman Catholic. My wife went to him to ask about the options and he said there were some legal options but there was one he would not give her. That was the option of abortion. Then he explained why he would not give her that option. My fourth child was born after that because we obviously made a decision not to go ahead with that option. I went along with Pat to watch an ultrasound test. Until that time I believed all this rubbish that is around that up to three months the baby is a bunch of cells, not a human life. It is a foetus, an embryo, some other name that we will give this thing. We do not want to call it a human being. I sort of believed that. I was not quite sure, but I went along. My wife was 10 weeks and two days pregnant. We watched the ultrasound and the person doing it said, "Have a look at this." There was this little baby asleep. It woke up, stretched, yawned and played around. After it tired it curled up in a foetal position and went back to sleep again. It did all this completely independently of the mum, dad or anyone else.

That was my awakening on this issue because I realised the story I had been told was false. This was not a bunch of cells, it was an independent life. It was exerting decisions about its own wellbeing, under the conditions in which it existed - it was not in an uncontrolled environment; it was not out in the open air as we were. I began to think that all these lines I had been fed were false. They did not stack up. I was an engineer by background and I was always heavily into science and logic, but this did not stack up. I was searching for an answer and I went and saw a film called "The Silent Scream". Some members probably have been asked to watch it. I do not know how it affected them, but it appalled me as a human being. That was my day of reckoning. When we debated the Human Reproductive Technology Bill we discussed the 24 hours to 36 hours from the time the sperm enters the egg cell. If members watch it on video, they will see that the embryo suddenly goes pop and turns itself inside out and it has new genetic material. That is the beginning of life. Life does not begin when it can breathe air. Certainly it takes oxygen, food and energy via the mother's bloodstream. That does not make it any less a human being. It is an independent human being with its own genetic material and its own imprint on life.

That changed my views completely in relation to this matter. It also changed my views inasmuch as we went on to have another two daughters. The Opposition never understood this completely, but I am totally dominated by females. There are six females and two males in my household, so I would not do anything to diminish the options and choices of women. I do not believe the argument is about a woman having choice in relation to her own body. A woman can make a decision, as can a man, to cut off a finger or some other part of their genetic material. However, they cannot make a decision to terminate the life of another human being. I dare say some members here do not accept that life begins at conception but, if members do, I think they would have to accept that any termination from then on under normal circumstances is not justified. If members accept that conception is the beginning of life, what happens if a baby is born and a month later the financial, economic, social or inconvenient circumstances of its mother change? Do we allow people to kill children? Of course we do not. If we accept that life begins at the point of conception, no abortion is tenable from that point on.

Circumstances do arise; there are tragedies. Life is full of circumstances and tragedies; it is full of hardships, difficulties and challenges every one of us must face. Depending on how we react to those challenges, we will be judged one way or another. I do not claim to have cornered the market in terms of comments.

I will read from a couple of letters from people who have summarised the key issues better than I could put into words. The first letter is from Gino Menchetti, who comments on abortion as follows -

Factually, 99% healthy and 1% deformed or life threatening to mother or violently raped cases etc. The abortion conscience wants to fit as many as possible into this 1% category, but those are the facts.

In other words, 1 per cent of foetuses are deformed or are life threatening to the mother, or the mother has been violently raped.

We have heard all about hard case law. Perhaps the one weakness in my argument would be that I would condone an abortion when a woman became pregnant as a result of rape. My stance goes almost all the way to the pro-life stance - except in that instance; I do not think it could be considered a willing or voluntary act by the woman, were she to become pregnant as a result of an act of evil. Such cases are in the minority. Ninety-nine per cent of cases do not fall into that category. Therefore, we should not use those categories to determine the consequences for other people.

The letter continues -

... aborted Australians die at the rate of approximately 100,000 per year. This is more than all the soldiers Australia lost in 10 years in fighting in World War I (approximately 60,000) and in World War II (39,000). If an outside enemy inflicted this sort of loss annually, we would make it Australia's No: 1 traumatic nation threatening priority.

I have watched with interest people who claim to be pro-abortion. An article entitled "Confession of an ex-abortionist" by Dr Bernard Nathanson predicted the tactics of pro-abortionists. He said that the first key tactic was to capture the media; the second key tactic was to play the Catholic card; and the third key tactic was the denigration and suppression of all scientific evidence that life begins at conception. That is very true. I have watched the tactics from the other side and, unfortunately, those predictions have come to pass.

I turn now to comments by Gerard Goiran from the Christian Democratic Party (WA). Other members have referred to this article, and I wish to highlight a couple of key points -

The Doctors for Life research team has demonstrated that Irish women are not dying because of the constitutional ban on abortion in Ireland, that abortion in the United Kingdom has played no role in sustaining the low maternal mortality rate and that abortion is unnecessary in the management of rape, threatened suicide, heart disease and cancer in pregnancy . . .

In 1982, Murphy and O'Driscoll reviewed all maternal deaths in the National Maternity Hospital, Dublin, over a ten year period. There were 21 maternal deaths from a total of 74 317 births. They analysed the cause of death in each case and concluded that the availability of induced abortion would not, in any way, have reduced the number of maternal deaths over the study period.

These are facts from other parts of the world, and many people would not want us to believe these statistics. The comments continue -

Following the liberalisation of abortion laws in the U.S.A., 39% of the 1.5 million plus abortions in the USA are now repeat abortions. The most frequent reason for having an abortion is that having a baby would interfere with work, school or other responsibilities.

That comment is appalling. It is appalling to suggest that we should judge human life on the basis of inconvenience. The letter went on to say a number of things. I will not read them all, but I wish to make three points, as follows -

The international evidence demonstrates that once abortion is legalised an increased number of abortions is performed regardless of the initial policy considerations or legislative restrictions.

Members must reflect on that comment. Whatever our feelings today, or whatever they may be next week or in a couple of weeks, a decision will be made. If this legislation is passed, we will be voting for an increase in the number of abortions, no matter our personal feelings. The letter continues -

There is no evidence that abortion influences the outcome in maternal cancer and induced abortion is of no benefit in the treatment of breast cancer in pregnancy.

The final comment reads -

Short-lived adverse sequelae following induced abortion occur in up to 50% of women studied. Psychiatric disturbance is marked, severe or persistent in 10-32%. Both women and men are severely impacted by post-abortion syndrome and certain factors predispose particular individuals to its development. Individuals at greatest risk include:

- a woman who is advised or coerced into having an abortion for medical reasons;
- a woman who has a previous psychiatric history;
- a woman who has current or past interpersonal relationship difficulties;
- a woman who intends to have further children at some stage;
- teenagers;
- those with a history of previous abortions;
- women who have second trimester abortions.

I have six children. However, the first time my wife fell pregnant, she suffered a natural miscarriage. I have given members an idea of my liberal thinking at the time, and I am now ashamed of that. I did not really understand the impact that the loss would have on my wife. It was a severe impact; it was as though she had lost a child, even though the pregnancy had advanced only three months. She felt all the emotional trauma of losing a child. It took me a long time to fully understand those feelings - after talking to her, because at first she would not talk with me. Eventually she indicated that it was as if she had carried a baby full term and then lost it. After counselling and a lot of support from the family, I was shocked and surprised to find out how many women lose their first pregnancies. Apparently about 50 per cent of women suffer that loss in a natural way. That experience has a very traumatic, emotional and to some extent a scarring effect on the woman for the rest of her life.

I turn now to another letter from J.M. Nardizzi from City Beach. This is probably one of the best letters I have received. The letter tries to categorise the abortion issue in five ways, and refers to the legal situation as follows -

The current legislation was enacted some time back to protect the developing foetus -

I would change "foetus" to read "baby". The letter continues -

... and to give limited rights to the mother in the case of extreme situations.

I agree. His second point is societal -

A. The precedents of history, impose on us as a community the obligation to protect our citizens from the often repeated failures experienced by people following decadent or illegal behaviour.

We must accept our responsibilities in life no matter how difficult it may be. The letter continues -

B. The technical argument as to the time of commencement of human life is not completed, but any reasonable human being would innately know that this is at conception, because all of us; you and me; started this way! I find it a tragedy that the "soft" option of abortion is often chosen when there is no justifiable reason for this to occur.

And further on -

C. There is ample evidence as to the devastatingly negative effects which abortion has on the mother. This can be significantly avoided by us encouraging both parents to accept their responsibility in this situation.

And finally -

F. The issue of the freedom of choice, namely that the woman should have the right to choose freely an abortion, tramples and denies any right to the most helpless, the unborn human person.

This House considered this issue at great length when we achieved all-party support in determining the beginning of life when we were considering the Human Reproductive Technology Bill which became an Act. We established that once conception occurred, once the genetic process had started, a new human life had begun. If we accept that, we must do everything we can to protect that stance in future.

I turn now to other material that has been sent to me. I understand that members have been inundated with such material. In my opinion, the following material sums up the situation. The current law does not allow suicide, so the argument for killing another human being for the sake of convenience does not stack up. The law does not impose a penalty for suicide because if one succeeds one is not around for the penalty.

I have been disturbed by some comments in this debate. This is an issue that crosses political boundaries. It goes against everything that I was brought up to believe in and everything I stand for politically when people say they can justify the death of a little human being on economic grounds. Economic criteria should not be a basis for whether people live or die. I do not want to get political. However, I find it hard when people from the left of the political spectrum use economics as a reason for abortion. That is totally against my beliefs.

Mr Kobelke: It is a government drafted Bill.

Mr KIERATH: It is not and never was a government endorsed Bill. I would have resigned from Cabinet rather than approve a Bill like this. That is one issue that would have flushed me out of Cabinet. Other people were drafting Bills. It is an attempt by the Government to get the issue back on the rails and into a form that we could deal with. If the member for Nollamara honours his word and votes against the second reading of the Bill, I will be alongside him. That will be the first time on any issue that we have been alongside each other in this House. I will vote against the second reading of the Bill.

I did not want to get involved in a political fray. I cannot think of anything worse than to base a decision on whether a person should live or die on economic or social criteria. It goes against everything I was brought up to believe in.

I confess that when I was Minister for Health for 10 short months in 1995 I embraced this issue and worked with some of those people who believe in saving human lives. We looked at the statistic on abortions, which was then about 8 000 a year. We looked at the instances in which there was some justification for an abortion - however remote. Between 1 500 and 2 000 abortions a year could be justified, some for the weakest of reasons, while 6 000 abortions a year were performed for no other reason than birth control.

My position is that with the exception of rape there should be no abortions. However, if I were to lose that vote I would adopt a pragmatic approach. I think I have lost it. As soon as the coalition agreed to a free vote the existing law was lost and we would end up with something less. I would like to save 8 000 lives, but if I cannot I will accept the lesser figure of 6 000, 4 000 or 2 000 and save those lives. The one issue on which I disagree with the pro-lifers is abortion in the case of rape. I was affected when somebody said to me, "If a baby is not safe in the mother's womb, where is it safe?" That is an important point. If a baby is not safe in the womb of his or her mother, who conceived and nurtured it, where is he or she safe?

I will vote against this Bill. However, if it is passed I will retreat to the pragmatic line and I will do everything I can to claw back every single abortion that I can. Every single human life is worth saving. I will go along with members but I will draw that line: I will do anything to retreat from abortion on demand. If we lose the first vote we should put a number of hurdles in the Bill's way. If the will of this Parliament is that abortion should be allowed in certain circumstances - I do not agree with that except in the case of rape - the pragmatist in me dictates that I will do everything I can to make abortion difficult.

Many people say they support abortion in certain circumstances. I am not sure if that is what they mean. They mean that if a person is determined to get an abortion the system should accommodate them so it is performed safely. The will of this Parliament probably will be that counselling be provided so that people face up to their decisions. If they are prepared to go down the ultimate path of taking a human life, they must face up to the reality of what they are doing. They should be counselled on that decision both before and after. It is wiser to provide counselling before the abortion. It is more difficult afterwards when people must face up to the reality that they cannot undo the abortion. They cannot change their mind after an abortion. My judgment is that the will of this Parliament will be to go down that path and put in place those controls. If I cannot have my preferred position, which I believe in wholeheartedly, I will accept the second or third best option that will save as many lives as possible.

I ask members when they reflect on this debate not to be swayed by the trendiness of certain feelings but to stop and

ask themselves this question: When does life begin? Does it begin at nine months when a baby is born and starts to suck oxygen and take food externally or does it begin sometime earlier when it takes its oxygen and food sources from the bloodstream of the mother? In hospital a drip delivers fluids or nutrients and a ventilator air. In years gone by not many children who were born before nine months survived; it came down to seven months and currently it is about four months. The member for Avon says it is 22 weeks and the member for Midland says 21 weeks. The figure is getting lower.

I remember the first headlines about test tube babies. The process can be started in a test tube. If we are honest and reasonable we will acknowledge that in years to come - maybe not in my lifetime but in my children's lifetime - science will be able to put the baby in an artificial environment and bring it to term without the mother. If one considers past technology and reflects on what will occur in the future, the beginning of life is at conception. If one accepts that, one must accept there should be no abortion except in extreme circumstances. In some ways I feel a great deal of sympathy for the people who cannot accept that, because they say that in certain conditions they can justify the taking of a human life.

The member for Greenough referred to capital punishment. I disagree with the pro-lifers that the taking of a life is never justified. However, I have never believed that abortion is justified for either economic, social, cultural or any other circumstances for that matter. Certain grievous and heinous crimes against humanity might justify the taking of a human life but not abortion for convenience.

I ask members in this House to think carefully when the vote is taken. We must think about what it is that we are trying to do. We are here to represent our constituents. We are also here to represent those people who cannot speak for themselves. I have heard the opinions from all sides in my electorate - from those who are for, against and in between. I said at the beginning that if people accept that life begins at conception, one group will never be able to speak for themselves. They turn to people like us to have the wisdom to work through this issue and to help those people who are unable to speak for themselves.

My plea is for members to search deeply within their hearts and consciences and to think about what would have happened if they had been aborted. They would not be here today. Every person has the right to live. The time for precautions, control, free will and choice occurred before conception. Once conception occurs, that life has a right to continue and we, as legislators and representatives of our community, should do everything we can to ensure that it does.

MR AINSWORTH (Roe) [8.31 pm]: This matter before the House is one in which people's individual views and feelings play a big part in the way they approach the problem. I believe in the sanctity of all human life, and in principle I am very much against abortion. In an ideal situation in an ideal world very few legal abortions would be carried out except those where a mother is facing almost certain death if medical intervention does not terminate the pregnancy. I have thought about this over the weeks leading to this debate and agonised about it, because it is not an easy matter on which to make a decision. I have also come to the conclusion that legislating to totally ban abortions, or even to ban a major portion of abortions, will not change the fact of life that these procedures will continue to be done - illegally. With those two extreme positions, I must consider both aspects - my personal views and what will happen, regardless of my views, if this Parliament legislates to ban abortion. I have come to the conclusion that some accommodation should be made for what will happen regardless of what members believe or legislate for.

I have also been concerned about the hypocrisy of some church groups in this debate. I will not mention any particular group because certain sections of many churches come into this category, but some groups have come out strongly for the pro-life argument and have said there should be no abortions whatsoever. Unfortunately, members of those same church groups would be quite willing to condemn an unmarried mother for bearing a child out of wedlock. In many cases that threat of condemnation leads the pregnant woman to make a decision to have an abortion. It puts the pregnant woman in a no-win situation and that is very sad. If, as a society, we want to maintain certain standards in the approach to abortion and say that it is bad to have an abortion, there must be a supportive community for those mothers who decide to carry the child full term and to look after it. Unfortunately, those two things do not always go hand in hand. I can think of examples among my immediate acquaintances of mothers who have had a child out of wedlock, have looked after it and have been supported by their family, and it has been a wonderful thing. However, I am also aware of a number of cases in which that has not happened. Those, unfortunately frequent, sad cases of community condemnation even in the so-called liberated society in which we live indicate that the old prejudices and beliefs linger. Some people choose abortion because of it.

Regardless of whether any change is made to the law, it will not change the behaviour of most people and they will make the difficult decision to have an abortion. Forcing people to go elsewhere for an abortion or, even worse, to go to an illegal backyard abortionist in Western Australia, will not help the people involved. It will not solve the problem. It will in part sweep it under the carpet, and in part it will cause greater trauma for those coping with an

unwanted pregnancy who are so traumatised by it that they resort to these dreadful backyard practices.

Reluctantly I have come to the view that, although I am opposed to abortion on principle, I cannot change human behaviour by legislation. It does not work. The next step is to make sure that what happens does so in the best possible way for the people involved. Safety of the medical practices involved is of paramount importance and protection at law for medical practitioners, nurses and others involved in the procedure is also of paramount importance.

If we are to change community attitudes in order to reduce the demand for abortions, we have a responsibility, as a society, to look closely at our attitudes and at what we teach our young people. Despite the enlightened age in which we are theoretically living, there is far too much ignorance in the area of human reproduction. Education in human reproduction should be strengthened much more, and young people should be made aware not only of the basic facts of life, which they think they all know about now, and contraception, but also about the emotional pressures on young girls who become pregnant, what happens in the physical act of abortion and the emotions they may experience after an abortion. They should also be told what can happen in a positive way to those young people who decide to go ahead with the pregnancy and to have the child with the support of the community. Much more effort should be made to change attitudes and to increase understanding in the whole area of human reproduction.

Having recognised that abortion will continue regardless of legislation to the contrary, we must make sure that any abortion that takes place in this State is coupled with comprehensive counselling for the mothers and, where appropriate and practical, also for the fathers. In most of the speeches in this debate and in much of the literature I have received on this matter, the father of the child has been largely ignored. Of course, the child is carried by the mother and ultimately it is her final decision, but fathers should not be let off scot free. They should be involved in the decision making process or, at least, have a better understanding of what they might expect their partners to go through. Likewise, having made the decision to continue with the abortion, women should have available to them adequate counselling following the procedure. The follow up support post-abortion is very important.

I will not take up the time of the House by going over the other matters that have been well canvassed in the past two days. Reluctantly, and acknowledging that the practice of abortion would go underground if it were prohibited, I support the legislation to a certain degree but not 100 per cent. The legislation should be passed through this House, but there must be several provisos; that is, the mothers and fathers must receive proper and comprehensive advice prior to making a decision on an abortion, all options should be well explained, counselling following an abortion should be a requirement, a much better human reproduction education course should be a compulsory component of health education in schools, and doctors and mothers involved in abortion must be totally protected at law.

MR BRADSHAW (Murray-Wellington - Parliamentary Secretary) [8.40 pm]: It is very important as a member of Parliament to have on the record one's views and voting intentions. This is the most difficult and complex issue I have dealt with in my 15 years in this place. Most of us would prefer not to be debating the issue, but it has been raised and we must deal with it. I would rather not support the legislation, but I have looked at it and find it very difficult to oppose.

It would be much better if those women who are pregnant and who wish to abort could go to full term, because there are many people who cannot have children and who are desperate to adopt. It would be great if some of the people having abortions could give a little thought to those people. I know that going to full term creates other problems - it would be very emotional handing over a child. No matter which way one looks at it, it is a very difficult and emotional situation. As I said, it is one of those issues to which there is no simple answer.

We must be realistic in acknowledging that abortion will continue regardless of the law. It is like some other social issues in our society. Legislators have tried to pass laws to prohibit activities but people will still find ways around them. We would be putting our head in the sand if we were to pass legislation to prohibit this because it has been proved over hundreds of years that people will continue to do it.

I believe that women give exhaustive consideration to abortion. The passing of this legislation will not lead to more abortions - people do not willingly put themselves in that situation. It is a very emotional and difficult situation and women do not take the matter lightly. I also believe that it is not my right to impose my will on other people. As much as I would like to see abortions cease, there are always circumstances such as that mentioned by the Minister for Industrial Relations. Abortion should be able to be carried out where there are gross deformities, in the case of rape and so on. As I said, it is not my right to impose my will on women who must make that decision, so I will support the legislation.

It is imperative that we increase education to try to prevent these circumstances arising. We will never stop it completely, but it is important that we put in place a proper program. That has never been done.

The churches have come out strongly against this legislation. I understand why they oppose it, but it is up to them

to try to instill in the community the belief that these things should not occur and try to overcome those circumstances.

The other very important issue is counselling, which has been mentioned by many members. It is imperative for those facing the trauma of abortion. People should be told the downside and the consequences. In many cases they are emotionally scarred for the rest of their life.

It is not my right to impose my will on other people. It is up to them to make their moral judgments and decisions, therefore I will support the legislation.

MRS PARKER (Ballajura - Minister for Family and Children's Services) [8.45 pm]: There is no easy way to approach the issue of abortion. It touches on the fundamentals of our society. It affects values that are at the basis of our democratic system. I strongly believe that in every democracy there is a series of fundamental values that underlie the working of any civilised society. They are universal values - universal in time and space. Those values transcend cultural, religious, social or political convictions. They include such things as mutual respect, respect for the property of others, protection from arbitrary decisions by those who govern and, so critical and central to this debate, respect for the value of human life.

The preamble to the 1948 Universal Declaration of Human Rights states -

... recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

It further states that -

Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind . . .

Article three of the declaration states -

Everyone has the right to life, liberty and security of person.

Article four of the American Convention on Human Rights states -

Every person has the right to have his life respected. This right shall be protected by law, and in general, from the moment of conception . . .

Article four of the African Charter on Human and Peoples' Rights states -

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person . . .

Article two of the European Convention on Human Rights states -

Everyone's right to life shall be protected by law.

Respect for human life is a basic value that underlies political systems and democracies around the world. It is not something which we can, nor which we should, easily dismiss or destroy either by one action or by increment.

Respect for human life is not a value that becomes wrong because at one point in time public opinion appears to favour a different option.

Some people suggest that abortion in the Criminal Code equates to one group in society imposing its moral views on another group. I believe that view is ill-founded. This is not an issue only about a moral view: It is about one of the basic values of any civilised society. It is a mark of a civilised society the way it treats the old, the disadvantaged and the young. I believe the protection of human life is one of the fundamental, essential principles that we as representatives in a democracy must fight to preserve.

In recognition of its universal nature, the basic framework of human rights cannot and should not be altered or compromised. It is within and in respect of that framework that we as members of Parliament should operate - representing our constituency to the best of our knowledge and to the best of our conscience.

Legislation affecting a basic human right should be based on what is right and not on what public opinion at one particular point appears to suggest. I am aware that not everyone in the community will share my views on abortion. Like every other member of Parliament, I have received hundreds of letters from constituents representing a wide range of diverse views on this issue. I respect those views and in the majority of cases the way those views were shared with me. I trust that in the conscience vote to follow, my constituents will respect my views and the difficult task it has been to find a balance between my personal view and my public responsibility. Some feel that abortion is not right but that it should not be a criminal offence. They feel that in a series of circumstances there is justification

for an abortion, albeit not the best option. Some feel that abortion is simply another medical procedure. They think that abortion does not need any different consideration than that given to other procedures and that it is an insult to women to consider it otherwise. Others feel that in no circumstance at all could abortion be possibly justified, not even when the mother's life is at risk. I do not share any of those views.

At the outset, I would like to make it clear that my views are not intended to be judgmental or to cause hurt to any woman who felt she had no choice other than to have an abortion. I hope that my contribution to the debate will facilitate greater awareness of the profound issues and not contribute to further grief. The basis for my views on this issue is my belief that life begins at conception. Nothing I have seen or heard to date has ever been able to convince me that abortion is not taking away the life of a child, the life of a human being with all its potential and denying an individual its destiny. Since all human life should be protected by law, I believe the provisions for abortion to be illegal in principle rightly should remain in the Criminal Code. I cannot agree with the view that abortion is the destruction of only a group of cells. Research shows that the majority of the public, including those supporting abortion, recognise that abortion involves the taking of a human life. It appears that the public has made a pragmatic choice in favour of what it believes is in the best interests of the woman. I will get back to that later.

Although I am opposed to abortion in principle, I am, however, not without compassion. On the one side I believe the Criminal Code has an important role to play as the mirror of fundamental human values, as a public educator of what is right and what is wrong and ultimately as the instrument to enforce those values. On the other hand, however, I believe there are circumstances - for example, when the life of the mother is at risk - when abortion can become an option for a family. The law as it stands at present caters for this circumstance through section 259 of the Criminal Code which reads -

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

In the Victorian case of *R v Davidson* in 1969, 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, 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 - the element of necessity and the element of proportion. They require that if a pregnancy poses a certain danger to a woman's health before its termination, then termination is lawful. As my belief is that life begins at conception and must have the highest respect, I will not support all parts of the Bill.

One of the myths we face in our society today is that, if legal, abortion is safe. The truth is quite different. A significant number of physical and psychological complications have been linked to abortion. The very diverse list includes increased rates of breast cancer, sterility, substance abuse, sexual dysfunctions, increased rates of liver cancer, ectopic pregnancies, suicide attempts and broken relationships. The psychological effects of abortion can be particularly devastating for a woman. The myth, however, remains that legal abortion means safe abortion. Emerging research evidence indicates that that is certainly not the case. I am and I have been very concerned about the perceived uncertainty which has been created among women and their families by the recent prosecutions. For all parties involved, but in the first instance for the women in Western Australia, it is important to clarify the legal situation on abortion because the status quo has been shattered.

The rights of a woman are an important consideration in this debate. I feel though that there is some degree of dishonesty in the present debate about abortion as a woman's right. I believe that to leave a difficult and emotional decision such as abortion as a matter only for a woman and her doctor does not take into account the degree of trauma a woman goes through while making that choice. I believe that others have a role to play. My view is that, as a society, we have a responsibility to provide far more support than is available at present. In that context, the partner and the woman's family have an important responsibility as well. They can provide supports that the woman's doctor cannot possibly provide. In his book "Making Abortion Rare: A Healing Strategy for a Divided Nation" Dr David Reardon reports about research in the United States showing -

That 70% of aborting women entering abortion clinics believe that what they are doing is morally wrong.

He further says -

These women are seeking abortions not because they believe it is the right thing to do, but because, given whatever pressures, they feel it is the only thing they can do. Indeed one of the big lies hidden behind the freedom of choice argument is that most aborting women feel they have no choice.

The following research findings referred to in Reardon's book are of interest: Approximately 40 per cent of women who experience post-abortion problems were still hoping to discover some alternative to abortion when going for counselling at the abortion clinic. Approximately 70 per cent have a negative moral view of abortion and are choosing against their consciences because of outside pressures and more than 60 per cent report having felt "forced" to have an abortion by others or circumstances. I share Dr Reardon's view based on this data and on more than a thousand case study reports that "The decision to abort is often tentative, or even undertaken solely to please others". Women faced with unplanned or unanticipated pregnancies deserve better support than this.

My view is that over recent weeks some representatives from the medical profession have not always conducted themselves with the dignity or with the responsibility we expect from their profession. Some doctors have threatened the Government and in a sense all members of Parliament. They made use of the highly emotional nature of the debate, they made use of the insecurity of some women, and they increased the sense of uncertainty to exert increased pressure on the Government and members of Parliament. They wanted to pressure government into acting in a hurried way on such an important issue. It has become clear in recent days that anything short of abortion on demand would not receive the approval of those doctors.

The lack of "duty of care" by some doctors in referring women to an abortion clinic without full consideration of its impact on her and without involvement in counselling has also concerned me. If this is so, I believe doctors that fit this category have in part abdicated their responsibility to these women.

The World Medical Association's declaration - the physicians' oath - as adopted by the General Assembly of the World Medical Association in Geneva in September 1948 and amended by the Twenty-second World Medical Assembly in Sydney, Australia, in August 1968, states -

At the time of being admitted as a member of the medical profession, I solemnly pledge myself to consecrate my life to the service of humanity. I will maintain by all the means in my power the honour and the noble traditions of the medical profession. I will maintain the utmost respect for human life from the time of conception. Even under threat, I will not use my medical knowledge contrary to the laws of humanity.

I have great respect for the medical profession. It is a fine and noble profession. However, it brings with it a great responsibility, as affirmed by that oath. I trust that this debate will provide an opportunity for the medical profession to consider its role in supporting women and their families during the difficult time of an unplanned pregnancy.

The charges against two Perth medical practitioners some weeks ago have shattered the status quo and exposed the gap which exists between the current law and the practice with regard to abortion in Western Australia. The issues and the debates since then have confronted and challenged the whole community, and so they should. In 1996 in Western Australia, some 24 793 babies were born. In that same year, it is estimated that some 9 000 abortions were carried out. That equates to more than one in four pregnancies ending in termination.

We have heard of similar proportions of pregnancies to terminations in reports from the early part of the century. However, that was before readily available and reliable methods of birth control. I acknowledge that birth control does not always provide full protection from pregnancy. However, with responsible use, contraception should reduce markedly the number of abortions required. It is certainly hard to believe that in Western Australia in the 1990s one in four pregnancies creates such grave circumstances that a termination is justified. I trust that the openness of this debate will see an honesty and an acknowledgment of the trauma that women are faced with before an abortion, and of the many women who struggle, in some cases for years, to deal with that decision after they have made it.

I had spoken of the principle of respect for human life. I also believe we should consider for a moment aspects of what makes us a civil people. The stability of any society is marked by the respect and regard that we give to the elderly, the disadvantaged and the young. We have talked about valuing the rights and welfare of women, and so we should. We have sometimes talked about the role of the whole community and its attitudes and values, and so we should. We have not talked much about the rights and responsibilities of men and fathers in this debate, but we should.

This debate must have as one of its hallmarks the discussion of how we value our great and responsible role as parents. Just as the physicians' oath includes respect for human life from the time of conception, so also should we as members of society have the highest regard for the place of children in our society.

I cannot support legislation that supports the right to abort an unborn child for social or economic convenience. To take away the life of an unborn child and its right to the fullness of that life and that opportunity should not be easily sanctioned by law. I trust that this debate will achieve a greater awareness, willingness and honesty in dealing with the complex and sensitive issue of abortion. I trust that it will achieve a greater respect for the difficulties women face in making this decision, and the supports that they should have. My great hope is that it will also achieve a greater acknowledgment of the need to respect human life.

DR TURNBULL (Collie) [9.05 pm]: I too would like to make a contribution to the debate tonight on the amendments to the Criminal Code with regard to the conducting of abortions in Western Australia. We have had a long debate on this issue, particularly about the time at which a baby in utero becomes viable when separated from its mother. I think almost everyone has agreed that that time is at around the age of 22 weeks, and that a foetus under the age of 20 weeks is most likely not able to sustain life outside of the uterus. This issue has been taken by some people as a debate about when life begins.

I am pleased that in Western Australia virtually no abortions are performed when the foetus is over the age of 20 weeks. This is most likely to the credit of those few doctors at King Edward Memorial Hospital for Women who become involved in some of these decisions. This debate is also about the difficult question of whether a foetus under the age of 20 weeks is regarded as a baby with rights rather than a foetus which has no rights. Although I have assisted in arranging quite a number of abortions during the 25 years that I have been a medical practitioner, I still regard the foetus as having the rights of an unborn baby, regardless of the age of the foetus.

I do respect the many women who have to make difficult decisions about whether to terminate their pregnancies, and I know that all of those women go through a lot of anguish in deciding what to do and how to do it. Women seek abortions for a number of reasons. A small number of abortions are related to genetic defects and perhaps foetal abnormalities, and a small number of abortions are related to rape, under its legal definition. The remainder of abortions are for many different reasons. I have found that many abortions are related to the failure of contraception, or to the life circumstances of the mother - in many cases, whether she is working. We need to consider these different reasons that women seek abortions.

In considering this legislation, we should also examine whether the number of abortions will stay the same, be reduced or be increased. If paragraphs (a) and (b) of proposed section 201A(3) of the Foss Bill were passed, the number of abortions might be reduced, because the input of counselling on all aspects might give some women more information and options than they have originally had. I believe that most likely under the Davenport Bill the number of abortions will increase, and that is despite the presentation by quite a few learned people who have come over here, including Dr Cass.

Rather than debating the arguments for and against abortion, I would like to look at the bigger issues of the debate and consider what will happen to our society in Western Australia in the future. One of those issues is the fate of the foetus which has genetic deformities and physical deformities. With the genetically and physically deformed foetuses, I foresee a time in the very near future when, if we are not very careful in our society, our public health system and our society will say that we do not condone the birth of these babies. Many people say to me, "You are scaremongering, Hilda; you are extrapolating beyond the bounds of reason; that would never happen." However, I can assure members that in the 30 years since I graduated from university, I have seen such enormous changes in attitude in our society that I guarantee we will find this is being seriously discussed as a policy in about five or seven years' time.

I draw attention to the statement by Professor Fiona Stanley and by the pressure group of public health related professionals that we will be facing a public health crisis in our State if this issue of abortions, particularly abortions of babies with genetic and foetal deformities, is not addressed by us as legislators. I ask: Why are we facing a public health crisis? Why will it be such a disaster if some babies with genetic abnormalities or foetal deformities happen not to be aborted? I think this is one of the things we, in Western Australia, have to watch very carefully. This is the very reason I support keeping abortion in the Criminal Code and not moving it to the Health Act. Our State must say that by having abortion in the Criminal Code we do not condone abortion without reasonable justification, and that reasonable justification depends on the attitude of the mother, not on the attitude of the public health professionals or the geneticists or some other people who are advising or determining what people our population should contain. That is my first point. We must have the decision about abortion resting with the mother only, in conjunction with medical advisers or counselling and the support of her own family. I do not see any reason for a statement that will weaken even slightly the view that the responsibility should stay with the mother. Any suggestion that the health system will be overburdened by babies which have previously been aborted should not be entertained.

A few years ago when one of the abortion clinics was closed down because it was not up to an adequate standard, I had people from King Edward hospital say to me, "There is going to go an absolute disaster if this abortion clinic does not manage to function because we will have more babies born in this year than King Edward hospital can cope with. In fact there will be so many babies born this year that we will have to have another institution as big as King Edward hospital." If population controllers manage to have any influence on how or when abortion is performed, that will be very dangerous for the future of our society. I rank it as being as serious and linked with the debate that we are having about euthanasia and termination of lives of the elderly.

I also noted the comments by Professor Fiona Stanley, who is very well respected by the public health association

lobby, and by Dr Harry Cohen, that they will cease performing abortions unless the issue is removed from the Criminal Code. I believe that is the very reason it should be in the Criminal Code and the very reason, if any number of these clauses are passed, I firmly want the responsibility for the decision to lie with the mother and her advisers in the form of doctors, counsellors and her family. I do not want a collective body such as the geneticists, the public health managers or those who determine how many hospitals we have determining anything to do with the abortion numbers in Western Australia.

I turn now to a very interesting item which appeared in *The West Australian* two days ago on the decline in the population growth rate in Australia. This was a small article on page 9, of Monday, 16 March and it stated -

The overall population growth of Australia was slowed by a 5 per cent drop in net migration from 103 200 in 1996 to 97 900 in 1997.

That is nearly 6 000 fewer migrants. That is just slightly fewer than the supposed abortion rate in Western Australia. The article indicated that there were only 1 000 more births last year than the previous year of 250 000 births in Australia last year. Australia's own birth rate compared with our death rate is getting very close to going into the negative. Australia's population growth is only being maintained by migration and even this is starting to drop. This is a very serious issue in relation to the overall population of Australia.

Why can we not look at the reasons quite a few young women are seeking abortions and address those reasons so those young women will not seek abortions. One of the major reasons young women seek abortions is that they have work commitments. They cannot lose their job and they are not ready to have a family yet. This is demonstrated in surveys giving statistics such as those in the "Family Matters 1997" material, which shows that young women are delaying having families for a very long time.

If young women having their first babies had more assurance that their family would have a more stable economic base, I know that many of them would not have an abortion and would stay home with their babies. More than 60 per cent of working mothers with young children under the age of six years do not want to be working and would rather stay home with their babies. There is a strong ethos in Australian young women to bring up their own children; they do not want to spend those precious early years at work.

What sort of support does our Government give to those mothers and their families? Virtually nothing. There is child care, but many women do not want their children in child care. They want to stay at home. The Federal Government must look closely at giving a taxation concession to single income families, at doubling the tax free threshold, and enabling partners to split the income. Do not forget that quite a few women who are having abortions are in their late 20s, and are not ready to start their family because they are in reasonably well paid jobs. They are teachers, lawyers, and accountants and if they stopped work, they would have a large drop in their family income.

I know some people will say this is not the right way to consider this matter. Many people, particularly pro-lifers, would say that these young women should not be considering an abortion at all, but we cannot force them not to consider an abortion. As a Government and a legislator, I refer particularly to the Federal Government which controls tax: We should look at methods to encourage and support women who decide in favour of their babies. If financial support were provided, there are women who would not seek abortion. People may ask how I know this. I know because I have been a doctor and I have helped, by giving information, such young women who want to have a termination.

As legislators we must consider the ramifications of changes to the law. I feel strongly that any amendments we deal with must be in the Criminal Code to indicate that a termination is a sacrifice of the baby's, the foetus's, life. The reality is that potential mothers are making those decisions.

Also, we must look at ways to encourage mothers not to have abortions. Making a law which says women cannot get abortions will not necessarily stop them having one. We must look at why they seek abortions. Some women do not have enough information, or they do not realise the development of the foetus they are carrying. Very strong counselling is needed.

Even if only paragraphs (a) and (b) of the Foss amendments are carried, the counselling provided must be independent of both the medical practitioner who refers the women, and the abortionist who performs the act. Why have independent counselling? I have been involved in this situation. If it states in the legislation that counselling must be provided, it could be conducted at abortion clinics. Counselling could also be conducted at the genetic diagnostic centre at King Edward Memorial Hospital for Women. Both those areas have a sectional interest in this subject. Therefore, counselling should not be conducted by either of those two areas. I will look carefully at the amendments on the Notice Paper to ensure that the counselling provided is independent of those areas.

I will also look at how the Bill will relate to young girls and older women in the country. It is not easy for a country

woman who is absolutely determined to have an abortion. Currently, country women have a cooling off period from the time they discover that they are pregnant and decide to seek advice on the issue, as it usually takes three to seven days before they can go to the abortion clinic. Expectant mothers in the country will most likely find it extremely hard to find such a counsellor. However, that should not rule out an independent counsellor being a requirement in the legislation. In the regional centres where a practitioner may be able to perform an abortion, most likely a counselling group will be available, be it a pro-life group or a certified social worker who has a special interest in this area of counselling. It will be possible. The argument does not hold that one cannot have counselling by an independent body.

The process of seeing a referring doctor, seeing a counsellor and then visiting the clinic provides time before a person reaches the point of termination. Again, I will listen to debate in Committee about that aspect. A legal demand is that one has a 24 hour, two day cooling off period in relation to buying a house or a car, so one needs time for consideration in this issue. Even when having an operation, a time lag varying from a few days to many weeks is involved after receiving the advice. The idea of a time lapse is important.

A number of very important issues arise in this debate. Legislators, both state and federal, must look at the reason that many women are seeking abortions. Financial circumstances and wanting to care for the baby is definitely one factor. Another factor is failed contraception. Certainly, we need far more education for girls about the inadequacies of contraception. The Minister for Water Resources referred to the failure rate of condoms. Young people need to be told that, although it might not be fashionable, it is okay to say no. Condoms are notoriously inadequate when it comes to preventing AIDS, sexually transmitted disease or pregnancy. Young people must understand that. They must also understand the problems associated with taking the pill. As a mother who had three children under three years of age, I, too, know how inadequate the pill can be. That is another important factor.

We must also look at how counselling would be applied. As all of us have said today, this is one of the hardest decisions that all members will make as parliamentarians. I have sought a lot of counsel from my electorate. I have taken very little notice of the huge flood of mail I have received, except that which has come from people in my electorate which is very strongly pro-life. That is a reflection of how seriously a lot of people regard the life of a baby. I cannot support all of this Bill, but I do see that some changes will most likely occur to the status of abortion in Western Australia. I must look at those changes in the most reasonable and practical light possible, and I will do that on behalf of those who live in my electorate.

MR McGINTY (Fremantle) [9.31 pm]: The laying of the charges in February this year against the two doctors for procuring an abortion was very unfortunate. We saw a practice upon which everyone had relied for 25 years. These doctors found themselves in a situation where the rules had suddenly changed without any prior warning to them. As a consequence the careers of two doctors who had been performing surgical operations in good faith have been jeopardised. From the point of view of sound administration of the State and of the law, that is no way to proceed.

If the law covering the practice that had emerged over a quarter of a century was to be interpreted differently, people should have been put on notice about what the law meant and of the view that would be taken henceforth. Simply to lay criminal charges against those two doctors was the wrong way to go about it. In those circumstances it would have been appropriate for the Director of Public Prosecutions to exercise his discretion pursuant to his prosecution guidelines not to proceed with the charges. In fact, he did that against the woman involved for public policy considerations.

Alternatively, it would have been quite appropriate in these circumstances, where the goalposts had changed in the middle of the game, for the Attorney General to file for nolle prosequi. Nonetheless that has not happened. If anything good has come out of that unfortunate series of events, it is that we are having this debate in this Parliament now and there is a widespread community view that the law as it has been applied since February of this year is inappropriate and should be changed. The debate that has taken place in the community is the extent to which we should see a change take place. It is my view from those to whom I have spoken that the overwhelming bulk of the people want to go back to the situation that existed for two and a half decades in Western Australia and, for that matter, throughout the length and breadth of Australia where that position applied.

Some members do not seem to have understood the situation, and have not properly conveyed it in their speeches. Members have said that to support paragraphs (a) and (b) of proposed section 201A(3) of this Bill will give full effect to the 1969 Davidson case in Victoria. Quite frankly, it will not achieve that at all. It is important to look at what has applied throughout Australia not as a result of the Davidson case in isolation, but of the Davidson case and the Wald case in combination. That represents the law as it is applied throughout Australia, with the exception of Western Australia; and as it has applied in Western Australia for the past 25 years.

In the Davidson case, Justice Menhennitt spoke about the serious danger to the woman's life or her physical or mental health. Certainly the judgment of Justice Menhennitt is saying that a doctor is justified in performing an abortion

based on the principle of necessity, which is justified in the case where there is a serious danger to the life or physical or mental health of the woman. That is what is encapsulated in paragraphs (a) and (b) of the legislation. The full impact of the law as it has been applied and adopted by courts, including in States where there is a criminal code, such as in Queensland, also includes the very important 1971 decision of Justice Levine in the Wald case. In that case, what the court spoke about is now in paragraph (c) of the Bill that is before us. This represents the full application of the law around Australia and what has applied in Western Australia.

As the member for Yokine, speaking from the point of view of a medical practitioner, said, only a small proportion - perhaps 10 per cent - of the abortions performed in Western Australia over the past 25 years have been done on the basis of a serious danger to the life, or the physical or mental health of the woman. The other 90 per cent is done for other reasons. Those abortions are done for the sorts of reasons that Justice Levine spoke about in the Wald case; that is, the economic, social or medical grounds, or reasons which could constitute reasonable grounds upon which the doctor could honestly and reasonably believe there is a serious danger to the woman's physical or mental health. The significance of the Wald decision is that it introduced into the justification for a doctor performing or procuring an abortion these notions of economic and social considerations.

For people to deny those economic and social considerations is to say that they want to go back to the far more restrictive regime that we have had in Western Australia and that which applies today as a matter of practice in every other State and Territory in Australia. We should not lose sight of that because some people have it wrong when they have said that Davidson is what it is all about and that by voting for paragraphs (a) and (b) of this legislation, we will be reverting to the situation we had before February this year when the charges against Dr Chan and the anaesthetist were laid. We will not achieve that pre-February situation unless paragraphs (a), (b) and (c) are voted for in the affirmative.

We have presumed - by that I mean the community, the media and commentators generally - that Dr Chan is guilty. I do not wish to canvass the facts of the case because this matter is before the courts; however, it is important to appreciate that a number of defences are available under the Criminal Code and the common law in those places that do not have a criminal code, which seem to have been overlooked in this presumption of guilt in the case that is currently before the courts.

The law in Western Australia makes an abortion illegal. It then provides a defence based on only those abortions that are unlawful and says that they cannot proceed. That notion of illegality or unlawfulness is contained in each of sections 199, 200 and 201 of the Criminal Code. The fact that the word "unlawful" is used tends to suggest that in some circumstances an abortion will be lawful, prior to coming to the defences raised by section 259 of the code. The judgments in other States, such as in Wald and Davidson, have been based on looking at the word "unlawful" and saying that some abortions might be lawful and some are not.

We also find that in section 259 of the code the notion of reasonableness is introduced. That invites the formation of a judicial test in dealing with those matters. In this debate it is wrong for us to presume that the law in Western Australia is limited to those situations in which only life is at threat. We seem to be presuming that for the purposes of this debate. In any event I appreciate that clarity is an important issue, particularly when dealing with criminal law and an offence that can result in 14 years' imprisonment. Each of those constructions of the law suffers from that lack of certainty. They will be very much dependent on the judge who hears the case. We need a law which is crystal clear. I hope that will come about as a result of this process, whether it be as a result of the Davenport Bill succeeding or the Foss Bill in whatever form it finally passes this House having great clarity, so that everyone, particularly women and doctors, know exactly what is the law.

Like everyone, I am finding this a difficult issue because there are so many different aspects to it. Each of us comes to the problem from a different point of view. There is the medical issue. We have heard arguments from doctors that this is a medical procedure that should be regulated under either the Health or the Medical Acts.

If we accept the undeniable reality that abortions will occur regardless of what this Parliament does - and I do - where is the role for minimising harm to the people who are involved in abortions? I refer here exclusively to the women concerned. I do not accept that we will never again see a septic abortion or a woman die from self induced abortion. That is something people may want to believe, but for which there is no evidence. Only weeks ago we saw the danger of self-induced abortions with the two admissions to hospital of women who tried to self-abort when this crisis first arose. From a medical point of view it is important that this procedure be properly regulated in an appropriate Statute and that we adopt the principle of harm minimisation.

Others look at this issue from a legal point of view. I have already spoken about the decisions that have resulted in a certain practice and the need for certainty in the law. Some people want it dealt with strictly as a legal issue. Others see it as a moral issue and we have seen several illustrations of that.

I have the utmost respect for the integrity and point of view of the mother who appeared on the front page of yesterday's *The West Australian*. I respect the integrity of people who believe that life begins at conception and is sacred and that we are never justified in aborting a foetus. It is a principle that underpins it but with which people in this House may not agree; nonetheless, it is consistent. My difficulty with that principle is when people say that life is sacred and abortion is murder, but they are happy to murder if there has been a rape or if the foetus is seriously deformed. That is when the principle goes out the window and we are left with a question of degree. It is then no longer a question of principle. Once we recognise it as a question of degree, we must consider where the ability is for the woman to make a decision about a question of degree.

As long as for those people it remains a fundamental principle that abortion is wrong in all circumstances they can hold their head high. As soon as they say they will allow abortion in certain circumstances the principle does not hold water. That is why Dr Sarah Oh has my admiration. I heard her speak on the radio and her consistency and the principle for which she stands are admirable. Equally, judging by what she has said, she does not want to impose that principle on every other woman in this State who does not agree with her point of view.

I refer to equity and access to the law. If we are saying that people in Western Australia will have access to only a limited abortion regime, it will operate in a most unfair fashion. Those wives and daughters of the well-off will hop on an aeroplane and fly to another State to procure their abortion. The people who are not so well off will not be able to afford that. Where will they go? Where will the people go who do not have access to the same information as so many other people have? That is one of the reasons we must make sure that what applies here in Western Australia is equally applicable to every citizen of the State. It should not be a law that works against the interests of the less well-off and which leaves the well-off able to access abortions beyond the jurisdiction. The weight we place on each of those factors will determine how we address this issue.

A victim of incest should not be forced against her will to carry the child of someone who has committed that heinous crime on her. A victim of rape fits into the same category. A significant deformity is something that should throw back the choice to the mother bearing the child of how she will deal with the matter and the deformed child she has conceived. It is not appropriate for us to say to a mother who has a seriously deformed child that she must bear it or face criminal sanctions. It is a matter for individuals to decide within themselves how they wish to address those matters.

Moving beyond those situations, what should happen in the case of a woman who was desperate, who was in poverty, who had a great number of other children and who faced a very difficult life ahead of her? Surely she should have the right to make that decision. It is not our right to stand here and tell her how she will exercise her conscience.

I find a great irony in the fact that we are giving ourselves a conscience vote when the issue will never confront many of us. If it is to be a conscience vote it should be exercised by the person directly affected by the dilemma.

Many excellent contributions have been made to this debate. It has been tremendous to see people speaking their minds in here without the shackles of a party position hemming them in. I have seen a different side to many members of this Parliament during this debate; some for the better, but unfortunately, some for the worse. Nonetheless, we should have more of these debates and people should feel absolutely free to speak their mind and express a view on behalf of their constituents.

While in the public arena, two positions have been described before the Parliament: We have had the Davenport repeal Bill in the upper House, the graduated Foss proposal before this House, on which we will vote, and we now have a third option; namely, the Pental amendment. This amendment should not be described in any way other than as providing an extremely limited access to abortion. If the Davenport Bill can be described as repeal of the abortion provisions in the Criminal Code and the Foss Bill contains a number of steps in between, the Pental amendment is designed by those people who want to see women have very limited access to abortion.

We should not forget what has given rise to this debate and why the Pental amendment is, in my view, inappropriate. It arose out of the charging of the two doctors. It was recognised by both sides of the political fence, but in a way that allowed every member of Parliament to exercise his or her conscience, that the law should be changed. The Pental amendment provides very little change to the law as it is now being strictly applied in Western Australia. It certainly does not provide for reversion to the practice which has existed in this State for the past 25 years. We should not see the Pental amendment as anything other than what it is - a measure which will provide the most limited and circumscribed access to abortion of any of the options before us. It is a proposition that will appeal to the pro-life people among us. Fair enough, if it is their wish to vote for it. To me, having read it, it is inappropriate for another reason.

It looks to me like a shonky commercial lawyer has sat down and drawn up, in order to regulate the issue of abortion, something that could equally apply to a used car sale contract. It contains a cooling off period. There is a certificate

which must be countersigned and given to the client. It provides for an arm's length adviser to fully advise the client on the contract she is entering into. A copy of the certificate must be provided to the client. Copies of all certificates must be sent to a central government agency. If that is not the model that applies to the purchase of used cars in Western Australia, I am completely wrong. I do not think I am. It seeks to put into the law dealing with abortion - one of the most sensitive, personal and crucial decisions a woman will ever make - a commercial framework which is more appropriate to a used car yard. For that reason it is completely inappropriate. When members come to vote on this issue I ask them to be compassionate. I ask them to try to understand the situation confronting the many thousands of women in Western Australia every year. I ask them to respect the integrity of the decision the woman will make in the very difficult circumstances which confront her.

MR BARRON-SULLIVAN (Mitchell) [9.54 pm]: This Bill is without doubt the most difficult piece of legislation that I have considered in my relatively brief time in public office. It is not because I am undecided about the matter and certainly not because I feel uncomfortable about the amount of lobbying and at times pressure brought to bear to influence my decision. It is because of the nature of the decision making process itself and the limitations it imposes on how this matter will be resolved. I will touch on that later.

This is not a run of the mill administrative Bill. It does not simply deal with objective issues to do with public health, government fiscal considerations or technical criminal law matters. It concerns a highly subjective issue of immense public importance which, by its very nature, will always be viewed quite differently by people with differing moral beliefs and social considerations. Few other issues have the capacity to polarise public opinion in the same way and the feedback I have received from my constituents reflects this. At one end of the scale there is the moral or religious position which contends that every life is precious, beginning at conception, and must be protected by all means. At the other extreme there is the view that women have an inalienable right to decide for themselves what to do with their bodies, including terminating an unwanted pregnancy. I do not intend to go into these arguments in great detail as the issues involved have been canvassed extensively in the public arena and in this House. However, my constituents deserve to know my position on the Bill and how it was determined. I will make some brief comments on the matter.

Firstly, I stress that I accept wholeheartedly that a foetus is a living entity and that any matter concerning a woman's pregnancy is not to be taken lightly or without regard for her unborn child. We all go through changing times in our lives and it is fair to say that my own views in this regard probably were influenced by my family situation and circumstances. Indeed, I recall vividly how, when my wife fell pregnant, I felt an incredibly strong sense of connection with that little unseen child sapping energy and life from his mother, seemingly just waiting to be born. The thought now of terminating his life inside the womb is totally repulsive to me, not from a moral or ethical point of view, but because I had obviously bonded in some inexplicable but natural way with my future son, and I was not even carrying him! It goes without saying that the feelings my wife experienced were intense.

But this was our experience - a smooth pregnancy, a healthy mother and eager parents. Unfortunately, as we know, not all pregnancies can be described in this way. This is where the debate takes a different and very difficult turn. This debate is not about all those wanted pregnancies or all those healthy mothers to be, or the majority of children who are fortunate to be born without serious disabilities and in good health. It is about the unwanted pregnancies - the mothers who are at risk in some way as a result of their pregnancies or whose unborn children will be born with serious disabilities or who may be subject to prenatal death.

These are the situations which have led to more than 9 000 abortions a year in this State and they are the situations we are required to deliberate on in considering this Bill. Nine thousand abortions is a staggering figure and one which raises serious questions about the processes involved. While some people argue that there is no justification for any of these abortions, regardless of the circumstances, others consider that, provided the women concerned gave their consent, each of these abortions was justified. Unfortunately, I contend that this matter is not as simple as either of these positions might suggest.

The argument that this Parliament should in some way provide a legislative framework allowing ready access to termination procedures - the so-called pro-choice position - overlooks a practical outcome of this approach with which many would disagree. Put simply, by allowing "abortion on demand", this Parliament would send out a message, albeit unintentionally, that abortion could be considered in effect as an alternative to contraception. Termination procedures might increasingly be seen as an easy option to terminate unwanted pregnancies, regardless of the reasons in each case and, importantly, regardless of the level of some women's understanding of the whole matter. Legalising abortion on the basis of the sole criterion that it is a woman's choice whether to terminate a pregnancy also denies the fact that many men have intense feelings for their unborn offspring, yet they would be denied any say in the matter. I have heard some members and lobbyists say that this is an issue for women to decide. But any decision regarding the life of an unborn child must surely involve both parents, mother and father, wherever possible.

The words may look fine in a piece of legislation and the principle of freedom of choice may be a noble one, but it is inevitable that any process which amounts to abortion on demand will promote greater acceptance of the procedure as a means of dealing with unwanted pregnancies. Indeed, people I speak with, including many constituents whose views I have canvassed, generally oppose such ready access to abortion procedures, arguing that abortion must be treated differently from the issue of contraception. On the other hand, those who advocate that no life should be terminated regardless of the circumstances also overlook certain practical difficulties associated with applying their beliefs in practice. For example, they overlook the heartache and anguish experienced by those parents who find out that their unborn child has developed without a brain and will die soon after birth. I can understand that some parents, especially women, would choose to terminate such pregnancies if possible while others might opt to continue with their pregnancies through to birth. Again, most of the people to whom I spoke about the issue agreed that a choice should be available under those extremely unfortunate circumstances.

It is apparent to me that the majority of people to whom I have spoken about this issue in my electorate do not support either of the extreme arguments in the abortion debate. The general consensus seems to be that there should be scope for proper, informed choice by women, with the involvement of the father wherever reasonable and practicable, but that there should not be open slather whereby abortion simply becomes an alternative to contraception.

Most people do not know just how prevalent abortion procedures have become, and many are shocked when they are told that more than 9 000 terminations are carried out in a year. This leads me to the reason that this Bill is so difficult to consider. Although my personal feelings are the same as those of the majority of my constituents, as far as I can tell, I remain to be convinced that the legislation before this House can meet this broad community expectation. Indeed, it would be very difficult, if not impossible, for any draft legislation which is based on modifying the Criminal Code, to provide for a process which balances moral and practical considerations with community expectations.

The Bill sets out to give members an opportunity of deciding on various degrees of acceptance of abortion, depending on the circumstances of each case. This is achieved, of course, by enabling the provisions of clause 3 to be considered on a graduated basis. However, as other speakers have alluded to, and as I am advised by members of the medical fraternity, even the first graduations, which can loosely be described as constituting the Davidson test, could amount to a quite liberal approach towards abortion. These provisions could result in terminations under circumstances which might not meet the strict intent of the law, in some people's minds. Quite simply, this Parliament cannot determine how doctors will interpret the law in individual cases. Without doubt, paragraphs (a) and (b) of proposed section 201A of the Bill would provide for quite broad access to termination procedures, regardless of the written intention of the legislation.

It has been suggested that a key consideration is to ensure that any decision by parents to terminate a pregnancy is made on a truly and comprehensively informed basis. Unfortunately, this Bill does not, and possibly cannot adequately provide any specific provision enabling women to be counselled in a proper way, although it refers to the need of "informed consent". Nor being concerned with the Criminal Code, does it provide for appropriate assistance after the procedure is carried out or for other safeguards such as cooling off periods.

I understand that other members intend to move amendments, including provisions relating to counselling, and I will consider these when the time arrives, although I have some major reservations about how some of these arrangements might work in a practical sense. I will examine any such amendments as they are put forward to determine whether they could ensure properly informed decisions will be made by parents and will determine which graduation in the Bill is appropriate on that basis.

If sensible and workable safeguards can be provided through this legislative process, it seems appropriate to support a greater degree of freedom of choice. If, however, such safeguards cannot be framed in this Bill or if this House cannot reach agreement, I for one will be respectfully suggesting that the Minister for Health implement measures to provide for adequate counselling, at the very least. No matter what, if the House wants to give parents a good degree of freedom of choice without normalising abortion as a means of preventing unwanted children, there is a dilemma in achieving that through this legislative process.

As I have described, allowing terminations more or less in accordance with the Davidson test, would result in a very broad range of terminations, but to deny women the legal right to terminations, and to penalise doctors for performing them, carries other adverse consequences which have been raised in this House. The key seems to be to ensure that any decisions made by parents are made on a thoroughly informed basis. With this in mind through this debate leading to this Bill being introduced in this House, I made a point of canvassing the opinions of my constituents.

I have been approached by literally hundreds of people on this issue, but I have made a point of finding out the subjective views and where the strength of opinion lies within my electorate. As an elected representative, I am not standing in this House debating this Bill on the basis of my personal opinion. I have a very strong personal opinion

on this. However, I am fortunate in that the strength of opinion in my electorate appears to be along the same lines as my point of view.

The majority of my constituents appear to support giving choice to women, but they do not favour uninformed abortion on demand as an alternative to contraception. In a practical sense, allowing certain clauses of this Bill to be passed into law appears to give doctors and their patients considerable scope to decide whether a termination should be carried out, under certain circumstances. The practical application of these provisions should provide choice but without normalising abortion.

I realise that people with extreme views on this issue will not be satisfied with this position, but I am confident it is the best possible outcome under the circumstances and reflects broad community expectations in my electorate.

MR MASTERS (Vasse) [10.06 pm]: I offer my support for paragraph (c) of proposed section 201A(3) which states, in essence, that the miscarriage of a woman is justified if she is likely to suffer serious personal, family, social or economic consequences if the miscarriage is not procured. I oppose the Davenport Bill on the basis that it seeks to decriminalise almost without condition or qualification the ability of a woman to have an abortion.

For some time I have believed that Australia is not obtaining the leadership it deserves from those in our community who are expected to lead. In recent years some of the leadership on display has not set a very good example. By retaining the abortion provisions within the Criminal Code, as parliamentarians, we will be saying to men and women that abortion is not something to be taken lightly or casually. Abortion is a serious moral and societal issue. Termination of a pregnancy should not be seen as little more than another contraceptive method. For similar reasons, I am unable to support paragraph (d) of proposed section 201A (3), as this would effectively allow abortion on demand - something that we as a society should not be encouraging, again because of its societal and moral implications.

I refer now to an article in *The Bulletin* of 17 March this year. The subtitle of the article is "The motherhood issue: Beyond the simplistic pro-choice/pro-life equation lies fresh argument on what choice actually means". It discusses the abortion issue as viewed by Leslie Cannold, a Melbourne-based bioethicist who is the author of *The Abortion Myth*. The article reads -

... as she argued the standard pro-choice line as a National Organisation of Women ... member and later as a Wesleyan University student on campus forums, Cannold felt the whole story wasn't being told. Feminist resistance to treating abortion as anything but a straightforward, practical decision did not tally with her own doubt that abortion was a choice she could ever make. She kept her moral scruples to herself, however. "Nobody said it, but I got the feeling that to deviate from the stated position of the movement was to give comfort to the enemy - the far, anti-feminist right."

It was not until Cannold emigrated to Australia in 1989 and enrolled at the Centre for Human Bioethics at Monash University in Melbourne that she was able to put her finger on what was missing from feminism's case for abortion rights - recognition that women don't separate abortion from the complex web of their experiences, understandings and feelings about mothering children.

The most important paragraph in this article reads -

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

The article continues -

Cannold concluded that the abortion decision is not essentially about ending a pregnancy, it is about choosing - or not choosing - motherhood. Abortion, she says, represents the right to say no to motherhood - a right that makes anti-choice campaigners incredibly anxious.

"It is the desire of pro-choice women to live according to their ethical codes about what a good mother is and does that lead them to insist upon the deaths of the foetuses they will be unable to gestate and mother themselves" Cannold argues, or as one of the women interviewed put it, "A women who wants an abortion doesn't want to kill a baby. She doesn't want the product of conception to become a baby".

Although I am not a supporter of abortion on demand and hence may be seen as having some support for the pro-life position, I express my disappointment at the guilt and emotion which have dominated the anti-abortion argument. By continually referring to women who have undergone abortions as murderers, people opposed to abortion are

amplifying the feelings of guilt which I am sure are harboured by many if not most women who have undergone terminations. The Bible tells us that we should forgive the wrongdoings of others, the intention being that in time people can get on with their lives in worthwhile and productive ways. By continually repeating these feelings of guilt, many anti-abortionists are displaying and espousing the very antisocial behaviour and attitudes they are trying to overcome in their opposition to the legal termination of pregnancies.

The emotional character of the anti-abortion argument can also be criticised because its aims are to overwhelm the logical and sound arguments which are genuinely supported by a clear majority of the WA population. As an example, I cite the provision to all members of Parliament of a kit with life size models of different aged fetuses in the womb. In the school classroom, these models would have been excellent educational materials that would have strongly brought home many issues important to high school students at a stage in their development where they need to understand the implications of sex, pregnancy and abortion. I urge all members to donate their kits to their local schools because in the long run this will achieve more than simply loading up the emotional baggage of you and I as MPs.

I summarise my position on the abortion issue by quoting from petitions I presented to this House early today and yesterday -

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

When emotion and guilt are put to one side, this petition honestly and fairly represents the reality of abortion in our modern world.

I advise the House that I am somewhat favourably inclined to offer support to the amendments that are proposed to be moved by the member for South Perth. These amendments relate to the need to obtain certificates from two doctors and an approved counsellor. However, a point not yet covered relates to the need to also provide post-abortion counselling, not just pre-abortion counselling. I understand that the amendments will include the words "appropriate counselling" and during Committee I will seek a commitment from the Government to ensure that post abortion counselling will form part of the meaning of the word "appropriate".

To conclude, I offer two quotes, the first from Edmund Burke, an Irish philosopher and statesman who lived in the eighteenth century. I direct it to all members of this and the other place. Edmund Burke said -

Your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion.

My second and final quote is directed at those members of Parliament who have used religion to justify their restrictive anti-abortion views. It comes from Thomas Jefferson, an American statesman, again from about 200 years ago. He said -

Question with boldness even the existence of a God; because, if there be one, he must more approve of the homage of reason than that of blindfolded fear.

MR MARLBOROUGH (Peel) [10.16 pm]: I support the Bill. I find it personally repugnant to be put in a situation where not only am I being asked to turn back the clock in Western Australia some 20 years in our attitude to abortion but also I am expected to pass legislation that will make criminals of women who choose an abortion and of a number of other people associated with that choice. That is the position we are in today.

I feel repulsed that the Office of the Director of Public Prosecutions and its officers have seen fit within their capacity to lay charges against the two doctors and the anaesthetist involved recently in carrying out an abortion. The DPP sent a letter on this issue dated 9 February 1998 to a number of members of Parliament who had written to the DPP; the letter pointed out what section 259 of the Criminal Code stood for. Section 259 is titled "Surgical operations" and states -

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

In the same letter to those politicians the DPP criticises politicians for a law about which he suggests politicians have done nothing for 20 years. He stated in the letter that police officers and prosecutors do not have the luxury of choosing which laws they enforce.

With the greatest respect to Mr McKechnie, the DPP, that is precisely what he has done with this law. He has chosen within his office to charge the doctors and anaesthetist and told us that it is not in the public's best interest to charge the mother. The DPP has chosen to apply the law in a certain way to a certain group of people involved in this case. I do not know his reasoning, but for him to put in writing that police officers and prosecutors do not have the luxury of choosing which laws they will enforce is a nonsense. Mr McKechnie should wake up to the fact that his office on any day of the week makes those sorts of judgments on all sorts of cases. How often do we see in *The West Australian* that Mr McKechnie has decided on the facts in front of him not to proceed with a course of action? I suggest that it occurs on a weekly basis. Last week the DPP determined not to go ahead with charges against a certain real estate agent who had had dealings with the Wanneroo City Council. We were not told the reason the DPP was taking that line of action but only that the decision had been made. In this case John McKechnie and his officers have determined to implement section 259, which has not been used to implement any action against any person in this State for more than 25 years, in such a way that it affects only certain parties involved in the action. One must assume that the woman involved was party to procuring the abortion, yet the DPP has said that she should not be charged. I agree with him. However, if he makes a principled decision on that law not to charge one party without advising the public of the reasons, but charges another party involved in the same case, contrary to the letter of 9 February from Mr John McKechnie, he is choosing which law to enforce. Having decided how he and his office will interpret the law, the prosecution of the doctors is up and running.

This issue has not required debate at this level for more than 20 years. Like many bad laws, this law has not been used. Those who have practised the law will know that the easiest laws to knock over in the judicial system are the bad laws, because nobody abides by them. With most of those laws practice and precedent indicate that they are no longer appropriate. In 1998 we have reached that watershed with this law. After 20 years, experience in this State indicates that this law is no longer appropriate for Western Australia, which is part of the continent of Australia. Women in Western Australia should not be judged in a lesser light than they might be judged in other parts of Australia. It is an attack on women and on the unborn child. How outrageous it is to indicate to women in Western Australia of childbearing age, regardless of their circumstances, that under the Criminal Code they can be prosecuted if they decide to have an abortion. Not only the woman, but also any other party involved in that decision will be prosecuted. Why should a woman be thought less of in Western Australia than in South Australia, Victoria, New South Wales, Queensland or the Northern Territory?

Not satisfied with wanting this Parliament to pass a law that would downgrade women in our society and put back the clock 20 years, according to the rhetoric of those who support the current Criminal Code, those women are not only criminals but also murderers. Is there any more heinous a crime than murder? Is anything worse than carrying the burden for the rest of one's life of being judged a murderer within society? What will happen to the pregnant women who have decided, for whatever reason, that they cannot continue their pregnancy? It has been determined that they are murderers. When I look around the Chamber at some of the members I have known for a number of years, I can imagine the debate that would take place on how to treat murderers. The member for Riverton is on the record as saying that he would hang all murderers and that he would pull the lever. He would be very busy if this Parliament passed a law to allow these people to be charged on the ground that they are murderers. He and others want to implant that thought in the minds of the community. I suggest that the member for Riverton and others of his ilk would determine the action that should be taken against murderers, and his position is on the public record. On that basis, last year he would have pulled the lever 9 000 times. I ask members to picture these women who have had an abortion, for whatever reason. To indicate how unjustified their action to procure an abortion was, even if they were not charged under this proposal, they would be labelled as murderers.

The penalty for an offence under section 259 is currently 10 to 14 years' imprisonment. It is a serious offence. The doctors in this case face that penalty if found guilty. That is more than some people are presently sentenced for murder. That is how serious the crime is. We are told by people who are opposed to women having a choice that people should be prosecuted accordingly. The next step in that process, having determined that last year 9 000 women committed murder, and that the most serious action should be taken against them, will be a debate on capital punishment. Every now and then when the Premier's popularity is flagging in the polls and he is revealed as the weak leader and limp wristed person we know he is, he raises and supports the concept of capital punishment. Imagine how any woman procuring an abortion while this Criminal Code is in place would feel in the atmosphere in this State when the Premier is leading a debate on hanging.

I have heard speech after speech today and I have received letters indicating that these women not only are committing a crime, but also are murderers. I think all members have received those types of letters. In that atmosphere of dealing with 9 000 murderers on the basis of the existing law, why not make it retrospective?

The Minister for Housing said today that in his role as a medical practitioner he had dealt some years ago with a young woman who had recently told him she was concerned that he had not counselled her strongly enough when she came to him for an abortion. What would happen if she came back years later or went to the office of the DPP

and said that she had not been counselled by her medical practitioner and that she had been coerced by him? What if she said that she was assisted in her deliberations by her medical practitioner, her psychologist and her then boyfriend, husband or whoever? Why do we not make it retrospective? What if someone comes forward and says that we have had this law on the Statute book for 20 years and that they have now determined, as a 37 year old woman, that when they made the decision to abort at 15 they were not in control of their faculties or the advice they received and that they were pressured by certain people? My reading of the Criminal Code indicates that if such evidence came forward, such a charge could be laid. If a person came forward and could prove that the operation was not reasonable having regard to the patient's state at the time, charges could be laid under this law. We could have the Bill Clinton syndrome and their view of what occurred some years ago. So damning is the accusation that the people involved would never recover.

I am being asked, in 1998, to push all of that aside in this abortion debate and to vote against the right of women to choose and to turn them into criminals. More importantly, I am being asked to ensure that in Western Australia they are less of a human being than they are anywhere else in Australia. That is a more horrendous injustice than any injustice I am being asked to support.

When I look at the facts and figures surrounding abortion and the debate about foetuses being aborted after 20 weeks and at 30 weeks, I am at least consoled by the fact that 95 per cent of all abortions take place before 20 weeks. I am also consoled by the fact that, under the Health Act, any abortion or death of a foetus over 20 weeks must be registered as a death. I am also consoled by the fact that after 20 weeks, any such abortion cannot take place, even in the clinical set up we have in Western Australia. In the main, when an abortion is performed after 20 weeks there is usually something seriously wrong with either the mother and/or the foetus, and those operations are undertaken at places such as King Edward Memorial Hospital. I am consoled by the fact that if I am going to err on the side of what is right and what is wrong and I make the pro-choice decision - which I will obviously do - at least if I am wrong, on the evidence I have before me, I am wrong by a very small margin - less than 2 per cent. However, I know that if I allow this section of the Criminal Code to stand it applies to 9 000 women - 9 000 mothers, be they present or potential mothers - and hundreds of doctors, nurses and anaesthetists. In fact, in leaving the section in place, and if I agree with the rhetoric and say that they are not only criminals but also murderers, I will have to start building a lot of prisons for women. Bandyup will not be able to hold them - it cannot hold them now, it is overcrowded - and there is no room for them at Casuarina.

We talk about the destruction of a life in the womb. Members should look at the statistics we have before us. The largest percentage of women - some 70 per cent of all abortions in this State - having abortions are in the age group from 20 to 29. We do not have to be Einstein to recognise that a good percentage of those women are mothers with families. What do members want us to do under this Criminal Code? Do they want us to categorise them as murderers so that they can be charged with a criminal offence? We will then have a debate about the penalty for murder. If the member for Riverton gets his way, they should be hanged and he is willing to do it. Having reached that conclusion, have we thought about the circumstances in which we leave their family? Have we thought about the devastation we would leave behind in a home when we do that to a mother who has always been above the law, has set an example to ensure that her children are excellent Australian citizens and that they know right from wrong? Have we ever thought about how those children will be devastated by plucking that mother out of that home, charging her and putting her in prison because she had an abortion for reasons of which we are not aware? We are asked to make a judgment that she is a criminal. The present Act allows her to be charged as a criminal.

I say to those who pursue that line: Do not expect me to swallow that argument; do not expect me to believe I can stand here and deal with my conscience on the basis that I have saved a number of unborn children and at the same time rejected the social and family devastation caused by taking the 70 per cent of women aged 20 to 29 years, many of whom will be married or parents, out of the family home; do not expect me to ignore the family devastation left behind.

How many times do we hear in this Parliament the debate about how easy it is to divorce? How often do we hear the debate about social dysfunction in a society in which family units with a mother and father no longer exist? How do we know in this Parliament or any other Parliament in Australia or the western world the level of need in families because there is only one parent? Usually that one parent, whether or not we like it, is on a low income and is struggling to survive from hand to mouth from day to day. Do not expect me to tell my mothers in Kwinana and Rockingham that this law will not apply to all of them, because it will. The zealots will ensure that; they will demand of the Government that, having had a victory, the penalty should be applied.

Members who are thinking of voting that way should think about this. How do they think they will be judged next week when they have voted to keep this section of the Criminal Code in place? How do they think the public will view them next week when they do not prosecute?

The Government has a law which it has not reinforced or used for 20 years. The office of the Director of Public

Prosecutions, for reasons best known to itself - perhaps over morning tea - decided to prosecute at least some of the people involved. I would like to know the thinking that is going on these days in the office of the DPP. I would like a very close look at Mr McKechnie's contract when it comes up in four years' time, because I do not care what position Mr McKechnie holds; if he thinks he has any control over my moral values, he has another think coming. I have been around this place a long time. Mr McKechnie should realise that people out there have made judgments as well. This is the Bill Clinton syndrome. People no longer are affected by departmental heads, Prime Ministers or church leaders making judgments and saying what is right or wrong. What is happening today is that people are realising that they have a level of intelligence with which they can make up their own minds. The Mr McKechnies of this world may think that they are in ivory towers and can make judgments in isolation. Mr McKechnie may determine to pick off two doctors and an anaesthetist but not to charge the mother because it is not in the public interest. He believes that by saying it, that will be the end of the matter. I have news for Mr McKechnie - it will not be and it should not be the end of the matter. He should look carefully at what he has triggered off. I do not suggest that he did it with any malice or intent. He did it in ignorance of where the community is today. He has missed out on what the vast bulk of people think about these matters, just as we are seeing in the USA, where a campaign is being run against the President which is out of date. People are interested in the important issues. The important issue in this debate and the political issue that will come home and hit around the heads of those who will not support this Bill is that people will not have members of this Parliament categorise them as second class citizens. Women will not allow a group of predominantly middle-aged men determine what should be their future life. They will not cop it. This is a big political issue, bigger than the issue of abortion which triggered it off. This is an attack on the senses of the community. Not only are women in a position where they will not be treated as second class citizens but also men do not want them treated as second class citizens.

If I were the father of an 18 year old girl who for whatever reason fell pregnant and decided for whatever reason to have an abortion, I may have to make a judgment on my daughter within the family but would I want my 18 year old daughter to be classified as a criminal? Would I want the rest of her life ruined? Would I want the stigma of murder to hang over her head at 18 years of age? Would I want her entering into a relationship in her twenties in which she may determine that she wants to get married? Would I want my 18 year old daughter charged with abortion under this code? Would I want her doctors charged or maybe even her parents because we gave her the wrong advice; we did not counsel her enough, we took her to the doctor; we made an appointment with a psychiatrist whom we knew would give a certain decision that would lead to an abortion? Would I want my daughter at any age from 15 to 18 years to be classified as a criminal? I suggest not. I do not know of any father facing those circumstances who would. Mr McKechnie and his office have opened up not only the question of abortion but also a debate on how we see society today and whether we in the twentieth century have advanced not only in our view on society but also in our attitude to women. Have we advanced in our attitude to children who may fall pregnant? Have we advanced in our attitude to how the medical profession should be treated? I suggest that outside of this trigger issue of abortion are many questions that need to be answered. When members look at how they balance their moral position on this issue, they should think of the ramifications of turning 9 000 women last year in Western Australia into criminals. They should think of the ramifications of the 70 per cent aged between 20 and 29 years, many of whom have children already, whom they want to turn into criminals in the future. They should think of what an inhumane society they would create by allowing such laws to be used in the way that has been debated in the past fortnight if they allow this legislation to pass.

We must send a strong message to Mr McKechnie prior to the two doctors going to trial that this Parliament believes it is time to move on; that it believes women are an integral part of the twentieth century, this nation and the world; and that they must be allowed to make their own decisions and not be treated as criminals or labelled as murderers.

MR JOHNSON (Hillarys) [10.48 pm]: Like many of my colleagues I have found this a very difficult decision to make because I have mixed views on the whole subject. I will be supporting the Bill through to the Committee stage. I wait eagerly to see what amendments are coming forward. I categorically feel that no young girl or woman should be deemed a criminal or murderer because she seeks an abortion. At the outset I should mention where I come from and my experiences through life that are pertinent to this subject.

I am very much a family man. I have four children and five grand children and I hope to have many more. In 1962, at the grand age of 19 years and one month, I became a proud father of my first born, my son. I was a teenage father. A 19 year old is pretty young. Quite obviously that little bundle of joy was not expected or planned, but at that time abortion was simply not an option I was prepared to think of. Also at that time abortions were illegal in the United Kingdom. The only abortions which could be obtained were backyard abortions. Even if abortion had been legal, it was not an option that I would have contemplated. I am very pleased to say that after many years my eldest and my other children have grown into healthy human beings with good Christian values. I could not afford a child at the age of 19 years. I could not afford the second child when it came, which also was unplanned, but I did what I thought was right. I made a commitment to my newborn son, as I have to all my children, that I would work jolly

hard and do the best I could to give him the best life that I could. I think I have ended up fulfilling that commitment to all my children. I was very lucky, because I had two parents who, while they were not church goers, had what were very much Christian values. I do not believe people need to go to church to be good Christians; the way they live and their morals dictate whether they are good Christians.

When I am not in this place and when I am not carrying out my duties as a member of Parliament, I spend what little spare time I have not on the golf course, but with my family, or in helping sick children with disabilities through Radio Lollipop, which exists not only in this State but also in the Eastern States. Since my time in Australia, which has been for the past 10 years, I have spent a lot of my spare time helping to raise money and helping children with disabilities, because I have a great love for children and believe that if we can help children with disabilities we can enhance and make their lives better.

Before I came to this country, I also spent a lot of time helping children with disabilities, and during that time I met not only children with disabilities but also many adults with disabilities. One of the aspects of this debate is whether a foetus is a life from the moment of conception or whether it becomes a life at the moment of birth, and what should happen if an unborn baby had serious defects that would render that baby either stillborn or with little time to live after birth, or to have no quality of life whatsoever. Because of my experiences in the past, I believe that children deserve a quality of life, and that if they will not have a quality of life, the mother has the absolute right to terminate that pregnancy.

One case that I will remember until the day I die was of a 43 year old woman in an institution in the United Kingdom who was born with serious mental defects, and, if that were not bad enough, she was also born deaf and blind. That woman had lived for 43 years in a world of darkness and silence, and knew nothing other than the feeling of someone touching her. I do not believe she even knew that she was a woman, because there was no way of knowing, in a world of darkness and silence, that she was a woman. At the age of 43, she had to be cared for 24 hours a day and was still in nappies.

I do not believe that God would want any human being to live a life like that, so let me say at this point that I believe firmly that where a person will have no quality of life whatsoever, there is a clear cut case for terminating the pregnancy. I have been lobbied by the pro-life group and I appreciate its views on this subject, but it believes that that life should continue. I differ fundamentally from its views on that matter, because I do not believe that God would want anyone to suffer.

I also believe that a woman who feels that her mental or physical health will be seriously affected has the right to seek a termination of that pregnancy. I cannot imagine, because I am a man, the trauma in a woman's mind when she is faced with the prospect of undergoing an abortion. It must be horrific, because most women at some stage want to get pregnant, and only a woman can comprehend the trauma of wanting to abort what is inside their body. The woman has that responsibility, and the woman must live with that responsibility. I would not recommend abortion unless the woman's health was at serious risk or the unborn child was so severely deformed that it would have no quality of life. However, as a man I must accept, and I do accept wholeheartedly, that women have just as many rights as men, and their rights must be upheld, and if they believe that they need to terminate a pregnancy, bearing in mind the ramifications and the guilt feelings that they may experience in later years, that is their decision, and it is a decision with which they must live.

In the United Kingdom, abortion is legal if a woman has consulted a general practitioner and a gynaecologist and those two doctors have deemed that her mental or physical health may be seriously affected by a pregnancy. According to the latest information that I have, in the past 20 years since that time the number of abortions in the United Kingdom has reduced, but at the same time there has been a massive increase in funding for family planning. The town that I came from has a family planning clinic. I am told that there are some family planning clinics here if I look for them, but I have not seen any.

Many young girls in the United Kingdom at age 16 when they become sexually active do not want to tell their parents that they want to go on the pill and they do not want to go to their family doctor because they are nervous, or because they had seen him a few weeks earlier about some other ailment. They want to go somewhere where there is some anonymity and where they can get some first class advice on family planning and contraception. That is probably partly the reason for the apparent reduction in the number of abortions carried out in the United Kingdom. I would like to see that happen in Western Australia, because I believe that family planning is a very important issue and should be available for all females, whether they be young girls or women in their twenties, thirties or even forties.

I believe that counselling plays an important role. A woman who wants to terminate her pregnancy should be counselled by a specialist who can point out the ramifications and serious effects that termination may have on her in later life.

In answer to the suggestion that all these woman should give birth and give up their child for adoption, as one of my colleagues said earlier today, relinquishing mothers go through enormous trauma in knowing that somewhere out there they have a son or a daughter and when, all of a sudden, they decide that they want to make contact with that child after 10, 20 or 30 years. I can tell members from personal experience that that is not a good thing, because unless the adopted child and the parents who adopted the child are happy for the mother who has relinquished that child to have access to the child, it does not work. It is a very rare situation when that does work.

I will touch on two other issues, the case of a rape and the case of incest. The pro-life people have told me that even if a pregnancy results from gang rape by half a dozen thugs, the pregnancy should go full term and the child should be born.

I have two daughters, and like the member for Peel suggested, if one has daughters, it hits home even more. I know that if either of my daughters were raped, whether it be gang raped or violently raped by an individual, and a pregnancy resulted, I would understand perfectly if they decided not to carry that pregnancy to full term. That child would not be born out of love; it would be born out of thuggery and violence against a woman, and I cannot condone that. Therefore, I believe a woman who is pregnant from being raped has every right to terminate that pregnancy.

Also incest happens. I know of a case involving a 16 year old employee of mine in the United Kingdom. She was a little on the simple side. Her mother had left home many years before and the father was having sexual relations with her. We reported it to the necessary departments and to the police, because as an employer, I thought it was my duty. Fortunately, that girl had a miscarriage, because the miscarriage showed quite clearly the child was severely deformed, which is often the case in incest. However, if it had not miscarried, it was a classic case for a pregnancy termination.

My personal feelings are very similar to the majority of feelings that my electors have put to me. My mailbag has never been quite so big on any subject in the five years that I have been in this place. The majority of the letters - they were from both sides of the debate, the pro-life and pro-choice - were from women who said they did not want to be classed as murderers or criminals. They want women to have a legal right to seek an abortion under certain conditions. My job is to represent the majority of the people in my area, and in this instance I believe I am doing just that.

I think abortion is abhorrent. I would never suggest anybody have an abortion unless it was for reasons to which I have referred. I will support the second reading of this Bill. I await with great interest the amendments that I know will come forward tomorrow at the Committee stage.

MR McGOWAN (Rockingham) [11.04 pm]: Most issues to do with abortion have already been canvassed in this debate. My original view was that I would not contribute to the debate because of that fact. However, it is important for all of us to make sure our position is on the record for the benefit of the public and for the benefit of our constituencies.

I will make my position plain at the outset. I am unambiguously pro-choice and I do not resile from that position in the slightest. I acknowledge that there are two sides to this argument, an intellectual side and a practical side. We have to consider both sides of this debate when we consider the issue of abortion.

In an intellectual sense, I hold the view that a woman should have control of her body without the imposition of laws enacted by politicians.

Another of the intellectual issues to be considered is when does life begin. I am of the view that life does not begin at conception. I am also of the view that in the same sense life begins at some point prior to birth. This is an issue which has been canvassed a great deal. I do not think we can say that life begins at a specific time, date or month. It is a grey area and it is something about which individuals have to make up their own minds.

As I said, I do not think that life begins at conception. However, I think the question of when life begins raises other issues about which I am concerned in an intellectual sense; that is, late term abortions. I have always been very concerned about late term abortions. However, my fears have been allayed over the past few days. I am no longer of the view that late term abortions are a problem in this Bill. Late term abortions are a very rare thing carried out predominantly for specific medical purposes relating to the health of the foetus and the health of the mother, and specific regulations or sections of other Bills are in force governing this area or can be brought into effect at some point to govern this area.

If we are to be intellectually rigorous in examining this area, we have to acknowledge that for 30 years these laws which make abortion a criminal offence have not been enforced. For 30 years the silence on this issue in this Parliament has been deafening. People who say that the Parliament should not allow abortion are ignoring history, because this Parliament has, for the last 30 years, allowed abortion. Therefore, it is intellectually dishonest to put

a point of view that somehow, by taking a pro-choice stance, this Parliament is in the business of changing a situation that has been in existence for a long time. I think there is a great deal of hypocrisy about the situation that has existed in this State historically. It is hypocritical for people to say that we should not be allowing abortions, because we have been.

Furthermore, if we are to be intellectually honest on this issue, we must acknowledge that over the past 30 years, on average 9 000 women a year have been involved in abortions. Countless doctors, nurses, hospital staff and family members have also been involved. If we do some rough mathematics, that equates to approximately 300 000 West Australian women who have had abortions over the past 30 years.

There is no Statute of limitation on criminal laws. If we allow for these issues to be dealt with as criminal offences, 300 000 Western Australians are criminals and what is more, there is no Statute of limitations on pursuing criminal charges against those people. If we are to be intellectually honest, and if we disagree with the pro-choice position, we must pursue charges against those 300 000 people otherwise we are being hypocrites on this issue.

The last point I will make on the intellectual side of this debate is that if this Parliament decides that abortion is illegal and should not take place, as a Parliament and as a society we have to decide that things like the morning after pill and intra-uterine devices should be outlawed because they are a technique by which a foetus - I think its technical term is a zygote - is aborted on the day after or a couple of days after conception. If we decide that abortion is wrong, we have to outlaw those two devices. I have not heard anyone on the anti-abortion side of the argument say they should be outlawed. However, that is what we have to do if we are to be true to ourselves as parliamentarians.

The practical side of this debate is that we must assess the consequences of our actions. Pandemonium will break out in our society if we allow abortion to be a criminal offence. As the average indicates, almost 10 000 women every year will want an abortion, but will be denied that opportunity. They will be pouring into our electoral offices seeking assistance to fly to another State to undertake an abortion. We will see families in our office, in the newspaper and on television screens asking why Western Australian women are denied something that is available to women in every other State. They would mount a good argument. We will create division in our society and across the States of this nation. The consequences of the move to disallow abortion have not been thought through sufficiently because they will be dramatic. We will overturn 30 years of common practice. We will say to Western Australians that they will be denied the rights that people in other States openly receive. Also, we will give a direct order, or implied instruction, to our Police Force or the Director of Public Prosecutions that Parliament disapproves of abortion. Therefore, we will say that they need to pursue these issues. It would be the wrong signal to send to people enforcing criminal law.

If we are to be completely practical, we need to think about the young people of our society. I was a student at university in the 1980s so I know more than most, if not all, members of this place what it is like to be a young person today. In that context, we must acknowledge that young people make mistakes. They get themselves into situations they later regret. We must recognise a degree of immaturity among these people, and we should not pass laws to make their lives more difficult than they are already; young people's lives are complex and stressful as society has put a great many obligations upon them. If we do not allow them the right to choose an abortion when they absolutely need one, we will make their lives even harder.

I have explained my reasons for supporting choice, and I hope Parliament will follow that course.

MR SWEETMAN (Ningaloo) [11.12 pm]: It has been interesting to listen to some of the debate in this Chamber over the past couple of days; we will not see its like again in my time in this place. Members have had to dig deep to assess themselves and their position on an important issue. In fact, it may have been convenient for some members to stay away from the Chamber. I had a pair on Tuesday as I had some work to carry out in my electorate; however, my absence weighed on my conscience, so I cut that pair short and missed only one and a half or two hours of debate.

In my considerations on this issue I have been close to hell and back, although when I have finished, some will say I have got only half way back. Some of the debate has had a bearing on my final thoughts on this matter. The member for Willagee said that, for all intents and purposes, this is a dead issue with the community. The member for Belmont said today that a social truce was evident. The reality is that a de facto abortion on demand regime has applied in this State for nearly 25 years. Other speakers spoke about being not necessarily pro-choice or pro-life, but pro-reality. If this were a fresh Bill and tomorrow a new rule were to apply, I would think differently on this matter, as I find this issue to be morally repugnant. For me, this will always be a moral issue, not a human value or human rights argument.

As someone who has tried to live his life the best he can and who had a good upbringing by virtue of his mother, I have certain Christian values and godly absolutes enshrined as reference points in my life. Reference points to me as a builder mean a lot. One never goes onto a site to do a job before first establishing a datum point. This becomes

a constant reference point for the duration of that contract. To make sure the levels are right, one constantly checks back, takes fresh readings and recalibrates off that datum each day. Therefore, I have tried diligently to absolve myself from bearing a responsibility for adopting a view that I must now concede.

Regarding the social truce, under the present arrangement people expect abortion to be available. The 9 500 abortions performed each year indicate that people expect to turn up at the hospital or their general practitioner to get a referral for a termination. It would be very difficult to turn that around overnight and change the rule. Many people have the expectation that a series of anomalies have led to charges being laid against these doctors, and we will simply massage those aspects of law to ensure that the situation which prevailed over the past 20-odd years is retained.

I now walk through some of the other issues that need to be introduced into such a debate. For a time at least, we will legalise abortion, and this is a further indication of our attempts to try to live outside a Christian ethos. I spoke earlier about the reference points in my life. I try to live my life under a Christian ethos, and I am in this place because for too long society has made a conscious decision to fly in the face of the obvious and try to prove for a generation or two that it can survive without a Christian ethos. Many people have absolved themselves of the moral issues by stating that by upholding individuals' rights as enshrined in various Acts, they are doing as good a job as they can while not observing Christian values. I do not believe they are.

Godly absolutes or Christian values that once underpinned our Government are not given prominence. We now have prayers as part of the business of the House and for all intents and purposes that is the extent of our connection with godly precepts in our Government. They used to be fundamental in the way law was drafted or interpreted. It was a part of business. Earlier in the debate the member for Vasse quoted Edmund Burke who also said that the laws of commerce are the laws of God. I think many people today are proving conclusively that they are not. The Christian ethos used to be fundamental in underpinning our society. Under human values and management principles of society, we try to reverse godly precepts. It tends to put self first, and then others, and God is not even part of the formula.

I guess in trying to live without these Christian values, we have inherited some of the downside of that conscious and deliberate shift. Once, divorce was seen as an abomination to God; equally, adultery. We are not here to draft laws to make those things a social evil again. However, they remain a moral absolute; God still finds those things abominable. We have found a way to absolve ourselves from those pangs of concern. I am not standing in judgment of anybody. Normalising and debauching life by accepting divorce, living with adultery, same sex marriages, and the rights of same sex couples to rear a family are further manifestations of living without a Christian ethos. We merely have to look at marriage breakdowns, the divorce rate, the general lack of loyalty in the community by most individuals, a sense of hopelessness, drug abuse of one sort or another and suicides. Perhaps an adjunct to all of that is a righteous call for a fair dispensation of justice from our courts. We now try to draft laws to take the place of things that once used to be a matter of conscience. To all intents and purposes, our conscience does not drive our lives as it used to.

In concluding - this is in no way an attempt to absolve myself from the position I am taking - I state that while finding abortion unacceptable, I must go along with amendments to this Bill. I am not sure to what extent those amendments will be drafted. I am extremely concerned about the content of the documents in front of me. I do not understand it, quite frankly. The simpler the provisions, the better. If we can have a simple one-liner in the Criminal Code or abolish this provision from the Criminal Code, it may be a good thing.

I will vote to support the second reading of this Bill; however, I will be committed during the Committee stage to getting a workable provision inserted in the Criminal Code, if indeed a provision relating to this issue will remain in it. I have tried to find a section of the Scriptures that sufficiently covers the position I now occupy. I go to a section where the children of Israel were wandering for 40 years in the wilderness. Jesus tells the story in the Gospels of when he was being exorcised by the Pharisees. He made the point that because of the hardness of the hearts of the children of Israel, he allowed Moses to issue them with a certificate of divorce. God gave this counsel to Moses at that time; but he told Moses to tell them that he hated divorce. Because of the hardness of their hearts - today we would call it a lack of conscience - those people were doing something that God found to be morally repugnant. He said to Moses, "Have it your way; issue a certificate of divorce."

In the issue before us, the mother, in particular, but in many situations, a partner should be part of these deliberations. I feel for them - I am not trying to heap coals on their heads - because this is a very serious issue to consider. They must take responsibility for their decision and answer for what they will do. Even though we in this Parliament will normalise the practice of abortion within the next day or two, I hope in time we will change and reverse that situation, reduce the number of abortions that take place in our society and once again instill some Christian values and vigour into what is to all intents and purposes a fairly hopeless society at this time.

MR BROWN (Bassendean) [11.26 pm]: It is quite rare in this place that members can get up and say that they respect the various views that have been expressed across the Chamber, irrespective of what they were. I respect the views that have been put in what is, as other speakers have said, a difficult debate. The first issue I will deal with concerns contributions to this debate. Those who speak in the debate today, tomorrow, next week or the week after must understand that this is the beginning of a long debate. This debate will not end; it will not come to an end when this Parliament adopts some legislation. Whatever legislation this Parliament adopts, this debate will go on.

The Director of Public Prosecutions, in his wisdom, in laying those charges, made sure he would create in Western Australia a divisive debate that will go on and on until the next election or thereafter. Whatever comes out of this vote - whether it is acceptance of the Davenport Bill; whether it is acceptance of the Government's Bill; whether it is slight acceptance of the Government's Bill; or whether it is acceptance of the Government Bill and the amendments of the member for South Perth - will not satisfy strong, determined groups in our society, that will insist on being heard, that will not back away, and that will continue to fight for their position. Let no member be under any illusion that the issue will be decided in the next two to three or four weeks. This issue, by virtue of the decision of the Director of Public Prosecutions, is now with us, like it or not. Whatever decision we make, it will be there.

What does all of that mean for us as members of Parliament? The first question raised by some is this: Why is it that in such a matter as this, which involves complex social, religious, ethical and medical issues, it is appropriate for the 57 members in this place and the 34 members in the other place to make that decision? Is it appropriate for the public of Western Australia, broadly, to make that decision, not in relation to their individual case or circumstance but in terms of the law that should govern Western Australia? That is an issue that will continue to be debated and asked about by people who will say it is inappropriate for this Parliament to ultimately make that decision.

Those who express concern about the sanctity of life and the need to prevent abortions must ask themselves the fundamental question: Will this legislation prevent abortions? If it is designed to do that we must ask, as the member for Pilbara asked: What happens in situations where people elect to go interstate to escape the law in Western Australia? What will happen when people seek other ways to terminate pregnancies? Will it stop abortions? Does anyone believe that this Bill or any other Bill will stop that from occurring? I have not heard anyone speak in this place who genuinely believes that. I have not heard anyone say that this piece of legislation will stop that from occurring. If there is general acceptance for this legislation in whatever form it will not stop that.

I ask the next question of the Minister for Health who represents the Attorney General in this place: What sanctions are to be applied to those people who operate outside the legislation if it is passed in this Parliament? Will the Director of Public Prosecutions in this State enforce whatever law comes out of this Parliament? Will it be an honourable system or will it be a system bound for corruption whereby the Parliament will have one law and the practice will be different? That is what many people want to know. It has been said cynically in the corridors of this place and elsewhere that it does not matter what we adopt this week; it is academic because registered medical practitioners will continue to provide abortions. The public of Western Australia needs to know that whatever law comes out of this place will be enforced.

Mr Prince: There have been very few interjections.

Mr BROWN: I am inviting the Minister to make an interjection.

Mr Prince: I am sure the Attorney General shares my view that the law, whatever it may be, should be enforced fairly, with compassion and where it is appropriate.

Mr BROWN: Let us assume then, as I have heard again around the corridors of this Parliament, that proposed section 201A subsections (1), (2) and (3) and paragraphs (a) and (b) in the Bill are to be accepted; that is, a woman who seeks an abortion on the basis that she will suffer serious personal, family, social or economic consequences if the miscarriage is not procured will be denied an abortion.

Mr Prince: Clearly, if those criteria do not become part of the law that comes out of Parliament at the end of the process and something else does not, the abortion must comply with the law. I will expand on this when I stand in a few minutes. It involves matters of judgment by individuals at the time and nothing we write could or should ever be so prescriptive as to remove the element of judgment from the doctor, the nurse, the other medical professionals, the woman, her family and the other people involved in the decision of whether to abort.

Mr BROWN: I am seeking an understanding here of the consequences, because that is what people want to know. I understand that individual judgments will be made. However, if I were the Director of Public Prosecutions and had to determine whether to prosecute I would examine this Bill and what issue this Parliament had adopted. If it adopted paragraphs (a) and (b) I would interpret the decision of the Parliament as excluding paragraph (c), and that in the event of an abortion being performed by a doctor in accordance with paragraph (c) the doctor would be in breach of the Criminal Code and, therefore, liable to prosecution and imprisonment. As both the Minister for Health and

the Minister representing the Attorney General in this place, the Minister is probably in the best position of anyone in this Parliament to know that. Given what we have talked about in this House on the practice in Western Australia, how many abortions will fall under paragraph (c)?

Mr Prince: No-one knows. You can pluck any figure. As I understand it, no-one knows. Ninety per cent would fall under paragraph (a) or (b).

Mr BROWN: We are being asked to consider legislation about which we do not know the consequences. We do not know how many doctors, women or nurses we will send to gaol as a result of this legislation being passed. This Parliament will make an intelligent decision in the absence of that information. How the hell do we make that intelligent decision? Do we say afterwards that we did not really identify the implications; that we did not know the number of people likely to be prosecuted? We do not have an understanding of this issue. I raise it tonight because now and in the Committee stage the onus is on the Minister to inform the Parliament about this issue, and to tell us how many people are likely to be imprisoned, whether the law will be enforced and what the implications are.

Mr Prince: I have sought advice and information about the breakdown of the statistics - the 9 000 abortions that are said to occur each year. I can give you some breakdown when I stand in a few minutes. I am informed that the information you seek cannot be given because no-one knows.

Mr BROWN: I raise these questions because there seems to be within this place and outside a belief - in my view a mistaken belief - that whatever is debated here will be immaterial; whatever the law may or may not say, the practice will continue. We have heard tonight from the Minister representing the Attorney General that that is not the case. Ultimately, when we make our decision tonight on the second reading, and in a few weeks' time on the Committee stage, we will make a decision not only on the moral, ethical and medical issues but also on whether this Parliament will send women and members of the medical profession to prison.

Dr Hames: Only if you do not vote for (d).

Mr BROWN: The Minister for Housing will know that many members will not vote for (d) and many others will not vote for both (c) and (d). That is why I raise these questions. I appreciate that this is not a government Bill, but the onus is on the Minister for Health and the Attorney General to provide the information to the Parliament.

Mr Prince: If I can, I shall. The inquiries I have made to date have been answered with, "We do not have that information; it is not obtainable." I shall try again.

Mr BROWN: I will be most pleased when that information is provided because it seems to me that along with all the other questions that is a critical issue.

Another critical issue I want the Minister to answer as the Attorney General's representative in this House is: What is the expectation of compliance? We all talk about the law, compliance with the law and the difficulty of getting compliance. If passing a law meant a problem could be resolved, there would be no problems in Western Australia. We would simply pass a law; it is that easy. It is not costly. We introduce a few pieces of paper in this House and we pass a law. Unfortunately not everybody in Western Australia will say, "What is the law and what can I do? I will not do anything that contravenes it." That is the reality with which we must deal.

Mr Prince: It is reasonable to expect that the overwhelming majority of medical professionals involved will comply with the law.

Mr BROWN: I also ask for the Minister's advice on this aspect: I have been told, and I ask the Minister for Health to confirm, that members of the medical profession, particularly those at King Edward, are saying in relation to their protection from being charged under the Criminal Code, that even if options (a), (b) and (c) are adopted in this House, they will not perform terminations.

Mr Prince: There is division in the medical profession and some have expressed that view. Others have expressed a contrary view and there are many shades in between.

Mr BROWN: They are some of the issues that must be determined in this debate and we must have the information about this matter. In the absence of that information we cannot make a proper decision. We must make a meaningful decision about this legislation, not one that will create a piece of corrupt legislation which will say one thing and the practice will be something else.

MR PRINCE (Albany - Minister for Health) [11.45 pm]: I rise in this extraordinary debate in a somewhat extraordinary capacity. Because the Bill before the House has been presented by the Government it is normal practice that the Minister who presents it should sum up the debate before the vote on the second reading. I make the point that the Bill put forward by the Government is unlike any other I have ever seen in this Parliament, although

I have been here only five years. It is not a result; it is a means of guiding and assisting debate on all aspects of this subject. It is not intended to be a result in itself in a complete sense. It is something that this House will decide upon and which, if it passes, the other place will debate and decide on. I make that point as clearly and concisely as I can. The Government is not putting forward a view as to what should be the result of this debate. It has put forward a Bill as a means of facilitating debate and thus far it has been a successful device because this has been an extraordinary debate.

I acknowledge and congratulate all those who have participated in it. Every member of this Chamber, with the exception of one or two who are not here because they are not in the State, has spoken. The quality of the debate so far is admirable and I hope it will continue during what will no doubt be a long and at times difficult Committee stage. In saying that I am assuming this Bill will be read a second time. The debate has been difficult. For some members it has been emotional and for some it has been passionate. In many respects it is in the finest sense that we are representatives of the people we serve and we are able to represent in this place the divergence of views that exist in our society. The quality of the debate is also exemplified not only by what has been said in the Chamber but also by what has gone on in and around this building, in corridors and rooms and over cups of coffee, where members have spoken to each other and advice has been sought across party and, I assume, factional lines; more cooperation has gone into the contributions in this place than more cynical observers of the political process would have thought possible. As members of Parliament we represent electorates and numbers of people who have a wide range of views on many subjects. Some of our electors are well informed on those subjects and some are ill-informed. I suppose on the question of abortion there is that same divergence; some are well informed and some are not.

We are selected here in part because we are members of parties and we represent them and certain policy positions and views. We are also at this level of government, perhaps less so at the federal level, selected by what the electors perceive us to be as individuals. We are in that sense here, in part, for what is perceived to be our nature as individuals, for our wisdom, wit and otherwise. In part, I am sure this debate, which calls upon us to put aside questions of policy, because this is a non-partisan exercise, and in a sense, to reveal who we are individually, makes us individually and collectively uncomfortable. It is difficult, and we are uncomfortable. However, what we have done thus far would be judged to be quality. I appeal to members to bear that in mind and to maintain that quality in the days to come.

I will not attempt to summarise in excess of 50 speeches. However, I want to make a few comments on the law, and the more salient points that have been raised in the many speeches that have been delivered. Our origins and rule of law can be found in the concept that in any society the views of the majority tend to become the rules adopted by the whole. They are modified, and perhaps they are kept from generation to generation, by concepts of what may be right or wrong. Those things vary from time to time.

Questions of ethics, morality, and philosophy, are inextricably entwined in our law - they have been for thousands of years - from all the various strands of civilisation from which we draw our law. However, the basic rules of our society, the minimal standards of behaviour of our society, are found in our criminal law. Those who, for whatever reason, do not want this subject to be in the Criminal Code need to confront a number of threshold questions. In a number of the speeches I have heard - one from the Leader of the Opposition comes to mind - there was a fair bit of canvassing of the history of the provisions of the Criminal Code and the many court decisions that are of relevance, although not on our code provisions.

The Leader of the Opposition, in part, referred to and quoted from an article written by Helen Pringle of the School of Political Science at the University of New South Wales and titled "Abortion In and Out of the Courts". I have it here from the *Current Affairs Bulletin* of April-May 1996. I recommend the article to members who wish to be better informed about that history, because it is an excellent summary.

I do not propose to go through all the cases that have been mentioned in it. Many of them have already been mentioned. However I make this comment with regard to the common law, precedent and court decisions: They are of their nature evolutionary; they are limited to the factual circumstances of cases, and to cases that have occurred in the past. Because they are limited in that fashion, and limited as far as we are concerned by jurisdiction - although none of them has been in this jurisdiction - they are of value. They are very persuasive but they are not binding and not comprehensive on the definition of the law in this State.

Many members have raised the question of when life begins, and have asserted that it is, if not the most important subject in this debate, one of the most important. I think it was the member for Greenough who ran through the conception-embryo-foetus-baby-child arguments - right through to the grave. Some members commented on the use of terminology and terms in the debate - the issue of whether we call the child in the womb a child or not, and so on. I ask members when they are debating to remember that words are often used without necessarily importing any particular connotation.

It appears to me that it is fair to say - not just from commonsense but from medical science, and from what people have said in this debate - that without doubt with the act of conception a potential viable human being can result. When that potential is terminated, when an abortion takes place, the potential ceases and a viable human being obviously cannot result. In a sense, therefore, when that act takes place is relevant only in terms of weeks of gestation. As to the procedure used, and the magnitude of the effect upon those involved - not only the mother, but also the people performing the procedure - to try to reduce this debate to a question only of when life begins, is to make the debate too simple. It is not a simple subject. It ignores many things, not least the apparent practice in this State over the past 20 years or so. I have found some statistics on the breakdown of the number of abortions performed in this State. It is said that some 9 000 abortions were performed last financial year. Of that number, I am told - and my sources are the Professor of Obstetrics and Gynaecology and the Chief Medical Officer of the Health Department - approximately 300 are for some form of gross foetal abnormality; and some 800 are for serious physical and mental harm to the mother. I am informed that somewhere between 30 000 and 34 000 births normally occur in this State in any 12 months.

I table a letter which came to hand this evening from Mrs Judith Straton, the Associate Professor of Public Health at the University of Western Australia, which gives some information about abortion statistics in this State. They are the result of findings from research she and others carried out in 1985. That is some years ago, but the information is expressed in terms of rates of abortion per thousand women and percentages carried out in the first eight weeks, 12 weeks and so on, of pregnancy.

[See paper No 1255.]

Mr PRINCE: One of the ways in which we judge the degree of civilisation of any society is to look to how it chooses to care for those among its number who, for whatever reason, either have a limited ability to care for themselves or no ability at all. Obviously I am referring to infants and children, people with disabilities, and the elderly and the infirm - especially those who have lost their mentality. I wish to assert that in this State I am a civilised person - as we all are; this is a civilised society. We have the maturity and compassion to be able to deal with a complex and difficult subject, adequately and well and to a conclusion.

I make the following observations: Medical science has progressed to the point where a baby born at 24 or 25 weeks' gestation can not only be kept alive but can be kept alive and reared by artificial means to become a completely normal person. Some years ago that was not possible, and many defects resulted. Today, that is not the case. There is some suggestion that even babies born earlier than that can be kept alive and do become completely viable human beings. Why do we do this? In part, it is because we can and, in part, it is because children are precious in our society. Experts are able to operate on the foetus in the womb to correct some abnormalities that are observable. The result is that the child comes to full term and is born without what would otherwise perhaps be an abnormality that would require some form of surgical intervention later, or could even be life threatening. Why do we do this? In part, it is because we can, and, in part, it is because children are precious in our society. As a society we spend huge amounts of time, and enormous amounts of emotion and money, on in-vitro fertilisation and other forms of fertility treatment. Again, why? Obviously, in part, because we can and, in part, because society values children very highly. I do not mean that in a material sense. It is, therefore, a somewhat bizarre observation I make: Last year there were 30 000 to 34 000 live births, 9 000 abortions, and 11 adoptions. Yet we have this incredible activity surrounding children and the conception of children, and we have very complicated and time consuming procedures, systems, activities, and agencies in place in our society to protect children in one form or another.

I doubt that anyone disagrees that society has a legitimate interest in children - in their care, nurturing, protection from abuse, education and upbringing. Much of our law and a great deal of our administration in a governmental and societal sense is spent on those activities. A wealth of evidence attests to that proposition and I hope that it is incontrovertible. In making rules about the protection of children we are using law in its most fundamental form. It is a reflection of society's view of what is fair, equitable, just and balanced. The results of what we do must reflect rights, responsibilities and obligations. It must take into account all the players, the parents, the family - if there is one - the doctors, nurses and everyone else who is involved in decision making with regard to abortion.

One of the threshold questions for this debate is whether the community, the society, has a legitimate interest in the subject of terminating a potential viable human life. I hope that I have been persuasive enough for members to agree that the answer is yes. The next question is how we discharge that legitimate interest. One school of thought advocated by many in the medical profession, though I hasten to say certainly not all, is that it should be left entirely to the doctor and other medical professionals and to the women, perhaps also the father of the child and maybe other people. However, it is not a matter on which the law should have any effect. Certainly, whatever comes out of this debate by way of law, or if this Bill is completely defeated and the Bill in the Legislative Council is completely passed - abortion will not be the subject of criminal law - that relationship will be at the kernel of what will happen in society.

If the Bill in the Legislative Council is defeated and this Bill is passed in any form - any of its permutations, combinations or any modification of it - that relationship and the judgment made by the doctor with the patient, will be of critical importance to decisions that are made about whether an abortion is sought. I make that point as strongly as I can. No matter how prescriptive or otherwise is our attempt to legislate we will not be able to remove, nor should we try to remove, that element of judgment. That is because it is essential to take into account the difference in the cases, in people's backgrounds and in the circumstances presented in each case. We cannot be so prescriptive.

Should it be left at that or should there be no law? I have spoken already about termination being the termination of a potentially viable human life. It seems that there should be law. It also seems that there should be law in the Criminal Code. There has been some suggestion that it could be elsewhere. I refer to the statements I made about the Criminal Code being a statement of minimal standards of acceptable behaviour in society, and that the termination of a potentially viable human life should be the subject of criminal law. Other law, for example the Health Act, deals exclusively with the administration procedures as to process, not principle. We are debating a matter of principle, therefore it should be in the criminal law. Criminal law makes a statement as to illegality - a thing is illegal unless and except, and it then provides a series of exceptions or legal excuses to justify any particular behaviour. The way in which our Criminal Code is written in this area is not unusual. The present law is flawed, not because of the way it is written but because it is uncertain. It is uncertain because it has never been litigated. It is uncertain because other litigation which has looked at similar law is not binding in this State. Yet as the Minister for Housing, speaking as a doctor, said, doctors have imperfectly understood the law and have gone about what they thought was obeying it.

Out of this debate we need certainty about principle. If at the end of all our deliberations we are exactly where we started, we will not have certainty. It will not have been for nought, but we owe it to the people who put us here - if we can - to be as certain as possible with the result that comes out of this House and the other place. If we write new laws especially as to principle there will be some uncertainty about how those laws will be applied. That is inevitable in any given circumstance. Insofar as we can, therefore, the words that we use should be unequivocal and succinct and their meanings well known. Hence, if we can use well known phrases and words we should do so. What we enact must be fair, equitable, just and balanced - balanced as to the mother and the potential child.

In considering the potential child we must give consideration to many things - I mentioned only one in passing, given the hour - that is, the nature of the child. I particularly have in mind foetal abnormalities, especially those that are potentially terminal for the child if the child goes to full term. In that sense we are required to consider issues of the type of life as opposed to the quality of life in a material sense. In considering those sorts of things, quality of life in a material sense should come down in favour of the unborn rather than anyone else. As to the mother, the father and anyone else in the family circle who may be part and parcel of this, the condition of the mother as to her person, her physiology and psychology, must be of great concern. The role of the mother as the principal carer of an infant child must be valued and considered.

The member for Vasse quoted from an article in *The Bulletin* about the effect of the rejection of motherhood. That must be carefully considered. There must be an ability to balance. The judgment must be left to those who are dealing with the case before them. I strongly urge that we cannot be so prescriptive. There will be circumstances where abortion is desirable and there will be circumstances where it is not. We should ensure the balance required is in the law that we pass. The application of the current law is uncertain. We should seek to make it certain.

If the Bill passes the second reading it should be considered subclause by subclause as a result of some procedural motions that have gone before the House. I am aware of a number of amendments and there are probably some of which I am not aware. I know that the preparation for the Notice Paper has not been easy, for some people are still reworking some words. It would therefore be reasonable to say that given the hour, the debate will conclude shortly and if the second reading is passed I shall move that the Committee stage be made an order of the day for the next sitting, rather than proceed to the Committee stage now, given that the Notice Paper may not be completely up to date. I cannot say whether the Bill will proceed tomorrow because that is a matter for the Leader of the House.

In summary, I have said from the beginning regarding this debate, both publicly and elsewhere, that we must seek certainty as to principle. The Bill in its present form with proposed new subsection (3) paragraphs (a) and (b) represents the Davidson test, and the terms used are well known and understood. Paragraph (c) is commonly called the Levine test. If paragraph (d) with the word "or" at the end of paragraph (c) is the only provision passed, it will quite clearly mean abortion on request but after counselling. From a personal point of view I consider we should at least have the Davidson and informed consent provisions; in other words, there should always be counselling both before and after the abortion. That counselling should be available from people who are suitably accredited. The question of whether the provision in paragraph (c) should be included is difficult, as it brings into play questions of material wealth and the material circumstances of any child and family and whether the potential life should be terminated as a consequence. I have some grave doubts on that matter but I also see some merit in it. I wait to see what the House decides on whether that matter will be voted on.

I point out again to members, particularly those who for their own reasons wish to vote against this Bill being read a second time, that if this Bill is defeated, the situation will have gone nowhere and the present uncertainty will continue. If they vote against this Bill they will have to wait for something else to come before this House, whether from the other place or in the form of another Bill. If members vote for the second reading, they will have an opportunity to consider in detail the propositions represented by the proposed new paragraphs in the Bill. I urge them, for the sake of certainty for the people of this State, to vote for the Bill.

Question put and a division taken with the following result -

Ayes (49)

Mr Ainsworth	Mr Day	Mr Marlborough	Mr Prince
Ms Anwyl	Mrs Edwardes	Mr Marshall	Mr Riebeling
Mr Baker	Dr Edwards	Mr Masters	Mr Ripper
Mr Barnett	Dr Gallop	Mr McGinty	Mrs Roberts
Mr Barron-Sullivan	Mr Graham	Mr McGowan	Mr Sweetman
Mr Board	Mr Grill	Ms McHale	Mr Thomas
Mr Bradshaw	Dr Hames	Mr McNee	Mr Trenorden
Mr Bridge	Mrs Hodson-Thomas	Mr Minson	Mrs van de Klashorst
Mr Brown	Mrs Holmes	Mr Nicholls	Ms Warnock
Mr Carpenter	Mr Johnson	Mr Omodei	Mr Wiese
Dr Constable	Mr Kobelke	Mrs Parker	Mr Osborne (<i>Teller</i>)
Mr Court	Mr MacLean	Mr Pendal	
Mr Cowan	Ms MacTiernan		

Noes (3)

Mr Kierath

Mr Tubby

Mr Cunningham (*Teller*)

Question thus passed.

Bill read a second time.

BETTING CONTROL AMENDMENT BILL

Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

COUNTRY HOUSING BILL

Returned

Bill returned from the Council with amendments.

House adjourned at 12.19 am (Thursday)

QUESTIONS ON NOTICE

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

NURSES - NUMBER NOT WORKING

2922. Dr CONSTABLE to the Minister for Health:

- (1) How many qualified nurses in Western Australia are currently not working in nursing?
- (2) What available information is there on the reasons why qualified nurses are not employed in nursing?

Mr PRINCE replied:

- (1) As at February 1997, there were 1153 nurses who were respondents to the re-registration survey, were registered but not working in nursing, and who were able to be addressed by mail.
- (2) The report "Attracting Nurses Back Into the Nursing Workforce" distributed by HDWA and written by Biztrac at Edith Cowan University using the survey of the above nurses undertaken by the Health Workforce Reform Division of HDWA, is the most recent information available on this issue. The essence of table 10 of this report is reproduced below:

Reason	Percentage of Responses
Family responsibilities	16.0
Increased Workload - Nursing	9.3
Other Reason	7.4
Lack of Flexible Child Care	7.0
Dissatisfaction With Level of Pay	6.9
Lack of Career Opportunities	5.6
Inflexible Rostering System	5.6
Health Service /Hospital Restructuring	4.8
Unable to Work Preferred Hours	4.7
Increased Demands Due to Meetings	4.2
Other Commitments	4.1
Not valued By Direct Manager	4.0
Not Valued by GM	3.3
Increased Workload - Support Staff Shortages	3.1
Not valued by Health Team	2.6
Study Commitments	2.2
Conflict with Managers	2.2
Can't Take Annual Leave When	1.8
Peer Conflict	1.8
Unresolved Grievances	1.4
Travel Commitments	1.4
Standard of Accommodation	.5
Lack of Social Activities	.1
Total responses	100.0

CHILD HEALTH CENTRES - NUMBER

2929. Dr CONSTABLE to the Minister for Health:

In each of the last five years -

- (a) how many Child Health centres operated in the metropolitan area;
- (b) where were the Child Health Centres located; and
- (c) what was the total budget for Child Health Centres?

Mr PRINCE replied:

- (a) Child Health Centres are provided by Local Government. Data from the 1996 State Child Health Nurse Timetable indicated that there were a total of 140 Child Health Centres in the Perth Metropolitan area.
- (b) The Child Health Centres were located as follows:
 43 in the North Metropolitan area;
 44 in the East Metropolitan area;
 26 in the South East Metropolitan area; and
 27 in the South West Metropolitan area.

The operating costs other than staff and clinical consumables for Child Health Centres is the responsibility of the relevant Local Government. Staff and consumable costs are integrated with total community nursing service operating budgets and are therefore, not separately accounted for.

RESTRAINING ORDER APPLICATIONS

2947. Mr RIEBELING to the Minister representing the Attorney General:

In relation to the new restraining order legislation -

- (a) how many applications for violent restraining orders have been made to magistrates after hours and over the phone;
- (b) what action does a police officer take if on attending a domestic dispute a judgement is made that a restraining order is necessary;
- (c) how many applications for violent restraining orders have been made to the Central Law Courts since the new legislation;
- (d) how many of the violent restraining order applications referred to in (c) above, have been dismissed or refused;
- (e) how many misconduct restraining order applications have been made to the Central Law Courts;
- (f) how many misconduct restraining order applications have been refused or dismissed; and
- (g) is it possible for a misconduct restraining order to be made if the evidence taken to support a violent restraining order only justifies a misconduct order?

Mr PRINCE replied:

The Attorney General has provided the following reply:

- (a) 82 (as at 6 March 1998).
- (b) The Police service advises that once an officer is satisfied that the criteria for making a telephone application for a violence order is met under Section 20 of the Restraining Order Act, the officer will:

Where practicable seek approval of their supervisor;

Contact the Duty Inspector, Police Operations Command Centre;

Duty Inspector will ensure criteria has been met and telephone the on-call magistrate;

The magistrate will contact the member in attendance and speak with the person to be protected;

If a telephone Violence Order is granted the officer will complete Form T2 RO and serve it on the respondent at the scene; and

Firearms checks will be carried out during the VRO process and any firearms seized and the Firearms Branch notified.

- (c) To 6 March 1998, 969 Violence Restraining Order applications were received.
- (d) Of the 969 VRO applications received 812 have resulted in orders (either interim or final) being made.
- (e) 125 Misconduct Restraining Order applications have been received.
- (f) Of the 125 MRO applications received 30 have resulted in orders.

- (g) Yes, at the discretion of the magistrate.

JERVOISE BAY

Heavy Engineering Site

2987. Mr BROWN to the Premier:

- (1) Is the Premier aware of an article that appeared in *The West Australian* newspaper on 27 November 1997 concerning the Premier and/or State Government making representations to the Federal Government to provide funds from the Federation Fund to complete the heavy engineering site at Jervoise Bay?
- (2) Did the Premier and/or the State Government make representations to the Federal Government in this regard?
- (3) On what date(s) were these representations made?
- (4) How much did the Government seek from the Federal Government?

Mr COURT replied:

- (1)-(2) Yes.
- (3) 23 June and 21 November, 1997.
- (4) \$103.35m.

RESTRAINING ORDER LEGISLATION - GOVERNMENT POSTERS

3015. Mr BROWN to the Minister representing the Attorney General:

- (1) Is the Minister aware of an article that appeared in *The West Australian* on 2 January 1998 concerning hundreds of Government posters announcing the Government's new restraining order laws being dismissed by women's refugees?
- (2) What agencies were involved in the development of the poster?
- (3) Were any of the non-government agencies providing support to women affected by domestic violence consulted about the design or nature of the poster?
- (4) Who was consulted?
- (5) What was the nature of the consultation?
- (6) Was any advertising agency involved in the design or development of the design of the poster?
- (7) What is the name of the advertising agency?
- (8) How much was paid to the advertising agency for this service?

Mr PRINCE replied:

The Attorney General has provided the following reply:

- (1) Yes, and we have since met with representatives from the Patricia Giles Centre whose concerns were reported in that article.
- (2) Police Service of WA, Ministry of Justice, Office of the Attorney General, Office of the Minister for Police, Vinten Browning, Marketforce.
- (3) No.
- (4)-(5) Not applicable.
- (6) Yes.
- (7) Vinten Browning, Marketforce.
- (8)

Vinten Browning	\$ 13188.90
Marketforce	\$ 10845.91

The design and development of the poster was not the only cost incurred in the promotional campaign. Other remuneration paid to the agencies included the cost of advertising, the production of the informational

kits which included posters, two types of brochures (for the general public and for service delivery agencies) and display units. The material has been well received generally. In particular, because of its form, the poster with pamphlets were displayed free of charge in Coles, Woolworths and Foodland supermarket chains. The public response has been remarkable with a significant increase in applications - an average of 30% in succeeding months.

CATS - REGISTRATION OR STERILISATION

3054. Ms WARNOCK to the Minister for Local Government:

Will the Government introduce legislation to help in controlling the number of stray cats in this State, for example, by requiring registration or compulsory sterilisation?

Mr OMODEI replied:

The Local Government Act 1995 allows local governments to establish local laws to address the issue of cat control and several have already done so. The State Government does not plan to introduce cat legislation at this point in time.

LIVE SHEEP EXPORTS

3055. Ms WARNOCK to the Minister for Primary Industry:

- (1) Is the Minister aware of the fact that up to 5.9% of live sheep exported from Australia die during the export process?
- (2) If so, will the Minister move to regulate the export process to improve this record?
- (3) If not, why not?

Mr HOUSE replied:

- (1) The figure of 5.9% referred to by the Member includes an estimate of deaths that occur in transit and after arrival in the Middle East. The following table sets out the deaths that have occurred on board ship during the period 1985-1996:

Year	% Death
85	2.47
86	2.46
87	2.19
88	2.07
89	2.78
90	2.52
91	2.11
92	2.98
93	2.56
94	2.00
95	1.95
96	1.45 (2.79 including Uniceb)

- (2) I do not consider that further regulation of the live sheep trade is warranted. Death rates are currently low and have been steadily falling in recent years. This is partly due to improved management of the sheep and greater awareness of animal welfare by all parties involved in the industry. In addition, revised codes of practice will be included in new Animal Welfare Legislation which is due to be considered by Parliament in 1998.

ELECTRONIC PUBLIC RECORDS MANAGEMENT

3057. Ms McHALE to the Minister representing the Minister for the Arts:

- (1) What is the current Government policy on the management of public records in electronic form?
- (2) What are the procedures for dealing with electronic public records?
- (3) Are electronic public records archived?
- (4) If not, why not?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following response:

- (1) The Public Records Office follows the "Common position on electronic records" issued by the Australian Council of Archives. In the context of the principles outlined in that publication, the Public Records Office is drafting a number of policies and standards relating specifically to the management of electronic public records in WA Government agencies. When finalised, they will be distributed throughout government for individual implementation by agencies.
- (2) In general terms electronic public records must be created, managed, maintained and disposed of or archived with the same care as paper based public records. The policies and standards that I have just mentioned will outline specific procedures to be undertaken.
- (3) Electronic public records designated as archives are archived and managed over time by individual agencies in accordance with advice given by the Public Records Office. Electronic archives are identified within the agency's Retention and Disposal Schedule as required by the current Library Board of Western Australia Act 1951-83. The new Government Records Act will provide further guidance and monitoring measures for the capture and archiving of electronic public records.
- (4) This has been answered in question 3.

PUBLIC RECORDS LEGISLATION

3058. Ms McHALE to the Minister representing the Minister for the Arts:

I refer to the answer to Question on notice 2640 (1) and ask -

- (a) will the Minister be more specific about introducing the Public records legislation to Parliament, than his previous answer "soon";
- (b) by maintaining the Government Records Office within the Library Information Service of Western Australia the Minister confirm that the Coalition's promise in 1993 "to create an independent keeper of the Public Record" is now well and truly broken;
- (c) how many submissions were received in response to the discussion paper on new Public Records legislation in July 1994;
- (d) of these, how many were from Public Sector records managers; and
- (e) what is the current funding for the Public Records Office?

Mrs EDWARDES replied:

The Minister for the Arts has provided the following response:

- (a) The Government Records Bill and the Government Records (Consequential Provisions) Bill will be presented to Parliament in the current sitting.
- (b) No, I do not accept that at all. The call was for an independent archival authority, and the Bill provides for just that. The proposed Government Records Commission will be accountable directly to Parliament. No other archival authority in Australia has that direct reporting responsibility. When the Bill is passed, Government will be seen to have kept its promise most effectively.
- (c) 64.
- (d) In nearly all cases the submissions came from CEOs or other senior officers of those agencies. While records managers would have provided input to the process, it is not possible to say how many records managers were the actual authors of the submissions. The Records and Information Management Liaison Group, a pro-active body of Government records managers, also made a submission.
- (e) Current funding for the Public Records Office in LISWA is \$1,278,327.

WATER CORPORATION

Loan Repayment

3067. Dr GALLOP to the Minister for Water Resources:

- (1) Would the Minister explain why the substantial \$151 million loan repayment from the Water Corporation to the Consolidated Fund, as described in the December 1997 Monthly Summary of Consolidated Fund Transactions, was not included in the 1997-98 Water Corporation's Statement of Corporate Intent?

- (2) Did the Minister request that \$151 million be recouped from the Water Corporation in the 1997-98 financial year?
- (3) If the answer to (2) is no, who made the request to repay the \$151 million?
- (4) Did the Minister table any document pertaining to the \$151 loan repayment from the Water Corporation, during 1997?

Dr HAMES replied:

- (1) Agreement between the Board of the Water Corporation and Treasury occurred after the Statement of Corporate Intent was published.
- (2) No.
- (3) The Board of the Water Corporation, acting on commercial principles as prescribed in the Water Corporation Act 1995, decided to repay the loan.
- (4) No.

WATER CORPORATION

Statement of Corporate Intent

3068. Dr GALLOP to the Minister for Water Resources:

- (1) In respect to the 1997-98 Water Corporation Statement of Corporate Intent ("SCI") on what date was the SCI -
 - (a) first submitted to the Minister for Water Resources;
 - (b) agreed to by the Minister;
 - (c) agreed to by the Treasurer;
 - (d) tabled, or deemed tabled, in Parliament?
- (2) Is the Minister aware of the legislative requirements that apply to the agreement and tabling of the Water Corporation's SCI?
- (3) Would the Minister explain these legislative requirements?

Dr HAMES replied:

- (1)
 - (a) 31 March 1997
 - (b) 11 January 1998
 - (c) 28 November 1997
 - (d) 23 January 1998

(2) Yes

(3) The requirements are set out in section 56 of the Water Corporation Act 1995 which states:

Minister's agreement to draft statement of corporate intent

56.(1) When a draft statement of corporate intent is agreed to by the Minister, it becomes the statement of corporate intent for the relevant financial year or the remainder of the year as the case may be.

(2) The Minister must within 14 days after he or she agrees to a draft statement of corporate intent under subsection (1) cause a copy of it to be laid before each House of Parliament or dealt with in accordance with section 87.

(3) The board may request the Minister to delete from the copy of a statement of corporate intent that is to be laid before Parliament a matter that is of a commercially sensitive nature, and the Minister may, despite subsection (2), comply with the request.

Section 87 is a supplementary provision regarding laying a document before the House when Parliament is not in session. It requires the document to be transmitted to the Clerk of the House and is subsequently

recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

NURSES

Support for Improved Conditions

3069. Mr McGINTY to the Premier:

How many post cards has the Premier received supporting the nurses campaign for one Statewide agreement, a better public health system and improved working conditions for nurses?

Mr COURT replied:

As at 6 March 1998 2,339 post cards had been received.

SWAN DISTRICTS HOSPITAL - TREATMENT OF MS JANET WILLIAMS

3095. Mr McGINTY to the Minister for Health:

- (1) Is the Minister satisfied with the treatment given to Janet Williams by the Swan Districts Hospital in May 1997 after a car accident?
- (2) Is the Minister aware that Ms Williams was sent home from the Hospital after being told that she may have one fractured rib and that she should take two panadol when in fact she had 17 fractures plus damage to both lungs?
- (3) Do you support the view of the Swan Health Service that failure to detect the extent of the injuries suffered "did not in any way compromise her care". If so, what care?
- (4) What action are you taking to ensure no repeat of this incident?

Mr PRINCE replied:

- (1)-(3) While its not my policy to comment on the specific treatment for individual patients, in May 1997 the incident has been extensively investigated by the Hospital involving the Director of Clinical Services and the Director of the Emergency Medicine. Upon review, the doctor treating Mrs Williams believed she was fit for discharge and the patient agreed to this course of action. She was asked to return to the Emergency Department at any stage if she was uncomfortable at home. There is no doubt that Mrs Williams pain did increase following her review in the Emergency Department but, rather than return to Hospital, she elected to consult her local doctor the next day and was subsequently admitted to Undercliffe Private Hospital.

The General Manager and Director of Emergency Medicine have met Mrs Williams and have been extremely open with their review and findings. Copies of Mrs Williams medical record have been provided to Mrs Williams. Both the General Manager and Director of Emergency Medicine have apologised for the distress and discomfort suffered by Mrs Williams but there was no suggestion of incompetence in her treatment or standard of care. Mrs Williams subsequently lodged a formal complaint to the *Office of Health Review* who assessed her complaint in October 1997 and found that following a preliminary assessment there were "no grounds for this Office to take any further action over this matter" (22/10/97).

- (4) The Swan District Hospital Emergency Department is the most advanced in the non teaching area both in terms of experienced and trained medical and nursing staff. It has just received Accreditation from the Australian College for Emergency Medicine to undertake advanced training in emergency medicine. No further action into this incident is necessary.

SCHOOL DENTAL SERVICE - ROUTINE INSPECTIONS

3110. Mr McGINTY to the Minister for Health:

- (1) Has there been any change in the frequency with which school students routinely have their teeth inspected by the school dental service over the last five years ?
- (2) If so, what change?
- (3) How often does the school dental service now routinely inspect students' teeth ?
- (4) What was the comparable time five years ago?

- (5) Not applicable.

OFFICE OF YOUTH AFFAIRS

- (1) One. The Office of Youth Affairs.
- (2) Ministerial Council on Employment, Education, Training and Youth Affairs. Youth Task Force.
- (3) Yes. Usually twice annually.
- (4) No.
- (5) Not applicable.

STATE SUPPLY COMMISSION &
DEPARTMENT OF CONTRACT AND MANAGEMENT SERVICES

- (1) One.
- (2) Australian Procurement & Construction Council (APCC). The APCC consists of a Ministerial Council, a Council of CEO's, a Secretariat and various working groups.
- (3) Yes.
- (4) No.
- (5) Not applicable.

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND -
GOVERNMENT'S POLICY

3198. Mr GRAHAM to the Minister for Commerce and Trade:

- (1) Does the Government have a policy related to the use of funds granted under the Commonwealth Regional Telecommunications Infrastructure Fund?
- (2) If no to (1) above, why not?
- (3) If yes to (1) above, from where is the policy available?

Mr COWAN replied:

- (1) Yes. The policy is to gain the maximum value to regional Western Australia in accordance with the needs identified in "A Rural Communications Strategy for Western Australia" (1997) and the subsequent "Communications Audit: the Needs of Regional Western Australia" (1997) and within the framework of priorities established by the Regional Telecommunications Infrastructure Fund Board in Canberra.
- (2) Not applicable.
- (3) Both documents are available from the Office of Information and Communications in the Department of Commerce and Trade.

COMMONWEALTH REGIONAL TELECOMMUNICATIONS INFRASTRUCTURE FUND -
COORDINATION OF SUBMISSIONS

3200. Mr GRAHAM to the Minister for Commerce and Trade:

- (1) Has the Government coordinated the submissions from Western Australia for grant funds under the Commonwealth Regional Telecommunications Infrastructure Fund?
- (2) If the answer to (1) is no, why not?
- (3) If the answer to (1) is yes, how were the submissions coordinated?

Mr COWAN replied:

- (1) No.
- (2) It is a Commonwealth fund. Under the Commonwealth's procedure, project proponents submit their applications directly to the Commonwealth Regional Telecommunications Infrastructure Fund Program Office in Canberra. The Western Australian Government, through the Department of Commerce and Trade,

actively encourages applications, obtains Commonwealth staff advice for potential applicants and makes independent recommendations to the Board which highlight the value of each project.

- (3) Not applicable.

TELECENTRE AT PORT HEDLAND

3201. Mr GRAHAM to the Minister for Commerce and Trade:

- (1) On what date will Port Hedland receive a telecentre?
(2) Where will such a centre be located?

Mr COWAN replied:

- (1) It is not intended to develop a telecentre in Port Hedland. The size of Port Hedland is outside the range of population targeted for telecentres. Telecentres are usually developed in towns with populations of up to 8,000.
(2) Not applicable.

TELECENTRE AT HALLS CREEK

3202. Mr GRAHAM to the Minister for Commerce and Trade:

- (1) On what date will Halls Creek receive a telecentre?
(2) Where will such a centre be located?

Mr COWAN replied:

- (1) Halls Creek has a telecentre.
(2) It is currently located at TAFE. Advice has been received about a proposal to upgrade and relocate the centre to a site adjoining the Shire Office.

TELECENTRE AT MARBLE BAR

3203. Mr GRAHAM to the Minister for Commerce and Trade:

- (1) On what date will Marble Bar receive a telecentre?
(2) Where will such a centre be located?

Mr COWAN replied:

- (1) An application has not been received from the Marble Bar community or the East Pilbara Shire.
(2) Not applicable.

TELECENTRE AT NULLAGINE

3204. Mr GRAHAM to the Minister for Commerce and Trade:

- (1) On what date will Nullagine receive a telecentre?
(2) Where will such a centre be located?

Mr COWAN replied:

- (1) No centre is planned as we are yet to receive an application.
(2) Not applicable.

TELECENTRE AT WILUNA

3205. Mr GRAHAM to the Minister for Commerce and Trade:

- (1) On what date will Wiluna receive a telecentre?
(2) Where will such a centre be located?

Mr COWAN replied:

- (1) Department of Commerce and Trade staff are visiting Wiluna in May to discuss a telecentre in response to an invitation from the Shire of Wiluna.
- (2) Not applicable.

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES LEGISLATION

3206. Mr GRAHAM to the Minister representing the Attorney General:

- (1) Has drafting commenced for legislation affecting the registration of births, deaths and marriages, particularly to allow children of Muslim families to name their children in accordance with their religious beliefs?
- (2) If so, when will the legislation be introduced into Parliament?
- (3) If no -
 - (a) why not;
 - (b) when will drafting commence?

Mr PRINCE replied:

The Attorney General has provided the following reply:

- (1) Yes.
- (2) 1998 Autumn Session.
- (3) Not applicable.

ROCKINGHAM-KWINANA DISTRICT HOSPITAL - PODIATRY SERVICES

3208. Mr McGOWAN to the Minister for Health:

- (1) What is the current waiting time for podiatry services at the Rockingham-Kwinana District Hospital?
- (2) How many podiatrists are based at the Rockingham-Kwinana District Hospital?
- (3) Will there be increased funding for podiatry services at Rockingham-Kwinana District Hospital?

Mr PRINCE replied:

- (1) 6-8 weeks.
- (2) FTE: 1.1.
- (3) None allocated for this financial year.

ROCKINGHAM DENTAL CLINIC

3210. Mr McGOWAN to the Minister for Health:

- (1) What is the current waiting time at the Rockingham Dental Clinic?
- (2) How many dentists currently work at the Rockingham Dental Clinic?
- (3) What is the total number of staff at the Rockingham Dental Clinic?
- (4) How many dental technicians work at the Rockingham Dental Clinic?
- (5) What was the cost of the extensions to the Clinic?

Mr PRINCE replied:

- (1) Approximately sixteen (16) months.
- (2) Six (6).
- (3) Seventeen (17).

- (4) One dental technician, and one apprentice.
- (5) \$540,000.

ROCKINGHAM-KWINANA DISTRICT HOSPITAL - PHYSIOTHERAPY SERVICES

3212. Mr McGOWAN to the Minister for Health:

- (1) What is the current waiting time for physiotherapy services at the Rockingham-Kwinana District Hospital?
- (2) How many physiotherapists are based at the Rockingham-Kwinana District Hospital?
- (3) Is there a ban on patients seeking physiotherapy services more than once a year?
- (4) If so, why?
- (5) If there is not a ban on patients seeking physiotherapy services more than once a year, what is the current policy on people seeking physiotherapy more than once?
- (6) Will there be increased funding for physiotherapy services at Rockingham-Kwinana District Hospital?

Mr PRINCE replied:

- | | | | |
|-----|----------------|--------------------|------------------|
| (1) | Waiting times: | Urgent cases: | less than 1 week |
| | | Semi-urgent cases: | 2 months |
| | | Non-urgent cases: | 3.75 months |

The non-urgent waiting list has recently been up 5.5 months long. Reduced at present by temporary additional staffing.

- (2) 3.5 FTE (1.75 FTE for outpatients).
- (3) In part yes - for patients seeking treatment for the same condition again within one year.
- (4) The waiting list was difficult to service, with recurrent patients slowing down the opportunities to see new patients.
- (5) If within 6 weeks of discharge a client experiences a recurrence of their condition and requires further physiotherapy, they will be given an appointment with their physiotherapist within 1 week of contacting the department (at the physiotherapist's discretion). This policy is not advertised, but is retained for quality of care. Re-referral of patients within 12 months of outpatient discharge, essentially for the same problem, will generally be disallowed. Appropriate exceptions will be made, for example for recurrence of a chest infection, or for after care following extension of a stroke. Patients not achieving good lasting results from physiotherapy treatment (lasting more than 6 months) should be encouraged to seek medical advice regarding other possible options of treatment, that may be more beneficial. If a recurrence occurs more than 12 months after being discharged from the Department, a new written referral will be required and the client will then be given an early assessment and prioritised on the waiting list accordingly.

NB Re-referral of a patient for a different condition is given an early assessment and prioritised on the waiting list accordingly.

- (6) There are no plans to increase physiotherapy services or funding in the current financial year.

ROCKINGHAM DENTAL CLINIC

3215. Mr McGOWAN to the Minister for Health:

- (1) How many dentists are currently based at the Rockingham Dental Clinic?
- (2) How many surgeries are currently operational?
- (3) What is the current waiting time at Rockingham Dental Clinic?
- (4) Is this period longer than the State average and if so by how much?
- (5) What steps are being taken by the Government to reduce the waiting time at the Rockingham Dental Clinic?
- (6) Is this an increase in dentists at the Rockingham Dental Clinic?

Mr PRINCE replied:

- (1) Six (6).
- (2) Eight (8).
- (3) Approximately 16 months.
- (4) Yes, approximately 8 months.
- (5) The number of dentists was increased from 4 to 5 in August 1997 and further increased from 5 to 6 in January 1998.
- (6) Yes.

CONSERVATION PLANS - DEPARTMENT OF CONTRACT AND MANAGEMENT SERVICES

3228. Ms McHALE to the Minister for Services:

- (1) Does the Department of Contract and Management Services (CAMS) undertake conservation plans on behalf of Government agencies?
- (2) If so, how many conservation plans have been undertaken during the following financial years -
 - (a) 1996-97;
 - (b) 1995-96;
 - (c) 1994-95?
- (3) Which agencies have had conservation plans prepared by CAMS?
- (4) Does CAMS have a heritage section?

Mr BOARD replied:

- (1) The Department of Contract and Management Services (CAMS) contracts private consultants with experience in heritage assessment techniques to prepare conservation plans on behalf of Government agencies.
- (2)

(a)	1996-97	15
(b)	1995-96	18
(c)	1994-95	11
- (3) CAMS has contracted private consultants to prepare conservation plans for a total of 13 agencies. These are:

Department of Conservation and Land Management
 Department of Land Administration
 Department of Sport and Recreation
 Education Department of Western Australia
 Government Property Office
 Governor's Establishment
 Health Department of Western Australia
 Ministry for Culture and the Arts
 Ministry of Justice
 Ministry of the Premier and Cabinet
 Western Australian Department of Training
 Fire and Emergency Services
 Western Australia Police Service
- (4) Yes. CAMS has a small Heritage Team located within the Heritage and Precinct Management Branch of Agency Contracts Directorate. The primary function of the Heritage Team is to assist Government and its agencies meet their responsibilities as described in the Heritage of Western Australia Act 1990. The Heritage Team works closely with Government agencies and the Heritage Council of Western Australia to assist agencies to identify and conserve their own heritage places. The Team contracts private consultants to prepare conservation plans on behalf of agencies. The Heritage Team also maintains a database of assets held by a range of agencies. This database is used by CAMS to record and identify places with recognised or potential heritage significance.

QUESTIONS WITHOUT NOTICE**GOODS AND SERVICES TAX****948. Dr GALLOP to the Premier:**

I refer to today's published comments by the Federal Treasurer, Mr Peter Costello, to the effect that the goods and services tax would be used to cut income tax and not to reform federal-state financial arrangements. Given that it is now clear that the Costello GST package will do no more than penalise low and middle income earners and not assist the States, will the Premier honour his word and campaign against the Federal Government's proposal?

Mr COURT replied:

If the Leader of the Opposition had read the press coverage of the Liberal Party's conference at the weekend, he would know that I made it clear at the conference that this Government would not support a taxation package that was not beneficial to the States. It was made clear that the States do not want to be presented with a fait accompli and then be expected to sell that package.

Dr Gallop: Now he has turned you down, what are you going to do?

Mr COURT: No. I have not seen a package from the Federal Government, and I hope that in the next couple of days we shall be given a better indication of what such a package would involve.

Dr Gallop: He gave a pretty good indication yesterday.

Mr COURT: The Leader of the Opposition might end up with a bit of egg on his face on this issue, because one of the principles the Prime Minister has spelled out is that a taxation reform package must also address reform of commonwealth-state financial arrangements. Discussions have been held on a number of fronts, and many options are available. At least the coalition is doing something and talking about the issue, and it will go to an election on such a package. The Labor Party is sitting on the sidelines because it can then play a spoiling role. One of the major problems the Labor Party now has, is that it has not been prepared to be at all bold in policy initiatives. This can be seen at not only the federal level but also the state level.

Several members interjected.

The SPEAKER: Order!

Mr COURT: Only a few weeks ago the Leader of the Opposition jumped up and down saying the Labor Party would not support privatisation of Western Power. Yet the last thing the Leader of the Opposition tried to do when he was Minister for Fuel and Energy was to have the Collie coal fired power station built by the private sector.

Ms MacTiernan: That is a different thing.

Mr COURT: Is it a different thing? When members opposite were in government it was okay for the private sector to build and operate a power station, but now they are in opposition they are saying it cannot be done.

Several members interjected.

The SPEAKER: Order! I have allowed many interjections; it appears to be too much. Too many people are interjecting at the one time. The member for Bassendean has made the same interjection two or three times.

Mr COURT: It does not matter whether we chose taxation reform, the native title issue or industrial relations, the Labor Party will simply sit on the sidelines. In answer to the question, the member will know only too well the political risk a Federal Government would face if it went to an election without the States giving broad support to a taxation reform package.

Mr Brown: You will fall over on the issue.

Mr COURT: The coalition Government learnt a pretty hard lesson in 1993. The Federal Government must get the broad support of the States if it is to succeed in selling taxation reform. That is why I believe at the end of the day we will be able to negotiate an acceptable package.

CAREY PARK, BUNBURY*New Living Program***949. Mr BARRON-SULLIVAN to the Minister for Housing:**

I refer the Minister to the Government's ongoing program of revitalising Carey Park in Bunbury through a range of

measures designed to increase opportunities for private home ownership and to improve the quality of Homeswest properties in the area. I ask the Minister to provide an indication of the success of this program, including information regarding the number of old Homeswest properties that have been upgraded in Carey Park; the number of individuals and families who have been assisted in buying their own homes in the area; and any other measures Homeswest has undertaken as part of this upgrade program.

Dr HAMES replied:

I thank the member for some notice of this question. The New Living program, as it is being called, has been a tremendous success for this Government. It was initiated in the old areas of Lockridge and Kwinana in the metropolitan region, in a number of country areas, and following the Premier's launching of the next stage of the New Living program, it has been expanded to a range of new areas, including some in the electorate of the member for Girrawheen. In Carey Park, in particular, it has been underway for some time. As part of that, and in response to the specific question, 59 dwellings have been upgraded under the New Living program; 44 dwellings have been refurbished or sold since July 1995; 15 dwellings have been refurbished and retained for rental stock; 26 dwellings have been demolished; seven lots have been created for sale; and 19 lots have been created under the building programs.

As has happened in other areas where the New Living program has proceeded, there has been a significant improvement in the value of properties in those areas, from \$43 300 to an average of \$65 350, which has been greatly welcomed by the local community. As part of that process, through both the Right to Buy and Good Start home purchase programs, there have been considerable sales. Under the Right to Buy scheme, there have been 12 sales in the area since the start of the program.

The member also asked about other measures taken by Homeswest. A number of measures have been taken by both the City of Bunbury and Homeswest, but I will not go through them in detail; however, for the member's information, I will table a document that details them. New Living is a tremendous initiative of this Government and we are extremely proud of it. As the local member, I am sure the member for Mitchell is also proud of it.

[See paper No 1253.]

MINISTRY OF JUSTICE

Resignation of Gary Byron

950. Dr GALLOP to the Premier:

I refer to the Commissioner for Public Sector Standards' report on the resignation of former Justice Ministry chief Gary Byron and ask: Was the commissioner correct in stating in his report that the Premier held genuine concerns about Mr Payne's performance, responsiveness and commitment to achieving government objectives?

Mr COURT replied:

I provided my report to the commissioner, as did a number of other people, and he handed down his findings. I have already told this Parliament that the Government had concerns about what was taking place in the Ministry of Justice. I have not been specific in relation to the individuals involved. Those concerns resulted in our wanting to have a meeting with the CEO. That meeting never took place because the CEO resigned.

MINISTRY OF JUSTICE

Resignation of Mr Gary Byron

951. Dr GALLOP to the Premier:

If the Premier was not specific in his concerns, why did the proposal to remove Mr Payne emerge in the first place?

Mr COURT replied:

I just said that I arranged a meeting with the Minister, which was held, and we then agreed to have a meeting with the CEO to discuss those matters. I cannot comment on meetings that did not occur.

PREMIER OF CHINA

Appointment

952. Mr SWEETMAN to the Premier:

Will the Premier advise the House of the significance to Western Australia of the appointment of Zhu Rongji to the position of Premier of China?

Mr COURT replied:

Some members might not see this as being of much significance to Western Australia's future development.

Mr Graham: Tell us - you did his numbers.

Mr Brown: He is a clone for the Communist Party.

Mr COURT: Quiet comrades.

First, I congratulate the Premier on his election to that position. Last year, he visited Australia as the Vice Premier, and during his time in Western Australia he had the opportunity to visit the Pilbara. The visiting party took a particular interest in the future development of direct reduced iron. As a result of that visit, negotiations are currently taking place with the Chinese Government about its taking an equity position in a DRI proposal here.

Several members interjected.

Mr COURT: Do members want to know?

Mr Graham: The Chinese Government is setting up in opposition to an Australian project.

Mr COURT: The member knows only too well that the Chinese Government has an investment through its Channar project, which started by taking six million tonnes of iron ore a year and is now taking 10 million tonnes a year. That agreement stands until 2013 and I am sure the member for Pilbara supports it.

It is equally important that negotiations have been taking place in the past six months to encourage China to consider using liquid natural gas as an alternative fuel. It has a huge energy requirement. We have had two visits and two very successful meetings with both the State Planning Commissioner and the then Vice Premier, Zhu Rongji, and there is now an acceptance by China that LNG is a possible alternative source of energy for its future requirements.

As a result of the last delegation, a marketing team will go to China shortly. It could well be the catalyst for the next major LNG project. That will depend on contracts with both Korea and China.

Mr Grill: From where will the gas come?

Mr COURT: The delegations have involved both Western Australia and the Northern Territory. The gas will be from the Gorgon field, so it will mean the development of a new LNG project.

The significance is that these meetings are taking place with the now Premier - he is now one of the top three decision makers in that country. He likes Australia and likes dealing with Western Australia. If that country commits to using LNG for its future energy supplies, that would mean the investment of millions of dollars in this State for the development of those fields. It is very significant that a person who has such a close rapport with Western Australia is in that major decision making position.

Mr Riebeling: Is that Chevron's proposal?

Mr COURT: The consortium comprises four major partners: Chevron, Texaco, Shell and Mobil. The Northern Territory proposal involves Woodside and Shell, and BHP has a small interest. We are talking about the possibility of establishing a major new market, similar to that developed in Japan 20 years ago. We are very fortunate that we have established our credentials with that country, and hopefully we will see that lead to major new investments.

MR PETER JONES

Discussions with Premier

953. Dr GALLOP to the Premier:

- (1) Has the Premier ever discussed the performance of Mr Kevin Payne and/or the Attorney General with former Liberal Party President and government consultant, Peter Jones?
- (2) If so, when did those discussions take place?
- (3) Who initiated them?
- (4) What were the matters raised by Mr Jones?

Mr COURT replied:

(1)-(4) I have not, but he may have discussed it with other people in government.

GRAFFITI

*Eradication***954. Mrs HODSON-THOMAS to the Minister for Police:**

I have been approached by a number of constituents who are concerned about continued graffiti vandalism within the Carine electorate. Are further strategies being considered to eradicate graffiti?

Mr DAY replied:

I thank the member for some notice of this question.

There is no doubt that graffiti is a major problem for our society. It imposes a substantial cost which is borne by property owners, taxpayers and government agencies. The Government is very much committed to doing what it can to stop graffiti occurring through a range of community based initiatives as well as by providing the police with more power to be able to seize graffiti implements.

In 1993, following recommendations by the graffiti task force, the Government established the graffiti program to address this increasing problem. Since then the program has been responsible for a range of activities including clean-up programs, law enforcement initiatives, community education, mobilisation and coordination of action across government and developing a variety of alternatives for young people such as the urban art program based on a community pride concept.

In 1997, following a successful joint venture between the Perth City Council and the Government, the Premier announced the Stirling graffiti pilot program. It involves five rapid response teams cleaning up graffiti in conjunction with a policing team of two officers with a volunteer surveillance team. The City of Wanneroo and the Shire of Swan have shown strong interest in adopting a similar program.

Another government initiative is the introduction of a voluntary code of practice which encourages retailers to take reasonable steps to reduce the availability of materials being obtained for illegal graffiti.

Each police district now has an officer whose focus is graffiti prevention. A graffiti management office based in Joondalup has been established to coordinate action by the various police districts in the metropolitan area. Most important, the Government is also preparing new legislation designed to more effectively prevent the incidence of graffiti. Under these laws the police will be able to seize implements through the creation of an offence for possessing a graffiti implement without lawful excuse. The Bill will also allow police to search people suspected of carrying spray cans and other utensils that can be used to produce graffiti.

The Government acknowledges that it is a major problem for our community and is leaving no stone unturned in order to deal with it.

GLOBAL DANCE FOUNDATION

*Tabling of Advice***955. Mr GRAHAM to the Premier:**

Yesterday the Premier undertook to provide me with the advice he received from the Under Treasurer prior to the meeting of 22 December 1994 which recommended funding to the Global Dance Foundation. Will the Premier provide me with that information today; if not, why not?

Mr COURT replied:

I am somewhat bemused by the questions being asked by the member for Pilbara. Yesterday I said that the matter had been discussed with the acting Under Treasurer at the meeting of 22 December and that he had sent formal advice to me. I table that advice.

[See paper No 1254.]

All of this information has been provided to a committee of this Parliament.

Mr Graham: Which committee?

Mr COURT: The Public Accounts and Expenditure Review Committee received all that documentation, including what I have just tabled, and presented a report. Now the member for Pilbara is asking me to table information that he already has. I cannot follow it.

NURSES

*Terms and Conditions***956. Mr MASTERS to the Minister for Health:**

In recent weeks I have been contacted by nurses from hospitals within Vasse and adjoining electorates. I have been greatly impressed by their professionalism and dedication. I have also been impressed by their desire to see a fair and mutually acceptable resolution to the current negotiating difficulties. What progress is being made in resolving the current negotiations on pay and conditions between the Health Department and the Australian Nursing Federation?

Mr PRINCE replied:

I thank the member for some notice of this question.

As members would know, the Health Department and the ANF were negotiating the terms and conditions of new agreements, enterprise bargains or whatever in respect of nurses' employment up to and including the beginning of December. Unfortunately, the executive of the ANF decided to call off negotiations and notified me and the department through the media. At that time it also brought on some industrial action with the closure of certain beds and restrictions on non-urgent elective surgery. At some informal meetings that were held in late January and February, the executive of the union, specifically the secretary of the union and others, agreed to call off that industrial action and go back to the negotiating table, which I thought was an entirely appropriate thing to do. I publicly congratulated the executive of the union for doing so. Unfortunately, at the meeting of members held on 6 February of this year, the members of the union who attended that meeting did not endorse the action of the executive. The executive was then not in a position to be able to call off the industrial action. The matter has since gone to the Australian Industrial Arbitration Commission. The nurses at the moment have voted to maintain industrial action for some time to come, but the Industrial Arbitration Commission has directed that negotiations shall recommence. Unfortunately, that has been delayed somewhat. We brought in a lawyer from Freehill Hollingdale and Page who has been heavily involved in the health industry for some time as a former government officer, Health Department officer and an ANF industrial officer; in other words, a person who knows the intricacies of industrial relations, negotiating and bargaining. Regrettably, the executive of the ANF did not like that and walked out of the meeting. It went to a meeting in Melbourne and then came back. I am pleased to say that negotiations have recommenced this week. I remain optimistic, as always, that there will be a satisfactory outcome because there is no doubt that the nurses of this State do need and should have an increase in their pay.

Mr Brown: A single agreement?

Mr PRINCE: That is not possible. There is one employer in the metropolitan area, which is the Metropolitan Health Service Board. There will be one agreement in the metropolitan area which represents well over 70 per cent of hospital capacity. In country areas and particularly in remote areas, the nurses there have often told me that they think that they should have attraction and retention payments that will bring people to those places. I do not have a problem with that. We should be able to have agreements that reflect that.

Several members interjected.

The SPEAKER: Order! I do not think that the Minister has quite finished. I am standing to remind members that we cannot have a lot of interjections from several people at one time. It gets out of hand.

Mr PRINCE: Common core conditions across agreements will provide flexibility, and the executive of the ANF agreed to this. Unfortunately, the executive was rolled by its membership. I wonder what is going on inside the union.

GLOBAL DANCE FOUNDATION

*Contract***957. Mr GRAHAM to the Premier:**

Given the Premier's repeated claims that the Government will take legal action against the Global Dance Foundation, has the contract with the Global Dance Foundation been terminated under the default conditions of the contract and, if not, why not?

Mr COURT replied:

I cannot specifically tell the member what action has been taken. Some legal action has been commenced, and I will find out that answer.

Mr Graham: You are only the Treasurer!

Mr COURT: The member asked whether action had been taken with regard to default of the contract. I have said I will get that answer and give it to the member.

LOCAL GOVERNMENT BUDGETS

958. Mrs HOLMES to the Minister for Local Government:

I understand that the Minister has been keen to improve the standard of local government budgets and that recent analysis indicates substantial improvement. Will the Minister please advise the House of such progress?

Mr OMODEI replied:

I have actively encouraged councils to improve their budgets, particularly the quality of their budgets, and to make them more readily understood and able to be analysed by both residents and ratepayers. This year marked the third year of detailed analysis, and, for the first time, more than half of the councils were assessed as being above the minimum standard. Five of the councils have been awarded certificates of excellence, and a further 16 councils have been awarded certificates of merit.

It is appropriate that the member for Southern River ask me this question, because this year the City of Canning was the top performer, and this was the second year that it was in the top group. The other certificates of excellence were awarded to the Shires of Leonora, Shark Bay, Koorda and Donnybrook-Balingup. The certificates of merit were awarded to the Cities of Melville, South Perth and Wanneroo, and the Towns of Cambridge, Kwinana and Victoria Park; and for the second year they were awarded to the Shires of Dandaragan, Kojonup, Manjimup, Mt Magnet, Mundaring, Peppermint Grove, Plantagenet, Roebourne, Swan and Three Springs.

HEALTH BUDGET

959. Mr McGINTY to the Minister for Health:

Last week it was reported that the Health budget in Western Australia had blown out for the second time this year. On the most recent figures available to the Minister, what is the current and projected end of financial year surplus or deficit for each health service in Western Australia?

Mr PRINCE replied:

Some estimates were prepared at the end of October and the beginning of November last year, which when added together gave a projected overrun of \$85m, as I said in this Parliament at the time. That was an estimate of an overrun for a full financial year. The funding supplementation that came through was some \$29.8m, which was for award increases that were part and parcel of the system, as normal. That has left a balance of \$55m. That is now part of the Health Department and not part of the Metropolitan Health Service Board, which is, as I said in answer to an earlier question, some 70 per cent of the hospital capacity of the State; the balance is country hospitals and health services. The board for the metropolitan area, and the various boards, or the department, with regard to most of the health services in the north, are managing all their budgets and are managing them to budget, because there is simply no extra funding. Extra funding of some \$54m has been provided this financial year, as opposed to the funding that was provided the previous financial year, which was \$60m-plus up on the previous year, which had an injection of \$80m.

I have made this point repeatedly and will continue to do so: The State through its taxpayers is funding over and over again what should be funded by the Commonwealth, which receives 80 per cent of taxation revenue.

Mr McGowan: That is not what the Prime Minister said. Is the Prime Minister lying?

Mr PRINCE: I have said publicly that I regret that the Prime Minister is as ill-informed as his Minister for Health on this subject.

Mr Ripper: Will you take out a television advertising campaign for health as the Minister for Transport did for roads? I bet you will not.

Mr PRINCE: I will not spend health dollars on an advertising campaign. What a ridiculous suggestion!

To answer the member for Fremantle, the various health services must comply with the budgets that they have, because we simply cannot fund over and above what has already been an increased budget in the past three years. The extra pressure that is coming on must be funded by the Commonwealth, whose share in this area in a proportional sense has gone up by practically nothing in the past 10 years while the State's share has increased by about 7 per cent. That is due not entirely but largely to the drop off in private health cover.

I will finish with these figures: Eight to 10 years ago private patient income to the public hospitals was approximately \$140m a year. It is now about \$11m. That is one of the biggest reasons that the Commonwealth Government - which has all the policy settings for private health insurance, in an area in which the States have no power - must act.

HEALTH CARE FUNDING

960. Mr McGINTY to the Minister for Health:

I take it from that answer there has been no further blow-out in the Health budget since last October-November.

- (1) Why has the Minister rejected the Commonwealth's offer of a \$1.1b increase in health funding under the Medicare negotiations?
- (2) What is the minimum amount that the Minister will accept as increased health care funding arising from the Medicare negotiations?

The SPEAKER: Order! I am aware that we have just had a fairly long break, and perhaps this has gone from members' minds: A supplementary question is at my discretion, and it should be a simple, single question, not a statement followed by a series of questions!

Mr PRINCE replied:

- (1)-(2) I sincerely regret this is a supplementary question, because I could talk for half an hour on this. The \$1.5b that the federal Health Minister says is extra in the new Medicare Agreement will be over five years. Most of it will be available in the fourth and fifth year. The figures on the spreadsheet presented by the Commonwealth show that this State would lose \$30m in the financial year 1998-99. I cannot accept that. All States have said - one a Labor State, one with a National Party Minister and the rest Liberal -

Dr Gallop: What do you want?

Mr PRINCE: That \$1.1b across all public hospitals in Australia represents about 10 per cent for this State - that is, around \$100m. All States want a per annum increase on the base allocation to run public hospitals. That is what the Commonwealth should put on the table for base allocation under Medicare. The other variables are fixed up well, to take into account technology, ageing of the population and so on. It is the base allocation where the fundamental problem lies and where the Commonwealth is refusing to accept responsibility. We want \$100m a year from the Commonwealth, which is taxpayers' money and which the taxpayers should expect to be spent on their health, and nowhere else.

ANIMAL WELFARE LEGISLATION

961. Mr OSBORNE to the Minister for Local Government:

Last week I presented a petition containing 2 350 signatures calling on the Government to expedite the passage of the Animal Welfare Act. Will the Minister advise the House and the petitioners on the progress of this important legislation?

Mr OMODEI replied:

The legislation standing committee of Cabinet has recommended that an animal welfare Green Bill be prepared for tabling in Parliament during the autumn session this year. The Bill will reflect current community attitudes and expectations in respect of the welfare of animals. It will also make appropriate use of codes of practice and ensure the highest possible standard of animal welfare and management. It will provide appropriate controls for the enforcement of the legislation.

MENINGOCOCCAL INFECTIONS

962. Ms MacTIERNAN to the Minister for Health:

On 11 March the Minister tabled operational instructions issued by the Health Department in respect of meningococcal infections. The most recent of these was dated May 1993.

- (1) Was any advice or instructions on such infections issued subsequently?
- (2) In particular, what action was taken to ensure that Western Australian doctors were made aware of the guidelines issued by the National Health and Medical Research Council in April 1997?

Mr PRINCE replied:

- (1)-(2) I thank the member for some notice of this question which flows from a grievance by the member last week. Under the national immunisation strategy, in April 1997 the Commonwealth Government distributed a copy of "The Australian Immunisation Handbook", sixth edition, to every general practitioner in the country. The aspects of meningococcal infections are covered on pages 131 to 135. It was a direct mail-out by the Commonwealth to all medical practitioners who had a Medicare provider number; or, if not, to the medical service where they were working. The Health Department advised all doctors through its communicable diseases bulletin in November 1997 that the NHMRC had issued new guidelines.

Ms MacTiernan: What was the date of that?

Mr PRINCE: I was told that it was November. Undoubtedly it would be after the event involving Amanda Young; at least, I expect that was the case, but I will check on it.

The November correspondence was a reminder that the NHMRC guidelines had been issued. In addition, the bulletin drew the attention of doctors to the epidemiology of the disease in Western Australia and its management and contact treatment. I will check the date, but I would be surprised if it was not immediately after the Amanda Young incident.
